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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 63

**[Doc. No. AMS–LPS–14–0028]**

### National Sheep Industry Improvement Center

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Interim rule and request for comments.

**SUMMARY:** As provided under the Agriculture Act of 2014 (2014 Farm Bill), the Agricultural Marketing Service (AMS) is amending the National Sheep Industry Improvement Center (NSIIC) regulations. This interim rule redesignates the statutory authority from section 375 of the Consolidated Farm and Rural Development Act to the Agricultural Marketing Act of 1946, amends the definition of the Act in the regulations consistent with the redesignated statutory authority, and amends the regulations by increasing the administrative cap for the use of the fund from 3 percent to 10 percent.

**DATES:** *Effective Date:* This interim rule is effective June 4, 2014.

*Comment Date:* Written comments on the regulatory provisions of this interim rule must be received by July 3, 2014.

**ADDRESSES:** Interested persons are invited to submit comments concerning this interim rule. Comments must be posted on *http://www.regulations.gov;* or sent to Kenneth R. Payne, Director, Research and Promotion Division, Livestock, Poultry and Seed Program, AM, USDA, Room 2608–S, STOP 0251, 1400 Independence Avenue SW., Washington, DC 20250–0251; via Fax to 202/720–1125; or email to *Kenneth.Payne@ams.usda.gov.*

All comments should reference the document number (AMS–LPS–14–0028) and the volume, date, and page number of this issue of the **Federal Register** and will be made available for public inspection at the aforementioned address during regular business hours or viewed at *http://www.regulations.gov.* All comments submitted in response to this rule will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting comments will be made public on the internet at the address provided above.

**FOR FURTHER INFORMATION CONTACT:** Kenneth R. Payne, Director, Research and Promotion Division, Livestock, Poultry and Seed Program; Telephone 202/720–5705; Fax: 202/720–1125; or email *Kenneth.Payne@ams.usda.gov.*

**SUPPLEMENTARY INFORMATION:** As provided under the 2014 Farm Bill, this interim rule redesignates the statutory authority for the program from section 375 (7 U.S.C. 2008j) of the Consolidated Farm and Rural Development Act to section 210 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627). In addition, the definition of ''Act'' is amended under section 63.1 to be consistent with the redesignated statutory authority, and amends the regulations by increasing the administrative cap for the use of the fund from 3 percent to 10 percent.

**Executive Order 12866 and Executive Order 13563**

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, and safety effects, distributive impacts and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This action has been designated as a ''non-significant regulatory action'' under of Executive Order 12866. Accordingly, the Office of Management and Budget (OMB) has waived the review process.

**Executive Order 13175**

This interim final 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 interim final rule would not have substantial and direct effects on Tribal Governments and would not have significant tribal implications.

**Executive Order 12988**

This interim final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have a retroactive effect. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

**Executive Order 13132**

This interim rule has been reviewed under Executive Order 13132, Federalism, and has been determined that this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule would not have a substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various levels of government.

**Regulatory Flexibility Act**

In accordance with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the agency is required to examine the impact of regulatory actions on small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be disproportionately burdened.

Pursuant to the requirements set forth in the RFA, AMS has considered the economic effect of this action on small entities and has determined that this final rule will not have a significant impact on a substantial number of small entities. The purpose of the RFA is to fit regulatory action to the scale of businesses subject to such action in order that small businesses will not be unduly burdened.

The U.S. Department of Agriculture's (USDA), National Agricultural Statistics Service's February 2013 publication of ''Farms, Land in Farms, and Livestock Operations'' estimated that in 2012 the number of operations in the United States with sheep and goats totaled approximately 79,500 and 149,500, respectively and would be classified as small entities.

The Small Business Administration defines, in 13 CFR 121, small

agricultural producers as those having annual receipts of no more than $750,000, and small agricultural service firms as those having annual receipts of no more than $7 million. Under these definitions, the majority of the producers that will be affected by this rule are considered small entities.

The purpose of NSIIC is to: (1) Promote strategic development activities and collaborative efforts by private and State entities to maximize the impact of Federal assistance to strengthen and enhance the production and marketing of sheep or goat products in the United States; (2) Optimize the use of available human capital and resources within the sheep or goat industries; (3) Provide assistance to meet the needs of the sheep or goat industry for infrastructure development, business development, production, resource development, and market and environmental research; (4) Advance activities that empower and build the capacity of the U.S. sheep or goat industry to design unique responses to the special needs of the sheep or goat industries on both a regional and national basis; and (5) Adopt flexible and innovative approaches to solving the long-term needs of the United States sheep or goat industry.

A Board of Directors (Board) manages and is responsible for the general supervision of the structure of the NSIIC, with oversight from USDA. The Board is comprised of seven voting members, of whom four would be active producers of sheep or goats in the United States, two would have expertise in finance and management, and one would have expertise in lamb, wool, goat, or goat product marketing. The Secretary of Agriculture (Secretary) appoints the voting members from nominations submitted by eligible organizations. There are also two non-voting members on the Board, the Under Secretary of Agriculture for Marketing and Regulatory Programs and the Under Secretary of Agriculture for Research, Education, and Economics.

As provided under the 2014 Farm Bill, AMS is amending NSIIC regulations at 7 CFR part 63. This interim rule redesignates (1) the statutory authority from section 375 (7 U.S.C. 2008j) of the Consolidated Farm and Rural Development Act to the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627), (2) amends the definition of the Act under section 63.1 consistent with the redesignated statutory authority, and (3) amends the regulations by increasing the administrative cap for the use of the fund from 3 percent to 10 percent. Accordingly, AMS has considered the economic impact of this rule on small entities. AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities as defined in the RFA.

**Paperwork Reduction Act**

In accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. Chapter 35), the reporting and recordkeeping requirements included in 7 CFR part 63 were previously approved by OMB and were assigned control number 0581–0093. No additions have been made to the PRA.

**Background Information**

The NSIIC was initially authorized under the Consolidated Farm and Rural Development Act (Act). The Act, as amended, was passed as part of the 1996 Farm Bill (Pub. Law 104–127). The initial legislation included a provision that privatized the NSIIC 10 years after its ratification or once the full appropriation of $50 million was disbursed. Subsequently, the NSIIC was privatized on September 30, 2006 (72 FR 28945).

In 2008, the NSIIC was re-established under Title XI of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110–246), also known as the 2008 Farm Bill. Section 11009 of the 2008 Farm Bill repealed the requirement in section 375(e)(6) of the Act to privatize the NSIIC. Additionally, the 2008 Farm Bill provided for $1,000,000 in mandatory funding for fiscal year 2008 from the Commodity Credit Corporation for the NSIIC to remain available until expended, as well as authorization for appropriations in the amount of $10 million for each of fiscal years 2008 through 2012. In July 2010, USDA promulgated rules and regulations establishing the NSIIC, consistent with the Food, Conservation, and Energy Act of 2008 (75 FR 43031). The rule established the NSIIC and a Board that will manage and be responsible for the general supervision of the activities of the NSIIC, with oversight from the USDA. The NSIIC is authorized to use funds to make grants to eligible entities in accordance with a strategic plan.

The authorizing legislation established in the United States Department of the Treasury (Treasury) the NSIIC Revolving Fund (Fund). The Fund was available to the NSIIC, without fiscal year limitation, to carry out the authorized programs and activities of the NSIIC. The law provides authority for amounts in the Fund to be used for direct loans, loan guarantees, cooperative agreements, equity interests, investments, repayable grants, and grants to eligible entities, either directly or through an intermediary, in accordance with a strategic plan submitted by the NSIIC to the Secretary. In accordance with the 2014 Farm Bill, AMS is amending the National Sheep Industry Improvement Center regulations at 7 CFR part 63 as provided for herein.

The management of the NSIIC is vested in a Board that is appointed by the Secretary. The Secretary reviews and monitors compliance of the Board as provided under the Act and rules and regulations. The Board is composed of seven voting members, of whom four would be active producers of sheep or goats in the United States, two would have expertise in finance and management, and one would have expertise in lamb, wool, goat, or goat product marketing. The Board also includes two non-voting members, the Under Secretary of Agriculture for Marketing and Regulatory Programs and the Under Secretary of Agriculture for Research, Education, and Economics. The Secretary appoints the voting members from nominations submitted by eligible organizations. A member's term of office shall be 3 years with a maximum of two terms. Board members initially served staggered terms of 1, 2, or 3 years, as determined by the Secretary. Only national organizations that (1) consist primarily of active sheep or goat producers in the United States and (2) have the primary interest of sheep or goat production in the United States can make nominations to the Board.

The Board meets not less than once each fiscal year. Board members do not receive compensation for serving on the Board, but are reimbursed for travel, subsistence, and other necessary expenses. The Board is responsible for general supervision of the NSIIC; review of any contract and grant to be made or entered into by the NSIIC and any financial assistance provided to the NSIIC; making final decision—by majority vote—on whether or not to provide grants to an eligible entity; and developing and establishing a budget plan and long-term operating plan to carry out the goals of the NSIIC.

The authorizing legislation establishes in the United States Treasury, the NSIIC Fund. The Fund is available to the NSIIC, without fiscal year limitation, to carry out the authorized programs and activities of the NSIIC. The law provides authority for amounts in the Fund to be used to carry out authorized program activities of the NSIIC.

The current program authorizes a grant-only program administered by the

NSIIC Board. Based on funding, the Board announces that proposals may be submitted to the Board for consideration from eligible entities. The Board determines how funds are allocated. Proposals submitted to the Board must be consistent with the purpose of the NSIIC.

**Discussion of Interim Regulatory Text**

As provided under 2014 Farm Bill, the AMS is amending the National Sheep Industry Improvement Center regulations at 7 CFR Part 63. This interim rule redesignates (1) the statutory authority from section 375 (7 U.S.C. 2008j) of the Consolidated Farm and Rural Development Act to the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627), (2) amends the definition of the Act under section 63.1 consistent with the redesignated statutory authority, and (3) amends the regulations by increasing the administrative cap for the use of the funds from 3 percent to 10 percent.

Pursuant to 5 U.S.C. 553, it is found and determined upon good cause that it is impracticable and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) These changes need to be in effect as soon as possible because the next available funding opportunities are scheduled to begin in July; and (2) the amendments are necessary to implement provision under the 2014 Farm Bill. For these same reasons a 30-day comment period is deemed appropriate.

**List of Subjects in 7 CFR Part 63**

Administrative practice and procedure, Advertising, Lamb and lamb products, Goat and goat products, Consumer information, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, Chapter I of Title 7 of the Code of Federal Regulations is amended as follows:

## PART 63—NATIONAL SHEEP INDUSTRY IMPROVEMENT CENTER

■ 1. Revise the authority for part 63 to read as follows:

**Authority:** 7 U.S.C. 1621–1627.

■ 2. Revise § 63.1, Act, to read as follows:

**§ 63.1 Act.**

*Act* means the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627).

■ 3. In § 63.301 revise paragraph (a)(6) to read as follows:

**§ 63.301 Use of Fund.**

* * * * *

(a) * * *

(6) For administration purposes, with a maximum 10 percent of the NSIIC Fund balance at the beginning of each fiscal year for the administration of the NSIIC;

* * * * *

Dated: May 27, 2014.

**Rex A. Barnes,**

*Associate Administrator.*

[FR Doc. 2014–12589 Filed 6–2–14; 8:45 am]

BILLING CODE 3410–02–P

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## DEPARTMENT OF AGRICULTURE

### Rural Housing Service

### Rural Business-Cooperative Service

### Rural Utilities Service

### Farm Service Agency

### 7 CFR Part 1951

### Rural Business-Cooperative Service

### Rural Utilities Service

### 7 CFR Part 4274

**RIN 0570–AA86**

### Intermediary Relending Program

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

**ACTION:** Direct final rule.

**SUMMARY:** The Rural Business-Cooperative Service (RBS) amends its regulations for the Intermediary Relending Program (IRP). This action is critical to immediately address three major items. First, the Agricultural Act of 2014 incorporates the IRP into the Consolidated Farm and Rural Development Act (Con Act). Therefore the IRP will now be subject to the Con Act, Section 343(a)(13) ''rural and rural area'' definition. Second, the Agency is making the following changes based on an Office of Inspector General (OIG) audit: Removing part of the definition of revolved funds to eliminate public confusion on its applicability; providing stronger guidance on items that should be taken into consideration when approving subsequent loans; defining what is meant by promptly relending collections from loans made from the revolving loan fund account; and providing clarification when prior Agency concurrence is needed to make loans. Finally, the Agency is removing provisions for Rural Development Loan Fund (RDLF) servicing as there are no longer any active RDLF accounts.

**DATES:** This direct final rule is effective September 2, 2014, unless RBS receives a written significant adverse comment or written notice of intent to submit a significant adverse comment on any provision other than the definition of ''rural or rural area'' on or before August 4, 2014. Since the definition of ''rural or rural area'' is statutory, RBS is unable to change the definition of ''rural or rural area'' even if significant adverse comments are received.

If RBS receives a significant adverse comment on any provision of this rule other than the definition of ''rural or rural area,'' we will publish a timely document in the **Federal Register** informing the public that that provision will not take effect. The rule provisions that are not withdrawn will become effective on September 2, 2014, notwithstanding a significant adverse comment on any other provision, unless we determine that it would not be appropriate to do so. Any significant adverse comments will be addressed when RBS issues a final IRP rule to implement the proposed IRP rule that is also being published this date.

**ADDRESSES:** You may submit adverse comments or notice of intent to submit adverse comments to this rule by any of the following methods:

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

*Mail:* Submit written comments via the U.S. Postal Service to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, STOP 0742, 1400 Independence Avenue SW., Washington, DC 20250–0742.

*Hand Delivery/Courier:* Submit written comments via Federal Express Mail or other courier service requiring a street address to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, 300 7th Street SW., 7th Floor, Washington, DC 20024.

All written comments will be available for public inspection during regular work hours at 300 7th Street SW., 7th Floor address listed above.

**FOR FURTHER INFORMATION CONTACT:** Lori A. Washington, Business Loan and Grant Analyst, Specialty Programs Division, Rural Business-Cooperative Service, U.S. Department of Agriculture, STOP 3225, 1400 Independence Ave.

SW., Washington, DC 20250–3225, Telephone (202) 720–9815, Email *lori.washington@wdc.usda.gov.*

**SUPPLEMENTARY INFORMATION:**

**Executive Order 12866—Classification**

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

**Programs Affected**

The Catalog of Federal Domestic Assistance number for the program impacted by this action is 10.767, Intermediary Relending Program.

**Executive Order 12372—Intergovernmental Review of Federal Programs**

The IRP is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. Rural Development has conducted intergovernmental consultation in the manner delineated in RD Instruction 1940–J, ''Intergovernmental Review of Rural Development Programs and Activities,'' and in 7 CFR part 3015, subpart V.

**Executive Order 12988—Civil Justice Reform**

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. In accordance with this rule: (1) All State and local laws and regulations that are in conflict with this rule will be preempted, (2) no retroactive effect will be given this rule, and (3) administrative proceedings in accordance with the regulations of the Agency at 7 CFR part 11 must be exhausted before bringing suit in court challenging action taken under this rule unless those regulations specifically allow bringing suit at an earlier time.

**Environmental Impact Statement**

This rule has been reviewed in accordance with 7 CFR part 1940, subpart G, ''Environmental Program.'' Rural Development has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment and, in accordance with the National Environmental Policy Act of 1969, Public Law 91–190, an Environmental Impact Statement is not required.

**Unfunded Mandates Reform Act**

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, Rural Development must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector of $100 million or more in any 1 year. When such a statement is needed for a rule, section 205 of UMRA generally requires Rural Development to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost effective, or least burdensome alternative that achieves the objectives of the rule.

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. Thus, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

**Regulatory Flexibility Act**

In compliance with the Regulatory Flexibility Act, Rural Development has determined that this action would not have a significant economic impact on a substantial number of small entities because the action will not affect a significant number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. § 601). Rural Development made this determination based on the fact that this regulation only impacts those who choose to participate in the program. Small entity applicants will not be impacted to a greater extent than large entity applicants. Therefore, a regulatory impact analysis was not performed.

**Executive Order 13132—Federalism**

It has been determined under Executive Order 13132, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various levels of Government.

**Executive Order 13175, Consultation and Coordination With Indian Tribal Governments**

This executive order imposes requirements on Rural Development in the development of regulatory policies that have tribal implications or preempt tribal laws. Rural Development has determined that the rule does not have a substantial direct effect on one or more Indian tribe(s) or on either the relationship or the distribution of powers and responsibilities between the Federal Government and the Indian tribes. Thus, the rule is not subject to the requirements of Executive Order 13175. Additionally, on April 17, 2013, Rural Development focused its quarterly webinar and teleconference based Tribal Consultation on its Rural Business Revolving Loan Fund Programs, including the IRP. Neither adverse nor material comments were received regarding the IRP during, or as a result of, that event. Tribal Consultation inquiries and comments should be directed to Rural Development's Native American Coordinator at *aian@wdc.usda.gov* or (720) 544–2911.

**Paperwork Reduction Act**

This rule does not revise or impose any new information collection or recordkeeping requirements.

**E-Government Act Compliance**

Rural Development is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

**Background**

The amendments in this rule immediately allow the Agency to comply with the Agricultural Act of 2014, which incorporates the IRP into the Con Act and consequently to utilize the Con Act ''rural and rural area'' definition for the program. Additionally, the amendments will immediately address the OIG audit findings conducted in fiscal year 2010 involving several issues that require strengthening the Agency's oversight controls of the IRP program. Lastly, the Agency is also removing provisions for RDLF because there are no longer any active RDLF accounts.

If RBS receives a significant adverse comment on a provision of this rule, we will publish a timely withdrawal in the **Federal Register** informing the public that that provision will not take effect. The rule provisions that are not withdrawn will become effective on the date set out above, notwithstanding a significant adverse comment on any other provision, unless we determine that it would not be appropriate to do so.

**List of Subjects**

*7 CFR Part 1951*

Loan programs—Agriculture, rural areas.

*7 CFR Part 4274*

Community development, Economic development, Loan programs—Business, Rural areas.

For reasons set forth in this preamble, chapters XVIII and XLII, title 7, Code of Federal Regulations, are amended as follows:

## CHAPTER XVIII—RURAL HOUSING SERVICE, RURAL BUSINESS-COOPERATIVE SERVICE, RURAL UTILITIES SERVICE, AND FARM SERVICE AGENCY, DEPARTMENT OF AGRICULTURE

## PART 1951—SERVICING AND COLLECTIONS

■ 1. The authority citation for part 1951 continues to read as follows:

**Authority:** 5 U.S.C. 301; 7 U.S.C. 1932 Note; 7 U.S.C. 1989; 31 U.S.C. 3716; 42 U.S.C. 1480.

### Subpart R—Rural Development Loan Servicing

#### § 1951.851 [Amended]

■ 2. Section 1951.851 is amended by removing paragraph (c) and redesignating paragraphs (d) and (e) as paragraphs (c) and (d), respectively.

■ 3. Sections 1951.853, 1951.854, 1951.860, 1951.867, 1951.871, 1951.872, and 1951.877 are removed and reserved.

■ 4. Section 1951.881 is amended by revising paragraph (a) to read as follows:

#### § 1951.881 Loan servicing.

(a) These regulations do not negate contractual arrangements that were previously made by the HHS, Office of Community Services (OCS), or the intermediaries operating relending programs that have already been entered into with ultimate recipients under previous regulations. Pre-existing documents control when in conflict with these regulations. The loan is governed by terms of existing legal documents of each intermediary. The RDLF/IRP intermediary is responsible for compliance with the terms and conditions of the loan agreement. Other than 7 CFR 1951.709(d)(1)(B)(iv), intermediaries receiving an unauthorized loan or using their revolving fund for unauthorized purposes will be serviced in accordance with 7 CFR part 1951, subpart O.

* * * * *

■ 5. Section 1951.884 is revised to read as follows:

#### § 1951.884 Revolved funds.

For ultimate recipients assisted by the intermediary with FmHA or its successor agency under Public Law 103–354, revolved funds derived from IRP funds shall be required to comply with the provisions of these regulations and/or loan agreement.

## CHAPTER XLII—RURAL BUSINESS-COOPERATIVE SERVICE AND RURAL UTILITIES SERVICE, DEPARTMENT OF AGRICULTURE

## PART 4274—DIRECT AND INSURED LOANMAKING

■ 6. The authority citation for part 4274 continues to read as follows:

**Authority:** 5 U.S.C. 301; 7 U.S.C. 1932 note; 7 U.S.C. 1989.

### Subpart D—Intermediary Relending Program (IRP)

■ 7. Section 4274.302 is amended by removing the last sentence in the definition of ''Agency IRP loan funds,'' removing the last sentence in the definition of ''Revolved funds,'' and removing the definition of ''Rural area'' and adding in its place a definition of ''Rural or rural area'' to read as follows:

#### § 4274.302 Definitions and abbreviations.

(a) * * *

*Rural or rural area.* As described in 7 U.S.C. 1991(a)(13), as amended.

* * * * *

■ 8. A new § 4274.304 is added to read as follows:

#### § 4274.304 Prior loans.

Any loan made under this program prior to September 2, 2014 may submit to the Agency a written request for an irrevocable election to have the loan serviced in accordance with this subpart.

■ 9. Section 4274.331 is amended by revising paragraph (a)(3)(ii) to read as follows:

#### § 4274.331 Loan limits.

(a) * * *

(3) * * *

(ii) The intermediary is promptly relending all collections from loans made from its IRP revolving fund in excess of what is needed for required debt service, reasonable administrative costs approved by the Agency, and a reasonable reserve for debt service and uncollectible accounts. The intermediary provides documentation to demonstrate that funds available for relending do not exceed the greater of $150,000 or the total amount of loans closed during a calendar quarter on average, over the last 12 months.

* * * * *

■ 10. Section 4274.332 is amended by revising paragraphs (b)(2) and (b)(4) to read as follows:

#### § 4274.332 Post award requirements.

* * * * *

(b) * * *

(2) The intermediary must submit an annual budget of proposed administrative costs for Agency approval. The annual budget should itemize cash income and cash out-flow. Projected cash income should consist of, but is not limited to, collection of principal repayment, interest repayment, interest earnings on deposits, fees, and other income. Projected cash out-flow should consist of, but is not limited to, principal and interest payments, reserve for bad debt, and an itemization of administrative costs to operate the IRP revolving fund. Proceeds received from the collection of principal repayment cannot be used for administrative expenses. The amount removed from the IRP revolving fund for administrative costs in any year must be reasonable, must not exceed the actual cost of operating the IRP revolving fund, including loan servicing and providing technical assistance, and must not exceed the amount approved by the Agency in the intermediary's annual budget.

* * * * *

(4) Any cash in the IRP revolving fund from any source that is not needed for debt service, approved administrative costs, or reasonable reserves must be available for additional loans to ultimate recipients. Funds may not be used for any investments in securities or certificates of deposit of over 30-day duration without the concurrence of Rural Development. If funds in excess of $250,000 have been unused to make loans to ultimate recipients for 6 months or more, those funds will be returned to Rural Development unless Rural Development provides an exception to the intermediary. Any exception would be based on evidence satisfactory to Rural Development that every effort is being made by the intermediary to utilize the IRP funding in conformance with program objectives.

* * * * *

■ 11. Section 4274.338 in amended by revising paragraph (b)(9) and adding paragraph (b)(10) to read as follows:

#### § 4274.338 Loan agreements between the Agency and the Intermediary.

* * * * *

(b) * * *

(9) If any part of the loan has not been used in accordance with the intermediary's work plan by a date 3 years from the date of the loan agreement, the Agency may cancel the approval of any funds not yet delivered to the intermediary and the

intermediary will return, as an extra payment on the loan, any funds delivered to the intermediary that have not been used by the intermediary in accordance with the work plan. The Agency, at its sole discretion, may allow the intermediary additional time to use the loan funds. Regular loan payments will be based on the amount of funds actually drawn by the intermediary.

(10) For IRP intermediaries, IRP funds in excess of $250,000 that have not been used to make loans to ultimate recipients for 6 months or more will be returned to Rural Development unless Rural Development provides an exception to the intermediary. Any exception would be based on evidence satisfactory to Rural Development that every effort is being made by the intermediary to utilize the IRP funding in conformance with program objectives.

■ 12. Section 4274.361 is amended by revising paragraph (a) to read as follows:

**§ 4274.361 Requests to make loans to ultimate recipients.**

(a) An intermediary may use revolved funds to make loans to ultimate recipients in accordance with § 4274.314(b) without obtaining prior Agency concurrence. Prior Agency concurrence is required when an intermediary proposes to use Agency IRP loan funds to make a loan to an ultimate recipient.

* * * * *

Dated: May 20, 2014.

**Douglas J. O'Brien,**

*Deputy Under Secretary, Rural Development.*

Dated: May 15, 2014.

**Michael T. Scuse,**

*Under Secretary, Farm and Foreign Agricultural Services.*

[FR Doc. 2014–12633 Filed 6–2–14; 8:45 am]

**BILLING CODE 3410–XY–P**

## DEFENSE NUCLEAR FACILITIES SAFETY BOARD

### 10 CFR Part 1703

### FOIA Fee Schedule Update

**AGENCY:** Defense Nuclear Facilities Safety Board.

**ACTION:** Establishment of FOIA Fee Schedule.

**SUMMARY:** The Defense Nuclear Facilities Safety Board is publishing its Freedom of Information Act (FOIA) Fee Schedule Update pursuant to the Board's regulations.

**DATES:** *Effective Date:* June 1, 2014.

**FOR FURTHER INFORMATION CONTACT:** Mark T. Welch, General Manager, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW., Suite 700, Washington, DC 20004–2901, (202) 694–7060.

**SUPPLEMENTARY INFORMATION:** The FOIA requires each Federal agency covered by the Act to specify a schedule of fees applicable to processing of requests for agency records. 5 U.S.C. 552(a)(4)(A)(i). On April 23, 2014 the Board published for comment in the **Federal Register** its Proposed FOIA Fee Schedule, 79 FR 22596. No comments were received in response to that notice, and the Board is now establishing the Fee Schedule.

Pursuant to 10 CFR 1703.107(b)(6) of the Board's regulations, the Board's General Manager will update the FOIA Fee Schedule once every 12 months. The previous Fee Schedule Update went into effect on July 23, 2012. 77 FR 41258.

### Board Action

Accordingly, the Board issues the following schedule of updated fees for services performed in response to FOIA requests:

DEFENSE NUCLEAR FACILITIES SAFETY BOARD SCHEDULE OF FEES FOR FOIA SERVICES

[Implementing 10 CFR 1703.107(b)(6)]

| | |
|---|---|
| Search or Review Charge | $83.00 per hour. |
| Copy Charge (paper) | $.05 per page, if done in-house, or generally available commercial rate (approximately $.10 per page). |
| Electronic Media | $5.00 per electronic media. |
| Copy Charge (audio and video cassette) | Actual commercial rates. |
| Duplication of DVD | $25.00 for each individual DVD; $16.50 for each duplicate DVD. |
| Copy Charge for large documents (e.g., maps, diagrams) | Actual commercial rates. |

Dated: May 28, 2014.

**Mark T. Welch,**

*General Manager.*

[FR Doc. 2014–12762 Filed 6–2–14; 8:45 am]

**BILLING CODE 3670–01–P**

## SMALL BUSINESS ADMINISTRATION

### 13 CFR Parts 125 and 127

**RIN 3245–AG20**

### Acquisition Process: Task and Delivery Order Contracts, Bundling, Consolidation; Correction

**AGENCY:** Small Business Administration.

**ACTION:** Correcting amendments.

**SUMMARY:** The U.S. Small Business Administration (SBA) published a final rule in the **Federal Register** on October 2, 2013, which amended its regulations governing small business prime contracting by implementing provisions of the Small Business Jobs Act of 2010. That rule was published with inadvertent errors in two of the regulatory sections.

Those errors are corrected in this document.

**DATES:** Effective June 3, 2014.

**FOR FURTHER INFORMATION CONTACT:** Dean Koppel, Office of Government Contracting, U.S. Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416; (202) 205–7322.

**SUPPLEMENTARY INFORMATION:** On October 2, 2013, SBA published a final rule to implement provisions of the Small Business Jobs Act of 2010 pertaining to small business contracting procedures. 78 FR 61114. As discussed in detail below, the rule contained inadvertent errors in the instructions for sections 125.6 and 127.503, which affected the final regulatory text for those sections.

In § 125.6, SBA intended to amend paragraph (a) by revising the introductory text only. However, the final rule contained an instruction to revise paragraph (a). As a result, the final rule inadvertently removed paragraphs (a)(1) through (a)(4). SBA is correcting § 125.6 by reinserting these paragraphs.

In § 127.503, SBA intended to remove paragraphs (a)(2) and (b)(2) and redesignate paragraphs (a)(3) and (b)(3) as paragraphs (a)(2) and (b)(2), respectively. However, the rule mistakenly instructed to revise paragraphs (a)(1), (a)(2), (b)(1), and (b)(2). As a result of this erroneous instruction, paragraphs (a)(3) and (b)(3) were not redesignated and are currently

duplicates of paragraphs (a)(2) and (b)(2). SBA is correcting this duplication in § 127.503 by removing paragraphs (a)(3) and (b)(3).

**List of Subjects**

*13 CFR Part 125*

Government contracts, Government procurement, Reporting and recordkeeping requirements, Small businesses, Technical assistance.

*13 CFR Part 127*

Government procurement, Reporting and recordkeeping requirements, Small businesses.

Accordingly, 13 CFR Parts 125 and 127 are corrected by making the following correcting amendments:

## PART 125—GOVERNMENT CONTRACTING PROGRAMS

■ 1. The authority citation for part 125 continues to read as follows:

**Authority:** 15 U.S.C. 632(p), (q); 634(b)(6); 637; 644, 657(f); and 657(q).

■ 2. Amend § 125.6 by adding paragraphs (a)(1) through (a)(4) to read as follows:

**§ 125.6 What are the prime contractor performance requirements (limitations on subcontracting)?**

(a) * * *

(1) In the case of a contract for services (except construction), the concern will perform at least 50 percent of the cost of the contract incurred for personnel with its own employees.

(2) In the case of a contract for supplies or products (other than procurement from a non-manufacturer in such supplies or products), the concern will perform at least 50 percent of the cost of manufacturing the supplies or products (not including the costs of materials).

(3) In the case of a contract for general construction, the concern will perform at least 15 percent of the cost of the contract with its own employees (not including the costs of materials).

(4) In the case of a contract for construction by special trade contractors, the concern will perform at least 25 percent of the cost of the contract with its own employees (not including the cost of materials).

* * * * *

## PART 127—WOMEN-OWNED SMALL BUSINESS FEDERAL CONTRACT ASSISTANCE PROGRAM

■ 3. The authority for part 127 continues to read as follows:

**Authority:** 15 U.S.C. 632, 634(b)(6), 637(m), and 644.

**§ 127.503 [Amended]**

■ 4. In § 127.503, remove paragraphs (a)(3) and (b)(3).

**Calvin Jenkins,**

*Deputy Associate Administrator for Government Contracting and Business Development.*

[FR Doc. 2014–12609 Filed 6–2–14; 8:45 am]

BILLING CODE 8025–01–M

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2013–1073; Directorate Identifier 2012–NM–039–AD; Amendment 39–17856; AD 2014–11–06]**

**RIN 2120–AA64**

## Airworthiness Directives; Airplanes Originally Manufactured by Lockheed for the Military as Model P–3A and P3A Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for certain airplanes originally manufactured by Lockheed Martin Aeronautics Company for the military as Model P–3A or P3A airplanes. This AD was prompted by a determination that the existing maintenance or inspection program must be revised to address fatigue cracking of the airplane. This AD requires revising the maintenance or inspection program, as applicable, to incorporate certain limitations. We are issuing this AD to detect and correct fatigue cracking, which could result in reduced structural integrity of the airplane.

**DATES:** This AD is effective July 8, 2014.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 8, 2014.

**ADDRESSES:** For service information identified in this AD, contact Avenger Aircraft and Services, 103 N. Main Street, Suite 106, Greenville, SC 29601–4833; telephone: 864–232–8073; fax: 864–232–8074; email: *AAS@AvengerAircraft.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

**Examining the AD Docket**

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2013–1073; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** George Garrido, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5357; fax: 562–627–5210; email: *george.garrido@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

**Discussion**

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain airplanes originally manufactured by Lockheed Martin Aeronautics Company for the military as Model P–3A or P3A airplanes. The NPRM published in the **Federal Register** on January 21, 2014 (79 FR 3341). The NPRM was prompted by a determination that the existing maintenance program must be revised to address fatigue cracking of the airplane. The NPRM proposed to require revising the maintenance or inspection program, as applicable, to incorporate certain limitations. We are issuing this AD to detect and correct fatigue cracking, which could result in reduced structural integrity of the airplane.

**Comments**

We gave the public the opportunity to participate in developing this AD. We have considered the comment received. The single commenter, Lockheed Martin (Lockheed) did not request a change to the NPRM (79 FR 3341, January 21, 2014).

**Conclusion**

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

• Are consistent with the intent that was proposed in the NPRM (79 FR 3341, January 21, 2014) for correcting the unsafe condition; and

• Do not add any additional burden upon the public than was already proposed in the NPRM (79 FR 3341, January 21, 2014).

## Costs of Compliance

We estimate that this AD affects 8 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

| Action | Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|---|
| Revise the maintenance or inspection program. | 1 work-hour × $85 per hour = $85 ..... | $0 | $85 | $680 |

## Authority for This Rulemaking

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

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

## Regulatory Findings

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

For the reasons discussed above, I certify that this AD:

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

(2) Is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

## List of Subjects in 14 CFR Part 39

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

## Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

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

**2014–11–06 Lockheed (Original Manufacturer):** Amendment 39–17856; Docket No. FAA–2013–1073; Directorate Identifier 2012–NM–039–AD.

**(a) Effective Date**

This AD is effective July 8, 2014.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to all Model P–3A or P3A airplanes originally manufactured by Lockheed Martin Aeronautics Company for the military, as identified in paragraphs (c)(1) and (c)(2) of this AD, certificated in any category:

(1) Aero Union Corporation Model P3A airplanes; and

(2) USDA Forest Service Model P–3A airplanes.

**(d) Subject**

Air Transport Association (ATA) of America Code 55, Stabilizers; 57, Wings.

**(e) Unsafe Condition**

This AD was prompted by a determination that the existing maintenance or inspection program must be revised to address fatigue cracking of the airplane. We are issuing this AD to detect and correct fatigue cracking, which could result in reduced structural integrity of the airplane.

**(f) Compliance**

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

**(g) Maintenance or Inspection Program Revision**

Within 12 months after the effective date of this AD, revise the maintenance or inspection program, as applicable, by incorporating airworthiness limitations specified in Avenger Aircraft and Services P3A Airworthiness Limitations Section—FAA TCDS A32NM & TCDS T00006LA, Forest and Wildlife Conservation Usage (Includes Aerial Dispensing of Liquids), AAS–ALS–07–001, Revision D, dated August 2, 2010.

**(h) Compliance Times for Modifications, Replacements, and Inspections**

For the tasks specified in Part-I, Sections B. through E., of Procedure 01–00–005, of Avenger Aircraft and Services P3A Airworthiness Limitations Section—FAA TCDS A32NM & TCDS T00006LA, Forest and Wildlife Conservation Usage (Includes Aerial Dispensing of Liquids), AAS–ALS–07–001, Revision D, dated August 2, 2010, the compliance times are specified in paragraphs (h)(1) through (h)(4) of this AD. For airplanes with combined baseline and aerial dispensing usage accumulated, the total remaining life and the total remaining hours or flights until inspection is due for the principle structural element (PSE) inspection requirements is determined by combining the fatigue damage accumulated during the baseline and the aerial dispensing of liquids usage. The usage must be combined in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA.

(1) For the baseline life limits, the compliance time is: At the applicable ''flight hours'' or ''flights,'' whichever occurs first, specified in Part-I, Section B, ''Life Limitations Baseline Usage,'' of Procedure 01–00–005, of Avenger Aircraft and Services P3A Airworthiness Limitations Section—FAA TCDS A32NM & TCDS T00006LA, Forest and Wildlife Conservation Usage (Includes Aerial Dispensing of Liquids), AAS–ALS–07–001, Revision D, dated August 2, 2010; or within 12 months after the effective date of this AD; whichever occurs later.

(2) For the baseline PSE inspection requirements, the compliance time is: At the applicable ''threshold interval hours'' or ''threshold interval flights'' since new, whichever occurs first, as specified in Tables C.1, C.2, and C.3, of Part-I, Section C, ''Principle Structural Element Inspection Requirements—Baseline Usage,'' of

Procedure 01–00–005, of Avenger Aircraft and Services P3A Airworthiness Limitations Section—FAA TCDS A32NM & TCDS T00006LA, Forest and Wildlife Conservation Usage (Includes Aerial Dispensing of Liquids), AAS–ALS–07–001, Revision D, dated August 2, 2010; or within 12 months after the effective date of this AD; whichever occurs later. Where compliance times are specified as ''threshold interval hours,'' those compliance times are total flight hours. Where the compliance times are specified as ''threshold interval flights,'' those compliance times are total flight cycles.

(3) For the aerial dispensing of liquids life limits, the compliance time is: At the applicable ''flight hours'' or ''flights,'' whichever occurs first, specified in Part-I, Section D, ''Life Limitations—Aerial Dispensing of Liquids Usage'' of Procedure 01–00–005, of Avenger Aircraft and Services P3A Airworthiness Limitations Section—FAA TCDS A32NM & TCDS T00006LA, Forest and Wildlife Conservation Usage (Includes Aerial Dispensing of Liquids), AAS–ALS–07–001, Revision D, dated August 2, 2010; or within 12 months after the effective date of this AD; whichever occurs later.

(4) For the aerial dispensing of liquids PSE inspection requirements, the compliance time is: At the applicable ''threshold interval hours'' or threshold interval flights,'' whichever occurs first, as specified in Tables E.1, E.2, and E.3, of Part-I, Section E, ''Principle Structural Element Inspection Requirements—Aerial Dispensing of Liquids Usage,'' of Procedure 01–00–005, of Avenger Aircraft and Services P3A Airworthiness Limitations Section—FAA TCDS A32NM & TCDS T00006LA, Forest and Wildlife Conservation Usage (Includes Aerial Dispensing of Liquids), AAS–ALS–07–001, Revision D, dated August 2, 2010; or within 12 months after the effective date of this AD; whichever occurs later.

**(i) No Alternative Actions or Intervals**

After accomplishing the revision required by paragraph (g) of this AD, no alternative actions (e.g., inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance in accordance with the procedures specified in paragraph (j) of this AD.

**(j) Alternative Methods of Compliance (AMOCs)**

(1) The Manager, Los Angeles ACO, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (k) 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.

**(k) Related Information**

For more information about this AD, contact George Garrido, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5357; fax: 562–627–5210; email: *george.garrido@faa.gov.*

**(l) Material Incorporated by Reference**

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

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

(i) Avenger Aircraft and Services P3A Airworthiness Limitations Section—FAA TCDS A32NM & TCDS T00006LA, Forest and Wildlife Conservation Usage (Includes Aerial Dispensing of Liquids), AAS–ALS–07–001, Revision D, dated August 2, 2010. (ii) Reserved.

(3) For service information identified in this AD, contact Avenger Aircraft and Services, 103 N. Main Street, Suite 106, Greenville, SC 29601–4833; telephone: 864–232–8073; fax: 864–232–8074; email: *AAS@AvengerAircraft.com.*

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

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

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

**Michael Kaszycki,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2014–12606 Filed 6–2–14; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2013–0368; Directorate Identifier 2012–NM–058–AD; Amendment 39–17851; AD 2014–11–01]**

**RIN 2120–AA64**

## Airworthiness Directives; The Boeing Company Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for certain The Boeing Company Model 777–200 and –300 series airplanes. This AD was prompted by reports of smoke or flames in the passenger cabin of various transport category airplanes related to the wiring for the passenger cabin in-flight entertainment (IFE) system, cabin lighting, and passenger seats. This AD requires installing wiring and making changes to certain electrical load management system (ELMS) panels and other concurrent requirements to ensure the flightcrew is able to turn off electrical power to the IFE systems and other non-essential electrical systems through one or two switches in the flight deck in the event of smoke or flames. In the event of smoke or flames in the airplane flight deck or passenger cabin, the flightcrew's inability to turn off electrical power to the IFE system and other non-essential electrical systems could result in the inability to control smoke or flames in the airplane flight deck or passenger cabin during a non-normal or emergency situation, and consequent loss of control of the airplane.

**DATES:** This AD is effective July 8, 2014.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of July 8, 2014.

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

**Examining the AD Docket**

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2013–0368; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Ray Mei, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6467; fax: 425–917–6590; email: *raymont.mei@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

## Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 777–200 and –300 series airplanes. The NPRM was prompted by reports of smoke or flames in the passenger cabin of various transport category airplanes related to the wiring for the passenger cabin IFE system, cabin lighting, and passenger seats. The NPRM published in the **Federal Register** on May 10, 2013 (78 FR 27310). The NPRM proposed to require installing wiring and making changes to certain ELMS panels and other concurrent requirements. We are issuing this AD to ensure the flightcrew is able to turn off electrical power to the IFE systems and other non-essential electrical systems through one or two switches in the flight deck in the event of smoke or flames. In the event of smoke or flames in the airplane flight deck or passenger cabin, the flightcrew's inability to turn off electrical power to the IFE system and other non-essential electrical systems could result in the inability to control smoke or flames in the airplane flight deck or passenger cabin during a non-normal or emergency situation, and consequent loss of control of the airplane.

## Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal (78 FR 27310, May 10, 2013) and the FAA's response to each comment. United Airlines and Air Line Pilots Association International (ALPA) supported the NPRM.

### Request To Include Additional Work-Hours in Costs of Compliance

American Airlines (AA) requested that we add 200 work-hours to the total labor costs specified in the Costs of Compliance section of the NPRM (78 FR 27310, May 10, 2013). AA stated that the costs of compliance specified in the NPRM include the work-hours specified in Boeing Service Bulletin 777–24–0075, Revision 3, dated August 26, 2010, but those work-hours do not take into account the work-hours for making changes to certain ELMS panels specified in the concurrent service bulletins.

We acknowledge that we underestimated the work-hours for completing the installation of wiring and changing the ELMS panel wiring in the NPRM (78 FR 27310, May 10, 2013). We have added 200 work-hours to the Costs of Compliance of this final rule to account for the work-hours for making changes to certain ELMS panels.

### Request To Allow Use of Later Revisions of ELMS Service Information

AA requested that we allow use of later revisions of certain ELMS service information instead of Boeing Service Bulletin 777–24–0075, Revision 3, dated August 26, 2010. AA stated that revised ELMS service information has been released since publication of Boeing Service Bulletin 777–24–0075, Revision 3, dated August 26, 2010.

We do not agree. Allowing a reference to ''a later revision'' of a specific service document violates Office of the Federal Register policies for approving materials incorporated by reference.

However, we have reviewed Boeing Service Bulletin 777–24–0075, Revision 4, dated January 8, 2014, which contains the appropriate service information. Operators may request approval of an alternative method of compliance (AMOC) under the provisions of paragraph (j) of this final rule to use later revisions of the ELMS service information. We have revised paragraph (g) of this AD to refer to Boeing Service Bulletin 777–24–0075, Revision 4, dated January 8, 2014, as the appropriate source of service information. We have given credit for Boeing Service Bulletin 777–24–0075, Revision 3, dated August 26, 2010, in paragraph (i)(2) of this AD.

### Request To Use Equivalent Procedure

AA requested that we allow the use of an operator's equivalent procedure to mark the applicable service bulletin number on the panel, rather than using the labels in the General Electric (GE) kits as specified. AA stated that Boeing Service Bulletin 777–24–0075, Revision 3, dated August 26, 2010, specifies installing a label of the service bulletin number on the ELMS power panels. AA stated that the labels that are in the GE kits have a shelf life that expires prior to the compliance time of 60 months.

We agree that an operator's equivalent procedure may safely and effectively be used to indelibly mark the applicable service bulletin number on the panels in place of the labels. We have revised paragraph (g) of this final rule accordingly. We have also added Note 1 to paragraph (g) of this AD to specify that additional guidance on indelibly marking the panel can be found in Boeing Process Specification BAC5307.

### Request To Allow Various Modifications to Repair Kits

Japan Air Lines (JAL) requested that we allow certain modifications of the repair kits, which JAL has proposed to Boeing and Smiths Aerospace Actuation Systems to address problems with the Smiths Aerospace Actuation Systems repair kits. JAL stated that problems with the repair kits include a certain electrical wire being too short, omission of certain other wires, inclusion of unshielded wires rather than shielded wires, inability to install a certain relay bracket, and inclusion of an incorrect relay part number.

We disagree with the request to allow modifications of repair kits in this final rule. Boeing Service Bulletin 777–24–0075, Revision 4, dated January 8, 2014, is the latest service information available for compliance with the actions specified in paragraph (g) of this final rule. We do not consider it appropriate to include various provisions in an AD applicable only to individual airplanes or to a single operator's configuration or use of an airplane. However, any person may request approval of an alternative method of compliance (AMOC) under the provisions of paragraph (j) of this final rule. No change has been made to this final rule in this regard.

### Requests To Add Alternative ELMS Software

Boeing requested that we add alternative ELMS software to the NPRM (78 FR 27310, May 10, 2013). Boeing and JAL pointed out that new ELMS software is required in order to be compliant with the requirements of AD 2011–09–15, Amendment 39–16677 (76 FR 24345, May 2, 2011). Boeing and JAL stated that AD 2011–09–15 requires, among other actions, installing new ELMS software. Note 2 of AD 2011–09–15 specifies that Boeing Service Bulletin 777–28A0039, Revision 2, dated September 20, 2010, is an additional source of guidance for installing the new ELMS software. Boeing and JAL stated that, if ELMS software is required to be installed in accordance with Boeing Service Bulletin 777–24–0087, Revision 2, dated August 16, 2007, as proposed in the NPRM, a conflict with the requirements of AD 2011–09–15 will be created.

We agree to allow the option of installing ELMS software using Boeing Service Bulletin 777–28A0039, dated June 13, 2008; Revision 1, dated January 8, 2009; or Revision 2, dated September 20, 2010. We have revised paragraph

(h)(5) of this final rule to add a reference to Boeing Service Bulletin 777–28A0039, Revision 2, dated September 20, 2010. We have also revised paragraph (i)(5) of this final rule to provide credit for ELMS software installations done before the effective date of this AD using Boeing Service Bulletin 777–28A0039, dated June 13, 2008; or Revision 1, dated January 8, 2009.

**Conclusion**

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

- Are consistent with the intent that was proposed in the NPRM (78 FR 27310, May 10, 2013) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (78 FR 27310, May 10, 2013).

We also determined that these changes will not increase the economic burden on any operator or increase the scope of this AD.

**Costs of Compliance**

We estimate that this AD affects 59 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

| Action | Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|---|
| Wiring changes | 236 work-hours × $85 per hour = $20,060. | $2,503 | $22,563 | $1,331,217 |
| Concurrent ELMS software installation (Boeing Service Bulletin 777–24–0087, Revision 2, dated August 16, 2007; or 777–28A0039, Revision 2, dated September 20, 2010). | 3 work-hours × $85 per hour = $255 | 0 | 255 | 15,045 |
| Concurrent operational program software change (Boeing Service Bulletin 777–23–0175, Revision 2, dated October 12, 2006). | 4 work-hours × $85 per hour = $340 | 0 | 340 | 20,060 |
| Concurrent power isolation switch installation (Boeing Service Bulletin 777–24–0074, Revision 4, dated September 13, 2012). | 5 work-hours × $85 per hour = $425 | 751 | 1,176 | 69,384 |
| Concurrent cabin services system hardware and software change (No affected U.S. operators; Boeing Service Bulletin 777–23–0142, dated November 25, 2003). | 10 work-hours × $85 per hour = $850. | 119,959 | 120,809 | 0 |

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

For the reasons discussed above, I certify that this AD:

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

(2) Is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**List of Subjects in 14 CFR Part 39**

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

**Adoption of the Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**2014–11–01 The Boeing Company:** Amendment 39–17851; Docket No. FAA–2013–0368; Directorate Identifier 2012–NM–058–AD.

**(a) Effective Date**

This AD is effective July 8, 2014.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to The Boeing Company Model 777–200 and –300 series airplanes, certificated in any category, as identified in Boeing Service Bulletin 777–24–0075, Revision 4, dated January 8, 2014.

**(d) Subject**

Air Transport Association (ATA) of America Code 24, Electrical Power.

**(e) Unsafe Condition**

This AD was prompted by reports of smoke or flames in the passenger cabin of various transport category airplanes related to the wiring for the passenger cabin in-flight entertainment (IFE) system, cabin lighting, and passenger seats. We are issuing this AD to ensure the flightcrew is able to turn off electrical power to the IFE systems and other non-essential electrical systems through one or two switches in the flight deck in the event of smoke or flames. In the event of smoke or flames in the airplane flight deck or passenger cabin, the flightcrew's inability to turn off electrical power to the IFE system and other non-essential electrical systems could result in the inability to control smoke or flames in the airplane flight deck or passenger cabin during a non-normal or emergency situation, and consequent loss of control of the airplane.

**(f) Compliance**

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

**(g) Installation**

Within 60 months after the effective date of this AD, install certain wiring and make changes to certain electrical load management system (ELMS) panels; as identified in, and in accordance with, the Accomplishment Instructions of Boeing Service Bulletin 777–24–0075, Revision 4, dated January 8, 2014. Where the installation or change specifies installing a label, an operator's equivalent procedure to indelibly mark the applicable service bulletin number on the panel may be used.

**Note 1 to paragraph (g) of this AD:** Additional guidance on procedures for indelibly marking the ELMS panel can be found in Boeing Process Specification BAC5307.

**(h) Concurrent Requirements**

(1) For airplanes identified in Boeing Service Bulletin 777–23–0142, dated November 25, 2003: Prior to or concurrently with accomplishing the requirements of paragraph (g) of this AD, change the hardware and software for the cabin services system, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 777–23–0142, dated November 25, 2003.

(2) For all airplanes: Prior to or concurrently with accomplishing the requirements of paragraph (g) of this AD, change the operational software (OPS) of the cabin management system, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 777–23–0175, Revision 2, dated October 12, 2006.

(3) For Group 1, Configurations 1, 3, and 4 airplanes, identified in Boeing Service Bulletin 777–24–0074, Revision 4, dated September 13, 2012: Prior to or concurrently with accomplishing the requirements of paragraph (g) of this AD, install certain new electrical power control panels, as identified in, and in accordance with, the Accomplishment Instructions of Boeing Service Bulletin 777–24–0074, Revision 4, dated September 13, 2012.

(4) For Group 1, Configuration 2 airplanes, identified in Boeing Service Bulletin 777–24–0074, Revision 4, dated September 13, 2012: Prior to or concurrently with accomplishing the requirements of paragraph (g) of this AD, inspect the electrical power control panel for a certain part number and change the part number, as applicable; as identified in, and in accordance with, the Accomplishment Instructions of Boeing Service Bulletin 777–24–0074, Revision 4, dated September 13, 2012.

(5) For all airplanes: Prior to or concurrently with accomplishing the requirements of paragraph (g) of this AD, change the ELMS OPS and configuration database software (OPC) at the data loader, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 777–24–0087, Revision 2, dated August 16, 2007; or Boeing Service Bulletin 777–28A0039, Revision 2, dated September 20, 2010.

**(i) Credit for Previous Actions**

(1) This paragraph provides credit for the actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Boeing Service Bulletin 777–24–0075, dated August 21, 2003; or Revision 1, dated December 11, 2003, provided that Smiths Service Bulletin 5000ELM–24–379 identified on pages 8 and 19 of Boeing Service Bulletin 777–24–0075, Revision 1, dated December 11, 2003, is not used. These documents are not incorporated by reference in this AD.

(2) This paragraph provides credit for the actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Boeing Service Bulletin 777–24–0075, Revision 2, dated October 5, 2006; or Revision 3, dated August 26, 2010. These documents are not incorporated by reference in this AD.

(3) This paragraph provides credit for the actions required by paragraph (h)(2) of this AD, if those actions were performed before the effective date of this AD using Boeing Service Bulletin 777–23–0175, dated July 11, 2002; or Revision 1, dated July 17, 2003; provided that overhead electronics unit hardware, part number 285W0029–5, is not installed. These documents are not incorporated by reference in this AD.

(4) This paragraph provides credit for the actions required by paragraphs (h)(3) and (h)(4) of this AD, if those actions were performed before the effective date of this AD using Boeing Service Bulletin 777–24–0074, dated June 27, 2002; Revision 1, dated October 5, 2006; Revision 2, dated May 20, 2010; or Revision 3, dated February 20, 2012; provided all applicable concurrent requirements identified in Section 1.B. of Boeing Service Bulletin 777–24–0074, Revision 4, dated September 13, 2012, have been done prior to or concurrently with that revision; and provided that any additional work identified by the phrase ''More work is necessary'' in section 1.D. of Boeing Service Bulletin 777–24–0074, Revision 4, dated September 13, 2012, is accomplished before the effective date of this AD. These documents are not incorporated by reference in this AD.

(5) This paragraph provides credit for the actions required by paragraph (h)(5) of this AD, if those actions were performed before the effective date of this AD using Boeing Service Bulletin 777–24–0087, dated July 24, 2003, or Revision 1, dated December 18, 2003; or Boeing Service Bulletin 777–28A0039, dated June 13, 2008, or Revision 1, dated January 8, 2009. These documents are not incorporated by reference in this AD.

**(j) Alternative Methods of Compliance (AMOCs)**

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/ certificate holding district office.

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

**(k) Related Information**

(1) For more information about this AD, contact Ray Mei, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6467; fax: 425–917–6590; email: *raymont.mei@faa.gov.*

(2) For service information identified in this AD that is not incorporated by reference 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.

**(l) Material Incorporated by Reference**

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

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

(i) Boeing Service Bulletin 777–23–0142, dated November 25, 2003.

(ii) Boeing Service Bulletin 777–23–0175, Revision 2, dated October 12, 2006.

(iii) Boeing Service Bulletin 777–24–0074, Revision 4, dated September 13, 2012.

(iv) Boeing Service Bulletin 777–24–0075, Revision 4, dated January 8, 2014.

(v) Boeing Service Bulletin 777–24–0087, Revision 2, dated August 16, 2007.

(vi) Boeing Service Bulletin 777–28A0039, Revision 2, dated September 20, 2010.

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

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

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on May 15, 2014.

**Michael Kaszycki,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2014–12650 Filed 6–2–14; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2013–0984; Directorate Identifier 2013–SW–022–AD; Amendment 39–17859; AD 2014–11–08]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Helicopters (Previously Eurocopter France) (Airbus Helicopters) Helicopters

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for Airbus Helicopters Model EC225LP helicopters to require measuring the operating load of the cockpit fuel shut-off controls and replacing the tangential gearbox if the operating load threshold is exceeded. This AD was prompted by the jamming of the left-hand (LH) side of the fuel shut-off and general cut-off controls (controls). The actions of this AD are intended to prevent the jamming of the controls so that a pilot can shut down an engine during an engine fire or during an emergency landing.

**DATES:** This AD is effective July 8, 2014.

**ADDRESSES:** For service information identified in this AD, contact Airbus Helicopters, Inc., 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.airbushelicopters.com/techpub.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

### Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at the Docket Operations Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the European Aviation Safety Agency (EASA) AD, the economic evaluation, any comments received, and other information. The street address for the Docket Operations Office (phone: 800–647–5527) is U.S. Department of Transportation, Docket Operations Office, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** James Blyn, Aviation Safety Engineer, Regulations and Policy Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *james.blyn@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Discussion

On November 25, 2013, at 78 FR 70242, the **Federal Register** published our notice of proposed rulemaking (NPRM), which proposed to amend 14 CFR part 39 by adding an AD that would apply to Eurocopter France (now Airbus Helicopters) Model EC225LP helicopters with a tangential gearbox, part number 200181 or 704A34112012. The NPRM proposed to require measuring the operating load of the cockpit fuel shut-off controls and replacing the tangential gearbox if the operating load threshold is exceeded. The proposed requirements were intended to prevent the jamming of the controls so that a pilot can shut down an engine during an engine fire or during an emergency landing.

The NPRM was prompted by AD No. 2013–0098–E, dated April 24, 2013, issued by EASA, which is the Technical Agent for the Member States of the European Union, to correct an unsafe condition for Eurocopter France (now Airbus Helicopters) Model EC 225 LP helicopters. EASA advises that during maintenance on a helicopter, the LH side of the cockpit's emergency shutdown controls were reported jammed, making it impossible to operate the LH fuel shut-off and the general cut-out handles. EASA states that this condition could lead to failure to manually operate the emergency shutdown controls during an emergency landing or fire. To address this unsafe condition, EASA AD No. 2013–0098–E requires an operating load check of the two cockpit fuel shut-off handles and, depending on findings, lubrication and/or replacement of the two tangential gearboxes.

Since we issued the NPRM, Eurocopter France changed its name to Airbus Helicopters, Inc. This AD reflects that change and updates the contact information to obtain service documentation.

### Comments

We gave the public the opportunity to participate in developing this AD, but we received no comments on the NPRM (78 FR 70242, November 25, 2013).

### FAA's Determination

These helicopters have been approved by the aviation authority of France and are approved for operation in the United States. Pursuant to our bilateral agreement with France, EASA, its technical representative, has notified us of the unsafe condition described in the EASA AD. We are issuing this AD because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other helicopters of these same type designs and that air safety and the public interest require adopting the AD requirements as proposed except for the minor changes previously described. These changes are consistent with the intent of the proposals in the NPRM (78 FR 70242, November 25, 2013) and will not increase the economic burden on any operator nor increase the scope of this AD.

### Differences Between This AD and the EASA AD

The EASA AD requires differing compliance times based on when the helicopter's original Certificate of Airworthiness or Export Certificate of Airworthiness was issued. This AD makes no distinction regarding compliance times because there are only 4 affected aircraft on the U.S. registry.

### Related Service Information

Eurocopter issued Emergency Alert Service Bulletin No. 76A001, Revision 0, dated April 22, 2013, for the Model

EC225LP civil helicopter and the Model EC725AP military helicopter to notify its operators that during a scheduled inspection of the fuel shut-off controls, a mechanic noticed that one of the shut-off controls jammed. This jamming made maneuvering the fuel shut-off and the general cut-out controls impossible. After an investigation, Eurocopter determined that the jamming originated in the tangential gearbox installed on this control. Traces of corrosion were observed on the internal bearings of the LH tangential gearbox, Eurocopter reported. The jamming of the fuel cut-off control prevents the engine input fuel valve and the engine compartment ventilation flap from closing and prevents the activation of the general cut-out control.

Eurocopter consequently called for a mandatory ''check'' of the fuel shut-off valve maneuvering loads, lubricating the tangential gearbox bearings, and depending on the load measurement, replacing the tangential gearbox.

## Costs of Compliance

We estimate that this AD affects 4 helicopters of U.S. Registry and that labor costs average $85 a work-hour. Based on these estimates, we expect the following costs:

- Measuring the operating load of the two cockpit fuel shut-off controls require .25 work-hours for a labor cost of about $21, or $84 for the U.S. fleet. No parts are needed.
- Lubricating the tangential gearbox requires 4 work-hours. The cost of consumable materials is minimal for a total cost of $340 per helicopter.
- Replacing the tangential gearbox requires 4 work-hours for a labor cost of $340. Parts cost $4,943 for a total cost of $5,283 per helicopter.

## 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 helicopters identified in this rulemaking action.

## Regulatory Findings

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

For the reasons discussed above, I certify that this AD:

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

(2) Is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);

(3) Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction; and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

## List of Subjects in 14 CFR Part 39

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

## Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

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

**2014–11–08 Airbus Helicopters (Previously Eurocopter France):** Amendment 39–17859; Docket No. FAA–2013–0984; Directorate Identifier 2013–SW–012–AD.

**(a) Applicability**

This AD applies to Model EC225LP helicopters with a tangential gearbox, part number (P/N) 200181 or 704A34112012, installed, certificated in any category.

**(b) Unsafe Condition**

This AD defines the unsafe condition as the jamming of the fuel shut-off and the general cut-off controls. This condition could prevent a pilot from shutting down an engine during an engine fire or emergency landing.

**(c) Effective Date**

This AD becomes effective July 8, 2014.

**(d) Compliance**

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

**(e) Required Actions**

(1) Within 15 hours time-in-service or 7 days, whichever occurs first, measure the operating load of each cockpit fuel shut-off control.

(i) If the operating load is more than 3 daN (6.74 ft-lb), before further flight, lubricate each tangential gearbox and measure the operating load of each cockpit fuel shut-off control.

(ii) If the operating load is less than or equal to 3 daN (6.74 ft-lb), within 6 months, lubricate each tangential gearbox and measure the operating load of each cockpit fuel shut-off control.

(iii) If the operating load is more than 3 daN (6.74 ft-lb) after lubricating the tangential gearbox, replace the affected tangential gearbox before the next flight.

(2) Before installing a tangential gearbox, P/N 200181 or 704A34112012, lubricate the upper and lower bearings.

**(f) Alternative Methods of Compliance (AMOCs)**

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: James Blyn, Aviation Safety Engineer, Regulations and Policy Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *james.blyn@faa.gov*.

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, we suggest that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office, before operating any aircraft complying with this AD through an AMOC.

**(g) Additional Information**

(1) Eurocopter Emergency Alert Service Bulletin No. 76A001, Revision 0, dated April 22, 2013, which is not incorporated by reference, contains additional information about the subject of this AD. For service information, contact Airbus Helicopters, Inc., 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.airbushelicopters.com/techpub.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

(2) The subject of this AD is addressed in European Aviation Safety Agency (EASA) AD No. 2013–0098–E, dated April 24, 2013. You may view the EASA AD on the Internet at *http://www.regulations.gov* in Docket No. FAA–2013–0984.

**(h) Subject**

Joint Aircraft Service Component (JASC) Code: Engine Controls, 7600.

Issued in Fort Worth, Texas, on May 21, 2014.

**Lance T. Gant,**

*Acting Directorate Manager, Rotorcraft Directorate, Aircraft Certification Service.*

[FR Doc. 2014–12717 Filed 6–2–14; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2014–0336; Directorate Identifier 2013–SW–063–AD; Amendment 39–17857; AD 2014–11–07]**

**RIN 2120–AA64**

## Airworthiness Directives; Agusta S.p.A Helicopters (Type Certificate Currently Held by AgustaWestland S.p.A) (Agusta)

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

**ACTION:** Final rule; request for comments.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for Agusta Model A109A, A109A II, A109C, A109E, A109K2, A109S, AW109SP, A119, and AW119 MKII helicopters. This AD requires inspecting and replacing certain part-numbered main rotor swashplate support nuts. This AD is prompted by a report of two cracked nuts found on an A109S helicopter. These actions are intended to detect a cracked nut and prevent failure of the main rotor system, and subsequent loss of control of the helicopter.

**DATES:** This AD becomes effective June 18, 2014.

We must receive comments on this AD by August 4, 2014.

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

- *Federal eRulemaking Docket:* Go to *http://www.regulations.gov.* Follow the online instructions for sending your comments electronically.
- *Fax:* 202–493–2251.
- *Mail:* Send comments to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to the ''Mail'' address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

### Examining the AD Docket

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

For service information identified in this AD, contact AgustaWestland, Product Support Engineering, Via del Gregge, 100, 21015 Lonate Pozzolo (VA) Italy, ATTN: Maurizio D'Angelo; telephone 39–0331–664757; fax 39 0331–664680; or at *http://www.agustawestland.com/technical-bulletins.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

**FOR FURTHER INFORMATION CONTACT:** Robert Grant, Aviation Safety Engineer, Safety Management Group, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *robert.grant@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not provide you with notice and an opportunity to provide your comments prior to it becoming effective. However, we invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that resulted from adopting this AD. The most helpful comments reference a specific portion of the AD, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit them only one time. We will file in the docket all comments that we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this rulemaking during the comment period. We will consider all the comments we receive and may conduct additional rulemaking based on those comments.

### Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Emergency AD No. 2013–0265–E, dated October 30, 2013, to correct an unsafe condition for Agusta Model A109A, A109A II, A109C, A109E, A109K2, A109LUH, A109S, AW109SP, A119, and AW119 MKII helicopters. EASA advises that during a scheduled inspection of the rotating control installation, two nuts, part number (P/N) MS21042–4, which connect the swashplate support to the upper case of the main transmission were found cracked. EASA states a subsequent investigation determined that the cracks in the nuts resulted from a production deficiency, which caused hydrogen embrittlement, at the nut manufacturer. EASA also states that this condition, if not detected and corrected, could lead to failure of the main rotor function and subsequent loss of control of the helicopter. The EASA Emergency AD requires repetitive inspections of each nut, P/N MS21042–4, for a crack, replacing any nut that has a crack with a different part-numbered nut, and, within 3 months, replacing each nut that does not have a crack with a different part-numbered nut. EASA Emergency AD 2013–0265–E also prohibits installing a nut, P/N MS21042–4, to connect the swashplate support to the upper case on any helicopter.

### FAA's Determination

These helicopters have been approved by the aviation authority of Italy and are approved for operation in the United States. Pursuant to our bilateral agreement with Italy, EASA, its technical representative, has notified us of the unsafe condition described in the EASA AD. We are issuing this AD because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other helicopters of these same type designs.

### Related Service Information

Agusta has issued Bollettino Tecnico (BT) No. 109–137 for Model A109A, A109A II and A109C helicopters; BT No. 109EP–131 for Model A109E helicopters; BT No. 109K–59 for Model A109K2 helicopters; BT No. 109S–056 for Model A109S helicopters; BT No. 109SP–070 for Model AW109SP helicopters; and BT No. 119–062 for Model A119 and AW119 MKII helicopters. All of the BTs are Revision 0 and are dated October 29, 2013. Each BT describes procedures for inspecting

the nuts connecting the swashplate support to the upper case of the main transmission for a crack and for replacing each nut, P/N MS21042–4, with a nut, P/N NAS1805–4.

**AD Requirements**

This AD requires, within 10 hours time-in-service (TIS), inspecting each nut, P/N MS21042–4, which connects the swashplate support to the upper case of the main transmission, for a crack. If there is a crack on any nut, or within 25 hours TIS if there is not a crack, this AD requires replacing each nut, P/N MS21042–4, connecting the swashplate support to the upper case of the main transmission. This AD also prohibits installing a nut, P/N MS21042–4, connecting the swashplate support to the upper case of the main transmission on any helicopter.

**Differences Between This AD and the EASA**

The EASA AD requires replacing each nut, P/N MS21042–4, within 3 months, while this AD requires replacing the nuts within 25 hours TIS. The EASA AD also requires that each of the P/N MS21042–4 nuts be replaced with P/N NAS1805–4 nuts and this AD does not. The EASA AD also requires repetitive inspections of the P/N MS21042–4 nuts until they can be replaced and this AD does not. This AD does not apply to Model A109LUH helicopters as they are not type-certificated in the U.S.

**Costs of Compliance**

We estimate that this AD affects 222 helicopters of U.S. Registry. We estimate that operators may incur the following costs in order to comply with this AD. At an average labor rate of $85 per work-hour, inspecting the nuts connecting the swashplate support to the upper case of the main transmission requires about .5 work-hour, for a cost per helicopter of $43, and a total cost to U.S. operators of $9,546. Replacing the nuts requires about 1 work-hour, and required parts cost is minimal, for a cost per helicopter of $85 and a total cost to U.S. operators of $18,870.

**FAA's Justification and Determination of the Effective Date**

Providing an opportunity for public comments before adopting these AD requirements would delay implementing the safety actions needed to correct this known unsafe condition. Therefore, we find that the risk to the flying public justifies waiving notice and comment before adopting this rule because the required corrective actions must be done within 10 hours TIS and 25 hours TIS, a very short time period based on the average flight-hour utilization rate of these helicopters.

Since an unsafe condition exists that requires the immediate adoption of this AD, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in less than 30 days.

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

For the reasons discussed, I certify that this AD:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);

3. Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction; and

4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

**List of Subjects in 14 CFR Part 39**

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

**Adoption of the Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**2014–11–07 Agusta S.p.A Helicopters (Type Certificate Currently Held By AgustaWestland S.p.A) (Agusta):** Amendment 39–17857; Docket No. FAA–2014–0336; Directorate Identifier 2013–SW–063–AD.

**(a) Applicability**

This AD applies to Agusta Model A109A, A109A II, A109C, A109E, A109K2, A109S, AW109SP, A119, and AW119 MKII helicopters with a nut, part-number (P/N) MS21042–4, connecting the main rotor swashplate support to the upper case of the main transmission installed, certificated in any category.

**(b) Unsafe Condition**

This AD defines the unsafe condition as a crack on a nut connecting the main rotor swashplate support to the upper case of the main transmission. This condition could result in failure of the main rotor system and subsequent loss of control of the helicopter.

**(c) Effective Date**

This AD becomes effective June 18, 2014.

**(d) Compliance**

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

**(e) Required Actions**

(1) Within 10 hours time-in-service (TIS), using a light, visually inspect each nut, P/N MS21042–4, which connects the swashplate support to the upper case of the main transmission for a crack.

(i) If there is a crack, before further flight, remove all six nuts, P/N MS21042–4, connecting the swashplate support to the upper case.

(ii) If there are no cracks, within 25 hours TIS, remove all six nuts, P/N MS21042–4, connecting the swashplate support to the upper case.

(2) Do not install a nut, P/N MS21042–4, connecting the swashplate support to the upper case of the main transmission on any helicopter.

**(f) Alternative Methods of Compliance (AMOCs)**

(1) The Manager, Safety Management Group, Rotorcraft Directorate, FAA, may

approve AMOCs for this AD. Send your proposal to: Robert Grant, Aviation Safety Engineer, Safety Management Group, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *robert.grant@faa.gov.*

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, we suggest that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office, before operating any aircraft complying with this AD through an AMOC.

**(g) Additional Information**

(1) Agusta Bollettino Tecnico (BT) No. 109–137 for Model A109A, A109A II and A109C helicopters; BT No. 109EP–131 for Model A109E helicopters; BT No. 109K–59 for Model A109K2 helicopters; BT No. 109S–056 for Model A109S helicopters; BT No. 109SP–070 for Model AW109SP helicopters; and BT No. 119–062 for Model A119 and AW119 MKII helicopters, all Revision 0 and dated October 29, 2013, which are not incorporated by reference, contain additional information about the subject of this AD. For service information identified in this AD, contact AgustaWestland, Product Support Engineering, Via del Gregge, 100, 21015 Lonate Pozzolo (VA) Italy, ATTN: Maurizio D'Angelo; telephone 39–0331–664757; fax 39–0331–664680; or at *http://www.agustawestland.com/technical-bullettins.* You may review a copy of the service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth Texas 76137.

(2) The subject of this AD is addressed in European Aviation Safety Agency (EASA) Emergency AD No. 2013–0265–E, dated October 30, 2013. You may view the EASA AD on the internet at *http://www.regulations.gov* in Docket No. FAA–2014–0336.

**(h) Subject**

Joint Aircraft Service Component (JASC) Code: 6200 Main Rotor System.

Issued in Fort Worth, Texas, on May 21, 2014.

**Lance T. Gant,**

*Acting Directorate Manager, Rotorcraft Directorate, Aircraft Certification Service.*

[FR Doc. 2014–12719 Filed 6–2–14; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Part 878

**[Docket No. FDA–2014–N–0576]**

## Medical Devices; General and Plastic Surgery Devices; Classification of the Powered Surgical Instrument for Improvement in the Appearance of Cellulite

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final order.

**SUMMARY:** The Food and Drug Administration (FDA) is classifying the powered surgical instrument for improvement in the appearance of cellulite into class II (special controls). 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 July 3, 2014. The classification was applicable on July 12, 2013.

**FOR FURTHER INFORMATION CONTACT:** Jitendra Virani, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. G459, Silver Spring, MD 20993–0002, 301–796–6398.

**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) (a de novo request). 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) 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. In accordance with section 513(f)(1) of the FD&C Act, FDA issued an order on March 14, 2011, classifying the Cabochon System into class III, because it was not substantially equivalent to a device that was introduced or delivered for introduction into interstate commerce for commercial distribution before May 28, 1976, or a device which was subsequently reclassified into class I or class II. On October 29, 2011, Cabochon Aesthetics, Inc., submitted a request for classification of the Cabochon 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 July 12, 2013, FDA issued an order to the requestor classifying the device into class II. FDA is codifying the classification of the device by adding § 878.4790.

Following the effective date of this final classification administrative order, any firm submitting a premarket notification (510(k)) for a powered surgical instrument for improvement in the appearance of cellulite will need to comply with the special controls named in the final administrative order.

The device is assigned the generic name powered surgical instrument for improvement in the appearance of cellulite, and it is identified as a prescription device that is used for the controlled release of subcutaneous tissue for improvement in the appearance of cellulite. The device consists of a cutting tool powered by a motor and a means for instrument guidance to control the areas of subcutaneous tissue cutting underneath the cellulite depressions or dimples.

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

TABLE 1—POWERED SURGICAL INSTRUMENT FOR IMPROVEMENT IN THE APPEARANCE OF CELLULITE RISKS AND MITIGATION MEASURES

| Identified risks | Mitigation measures |
|---|---|
| Mechanical Injury (excessive treatment or treatment of non-intended areas). | Non-clinical Testing.<br>In Vivo Evaluation. |
| Infection | Sterility Assurance Testing.<br>Shelf-life Testing. |
| Electrical Shock | Electrical Safety Testing. |
| Electromagnetic Interference | Electromagnetic Compatibility (EMC) Testing. |
| Adverse Tissue Reaction | Biocompatibility Testing. |
| Use Error | In Vivo Evaluation.<br>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) Non-clinical testing must be performed to demonstrate that the device meets all design specifications and performance requirements, and to demonstrate durability and mechanical integrity of the device.

(2) In vivo evaluation of the device must demonstrate device performance, including the safety of the release methodology and blood loss at the treatment sites.

(3) All elements of the device that may contact the patient must be demonstrated to be biocompatible.

(4) Electrical safety and electromagnetic compatibility of the device must be demonstrated.

(5) The labeling must include a summary of in vivo evaluation data and all the device specific warnings, precautions, and/or contraindications.

(6) Sterility and shelf-life testing for the device must demonstrate the sterility of patient contacting components and the shelf life of these components.

Powered surgical instruments for improvement in the appearance of cellulite are prescription devices restricted to patient use only upon the authorization of a practitioner licensed by law to administer or use the device. (Proposed § 878.4790(a) (21 CFR 878.4790(a)); see section 520(e) of the FD&C Act (21 U.S.C. 360j(e)) and § 801.109 (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 powered surgical instrument for improvement in the appearance of cellulite 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. K101231: De Novo Request per 513(f)(2) pursuant to the Agency's NSE Determination, dated March 14, 2011, from Cabochon Aesthetics, Inc., dated October 29, 2011.

**List of Subjects in 21 CFR Part 878**

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 878 is amended as follows:

## PART 878—GENERAL AND PLASTIC SURGERY DEVICES

■ 1. The authority citation for 21 CFR part 878 continues to read as follows:

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

■ 2. Add § 878.4790 to subpart E to read as follows:

**§ 878.4790 Powered surgical instrument for improvement in the appearance of cellulite.**

(a) *Identification.* A powered surgical instrument for improvement in the appearance of cellulite is a prescription device that is used for the controlled release of subcutaneous tissue for improvement in the appearance of cellulite. The device consists of a cutting tool powered by a motor and a means for instrument guidance to control the areas of subcutaneous tissue cutting underneath the cellulite depressions or dimples.

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

(1) Non-clinical testing must be performed to demonstrate that the device meets all design specifications and performance requirements, and to demonstrate durability and mechanical integrity of the device.

(2) In vivo evaluation of the device must demonstrate device performance, including the safety of the release methodology and blood loss at the treatment sites.

(3) All elements of the device that may contact the patient must be demonstrated to be biocompatible.

(4) Electrical safety and electromagnetic compatibility of the device must be demonstrated.

(5) The labeling must include a summary of in vivo evaluation data and all the device specific warnings, precautions, and/or contraindications.

(6) Sterility and shelf-life testing for the device must demonstrate the sterility of patient contacting components and the shelf life of these components.

Dated: May 23, 2014.

**Leslie Kux,**

*Assistant Commissioner for Policy.*

[FR Doc. 2014–12814 Filed 6–2–14; 8:45 am]

BILLING CODE 4160–01–P

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

## 24 CFR Part 3280

**[Docket No. FR–5787–F–01]**

**RIN 2502–AJ21**

## Manufactured Housing Constructions and Safety Standards: Correction of Reference Standard for Anti-Scald Valves

**AGENCY:** Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the Federal Manufactured Home Construction and Safety Standards by incorporating the correct reference standard for anti-scald devices designed for bathtubs and whirlpool tubs without showers, ASSE 1070–2004, Performance Requirements for Water Temperature Limiting Devices. Anti-scald valves mitigate the danger of serious burns and other hazards caused by bursts of hot water resulting from sudden changes in water pressure. In a final rule published on December 9, 2013, HUD incorporated ASSE 1016–2005, an anti-scalding device designed for showers and tub-shower combinations. HUD failed to incorporate, however, ASSE 1070–2004, which is designed for fixtures such as bathtubs and whirlpool tubs that do not have showers. To correct this and ensure the safety of occupants of manufactured homes with bathtubs and whirlpool tubs without showers, this final rule incorporates ASSE 1070–2004.

**DATES:** *Effective Date:* July 3, 2014. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of July 3, 2014.

**FOR FURTHER INFORMATION CONTACT:** Pamela Beck Danner, Administrator, Office of Manufactured Housing Programs, Room 9168, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone number 202–708–6423 (this is not a toll-number). Persons with hearing or speech impairments may access this number via TTY by calling the Federal Relay Service at 1–800–877–8389 (this is a toll-free number).

**SUPPLEMENTARY INFORMATION:**

### I. Background

The National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401–5426) (the Act) authorizes HUD to establish and amend the Federal Manufactured Home Construction and Safety Standards codified in 24 CFR part 3280. The Act was amended in 2000 by the Manufactured Housing Improvement Act of 2000 (Pub. L. 106–569), by expanding its purposes and creating the Manufactured Housing Consensus Committee (MHCC).

As amended, the purposes of the Act (enumerated at 42 U.S.C. 5401) are: ''(1) To protect the quality, durability, safety, and affordability of manufactured homes; (2) to facilitate the availability of affordable manufactured homes and to increase homeownership for all Americans; (3) to provide for the establishment of practical, uniform, and, to the extent possible, performance-based Federal construction standards for manufactured homes; (4) to encourage innovative and cost-effective construction techniques for manufactured homes; (5) to protect residents of manufactured homes with respect to personal injuries and the amount of insurance costs and property damages in manufactured housing consistent with the other purposes of this section; (6) to establish a balanced consensus process for the development, revision, and interpretation of Federal construction and safety standards for manufactured homes and related regulations for the enforcement of such standards; (7) to ensure uniform and effective enforcement of Federal construction and safety standards for manufactured homes; and (8) to ensure that the public interest in, and need for, affordable manufactured housing is duly considered in all determinations relating to the Federal standards and their enforcement.''

### II. This Final Rule

On December 9, 2013, at 78 FR 73966, HUD published a final rule that amended the Federal Manufactured Home Construction and Safety Standards at 24 CFR part 3280 by adopting certain recommendations made to HUD by the MHCC, as modified by HUD. Among other changes, HUD's December 9, 2013, final rule revised the Manufactured Home Construction and Safety Standards by updating the incorporated reference standards that establish the standards for the various components of a manufactured home. Most of HUD's changes codified existing building practices or conformed HUD standards to HUD interpretive bulletins or existing building codes.

One update codified by HUD's December 9, 2013, final rule was to require that shower, bath, and tub-shower combination valves be either balanced pressure, thermostatic, or a combination of mixing valves that conforms to the requirements of ASSE

1016–2005, Performance Requirements for Automatic Compensation Valves for Individual Showers and Tub/Shower Combinations. HUD codified this requirement in §§ 3280.4(o)(8), 3280.604(b), and 3280.607(b)(3)(v). HUD stated that these valves must have handle position stops that are adjustable in accordance with the valve manufacturer's instructions, to a maximum setting of 120 °F to prevent scalding and burn injuries to occupants from very hot water. This change was based on public safety and intended to reduce the number of injuries and deaths resulting from tap water scald burns. As HUD states in its final rule, the Centers for Disease Control and other organizations report that a majority of scald burn victims are young children whose injuries may have been prevented by the use of an anti-scald valve. Requiring the use of anti-scald valves is also consistent with International Residential Code (IRC) requirements for one- and two-family dwellings.

Since publishing the December 9, 2013, final rule, HUD has determined that ASSE 1016–2005, is an anti-scalding device designed for showers and tub-shower combinations. It is not the correct standard for an anti-scalding device designed for bathtub and whirlpool tubs without showers. Rather, the correct reference standard for anti-scald devices designed for bathtubs and whirlpool tubs without showers is ASSE 1070–2004, Performance Requirements for Water Temperature Limiting Devices, approved February 2004. There are some significant differences between ASSE 1016–2005 and ASSE 1070–2004. Most important, ASSE 1070–2004 has more stringent controls for minimum test flows than does ASSE 1016–2005. ASSE 1016–2005 valves are tested for temperature control at a minimum flow of 2.5 gallons/minute, the standard showerhead rating. ASSE 1070–2004 valves are tested to a minimum flow of 0.5 gallons/minute. This difference is important because accurate controls of water flows for bathtubs and whirlpool tubs at low flows are critical to user safety. The IRC identifies ASSE 1070–2004 as the correct standard for anti-scald devices designed for bathtubs and whirlpool tubs without showers.

Codifying ASSE 1070–2004 is a technical correction. In its July 13, 2010 (75 FR 39871), proposed rule, HUD proposed to require ''that shower, bath, and tub-shower combination valves'' be either balanced pressure, thermostatic, or a combination of mixing valves that conform to ASSE 1016–1996. In response to public comments, HUD stated that it would add new reference standards ''for shower, bath, and tub-shower combination valves.'' The December 9, 2013, final rule, however, incorporated the correct standard for only showers and tub-shower combinations. This rule corrects this oversight by adding ASSE 1070–2004 as the correct standard for bathtubs and whirlpool baths without showers.

To make this correction, this final rule revises § 3280.607(b)(3)(v) by clarifying that shower and tub shower combination valves must conform to the requirements of ASSE 1016–2005. Valves designed for bathtubs and whirlpool bathtubs without showers must conform to the requirements of ASSE 1070–2004. This final rule also makes conforming changes to §§ 3280.4 and 3280.604(b)(2).

## III. Incorporation by Reference

The incorporation by reference of ASSE 1070–2004 is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the standard may be obtained from the organization that developed the standard. As described in § 3280.4, this standard is also available for inspection at HUD's Office of Manufactured Housing Programs and at the National Archives and Records Administration. This final rule incorporates a standard developed by the following organization:

ASSE—American Society of Sanitary Engineering, 901 Canterbury Road, Suite A, Westlake, Ohio 44145; telephone number 440–835–3040; fax number 440–835–3488; Web site, *http://www.asse-plumbing.org.*

## IV. Justification for Final Rulemaking

HUD generally publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking at 24 CFR part 10. Part 10 provides for exceptions to the general rule if the agency finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when prior public procedure is ''impracticable, unnecessary, or contrary to the public interest'' (24 CFR 10.1). For the following reasons, HUD finds that good cause exists to publish this rule for effect without first soliciting public comment.

This final rule amends the Federal Manufactured Home Construction and Safety Standards by incorporating the correct reference standard for anti-scald devices designed for bathtubs and whirlpool baths without showers, ASSE 1070–2004. Anti-scald valves mitigate the danger of serious burns and other hazards caused by bursts of hot water resulting from sudden changes in water pressure. In both its July 13, 2010, proposed rule and its December 9, 2013, final rule, HUD stated its intent to require anti-scald valves for all showers, baths, and tub-shower combinations. Public comments received in response to HUD's proposed rule supported HUD's proposed requirement and recognized that the installation of anti-scald valves is safety driven and would prevent, mitigate, or reduce the number of injuries to individuals living in manufactured homes. One commenter, citing the study conducted by Safe Kids [1] referenced in HUD's proposed rule, stated that requiring anti-scald valves in all showers, baths and tub-shower combinations was a low-cost measure that would prevent an estimated 100 kids from death by scalding hot water and an estimated 3000 people from being hospitalized and treated for scalding hot water. HUD responded to these comments by stating that it would add new reference standards ''for shower, bath, and tub-shower combination valves.'' HUD's final rule, however, incorporated a reference standard for shower and tub-shower combinations, but failed to incorporate a standard for bathtubs and whirlpool baths that do not have showers. To correct this and ensure the safety of occupants of manufactured homes with bathtubs and whirlpool baths without showers, this final rule incorporates ASSE 1070–2004.

Therefore, HUD determined that it is unnecessary to publish this rule for public comment prior to publishing the rule for effect.

## V. Findings and Certifications

### *Regulatory Review—Executive Orders 12866 and 13563*

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if the regulation is necessary, to select the regulatory approach that maximizes net benefits. As discussed above in this preamble, HUD's December 9, 2013, final rule did not incorporate the correct standard for anti-scald valves designed for fixtures such as bathtubs and whirlpool tubs that do not have showers. This final rule corrects this oversight. As a result, this rule was determined to not be a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review and, therefore, was not reviewed by the

[1] National SAFE KIDS Campaign (NSKC). Burn Injury Fact Sheet. Washington (DC): NSKC, 2004.

Office of Management and Budget (OMB).

*Regulatory Flexibility Act*

The Regulatory Flexibility Act (5 U.S.C. 605(b)) generally requires an agency to conduct regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Since notice and comment rulemaking is not necessary for this final rule, the provisions of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612) do not apply.

*Executive Order 13132, Federalism*

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on state and local governments and is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. This final rule will not have federalism implications and would not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive order.

*Environmental Review*

A Finding of No Significant Impact with respect to the environment was made at the proposed rule stage (75 FR 39871) in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The Finding of No Significant Impact is applicable to this final rule and is available for public inspection between the hours of 8 a.m. and 5 p.m., weekdays, in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410–0500. Due to security measures at the HUD Headquarters building, please schedule an appointment to review the finding by calling the Regulations Division at 202–402–3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number through TTY by calling the Federal Information Relay Service at 800–877–8339 (this is a toll-free number).

*Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (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 final rule does not impose any Federal mandates on any state, local, or tribal government, or the private sector, within the meaning of UMRA.

**List of Subjects in 24 CFR Part 3280**

Housing standards, Incorporation by reference, Manufactured homes.

**Catalog of Federal Domestic Assistance**

The Catalog of Federal Domestic Assistance number for Manufactured Housing Construction and Safety Standards is 14.171.

Accordingly, for the reasons stated in the preamble, HUD is amending 24 CFR part 3280 as follows:

## PART 3280—MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS

■ 1. The authority citation for part 3280 continues to read as follows:

**Authority:** 42 U.S.C. 3535(d), 5403, and 5424.

■ 2. Amend § 3280.4 by adding paragraph (o)(15) to read as follows:

**§ 3280.4 Incorporation by reference.**

* * * * *

(o) * * *

(15) ASSE 1070–2004, Performance Requirements for Water Temperature Limiting Devices, IBR approved for §§ 3280.604(b) and 3280.607(b).

* * * * *

■ 3. Amend § 3280.604(b)(2) by adding under the undesignated heading ''Plumbing Fixtures,'' a reference standard for ''Performance Requirements for Water Temperature Limiting Devices'' at the end of the list, to read as follows:

**§ 3280.604 Materials.**

* * * * *

(b) * * *

(2) * * *

**Plumbing Fixtures**

* * * * *

Performance Requirements for Water Temperature Limiting Devices, approved February 2004, ASSE 1070–2004 (incorporated by reference, see § 3280.4).

* * * * *

■ 4. In § 3280.607, revise paragraph (b)(3)(v) to read as follows:

**§ 3280.607 Plumbing fixtures.**

* * * * *

(b) * * *

(3) * * *

(v) Shower and tub-shower combination valves must be balanced pressure, thermostatic, or combination mixing valves that conform to the requirements of ASSE 1016–2005, Performance Requirements for Automatic Compensating Valves for Individual Shower and Tub/Shower Combinations (incorporated by reference, see § 3280.4). Such valves must be equipped with handle position stops that are adjustable in accordance with the valve manufacturer's instructions and to a maximum setting of 120 °F. Hot water supplied to bathtubs and whirlpool bathtubs are to be limited to a temperature of not greater than 120 °F by a water temperature limiting device that conforms to the requirements of ASSE 1070–2004, Performance Requirements for Water Temperature Limiting Devices (incorporated by reference, see § 3280.4).

* * * * *

Dated: May 28, 2014.

**Carol Galante,**

*Assistant Secretary for Housing—Federal Housing Commissioner.*

[FR Doc. 2014–12731 Filed 6–2–14; 8:45 am]

BILLING CODE 4210–67–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### 26 CFR Part 1

**[TD 9666]**

**RIN 1545–BL79**

## Alternative Simplified Credit Election

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final and temporary regulations.

**SUMMARY:** This document contains final and temporary regulations relating to the election of the alternative simplified credit. The final and temporary regulations will affect certain taxpayers claiming the credit. The text of these temporary regulations also serves as the text of the proposed regulations (REG–133495–13) published in the Proposed Rules section in this issue of the **Federal Register**.

**DATES:** *Effective Date:* These regulations are effective on June 3, 2014.

*Applicability Date:* For dates of applicability, see § 1.41–9T(d).

**FOR FURTHER INFORMATION CONTACT:** David Selig (202) 317–4137 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

## Background

This document amends 26 CFR part 1 to provide rules relating to the election of the alternative simplified credit (ASC) under section 41(c)(5) of the Internal Revenue Code (Code).

Section 41(a) provides an incremental tax credit for increasing research activities (research credit) based on a percentage of a taxpayer's qualified research expenses (QREs) above a base amount. A taxpayer can apply the rules and credit rate percentages under section 41(a)(1) to calculate the credit (commonly referred to as the regular credit) or a taxpayer can make an election to apply the ASC rules and credit rate percentages under section 41(c)(5) to calculate the credit. Section 41(c)(5)(C) provides that an ASC election under section 41(c)(5) applies to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary.

On June 10, 2011, the Treasury Department and the IRS published final regulations (TD 9528) in the **Federal Register** (76 FR 33994) relating to the election and calculation of the ASC. Section 1.41–9(b)(2) provides that a taxpayer makes an election under section 41(c)(5) by completing the portion of Form 6765, ''Credit for Increasing Research Activities,'' (or successor form) relating to the ASC election, and attaching the completed form to the taxpayer's timely filed (including extensions) original return for the taxable year to which the election applies. Section 1.41–9(b)(2) also provides that a taxpayer may not make an election under section 41(c)(5) on an amended return and that an extension of time to make an election under section 41(c)(5) will not be granted under § 301.9100–3.

## Explanation of Provisions

Following the publication of TD 9528, the Treasury Department and the IRS received requests to amend the regulations to allow taxpayers to make an ASC election on an amended return. The requests explained that the burden of substantiating expenditures and costs for the base period under the regular credit can be costly, time-consuming, and difficult, and suggested that taxpayers often need additional time to determine whether to claim the regular credit or the ASC.

In response to these requests, this Treasury Decision provides final and temporary regulations. The final regulations remove the rule in § 1.41–9(b)(2) that prohibits a taxpayer from making an ASC election for a tax year on an amended return. In its place, these temporary regulations provide a rule that allows a taxpayer to make an ASC election for a tax year on an amended return. However, permitting changes from the regular credit to the ASC on amended returns could result in more than one audit of a taxpayer's research credit for a tax year. Accordingly, the temporary regulations provide that a taxpayer that previously claimed, on an original or amended return, a section 41 credit for a tax year may not make an ASC election for that tax year on an amended return. In addition, the temporary regulations provide that a taxpayer that is a member of a controlled group in a tax year may not make an election under section 41(c)(5) for that tax year on an amended return if any member of the controlled group for that year previously claimed the research credit using a method other than the ASC on an original or amended return for that tax year. As with all claims under section 41, taxpayers must maintain sufficient books and records to substantiate the credit on the amended returns.

## Effective/Applicability Date

These regulations apply to elections with respect to taxable years ending on or after June 3, 2014. In addition, a taxpayer may rely on § 1.41–9T(b)(2) to make an election under section 41(c)(5) for a tax year ending prior to June 3, 2014 if the taxpayer makes the election before the period of limitations for assessment of tax has expired for that year.

These regulations expire on June 2, 2017.

## Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. For the applicability of the Regulatory Flexibility Act, refer to the Special Analyses section of the preamble to the cross-referenced notice of proposed rulemaking published in the Proposed Rules section in this issue of the **Federal Register**. Pursuant to section 7805(f) of the Code, these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

## Drafting Information

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

## List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

## Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

## PART 1—INCOME TAXES

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

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

Section 1.41–9T also issued under 26 U.S.C. 41(c)(5)(C). * * *

### § 1.41–9 Alternative simplified credit.

■ **Par. 2.** Section 1.41–9 is amended by revising paragraph (b)(2) to read as follows:

* * * * *

(b) * * *

(2) [Reserved]. For further guidance, see § 1.41–9T(b)(2).

* * * * *

■ **Par. 3.** Section 1.41–9T is added to read as follows:

### § 1.41–9T Alternative simplified credit (temporary).

(a) through (b)(1) [Reserved]. For further guidance, see § 1.41–9(a) through (b)(1).

(2) *Time and manner of election.* A taxpayer makes an election under section 41(c)(5) by completing the portion of Form 6765, ''Credit for Increasing Research Activities,'' (or successor form) relating to the election of the ASC, and attaching the completed form to the taxpayer's timely filed (including extensions) original return for the taxable year to which the election applies. A taxpayer may make an election under section 41(c)(5) for a tax year on an amended return, but only if the taxpayer has not previously claimed the section 41 credit on its original return or an amended return for that tax year. An extension of time to make an election under section 41(c)(5) will not be granted under § 301.9100–3 of this chapter. A taxpayer that is a member of a controlled group in a tax year may not make an election under section 41(c)(5) for that tax year on an amended return if any member of the controlled group for that tax year

previously claimed the research credit using a method other than the ASC on an original or amended return for that tax year. See paragraph (b)(4) of this section for additional rules concerning controlled groups. See also 1.41–6(b)(1) requiring that all members of the controlled group use the same method of computation.

(b)(3) through (c) [Reserved]. For further guidance, see § 1.41–9(b)(3) through (c).

(d) *Effective/applicability date.* Paragraph (b)(2) of this section applies to elections with respect to taxable years ending on or after June 3, 2014. In addition, a taxpayer may rely on paragraph (b)(2) of this section to make an election under section 41(c)(5) for a tax year ending prior to June 3, 2014 if the taxpayer makes the election before the period of limitations for assessment of tax has expired for that year. Otherwise, for elections with respect to taxable years ending before June 3, 2014, see § 1.41–9(b)(2) as contained in 26 CFR part 1, revised April 1, 2014.

(e) *Expiration date.* This section expires on June 2, 2017.

**John Dalrymple,**

*Deputy Commissioner for Services and Enforcement.*

Approved: May 2, 2014.

**Mark J. Mazur,**

*Assistant Secretary of the Treasury (Tax Policy).*

[FR Doc. 2014–12757 Filed 6–2–14; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 117

**[Docket No. USCG–2014–0401]**

## Drawbridge Operation Regulation; Tennessee River, Decatur, AL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of deviation from drawbridge regulations.

**SUMMARY:** The Coast Guard has issued a temporary deviation from the operating schedule that governs the Southern Railroad Drawbridge across the Tennessee River, mile 304.4, at Decatur, Alabama. The deviation is necessary to allow the bridge owner time to replace and adjust the down haul operating ropes that are essential to the continued safe operation of the drawbridge. This deviation allows the bridge to remain in the closed-to-navigation position and not open to vessel traffic.

**DATES:** This deviation is effective from 8 a.m. to 10 p.m., June 17, 2014.

**ADDRESSES:** The docket for this deviation, (USCG–2014–0401) is available at *http://www.regulations.gov*. Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary deviation, call or email Eric A. Washburn, Bridge Administrator, Western Rivers, Coast Guard; telephone 314–269–2378, email *Eric.Washburn@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 Norfolk Southern Railroad requested a temporary deviation for the Southern Railroad Drawbridge, across the Tennessee River, mile 304.4, at Decatur, Alabama to remain in the closed-to-navigation position for 14 hours from 8 a.m. to 10 p.m. on June 17, 2014, in order to replace and adjust the down haul operation ropes.

The Southern Railroad Drawbridge currently operates in accordance with 33 CFR 117.5, which states the general requirement that drawbridge shall open promptly and fully for the passage of vessels when a request to open is given in accordance with the subpart.

There are no alternate routes for vessels transiting this section of the Tennessee River.

The Southern Railroad Drawbridge, in the closed-to-navigation position, provides a vertical clearance of 10.52 feet above normal pool. Navigation on the waterway consists primarily of commercial tows and recreational watercraft and will not be significantly impacted. This temporary deviation has been coordinated with waterway users. No objections were received.

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

Dated: May 22, 2014.

**Eric A. Washburn,**

*Bridge Administrator, Western Rivers.*

[FR Doc. 2014–12812 Filed 6–2–14; 8:45 am]

BILLING CODE 9110–04–P

## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 165

**[Docket Number USCG–2014–0238]**

**RIN 1625–AA00**

## Safety Zone; Cincinnati Symphony Orchestra Fireworks Displays Ohio River, Mile 460.9–461.3; Cincinnati, OH

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for all waters of the Ohio River, surface to bottom, extending from Ohio River mile 460.9 to mile 461.3, extending 300 ft. from the state of Ohio shoreline at Cincinnati, Ohio. This temporary safety zone is necessary to protect persons and property from potential damage and safety hazards during the Cincinnati Symphony Orchestra fireworks displays. During the period of enforcement, no vessels may be located within this Coast Guard safety zone. Entry into this Coast Guard safety zone is prohibited unless specifically authorized by the Captain of the Port Ohio Valley or other designated representative.

**DATES:** This rule is effective from 9:45 p.m. on June 7, 2014 until 10:30 p.m. on July 4, 2014.

**ADDRESSES:** Documents mentioned in this preamble are part of docket USCG–2014–0238. 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 Petty Officer Denise Davidson, Marine Safety Detachment Cincinnati, U.S. Coast Guard; telephone 513–921–

9033 x2113, email *Denise.M.Davidson@uscg.mil* or Petty Officer John Joeckel, Marine Safety Detachment Cincinnati, U.S. Coast Guard; telephone 513–921–9033 x2109, email *John.R.Joeckel@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

COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking
USACE United States Army Corps of Engineers

## A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule. The Coast Guard was made aware of the fireworks displays on March 7, 2014. Upon full review of the events and details of the fireworks displays, the Coast Guard determined that additional safety measures are necessary. There are potential hazards associated with fireworks displays over or on the Ohio River and a safety zone is required to protect persons and property on or near the waterway during the displays. Completing the NPRM process and providing notice and a comment period is impracticable because it would unnecessarily delay this rule and the immediate safety measures it provides. Additionally, the events, which are followed by fireworks displays are advertised to the local community by and through the Cincinnati Symphony Orchestra. Delaying the safety zone effective date to complete the NPRM process would interfere with the advertised and planned for displays and would unnecessarily interfere with contractual obligations related to these events.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Providing a full 30 days notice would be impracticable and would unnecessarily delay the effective date of this rule. Delaying the effective date would also be contrary to public interest since immediate action is necessary to protect persons and property from potential hazards associated with fireworks displays over or on the Ohio River.

## B. Basis and Purpose

A fireworks display is planned to conclude the Cincinnati Symphony Orchestra concerts scheduled on June 7, 2014 and July 4, 2014. These displays will feature fireworks being launched from Riverbend Music Center, located near the shoreline between miles 460.9 and 461.3 on the Ohio River at Cincinnati, OH. The Coast Guard determined that a safety zone is necessary to keep persons and property clear of any potential hazards associated with the launching of fireworks on or over the waterway.

The legal basis and authorities for this rule are found in 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, which collectively authorize the Coast Guard to establish and define regulatory safety zones.

The purpose of the rule is to establish the necessary temporary safety zone to provide protection for persons and property, including spectators, commercial and recreational vessels, and others that may be in the area during the noticed fireworks display times from the hazards associated with the fireworks displays on and over the waterway.

## C. Discussion of the Final Rule

The COTP Ohio Valley will enforce a temporary safety zone from 9:45 p.m. to 10:15 p.m. on June 7, 2014 and 10:00 p.m. to 10:30 p.m. on July 4, 2014 for the Cincinnati Symphony Orchestra fireworks display. The fireworks will be launched from Riverbend Music Center and the safety zone will include all waters between Ohio River miles 460.9 and 461.3, extending 300 ft. from the state of Ohio shoreline at Cincinnati, Ohio. The Coast Guard will enforce the temporary safety zone and may be assisted by other federal, state and local agencies and the Coast Guard Auxiliary. During the periods of enforcement, no vessels may transit into, through, or remain within this Coast Guard safety zone. Deviation from this safety zone may be requested by contacting the COTP Ohio Valley or other designated representative. Deviations will be considered on a case-by-case basis.

## D. Regulatory Analyses

We developed this 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 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. This temporary final rule establishes a safety zone that will be enforced for limited time periods following certain Cincinnati Symphony Orchestra concerts. During enforcement periods, vessels are prohibited from entering into or remaining within the safety zone unless specifically authorized by the COTP Ohio Valley or other designated representative. Based on the location, limited safety zone size, and short duration of each enforcement period, this rule does not pose a significant regulatory impact. Additionally, notice of this safety zone or any changes in the planned schedule will be made via Broadcast Notices to Mariners, Local Notices to Mariners, and/or Marine Safety Information Bulletins as appropriate. Deviation from this rule may be requested from the COTP Ohio Valley and will be considered on a case-by-case basis.

### *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 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 between Ohio River miles 460.9 to 461.3, within 300 ft. of the Ohio shoreline from 9:45 p.m. to 10:15 p.m. on June 7, 2014 and from 10:00 p.m. to 10:30 p.m. on July 4, 2014.

This safety zone would not have a significant economic impact on a

substantial number of small entities because it is limited in size and will be enforced for a limited time period following certain scheduled Cincinnati Symphony Orchestra concerts. The Coast Guard will provide notice of enforcement and changes in the planned schedule through Broadcast Notices to Mariners, Local Notices to Mariners, and/or Marine Safety Information Bulletins as appropriate.

*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 establishment of a temporary safety zone to protect persons and property from potential hazards associated with the scheduled Cincinnati Symphony Orchestra fireworks displays taking place on or over the Ohio River. 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 and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. A new temporary § 165.T08–0238 is added to read as follows:

**§ 165.T08–0238 Safety Zone; Cincinnati Symphony Orchestra Fireworks Displays Ohio River, Mile 460.9–461.3, Cincinnati, OH.**

(a) *Location.* The following area is a temporary safety zone: all waters of the Ohio River, surface to bottom, from mile 460.9 to mile 461.3 on the Ohio River, extending 300 ft. from the State of Ohio shoreline at Cincinnati, Ohio. These markings are based on the United States Army Corps of Engineers' *Ohio River Navigation Charts* (Chart 117 June 2010).

(b) *Effective Dates and Enforcement Periods.* This safety zone is effective from 9:45 p.m. to 10:15 p.m. on June 7, 2014 and from 10:00 p.m. to 10:30 p.m. on July 4, 2014.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into, movement within, or departure from this zone is prohibited unless authorized by the Captain of the Port Ohio Valley or a designated representative.

(2) Persons or vessels requiring entry into, departure from, or movement within a regulated area must request permission from the Captain of the Port Ohio Valley or a designated representative. They may be contacted on VHF–FM Channel 13 or 16, or through Coast Guard Sector Ohio Valley at 1–800–253–7465.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port Ohio Valley and designated on-scene U.S. Coast Guard patrol personnel.

On-scene U.S. Coast Guard patrol personnel includes Commissioned, Warrant, and Petty Officers of the U.S. Coast Guard.

(d) *Informational Broadcasts.* The COTP Ohio Valley or a designated representative will inform the public through Broadcast Notices to Mariners, Local Notices to Mariners, and/or Marine Safety Information Bulletins as appropriate of the enforcement period for each safety zone as well as any changes in the planned and published dates and times of enforcement.

Dated: May 2, 2014.

**R.V. Timme,**

*Captain, U.S. Coast Guard, Captain of the Port Ohio Valley.*

[FR Doc. 2014–12817 Filed 6–2–14; 8:45 am]

**BILLING CODE 9110–04–P**

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## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 165

**[Docket Number USCG–2014–0080]**

**RIN 1625–AA00**

## Safety zone; Cincinnati Reds Fireworks Displays Ohio River, Mile 470.1–470.4; Cincinnati, OH

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for all waters of the Ohio River, surface to bottom, extending from Ohio River mile 470.1 to mile 470.4, extending 500 ft. from the state of Ohio shoreline at Cincinnati, Ohio. This temporary safety zone is necessary to protect persons and property from potential damage and safety hazards during the Cincinnati Reds Season Fireworks displays. During the period of enforcement, no vessels may be located within this Coast Guard safety zone. Entry into this Coast Guard safety zone is prohibited unless specifically authorized by the Captain of the Port Ohio Valley or other designated representative.

**DATES:** This rule is effective without actual notice from June 3, 2014 until November 15, 2014. For the purposes of enforcement, actual notice will be used from the date the rule was signed, March 24, 2014, until November 15, 2014.

The scheduled enforcement times and dates for this rule are: From 9:00 p.m. until 11:30 p.m. on April 2 & 11; May 2, 9 & 23; June 6 & 20; July 4, 11 & 25; August 8 & 22; and September 5 & 26, 2014. Should the Cincinnati Reds make the playoffs and have additional home games, the Coast Guard will provide advance notification of enforcement periods via Broadcast Notices to Mariners, Local Notices to Mariners, and/or Marine Safety Information Bulletins as appropriate.

**ADDRESSES:** Documents mentioned in this preamble are part of docket USCG–2014–0080. 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 Petty Officer Denise Davidson, Marine Safety Detachment Cincinnati, U.S. Coast Guard; telephone 513–921–9033 x2113, email *Denise.M.Davidson@uscg.mil*. If you have questions on viewing or submitting material to the docket, call Cheryl F. Collins, 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
USACE United States Army Corps of Engineers

### A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule. The Coast Guard was made aware of the schedule for the Cincinnati Reds Season Fireworks displays, based on the Reds' home game schedule, on January 28, 2014. There are potential hazards associated with fireworks displays over or on the Ohio River and a safety zone is required to protect persons and property on or near the waterway during the displays. Completing the NPRM process and providing notice and a comment period is impracticable because it would unnecessarily delay this rule and the immediate safety measures it provides. Additionally, the Reds' schedule and these fireworks displays are advertised to the local community by and through the Cincinnati Reds organization. Delaying the safety zone effective date to complete the NPRM process would interfere with the advertised and planned for displays and would unnecessarily interfere with contractual obligations related to these events.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Providing a full 30 days notice would be impracticable and would unnecessarily delay the effective date of this rule. Delaying the effective date would also be contrary to public interest since immediate action is necessary to protect persons and property from potential hazards associated with fireworks displays over or on the Ohio River.

### B. Basis and Purpose

Multiple fireworks displays are planned to conclude the Cincinnati Reds home games scheduled on April 2 & 11; May 2, 9 & 23; June 6 & 20; July 4, 11 & 25; August 8 & 22; and September 5 & 26, 2014. These displays will feature fireworks being launched

from the Great American Ballpark Stadium, located near the shoreline between miles 470.1 and 470.4 on the Ohio River at Cincinnati, OH. The Coast Guard determined that a safety zone is necessary to keep persons and property clear of any potential hazards associated with the launching of fireworks on or over the waterway.

The legal basis and authorities for this rule are found in 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; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to establish and define regulatory safety zones.

The purpose of the rule is to establish the necessary temporary safety zone to provide protection for persons and property, including spectators, commercial and recreational vessels, and others that may be in the area during the noticed fireworks display times from the hazards associated with the fireworks display on and over the waterway.

**C. Discussion of the Final Rule**

The COTP Ohio Valley is establishing a temporary safety zone from 9:00 p.m. to 11:30 p.m. on April 2 & 11; May 2, 9 & 23; June 6 & 20; July 4, 11 & 25; August 8 & 22; September 5 & 26, 2014 for the Cincinnati Reds Season Fireworks. The fireworks will be launched from the Great American Ballpark Stadium and the safety zone will include all waters between Ohio River miles 470.1 and 470.4, extending 500 ft. from the state of Ohio shoreline at Cincinnati, Ohio. The Coast Guard will enforce the temporary safety zone and may be assisted by other federal, state and local agencies and the Coast Guard Auxiliary. During the periods of enforcement, no vessels may transit into, through, or remain within this Coast Guard safety zone. Deviation from this safety zone may be requested by contacting the COTP Ohio Valley or other designated representative. Deviations will be considered on a case-by-case basis. Should the Cincinnati Reds make the playoffs and have additional home games, the Coast Guard will provide advance notification of enforcement periods via Broadcast Notices to Mariners, Local Notices to Mariners, and/or Marine Safety Information Bulletins as appropriate.

**D. Regulatory Analyses**

We developed this 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 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. This temporary final rule establishes a safety zone that will be enforced for limited time periods following certain Cincinnati Reds home games. During enforcement periods, vessels are prohibited from entering into or remaining within the safety zone unless specifically authorized by the COTP Ohio Valley or other designated representative. Based on the location, limited safety zone size, and short duration of each enforcement period, this rule does not pose a significant regulatory impact. Additionally, notice of this safety zone or any changes in the planned schedule will be made via Broadcast Notices to Mariners, Local Notices to Mariners, and/or Marine Safety Information Bulletins as appropriate. Deviation from this rule may be requested from the COTP Ohio Valley and will be considered on a case-by-case basis.

*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 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 between Ohio River miles 470.1 to 470.4, within 500 ft. of the Ohio shoreline from 9:00 p.m. to 11:30 p.m. on April 2 & 11; May 2, 9 & 23; June 6 & 20; July 4, 11 & 25; August 8 & 22; September 5 & 26, 2014.

This safety zone would not have a significant economic impact on a substantial number of small entities because it is limited in size and will be enforced for a limited time period following certain scheduled Cincinnati Reds home games. The Coast Guard will provide notice of enforcement and changes in the planned schedule through Broadcast Notices to Mariners, Local Notices to Mariners, and/or Marine Safety Information Bulletins as appropriate.

*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 establishment of a temporary safety zone to protect persons and property from potential hazards associated with the scheduled Cincinnati Reds Season Fireworks displays taking place on or over the Ohio River. 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 and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. A new temporary safety zone § 165.T08–0080 is added to read as follows:

**§ 165.T08–0080 Safety Zone; Cincinnati Reds Fireworks Displays Ohio River, Mile 470.1–470.4, Cincinnati, OH.**

(a) *Location.* The following area is a temporary safety zone: all waters of the Ohio River, surface to bottom, from mile 470.1 to mile 470.4 on the Ohio River, extending 500 ft. from the State of Ohio shoreline at Cincinnati, Ohio. These markings are based on the United States Army Corps of Engineers' Ohio River Navigation Charts (Chart 115 June 2010).

(b) *Effective dates and enforcement periods.* This safety zone is effective from April 2, 2014 through November 15, 2014, and will be enforced from 9:00 p.m. to 11:30 p.m. on the following dates: April 2 & 11; May 2, 9 & 23; June 6 & 20; July 4, 11 & 25; August 8 & 22; September 5 & 26. Should the Cincinnati Reds make the playoffs and have additional home games, the Coast Guard will provide the game dates and enforcement periods as soon as practicable with advance notification via Broadcast Notices to Mariners, Local Notices to Mariners, and/or Marine Safety Information Bulletins as appropriate.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into, movement within, or departure from this zone is prohibited unless authorized by the Captain of the Port Ohio Valley or a designated representative.

(2) Persons or vessels requiring entry into, departure from, or movement within a regulated area must request permission from the Captain of the Port Ohio Valley or a designated representative. They may be contacted on VHF–FM Channel 13 or 16, or through Coast Guard Sector Ohio Valley at 1–800–253–7465.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port Ohio Valley and designated on-scene U.S. Coast Guard patrol personnel. On-scene U.S. Coast Guard patrol personnel includes Commissioned, Warrant, and Petty Officers of the U.S. Coast Guard.

(d) *Informational broadcasts.* The COTP Ohio Valley or a designated representative will inform the public through Broadcast Notices to Mariners, Local Notices to Mariners, and/or Marine Safety Information Bulletins as appropriate of the enforcement period for each safety zone as well as any changes in the planned and published dates and times of enforcement.

Dated: March 24, 2014.

**R.V. Timme,**

*Captain, U.S. Coast Guard, Captain of the Port Ohio Valley.*

[FR Doc. 2014–12822 Filed 6–2–14; 8:45 am]

BILLING CODE 9110–04–P

## DEPARTMENT OF EDUCATION

## 34 CFR Chapter VI

**[Docket ID ED–2014–OPE–0034]**

## Final Priorities; Centers for International Business Education Program

**AGENCY:** Office of Postsecondary Education, Department of Education.

**ACTION:** Final priorities.

[*CFDA Number:* 84.220A.]

**SUMMARY:** The Acting Assistant Secretary for Postsecondary Education announces two priorities for the Centers for International Business Education (CIBE) program. The Assistant Secretary may use these priorities for competitions in fiscal year (FY) 2014 and later years.

The first priority promotes projects that propose to collaborate with one or more professional associations or businesses to expand employment opportunities for international business students, for example, by creating internships and work-study opportunities. We intend for the first priority to improve the preparation of international business students to enter the workforce. The second priority promotes projects that propose collaborative activities with a Minority-Serving Institution (MSI) or a community college. We intend for this priority to address a gap in the types of institutions, faculty, and students that have historically benefitted from the instruction, training, and outreach available at centers for international business education.

**DATES:** *Effective Date:* These priorities are effective July 3, 2014.

**FOR FURTHER INFORMATION CONTACT:** Timothy Duvall, U.S. Department of Education, 1990 K Street NW., Room 6069, Washington, DC 20006. Telephone: (202) 502–7622 or by email: *timothy.duvall@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

**SUPPLEMENTARY INFORMATION:**

*Purpose of Program:* The purpose of the CIBE program is to provide funding to institutions of higher education or consortia of such institutions for curriculum development, research, and training on issues of importance to U.S. trade and competitiveness.

**Program Authority:** 20 U.S.C. 1130–1.

*Applicable Program Regulations:* As there are no program-specific regulations, we encourage each potential applicant to read the authorizing statute for the CIBE program in section 612 of Title VI, Part B, of the Higher Education Act of 1965, as amended (HEA), 20 U.S.C. 1130–1.

We published a notice of proposed priorities (NPP) for this program in the **Federal Register** on March 18, 2014 (79 FR 15084). That notice contained background information and our reasons for proposing the particular priorities. There is a difference between the proposed priorities and these final priorities as discussed in the *Analysis of Comments and Changes* section elsewhere in this notice.

*Public Comment:* In response to our invitation in the NPP, five parties submitted comments. Three of the comments addressed the proposed priorities and two of the comments addressed the wording in the *Purpose of Program* section of the NPP.

We discuss substantive issues under the priority to which they pertain. Generally, we do not address technical and other minor changes.

*Analysis of Comments and Changes:* An analysis of the comments and any changes in the priorities since publication of the NPP follows.

## General

*Comment:* Two commenters noted that the wording in the *Purpose of Program* section of the NPP does not accurately reflect the entities eligible for funding under the CIBE program. They stated that schools of business are not the only eligible entities and suggested broader wording.

*Discussion:* We agree that the wording in the *Purpose of Program* section of the NPP is too narrow and does not accurately reflect the purpose of the program under the statute. Under the statute (20 U.S.C. 1130–1(a)(2)), the program is designed to support institutions of higher education or consortia of such institutions.

*Changes:* We revised the *Purpose of Program* section in this notice of final priorities to specify that the CIBE program provides funding to institutions of higher education or consortia of such institutions, rather than just to schools of business.

*Comment:* A commenter endorsed the proposed priorities and expressed appreciation for the Department of Education's efforts to facilitate stronger participation of MSIs. In addition, the commenter urged us to use these priorities as absolute or competitive preference priorities.

*Discussion:* We appreciate the commenter's support. However, it is our practice to specify the priority types for each competition in the notice inviting applications, not in a notice of final priorities.

*Changes:* None.

### *Priority 1—Collaboration With a Professional Association or Business*

*Comment:* A commenter suggested that business education should include a study of labor laws to address inequalities in the workplace and the protection of workers values.

*Discussion:* The CIBE program focuses on supporting institutions of higher education that operate centers for international business education. Nothing in the priority precludes an applicant from incorporating the study of labor laws and microinequities in the workplace into its curriculum. However, we do not wish to limit grantees in their project design by further specifying areas of study.

*Changes:* None.

### *Priority 2—Collaboration With MSIs or Community Colleges*

*Comment:* A commenter stated that the wording of the proposed priority implied that an applicant can meet the priority by proposing collaborative activities with only one MSI or community college and requested that we change the priority to allow collaboration with multiple MSIs or community colleges.

*Discussion:* We agree that the proposed priority unnecessarily limited the scope of the priority and we are revising the final priority to include the option of collaborating with one or more MSIs or community colleges. We believe that a proposed project could benefit from collaboration with more than one MSI or community college, or a combination of MSIs and community colleges.

In addition, in connection with a comment received on a similar priority under a different program, we considered whether, for an applicant that meets the definition of an MSI, we should allow that institution to meet the priority by conducting intra-campus collaborative activities instead of, or in addition to, collaborative activities with other MSIs or community colleges. After further review, we believe it is appropriate to permit an institution that is also an MSI the flexibility to focus on intra-campus collaborative activities as well as on collaborative activities with other MSIs and community colleges.

*Changes:* We have revised the priority to clarify that an institution can collaborate with multiple MSIs or community colleges, or a combination of MSIs and community colleges. We have also clarified that an institution that is an MSI may meet the priority by proposing intra-campus collaborative activities as well as on collaborative activities with other MSIs and community colleges.

## Final Priorities

### *Priority 1: Collaboration With a Professional Association or Business*

Applications that propose to collaborate with one or more

professional associations and/or businesses on activities designed to expand employment opportunities for international business students, such as internships and work-study opportunities.

*Priority 2: Collaboration With Minority-Serving Institutions (MSIs) or Community Colleges*

Applications that propose significant and sustained collaborative activities with one or more MSIs (as defined in this notice) and/or with one or more community colleges (as defined in this notice). These activities must be designed to incorporate international, intercultural, or global dimensions into the business curriculum of the MSI(s) and/or community college(s). If an applicant institution is an MSI (as defined in this notice), that institution may propose intra-campus collaborative activities instead of, or in addition to, collaborative activities with other MSIs or community colleges.

For the purpose of this priority:

*Community college* means an institution that meets the definition in section 312(f) of the Higher Education Act (HEA) (20 U.S.C. 1058(f)); or an institution of higher education (as defined in section 101 of the HEA (20 U.S.C. 1001)) that awards degrees and certificates, more than 50 percent of which are not bachelor's degrees (or an equivalent) or master's, professional, or other advanced degrees.

*Minority-Serving Institution* means an institution that is eligible to receive assistance under sections 316 through 320 of part A of Title III, under part B of Title III, or under Title V of the HEA.

**Types of Priorities**

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational. The effect of each type of priority follows:

*Absolute priority:* Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

*Competitive preference priority:* Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

*Invitational priority:* Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

**Note:** This notice does *not* solicit applications. In any year in which we choose to use one or more of these priorities, we invite applications through a notice in the **Federal Register.**

**Executive Orders 12866 and 13563**

*Regulatory Impact Analysis*

Under Executive Order 12866, the Secretary must determine whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way (also referred to as an ''economically significant'' rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This final regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this final regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select 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 the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are issuing these final priorities only on a reasoned determination that their benefits justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

*Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

*Accessible Format:* Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT.**

*Electronic Access to This Document:* The official version of this document is the document published in the **Federal Register.** Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: May 29, 2014.

**Lynn B. Mahaffie,**

*Senior Director, Policy Coordination, Development, and Accreditation Service, delegated the authority to perform the functions and duties of the Assistant Secretary for Postsecondary Education.*

[FR Doc. 2014–12847 Filed 6–2–14; 8:45 am]

**BILLING CODE 4000–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 1

**[FCC 14–24]**

### Schedule of Application Fees; Correction

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; correction.

**SUMMARY:** In this document, we correct an inadvertent omission of the last page of the FY 2014 Application Fee Order. The page that was omitted was a table of application fees involving charges for applications and other filings for the Homeland Services.

**DATES:** Effective June 6, 2014.

**FOR FURTHER INFORMATION CONTACT:** Roland Helvajian, Office of Managing Director at (202) 418–0444.

**SUPPLEMENTARY INFORMATION:** This is a correction to the Order FCC 14–24 that was published in the **Federal Register** at 79 FR 26175, May 7, 2014. Accordingly, this corrects the document by publishing the last page of the FY 2014 Application Fee Order.

• On page 26175, add the following amendatory instruction and regulatory text:

■ 9. Section 1.1109 is revised to read as follows:

**§ 1.1109 Schedule of charges for applications and other filings for the Homeland services.**

Payment can be made electronically using the Commission's electronic filing and payment system ''Fee Filer'' (*www.fcc.gov/feefiler*). Remit manual filings and/or payments for these services to: Federal Communications Commission, Homeland Bureau Applications, P.O. Box 979092, St. Louis, MO 63197–9000.

| Service | FCC Form No. | Fee amount | Payment type code |
|---|---|---|---|
| 1. Communication Assistance for Law Enforcement (CALEA) Petitions .. | Corres & 159 ..... | $6,575.00 | CLEA |

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 2014–12805 Filed 6–2–14; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 1 and 63

**[IB Docket No. 12–299; FCC 14–48]**

### Reform of Rules and Policies on Foreign Carrier Entry Into the U.S. Telecommunications Market

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Federal Communications Commission (Commission) eliminates the effective competitive opportunities test (ECO Test) from its review of international section 214 authority and cable landing license applications, as well as foreign carrier affiliation notifications, filed by foreign carriers or their affiliates that have market power in countries that are not members of the World Trade Organization (WTO). The Commission found that elimination of outdated or unnecessary rules will reduce regulatory costs and enhance its ability to expeditiously review foreign entry that may be advantageous to U.S. consumers, while continuing to protect important interests related to national security, law enforcement, foreign policy, and trade policy.

**DATES:** Effective July 3, 2014, except for amendments to §§ 1.767(a)(8), 1.768(g)(2), 63.11(g)(2), and 63.18(k), which contain information collection requirements that require approval by the Office of Management and Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date for those rule changes.

**FOR FURTHER INFORMATION CONTACT:** Jodi Cooper or James Ball, Policy Division, International Bureau, FCC, (202) 418–1460 or via the Internet at *Jodi.Cooper@fcc.gov* and *James.Ball@fcc.gov.*

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order, IB Docket No. 12–299, FCC 14–48, adopted April 22, 2014, and released April 22, 2014. The full text of the Report and Order is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street SW., Washington, DC 20554. The document also is available for download over the Internet at *http://transition.fcc.gov/Daily_Releases/Daily_Business/2014/db0422/FCC-14-48A1.pdf.*

The complete text also may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), located in Room CY–B402, 445 12th Street SW., Washington, DC 20554. Customers may contact BCPI at its Web site, *http://www.bcpiweb.com* or call 1–800–378–3160.

### Synopsis

1. In the Report and Order, the Commission eliminates the formal ECO Test that applies to Commission review of applications filed by foreign carriers or affiliates of foreign carriers for entry into the U.S. market for international

telecommunications services and facilities pursuant to section 214 of the Communications Act of 1934, as amended, 47 U.S.C. 214, and section 2 of the Cable Landing License Act, 47 U.S.C. sections 34–39. The Commission will no longer apply the ECO Test to (1) section 214 applications filed by foreign carriers or their affiliates that have market power in non-WTO countries they seek to serve; (2) notifications filed by an authorized U.S. carrier affiliated with or seeking to become affiliated with a foreign carrier that has market power in a non-WTO country in which the U.S. carrier is authorized to serve; (3) submarine cable landing license applications filed by foreign carriers or their affiliates that have market power in non-WTO countries where the cable lands; and (4) notifications filed by a U.S. cable landing licensee affiliated with or seeking to become affiliated with a foreign carrier that has market power in a non-WTO country where the cable lands. Instead, the Commission will require that an applicant from a non-WTO country demonstrate whether or not it has market power in the non-WTO country where it seeks to provide international services or where the cable lands, and, if so, the application and/or notification will be placed on a non-streamlined public notice, providing an opportunity for public comment. Further, the Commission will continue to coordinate applications with the United States Trade Representative (USTR) and other Executive Branch agencies, and defer to these agencies in matters relating to national security, law enforcement, foreign policy or trade policy concerns. In evaluating applications or notifications, the Commission will retain the ability to request additional information from the applicant in response to concerns raised by USTR or any interested party, or as a result of its own public interest analysis. In addition, the Commission will continue to protect competition and prevent anticompetitive strategies that foreign carriers can use to discriminate among U.S. carriers by continuing to maintain its dominant carrier safeguards and ''no special concessions'' rules. This approach will enable the Commission to address any specific concerns that may arise with a particular non-WTO market and potentially effectuate changes in that market related to those concerns, rather than requiring such information from all such applicants. In this manner the Commission will continue its policy of promoting effective competition in the U.S. telecommunications service market.

2. The ECO Test is a set of criteria first adopted in the 1995 *Foreign Carrier Entry Order,* 60 Fed Reg 67332 (1995), as a condition of entry into the U.S. international telecommunications services market by foreign carriers that possess market power on the foreign end of a U.S.-international route on which they seek to provide service pursuant to section 214 of the Communications Act of 1934, as amended (the ''Act''), 47 U.S.C. 214(a). The Commission adopted the ECO Test in response to concerns that foreign carriers with market power seeking to enter the U.S. international services market could use their foreign market power to benefit themselves and/or their U.S. affiliates, to the disadvantage of unaffiliated U.S. carriers and, ultimately, U.S. consumers. The test was designed to serve three stated goals for the regulation of U.S. international telecommunications services: To promote effective competition in the U.S. telecommunications service market; to prevent anticompetitive conduct in the provision of international services or facilities; and to encourage foreign governments to open their telecommunications markets.

3. Notice of Proposed Rulemaking (NPRM). The Commission initiated this proceeding in light of the developments in international telecommunications and the small number of filings requiring an ECO Test determination since the ECO Test was adopted in 1995. In addition, since 1998, when the WTO Basic Telecommunications Agreement went into effect, WTO Membership has grown from 132 to 159 Members. There are 24 WTO Observer countries in the process of joining, or acceding to, the WTO. Although approximately one-fifth of all countries are WTO Observers or other non-WTO countries that have not opened up their markets pursuant to WTO accords, the WTO Observers and non-WTO countries collectively represent only about one percent of the world's gross domestic product.

4. In the Notice of Proposed Rulemaking (NPRM), the Commission noted that the detailed ECO Test requirements were designed to be applied to countries that could support advanced regulatory regimes, but that most of the remaining non-WTO Member countries are smaller countries and may be without resources to support a regulatory framework that meets all of the detailed ECO Test requirements. Further, the Commission stated that the most recent actions taken show that a non-WTO country may have a relatively open market even if its regulatory regime does not fully satisfy the ECO Test with the precision originally anticipated by the rules.

5. In view of these considerations, the Commission proposed to either (1) eliminate the ECO Test from the Commission's section 214 rules, or (2) modify the ECO Test criteria for section 214 authority applications and cable landing licenses, including their respective foreign carrier affiliation notifications, and to codify these modified ECO Tests in the Commission rules.

6. AT&T filed comments in response to the NPRM supporting modification of the ECO Test as proposed in the NPRM, and proposing to expand the section 214 ECO Test to add a requirement that U.S. carriers have the right to own capacity on submarine cables landing in the foreign country and the ability to access such capacity at submarine cable stations operated by foreign dominant carriers in the applicant's country.

7. The United States Trade Representative (USTR) supported the Commission's proposal in this proceeding to eliminate the ECO Test applied to applications for section 214 authorizations and cable landing licenses. USTR wants to ensure that Executive Branch agencies, and, in particular, USTR, continue to receive notice of applications and retain the ability to file comments in opposition to applications where trade policy issues are implicated.

8. *Revised and Codified Rules for Foreign Entry Into the U.S. Telecommunications Market.* The Report and Order adopts the NPRM proposal to eliminate the ECO Test which the Commission applied to review of international section 214 applications and cable landing license applications filed by foreign carrier or their affiliates that have market power in non-WTO countries, and to notifications filed by authorized U.S. carriers or cable landing licensees affiliated with, or seeking to become affiliated with, a foreign carrier having market power in a non-WTO country that the U.S. carrier or cable landing licensee is authorized to serve. The Report and Order also codifies the modified rules in sections 1.767(a)(8), 1.768(g)(2), 63.11(g)(2) and 63.18(k) of the Commission's rules.

9. The Commission concluded in the Report and Order that retention of the ECO Test is no longer necessary to protect competition, and found that elimination of unnecessary requirements will reduce regulatory burdens and enhance its ability to expeditiously review foreign entry that may be advantageous to U.S. consumers. By eliminating the ECO Test, the filing

and review process for applications filed by foreign carriers having market power in non-WTO countries for entry into the U.S. market for the provision of facilities and services is simplified. The Commission found that it can effectively analyze potential market barriers on an as-needed basis, rather than through a formal test, to make a public interest determination as to whether U.S. carriers are experiencing competitive problems in a particular market, and whether the public interest would be served by authorizing the foreign carrier to enter the U.S. market. Under this approach, applications and notifications placed on non-streamlined public notice will provide an opportunity for U.S. carriers and government agencies to review and provide comment on such applications and notifications as to whether they are experiencing problems in entering the market of the relevant non-WTO country. As noted, in considering potential areas of concern the review of any particular application, the Commission will coordinate with the USTR, which is in the best position to determine whether a non-WTO country supports open entry, and other appropriate agencies as necessary.

10. The Commission also emphasized that, in contrast to its approach to applicants from WTO countries, this approach does not carry the presumption in favor of market entry that is applied in the WTO context. Thus, the regulatory framework will continue to encourage non-WTO countries to seek WTO membership and should not be interpreted by either WTO or non-WTO Members as a signal that they can resist pressure to liberalize their markets. As proposed in the NPRM and stated in the Report and Order, the Commission will continue to apply the dominant carrier safeguards in sections 63.10 and 1.767 of the rules, and the ''no special concessions'' rules in sections 63.14 and 1.767 of the rules, which help prevent certain anticompetitive strategies that foreign carriers can use to discriminate among their U.S. carrier correspondents.

11. *Elimination of ECO Test to Section 214 applications and Foreign Ownership Notifications:* The Commission will no longer will apply the ECO Test to (1) section 214 applications filed by foreign carriers or their affiliates that have market power in non-WTO countries they seek to serve and (2) notifications filed by an authorized U.S. carrier affiliated with or seeking to become affiliated with a foreign carrier that has market power in a country in which the U.S. carrier is authorized to serve. The Commission will continue to require a foreign carrier applicant for a section 214 authorization or a U.S. authorized carrier filing a foreign affiliation notification to provide the information set out in the rules to establish its qualifications to receive such authorization or to identify its foreign affiliation. Based on information submitted by the applicant or notifying carrier, if the Commission determines that the applicant or notifying carrier is a foreign carrier, or is seeking to become affiliated with, a foreign carrier with market power in a non-WTO Member country, then the application will not be eligible for streamlined processing and will be placed on a 28-day public notice pursuant to Commission rules. Foreign carrier affiliation notifications will continue to require a 45-day notification prior to consummation of the transaction. This notice period provides an opportunity for U.S. carriers and government agencies to file comments as to whether they are experiencing problems in entering the market of the relevant non-WTO country. The Commission may also seek additional information from the applicant or notification filer including, but not limited to, the ability of U.S. carriers to obtain a controlling interest in a carrier in the foreign country, the existence of competitive safeguards in the foreign country to protect against anticompetitive practices, the existence of reasonable and nondiscriminatory interconnection arrangements, and whether U.S. cable licensees have the right to enter the market of the non-WTO country and own or access capacity on submarine cables landing in that country. Through this approach the Commission will be able to assess the ability of U.S. carriers to effectively compete in a particular market of a foreign U.S. 214 applicant, and make a determination and take action appropriate to the market in question. If the Commission should find that U.S. carriers are experiencing competitive problems in the home market of a foreign carrier section 214 applicant or notification filer, the Commission could deny the application or impose conditions on the authorization that address the problems it may find.

12. *Elimination of ECO Test to Cable Landing Licenses and Foreign Ownership Notifications:* The Commission eliminated the ECO Test as a formal requirement for cable landing license applications and notifications of foreign carrier affiliation by submarine cable licensees, and modified its rules to require that that an applicant or notification filer from a non-WTO Member country demonstrate, pursuant to sections 47 CFR 1.767 and 47 CFR 1.768, whether or not it has market power in the non-WTO Member country where the cable lands, with reference to 47 CFR 63.10(a) of the rules. If the demonstration reveals that the applicant is itself, or is affiliated with, a foreign carrier with market power in the proposed cable's non-WTO destination country, then, pursuant to existing rules, the application will not be eligible for streamlined processing. With respect to notifications, the disclosure of market power in the non-WTO country will trigger the existing 45-day waiting period before the transaction can be consummated.

13. Applications not subject to streamlining are placed on public notice for 28 days and the Commission has 90 days to act on them, subject to extension of this period. This period provides an opportunity for U.S. cable licensees to comment and indicate specific problems that they have in owning and operating cables facilities in the country where the cable lands. In addition to investigating allegations of such problems, the Commission will coordinate comments that are filed with appropriate Executive Branch agencies and impose, if necessary, appropriate conditions on the license.

**Paperwork Reduction Act of 1995 Analysis**

14. This Report and Order contains modified information collection requirements, subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. These information collection requirements will be submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. The Commission will publish a separate notice in the **Federal Register** inviting comment on the new or revised information collection requirement(s) adopted in this document. The requirement(s) will not go into effect until OMB has approved it and the Commission has published a notice announcing the effective date of the information collection requirement(s). In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), we previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

**Final Regulatory Flexibility Certification**

15. The Regulatory Flexibility Act of 1980, as amended (RFA), requires that a final regulatory flexibility analysis be

prepared for notice-and-comment rule making proceedings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

16. In this Report and Order, the Commission decides to eliminate the ECO Test that currently applies to review of applications for international section 214 authority and cable landing licenses. It also eliminates the ECO Test as it applies to notifications filed by authorized U.S. carriers and cable landing licensees of an affiliation with a foreign carrier with market power in a non-WTO Member country. Instead of applying an ECO Test to these applications, the Commission will apply a simplified approach to the filing and review of section 214 applications, cable landing license applications, and notifications from authorized U.S.-international carriers and cable landing licensees. The Commission maintains its ability to seek additional information from the applicant and notification filer as needed if an inquiry is warranted as to whether an applicant's home market is open to entry for U.S. international carriers and cable landing licensees. This approach will reduce unnecessary regulatory costs and burdens where only limited investigation is necessary in connection with an application. Under this approach, the Commission continues to maintain other regulatory safeguards under section 214 of the Communications Act and under the Cable Landing License Act, as well as to maintain existing coordination arrangements with Executive Branch agencies to protect national security and take into account law enforcement, foreign policy and trade policy considerations.

17. From a historical perspective, the Commission has had little need to apply the ECO Test since its adoption in 1995. The Commission has taken only eight actions applying the ECO Test in the 19 years since its adoption. While the Commission cannot project exactly how many foreign carriers, or affiliates of foreign carriers with market power in non-WTO Member countries, may in the future seek entry into the U.S. telecommunications market, there is nothing in the record to suggest that there will be significantly more such carriers than there have been in the past. Therefore, the Commission certifies that the requirements of this Report and Order will not have a significant economic impact on a substantial number of small entities. The Commission will send a copy of the Report and Order, including this certification, to the Chief Counsel for Advocacy of the SBA. This final certification will also be published in the **Federal Register**.

**Report to Congress**

18. The Commission will send a copy of the Report and Order, including this Final Regulatory Flexibility Certification (FRFC), in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional review Act. In addition, the Commission will send a copy of the Report and Order, including a copy of this FRFC, to the Chief Counsel for Advocacy of the SBA. A copy of the Report and Order and FRFC (or summaries thereof) will also be published in the **Federal Register**.

**Ordering Clauses**

19. *It is ordered* that, pursuant to the authority contained in sections 1, 2, 4(i) and (j), 201–205, 208, 211, 214, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i)–(j), 201–205, 208, 211, 214, 303(r), and 403, and the Cable Landing License Act, 47 U.S.C. 34–39 and Executive Order No. 10530, section 5(a), this Report and Order *is adopted,* and the policies, rules, and requirements discussed herein *are adopted,* and parts 1 and 63 of the Commission's rules, 47 CFR parts 1 and 63, *are amended* as set forth in Appendix A.

20. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Report and Order, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with Section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

21. *It is further ordered* that the policies, rules, and requirements established in this decision shall take effect thirty (30) days after publication in the **Federal Register**, except for §§ 1.767(a)(8), 1.768(g)(2), 63.11(g)(2), and 63.18, which contains modified information collection requirements that require approval by the Office of Management and Budget under the PRA. The Federal Communications Commission will publish a document in the **Federal Register** announcing such approval and the relevant effective date.

22. *It is further ordered* that this proceeding, IB Docket No. 12–299, *is hereby terminated.*

**List of Subjects**

*47 CFR Part 1*

Administrative practice and procedure, Cable landing licenses.

*47 CFR Part 63*

Communications common carriers.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

**Final Rules**

For the reasons discussed in the preamble, the Federal Communication Commission amends 47 CFR parts 1 and 63 as follows:

## PART 1—PRACTICE AND PROCEDURE

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

**Authority:** 15 U.S.C. 79 et seq.; 47 U.S.C. 151, 154(i), 154(j), 155, 157, 225, 227, 303(r), 309, 1403, 1404, and 1451.

■ 2. Section 1.767 is amended by revising paragraph (a)(8) and the note to § 1.767 to read as follows:

**§ 1.767 Cable landing licenses.**

(a) * * *

(8) For each applicant:

(i) The place of organization and the information and certifications required in §§ 63.18(h) and (o) of this chapter;

(ii) A certification as to whether or not the applicant is, or is affiliated with, a foreign carrier, including an entity that owns or controls a cable landing station, in any foreign country. The certification shall state with specificity each such country;

(iii) A certification as to whether or not the applicant seeks to land and operate a submarine cable connecting the United States to any country for which any of the following is true. The certification shall state with specificity the foreign carriers and each country:

(A) The applicant is a foreign carrier in that country; or

(B) The applicant controls a foreign carrier in that country; or

(C) There exists any entity that owns more than 25 percent of the applicant, or controls the applicant, or controls a foreign carrier in that country.

(D) Two or more foreign carriers (or parties that control foreign carriers)

own, in the aggregate, more than 25 percent of the applicant and are parties to, or the beneficiaries of, a contractual relation (e.g., a joint venture or market alliance) affecting the provision or marketing of arrangements for the terms of acquisition, sale, lease, transfer and use of capacity on the cable in the United States; and

(iv) For any country that the applicant has listed in response to paragraph (a)(8)(iii) of this section that is not a member of the World Trade Organization, a demonstration as to whether the foreign carrier lacks market power with reference to the criteria in § 63.10(a) of this chapter.

**Note to Paragraph (a)(8)(iv):** Under § 63.10(a) of this chapter, the Commission presumes, subject to rebuttal, that a foreign carrier lacks market power in a particular foreign country if the applicant demonstrates that the foreign carrier lacks 50 percent market share in international transport facilities or services, including cable landing station access and backhaul facilities, intercity facilities or services, and local access facilities or services on the foreign end of a particular route.

* * * * *

**Note to § 1.767:** The terms ''affiliated'' and ''foreign carrier,'' as used in this section, are defined as in § 63.09 of this chapter except that the term ''foreign carrier'' also shall include any entity that owns or controls a cable landing station in a foreign market. The term ''country'' as used in this section refers to the foreign points identified in the U.S. Department of State list of Independent States of the World and its list of Dependencies and Areas of Special Sovereignty. *See http://www.state.gov.*

* * * * *

■ 3. Section 1.768 is amended by revising paragraph (g)(2) to read as follows:

**§ 1.768 Notification by and prior approval for submarine cable landing licensees that are or propose to become affiliated with a foreign carrier.**

* * * * *

(g) * * *

(2) In the case of a prior notification filed pursuant to paragraph (a) of this section, the authorized U.S. licensee must demonstrate that it continues to serve the public interest for it to retain its interest in the cable landing license for that segment of the cable that lands in the non-WTO destination market. Such a showing shall include a demonstration as to whether the foreign carrier lacks market power in the non-WTO destination market with reference to the criteria in § 63.10(a) of this chapter. In addition, upon request of the Commission, the licensee shall provide the information specified in § 1.767(a)(8). If the licensee is unable to make the required showing or is notified by the Commission that the affiliation may otherwise harm the public interest pursuant to the Commission's policies and rules under 47 U.S.C. 34 through 39 and Executive Order No. 10530, dated May 10, 1954, then the Commission may impose conditions necessary to address any public interest harms or may proceed to an immediate authorization revocation hearing.

**Note to Paragraph (g)(2):** Under § 63.10(a) of this chapter, the Commission presumes, subject to rebuttal, that a foreign carrier lacks market power in a particular foreign country if the applicant demonstrates that the foreign carrier lacks 50 percent market share in international transport facilities or services, including cable landing station access and backhaul facilities, intercity facilities or services, and local access facilities or services on the foreign end of a particular route.

* * * * *

## PART 63—EXTENSION OF LINES, NEW LINES, AND DISCONTINUANCE, REDUCTION, OUTAGE AND IMPAIRMENT OF SERVICE BY COMMON CARRIERS; AND GRANTS OF RECOGNIZED PRIVATE OPERATING AGENCY STATUS

■ 4. The authority citation for part 63 continues to read as follows:

**Authority:** Sections 1, 4(i), 4(j), 10, 11, 201–205, 214, 218, 403 and 651 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 160, 201–205, 214, 218, 403, and 571, unless otherwise noted.

■ 5. Section 63.11 is amended by revising paragraph (g)(2) to read as follows:

**§ 63.11 Notification by and prior approval for U.S. international carriers that are or propose to become affiliated with a foreign carrier.**

* * * * *

(g) * * *

(2) In the case of a prior notification filed pursuant to paragraph (a) of this section, the U.S. authorized carrier must demonstrate that it continues to serve the public interest for it to operate on the route for which it proposes to acquire an affiliation with the foreign carrier authorized to operate in the non-WTO Member country. Such a showing shall include a demonstration as to whether the foreign carrier lacks market power in the non-WTO Member country with reference to the criteria in § 63.10(a) of this chapter. If the U.S. authorized carrier is unable to make the required showing in § 63.10(a) of this chapter, the U.S. authorized carrier shall agree to comply with the dominant carrier safeguards contained in § 63.10(c) of this chapter, effective upon the acquisition of the affiliation. If the U.S. authorized carrier is notified by the Commission that the affiliation may otherwise harm the public interest pursuant to the Commission's policies and rules, then the Commission may impose conditions necessary to address any public interest harms or may proceed to an immediate authorization revocation hearing.

**Note to Paragraph (g)(2):** Under § 63.10(a) of this chapter, the Commission presumes, subject to rebuttal, that a foreign carrier lacks market power in a particular foreign country if the applicant demonstrates that the foreign carrier lacks 50 percent market share in international transport facilities or services, including cable landing station access and backhaul facilities, intercity facilities or services, and local access facilities or services on the foreign end of a particular route.

* * * * *

■ 6. Section 63.18 is amended by revising paragraph (k) introductory text, adding a note to paragraph (k), redesignating paragraph (q) as (r), and adding new paragraph (q), to read as follows:

**§ 63.18 Contents of applications for international common carriers.**

* * * * *

(k) For any country that the applicant has listed in response to paragraph (j) of this section that is not a member of the World Trade Organization, the applicant shall make a demonstration as to whether the foreign carrier has market power, or lacks market power, with reference to the criteria in § 63.10(a) of this chapter.

* * * * *

**Note to Paragraph (k):** Under § 63.10(a), the Commission presumes, subject to rebuttal, that a foreign carrier lacks market power in a particular foreign country if the applicant demonstrates that the foreign carrier lacks 50 percent market share in international transport facilities or services, including cable landing station access and backhaul facilities, intercity facilities or services, and local access facilities or services on the foreign end of a particular route.

* * * * *

(q) Any other information that may be necessary to enable the Commission to act on the application.

* * * * *

[FR Doc. 2014–12826 Filed 6–2–14; 8:45 am]

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**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

**[Docket No. FWS–R8–ES–2013–0079; 4500030113]**

**RIN 1018–AZ12**

# Endangered and Threatened Wildlife and Plants; Threatened Species Status for Ivesia webberi

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), determine threatened species status under the Endangered Species Act of 1973 (Act), as amended, for *Ivesia webberi* (Webber's ivesia), a plant species from five counties in California and Nevada along the transition zone between the eastern edge of the northern Sierra Nevada and the northwestern edge of the Great Basin. The effect of this regulation will be to add this species to the Federal List of Endangered and Threatened Plants.

**DATES:** This rule is effective July 3, 2014.

**ADDRESSES:** This final rule is available on the Internet at *http://www.regulations.gov* (Docket No. FWS–R8–ES–2013–0079). Comments and materials we received, as well as supporting documentation we used in preparing this rule, are available for public inspection at *http://www.regulations.gov.* All of the comments, materials, and documentation that we considered in this rulemaking are available by appointment, during normal business hours at: U.S. Fish and Wildlife Service, Nevada Fish and Wildlife Office, 1340 Financial Boulevard, Suite 234, Reno, NV 89502; telephone 775–861–6300; or facsimile 775–861–6301.

**FOR FURTHER INFORMATION CONTACT:** Edward D. Koch, State Supervisor, U.S. Fish and Wildlife Service, Nevada Fish and Wildlife Office, 1340 Financial Boulevard, Suite 234, Reno, NV 89502; telephone 775–861–6300; or facsimile 775–861–6301. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

**SUPPLEMENTARY INFORMATION:**

## Previous Federal Action

Please refer to the proposed listing rule for *Ivesia webberi* (78 FR 46889; August 2, 2013) for a detailed description of previous Federal actions concerning this species.

Elsewhere in today's **Federal Register**, we published a final rule to designate critical habitat for *Ivesia webberi* under the Act (16 U.S.C. 1531 *et seq.*).

## Background

*Ivesia webberi* is a low, spreading perennial forb in the Rose family (Rosaceae) with grayish-green foliage; dark-red, wiry stems; and headlike clusters of small, yellow flowers. This species occupies vernally moist, rocky, clay soils with an argillic horizon that shrink and swell upon drying and wetting in open to sparsely vegetated areas associated with an *Artemisia arbuscula* (low sagebrush)—perennial bunchgrass—forb community. The specialized soils are well developed, a process estimated to take 1,000 years. Limited seed dispersal and apparent limited recruitment further restrict the occupied range and distribution of *I. webberi* (Service 2014, pp. 4–7).

*Ivesia webberi* is currently known to occupy a total of approximately 165 acres (66.8 hectares) within five counties in California and Nevada along the transition zone between the eastern edge of the northern Sierra Nevada and the northwestern edge of the Great Basin (Service 2014, p. 8). The species is known historically from a total of 17 populations, but 1 has been extirpated and a portion of another (1 of 4 subpopulations) is possibly extirpated. Of the remaining 16 populations, the status of 2 are unknown, and we currently are uncertain whether the species still persists at these locations (Service 2014, pp. 14–21). For the remaining 14 populations where the species' status is better understood, 10 occur on areas that are less than 5 ac (2 ha) each. Reliable estimation of population sizes or trends in *I. webberi* is complicated because past population estimates have usually been obtained by different observers employing a variety of methodologies and varying levels of survey effort (Service 2014, p. 12).

Please refer to the proposed listing rule for *Ivesia webberi* (78 FR 46889; August 2, 2013) and the updated Species Report (Service 2014, entire), available at *http://www.regulations.gov* under Docket No. FWS–R8–ES–2013–0079, for a summary of additional species information.

## Summary of Biological Status and Threats

Due to the restricted range, specialized habitat requirements, and limited recruitment and dispersal of *Ivesia webberi,* populations of this species are vulnerable to ongoing and future threats that affect both individual plants and their habitat. The primary threat to *I. webberi* is the combined and synergistic effect from the encroachment of nonnative, invasive plant species into the *I. webberi* plant community and the modified fire regime resulting from this encroachment (Service 2014, pp. 23–26). Nonnative, invasive plant species, such as *Bromus tectorum* (cheatgrass), *Poa bulbosa* (bulbous bluegrass), and *Taeniatherum caput-medusae* (medusahead), have become established and are part of the associated plant community at 12 of the 16 extant populations of *I. webberi.* Nonnative, invasive plant species negatively affect *I. webberi* through competition, displacement, and degradation of the quality and composition of the *Artemisia arbuscula*—perennial bunchgrass—forb community in which *I. webberi* occurs. In addition to these effects, these nonnative, invasive plant species, once established, contribute fuels that increase the frequency and likelihood of wildfire in *I. webberi* habitat.

Wildfire was historically infrequent in the Great Basin because the native plant communities made up of annuals and perennial bunchgrasses did not provide sufficient fine fuels to carry large-scale wildfires. The bare spaces between widely spaced shrubs and the low fuel load of native annuals and perennial bunchgrasses generally prevented fire from spreading, so the fires that did burn were restricted to isolated patches. In *Artemisia arbuscula* communities, such as those that *Ivesia webberi* inhabits, the average fire return interval is greater than 100 years, due to natural lower productivity and fuel accumulations (Service 2014, p. 24). However, beginning in the late 1800s, the widespread invasion of nonnative plant species, particularly annual grasses, has created a bed of continuous fine fuels across the sagebrush landscape in many areas (Service 2014, p. 25). This increase in fine fuels created by nonnative, invasive plants has resulted in more frequent fires that burn larger areas and often burn at higher intensities. Post-fire conditions further facilitate the invasion and establishment of nonnative, invasive plant species, thus creating a positive feedback loop between increased wildfire and the spread of these species (Service 2014, pp. 25–26). Ten of the 16 extant *I. webberi* populations have experienced wildfire since 1984 (Service 2014, p. 25). Because *I. webberi* did not evolve with frequent fire and does not possess adaptations that would help it persist in a frequent-fire fire regime, wildfires are

expected to have adverse population-level impacts on the species. Increased wildfire frequency within the species' range also results in increased wildfire suppression activities, which also may adversely affect *I. webberi* populations (Service 2014, pp. 22, 25–26).

Other threats impacting *Ivesia webberi* populations include off-highway vehicle (OHV) use, roads, development, livestock grazing, and climate change (Service 2014, pp. 26–32). OHV impacts to *I. webberi* populations have increased during the past 20 years as population growth and associated development have increased (Bergstrom 2009, p. 22), especially in the Reno urban area where 6 of the 16 populations occur. Eleven of 16 extant *I. webberi* populations are adjacent to or intersected by dirt roads and have been impacted to some degree by road development and OHV use (Service 2014, pp. 26–27). Roads cause habitat loss and degradation, and when vehicles drive off existing roads and trails, they can crush plants, compact soils, and provide a means for nonnative, invasive plant species to invade otherwise remote, intact habitats. The U.S. Forest Service (Forest Service) concluded that a 2006 travel management plan for Peavine Mountain would benefit rare plant species, including *I. webberi;* however, designated roads open to all vehicles continue to bisect *I. webberi* populations, and unauthorized OHV use remains high within *I. webberi* populations on Forest Service lands in the Reno urban area (Service 2014, p. 27).

Development, which results in direct mortality and in habitat loss, degradation, and fragmentation, has resulted in the extirpation of one *Ivesia webberi* population and the loss of a portion of another population (Service 2014, p. 27). Residential or commercial development is ongoing or planned at each of the four Nevada populations located on private lands. In addition, construction of a 120-kV overhead transmission line may impact two *I. webberi* populations located on Forest Service lands (Service 2014, pp. 27–28). Livestock grazing has the potential to result in negative effects to *I. webberi* due to trampling and substrate disturbance, but this situation is dependent on factors such as stocking rate and season of use. Two *I. webberi* populations occur in areas that are currently grazed by cattle, and another seven populations occur within vacant grazing allotments that could be reopened to grazing to alleviate grazing pressures on nearby allotments (Service 2014, p. 30).

Climate change is likely to affect *Ivesia webberi,* although it is difficult to project specific effects. In the Great Basin, temperatures have risen 0.9 to 2.7 degrees Fahrenheit (°F) (0.5 to 1.5 degrees Celsius (°C)) in the last 100 years and are projected to warm another 3.8 to 10.3 °F (2.1 to 5.7 °C) over the rest of the century (Service 2014, p. 31). Under current climate change projections, we anticipate that future climatic conditions will favor the further spread of nonnative, invasive plants and increase the frequency, spatial extent, and severity of wildfires (Service 2014, p. 31). Alteration of temperature and precipitation patterns as a result of climate change also may result in decreased survivorship of *I. webberi* by causing physiological stress, altering phenology, and reducing reproduction or seedling establishment.

Because most of the habitat where the species is known to occur is located on Federal lands (69 percent of occupied habitat occurs on Forest Service lands, and 3 percent of occupied habitat occurs on Bureau of Land Management (BLM) lands), *Ivesia webberi* receives some conservation protections resulting from Federal laws and the regulations and policies implementing those laws (e.g., the National Forest Management Act, 16 U.S.C. 1600 *et seq.;* Federal Land Policy and Management Act, 43 U.S.C. 1701 *et seq.;* National Environmental Policy Act, 42 U.S.C. 4321 *et seq.*). *Ivesia webberi* receives special consideration on Federal lands because it is classified as a sensitive species by both the Forest Service and BLM (Service 2014, pp. 3–4). The species also is classified as threatened with extinction and fully protected by the State of Nevada; removing or destroying *I. webberi* and other fully protected plants is prohibited except under special permit issued by the Nevada Division of Forestry (NDF 2013). *Ivesia webberi* is not listed as endangered or threatened under the California Endangered Species Act (CESA), but has a California Native Plant Society (CNPS) rare plant rank of 1B.1 (seriously threatened in California with over 80 percent of occurrences threatened and high degree and immediacy of threat (CNPS 2013)). *Ivesia webberi* and other plants with a CNPS 1B rank must be fully considered during preparation of environmental documents relating to the California Environmental Quality Act (CEQA) (CNPS 2013).

The Forest Service drafted a rangewide conservation strategy for *Ivesia webberi* to guide conservation actions for the species on Forest Service lands (Service 2014, pp. 21–22). The conservation strategy, which was signed in 2010, will result in long-term benefits to *I. webberi* populations located on Forest Service lands (Bergstrom 2009, pp. 1–46). However, we expect that the landscape-level threats of nonnative, invasive plants and increased wildfire will continue to adversely affect *I. webberi* populations across the species' range (Service 2014, p. 22).

Please refer to the proposed listing rule (78 FR 46889; August 2, 2013) and the Species Report (Service 2014), available at *http://www.regulations.gov* under Docket No. FWS–R8–ES–2013–0079, for a more detailed discussion of the biological status of *Ivesia webberi* and the impacts affecting the species and its habitat. Our assessment was based upon the best available scientific and commercial data and the expert opinion of the Species Report team members.

**Summary of Changes From the Proposed Rule**

No significant changes have been made to the information presented in the proposed listing rule. Minor edits have been made to the biological information summarized above in the Background section of this rule based on new information received from the U.S. Forest Service and our survey efforts. New information includes:

(1) A second subpopulation was discovered within population USFWS 9, containing 50 individual plants (C. Schnurrenberger, unpul. Survey 2013).

(2) Two populations (USFWS 14 and 15) previously determined to be extant have been recently confirmed, and survey information provided us baseline information on numbers of individuals and quality of the habitat. Specifically, these populations were found to harbor relatively high population estimates, but also high levels of invasion by *Taeniatherum caput-medusae* (S. Kulpa, E. Bergstrom, and C. Ghiglieri, unpubl. survey 2013; S. Kulpa and E. Hourihan, unpubl. survey 2013).

(3) Two populations (USFWS 3 and 4) were confirmed extant (as opposed to probable extant), and surveys indicated low numbers of individuals over a small occupied area (S. Kulpa and J. Johnson, unpubl. survey 2013a; S. Kulpa and J. Johnson, unpubl. survey 2013b).

**Summary of Comments and Recommendations**

In the proposed rule published on August 2, 2013 (78 FR 46889), we requested that all interested parties submit written comments on the proposal by October 1, 2013. We also contacted appropriate Federal and State agencies, scientific experts and organizations, and other interested

parties and invited them to comment on the proposal. Newspaper notices inviting general public comment were published in the Reno Gazette Journal, and we held a public/informational meeting in Reno on September 10, 2013. We did not receive any requests for a public hearing. All substantive information provided during comment periods has either been incorporated directly into this final determination or is addressed below.

*Peer Reviewer Comments*

In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited expert opinion from three knowledgeable individuals with scientific expertise that included familiarity with *Ivesia webberi* and its habitat, biological needs, and threats. We did not receive responses from any of the peer reviewers, nor any responses from State agencies. We reviewed all other comments we received for substantive issues and new information regarding the listing of *Ivesia webberi.*

*Federal Agency Comments*

*Comment 1:* The Forest Service commended us for thorough documentation of known occurrences of *Ivesia webberi,* and recommended that we consider the possible relevance of historical and potential habitats for the full recovery of *Ivesia webberi.*

*Our Response:* We thank the Forest Service for its review. We agree that historical and potential habitats are important considerations for developing conservation and recovery strategies. We expect that these factors will receive focused attention during the preparation of a recovery plan for this species.

*Public Comments*

*Comment 2:* One commenter listed several reasons why they support listing *Potentilla basaltica* (Soldier Meadow cinquefoil) under the Act rather than its removal from the candidate list.

*Our Response:* Although we thank the commenter for their review, we note that our 12-month finding and candidate removal for *Potentilla basaltica* was made final on August 2, 2013 (78 FR 46889). This finding was based upon the best available information, and constitutes our final determination on the subject petition for this species, in accordance with section 4(b)(3)(B)(i) of the Act. Based on our analysis of the five factors identified in section 4(a)(1) of the Act, and as explained further in the published finding, we have concluded that the previously recognized impacts to *P. basaltica* from present or threatened destruction, modification, or curtailment of its habitat or range (recreational use; OHV use; introduction of nonnative, invasive plant species; and trampling by livestock) do not rise to a level of significance such that the species is in danger of extinction now or in the foreseeable future. The status of *P. basaltica* will therefore not be re-evaluated. However, we welcome new information on this and other species at any time, and will consider relevant information in any future evaluations and listing decisions.

*Comment 3:* One commenter asked how we plan to protect the plant if it is on private property, and also asked how the Act's status of the plant would affect private property owners when the plant is located on privately owned lands.

*Our Response:* The Act does not prohibit the destruction, damage, or movement of endangered or threatened plants unless such activities occur on lands that are under Federal jurisdiction, or if the action occurs in conjunction with the violation of State laws. Therefore, if a person wishes to develop private land, with no Federal jurisdiction involved and in accordance with State law, then the potential destruction, damage, or movement of endangered or threatened plants does not violate the Act.

**Determination**

Section 4 of the Act (16 U.S.C. 1533), and its implementing regulations at 50 CFR part 424, set forth the procedures for adding species to the Federal Lists of Endangered and Threatened Wildlife and Plants. Under section 4(a)(1) of the Act, we may list a species based on: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. Listing actions may be warranted based on any of the above threat factors, singly or in combination.

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to *Ivesia webberi.* We considered the five factors identified in section 4(a)(1) of the Act in determining whether *I. webberi* meets the Act's definition of an endangered species (section 3(6)) or a threatened species (section 3(20)). We determined that *I. webberi* is threatened by the present or threatened destruction, modification, or curtailment of its habitat or range (Factor A). The present or threatened destruction, modification, or curtailment of its habitat or range includes habitat loss and degradation due to nonnative, invasive plants; modified fire regime (increased wildfire); OHV use; roads; development; livestock grazing; and climate change. Of these, we consider the combined and synergistic effects of nonnative, invasive plant encroachment and increased wildfire to be the greatest threat to *I. webberi.*

Nonnative, invasive plant species such as *Bromus tectorum* and *Taeniatherum caput-medusae* can outcompete and displace *I. webberi* and result in increased frequency, spatial extent, and severity of wildfires because of the increase in fine fuels they produce. Twelve of the 16 extant populations have already been invaded by nonnative, invasive plant species, and 10 of the 16 extant populations have been impacted by wildfire since 1984. Because there are currently no feasible means for controlling the spread of widespread nonnative, invasive plant species such as *B. tectorum* and *T. caput-medusae,* we expect that wildfires will continue to impact *I. webberi* populations. Increased temperatures and altered precipitation patterns due to climate change are projected to lead to further increases in wildfire and nonnative, invasive plants. OHV use, roads, development, and livestock grazing are having impacts on certain *I. webberi* populations.

We did not identify threats to *Ivesia webberi* due to overutilization for commercial, recreational, scientific, or educational purposes (Factor B); disease or predation (Factor C); or other natural or manmade factors affecting its continued existence (Factor E). Although regulatory mechanisms (Factor D) are in place that provide some protection to *I. webberi* and its habitat, these mechanisms do not completely alleviate all of the threats currently acting on the species.

The Act defines an endangered species as any species that is ''in danger of extinction throughout all or a significant portion of its range'' and a threatened species as any species ''that is likely to become endangered throughout all or a significant portion of its range within the foreseeable future.'' Available population information for *Ivesia webberi* is not useful for determining trends because population estimates have been obtained by different observers employing a variety of means and levels of survey effort. Nonnative, invasive plant species; wildfire; and OHV activity are present impacts throughout the range of *I. webberi* and in some cases are found to be increasing for many years with data

in particular related to increased recreational OHV activity over the past 20 years (Service 2014, pp. 26–27) and increased wildfire and suppression activities over the past 30 years (Service 2014, pp. 22, 24–26). Additionally, given current climate change projections, we anticipate that future climatic conditions will favor invasion by nonnative, invasive plant species, which will further contribute to increases in frequency, spatial extent, and severity of wildfires (Service 2014, pp. 30–32). Based on the timeframe associated with the documented increased level of some threats over the past 30 years and the effects of climate change projections on these threats, we estimate the foreseeable future to be at least 30 years (i.e., 2044).

We determined that *Ivesia webberi* is not presently in danger of extinction throughout all of its range, but that it is likely to become endangered throughout all of its range in the foreseeable future. We determined that *I. webberi* is not presently in danger of extinction because the species is characterized by multiple populations spread across northeastern California and northwestern Nevada and that, in total, these populations provide sufficient redundancy (multiple populations distributed across the landscape), resiliency (capacity for a species to recover from periodic disturbance), and representation (range of variation found in a species) such that *I. webberi* is not at immediate risk of extinction. However, because multiple threats (nonnative, invasive plants; increased wildfire; OHV use; roads; development; livestock grazing; and climate change) are impacting many of the *I. webberi* populations and because combined and synergistic effects, due to encroachment of nonnative, invasive plants and increased wildfire, as well as climate change, are likely to continue and increase in the future, we find that *I. webberi* is likely to become an endangered species throughout all of its range in the foreseeable future. Therefore, on the basis of the best available scientific and commercial information, we are listing *I. webberi* as a threatened species.

*Significant Portion of the Range*

In determining whether a species is endangered or threatened in a significant portion of its range, we first identify any portions of the range of the species that warrant further consideration. The range of a species can theoretically be divided into portions an infinite number of ways. However, there is no purpose to analyzing portions of the range that are not reasonably likely to be both (1) significant and (2) endangered or threatened. To identify only those portions that warrant further consideration, we determine whether there is substantial information indicating that: (1) The portions may be significant, and (2) the species may be in danger of extinction there or likely to become so within the foreseeable future. In practice, a key part of this analysis is whether the threats are geographically concentrated in some way. If the threats to the species are essentially uniform throughout its range, no portion is likely to warrant further consideration. Moreover, if any concentration of threats applies only to portions of the species' range that are not significant, such portions will not warrant further consideration.

If we identify portions that warrant further consideration, we then determine whether the species is endangered or threatened in these portions of its range. Depending on the biology of the species, its range, and the threats it faces, the Service may address either the significance question or the status question first. Thus, if the Service considers significance first and determines that a portion of the range is not significant, the Service need not determine whether the species is endangered or threatened there. Likewise, if the Service considers status first and determines that the species is not endangered or threatened in a portion of its range, the Service need not determine if that portion is significant. However, if the Service determines that both a portion of the range of a species is significant and the species is endangered or threatened there, the Service will specify that portion of the range as endangered or threatened under section 4(c)(1) of the Act.

The primary threats to *Ivesia webberi* occur throughout the species' range and are not restricted to or concentrated in any particular portion of that range. The primary threats of nonnative, invasive plants and increased wildfire are impacting *I. webberi* populations throughout the California and Nevada portions of the species' range. Climate change also is acting on *I. webberi* throughout the species' range. Thus, we conclude that threats impacting *I. webberi* are not concentrated in certain areas, and, thus, there are no significant portions of its range where the species should be classified as an endangered species. Accordingly, this listing of *I. webberi* as a threatened species applies throughout the species' entire range.

**Available Conservation Measures**

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness, and conservation by Federal, State, Tribal, and local agencies; private organizations; and individuals. The Act encourages cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required by Federal agencies and the prohibitions against certain activities are discussed, in part, below.

The primary purpose of the Act is the conservation of endangered and threatened species and the ecosystems upon which they depend. The ultimate goal of such conservation efforts is the recovery of these listed species, so that they no longer need the protective measures of the Act. Subsection 4(f) of the Act requires the Service to develop and implement recovery plans for the conservation of endangered and threatened species. The recovery planning process involves the identification of actions that are necessary to halt or reverse the species' decline by addressing the threats to its survival and recovery. The goal of this process is to restore listed species to a point where they are secure, self-sustaining, and functioning components of their ecosystems.

Recovery planning includes the development of a recovery outline shortly after a species is listed and preparation of a draft and final recovery plan. The recovery outline guides the immediate implementation of urgent recovery actions and describes the process to be used to develop a recovery plan. Revisions of the plan may be done to address continuing or new threats to the species, as new substantive information becomes available. The recovery plan identifies site-specific management actions that set a trigger for review of the five factors that control, for example, whether a species remains endangered or may be downlisted or delisted, and methods for monitoring recovery progress. Recovery plans also establish a framework for agencies to coordinate their recovery efforts and provide estimates of the cost of implementing recovery tasks. Recovery teams (composed of species experts, Federal and State agencies, nongovernmental organizations, and stakeholders) are often established to develop recovery plans. When completed, the recovery outline, draft

recovery plan, and the final recovery plan will be available on our Web site (*http://www.fws.gov/endangered*), or from our Nevada Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Implementation of recovery actions generally requires the participation of a broad range of partners, including other Federal agencies, States, Tribes, nongovernmental organizations, businesses, and private landowners. Examples of recovery actions include habitat restoration (e.g., restoration of native vegetation), research, captive propagation and reintroduction, and outreach and education. The recovery of many listed species cannot be accomplished solely on Federal lands because their range may occur primarily or solely on non-Federal lands. To achieve recovery of these species requires cooperative conservation efforts on private, State, and Tribal lands.

Based on this final listing rule, funding for recovery actions will be available from a variety of sources, including Federal budgets, State programs, and cost share grants for non-Federal landowners, the academic community, and nongovernmental organizations. In addition, pursuant to section 6 of the Act, the States of California and Nevada will be eligible for Federal funds to implement management actions that promote the protection or recovery of *Ivesia webberi.* Information on our grant programs that are available to aid species recovery can be found at: *http://www.fws.gov/grants.*

Please let us know if you are interested in participating in recovery efforts for *Ivesia webberi.* Additionally, we invite you to submit any new information on this species whenever it becomes available and any information you may have for recovery planning purposes (see **FOR FURTHER INFORMATION CONTACT**).

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as an endangered or threatened species and with respect to its critical habitat, if any is designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any action that is likely to jeopardize the continued existence of a species proposed for listing or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with the Service.

Federal agency actions within the species' habitat that may require conference or consultation or both as described in the preceding paragraph include land management actions that could result in impacts to soil characteristics or seedbank viability, pollinators or their habitat, and associated native vegetation community, and any other landscape-altering activities on Federal lands, such as: Reauthorization of grazing permits by the BLM and the U.S. Forest Service, issuance of section 404 Clean Water Act (33 U.S.C. 1251 *et seq.*) permits by the U.S. Army Corps of Engineers, construction and management of gas pipeline and power line rights-of-way by the Federal Energy Regulatory Commission, and construction and maintenance of roads or highways by the Federal Highway Administration.

Under section 4(d) of the Act, the Secretary of the Interior has discretion to issue such regulations as he deems necessary and advisable to provide for the conservation of threatened species. The Secretary also has the discretion to prohibit by regulation with respect to a threatened plant species any act prohibited by section 9(a)(2) of the Act. Exercising this discretion, which has been delegated to the Service by the Secretary, the Service has developed general prohibitions that are appropriate for most threatened plants at 50 CFR 17.71. Therefore, we are not promulgating a special rule under section 4(d) of the Act, and as a result, all of the applicable section 9 prohibitions, set forth at 50 CFR 17.71, will apply to *Ivesia webberi.*

It is our policy, as published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable at the time a species is listed, those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of a listing on proposed and ongoing activities within the range of listed species. The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to endangered and threatened plants. The Service codified the Act's prohibitions applicable to endangered plants at 50 CFR 17.61 and by regulation extended the prohibitions to threatened plants at 50 CFR 17.71. Section 9(a)(2) and 50 CFR 17.61(a) make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale in interstate or foreign commerce, or remove and reduce the species to possession from areas under Federal jurisdiction, but 50 CFR 17.71(a) contains an exception for the seeds of cultivated specimens, provided that a statement that the seeds are of ''cultivated origin'' accompanies the seeds or their container. Also, 50 CFR 17.71(b) authorizes Service and State conservation agency employees to remove and reduce to possession from Federal lands those threatened plant species covered by cooperative agreements under section 6(c) of the Act. The following activities could potentially result in a violation of section 9 of the Act; this list is not comprehensive:

(1) Import of *Ivesia webberi* into, or export of this species from, the United States without authorization.

(2) Removal and reduction to possession of *I. webberi* from areas under Federal jurisdiction.

(3) Delivery, receipt, carrying, transport, or shipping of *I. webberi* in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity.

(4) Sale, or offer for sale, of *I. webberi* in interstate or foreign commerce.

Questions regarding whether specific activities would constitute a violation of section 9 of the Act should be directed to the Nevada Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

## Required Determinations

### *National Environmental Policy Act (42 U.S.C. 4321 et seq.)*

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*), need not be prepared in connection with listing a species as an endangered or threatened species under the Endangered Species Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

### *Government-to-Government Relationship With Tribes*

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951), Executive Order 13175 (Consultation and

Coordination with Indian Tribal Governments), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with tribes in developing programs for healthy ecosystems, to acknowledge that tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to tribes.

## References Cited

A complete list of references cited in this rulemaking is available on the Internet at *http://www.regulations.gov* and upon request from the Nevada Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

## Authors

The primary authors of this final rule are the staff members of the Service's Nevada Fish and Wildlife Office and Region 8 Regional Office.

## List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

## Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as follows:

## PART 17—[AMENDED]

■ 1. The authority citation for part 17 continues to read as follows:

**Authority:** 16 U.S.C. 1361–1407; 1531–1544; 4201–4245, unless otherwise noted.

■ 2. Amend § 17.12(h) by adding an entry for ''*Ivesia webberi*'' in alphabetical order under FLOWERING PLANTS to the List of Endangered and Threatened Plants to read as follows:

**§ 17.12 Endangered and threatened plants.**

* * * * *

(h) * * *

| Species | | Historic range | Family | Status | When listed | Critical habitat | Special rules |
|---|---|---|---|---|---|---|---|
| Scientific name | Common name | | | | | | |
| FLOWERING PLANTS | | | | | | | |
| * | * | * | * | * | * | | * |
| *Ivesia webberi* | Webber's ivesia | U.S.A. (CA, NV) | Rosaceae | T | 836 | 17.96(a) | NA |
| * | * | * | * | * | * | | * |

* * * * *

Dated: May 15, 2014.

**Stephen Guertin,**

*Acting Director, U.S. Fish and Wildlife Service.*

[FR Doc. 2014–12627 Filed 6–2–14; 8:45 am]

BILLING CODE 4310–55–P

# Proposed Rules

Federal Register

Vol. 79, No. 106

Tuesday, June 3, 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 AGRICULTURE

### Rural Housing Service

### Rural Business-Cooperative Service

### Rural Utilities Service

### Farm Service Agency

### 7 CFR Part 1951

### Rural Business-Cooperative Service

### Rural Utilities Service

### 7 CFR Part 4274

**RIN 0570–AA86**

## Intermediary Relending Program

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

**ACTION:** Proposed rule.

**SUMMARY:** The Rural Business-Cooperative Service (RBS) proposes to amend its regulations for the Intermediary Relending Program (IRP). This action is needed to address several items based on an Office of Inspector General (OIG) audit: Removing part of the definition of revolved funds to eliminate public confusion on its applicability; providing stronger guidance on items that should be taken into consideration when approving subsequent loans; defining what is meant by promptly relending collections from loans made from the revolving loan fund account; and providing clarification when prior Agency concurrence is needed to make loans. Finally, the Agency is removing provisions for Rural Development Loan Fund (RDLF) servicing as there are no longer any active RDLF.

**DATES:** Comments on this proposed rule must be received by August 4, 2014 to be considered.

**ADDRESSES:** You may submit comments to this proposed rule by any of the following methods:

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

*Mail:* Submit written comments via the U.S. Postal Service to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, STOP 0742, 1400 Independence Avenue SW., Washington, DC 20250–0742.

*Hand Delivery/Courier:* Submit written comments via Federal Express Mail or other courier service requiring a street address to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, 300 7th Street SW., 7th Floor, Washington, DC 20024.

All written comments will be available for public inspection during regular work hours at 300 7th Street SW., 7th Floor address listed above.

**FOR FURTHER INFORMATION CONTACT:** Lori A. Washington, Business Loan and Grant Analyst, Specialty Lenders Division, Rural Business-Cooperative Service, U.S. Department of Agriculture, STOP 3225, 1400 Independence Ave. SW., Washington, DC 20250–3225, Telephone (202) 720–9815, Email *lori.washington@wdc.usda.gov.*

**SUPPLEMENTARY INFORMATION:**

### Executive Order 12866—Classification

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

### Programs Affected

The Catalog of Federal Domestic Assistance number for the program impacted by this action is 10.767, Intermediary Relending Program.

### Executive Order 12372—Intergovernmental Review of Federal Programs

The IRP is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. Rural Development has conducted intergovernmental consultation in the manner delineated in RD Instruction 1940–J, ''Intergovernmental Review of Rural Development Programs and Activities,'' and in 7 CFR part 3015, subpart V.

### Executive Order 12988—Civil Justice Reform

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. In accordance with this rule: (1) All State and local laws and regulations that are in conflict with this rule will be preempted, (2) no retroactive effect will be given this rule, and (3) administrative proceedings in accordance with the regulations of the Agency at 7 CFR part 11 must be exhausted before bringing suit in court challenging action taken under this rule unless those regulations specifically allow bringing suit at an earlier time.

### Environmental Impact Statement

This proposed rule has been reviewed in accordance with 7 CFR part 1940, subpart G, ''Environmental Program.'' Rural Development has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment and, in accordance with the National Environmental Policy Act of 1969, Public Law 91–190, an Environmental Impact Statement is not required.

### Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, Rural Development must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector of $100 million or more in any 1 year. When such a statement is needed for a rule, section 205 of UMRA generally requires Rural Development to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost effective, or least burdensome alternative that achieves the objectives of the rule.

This proposed 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. Thus, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

**Regulatory Flexibility Act**

In compliance with the Regulatory Flexibility Act, Rural Development has determined that this action would not have a significant economic impact on a substantial number of small entities because the action will not affect a significant number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601). Rural Development made this determination based on the fact that this regulation only impacts those who choose to participate in the program. Small entity applicants will not be impacted to a greater extent than large entity applicants. Therefore, a regulatory impact analysis was not performed.

**Executive Order 13132—Federalism**

It has been determined under Executive Order 13132, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various levels of Government.

**Executive Order 13175, Consultation and Coordination With Indian Tribal Governments**

This executive order imposes requirements on Rural Development in the development of regulatory policies that have tribal implications or preempt tribal laws. Rural Development has determined that the rule does not have a substantial direct effect on one or more Indian tribe(s) or on either the relationship or the distribution of powers and responsibilities between the Federal Government and the Indian tribes. Thus, the rule is not subject to the requirements of Executive Order 13175. Additionally, on April 17, 2013, USDA Rural Development focused its quarterly webinar and teleconference based Tribal Consultation on its Rural Business Revolving Loan Fund Programs, including the IRP. No adverse, nor material comments were received regarding the IRP during, or as a result of, that event. Tribal Consultation inquiries and comments should be directed to Rural Development's Native American Coordinator at *aian@wdc.usda.gov* or (720) 544–2911.

**Paperwork Reduction Act**

This rule does not revise or impose any new information collection or recordkeeping requirements.

**E-Government Act Compliance**

Rural Development is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

**Background**

In this rule, the Agency is addressing the OIG audit findings conducted in fiscal year 2010 involving several issues that require strengthening the Agency's oversight controls of the IRP program. The Agency is also removing provisions for RDLF since there are no longer any active RDLF.

**List of Subjects**

*7 CFR Part 1951*

Loan programs—Agriculture, rural areas.

*7 CFR Part 4274*

Community development, Economic development, Loan programs—Business, Rural areas.

For reasons set forth in this preamble, chapters XVIII and XLII, title 7, Code of Federal Regulations, are amended as follows:

## CHAPTER XVIII—RURAL HOUSING SERVICE, RURAL BUSINESS-COOPERATIVE SERVICE, RURAL UTILITIES SERVICE, AND FARM SERVICE AGENCY, DEPARTMENT OF AGRICULTURE

## PART 1951—SERVICING AND COLLECTIONS

■ 1. The authority citation for part 1951 continues to read as follows:

**Authority:** 5 U.S.C. 301; 7 U.S.C. 1932 Note; 7 U.S.C. 1989; 31 U.S.C. 3716; 42 U.S.C. 1480.

### Subpart R—Rural Development Loan Servicing

**§ 1951.851 [Amended]**

■ 2. Section 1951.851 is removing paragraph (c) and redesignating paragraphs (d) and (c) as paragraphs (c) and (d), respectively:

§§ 1951.853, 1951.854, 1951.860, 1951.867, 1951.871, 1951.872 and 1951.877 [Removed and Reserved]

■ 3. Sections 1951.853, 1951.854, 1951.860, 1951.867, 1951.871, 1951.872 and 1951.877 are removed and reserved.

■ 4. Section 1951.881 is amended by adding the last sentence in subsection (a) to read as follows:

**§ 1951.881 Loan servicing.**

(a) These regulations do not negate contractual arrangements that were previously made by the HHS, Office of Community Services (OCS), or the intermediaries operating relending programs that have already been entered into with ultimate recipients under previous regulations. Pre-existing documents control when in conflict with these regulations. The loan is governed by terms of existing legal documents of each intermediary. The RDLF/IRP intermediary is responsible for compliance with the terms and conditions of the loan agreement. Other than 7 CFR 1951.709(d)(1)(B)(iv), intermediaries receiving an unauthorized loan or using their revolving fund for unauthorized purposes will be serviced in accordance with 7 CFR part 1951, subpart O.

* * * * *

■ 5. Section 1951.884 is revised to read as follows:

**§ 1951.884 Revolved funds.**

For ultimate recipients assisted by the intermediary with FmHA or its successor agency under Public Law 103–354, revolved funds derived from IRP funds shall be required to comply with the provisions of these regulations and/or loan agreement.

## CHAPTER XLII—RURAL BUSINESS-COOPERATIVE SERVICE AND RURAL UTILITIES SERVICE, DEPARTMENT OF AGRICULTURE

## PART 4274—DIRECT AND INSURED LOANMAKING

■ 6. The authority citation for part 4274 continues to read as follows:

**Authority:** 5 U.S.C. 301; 7 U.S.C. 1932 note; 7 U.S.C. 1989.

### Subpart D—Intermediary Relending Program (IRP)

■ 7. Section 4274.302 is amended by removing the last sentence in the definition of ''Agency IRP loan funds,'' removing the last sentence in the definition of ''Revolved funds,'' and removing the definition of ''Rural area'' and adding in its place a definition of ''Rural or rural area'' to read as follows:

**§ 4274.302 Definitions and abbreviations.**

(a) * * *

*Rural or rural area.* As described in 7 U.S.C. 1991(a)(13), as amended.

* * * * *

■ 8. A new § 4274.304, is added to read as follows:

**§ 4274.304 Prior loans.**

Any loan made under this program prior to September 2, 2014 may submit to the Agency a written request for an irrevocable election to have the loan serviced in accordance with this subpart.

■ 9. Section 4274.331 is amended by revising paragraph (a)(3)(ii) to read as follows:

**§ 4274.331 Loan limits.**

* * * * *

(a) * * *

(3) * * *

(ii) The intermediary is promptly relending all collections from loans made from its IRP revolving fund in excess of what is needed for required debt service, reasonable administrative costs approved by the Agency, and a reasonable reserve for debt service and uncollectible accounts. The intermediary provides documentation to demonstrate that funds available for relending do not exceed the greater of $150,000 or the total amount of loans closed during a calendar quarter on average, over the last 12 months.

* * * * *

■ 10. Section 4274.332 is amended by revising paragraphs (b)(2) and (b)(4) to read as follows:

**§ 4274.332 Post award requirements.**

* * * * *

(b) * * *

(2) The intermediary must submit an annual budget of proposed administrative costs for Agency approval. The annual budget should itemize cash income and cash out-flow. Projected cash income should consist of, but is not limited to, collection of principal repayment, interest repayment, interest earnings on deposits, fees, and other income. Projected cash out-flow should consist of, but is not limited to, principal and interest payments, reserve for bad debt, and an itemization of administrative costs to operate the IRP revolving fund. Proceeds received from the collection of principal repayment cannot be used for administrative expenses. The amount removed from the IRP revolving fund for administrative costs in any year must be reasonable, must not exceed the actual cost of operating the IRP revolving fund, including loan servicing and providing technical assistance, and must not exceed the amount approved by the Agency in the intermediary's annual budget.

* * * * *

(4) Any cash in the IRP revolving fund from any source that is not needed for debt service, approved administrative costs, or reasonable reserves must be available for additional loans to ultimate recipients. Funds may not be used for any investments in securities or certificates of deposit of over 30-day duration without the concurrence of Rural Development. If funds in excess of $250,000 have been unused to make loans to ultimate recipients for 6 months or more, those funds will be returned to Rural Development unless Rural Development provides an exception to the intermediary. Any exception would be based on evidence satisfactory to Rural Development that every effort is being made by the intermediary to utilize the IRP funding in conformance with program objectives.

* * * * *

■ 11. Section 4274.338 is amended by revising paragraph (b)(9) and adding paragraph (b)(10) to read as follows:

**§ 4274.338 Loan agreements between the Agency and the Intermediary.**

* * * * *

(b) * * *

(9) If any part of the loan has not been used in accordance with the intermediary's work plan by a date 3 years from the date of the loan agreement, the Agency may cancel the approval of any funds not yet delivered to the intermediary and the intermediary will return, as an extra payment on the loan, any funds delivered to the intermediary that have not been used by the intermediary in accordance with the work plan. The Agency, at its sole discretion, may allow the intermediary additional time to use the loan funds. Regular loan payments will be based on the amount of funds actually drawn by the intermediary.

(10) For IRP intermediaries, IRP funds in excess of $250,000 that have not been used to make loans to ultimate recipients for 6 months or more will be returned to Rural Development unless Rural Development provides an exception to the intermediary. Any exception would be based on evidence satisfactory to Rural Development that every effort is being made by the intermediary to utilize the IRP funding in conformance with program objectives.

* * * * *

■ 12. Section 4274.361 is amended by revising paragraph (a) to read as follows:

**§ 4274.361 Requests to make loans to ultimate recipients.**

(a) An intermediary may use revolved funds to make loans to ultimate recipients in accordance with § 4274.314(b) without obtaining prior Agency concurrence. Prior Agency concurrence is required when an intermediary proposes to use Agency IRP loan funds to make a loan to an ultimate recipient.

* * * * *

Dated: May 20, 2014.

**Douglas J. O'Brien.**

*Deputy Under Secretary, Rural Development.*

Dated: May 15, 2014.

**Michael T. Scuse,**

*Under Secretary, Farm and Foreign Agricultural Services.*

[FR Doc. 2014–12632 Filed 6–2–14; 8:45 am]

BILLING CODE 3410–XY–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 25

**[Docket No. FAA–2014–0329; Notice No. 25–14–03–SC]**

## Special Conditions: Bombardier Aerospace, Models BD–500–1A10 and BD–500–1A11 Series Airplanes; Tire Debris Impacts to Fuel Tanks

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed special conditions.

**SUMMARY:** This action proposes special conditions for the Bombardier Aerospace Models BD–500–1A10 and BD–500–1A11 series airplanes. These airplanes will have a novel or unusual design feature associated with the use of carbon fiber reinforced plastic (CFRP) for most of the wing fuel tank structure, which, when impacted by tire debris, may resist penetration or rupture differently from aluminum wing skins. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

**DATES:** Send your comments on or before July 18, 2014.

**ADDRESSES:** Send comments identified by docket number FAA–2014–0329 using any of the following methods:

- Federal eRegulations Portal: Go to *http://www.regulations.gov/*and follow the online instructions for sending your comments electronically.
- Mail: Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

• Hand Delivery or Courier: Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays.

• Fax: Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://www.regulations.gov/*, including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov/.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov/*at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Margaret Langsted, FAA, Propulsion and Mechanical Systems Branch, ANM–112, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98057–3356; telephone 425–227–2677; facsimile 425–227–1149.

**SUPPLEMENTARY INFORMATION:**

## Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive on or before the closing date for comments. We may change these special conditions based on the comments we receive.

## Background

On December 10, 2009, Bombardier Aerospace applied for a type certificate for their new Models BD–500–1A10 and BD–500–1A11 series airplanes (hereafter collectively referred to as ''CSeries''). The CSeries airplanes are swept-wing monoplanes with an aluminum alloy fuselage sized for 5-abreast seating. Passenger capacity is designated as 110 for the Model BD–500–1A10 and 125 for the Model BD–500–1A11. Maximum takeoff weight is 131,000 pounds for the Model BD–500–1A10 and 144,000 pounds for the Model BD–500–1A11.

## Type Certification Basis

Under the provisions of Title 14, Code of Federal Regulations (14 CFR) 21.17, Bombardier Aerospace must show that the CSeries airplanes meet the applicable provisions of part 25, as amended by Amendments 25–1 through 25–129 thereto.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 25) do not contain adequate or appropriate safety standards for the CSeries airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same or similar novel or unusual design feature, the special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the CSeries airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36, and the FAA must issue a finding of regulatory adequacy under § 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type-certification basis under § 21.17(a)(2).

## Novel or Unusual Design Features

The CSeries airplanes will incorporate the following novel or unusual design features: The use of carbon fiber reinforced plastic (CFRP) for most of the wing fuel tank structure. The ability of aluminum wing skins to resist penetration or rupture when impacted by tire debris is understood from extensive experience, but the ability of CFRP construction to resist these hazards has not been established. There are no existing regulations that adequately establish a level of safety with respect to the performance of the composite materials used in the construction of wing fuel tanks. It requires the consideration of fuel tank penetration, fuel leaks, discrete source damage tolerance, and the effects of shock waves generated by tire debris impact.

## Discussion

Accidents have resulted from uncontrolled fires caused by fuel leaks following penetration or rupture of the lower wing by fragments of tires or from uncontained engine failure. The Concorde accident in 2000 is the most notable example. That accident demonstrated an unanticipated failure mode in an airplane with an unusual transport airplane configuration. Impact to the lower wing surface by tire debris induced pressure waves within the fuel tank that resulted in fuel leakage and fire. Regulatory authorities subsequently required modifications to the Concorde to improve impact resistance of the lower wing or means to retain fuel if the primary fuel retention means is damaged.

In another incident, a Boeing Model 747 tire burst during an aborted takeoff from Honolulu, Hawaii. That tire debris penetrated a fuel tank access cover, causing substantial fuel leakage. Passengers were evacuated down the emergency chutes into pools of fuel that fortunately had not ignited.

These accidents highlight deficiencies in the existing regulations pertaining to fuel retention following impact of the fuel tanks by tire fragments. Following a 1985 Boeing Model 737 accident in Manchester, England, in which a fuel tank access panel was penetrated by engine debris, the FAA amended 14 CFR 25.963 to require fuel tank access panels that are resistant to both tire and engine debris (engine debris is addressed elsewhere). This regulation, § 25.963(e), only addressed the fuel tank access covers since service experience at the time showed that the lower wing skin of a conventional, subsonic airplane provided adequate inherent capability to resist tire and engine debris threats. More specifically, that regulation requires showing by analysis or tests that the access covers ''. . . minimize penetration and deformation by tire fragments, low energy engine debris, or other likely debris.'' Advisory Circular (AC) 25.963–1, *Fuel Tank Access Covers,* describes the region of the wing that is vulnerable to impact damage from these sources and provides a method to substantiate that the rule has been met for tire fragments. No specific requirements were established for the contiguous wing areas into which the access covers are installed, because of the inherent ability of conventional aluminum wing skins to resist penetration by tire debris. AC 25.963–1 specifically notes, ''The access

covers, however, need not be more impact resistant than the contiguous tank structure,'' highlighting the assumption that the wing structure is more capable of resisting tire impact debris than fuel tank access covers.

In order to maintain the level of safety envisioned by 14 CFR 25.963(e), these special conditions propose a standard for resistance to potential tire debris impacts to the contiguous wing surfaces and require consideration of possible secondary effects of a tire impact, such as the induced pressure wave that was a factor in the Concorde accident. It takes into account that new construction methods and materials will not necessarily yield debris resistance that has historically been shown as adequate. The proposed standard is based on the defined tire impact areas and tire fragment characteristics.

In addition, despite practical design considerations, some uncommon debris larger than that defined in paragraph 2 may cause a fuel leak within the defined area, so paragraph 3 of these proposed special conditions also takes into consideration possible leakage paths. Fuel tank surfaces of typical transport airplanes have thick aluminum construction in the tire debris impact areas that is tolerant to tire debris larger than that defined in paragraph 2 of these special conditions. Consideration of leaks caused by larger tire fragments is needed to ensure that an adequate level of safety is provided.

These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

## Applicability

As discussed above, these special conditions are applicable to the BD–500–1A10 and BD–500–1A11 (CSeries) airplanes. Should Bombardier Aerospace apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

## Conclusion

This action affects only certain novel or unusual design features on one model series of airplanes. It is not a rule of general applicability.

## List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

## The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for Bombardier Aerospace BD–500–1A10 and BD–500–1A11 (CSeries) airplanes.

## Tire Debris Impacts to Fuel Tanks

1. Impacts by tire debris to any fuel tank or fuel system component located within 30 degrees to either side of wheel rotational planes may not result in penetration or otherwise induce fuel tank deformation, rupture (for example, through propagation of pressure waves), or cracking sufficient to allow a hazardous fuel leak. A hazardous fuel leak results if debris impact to a fuel tank surface causes a—

a. Running leak,

b. Dripping leak, or

c. Leak that, 15 minutes after wiping dry, results in a wetted airplane surface exceeding 6 inches in length or diameter.

The leak must be evaluated under maximum fuel head pressure.

2. Compliance with paragraph 1 must be shown by analysis or tests assuming all of the following:

a. The tire debris fragment size is 1 percent of the tire mass.

b. The tire debris fragment is propelled at a tangential speed that could be attained by a tire tread at the airplane flight manual airplane rotational speed ($V_R$ at maximum gross weight).

c. The tire debris fragment load is distributed over an area on the fuel tank surface equal to 1½ percent of the total tire tread area.

3. Fuel leaks caused by impact from tire debris larger than that specified in paragraph 2, from any portion of a fuel tank or fuel system component located within the tire debris impact area defined in paragraph 1, may not result in hazardous quantities of fuel entering any of the following areas of the airplane:

a. Engine inlet,

b. Auxiliary power unit inlet, or

c. Cabin air inlet.

This must be shown by test or analysis, or a combination of both, for each approved engine forward thrust condition and each approved reverse thrust condition.

Issued in Renton, Washington, on May 15, 2014.

**Michael Kaszycki,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2014–12691 Filed 6–2–14; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2014–0338; Directorate Identifier 2014–CE–010–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Piper Aircraft, 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 Piper Aircraft, Inc. Model PA–31–350 airplanes. This proposed AD was prompted by a report of an engine fire caused by a leak in the fuel pump inlet hose. This proposed AD would require inspecting the fuel hose assembly and the turbocharger support assembly for proper clearance between them, inspecting each assembly for any sign of damage, and making any necessary repairs or replacements. We are proposing this AD to correct the unsafe condition on these products.

**DATES:** We must receive comments on this proposed AD by July 18, 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 Piper Aircraft, Inc., 2926 Piper Drive, Vero Beach, Florida 32960; telephone: (772) 567–4361; fax: (772) 978–6573; Internet: *www.piper.com/home/pages/Publications.cfm*. You may review copies of the referenced service

information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

**Examining the AD Docket**

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0338; 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:** Gary Wechsler, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, 1701 Columbia Avenue, College Park, Georgia 30337; telephone: (404) 474–5575; fax: (404) 474–5606; email: *gary.wechsler@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–2014–0338; Directorate Identifier 2014–CE–010–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 received a report of an engine fire on a Piper Aircraft, Inc. (Piper) Model PA–31–350 airplane. Investigation revealed that the fire was caused by a leak in the fuel pump inlet hose that resulted from repeated contact with an adjacent turbocharger support assembly caused by inadequate clearance between the two assemblies.

This condition, if not corrected, could result in damage to the fuel inlet hose assembly, which could cause the fuel pump inlet hose to fail and leak fuel in the engine compartment. This condition could also cause damage to the turbocharger support assembly, which could require the turbocharger support assembly to be repaired or replaced.

**Relevant Service Information**

We reviewed Piper Aircraft, Inc. Service Bulletin No. 1257, dated February 25, 2014. The service information describes procedures for the following:

—Inspecting for a minimum 3/16-inch clearance between the fuel hose assembly and the turbocharger support assembly and making any necessary adjustments.
—Inspecting the fuel hose assembly for any signs of damage and, if necessary, replacing with a serviceable part.
—Inspecting the turbocharger support assembly for any signs of damage and, if necessary, repairing or replacing with a serviceable part.
—Performing an engine run-up to check for any leaks.

**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.

**Differences Between the Proposed AD and the Service Information**

There are differences between the compliance times for the corrective actions in this proposed AD and those in Piper Aircraft, Inc. Service Bulletin No. 1257, dated February 25, 2014.

We based the compliance times in this proposed AD on risk analysis and cost impact to operators. There has only been one event of the reported incident in the operational history of Piper Model PA–31–350 airplanes. Cost was also a strong consideration due to the age of the fleet and the number of airplanes still in service.

The one-time inspection required in this proposed AD is very inexpensive and requires minimal time to accomplish. It is expected that almost all airplanes in service can be cleared with a single inspection, and no additional actions or costs would be incurred by the vast majority of the fleet.

We determined that a single inspection with any necessary corrective actions is an adequate terminating action for the unsafe condition. The risk related to future maintenance on the fuel line would be mitigated by the related service information and awareness from this proposed AD.

**Costs of Compliance**

We estimate that this proposed AD affects 773 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 |
|---|---|---|---|---|
| Inspect for proper clearance between the fuel hose assembly and the turbocharger support assembly. | 1 work-hour × $85 per hour = $85 | N/A | $85 | $65,705 |
| Inspect the fuel hose assembly for evidence of leaking, cracking, chafing, and any other sign of damage. | .5 work-hour × $85 per hour = $42.50 | N/A | $42.50 | 32,852.50 |
| Inspect the turbocharger support assembly for evidence of chafing and any other sign of damage. | .5 work-hour × $85 per hour = $42.50 | N/A | $42.50 | 32,852.50 |

We estimate the following costs to do any necessary follow-on actions that would be required based on the results of the proposed inspection. We have no way of determining the number of

airplanes that might need these corrective actions.

ON-CONDITION COSTS

| Action | Labor cost | Parts cost | Cost per product |
|---|---|---|---|
| Adjust for proper clearance between the fuel hose assembly and the turbocharger support assembly. | .5 work-hour × $85 per hour = $42.50 | N/A | $42.50 |
| Replace fuel hose assembly | 1 work-hour × $85 per hour = $85 | $1,068 | 1,153 |
| Replace turbocharger support assembly | 24 work-hours × $85 per hour = $2,040 | $12,874 | 14,914 |
| Engine run-up/leak check | 1 work-hour × $85 = $85 (.5 work hour per engine) | N/A | 85 |

## 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 proposed 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):

**Piper Aircraft, Inc.:** Docket No. FAA–2014–0338; Directorate Identifier 2014–CE–010–AD.

**(a) Comments Due Date**

We must receive comments by July 18, 2014.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Piper Aircraft, Inc. Model PA–31–350 airplanes, serial numbers 31–5001 through 31–5004, 31–7305005 through 31–8452024, and 31–8253001 through 31–8553002, certificated in any category.

**(d) Subject**

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 73: Engine Fuel and Control.

**(e) Unsafe Condition**

This AD was prompted by a report of an engine fire caused by a leak in the fuel pump inlet hose. We are issuing this AD to correct the unsafe condition on these products.

**(f) Compliance**

Comply with this AD within the compliance times specified in paragraphs (g)(1) through (j)(2) of this AD, unless already done.

**(g) Ensure Proper Clearance Between the Fuel Hose Assembly and the Turbocharger Support Assembly**

(1) Within the next 60 hours time-in-service (TIS) after the effective date of this AD or within the next 6 months after the effective date of this AD, whichever occurs first, inspect to determine the clearance between the fuel hose assembly, Piper part number (P/N) 39995–034, and the turbocharger support assembly, Lycoming P/N LW–18302. There should be a minimum 3/16-inch clearance. Do the inspection following the INSTRUCTIONS section of Piper Aircraft, Inc. Service Bulletin No. 1257, dated February 25, 2014.

(2) Before further flight after the inspection required in paragraph (g)(1) of this AD, if the measured clearance is less than 3/16-inch, make all necessary adjustments following the INSTRUCTIONS section of Piper Aircraft, Inc. Service Bulletin No. 1257, dated February 25, 2014, to make the clearance a minimum of 3/16-inch.

**(h) Inspect the Fuel Hose Assembly and Replace if Necessary**

(1) Within the next 60 hours TIS after the effective date of this AD or within the next 6 months after the effective date of this AD, whichever occurs first, inspect P/N 39995–034 for evidence of leaking, cracking, chafing, and any other sign of damage following the INSTRUCTIONS section of Piper Aircraft, Inc. Service Bulletin No. 1257, dated February 25, 2014.

(2) Before further flight after the inspection required in paragraph (h)(1) of this AD, if any evidence of leaking, cracking, chafing, or any other sign of damage is found, replace P/N 39995–034 with a serviceable part following the INSTRUCTIONS section of Piper Aircraft, Inc. Service Bulletin No. 1257, dated February 25, 2014.

**(i) Inspect the Turbocharger Support Assembly and Replace if Necessary**

(1) Within the next 60 hours TIS after the effective date of this AD or within the next 6 months after the effective date of this AD, whichever occurs first, inspect P/N LW–18302 for evidence of chafing and any other signs of damage following the INSTRUCTIONS section of Piper Aircraft, Inc. Service Bulletin No. 1257, dated February 25, 2014.

(2) Before further flight after the inspection required in paragraph (i)(1) of this AD, if any evidence of chafing or any other sign of damage is found, replace P/N LW–18302 with a serviceable part.

**(j) Engine Run-Up**

(1) If any fuel line component was adjusted or replaced during any actions required in paragraphs (g)(1) through (i)(2) of this AD, before further flight, perform an engine run-up on the ground to check for leaks following the INSTRUCTIONS section of Piper Aircraft, Inc. Service Bulletin No. 1257, dated February 25, 2014.

(2) If any leaks are found during the engine run-up required in paragraph (j)(1) of this AD, emanating from any fuel line component adjusted, repaired, or replaced during any actions required in paragraphs (g)(1) through (i)(2) of this AD, before further flight, take all necessary corrective actions following the INSTRUCTIONS section of Piper Aircraft, Inc. Service Bulletin No. 1257, dated February 25, 2014.

**(k) Alternative Methods of Compliance (AMOCs)**

(1) The Manager, Atlanta Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

**(l) Related Information**

(1) For more information about this AD, contact Gary Wechsler, Aerospace Engineer, FAA, Atlanta ACO, 1701 Columbia Avenue, College Park, Georgia 30337; telephone: (404) 474–5575; fax: (404) 474–5606; email: *gary.wechsler@faa.gov.*

(2) For service information identified in this AD, contact Piper Aircraft, Inc., 926 Piper Drive, Vero Beach, Florida 32960; telephone: (772) 567–4361; fax: (772) 978–6573; Internet: *www.piper.com/home/pages/Publications.cfm.* You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued in Kansas City, Missouri, on May 23, 2014.

**Earl Lawrence,**

*Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2014–12780 Filed 6–2–14; 8:45 am]

BILLING CODE 4910–13–P

## FEDERAL TRADE COMMISSION

## 16 CFR Part 306

## Automotive Fuel Ratings, Certification, and Posting

**AGENCY:** Federal Trade Commission (''FTC'' or ''Commission'').

**ACTION:** Extension of comment period.

**SUMMARY:** In an April 4, 2014 **Federal Register** Notice, the Federal Trade Commission (''Commission'') proposed amending its Fuel Rating Rule to provide revised rating, certification, and labeling requirements for blends of gasoline and more than 10 percent ethanol (''ethanol blends'') and an additional octane rating method for gasoline. The NPRM requested comments on the proposed amendments, and stated that comments must be received on or before June 2, 2014. In response to a request to extend the comment period received on May 20, 2014, the Commission is extending the comment period from June 2, 2014 to July 2, 2014.

**DATES:** Comments addressing the Automotive Fuel Ratings, Certification, and Posting NPRM must be received on or before July 2, 2014.

**FOR FURTHER INFORMATION CONTACT:** Miriam R. Lederer, (202) 326– 2975, R. Michael Waller, (202) 326–2902, Division of Enforcement, Federal Trade Commission, 600 Pennsylvania Avenue NW., Washington, DC 20580.

**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 ''Fuel Rating Rule Review, 16 CFR Part 306, Project No. R811005'' on your comment, and file your comment online at *https://ftcpublic.commentworks.com/ftc/autofuelratingscertnprm* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex N), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex N), Washington, DC 20024.

**SUPPLEMENTARY INFORMATION:** The Commission is extending the comment period for its NPRM on proposed amendments to the Fuel Rating Rule to July 2, 2014. The Commission's NPRM [1] proposed amendments in two areas. First, the NPRM proposed rating, certification, and labeling requirements for blends of gasoline with more than ten percent ethanol. Second, it proposed an additional octane rating method that uses infrared sensor technology. The NPRM's comment period was to end on June 2, 2014.

In a May 20, 2014 letter, the following stakeholders requested that the Commission extend the comment period by 30 days: Auto Alliance, Global Auto Manufacturers, Outdoor Power Equipment Institute, and National Marine Manufacturers Association. The Commission is extending the deadline as requested. The Commission recognizes that its proposal raises significant issues and believes that extending the comment period will facilitate a more complete record.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before July 2, 2014. Write ''Fuel Rating Rule Review, 16 CFR Part 306, Project No. 811005'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment doesn't include any sensitive personal information, such as 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, such as 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), 16 CFR 4.9(c). Your comment will be kept confidential only if the FTC General Counsel grants your request in

[1] *Federal Trade Commission: Automotive Fuel Ratings, Certification and Posting: Notice of Proposed Rulemaking,* 79 FR 18850 (Apr. 4, 2014).

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/autofuelratingscertnprm*, by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov*, you also may file a comment through that Web site.

If you prefer to file your comment on paper, write ''Fuel Rating Rule Review, 16 CFR Part 306, Project No. R811005'' on your comment and on the envelope and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex N), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex N), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at *http://www.ftc.gov* to read the April 4, 2014 NPRM and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate.

The Commission will consider all timely and responsive public comments that it receives on or before July 2, 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*.

By direction of the Commission.

**Donald S. Clark,**

*Secretary.*

[FR Doc. 2014–12759 Filed 6–2–14; 8:45 am]

**BILLING CODE 6750–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### 26 CFR Part 1

**[REG–133495–13]**

**RIN 1545–BL78**

### Alternative Simplified Credit Election

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of proposed rulemaking by cross-reference to temporary regulations.

**SUMMARY:** This document contains proposed regulations relating to the election of the alternative simplified credit. The proposed regulations will affect certain taxpayers claiming the credit. In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations concerning the election of the alternative simplified credit. The text of those regulations also serves as the text of these proposed regulations.

**DATES:** Comments and requests for a public hearing must be received by September 2, 2014.

**ADDRESSES:** Send submissions to: CC:PA:LPD:PR (REG–133495–13), room 5205, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (REG–133495–13), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC, or sent electronically via the Federal eRulemaking Portal at *http://www.regulations.gov* (IRS REG–133495–13).

**FOR FURTHER INFORMATION CONTACT:** Concerning the proposed regulations, David Selig, (202) 317–4137; concerning submission of comments and requests for a hearing, Oluwafunmilayo Taylor, (202) 317–6901 (not toll-free numbers).

**SUPPLEMENTARY INFORMATION:**

### Background

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR Part 1) relating to section 41. The temporary regulations provide guidance concerning the election of the alternative simplified credit (ASC) under section 41(c)(5). The text of those regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains these proposed regulations.

### Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. It is hereby certified that the collection of information in these regulations will not have a significant economic impact on a substantial number of small entities. Although a substantial number of small entities may make an ASC election on an amended return pursuant to these regulations, the economic impact of any collection burden on these entities relating to this election is minimal because the regulations will result in a benefit to taxpayers by providing additional time for taxpayer to calculate and elect the ASC. Accordingly, a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

### Comments and Requests for Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS. The Treasury Department and the IRS request comments on all aspects of the proposed rules. All comments will be available at *www.regulations.gov* or upon request.

A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

### Drafting Information

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

### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

### Proposed Amendments to the Regulations

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

## PART 1—INCOME TAXES

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

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

Section 1.41–9 also issued under 26 U.S.C. 41(c)(5)(C). * * *

■ **Par. 2.** Section 1.41–9 is amended by revising paragraph (b)(2) to read as follows:

**§ 1.41–9 Alternative simplified credit.**

* * * * *

(b) * * * (1) * * *

(2) [The text of proposed § 1.41–9(b)(2) is the same as the text of § 1.41–9T(b)(2) published elsewhere in this issue of the **Federal Register**.]

* * * * *

**John Dalrymple,**

*Deputy Commissioner for Services and Enforcement.*

[FR Doc. 2014–12758 Filed 6–2–14; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### 26 CFR Part 1

**[REG–141036–13]**

**RIN 1545–BL91**

## Minimum Essential Coverage and Other Rules Regarding the Shared Responsibility Payment for Individuals; Correction

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correction to a notice of proposed rulemaking and notice of public hearing.

**SUMMARY:** This document contains corrections to a notice of proposed notice of proposed and notice of public hearing (REG–141036–13) that was published in the **Federal Register** on Monday, January 27, 2014 (79 FR 4302). The proposed regulations relate to the requirement to maintain minimum essential coverage enacted by the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010, as amended by the TRICARE Affirmation Act and Public Law 111–73.

**DATES:** Written or electronic comments and requests for a public hearing for the notice of proposed rulemaking and notice of public hearing published at 79 FR 4302, January 27, 2014, the comment period ended on April 28, 2014.

**FOR FURTHER INFORMATION CONTACT:** Sue-Jean Kim or John B. Lovelace at (202) 317–7006 (not a toll free number).

**SUPPLEMENTARY INFORMATION:**

### Background

The notice of proposed rulemaking and notice of public hearing (REG–141036–13) that is the subject of these corrections is under section 5000A of the Internal Revenue Code.

### Need for Correction

As published, the notice of proposed rulemaking and notice of public hearing (REG–141036–13) contains errors that may prove to be misleading and are in need of clarification.

### Correction of Publication

Accordingly, the notice of proposed rulemaking and notice of public hearing (REG–141036–13), that was the subject of FR Doc. 2014–01439, is corrected as follows:

1. On page 4303, in the preamble, second column, under the paragraph heading ''*Minimum Essential Coverage'',* seventeenth line of the second paragraph, the language ''1396a(a)(10)(A)(ii)(XI)); (3) coverage of'' is corrected to read ''1396a(a)(10)(A)(ii)(XII)); (3) coverage of''.

2. On page 4304, in the preamble, first column, fifth line from the bottom of the second paragraph, the language ''need to request an exemption from the'' is corrected to read ''need to request an exemption certification from the''.

3. On page 4304, in the preamble, first column, under the paragraph heading ''*Monthly Penalty Amount'',* seventh and eighth lines of the second paragraph, the language ''return filing threshold (as defined in section 6012(a)(1)).'' is corrected to read ''filing threshold (as defined in § 1.5000A–3(f)(2)).''.

4. On page 4304, in the preamble, third column, seventh and eighth lines of the first full paragraph, the language ''*www.irs.gov*), (see § 601.601(d)(2)(ii)(b) of this chapter), released concurrently'' is corrected to read ''*www.irs.gov*), see § 601.601(d)(2)(ii)(*b*) of this chapter, released concurrently''.

5. On page 4305, in the preamble, first column, twelfth and thirteenth lines of the first full paragraph, the language ''at *www.irs.gov)*, (see § 601.601(d)(2)(ii)(b) of this chapter)'' is corrected to read ''at *www.irs.gov*), see § 601.601(d)(2)(ii)(*b*) of this chapter''.

6. On page 4305, in the preamble, second column, sixteenth and seventeenth lines of the first full paragraph, the language ''(available at *www.irs.gov*), (see § 601.601(d)(2)(ii)(b) of this chapter) is corrected to read ''(available at www.irs.gov), see § 601.601(d)(2)(ii)(*b*) of this chapter''.

7. On page 4305, in the preamble, second column, third line from the bottom of the page, the language ''any coverage, whether insurance or'' is corrected to read ''any coverage, whether through insurance or''.

8. On page 4306, in the preamble, third column, sixth line from the bottom of the page, the language ''that the hardship can be claimed on a'' is corrected to read ''that the hardship exemption can be claimed on a''.

9. On page 4307, in the preamble, first column, fourth line from the top of the page, the language ''exemption from an Exchange.'' is corrected to read ''exemption certification from an Exchange.''.

**§ 1.5000A–3 [Corrected]**

10. On Page 4308, second column, paragraph (h)(3)(iii)(B) should read ''The Secretary issues published guidance of general applicability, see § 601.601(d)(2) of this chapter, allowing an individual to claim the hardship exemption on a return without obtaining a hardship exemption certification from an Exchange.''.

**Martin V. Franks,**

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

[FR Doc. 2014–12754 Filed 6–2–14; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF LABOR

### Employee Benefits Security Administration

### 29 CFR Part 2550

**RIN 1210–AB38**

## Target Date Disclosure

**AGENCY:** Employee Benefits Security Administration, Labor.

**ACTION:** Proposed rule; reopening of comment period.

**SUMMARY:** The Department of Labor's Employee Benefits Security Administration is reopening the period for public comment on proposed regulatory amendments relating to enhanced disclosure concerning target date or similar investments, originally proposed November 30, 2010, in a previously published document in the **Federal Register**. In 2013, the Securities and Exchange Commission's Investor Advisory Committee recommended that the Commission develop a glide path illustration for target date funds that is based on a standardized measure of fund risk as a replacement for, or supplement to, an asset allocation glide path illustration. The Department is reopening the comment period on its 2010 proposal, which contained an asset allocation glide path illustration requirement, to seek public comment on this recommendation.

**DATES:** Written comments on the proposed regulation published at 75 FR 73987 (Nov. 30, 2010) should be received by the Department of Labor no later than July 3, 2014.

**ADDRESSES:** Written comments may be submitted to the addresses specified below. All comments will be made available to the public. *Warning:* Do not include any personally identifiable information (such as name, address, or other contact information) or confidential business information that you do not want publicly disclosed. All comments may be posted on the Internet and can be retrieved by most Internet search engines. Comments may be submitted anonymously. Persons submitting comments electronically are encouraged not to submit paper copies.

Comments identified by RIN 1210–AB38 may be submitted by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: e-ORI@dol.gov*
- *Mail or Hand Delivery:* Office of Regulations and Interpretations, Employee Benefits Security Administration, Room N–5655, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, *Attention:* RIN 1210–AB38; Target Date Disclosure. Comments received by the Department of Labor may be posted without change to *http://www.regulations.gov* and *http://www.dol.gov/ebsa,* and will be made available for public inspection at the Public Disclosure Room, N–1513, Employee Benefits Security Administration, 200 Constitution Avenue NW., Washington, DC 20210.

**FOR FURTHER INFORMATION CONTACT:** Kristen Zarenko, Office of Regulations and Interpretations, Employee Benefits Security Administration, (202) 693–8500. This is not a toll-free number.

**SUPPLEMENTARY INFORMATION:** In November 2010, the Department published a proposal to amend its qualified default investment alternative regulation (29 CFR 2550.404c–5) and participant-level fee disclosure regulation (29 CFR 2550.404a–5).[1] The proposal includes more specific disclosure requirements for target date or similar funds (TDFs), based on evidence that plan participants and beneficiaries would benefit from additional information concerning these investments. Specifically, the proposal would require an explanation of the TDF's asset allocation, how the asset allocation will change over time (the TDF's ''glide path''), and the point in time when the TDF will reach its most conservative asset allocation; including a chart, table, or other graphical representation that illustrates such change in asset allocation. The proposal also would require, among other things, information about the relevance of the TDF's ''target date;'' any assumptions about participants' and beneficiaries' contribution and withdrawal intentions following the target date; and a statement that TDFs do not guarantee adequate retirement income and that participants and beneficiaries may lose money by investing in the TDF, including losses near and following retirement. Additional background and other information are contained in the Supplementary Information published with the proposed amendments.[2] The comment period for the proposal originally closed on January 14, 2011.

Throughout this regulatory initiative, the Department has consulted with the Securities and Exchange Commission (Commission). In the proposal, the Department specifically requested comment on whether the final rule should incorporate any of the elements of a rule proposed by the Commission to address concerns regarding the potential for investor misunderstandings about TDFs.[3] In response, a large number of commenters strongly encouraged careful coordination with the Commission to avoid the potential cost and confusion (on the part of plan sponsors and participants and beneficiaries) that could result if the two agencies were to establish inconsistent disclosure requirements. Because of the relationship between the Department's and the Commission's regulatory proposals, the Department has continued to consult with Commission staff while working to issue a final rule.

Accordingly, when the Commission reopened the public comment period for its proposal in 2012 to solicit feedback on research findings from the Commission's investor testing of comprehension and communication issues relating to TDFs,[4] the Department similarly reopened the comment period for its proposed TDF regulation.[5] At that time, the Department invited additional comments in light of the Commission's research and received ten additional public comments, which are available for review on the Department's Web site.[6] Both agencies then resumed work on their respective regulatory initiatives.

In April 2013, the Commission's Investor Advisory Committee (Committee) formally submitted several recommendations[7] concerning target date mutual funds. These recommendations include, for example, that the Commission ''develop a glide path illustration for target date funds that is based on a standardized measure of fund risk . . . as either a replacement for or supplement to its proposed asset allocation glide path illustration.''[8] In response to the Committee's recommendations, the Commission again reopened the public comment period for its proposal on April 9, 2014, and requested comments on or before June 9, 2014.[9]

Accordingly, the Department has also decided to reopen the comment period for its regulatory proposal. Although the principal purpose of this action is to obtain public comments on the Committee's recommendations, including the development of a glide path illustration based on a standardized measure of fund risk, the Department also welcomes comments on any other matters that may have an effect on the Department's proposal. Parties who submit comments responding to the Commission's reopened comment period, and which are germane to the Department's rulemaking initiative, may send a copy to the Department or simply notify the Department of such comment and request that it be included in the record of the Department's rulemaking as well. Accordingly, the Department is extending the comment period until July 3, 2014.

[1] *See* 75 FR 73987 (Nov. 30, 2010), proposing to amend the Department's qualified default investment alternative regulation, 72 FR 60452 (Oct. 24, 2007), and participant-level fee disclosure regulation, 75 FR 64910 (Oct. 20, 2010).

[2] *See id.*

[3] Commission Release Nos. 33–9126, 34–62300, IC–29301 (June 2010).

[4] *See* 77 FR 20749 (April 6, 2012).

[5] *See* 77 FR 30928 (May 24, 2012).

[6] *See http://www.dol.gov/ebsa/regs/cmt-1210-AB38.html.*

[7] *See* ''Target Date Mutual Funds'' at *http://www.sec.gov/spotlight/investor-advisory-committee-2012.shtml.* Both the Committee's recommendations and a letter from Commission Chair White in response to the recommendations are available on the Commission's Web site.

[8] *http://www.sec.gov/spotlight/investor-advisory-committee-2012/iac-recommendation-target-date-fund.pdf.*

[9] The Commission's Notice of request for additional comment was made available on the Commission's Web site, at *http://www.sec.gov/rules/proposed/2014/33-9570.pdf,* on April 3, 2014, and published in the **Federal Register**, at 79 FR 19564, on April 9, 2014.

Signed at Washington, DC, this 27th day of May, 2014.

**Phyllis C. Borzi,**

*Assistant Secretary, Employee Benefits Security Administration, Department of Labor.*

[FR Doc. 2014–12667 Filed 6–2–14; 8:45 am]

**BILLING CODE 4510–29–P**

## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

### 30 CFR Parts 7 and 75

**RIN 1219–AB79**

### Refuge Alternatives for Underground Coal Mines

**AGENCY:** Mine Safety and Health Administration, Labor.

**ACTION:** Request for information; extension of comment period.

**SUMMARY:** In response to requests from interested parties, the Mine Safety and Health Administration (MSHA) is extending the comment period on the Agency's Request for Information (RFI) on Refuge Alternatives for Underground Coal Mines. This extension gives interested parties additional time to review research reports and other relevant information.

**DATES:** Comments must be received by midnight Eastern Daylight Saving Time on October 2, 2014.

**ADDRESSES:** Submit comments and supporting documentation by any of the following methods:

- *Federal E-Rulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments for Docket Number MSHA–2013–0033.
- *Electronic mail: zzMSHA-comments@dol.gov.* Include ''RIN 1219–AB79'' in the subject line of the message.
- *Mail:* Send comments to MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209–3939.
- *Hand Delivery or Courier:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia, between 9:00 a.m. and 5:00 p.m. Monday through Friday, except Federal holidays. Sign in at the receptionist's desk on the 21st floor.

*Instructions:* Clearly identify all submissions with ''RIN 1219–AB79''. Because comments will not be edited to remove any identifying or contact information, MSHA cautions the commenter against including information in the submission that should not be publicly disclosed.

**FOR FURTHER INFORMATION CONTACT:** Sheila A. McConnell, Deputy Director, Office of Standards, Regulations, and Variances, MSHA, at *mcconnell.sheila.a@dol.gov* (email); 202–693–9440 (voice); or 202–693–9441 (facsimile).

**SUPPLEMENTARY INFORMATION:** On August 8, 2013 (78 FR 48593), MSHA published a Request for Information on Refuge Alternatives for Underground Coal Mines. The RFI comment period was originally scheduled to close on October 7, 2013. In response to requests from the public, MSHA extended the comment period to December 6, 2013 (78 FR 58264) and again to June 2, 2014 (78 FR 73471) to allow interested parties time to review National Institute for Occupational Safety and Health (NIOSH) studies that bear on certain issues raised in the RFI.

MSHA received a request for an additional 120-day extension of the comment period to allow the public to consider NIOSH research reports on refuge alternatives. In response, MSHA is extending the comment period to October 2, 2014.

MSHA also reminds the mining community that after April 9, 2015, in accordance with 42 CFR 84.301, previously NIOSH-approved self-contained self-rescue devices (SCSRs) will no longer be manufactured and sold as NIOSH approved. MSHA encourages the mining community to submit information on how NIOSH's revised requirements for approval of closed-circuit escape respirators (CCER) under 42 CFR Part 84 would affect their responses to the In-Place Shelter and Escape Methodology sections in the RFI on refuge alternatives. This extension provides the mining community additional time to submit comments on CCERs.

Dated: May 28, 2014.

**Joseph A. Main,**

*Assistant Secretary of Labor for Mine Safety and Health.*

[FR Doc. 2014–12749 Filed 6–2–14; 8:45 am]

**BILLING CODE 4510–43–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

**[Docket Number USCG–2014–0169]**

**RIN 1625–AA00**

### Safety Zone; Escape to Miami Triathlon, Biscayne Bay; Miami, FL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of Proposed Rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a temporary safety zone on the waters of Biscayne Bay, east of Margaret Pace Park, Miami, Florida during the Publix Escape to Miami Triathlon. The Publix Escape to Miami Triathlon is scheduled to take place on September 28, 2014. The temporary safety zone is necessary to provide for the safety of the participants, participant vessels, spectators, and the general public during the event. The safety zone establishes a regulated area that will encompass the swim area of the event. Non-participant persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the safety zone unless authorized by the Captain of the Port Miami or a designated representative.

**DATES:** Comments and related material must be received by the Coast Guard on or before July 18, 2014.

Requests for public meetings must be received by the Coast Guard on or before July 3, 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 John K. Jennings, Sector Miami Prevention Department,

Coast Guard; telephone (305) 535–4317, email *John.K.Jennings@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. 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–2014–0169 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–2014–0169) 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**. 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**

The Publix Escape to Miami Triathlon was held on September 29, 2013 and had a safety zone established by a temporary final rule entitled Safety Zone; Escape to Miami Triathlon, Biscayne Bay, Miami, FL in the **Federal Register** (78 FR 54585).

**C. Basis and Purpose**

The legal basis for the rule is the Coast Guard's authority to establish regulated navigation areas and other limited access areas: 33 U.S.C. 1231; 33 CFR 1.05–1(g), and 160.5; Department of Homeland Security Delegation No. 0170.1. The purpose of the rule is to provide for the safety of life on navigable waters of the United States during the Publix Escape to Miami Triathlon.

**D. Discussion of Proposed Rule**

On September 28, 2014, US Road Sports and Entertainment Group are sponsoring the Publix Escape to Miami Triathlon. The event will be held on the waters of Biscayne Bay, east of Margaret Pace Park, Miami, Florida. Approximately 2,100 participants are expected to participate in the swim portion of this event.

The proposed rule will establish a safety zone that will encompass certain waters of Biscayne Bay, Miami, Florida. The safety zone will be enforced from 6:30 a.m. until 10 a.m. on September 28, 2014. The safety zone will establish an area around the swim portion of the event where non-participant persons and vessels are prohibited from entering, transiting, anchoring, or remaining within. Non-participant persons and vessels may request authorization to enter, transit through, anchor in, or remain within the event area by contacting the Captain of the Port Miami by telephone at 305–535–4472, or a designated representative via VHF radio on channel 16. If authorization to enter, transit through, anchor in, or remain within the event area is granted by the Captain of the Port Miami or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Miami or a designated representative. The Coast Guard will provide notice of the safety zone by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

**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 economic impact of this proposed rule is not significant for the following reasons: (1) The safety zone will be enforced for only three and one half hours; (2) although non-participant persons and vessels will not be able to enter, transit through, anchor in, or remain within the event area without authorization from the Captain of the Port Miami or a designated representative, they may operate in the

surrounding area during the enforcement period; (3) non-participant persons and vessels may still enter, transit through, anchor in, or remain within the event area during the enforcement period if authorized by the Captain of the Port Miami or a designated representative; and (4) the Coast Guard will provide advance notification of the safety zone to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

*2. Impact on Small Entities*

The Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered the impact of this proposed rule on small entities. 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 may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to enter, transit through, anchor in, or remain within that portion of Biscayne Bay encompassed within the safety zone from 6:30 a.m. until 10 a.m. on September 28, 2014. For the reasons discussed in the Regulatory Planning and Review section above, this rule will not have a significant economic impact on a substantial number of small entities.

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). The Coast Guard previously completed a Categorical Exclusion Determination for this temporary safety zone in 2013. The regulation for the 2013 occurrences is similar in all aspects to this year's regulation; therefore the same Categorical Exclusion Determination is being referenced for this year's regulation. The Categorical Exclusion Determination is available in the docket folder for USCG–2013–0688 at *www.regulations.gov.* This proposed rule involves establishing a safety zone that will be enforced from 6:30 a.m. until 10 a.m. on September 28, 2014. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. 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, and 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; 33 CFR 1.05–1(g), and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add a temporary § 165.T07–0169 to read as follows:

**§ 165.T07–0169 Safety Zone; Publix Escape to Miami Triathlon, Biscayne Bay; Miami, FL.**

(a) *Regulated area.* The following regulated area is a safety zone. All waters of Biscayne Bay, east of Margaret Pace Park, Miami, FL encompassed within the following points: starting at point 1 in position 25°47′40″ N, 80°11′07″ W; thence north to point 2 in position 25°48′12″ N, 80°11′07″ W; thence east to point 3 in position 25°48′12″ N, 80°10′30″ W; thence south to point 4 in position 25°47′40″ N, 80°10′30″ W; thence west back to origin. All coordinates are North American Datum 1983.

(b) *Definition.* The term ''designated representative'' means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Miami in the enforcement of the regulated area.

(c) *Regulations.* (1) All non-participant persons and vessels are prohibited from entering, transiting through, anchoring in or remaining within the regulated area unless authorized by the Captain of the Port Miami or a designated representative.

(2) Non-participant persons and vessels desiring to enter, transit through, anchor in, or remain within a regulated area may contact the Captain of the Port Miami by telephone at 305–535–4472, or a designated representative via VHF radio on channel 16. If authorization to enter, transit through, anchor in, or remain within a regulated area is granted by the Captain of the Port Miami or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Miami or a designated representative.

(3) The Coast Guard will provide notice of the regulated area by Local Notice to Mariners, Broadcast Notice to Mariners and on-scene designated representatives.

(d) *Effective date.* This rule is effective on September 28, 2014. This rule will be enforced from 6:30 a.m. until 10 a.m. on September 28, 2014.

Dated: May 13, 2014.

**J. B. Pruett,**

*Captain, U.S. Coast Guard, Acting Captain of the Port Miami.*

[FR Doc. 2014–12809 Filed 6–2–14; 8:45 am]

**BILLING CODE 9110–04–P**

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## DEPARTMENT OF EDUCATION

### 34 CFR Chapter III

**[Docket ID ED–2014–OSERS–0041]**

## Proposed Priority; National Institute on Disability and Rehabilitation Research—Research Fellowships Program (Also Known As the Mary E. Switzer Research Fellowships)

[*CFDA Number:* 84.133F–2.]

**AGENCY:** Office of Special Education and Rehabilitative Services, Department of Education.

**ACTION:** Proposed priority.

**SUMMARY:** The Assistant Secretary for Special Education and Rehabilitative Services proposes a priority for the Research Fellowships Program administered by the National Institute on Disability and Rehabilitation Research (NIDRR). Specifically, this notice proposes a priority for a Distinguished Residential Policy Fellowship. We take this action to focus attention on an area of national need. We intend the priority to build research capacity by providing support to highly qualified, experienced researchers, including those who are individuals with disabilities, to conduct policy research in the areas of disability and rehabilitation.

**DATES:** We must receive your comments on or before July 3, 2014.

**ADDRESSES:** Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

• *Federal eRulemaking Portal:* Go to www.regulations.gov to submit your comments electronically. Information on using Regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under ''Are you new to the site?''

• *Postal Mail, Commercial Delivery, or Hand Delivery:* If you mail or deliver your comments about these proposed regulations, address them to Patricia Barrett, U.S. Department of Education, 400 Maryland Avenue SW., room 5142, Potomac Center Plaza (PCP), Washington, DC 20202–2700.

*Privacy Note:* The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at *www.regulations.gov.* Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

**FOR FURTHER INFORMATION CONTACT:** Patricia Barrett, U.S. Department of Education, 400 Maryland Avenue SW., Room 5142, Potomac Center Plaza (PCP), Washington, DC 20202–2700. Telephone: (202) 245–6211 or by email: *patricia.barrett@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

**SUPPLEMENTARY INFORMATION:** This notice of proposed priority is in concert with NIDRR's currently approved Long-Range Plan (Plan). The Plan, which was published in the **Federal Register** on April 4, 2013 (78 FR 20299), can be accessed on the Internet at the following site: *www.ed.gov/about/offices/list/osers/nidrr/policy.html.*

The Plan identifies a need for research and training in a number of areas. To address this need, NIDRR seeks to: (1) Improve the quality and utility of disability and rehabilitation research; (2) foster an exchange of research findings, expertise, and other information to advance knowledge and understanding of the needs of individuals with disabilities and their family members, including those from among traditionally underserved populations; (3) determine effective practices, programs, and policies to improve community living and participation, employment, and health and function outcomes for individuals with disabilities of all ages; (4) identify research gaps and areas for promising research investments; (5) identify and promote effective mechanisms for integrating research and practice; and (6) disseminate research findings to all major stakeholder groups, including individuals with disabilities and their families in formats that are appropriate and meaningful to them.

This notice proposes one priority that NIDRR intends to use for one or more

competitions in fiscal year (FY) 2014 and possibly in later years. NIDRR is under no obligation to make an award under this priority. The decision to make an award will be based on the quality of applications received and available funding. NIDRR may publish additional priorities, as needed.

*Invitation to Comment:* We invite you to submit comments regarding this notice. To ensure that your comments have maximum effect in developing the notice of final priority, we urge you to identify clearly the specific topic that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Orders 12866 and 13563 and their overall requirement of reducing regulatory burden that might result from this proposed priority. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about this proposed priority in room 5142, 550 12th Street SW., PCP, Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Washington, DC time, Monday through Friday of each week except Federal holidays.

*Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record:* On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

*Purpose of the Program:* The purpose of the Research Fellowships Program is to build research capacity by providing support to experienced, highly qualified individuals, including those who are individuals with disabilities, to perform research on the rehabilitation of individuals with disabilities.

Fellows must conduct original research in an area authorized by section 204 of the Rehabilitation Act of 1973, as amended (the Act). Section 204 of the Act authorizes research, demonstration projects, training, and related activities, the purposes of which are to develop methods, procedures, and rehabilitation technology that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency, of individuals with disabilities, especially individuals with the most significant disabilities, and to improve the effectiveness of services authorized under the Act.

**Program Authority:** 29 U.S.C. 762(e).

*Applicable Program Regulations:* (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR 75.60 and 75.61, and parts 77, 81, 82, 84, and 97. (b) The Education Department suspension and debarment regulations in 2 CFR part 3485. (c) The regulations for this program in 34 CFR part 356. (d) The regulations in 34 CFR 350.51 and 350.52.

*Proposed Priority*

This notice contains one proposed priority.

*Distinguished Residential Disability and Rehabilitation Policy Fellowship (Also Known As the Mary E. Switzer Research Fellowships)*

*Background*

NIDRR's mission is to support the generation of new knowledge and promote its effective use to improve the abilities of individuals with disabilities to participate in community activities of their choice and to enhance society's capacity to provide full opportunities and accommodations for these individuals. NIDRR research focuses on improving the lives of individuals with disabilities in three major life domains: (1) Employment, (2) Community Living and Participation, and (3) Health and Function as identified in NIDRR's Long-Range Plan published in the **Federal Register** on April 4, 2013 (78 FR 20299). Public policy research, including research on how public policy impacts the outcomes of individuals with disabilities, is an important mechanism for improving outcomes for individuals with disabilities in NIDRR's three research domains.

Through this proposed priority, NIDRR seeks to provide disability and rehabilitation researchers the opportunity to enhance their understanding of the policy-making process and the effects of public policy on the outcomes of individuals with disabilities, to enhance their capacity to conduct and disseminate research that is relevant to policy development, and to enhance their ability to communicate with policymakers and advocates who might use this research. For example, the enhanced capacity of researchers to conduct relevant disability policy research is needed to explore how specific Federal legislation and programs affect outcomes for individuals with disabilities (e.g., the Americans With Disabilities Act, the Rehabilitation Act, Social Security Disability Insurance). Enhanced policy knowledge will also allow disability and rehabilitation researchers to conduct systematic research on: Effective means of policy implementation; barriers to the integration of research in disability-related policy development and implementation; the methods for effective engagement of policymakers and other stakeholders in policy development, evaluation, and reform; specific strategies for effective dissemination of information about public policies; and the costs and outcomes of specific policies.

As a residential fellow, an individual will be required to carry out the fellowship activities, as provided in 34 CFR Part 356, in an agency or office within the Executive or Legislative branches of the Federal government, in the Washington, DC metropolitan area.

*Proposed Priority*

The Assistant Secretary for Special Education and Rehabilitative Services proposes a new priority for a Distinguished Residential Disability and Rehabilitation Policy Fellowship as part of NIDRR's Research Fellowship Program (also known as the Mary E. Switzer Research Fellowships). The goals of this proposed priority are: (1) To provide experienced disability and rehabilitation researchers with opportunities to enhance their knowledge and understanding of the public policy-making process and the effects of public policy on the outcomes of individuals with disabilities; (2) to enhance the capacity of disability and rehabilitation researchers to conduct and disseminate disability policy relevant research; (3) to increase the integration and use of research findings in shaping disability-related policy; and (4) to increase awareness of disability-related issues in public policy discussions, formulations, and reviews.

Consistent with the goals of this program, an applicant for a Distinguished Residential Disability and Rehabilitation Policy Fellowship must include:

(a) An Eligibility Statement that demonstrates that you meet the eligibility requirements in 34 CFR Part 356.2(c)(1), including relevant publications and prior research experience; and that provides sufficient information in order to evaluate your qualifications consistent with 34 CFR Part 356.30(a).

(b) A plan for how you will fulfill the full-time equivalent requirement for a Distinguished Residential Disability and Rehabilitation Policy Fellowship and the requirement to work a minimum of

50 percent of the time in an agency or office within the Executive or Legislative branches of the Federal government, in the Washington DC metropolitan area.

**Note:** As described in 34 CFR 356.41, fellows will work full time on authorized fellowship activities. The application package for this priority provides a thorough description of how NIDRR defines and administers the full-time equivalent requirement for this program, as well as the 50 percent residential requirement.

(c) A letter of support from a potential mentor at an agency or office within the Executive or Legislative branches of the Federal Government where your fellowship will be based. The letter of support from the potential mentor should indicate the mentor's capacity and willingness to facilitate your fellowship placement should you be awarded the Distinguished Residential Disability and Rehabilitation Policy Fellowship.

(d) An assurance that you will commit to spending at least 50 percent of the time during the period of the Fellowship, at an agency or office within the Executive or Legislative branches of the Federal government in the Washington DC metropolitan area, receiving orientation, conducting research, and providing expertise related to disability and rehabilitation research.

(e) A description of a proposed Distinguished Residential Disability and Rehabilitation Policy Fellowship research project that includes the following:

(1) A brief history or literature review of the disability issue, as appropriate; identification of the relevant recent legislative, regulatory, or administrative actions and the policy options related to this topic; and a rationale for the importance of the topic to improving the well-being of individuals with disabilities in one or more of NIDRR's primary outcome domains: Community Living and Participation, Employment, and Health and Function.

(2) Specific objectives and research questions or hypotheses that will guide the project, the methods you will use to conduct the research, and the proposed timeline for implementing the project.

(3) A plan for how the results of the project will be disseminated and used to influence policy.

**Note:** Fellows funded under this program are responsible for ensuring that their conduct does not violate Federal anti-lobbying requirements (see *http://www.gpo.gov/fdsys/granule/USCODE-2011-title18/USCODE-2011-title18-partI-chap93-sec1913*) during the period of their fellowship.

**Note:** The costs associated with carrying out this residential policy practicum are intended to be covered, in full or in part, by the Distinguished Residential Disability and Rehabilitation Policy Fellowship Award; however, the fellow is responsible for paying for any costs that exceed the amount of the award.

*Types of Priorities*

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

*Absolute priority:* Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

*Competitive preference priority:* Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

*Invitational priority:* Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

*Final Priority*

We will announce the final priority in a notice in the **Federal Register**. We will determine the final priority after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

**Note:** This notice does *not* solicit applications. In any year in which we choose to use this priority, we invite applications through a notice in the **Federal Register**.

## Executive Orders 12866 and 13563

*Regulatory Impact Analysis*

Under Executive Order 12866, the Secretary must determine whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way (also referred to as an ''economically significant'' rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This proposed regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select 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 the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these

techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are issuing this proposed priority only upon a reasoned determination that its benefits would justify its costs. In choosing among alternative regulatory approaches, we selected those approaches that would maximize net benefits. Based on the analysis that follows, the Department believes that this proposed priority is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action would not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

The benefits of the Research Fellowships Program have been well established over the years. Projects similar to the Research Fellowships Program have been completed successfully, and the proposed priority will generate new capacity in the area of rehabilitation and disability policy research.

*Intergovernmental Review:* This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

*Accessible Format:* Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue SW., Room 5075, PCP, Washington, DC 20202–2550. Telephone: (202) 245–7363.

If you use a TDD or TTY, call the FRS, toll free, at 1–800–877–8339.

*Electronic Access to this Document:* The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: May 29, 2014.

**Michael K. Yudin,**

*Acting Assistant Secretary for Special Education and Rehabilitative Services.*

[FR Doc. 2014–12844 Filed 6–2–14; 8:45 am]

BILLING CODE 4000–01–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 60

**[EPA–HQ–OAR–2013–0696; FRL–9911–72–OAR]**

**RIN 2060–5689**

## Performance Specification 18—Specifications and Test Procedures for Gaseous HCl Continuous Emission Monitoring Systems at Stationary Sources

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule; extension of public comment period.

**SUMMARY:** The Environmental Protection Agency (EPA) is announcing that the period for providing public comments on the May 14, 2014, proposed ''Performance Specification 18—Specifications and Test Procedures for Gaseous HCl Continuous Emission Monitoring Systems at Stationary Sources'' is being extended by 30 days.

**DATES:** The public comment period for the proposed rule published May 14, 2014 (79 FR 27690) is being extended by 30 days to July 13, 2014, in order to provide the public additional time to submit comments and supporting information.

**ADDRESSES:** Written comments on the proposed rule may be submitted to the EPA electronically, by mail, by facsimile or through hand delivery/courier. Please refer to the proposal (79 FR 27690) for the addresses and detailed instructions.

*Docket.* Publicly available documents relevant to this action are available for public inspection either electronically at *http://www.regulations.gov* or in hard copy at the EPA Docket Center, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying. The EPA has established the official public docket No. EPA–HQ–OAR–2013–0696.

**FOR FURTHER INFORMATION CONTACT:** Ms. Candace Sorrell, Office of Air Quality Planning and Standards, Air Quality Assessment Division (AQAD), Measurement Technology Group, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27709; telephone number: (919) 541–1064; fax number: (919) 541–0516; email address: *sorrell.candace@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

### Comment Period

The EPA is extending the public comment period for an additional 30 days. The public comment period will end on July 13, 2014, rather than June 13, 2014. This will ensure that the public has sufficient time to review and comment on all of the information available, including the proposed rule.

### List of Subjects in 40 CFR Part 60

Environmental protection, Administrative practice and procedure, Air pollution control, Continuous emission monitoring systems, Hydrogen chloride, Performance specifications, Test methods and procedures.

Dated: May 27, 2014.

**Mary Henigin,**

*Director, Office of Air Quality Planning and Standards.*

[FR Doc. 2014–12798 Filed 6–2–14; 8:45 am]

BILLING CODE 6560–50–P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### 50 CFR Part 17

**[Docket No. FWS–R8–ES–2013–0042; 4500030113]**

**RIN 1018–AZ70**

## Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Bi-State Distinct Population Segment of Greater Sage-Grouse

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** On April 8, 2014, we, the U.S. Fish and Wildlife Service (Service), announced a reopening of the public comment period on the October 28, 2013, proposal to list the Bi-State

distinct population segment (DPS) of greater sage-grouse (Bi-State DPS; *Centrocercus urophasianus*) as threatened under the Endangered Species Act of 1973, as amended, with a special rule, and the proposed designation of critical habitat. This document announces an extension of the comment period on the proposed critical habitat rule. We also announce the availability of a draft economic analysis (DEA) of the proposed designation of critical habitat for the Bi-State DPS and an amended required determinations section of the proposal. We are extending the comment period to allow all interested parties an opportunity to comment simultaneously on the proposed critical habitat 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 critical habitat rule. The comment period on the associated proposed listing rule is not being extended and closes on June 9, 2014.

**DATES:** For the proposed rule published on October 28, 2013 (78 FR 64328), the comment period is extended. In order to fully consider and incorporate public comment, the Service requests submittal of comments by close of business July 3, 2014. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, 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 draft economic analysis (IEc 2014) on the internet at *http://www.regulations.gov* at Docket No. FWS–R8–ES–2013–0042 or by mail from the Nevada Fish and Wildlife 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 draft economic analysis by searching for FWS–R8–ES–2013–0042, which is the docket number for this rulemaking.

(2) *By hard copy:* Submit comments on the critical habitat proposal and associated draft economic analysis by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R8–ES–2013–0042; 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 Information Requested section below for more information).

**FOR FURTHER INFORMATION CONTACT:** Edward D. Koch, State Supervisor, U.S. Fish and Wildlife Service, Nevada Fish and Wildlife Office, 1340 Financial Boulevard, Suite 234, Reno, NV 89502; telephone 775–861–6300; or facsimile 775–861–6301. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

**SUPPLEMENTARY INFORMATION:**

## Information Requested

We will accept written comments and information during this comment period on our proposed designation of critical habitat for the Bi-State DPS that was published in the **Federal Register** on October 28, 2013 (78 FR 64328), our DEA of the proposed designation (IEc 2014), 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 Bi-State DPS 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 amount and distribution of the Bi-State DPS's habitat;

(b) What specific areas, within the geographical area currently occupied (at the time of listing) that contain the features essential to the conservation of the DPS, should be included in the designation and why;

(c) The features essential to the conservation of the Bi-State DPS as described in the *Physical or Biological Features* section of the proposed rule, in particular the currently unsuitable or less than suitable habitat that accommodates restoration identified in the Bi-State Action Plan (i.e., actions HIR1–1–PN, HIR–1–2–PN, HIR1–1–DCF, HIR1–2–DCF, HIR1–1–MG, HIR1–1–B, and HIR1–3–SM) (Bi-State Technical Advisory Committee (TAC) 2012, pp. 93–95).

(d) Special management considerations or protection that may be needed in critical habitat areas we are proposing, including managing for the potential effects of climate change; and

(e) What areas not within the geographical area currently occupied (at the time of listing) are essential for the conservation of the DPS and why.

(3) Whether there is scientific information in addition to that considered in our proposed rule that may be useful in our analysis.

(4) Land use designations and current or planned activities in the subject areas and their possible impacts on proposed critical habitat.

(5) Data specific to document the need for addition or removal of areas identified as proposed critical habitat.

(6) Data specific to recreational use in the Bi-State area and potential adverse or beneficial effects caused by such use within proposed critical habitat.

(7) Spatial data depicting meadow/brood-rearing habitat extent and condition.

(8) Information on the projected and reasonably likely impacts of climate change on the Bi-State DPS and proposed critical habitat.

(9) 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.

(10) 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.

(11) The likelihood of adverse social reactions to the designation of critical habitat, as discussed in the DEA, 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.

(12) 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.

(13) 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 critical habitat rule (78 FR 64328; 78 FR 77087)

during the initial comment period from October 28, 2013, to February 10, 2014, or earlier during this current open comment period, please do not resubmit them. Any such comments are part of the public record of this rulemaking proceeding, and we will fully consider them in the preparation of our final determination. Our final determination concerning critical habitat will take into consideration all written comments and any additional information we receive during both comment periods. The final decision may differ from this revised proposed rule, based on our review of all information received during this rulemaking process.

You may submit your comments and materials concerning the proposed critical habitat rule or DEA by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**.

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–R8–ES–2013–0042, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Nevada Fish and Wildlife 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 No. FWS–R8–ES–2013–0042, or by mail from the Nevada Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

## Background

On October 28, 2013, we published a proposed rule to list the Bi-State DPS as a threatened species under the Endangered Species Act of 1973, as amended (Act) (78 FR 64358), with a special rule. We concurrently published a proposed rule to designate critical habitat (78 FR 64328). We received requests to extend the public comment periods on the rules beyond the December 27, 2013, due date. In order to ensure that the public had an adequate opportunity to review and comment on our proposed rules, we extended the comment periods for an additional 45 days to February 10, 2014 (78 FR 77087).

On April 8, 2014, we reopened the comment period on our October 28, 2013, proposed rule to list the Bi-State DPS, the special rule, and the proposed critical habitat rule (79 FR 19314, April 8, 2014). We also announced two public hearings: (1) April 29, 2014, in Mindon, Nevada; and (2) April 30, 2014, in Bishop, California. These meetings were subsequently cancelled for unrelated reasons. On May 9, 2014, we published a document announcing the re-scheduled hearings to take place on May 28, 2014, and May 29, 2014, respectively (79 FR 26684, May 9, 2014). The April 8, 2014, document also announced a 6-month extension of the final determination of whether or not to list the Bi-State DPS as a threatened species, which will automatically delay any decision we make regarding critical habitat for the Bi-State DPS. The comment period was reopened and our determination on the final listing action was delayed based on substantial disagreement regarding the sufficiency or accuracy of the available data relevant to the proposed listing, making it necessary to solicit additional information. Thus, we announced that we will publish a listing determination on or before April 28, 2015.

It is our intent to discuss only those topics directly relevant to the designation of critical habitat for the Bi-State DPS in this document. For more information on previous Federal actions concerning the Bi-State DPS, refer to the proposed listing rule (78 FR 64358) and the proposed designation of critical habitat (78 FR 64328) published in the **Federal Register** on October 28, 2013. For more information on the Bi-State DPS or its habitat, refer specifically to the proposed listing rule (78 FR 64358), which is available online at *http://www.regulations.gov* (at Docket No. FWS–R8–ES–2013–0072) or from the Nevada Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

### *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, Federal agencies proposing actions affecting designated critical habitat must consult with us on the effects of their proposed actions under section 7(a)(2) of the Act to determine whether any activity they fund, authorize, or carry out will cause destruction or adverse modification of designated critical habitat.

## New Information Regarding Proposed Critical Habitat

On October 28, 2013, we proposed as critical habitat for the Bi-State DPS four units consisting of approximately 755,960 hectares (ha) (1,868,017 acres (ac) in Carson City, Lyon, Douglas, Mineral, and Esmeralda Counties, Nevada, and Alpine, Mono, and Inyo Counties, California (78 FR 64328). Approximately 75 percent (about 564,578 ha (1,395,103 ac)) of the area within the four units is currently suitable habitat. Approximately 25 percent (about 191,381 ha (472,914 ac)) of the area within the four units is contiguous with currently suitable habitat (as outlined in our October 28, 2013, proposed rule), but based on the new information discussed below, is considered less than suitable for the DPS in its current condition.

During the first comment period that closed on February 10, 2014 (78 FR 77087), we received new information from the public and species experts on the species and habitat suitability (suitable versus unsuitable habitat for the Bi-State DPS). Specifically, there are scattered lands throughout the four units that harbor dense pinyon-juniper vegetation (dominated by *Pinus edulis* (pinyon pine) and various *Juniperus* (juniper) species) that are either historically woodland habitat (i.e., should not be converted or restored to sage-grouse habitat), or would not be considered suitable for restoration, and thus should not be considered a feature essential to the conservation of the DPS.

As we described in the *Criteria Used To Identify Critical Habitat* section of the proposed critical habitat rule, we focused on the best available vegetation data layers that would identify habitat suitability across the range of the Bi-State DPS (78 FR 64337–64339). To identify acres that are currently less than suitable (e.g., areas exhibiting less than optimal habitat conditions within the present range of the DPS that were either known or likely to be historically utilized), we examined information pertaining to potential woodland restoration sites identified in the 2012 Bi-State Action Plan (Bi-State TAC 2012, pp. 90–95). The new information

provided during the first comment period improves our understanding of unsuitable habitat, such that once areas described above are removed from the proposed critical habitat boundaries, the remaining habitat will be either currently suitable for sage-grouse use, or could be suitable for occupation of sage-grouse if practical management was applied. As such, we intend to fully evaluate these data and update our assessment of areas that fit our criteria according to the new information available.

**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 the Bi-State DPS, the benefits of critical habitat include public awareness of the presence of sage-grouse and the importance of habitat protection, and, where a Federal nexus exists, increased habitat protection for the DPS 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, authorized, funded or otherwise permitted by Federal agencies.

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. Accordingly, we have prepared a draft economic analysis concerning the proposed critical habitat designation (DEA), 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 DPS 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 Bi-State DPS. The incremental conservation efforts and associated impacts would not be expected without the designation of critical habitat for the DPS. 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 section 4(b)(2) exclusion analysis.

For this particular designation, we developed an Incremental Effects Memorandum (IEM; Service 2014) 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 DEA of the probable effects of the designation of critical habitat for the Bi-State DPS. We began by conducting an analysis of the proposed designation of critical habitat in order to focus on the key factors that are likely to result in incremental economic impacts. Where applicable, the analysis filtered out the geographic areas in which the critical habitat designation is unlikely to result in probable incremental economic impacts. In particular, the DEA 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 Bi-State DPS. The analysis examined costs that may result from projects forecast in areas of proposed critical habitat considered to be currently suitable and used by the DPS. In the remaining areas considered to be currently unsuitable and not currently used by the Bi-State DPS, the analysis examined the costs associated with implementation of conservation measures that are likely attributable solely to the proposed critical habitat designation. Ultimately, this analysis examines the economic costs of restricting or modifying specific land uses or other activities for the benefit of the DPS's habitat within the proposed critical habitat designation. This DEA 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 Executive Orders' 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, the probable impacts, if sufficient data are available, to both directly and indirectly impacted entities.

As part of our DEA, we considered the types of economic activities that are likely to occur within the areas likely affected by the critical habitat

designation. In our evaluation of the probable incremental economic impacts that may result from the proposed designation of critical habitat for the Bi-State DPS, first we identified probable incremental economic impacts associated with the following categories of activities: Livestock grazing; agriculture; residential and related development; mining activities; renewable energy development; linear infrastructure projects; recreation; wildfire; and nonnative, invasive plants. 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; designation of critical habitat only affects activities conducted, funded, permitted, or authorized by Federal agencies. In areas where the Bi-State DPS is present, Federal agencies already will be required to consult with the Service under section 7 of the Act on activities they fund, permit, or implement that may affect the DPS, if the Bi-State DPS is listed under the Act. If we finalize this proposed critical habitat designation and listing rule, consultations to avoid the destruction or adverse modification of critical habitat would be incorporated into the existing consultation process that will also consider jeopardy to the listed DPS. Therefore, disproportionate impacts to any geographic area or sector are not likely as a result of this critical habitat designation.

In our IEM (Service 2014), we attempted to clarify the distinction 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 Bi-State DPS's critical habitat. Because the designation of critical habitat for the Bi-State DPS was proposed concurrently with the 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 or 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 an adverse effect to the Bi-State DPS would also likely adversely affect the essential physical or 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 this DPS. This evaluation of the incremental effects has been used as the basis to evaluate the probable incremental economic impacts of this proposed designation of critical habitat.

The proposed critical habitat designation for the Bi-State DPS includes approximately 755,960 hectares (ha) 1,868,017 acres (ac) in four units, all of which are considered currently occupied. The four units span eight counties, including portions of Alpine, Inyo, and Mono Counties in California; and Carson City, Douglas, Esmeralda, Lyon, and Mineral Counties in Nevada. Some of the units we are proposing to designate as critical habitat contain corridors/sites that are currently unsuitable for use because of woodland encroachment. These corridors/sites are interspersed within suitable habitat that is currently used by the DPS. These sites provide essential connectivity corridors and habitat extent necessary for the conservation and recovery of the DPS (see the Physical or Biological Features section of the proposed critical habitat rule (78 FR 64328)). Once special management designed to improve the condition of these interspersed corridors/sites has been implemented, they will help ensure long-term conservation of the DPS and provide connectivity between currently fragmented areas. We are not proposing to designate specific areas outside the geographical area currently occupied by the DPS.

The four units we proposed as critical habitat on October 28, 2013 (78 FR 64328), correspond to the four populations of the Bi-State DPS recognized by the Western Association of Fish and Wildlife Agencies (WAFWA), which include: (1) Pine Nut, (2) North Mono Lake, (3) South Mono Lake, and (4) White Mountains. These units are contained within the Population Management Unit (PMU) boundaries (which are identified on the maps in the Proposed Regulation Promulgation section of the proposed critical habitat rule); however, the proposed North Mono Lake Unit (Unit 2) combines three PMUs (Desert Creek–Fales, Bodie, and Mount Grant PMUs) into a single unit. Approximately 75 percent (about 564,511 ha (1,394,937 ac)) of the area within the four units is currently suitable habitat. Approximately 25 percent (about 191,329 ha (472,784 ac)) of the area within the four units is contiguous with currently suitable habitat but is considered less than suitable for current use. However, we expect to reduce these values based on the new information received during the first comment period (see New Information Regarding Proposed Critical Habitat section above). As a result, we expect that the Bi-State DPS economic analysis (IEc 2014) that is summarized below will be an overestimate of the probable incremental impacts resulting from a critical habitat designation.

Approximately 86 percent of the proposed critical habitat occurs on federally managed lands. However, because the majority of land in the eight affected counties is also federally managed (including greater than 80 percent in some of the affected counties), it is possible that changes to the management of and allowable uses on Federal lands could result in significant and material impacts on residents, businesses, and their overall economy, in part because some businesses rely on access to and resources on Federal lands (IEc 2014, pp. ES–2). Activities that may be associated with Federal lands within the proposed critical habitat designation include recreation and tourism, livestock grazing, agriculture, mining, and renewable energy development.

Given that the presence of the Bi-State DPS is well known across the majority of areas proposed as critical habitat, this analysis anticipates that the majority (66 percent) of forecast incremental costs are administrative in nature (IEc 2014, pp. ES–6). These costs result from projects forecast in areas of proposed critical habitat considered to be currently suitable and used by the DPS. In these areas, any conservation measures recommended by the Service are expected to occur regardless of the designation of critical habitat in response to listing the DPS under the Act. Specifically, this analysis forecasts the total incremental costs of the proposed critical habitat designation to be less than $8.8 million (present value over 20 years), assuming a seven percent discount rate (IEc 2014, pp. ES–6). Annualized incremental costs are forecast to be no greater than $780,000 applying either a seven or three percent discount rate (IEc 2014, pp. ES–6).

We note that there are two scenarios presented in the DEA that reflect uncertainty in the potential for future changes specifically to livestock grazing, agriculture, and vegetation management. The low estimate assumes complete conifer encroachment on the portions of allotments overlapping unsuitable habitat; as a result, the only project modification costs estimated are for incremental vegetation management

conducted by Federal land managers (IEc 2014, pp. ES–11). The high scenario assumes that all areas are grazed and estimates reductions to livestock stocking rates (measured in Animal Unit Months, or AUMs) on 24 active cattle allotments located in unsuitable habitat that are not currently managed for the DPS (IEc 2014, pp. ES–9). The actual outcome likely falls somewhere between these two scenarios. Also, the actual outcome is in addition to the forecast increase in vegetation management expected to be conducted by Federal land managers following the designation of critical habitat. In both scenarios, the potential for voluntary conservation measures implemented by private farmers and ranchers with funding from the Natural Resources Conservation Service (NRCS) was also considered.

Of the total forecast incremental costs outlined in the DEA, we anticipate that approximately $4.9 million are associated with the additional administrative effort required to consider adverse modification for future section 7 consultations occurring in areas considered currently suitable and used by the Bi-State DPS (IEc 2014, pp. ES–6). The largest share of these incremental administrative costs is associated with transportation and utility activities, which are predicted to occur in suitable habitat at a rate of approximately 25 projects per year (IEc 2014, pp. ES–6).

In the remaining proposed critical habitat areas considered to be currently unsuitable and not currently used by the Bi-State DPS (where conservation measures are likely attributable solely to the proposed critical habitat designation), the forecasted incremental costs are approximately $4.0 million (IEc 2014, pp. ES–7). Of these costs, approximately 75 percent are due to Bi-State DPS conservation measures that may be recommended for grazing, transportation, residential development, and mining activities in unsuitable habitat (IEc 2014, pp. ES–7). Conservation measures recommended for transportation activities comprise the largest share of these costs.

Proposed critical habitat Units 2 and 3 are anticipated to experience the greatest incremental costs if the Bi-State DPS proposal is finalized. These incremental costs account for approximately 46 percent and 34 percent of total incremental costs, respectively (IEc 2014, pp. ES–7).

The DEA provides activity-specific chapters that describe the potential incremental costs; each chapter includes a discussion of the key sources of uncertainty and major assumptions affecting the estimation of costs. These uncertainties vary depending on the specific activity in question. One issue that affects all activities is the question of whether conservation efforts undertaken in Bi-State DPS suitable habitat will occur regardless of whether critical habitat is designated in the future. In particular, the analysis assumes that the public is already aware of the need to consider the effects of future projects on the DPS in areas identified by the Service as suitable habitat and considered to be currently used by the DPS. It is possible that in some areas of suitable habitat, project proponents undertaking an assessment of the Bi-State DPS presence may determine that sage-grouse are not present. In such cases, this analysis may understate the incremental costs of the proposed rule. Conversely, an activity in a location identified as ''unsuitable'' could affect an adjacent ''suitable'' location where sage-grouse are present at the time. Therefore, there is also the possibility that some forecasts made for ''unsuitable'' habitat have overestimated the incremental costs.

As we stated earlier, we are soliciting data and comments from the public on the DEA, as well as all aspects of the proposed rule and our amended required determinations. We may revise the proposed rule or supporting documents to incorporate or address information we receive during the public comment period. In particular, 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, provided the exclusion will not result in the extinction of this DPS.

**Required Determinations—Amended**

In our October 28, 2013, proposed rule (78 FR 64328), 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 the Bi-State DPS, 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. 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 the Bi-State DPS, we are amending our required determinations concerning the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) 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, 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 by the Agency is not likely to destroy or adversely modify critical habitat. Therefore, under section 7 only Federal action agencies are directly subject to the specific regulatory requirement (avoiding destruction and adverse modification) imposed by critical habitat designation. Consequently, it is our position that only Federal action agencies will be directly regulated by this designation. There is no requirement under RFA to evaluate the potential impacts to entities not directly regulated. Moreover, Federal agencies are not small entities. Therefore, because no small entities are directly regulated by this rulemaking, the Service certifies that, if promulgated, the proposed critical habitat designation for the Bi-State DPS 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.

*Executive Order 12630 (Takings)*

In accordance with Executive Order 12630 (Government Actions and Interference with Constitutionally Protected Private Property Rights), we have analyzed the potential takings implications of designating critical habitat for the Bi-State DPS in a takings implications assessment. As discussed above, the designation of critical habitat affects only Federal actions. Although private parties that receive Federal funding, 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 the Bi-State DPS. 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 assessment 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 proposed designation of critical habitat for the Bi-State DPS does not pose significant takings implications for lands within or affected by the designation.

## Authors

The primary authors of this document are the staff members of the Pacific Southwest Regional Office and the Nevada Fish and Wildlife Office, Region 8, 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.*).

Dated: May 19, 2014.

**Rachel Jacobson,**

*Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 2014–12858 Filed 6–2–14; 8:45 am]

BILLING CODE 4310–55–P

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## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 622

**[Docket No. 140214145–4145–01]**

**RIN 0648–BD81**

## Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coral, Coral Reefs, and Live/Hard Bottom Habitats of the South Atlantic Region; Amendment 8

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes regulations to implement Amendment 8 to the Fishery Management Plan for Coral, Coral Reefs, and Live/Hard Bottom Habitats of the South Atlantic Region (FMP) (Amendment 8), as prepared by the South Atlantic Fishery Management Council (Council). If implemented, this rule would expand portions of the northern and western boundaries of the Oculina Bank habitat area of particular concern (HAPC) (Oculina Bank HAPC) and allow transit through the Oculina Bank HAPC by fishing vessels with rock shrimp onboard; modify vessel monitoring systems (VMS) requirements for rock shrimp fishermen transiting through the Oculina Bank HAPC; expand a portion of the western boundary of the Stetson Reefs, Savannah and East Florida Lithotherms, and Miami Terrace Deepwater Coral HAPC (CHAPC) (Stetson-Miami Terrace CHAPC), including modifications to the shrimp access area A, which is proposed to be renamed ''shrimp access area 1''; and expand a portion of the northern boundary of the Cape Lookout Lophelia Banks Deepwater CHAPC (Cape Lookout CHAPC). In addition, this proposed rule makes a minor administrative change to the names of the shrimp fishery access areas. The purpose of this rule is to increase protections for deepwater coral based on new information for deepwater coral resources in the South Atlantic.

**DATES:** Written comments must be received on or before July 3, 2014.

**ADDRESSES:** You may submit comments on the proposed rule, identified by ''NOAA–NMFS–2014–0065'', 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-2014-0065,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- Mail: Submit written comments to Karla Gore, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will

be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Electronic copies of Amendment 8, which include an environmental assessment and a regulatory impact review, may be obtained from the Southeast Regional Office Web site at *http://sero.nmfs.noaa.gov.*

Comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted in writing to Anik Clemens, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701; and OMB, by email at *OIRA Submission@omb.eop.gov,* or by fax to 202–395–7285.

**FOR FURTHER INFORMATION CONTACT:** Karla Gore, Southeast Regional Office, telephone: 727–824–5305.

**SUPPLEMENTARY INFORMATION:** South Atlantic coral is managed under the FMP. The FMP is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

## Background

Recent scientific exploration has identified areas of high relief features and hard bottom habitat outside the boundaries of the existing Oculina Bank HAPC, Stetson-Miami Terrace CHAPC, and the Cape Lookout CHAPC. During its October 2011 meeting, the Council's Coral Advisory Panel (AP) (Coral AP) recommended the Council revisit the boundaries of the Oculina Bank HAPC, Stetson-Miami Terrace CHAPC, and the Cape Lookout CHAPC to incorporate these areas of additional deepwater coral habitat that were previously uncharacterized. The Council reviewed the recommendations for expansion of these areas and associated VMS analyses of rock shrimp fishing activity, and approved the measures for public scoping through Comprehensive Ecosystem-Based Amendment 3. The Council subsequently moved these measures into Amendment 8. The Council's Coral, Habitat, Deepwater Shrimp, and Law Enforcement APs worked collectively to refine the recommendations from the public scoping process and provided input to the Council on expanding the HAPC and CHAPC boundaries, and establishing a transit provision for the Oculina Bank HAPC.

## Management Measures Contained in This Proposed Rule

If implemented, this proposed rule would expand the boundaries of the Oculina Bank HAPC and allow transit through the Oculina Bank HAPC by fishing vessels with rock shrimp onboard; modify the VMS requirements for rock shrimp fishermen transiting the Oculina Bank HAPC; expand the boundaries of the Stetson-Miami Terrace CHAPC and the Cape Lookout CHAPC; and make a minor administrative change to the names of the shrimp fishery access areas. The purpose of these measures is to provide better protection for deepwater coral ecosystems.

### *Expansion of Oculina Bank HAPC*

The Oculina Bank HAPC was first established in 1984, with implementation of the FMP (49 FR 29607, August 22, 1984). Within the Bank HAPC, it is unlawful to use a bottom longline, bottom trawl, dredge, pot or trap, and if aboard a fishing vessel it is unlawful to anchor, use an anchor and chain, or use a grapple and chain. Additionally, it is unlawful to fish for or possess rock shrimp in or from the Oculina Bank HAPC on board a fishing vessel. Currently, the Oculina Bank HAPC is a 289-square mile (749-square km) area. If implemented, this proposed rule would increase the size of the Oculina Bank HAPC by 405.42 square miles (1,050 square km), for a total area of 694.42 square miles (1,798.5 square km) and, except for a limited transit provision described below, would extend these prohibitions to the larger area, and increase protection of coral.

### *Transit Provision Through Oculina Bank HAPC*

If implemented, this proposed rule would establish a transit provision to allow fishing vessels with rock shrimp onboard to transit the Oculina Bank HAPC under limited circumstances. To be considered to be in transit and thus excepted from the prohibition on possessing rock shrimp in the Oculina Bank HAPC, a vessel must have a valid commercial permit for rock shrimp, the vessel's gear would be required to be appropriately stowed (*i.e.,* doors and nets would be required to be out of water and onboard the deck or below the deck of the vessel), and the vessel would be required to maintain a direct and non-stop continuous course through the HAPC at a minimum speed of 5 knots, as determined by an operating VMS approved for the South Atlantic rock shrimp fishery onboard the vessel. In addition, this rule proposes to modify the VMS requirements to require all vessels with rock shrimp onboard that choose to transit the Oculina Bank HAPC to have a VMS unit that registers a VMS ping (signal) rate of 1 ping per 5 minutes. Vessels with newer VMS units would not be required to purchase VMS units because those units are capable of registering a VMS ping (signal) rate of 1 ping per 5 minutes, however, they would be required to reconfigure or upgrade their VMS hardware/software to generate the higher ping rate. Vessels with older VMS units are not capable of producing the required ping rate and these vessels would be required to purchase a newer unit in order to be able to transit through the Oculina Bank HAPC with rock shrimp on board. Please note that any newly installed VMS unit must comply with the regulations at 50 CFR 622.205(b) regarding installation by a qualified marine electrician, and the vessel owner or operator must comply with current reporting regulations. This transit provision would allow rock shrimp fishermen to access additional rock shrimp fishing grounds in less time using less fuel than if the fishermen were required to travel around the Oculina Bank HAPC.

### *Expansion of the Stetson-Miami Terrace CHAPC and the Cape Lookout CHAPC*

The Stetson-Miami Terrace CHAPC and the Cape Lookout CHAPC were established in 2010 through the Comprehensive Ecosystem-Based Amendment 1 to protect deepwater coral ecosystems (75 FR 35330, June 22, 2010). Within the CHAPCs, including the Stetson-Miami Terrace and Cape Lookout CHAPCs, it is currently unlawful to use a bottom longline, trawl (mid-water or bottom), dredge, pot or trap, and if aboard a fishing vessel, it is unlawful to anchor, use an anchor and chain, or use a grapple and chain. Additionally, it is currently unlawful to fish for or possess coral in or from the CHAPCs on board a fishing vessel.

If implemented, this proposed rule would increase the size of the Stetson-Miami Terrace CHAPC by 490 square miles (1,269 square km), for a total area of 24,018 square miles (62,206 square km), and increase the size of the Cape Lookout CHAPC by 10 square miles (26 square km), for a total area of 326 square miles (844 square km), and would extend the gear prohibitions to the larger area to increase protection of deepwater coral ecosystems. The expansion of the Stetson-Miami Terrace CHAPC would also provide royal red shrimp fishermen a new zone adjacent to the existing shrimp access area A

(proposed to be renamed ''shrimp access area 1'', as discussed in the next section of this preamble) within which they can haul back fishing gear without drifting into an area where their gear is prohibited. Thus, this shrimp fishery access area would be expanded to include the new haul-back zone if this rule is implemented.

*Other Changes Contained in This Proposed Rule Not Contained in Amendment 8*

This rule also proposes to revise the names of the shrimp fishery access areas in the regulations implemented through the Comprehensive Ecosystem-Based Amendment 1 (75 FR 35330, June 22, 2010) to match the names in the FMP. Currently, in 50 CFR 622.224(c)(3), the four shrimp fishery access areas are titled ''shrimp access area A–D''. If implemented, this proposed rule would revise 50 CFR 622.224(c)(3), to change the four shrimp fishery access areas titles to ''shrimp access area 1–4''.

**Classification**

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NOAA Assistant Administrator for Fisheries (AA) has determined that this proposed rule is consistent with Amendment 8, the FMP, 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 that this proposed rule, if implemented, would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination is as follows:

The purpose of this proposed rule is to address recent discoveries of deepwater coral resources and protect deepwater coral ecosystems in the Council's jurisdiction from activities that could compromise their condition. The Magnuson-Stevens Act provides the statutory basis for this proposed rule.

This proposed rule, if implemented, is expected to directly affect up to 700 vessels that commercially harvest snapper-grouper species and up to 104 vessels that commercially harvest rock shrimp in the affected areas of the exclusive economic zone (EEZ) in the South Atlantic. Among the vessels that harvest rock shrimp, an estimated 9 vessels also harvest royal red shrimp. The average vessel involved in commercial snapper-grouper harvest is estimated to earn approximately $28,700 (2012 dollars) in annual gross revenue, and the average vessel involved in rock shrimp harvest is estimated to earn approximately $20,500 (2012 dollars) in annual gross revenue. The average annual gross revenue for vessels that harvest both rock shrimp and royal red shrimp is estimated to be approximately $113,000 (2012 dollars). NMFS has not identified any other small entities that would be expected to be directly affected by this proposed rule.

The Small Business Administration (SBA) has established size criteria for all major industry sectors in the United States including seafood dealers and harvesters. A business involved in commercial finfish fishing is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $19.0 million (NAICS code 114111, Finfish Fishing). The receipts threshold for a business involved in shrimp fishing is $5.0 million (NAICS code 114112, Shellfish Fishing). These receipts thresholds are the result of a final rule issued by the SBA on June 20, 2013 (78 FR 37398), that went into effect on July 22, 2013, and increased the size standard for Finfish Fishing from $4.0 million to $19.0 million and the size standard for Shellfish Fishing from $4.0 million to $5.0 million. Because the average annual gross revenues for the commercial fishing operations expected to be directly affected by this proposed rule are significantly less than the SBA revenue threshold, all these businesses are determined, for the purpose of this analysis, to be small business entities.

This proposed rule contains four separate actions. The first action would expand the boundaries of the Oculina Bank HAPC. Expansion of the Oculina Bank HAPC would be expected to affect vessels that harvest snapper-grouper, rock shrimp, and royal red shrimp because some fishermen have historically harvested these species in this area and would be prevented by the expansion from continuing to fish here. The expected maximum potential reduction in total gross revenue from snapper-grouper species as a result of the proposed expansion of the Oculina Bank HAPC would be approximately $56,000 (2012 dollars), or less than 0.3 percent of the total average annual revenue from snapper-grouper species. The expected maximum potential reduction in revenue from snapper-grouper species is minimal, and fishermen may be able to absorb the reduction or adapt their fishing practices to the expansion of the Oculina Bank HAPC and increase their fishing effort, and harvest, in other locations to mitigate the impact of the reduction. Additionally, fishermen may benefit from spill-over effects (increased total harvest or more cost efficient harvest) of the enhanced productivity of the protected Oculina Bank HAPC.

All vessels that harvest royal red shrimp are expected to also harvest rock shrimp. Royal red shrimp are not managed in a fishery management plan by the Council. Because royal red shrimp are not managed in a fishery management plan by the Council, neither logbooks nor VMS units are required to harvest royal red shrimp. As a result, NMFS cannot determine with available data what portion of the average annual royal red harvest may be affected by the proposed expansion of the Oculina Bank HAPC. However, the primary effect of the proposed expansion of the Oculina Bank HAPC, *i.e.,* the exclusion of traditional fishing activities from this area and the reduction of associated revenues, as identified through public comment during the development of this proposed action and the use of VMS data, would be expected to be on the harvest of rock shrimp and not the harvest of royal red shrimp. This proposed rule is expected to reduce the total revenue from rock shrimp for all potentially affected rock shrimp fishermen (104 vessels) by a maximum of approximately $189,500 (2012 dollars), or approximately 8.5 percent of the total average annual gross revenue from rock shrimp ($20,500; 2012 dollars). Although the revenue from royal red shrimp also may be affected, as discussed above, the average annual gross revenue for vessels harvesting both rock shrimp and royal red shrimp ($113,000; 2012 dollars) is substantially higher than the average annual gross revenue for vessels that do not harvest royal red shrimp. As a result, the economic effects of the proposed expansion of the Oculina Bank HAPC on vessels that harvest royal red shrimp are expected to be minor.

The second action would establish transit provisions through the Oculina Bank HAPC for a vessel with rock shrimp on board. This proposed rule would allow vessel transit through the Oculina Bank HAPC by a vessel with rock shrimp on board if the vessel maintains a direct and non-stop continuous course at a minimum speed of 5 knots as determined by an operating VMS approved for the South Atlantic rock shrimp fishery onboard the vessel that registers a VMS ping (signal) rate of 1 ping per 5 minutes, and if that vessel's

gear is appropriately stowed (*i.e.,* doors and nets would be required to be out of water and onboard the deck or below the deck of the vessel). NMFS estimates this VMS ping rate, which is more frequent than that currently required, will result in increased costs for vessels choosing to transit if the vessel's current VMS unit cannot ping at the acceptable rate (*i.e.,* 5 minutes). Therefore, vessels will need to update their VMS unit or purchase a new VMS unit to meet the VMS unit ping rate requirement if they choose to transit the Oculina Bank HAPC with rock shrimp on board. For all vessels, the communication cost also would increase by an unknown amount depending on the frequency of transit. The purchase and installation of these new units and upgrades, and the decision to transit and incur increased communication costs would be voluntary. The use of VMS units on rock shrimp vessels has been required since 2003. As a result, all affected vessels are expected to have extensive experience using VMS units and are expected to already have captains or crew with the appropriate skills and training to use VMS equipment.

At the time when this rule was drafted, there were 104 permits issued in the rock shrimp fishery; however, only 79 are currently active in the fishery. Of the 79 active vessels, 57 vessels currently use a VMS unit capable of producing this ping rate. If these vessels choose to transit through the Oculina Bank HAPC with rock shrimp onboard, they would be required to spend approximately $200 for hardware or software upgrades to increase the ping rate, and approximately $100 for postage for delivery of the VMS unit to and from the vendor. Because the decision to transit would be voluntary, a vessel owner would be expected to schedule the upgrade during a period when fishing does not normally occur. As a result, the upgrade would not be expected to adversely affect fishing time or revenue. The remaining 22 vessels do not currently use a VMS unit capable of producing this ping rate. If these vessels choose to transit through the Oculina Bank HAPC with rock shrimp onboard these vessels would be expected to have to incur new expenses of approximately $2,795 to $3,595 for purchase and installation of a new VMS unit and appropriate software. Any vessel transiting the Oculina Bank HAPC with rock shrimp onboard also would be expected to incur increased communication costs because of the increased communication (ping) rate of their VMS unit. The total amount of the increased communication cost would depend on how frequently a vessel transits the area. Although these expenses would be required to allow transit through the Oculina Bank HAPC with rock shrimp onboard, all of these expenses would be voluntarily incurred because the proposed rule would not require that vessels transit the area. Further, the net economic effect per entity of transiting would be expected to be positive. Transit through the Oculina Bank HAPC would be expected to reduce operating expenses by allowing a vessel to avoid time-consuming and costly travel around the area. Also, revenue may be increased if a reduction in travel time allows longer fishing. Overall, a fisherman would only choose to incur the increased VMS costs associated with transit if they concluded they would receive a net increase in economic benefits, regardless of the source of these benefits. As a result, this component of the proposed rule would be expected to have a direct positive economic effect on all affected small entities.

Combined, the expected effects of the proposed expansion of the Oculina Bank HAPC and proposed transit provisions for vessels with rock shrimp on board would be expected to range from a minor short term reduction in the average annual gross revenue from rock shrimp to a net positive economic effect on the average rock shrimp vessel. Although the proposed expansion of the Oculina Bank HAPC would be expected to reduce rock shrimp revenue from this area, the proposed transit provisions would be expected to reduce operating costs and potentially increase rock shrimp revenue by allowing more time to harvest rock shrimp from other areas where permitted. As a result, these two components of this proposed rule collectively would not be expected to have a significant adverse economic effect on a substantial number of small entities.

The third action in this proposed rule would expand the boundaries of the Stetson-Miami Terrace CHAPC by 490 square miles (1,269 square km), for a total area of 24,018 square miles (62,206 square km). Fishing for snapper-grouper species does not occur normally in this area and fishing for other finfish or golden crab would not be expected to be affected by the proposed expansion of the Stetson-Miami Terrace CHAPC. This action would also allow a gear haul back/drift zone to accommodate the royal red shrimp fishery that occurs in this area. As a result, this component of the proposed rule would not be expected to reduce the revenue of any small entities.

The fourth action would expand the boundaries of the Cape Lookout CHAPC by 10 square miles (26 square km), for a total area of 326 square miles (844 square km). Similar to the proposed expansion of the Stetson-Miami Terrace CHAPC, fishing for snapper-grouper species does not occur normally in this area and fishing for other finfish or golden crab would not be expected to be affected because of the small size of the expansion and availability of nearby areas with similar fishable habitat for these species. As a result, this component of the proposed rule would not be expected to reduce the revenue of any small entities.

Based on the discussion above, NMFS determines that this proposed rule, if implemented, would 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.

Notwithstanding any other provision of law, no person is 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 (PRA), unless that collection-of-information displays a currently valid Office of Management and Budget (OMB) control number.

This proposed rule contains collection-of-information requirements subject to the PRA. NMFS is revising the collection-of-information requirements under OMB control number 0648–0205. Since 2003, NMFS has required VMS be installed and maintained on commercially permitted South Atlantic rock shrimp vessels. NMFS estimates the increased VMS ping (signal) rate that would be required by this proposed rule would result in increased costs for vessels that choose to transit through the Oculina Bank HAPC and whose current VMS unit does not have the capability to ping at the higher rate (5 minutes) because those vessels would need to update their current VMS unit or purchase a new VMS unit. Currently, all 79 vessels actively participating in the rock shrimp fishery have a VMS unit. Of those vessels, 22 have older VMS units purchased in 2003, which would need to be upgraded to transit through the Oculina Bank HAPC with rock shrimp onboard. Replacement VMS units would not be eligible for reimbursement by the NMFS Office of Law Enforcement VMS fund. The 22 vessels needing to upgrade their VMS units would have to pay for the installation, maintenance, and increased communications charges associated with having an upgraded VMS.

Assuming all 22 vessels needing to upgrade their VMS units choose the lowest priced VMS unit available at $2,495 each, the total cost of 22 units is expected to be $54,890. The additional cost of installation would be approximately $300 for each of the 22 vessels ($6,600 total for all 22 units) for a total minimum cost (VMS unit and installation) of $2,795 for each of the 22 vessels and $61,490 for the fishery to upgrade to the least expensive necessary current hardware and software. Currently, all rock shrimp vessels, regardless of whether they must replace their VMS units, would be expected to experience an increase in costs if Amendment 8 and this proposed rule are implemented. Even the 57 vessels with the VMS units that do not need to be replaced would incur charges of approximately $150 to $250 per VMS unit to reconfigure or upgrade hardware/software to implement the more frequent ping rate if they choose to transit through the Oculina Bank HAPC with rock shrimp onboard. Reconfiguration or upgrading could include postage costs or delays if the VMS unit must be transported to the vendor to perform upgrades. Approximating the cost of each upgrade by using the medium upgrade cost of $200 per vessel for 57 VMS units, and the mail cost of $100 per vessel for the 57 vessels for postage to mail to the vendor and mail back from the vendor the VMS unit being sent for reconfiguring or upgrading ($50 for postage to mail to and $50 to mail back from the vendor for each of the 57 vessels) would be a one-time total cost of $17,100. If this proposed rule is implemented, the total cost of hardware and software upgrades required to allow transit for all vessels in the fleet is estimated to be $78,590. Some, if not all, of the increased costs of upgrading hardware and software, plus increased communications charges to transit through the Oculina Bank HAPC would be offset by not needing to transit around the Oculina Bank HAPC to reach additional rock shrimp fishing grounds. Allowing transit should increase the amount of time on a trip spent fishing, as well as provide savings on fuel and other vessel maintenance costs.

Only a VMS that has been approved by NMFS for use in the South Atlantic rock shrimp fishery may be used, and it must be properly registered and activated with an approved communications provider for the new vessel. Additionally, it must be installed by a qualified marine electrician. When reinstalling and reactivating the NMFS-approved VMS, the vessel owner or operator must: (1) Follow procedures indicated on an installation and activation checklist, available from NMFS, Office for Law Enforcement, Southeast Region, St Petersburg, FL 33701; phone: (727) 824–5347; (2) submit to NMFS, Office for Law Enforcement, Southeast Region, St Petersburg, FL, a statement certifying compliance with the checklist, as prescribed on the checklist; and (3) submit to NMFS, Office for Law Enforcement, Southeast Region, St Petersburg, FL 33701, a vendor-completed installation certification checklist, available from NMFS, Office for Law Enforcement, Southeast Region, St Petersburg, FL 33701; phone: (727) 824–5347. On a one-time basis, the burden on each vessel owner or operator would be 15 minutes to complete a compliance checklist and certification plus 4 hours for initial installation (4.25 hours per 22 vessels in the rock shrimp fishery that would need to upgrade their VMS units for a total of 93.5 hours). In addition, each of the 79 vessels will incur 2 hours per year for VMS maintenance for a total of 158 hours. If this proposed rule is implemented, the total time-burden of hardware and software upgrades required to allow transit for all vessels in the fleet is estimated to be 251.5 hours (93.5 hours plus 158 hours).

These requirements have been submitted to OMB for approval. NMFS seeks public comment regarding: Whether this proposed collection-of-information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection-of-information, including through the use of automated collection techniques or other forms of information technology. Send comments regarding the burden estimate or any other aspect of the collection-of-information requirement, including suggestions for reducing the burden, to NMFS and to OMB (see **ADDRESSES**).

**List of Subjects in 50 CFR Part 622**

Coral, CHAPC, Coral Reefs, Fisheries, Fishing, Reporting and recordkeeping requirements, HAPC, Shrimp, South Atlantic.

Dated: May 27, 2014.

**Samuel D. Rauch III,**

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

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

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

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

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

■ 2. In § 622.224, paragraphs (b)(1), (c)(1)(i), (c)(1)(iii), (c)(3)(i), (c)(3)(ii), (c)(3)(iii), and (c)(3)(iv) are revised to read as follows:

**§ 622.224 Area closures to protect South Atlantic corals.**

* * * * *

(b) *Oculina Bank HAPC*—(1) HAPC is bounded by rhumb lines connecting, in order, the following points:

| Point | North lat. | West long. |
|---|---|---|
| Origin | 29°43′29.82″ | 80°14′55.27″ |
| 1 ..... | 29°43′30″ | 80°15′48.24″ |
| 2 ..... | 29°34′51″ | 80°15′00.78″ |
| 3 ..... | 29°34′07.38″ | 80°15′51.66″ |
| 4 ..... | 29°29′24.9″ | 80°15′15.78″ |
| 5 ..... | 29°09′32.52″ | 80°12′17.22″ |
| 6 ..... | 29°04′45.18″ | 80°10′12″ |
| 7 ..... | 28°56′01.86″ | 80°07′53.64″ |
| 8 ..... | 28°52′44.4″ | 80°07′53.04″ |
| 9 ..... | 28°47′28.56″ | 80°07′07.44″ |
| 10 ..... | 28°46′13.68″ | 80°07′15.9″ |
| 11 ..... | 28°41′16.32″ | 80°05′58.74″ |
| 12 ..... | 28°35′05.76″ | 80°05′14.28″ |
| 13 ..... | 28°33′50.94″ | 80°05′24.6″ |
| 14 ..... | 28°30′51.36″ | 80°04′23.94″ |
| 15 ..... | 28°30′00″ | 80°03′57.3″ |
| 16 ..... | 28°30′ | 80°03′ |
| 17 ..... | 28°16′ | 80°03′ |
| 18 ..... | 28°04′30″ | 80°01′10.08″ |
| 19 ..... | 28°04′30″ | 80°00′ |
| 20 ..... | 27°30′ | 80°00′ |
| 21 ..... | 27°30′ | 79°54′0″—Point corresponding with intersection with the 100-fathom (183-m) contour, as shown on the latest edition of NOAA chart 11460. |

| Point | North lat. | West long. |
|---|---|---|
| **Note:** Line between point 21 and point 22 follows the 100-fathom (183-m) contour, as shown on the latest edition of NOAA chart 11460. | | |
| 22 ..... | 28°30′00″ | 79°56′56″—Point corresponding with intersection with the 100-fathom (183-m) contour, as shown on the latest edition of NOAA chart 11460. |
| 23 ..... | 28°30′00″ | 80°00′46.02″ |
| 24 ..... | 28°46′00.84″ | 80°03′28.5″ |
| 25 ..... | 28°48′37.14″ | 80°03′56.76″ |
| 26 ..... | 28°53′18.36″ | 80°04′48.84″ |
| 27 ..... | 29°11′19.62″ | 80°08′36.9″ |
| 28 ..... | 29°17′33.96″ | 80°10′06.9″ |
| 29 ..... | 29°23′35.34″ | 80°11′30.06″ |
| 30 ..... | 29°30′15.72″ | 80°12′38.88″ |
| 31 ..... | 29°35′55.86″ | 80°13′41.04″ |
| Origin | 29°43′29″ | 80°14′55.27″ |

(i) In the Oculina Bank HAPC, no person may:

(A) Use a bottom longline, bottom trawl, dredge, pot, or trap.

(B) If aboard a fishing vessel, anchor, use an anchor and chain, or use a grapple and chain.

(C) Fish for or possess rock shrimp in or from the Oculina Bank HAPC, except a shrimp vessel with a valid commercial vessel permit for rock shrimp that possesses rock shrimp may transit through the Oculina Bank HAPC if fishing gear is appropriately stowed. For the purpose of this paragraph, transit means a direct and non-stop continuous course through the area, maintaining a minimum speed of five knots as determined by an operating VMS and a VMS minimum ping rate of 1 ping per 5 minutes; fishing gear appropriately stowed means that doors and nets are out of the water and onboard the deck or below the deck of the vessel.

(ii) [Reserved]

* * * * *

(c) * * *

(1) * * *

(i) *Cape Lookout Lophelia Banks CHAPC* is bounded by rhumb lines connecting, in order, the following points:

| Point | North lat. | West long. |
|---|---|---|
| Origin .. | 34°24′36.996″ | 75°45′10.998″ |
| 1 ..... | 34°23′28.998″ | 75°43′58.002″ |
| 2 ..... | 34°27′00″ | 75°41′45″ |
| 3 ..... | 34°27′54″ | 75°42′45″ |
| Origin .. | 34°24′36.996″ | 75°45′10.998″ |

* * * * *

(iii) *Stetson Reefs, Savannah and East Florida Lithotherms, and Miami Terrace (Stetson-Miami Terrace) CHAPC* is bounded by—

(A) Rhumb lines connecting, in order, the following points:

| Point | North lat. | West long. |
|---|---|---|
| Origin .. | at outer boundary of EEZ | 79°00′00″ |
| 1 ..... | 31°23′37″ | 79°00′00″ |
| 2 ..... | 31°23′37″ | 77°16′21″ |
| 3 ..... | 32°38′37″ | 77°16′21″ |
| 4 ..... | 32°38′21″ | 77°34′06″ |
| 5 ..... | 32°35′24″ | 77°37′54″ |
| 6 ..... | 32°32′18″ | 77°40′26″ |
| 7 ..... | 32°28′42″ | 77°44′10″ |
| 8 ..... | 32°25′51″ | 77°47′43″ |
| 9 ..... | 32°22′40″ | 77°52′05″ |
| 10 ..... | 32°20′58″ | 77°56′29″ |
| 11 ..... | 32°20′30″ | 77°57′50″ |
| 12 ..... | 32°19′53″ | 78°00′49″ |
| 13 ..... | 32°18′44″ | 78°04′35″ |
| 14 ..... | 32°17′35″ | 78°07′48″ |
| 15 ..... | 32°17′15″ | 78°10′41″ |
| 16 ..... | 32°15′50″ | 78°14′09″ |
| 17 ..... | 32°15′20″ | 78°15′25″ |
| 18 ..... | 32°12′15″ | 78°16′37″ |
| 19 ..... | 32°10′26″ | 78°18′09″ |
| 20 ..... | 32°04′42″ | 78°21′27″ |
| 21 ..... | 32°03′41″ | 78°24′07″ |
| 22 ..... | 32°04′58″ | 78°29′19″ |
| 23 ..... | 32°06′59″ | 78°30′48″ |
| 24 ..... | 32°09′27″ | 78°31′31″ |
| 25 ..... | 32°11′23″ | 78°32′47″ |
| 26 ..... | 32°13′09″ | 78°34′04″ |
| 27 ..... | 32°14′08″ | 78°34′36″ |
| 28 ..... | 32°12′48″ | 78°36′34″ |
| 29 ..... | 32°13′07″ | 78°39′07″ |
| 30 ..... | 32°14′17″ | 78°40′01″ |
| 31 ..... | 32°16′20″ | 78°40′18″ |
| 32 ..... | 32°16′33″ | 78°42′32″ |
| 33 ..... | 32°14′26″ | 78°43′23″ |
| 34 ..... | 32°11′14″ | 78°45′42″ |
| 35 ..... | 32°10′19″ | 78°49′08″ |
| 36 ..... | 32°09′42″ | 78°52′54″ |
| 37 ..... | 32°08′15″ | 78°56′11″ |
| 38 ..... | 32°05′00″ | 79°00′30″ |
| 39 ..... | 32°01′54″ | 79°02′49″ |
| 40 ..... | 31°58′40″ | 79°04′51″ |
| 41 ..... | 31°56′32″ | 79°06′48″ |
| 42 ..... | 31°53′27″ | 79°09′18″ |
| 43 ..... | 31°50′56″ | 79°11′29″ |
| 44 ..... | 31°49′07″ | 79°13′35″ |
| 45 ..... | 31°47′56″ | 79°16′08″ |
| 46 ..... | 31°47′11″ | 79°16′30″ |
| 47 ..... | 31°46′29″ | 79°16′25″ |
| 48 ..... | 31°44′31″ | 79°17′24″ |
| 49 ..... | 31°43′20″ | 79°18′27″ |
| 50 ..... | 31°42′26″ | 79°20′41″ |
| 51 ..... | 31°41′09″ | 79°22′26″ |
| 52 ..... | 31°39′36″ | 79°23′59″ |
| 53 ..... | 31°37′54″ | 79°25′29″ |
| 54 ..... | 31°35′57″ | 79°27′14″ |
| 55 ..... | 31°34′14″ | 79°28′24″ |
| 56 ..... | 31°31′08″ | 79°29′59″ |
| 57 ..... | 31°30′26″ | 79°29′52″ |
| 58 ..... | 31°29′11″ | 79°30′11″ |
| 59 ..... | 31°27′58″ | 79°31′41″ |
| 60 ..... | 31°27′06″ | 79°32′08″ |
| 61 ..... | 31°26′22″ | 79°32′48″ |
| 62 ..... | 31°24′21″ | 79°33′51″ |
| 63 ..... | 31°22′53″ | 79°34′41″ |
| 64 ..... | 31°21′03″ | 79°36′01″ |
| 65 ..... | 31°20′00″ | 79°37′12″ |
| 66 ..... | 31°18′34″ | 79°38′15″ |
| 67 ..... | 31°16′49″ | 79°38′36″ |
| 68 ..... | 31°13′06″ | 79°38′19″ |
| 70 ..... | 31°11′04″ | 79°38′39″ |
| 70 ..... | 31°09′28″ | 79°39′09″ |
| 71 ..... | 31°07′44″ | 79°40′21″ |
| 72 ..... | 31°05′53″ | 79°41′27″ |
| 73 ..... | 31°04′40″ | 79°42′09″ |
| 74 ..... | 31°02′58″ | 79°42′28″ |
| 75 ..... | 31°01′03″ | 79°42′40″ |
| 76 ..... | 30°59′50″ | 79°42′43″ |
| 77 ..... | 30°58′27″ | 79°42′43″ |
| 78 ..... | 30°57′15″ | 79°42′50″ |
| 79 ..... | 30°56′09″ | 79°43′28″ |
| 80 ..... | 30°54′49″ | 79°44′53″ |
| 81 ..... | 30°53′44″ | 79°46′24″ |
| 82 ..... | 30°52′47″ | 79°47′40″ |
| 83 ..... | 30°51′45″ | 79°48′16″ |
| 84 ..... | 30°48′36″ | 79°49′02″ |
| 85 ..... | 30°45′24″ | 79°49′55″ |
| 86 ..... | 30°41′36″ | 79°51′31″ |
| 87 ..... | 30°38′38″ | 79°52′23″ |
| 88 ..... | 30°37′00″ | 79°52′37.2″ |
| 89 ..... | 30°37′00″ | 80°05′00″ |
| 90 ..... | 30°34′6.42″ | 80°05′54.96″ |
| 91 ..... | 30°26′59.94″ | 80°07′41.22″ |
| 92 ..... | 30°23′53.28″ | 80°08′8.58″ |
| 93 ..... | 30°19′22.86″ | 80°09′22.56″ |
| 94 ..... | 30°13′17.58″ | 80°11′15.24″ |
| 95 ..... | 30°07′55.68″ | 80°12′19.62″ |
| 96 ..... | 30°00′00″ | 80°13′00″ |
| 97 ..... | 30°00′9″ | 80°09′30″ |
| 98 ..... | 30°03′00″ | 80°09′30″ |
| 99 ..... | 30°03′00″ | 80°06′00″ |
| 100 ..... | 30°04′00″ | 80°02′45.6″ |
| 101 ..... | 29°59′16″ | 80°04′11″ |
| 102 ..... | 29°49′12″ | 80°05′44″ |
| 103 ..... | 29°43′59″ | 80°06′24″ |
| 104 ..... | 29°38′37″ | 80°06′53″ |
| 105 ..... | 29°36′54″ | 80°07′18″ |
| 106 ..... | 29°31′59″ | 80°07′32″ |
| 107 ..... | 29°29′14″ | 80°07′18″ |
| 108 ..... | 29°21′48″ | 80°05′01″ |
| 109 ..... | 29°20′25″ | 80°04′29″ |
| 110 ..... | 29°08′00″ | 79°59′43″ |
| 111 ..... | 29°06′56″ | 79°59′07″ |
| 112 ..... | 29°05′59″ | 79°58′44″ |
| 113 ..... | 29°03′34″ | 79°57′37″ |
| 114 ..... | 29°02′11″ | 79°56′59″ |
| 115 ..... | 29°00′00″ | 79°55′32″ |
| 116 ..... | 28°56′55″ | 79°54′22″ |
| 117 ..... | 28°55′00″ | 79°53′31″ |
| 118 ..... | 28°53′35″ | 79°52′51″ |
| 119 ..... | 28°51′47″ | 79°52′07″ |
| 120 ..... | 28°50′25″ | 79°51′27″ |
| 121 ..... | 28°49′53″ | 79°51′20″ |
| 122 ..... | 28°49′01″ | 79°51′20″ |
| 123 ..... | 28°48′19″ | 79°51′10″ |
| 124 ..... | 28°47′13″ | 79°50′59″ |
| 125 ..... | 28°43′30″ | 79°50′36″ |
| 126 ..... | 28°41′05″ | 79°50′04″ |
| 127 ..... | 28°40′27″ | 79°50′07″ |
| 128 ..... | 28°39′50″ | 79°49′56″ |
| 129 ..... | 28°39′04″ | 79°49′58″ |
| 130 ..... | 28°36′43″ | 79°49′35″ |
| 131 ..... | 28°35′01″ | 79°49′24″ |
| 132 ..... | 28°30′37″ | 79°48′35″ |
| 133 ..... | 28°14′00″ | 79°46′20″ |
| 134 ..... | 28°11′41″ | 79°46′12″ |
| 135 ..... | 28°08′02″ | 79°45′45″ |
| 136 ..... | 28°01′20″ | 79°45′20″ |
| 137 ..... | 27°58′13″ | 79°44′51″ |
| 138 ..... | 27°56′23″ | 79°44′53″ |
| 139 ..... | 27°49′40″ | 79°44′25″ |

| Point | North lat. | West long. |
|---|---|---|
| 140 ..... | 27°46′27″ | 79°44′22″ |
| 141 ..... | 27°42′00″ | 79°44′33″ |
| 142 ..... | 27°36′08″ | 79°44′58″ |
| 143 ..... | 27°30′00″ | 79°45′29″ |
| 144 ..... | 27°29′04″ | 79°45′47″ |
| 145 ..... | 27°27′05″ | 79°45′54″ |
| 146 ..... | 27°25′47″ | 79°45′57″ |
| 147 ..... | 27°19′46″ | 79°45′14″ |
| 148 ..... | 27°17′54″ | 79°45′12″ |
| 149 ..... | 27°12′28″ | 79°45′00″ |
| 150 ..... | 27°07′45″ | 79°46′07″ |
| 151 ..... | 27°04′47″ | 79°46′29″ |
| 152 ..... | 27°00′43″ | 79°46′39″ |
| 153 ..... | 26°58′43″ | 79°46′28″ |
| 154 ..... | 26°57′06″ | 79°46′32″ |
| 155 ..... | 26°49′58″ | 79°46′54″ |
| 156 ..... | 26°48′58″ | 79°46′56″ |
| 157 ..... | 26°47′01″ | 79°47′09″ |
| 158 ..... | 26°46′04″ | 79°47′09″ |
| 159 ..... | 26°35′09″ | 79°48′01″ |
| 160 ..... | 26°33′37″ | 79°48′21″ |
| 161 ..... | 26°27′56″ | 79°49′09″ |
| 162 ..... | 26°25′55″ | 79°49′30″ |
| 163 ..... | 26°21′05″ | 79°50′03″ |
| 164 ..... | 26°20′30″ | 79°50′20″ |
| 165 ..... | 26°18′56″ | 79°50′17″ |
| 166 ..... | 26°16′19″ | 79°54′06″ |
| 167 ..... | 26°13′48″ | 79°54′48″ |
| 168 ..... | 26°12′19″ | 79°55′37″ |
| 169 ..... | 26°10′57″ | 79°57′05″ |
| 170 ..... | 26°09′17″ | 79°58′45″ |
| 171 ..... | 26°07′11″ | 80°00′22″ |
| 172 ..... | 26°06′12″ | 80°00′33″ |
| 173 ..... | 26°03′26″ | 80°01′02″ |
| 174 ..... | 26°00′35″ | 80°01′13″ |
| 175 ..... | 25°49′10″ | 80°00′38″ |
| 176 ..... | 25°48′30″ | 80°00′23″ |
| 177 ..... | 25°46′42″ | 79°59′14″ |
| 178 ..... | 25°27′28″ | 80°02′26″ |
| 179 ..... | 25°24′06″ | 80°01′44″ |
| 180 ..... | 25°21′04″ | 80°01′27″ |
| 181 ..... | 25°21′04″ | at outer boundary of EEZ |

(B) The outer boundary of the EEZ in a northerly direction from Point 181 to the Origin.

* * * * *

(3) * * *

(i) *Shrimp access area 1* is bounded by rhumb lines connecting, in order, the following points:

| Point | North lat. | West long. |
|---|---|---|
| 1 ..... | 30°06′30″ | 80°02′2.4″ |
| 2 ..... | 30°06′30″ | 80°05′39.6″ |
| 3 ..... | 30°03′00″ | 80°09′30″ |
| 4 ..... | 30°03′00″ | 80°06′00″ |
| 5 ..... | 30°04′00″ | 80°02′45.6″ |
| 6 ..... | 29°59′16″ | 80°04′11″ |
| 7 ..... | 29°49′12″ | 80°05′44″ |
| 8 ..... | 29°43′59″ | 80°06′24″ |
| 9 ..... | 29°38′37″ | 80°06′53″ |
| 10 ..... | 29°36′54″ | 80°07′18″ |
| 11 ..... | 29°31′59″ | 80°07′32″ |
| 12 ..... | 29°29′14″ | 80°07′18″ |
| 13 ..... | 29°21′48″ | 80°05′01″ |
| 14 ..... | 29°20′25″ | 80°04′29″ |
| 15 ..... | 29°20′25″ | 80°03′11″ |
| 16 ..... | 29°21′48″ | 80°03′52″ |
| 17 ..... | 29°29′14″ | 80°06′08″ |
| 18 ..... | 29°31′59″ | 80°06′23″ |
| 19 ..... | 29°36′54″ | 80°06′00″ |
| 20 ..... | 29°38′37″ | 80°05′43″ |
| 21 ..... | 29°43′59″ | 80°05′14″ |
| 22 ..... | 29°49′12″ | 80°04′35″ |
| 23 ..... | 29°59′16″ | 80°03′01″ |
| 24 ..... | 30°06′30″ | 80°00′53″ |

(ii) *Shrimp access area 2* is bounded by rhumb lines connecting, in order, the following points:

| Point | North lat. | West long. |
|---|---|---|
| Origin .. | 29°08′00″ | 79°59′43″ |
| 1 ..... | 29°06′56″ | 79°59′07″ |
| 2 ..... | 29°05′59″ | 79°58′44″ |
| 3 ..... | 29°03′34″ | 79°57′37″ |
| 4 ..... | 29°02′11″ | 79°56′59″ |
| 5 ..... | 29°00′00″ | 79°55′32″ |
| 6 ..... | 28°56′55″ | 79°54′22″ |
| 7 ..... | 28°55′00″ | 79°53′31″ |
| 8 ..... | 28°53′35″ | 79°52′51″ |
| 9 ..... | 28°51′47″ | 79°52′07″ |
| 10 ..... | 28°50′25″ | 79°51′27″ |
| 11 ..... | 28°49′53″ | 79°51′20″ |
| 12 ..... | 28°49′01″ | 79°51′20″ |
| 13 ..... | 28°48′19″ | 79°51′10″ |
| 14 ..... | 28°47′13″ | 79°50′59″ |
| 15 ..... | 28°43′30″ | 79°50′36″ |
| 16 ..... | 28°41′05″ | 79°50′04″ |
| 17 ..... | 28°40′27″ | 79°50′07″ |
| 18 ..... | 28°39′50″ | 79°49′56″ |
| 19 ..... | 28°39′04″ | 79°49′58″ |
| 20 ..... | 28°36′43″ | 79°49′35″ |
| 21 ..... | 28°35′01″ | 79°49′24″ |
| 22 ..... | 28°30′37″ | 79°48′35″ |
| 23 ..... | 28°30′37″ | 79°47′27″ |
| 24 ..... | 28°35′01″ | 79°48′16″ |
| 25 ..... | 28°36′43″ | 79°48′27″ |
| 26 ..... | 28°39′04″ | 79°48′50″ |
| 27 ..... | 28°39′50″ | 79°48′48″ |
| 28 ..... | 28°40′27″ | 79°48′58″ |
| 29 ..... | 28°41′05″ | 79°48′56″ |
| 30 ..... | 28°43′30″ | 79°49′28″ |
| 31 ..... | 28°47′13″ | 79°49′51″ |
| 32 ..... | 28°48′19″ | 79°50′01″ |
| 33 ..... | 28°49′01″ | 79°50′13″ |
| 34 ..... | 28°49′53″ | 79°50′12″ |
| 35 ..... | 28°50′25″ | 79°50′17″ |
| 36 ..... | 28°51′47″ | 79°50′58″ |
| 37 ..... | 28°53′35″ | 79°51′43″ |
| 38 ..... | 28°55′00″ | 79°52′22″ |
| 39 ..... | 28°56′55″ | 79°53′14″ |
| 40 ..... | 29°00′00″ | 79°54′24″ |
| 41 ..... | 29°02′11″ | 79°55′50″ |
| 42 ..... | 29°03′34″ | 79°56′29″ |
| 43 ..... | 29°05′59″ | 79°57′35″ |
| 44 ..... | 29°06′56″ | 79°57′59″ |
| 45 ..... | 29°08′00″ | 79°58′34″ |
| Origin .. | 29°08′00″ | 79°59′43″ |

(iii) *Shrimp access area 3* is bounded by rhumb lines connecting, in order, the following points:

| Point | North lat. | West long. |
|---|---|---|
| Origin .. | 28°14′00″ | 79°46′20″ |
| 1 ..... | 28°11′41″ | 79°46′12″ |
| 2 ..... | 28°08′02″ | 79°45′45″ |
| 3 ..... | 28°01′20″ | 79°45′20″ |
| 4 ..... | 27°58′13″ | 79°44′51″ |
| 5 ..... | 27°56′23″ | 79°44′53″ |
| 6 ..... | 27°49′40″ | 79°44′25″ |
| 7 ..... | 27°46′27″ | 79°44′22″ |
| 8 ..... | 27°42′00″ | 79°44′33″ |
| 9 ..... | 27°36′08″ | 79°44′58″ |
| 10 ..... | 27°30′00″ | 79°45′29″ |
| 11 ..... | 27°29′04″ | 79°45′47″ |
| 12 ..... | 27°27′05″ | 79°45′54″ |
| 13 ..... | 27°25′47″ | 79°45′57″ |
| 14 ..... | 27°19′46″ | 79°45′14″ |
| 15 ..... | 27°17′54″ | 79°45′12″ |
| 16 ..... | 27°12′28″ | 79°45′00″ |
| 17 ..... | 27°07′45″ | 79°46′07″ |
| 18 ..... | 27°04′47″ | 79°46′29″ |
| 19 ..... | 27°00′43″ | 79°46′39″ |
| 20 ..... | 26°58′43″ | 79°46′28″ |
| 21 ..... | 26°57′06″ | 79°46′32″ |
| 22 ..... | 26°57′06″ | 79°44′52″ |
| 23 ..... | 26°58′43″ | 79°44′47″ |
| 24 ..... | 27°00′43″ | 79°44′58″ |
| 25 ..... | 27°04′47″ | 79°44′48″ |
| 26 ..... | 27°07′45″ | 79°44′26″ |
| 27 ..... | 27°12′28″ | 79°43′19″ |
| 28 ..... | 27°17′54″ | 79°43′31″ |
| 29 ..... | 27°19′46″ | 79°43′33″ |
| 30 ..... | 27°25′47″ | 79°44′15″ |
| 31 ..... | 27°27′05″ | 79°44′12″ |
| 32 ..... | 27°29′04″ | 79°44′06″ |
| 33 ..... | 27°30′00″ | 79°43′48″ |
| 34 ..... | 27°30′00″ | 79°44′22″ |
| 35 ..... | 27°36′08″ | 79°43′50″ |
| 36 ..... | 27°42′00″ | 79°43′25″ |
| 37 ..... | 27°46′27″ | 79°43′14″ |
| 38 ..... | 27°49′40″ | 79°43′17″ |
| 39 ..... | 27°56′23″ | 79°43′45″ |
| 40 ..... | 27°58′13″ | 79°43′43″ |
| 41 ..... | 28°01′20″ | 79°44′11″ |
| 42 ..... | 28°04′42″ | 79°44′25″ |
| 43 ..... | 28°08′02″ | 79°44′37″ |
| 44 ..... | 28°11′41″ | 79°45′04″ |
| 45 ..... | 28°14′00″ | 79°45′12″ |
| Origin .. | 28°14′00″ | 79°46′20″ |

(iv) *Shrimp access area 4* is bounded by rhumb lines connecting, in order, the following points:

| Point | North lat. | West long. |
|---|---|---|
| Origin .. | 26°49′58″ | 79°46′54″ |
| 1 ..... | 26°48′58″ | 79°46′56″ |
| 2 ..... | 26°47′01″ | 79°47′09″ |
| 3 ..... | 26°46′04″ | 79°47′09″ |
| 4 ..... | 26°35′09″ | 79°48′01″ |
| 5 ..... | 26°33′37″ | 79°48′21″ |
| 6 ..... | 26°27′56″ | 79°49′09″ |
| 7 ..... | 26°25′55″ | 79°49′30″ |
| 8 ..... | 26°21′05″ | 79°50′03″ |
| 9 ..... | 26°20′30″ | 79°50′20″ |
| 10 ..... | 26°18′56″ | 79°50′17″ |
| 11 ..... | 26°18′56″ | 79°48′37″ |
| 12 ..... | 26°20′30″ | 79°48′40″ |
| 13 ..... | 26°21′05″ | 79°48′08″ |
| 14 ..... | 26°25′55″ | 79°47′49″ |
| 15 ..... | 26°27′56″ | 79°47′29″ |
| 16 ..... | 26°33′37″ | 79°46′40″ |
| 17 ..... | 26°35′09″ | 79°46′20″ |
| 18 ..... | 26°46′04″ | 79°45′28″ |
| 19 ..... | 26°47′01″ | 79°45′28″ |
| 20 ..... | 26°48′58″ | 79°45′15″ |
| 21 ..... | 26°49′58″ | 79°45′13″ |
| Origin .. | 26°49′58″ | 79°46′54″ |

* * * * *

[FR Doc. 2014–12655 Filed 6–2–14; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 679

**RIN 0648–BD35**

## Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands Management Area; Amendment 106

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

**ACTION:** Notice of availability of amendment to fishery management plan; request for comments.

**SUMMARY:** The North Pacific Fishery Management Council (Council) has submitted Amendment 106 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) to the Secretary of Commerce (Secretary) for review. Amendment 106 to the FMP would allow the owner of an AFA vessel to rebuild or replace that vessel and would allow the owners of AFA catcher vessels that are inactive or obsolete to remove those vessels from the AFA fishery. This action is necessary to bring the FMP into conformity with the AFA as amended by the Coast Guard Authorization Act of 2010 (Coast Guard Act), and to improve vessel safety and operational efficiency in the AFA fleet. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the AFA, the FMP, and other applicable laws.

**DATES:** Submit comments on or before August 4, 2014.

**ADDRESSES:** You may submit comments, identified by NOAA–NMFS–2013–0097, by any one of the following methods:

- Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0097,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- Mail: Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P. O. Box 21668, Juneau, AK 99802.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address) voluntarily submitted by the commenter will be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Copies of Amendment 106, the Regulatory Impact Review/Initial Regulatory Flexibility Analysis prepared for this action, and the Categorical Exclusion prepared for this action may be obtained from *http://www.regulations.gov* or from the Alaska Region Web site at *http://www.alaskafisheries/noaa.gov.*

**FOR FURTHER INFORMATION CONTACT:** Mary Alice McKeen, 907–586–7228.

**SUPPLEMENTARY INFORMATION:** The Magnuson-Stevens Act in section 304(a) requires that each regional fishery management council submit an amendment to a fishery management plan for review and approval, disapproval, or partial approval by the Secretary. The Magnuson-Stevens Act in section 304(a) also requires that the Secretary, upon receiving an amendment to a fishery management plan, immediately publish a notice in the **Federal Register** announcing that the amendment is available for public review and comment. The Council has submitted Amendment 106 to the FMP to the Secretary for review. This notice announces that proposed Amendment 106 to the FMP is available for public review and comment.

The FMP contains a number of provisions related to requirements of the AFA. Congress adopted the AFA in 1998 as part of the Omnibus Appropriations Bill FY 99 (Pub. L. 105–277). The AFA as originally adopted allowed the owners of AFA vessels to replace AFA vessels under certain limited circumstances. The President signed the AFA into law on October 21, 1998. In 2010, Congress amended the AFA in section 602 of the Coast Guard Act to significantly expand the ability of AFA vessel owners to rebuild or replace AFA vessels. The President signed the Coast Guard Act into law on October 15, 2010. The original AFA and the AFA amendments in the Coast Guard Act are available on the NMFS Alaska Region Web site at: *https://alaskafisheries.noaa.gov/sustainablefisheries/afa/afa1998.pdf; https://alaskafisheries.noaa.gov/sustainablefisheries/afa/afa_amendments2010.pdf, respectively.*

Amendment 106 to the FMP would bring the FMP into conformity with the AFA as amended by the Coast Guard Act. Under the amended AFA and proposed Amendment 106, the owner of an AFA vessel may rebuild or replace that vessel with a vessel documented with a fishery endorsement under 46 U.S.C. 12113 in order to improve vessel safety or improve operational efficiency, including fuel efficiency, with no limitation on the length, weight, or horsepower of the AFA rebuilt or AFA replacement vessel. An AFA rebuilt or AFA replacement vessel would be eligible to operate in the fisheries in the Exclusive Economic Zone off Alaska in the same manner as the vessel before rebuilding or before replacement. For example, if an AFA vessel before rebuilding or replacement was exempt from certain harvest limitations that apply to AFA vessels, commonly referred to as sideboards, the AFA rebuilt or replacement vessel would have the same sideboard exemption or exemptions.

Under current provisions of the FMP, all AFA vessels must have a License Limitation Program (LLP) groundfish license with a Bering Sea endorsement to conduct directed fishing for pollock in the Bering Sea. Amendment 106 would not change that requirement. All AFA vessels would still be required to have an LLP groundfish license with a Bering Sea endorsement to conduct directed fishing for pollock in the Bering Sea. However, Amendment 106 would change the FMP to allow an AFA rebuilt vessel and an AFA replacement vessel to exceed without limitation the maximum length overall (MLOA) specified on the vessel's LLP groundfish license when the vessel is fishing for groundfish in the Bering Sea and Aleutian Islands management area (BSAI) pursuant to that LLP license.

Amendment 106 would only amend the BSAI groundfish FMP. Amendment 106 would not change the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA). Under that fishery management plan and regulations implementing it, if the owner of an AFA vessel wishes to fish for LLP groundfish in the Gulf of Alaska, the AFA vessel must be named

on an LLP groundfish license with the appropriate area endorsement for the Gulf of Alaska and must not exceed the MLOA specified on that LLP license when fishing for LLP groundfish in the Gulf of Alaska pursuant to that LLP license. Amendment 106 does not remove AFA rebuilt or AFA replacement vessels from the MLOA requirement when those vessels operate in the GOA.

Amendment 106 also would allow an owner of an AFA catcher vessels that is a member of an inshore cooperative to remove the vessel from the cooperative and direct NMFS to assign the pollock catch history of the removed vessel to any other vessel or vessels in the same AFA cooperative. The vessel or vessels that would be assigned the catch history would be required to remain in the cooperative for at least one year after NMFS assigned the catch history to them. Except for the assignment of the pollock catch history, NMFS would permanently extinguish all claims, including those related to catch history, associated with the removed vessel that could have qualified the owner of the removed vessel for any permit to participate in any fishery within the EEZ off Alaska. If the removed vessel was exempt from a sideboard harvest limitation, NMFS would permanently extinguish that exemption.

Under Amendment 106, a vessel that is replaced or removed would be permanently ineligible for any permits to participate in any fishery in the Exclusive Economic Zone off Alaska, unless the replaced or removed vessel reenters the directed pollock fishery as an AFA replacement vessel.

NMFS notes that the AFA as amended by the Coast Guard Act has provisions on the issuance of Federal fishery endorsements. The United States Coast Guard, in conjunction with the Maritime Administration, will implement those provisions.

NMFS is soliciting public comments on proposed Amendment 106 through the end of the comment period (see the DATES section above). NMFS intends to publish in the **Federal Register** and seek public comment on a proposed rule that would implement Amendment 106, following NMFS' evaluation of the proposed rule under the Magnuson-Stevens Fishery Conservation and Management Act. All comments received by the end of the comment period on Amendment 106, whether specifically directed to the FMP amendment or the proposed rule, will be considered in the approval/disapproval decision on Amendment 106. Comments received after that date may not be considered in the approval/disapproval decision on Amendment 106. To be certain of consideration, comments must be received, not just postmarked or otherwise transmitted, by the last day of the comment period.

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

Dated: May 29, 2014.

**Emily H. Menashes,**

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

[FR Doc. 2014–12829 Filed 6–2–14; 8:45 am]

BILLING CODE 3510–22–P

# Notices

Federal Register

Vol. 79, No. 106

Tuesday, June 3, 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

### Office of the Assistant Secretary for Civil Rights; Notice of Request for an Extension of a Currently Approved Information Collection

**AGENCY:** Office of the Assistant Secretary for Civil Rights.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the intention of the Office of the Assistant Secretary for Civil Rights (OASCR) to request an extension of a currently approved information collection. OASCR will use the information collected to process respondents' discrimination complaints about programs conducted or assisted by USDA.

**DATES:** Comments on this notice must be received by August 4, 2014 to be assured of consideration.

**ADDITIONAL INFORMATION OR COMMENTS:** Contact Anna G. Stroman, Chief, Policy Division, by mail at Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW., Washington, DC, 20250.

**SUPPLEMENTARY INFORMATION:**

*Title:* USDA Program Discrimination Complaint Form.

*OMB Number:* OMB No. 0508–0002.

*Expiration Date of Approval:* December 31, 2014.

*Type of Request:* Extension of the USDA Program Discrimination Complaint Form.

*Abstract:* Under 7 CFR 15.6, ''Any person who believe himself/herself or any specific class of individuals to be subjected to discrimination [in any USDA assisted program or activity] * * * may by himself/herself or by an authorized representative file * * * a written complaint.'' Under CFR 15d.4, ''Any person who believes that he or she (or any specific class of individuals) has been, or is being, subjected to [discrimination in any USDA conducted program or activity] * * * may file on his or her own, or through an authorized representative, a written complaint alleging such discrimination.'' The collection of this information is an avenue by which the individual or his representative may file such a program discrimination complaint.

The requested information, which can be submitted by filling out a form or by submitting a letter, is necessary in order for USDA OASCR to address the alleged discriminatory action. The respondent is asked to state his/her name, mailing address, property address (if different from mailing address), telephone number, email address (if any) and to provide a name and contact information for the respondent's representative (if any). A brief description of who was involved with the alleged discriminatory action, what occurred and when, is requested. In the event that the respondent is filing the program discrimination complaint more than 180 days after the alleged discrimination occurred, the respondent is asked to provide the reason for the delay.

Finally, the respondent is asked to identify which bases are alleged to have motivated the discriminatory action. The form explains that laws and regulations prohibit on the bases of: Race, color, national origin, age, sex, gender identity (including gender expression), disability, religion, sexual orientation, marital or familial status, or because all or part of the individual's income is derived from any public assistance program, but that not all bases apply to all programs.

The program discrimination complaint filing information, which is voluntarily provided by the respondent, will be used by the staff of USDA OASCR to intake, investigate, resolve, and/or adjudicate the respondent's complaint. The program discrimination complaint form will enable OASCR to better collect information from complainants in a timely manner, therefore, reducing delays and errors in determining USDA jurisdiction.

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average one hour per response.

*Respondents:* Producers, applicants, and USDA customers.

*Estimated Number of Respondents:* 1,000.

*Estimated Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 1,000 hours.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent by any of the following methods:

- Email: Send comments to *Anna.Stroman@ascr.usda.gov*.
- Mail: Anna G. Stroman, Chief, Policy Division, Office of the Assistant Secretary for Civil Rights, U.S. Department of Agriculture, 1400 Independence Ave. SW., Washington, DC 20250.

All comments received will be available for public inspection during regular business hours at the same address.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will become a matter of public record.

**Joe Leonard, Jr.,**

*Assistant Secretary for Civil Rights.*

[FR Doc. 2014–12723 Filed 6–2–14; 8:45 am]

BILLING CODE P

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Nicolet Resource Advisory Committee; Meeting

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Nicolet Resource Advisory Committee (RAC) will meet in Crandon, Wisconsin. The committee is authorized under the Secure Rural Schools and Community Self-

Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. The meeting is open to the public. The purpose of the meeting is to review and approve project submissions.

**DATES:** The meeting will be held Tuesday, July 15, 2014 at 9 a.m.

All RAC 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 Forest County Courthouse, County Boardroom, 200 East Madison Street, Crandon, Wisconsin.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Laona Ranger District. Please call ahead to facilitate entry into the building.

**FOR FURTHER INFORMATION CONTACT:** Penny K. McLaughlin, RAC Coordinator, by phone at 715–674–4481 or via email at *pmclaughlin@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 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday. 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 above.

**SUPPLEMENTARY INFORMATION:** Additional RAC information, including the meeting agenda and the meeting summary/minutes can be found at the following Web site: *https://fsplaces.fs.fed.us/fsjiles/unit/wo/secure_rural_schools.nsjlRAC/Nicolet.* The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by June 23, 2014, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Penny K. McLaughlin, RAC Coordinator, Chequamegon-Nicolet National Forest Supervisor's Office, 4978 Hwy 8 W., Laona, Wisconsin 54541; by email to *pmclaughlin@fs.fed.us* or via facsimile to 715–674–4481.

*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 22, 2014.

**Paul Lv. Strong,**

*Forest Supervisor.*

[FR Doc. 2014–12788 Filed 6–2–14; 8:45 am]

**BILLING CODE 3410–11–P**

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## DEPARTMENT OF AGRICULTURE

### Forest Service

### Bridger-Teton Resource Advisory Committee

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meetings.

**SUMMARY:** The Bridger-Teton Resource Advisory Committee (RAC) will meet in Kemmerer, Wyoming and Afton, Wyoming. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. The meetings are open to the public. The purpose of the meetings is review and authorize projects under Title II of the Act.

**DATES:** The meetings will be held at 6:00 p.m. on the following dates:

- July 1, 2014.
- July 2, 2014.

All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

**ADDRESSES:** The meetings will be held at the Lincoln County Courthouse, 925 Sage Avenue, Suite 201, Kemmerer, Wyoming; and the Lincoln County Branch Office, Conference Room, 421 Jefferson Avenue, Afton, Wyoming. A conference line will also be available to call in, if anyone would like the number and passcode, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Kemmerer Ranger District. Please call ahead to facilitate entry into the building.

**FOR FURTHER INFORMATION CONTACT:** Adriene Holcomb, District Ranger, by phone at 307–828–5110 or via email at *aholcomb@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. 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 above.

**SUPPLEMENTARY INFORMATION:** Additional RAC information, including the meeting agenda and the meeting summary/minutes can be found at the following Web site: *https://fsplaces.fs.fed.us/fsfiles/unit/wo/secure_rural_schools.nsf/RAC/Bridger-Teton?OpenDocument.* The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by June 24, 2014 to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Adriene Holcomb, District Ranger, 308 US Highway 189 North, Kemmerer, Wyoming 83101; by email to *aholcomb@fs.fed.us,* or via facsimile to 307–828–5135.

*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 27, 2014.

**Adriene Holcomb,**

*Designated Federal Officer.*

[FR Doc. 2014–12674 Filed 6–2–14; 8:45 am]

**BILLING CODE 3411–15–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Colville Resource Advisory Committee

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Colville Resource Advisory Committee (RAC) will meet in Colville, Washington. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. The meeting is open to the public. The purpose of the meeting is to review project proposals and recommend funding for selected proposals.

**DATES:** The meeting will be held July 1, 2014, at 10:00 a.m.

All RAC 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 Colville National Forest (NF) Supervisor's Office, 765 South Main Street, Colville, Washington.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Colville NF Supervisor's Office. Please call ahead to facilitate entry into the building.

**FOR FURTHER INFORMATION CONTACT:** Laura Jo West, Designated Federal Officer, by phone at 509–684–7000 or via email at *ljwest@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. 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 above.

**SUPPLEMENTARY INFORMATION:** Additional RAC information, including the meeting agenda and the meeting summary/minutes can be found at the following Web site: *https://fsplaces.fs.fed.us/fsfiles/unit/wo/secure_rural_schools.nsf/RAC/Colville.* The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by June 23, 2014 to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Franklin Pemberton, RAC Coordinator, Colville RAC, 765 South Main Street, Colville, Washington, 99114; by email to *fpemberton@fs.fed.us,* or via facsimile to 509–684–7280.

*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 27, 2014.

**Laura Jo West,**

*Forest Supervisor.*

[FR Doc. 2014–12787 Filed 6–2–14; 8:45 am]

**BILLING CODE 3411–15–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Kern and Tulare Counties Resource Advisory Committee

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Kern and Tulare Counties Resource Advisory Committee (RAC) will meet in Porterville, California. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. The meeting is open to the public. The purpose of the meeting is to consider projects that may be recommended for Title II funds.

**DATES:** The meeting will be held on June 26, 2014 at 5:00 p.m.

All RAC 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 Sequoia National Forest (NF) Supervisor's Office, 1839 South Newcomb Street, Porterville, California. The meeting can also be accessed by telephone by calling the person listed under **FOR FUTHER INFORMATION CONTACT**.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Kern River Ranger District. Please call ahead to facilitate entry into the building.

**FOR FURTHER INFORMATION CONTACT:** Penelope Shibley, RAC Coordinator, by phone at 760–376–3781, extension 650, or via email at *pshibley@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. 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 above.

**SUPPLEMENTARY INFORMATION:** Additional RAC information, including the meeting agenda and the meeting summary/minutes can be found at the following Web site: *https://fsplaces.fs.fed.us/fsfiles/unit/wo/secure_rural_schools.nsf/RAC/Kern+and+Tulare+Counties+?OpenDocument.* The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by June 20, 2014 to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to to Penelope

Shibley, Kern River Ranger District, P.O. Box 9, Kernville, California 93238; or by email to *pshibley@fs.fed.us;* or via facsimile to 760–376–3795.

*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: 27 May 2014.

**Kevin B. Elliott,**

*Forest Supervisior, Sequoia National Forest.*

[FR Doc. 2014–12671 Filed 6–2–14; 8:45 am]

**BILLING CODE 3411–15–P**

## DEPARTMENT OF COMMERCE

### Office of the Secretary

### Proposed Information Collection; Comment Request; Foreign National Visitor and Guest Access Program

**AGENCY:** Office of the Secretary, Office of Security, Commerce.

**ACTION:** Notice.

**SUMMARY:** The Department of Commerce (DOC), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

**DATES:** Written comments must be submitted on or before August 4, 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 and instructions should be directed to Patty Grasso, Assistant Director of Plans and Programs, U.S. Department of Commerce, Office of Security, Room 1067, 1401 Constitution Avenue NW., Washington, DC 20230 (or via email to *pgrasso@doc.gov*).

**SUPPLEMENTARY INFORMATION:**

### I. Abstract

This information collection is in association with the Department of Commerce's (DOC) Departmental Administrative Order 207–12 (Order), Foreign National Visitor and Guest Access Program, and is applicable to all DOC operating units, bureaus, and Departmental offices and to all Foreign Nationals who visit or are assigned to DOC facilities or activities. DOC organizations must provide information to the Office of Security (OSY) concerning Foreign National Visitors and Guests. Foreign Nationals are any persons who are not citizens or nationals of the United States and are categorized based on the length of their visit. Those who are accessing Departmental facilities for three or fewer days or attending a conference of five or fewer days are considered Visitors. Those who are accessing Departmental facilities for more than three days are considered Guests. Guests are subject to a security check at the discretion of the Director for Security. Guests remaining beyond two years must undergo a security check conducted by the servicing security office.

The Department offers Foreign National Visitors and Guests access to its facilities, staff and information while engaged in a broad range of collaborative activities. This access, however, must be balanced with the need to protect classified, Sensitive But Unclassified (SBU), or otherwise controlled, proprietary, or not-for-public release data, information, or technology. The Departmental Sponsor (DS) is responsible for taking all reasonable steps to ensure that the conduct of, and activities for, their Foreign National Visitor or Guest are appropriate for the Federal workplace and comply with this Order. Prior to the arrival of a Foreign National Guest, the DS shall coordinate with the servicing security office to obtain a counterintelligence briefing that includes the contents of the Espionage Indicator Guide for employees of the sponsoring bureau within the work area encompassed by the foreign visit. Because of the frequency of foreign visits, these employees need only be briefed on an annual basis rather than each time a foreign visit occurs. The DS must read and sign a ''Certification of Conditions and Responsibilities for the Departmental Sponsor of Foreign National Guests'' and forward the certification to the chief administrative official or other appropriate senior bureau official responsible for administrative matter in the sponsoring bureau for review and endorsement. The DS must also:

a. Comply with all requirements for access approval and conduct, including providing timely, complete, and accurate information regarding the visit to the servicing security office. The servicing security office will deny access to a Foreign National if the DS fails to provide complete and accurate information in advance of a visit.

b. Take all reasonable steps to ensure his/her Foreign National Visitor or Guest is given access only to information necessary for the successful completion of their visit.

c. Prevent physical, visual, and virtual access to classified, SBU, or otherwise controlled, proprietary, or not-for-public release data, information, or technology.

d. Take all reasonable steps to ensure that a Foreign National Visitor or Guest does not use personal communication, photographic, recording, or other electronic devices in areas of Departmental facilities where classified, SBU, or otherwise controlled, proprietary, or not-for-public release data, information, or technology is present without explicit authorization.

e. Immediately report suspicious activities or anomalies involving Foreign National Visitors or Guests to the servicing security office.

f. Promptly notify the servicing security office if there is a change to the arrival or departure date of any Foreign National.

g. Ensure that all Foreign National Guests meet with the servicing security office to complete the Certification of Conditions and Responsibilities for the Foreign National Guest Program within three days of arrival if the servicing security office is collocated. If the servicing security office is not collocated, the DS will brief the Foreign National Guest on the contents of the document, and ensure the certification is signed, dated, and forwarded to the servicing security office within three days of arrival.

h. The appropriate senior administrative official in the sponsoring bureau or office will review the request from the DS and will ensure that the value of collaborative efforts gained with access to Departmental facilities, staff and information is balanced with the need to protect classified, SBU, or otherwise controlled, proprietary, or not-for-public release data, information, or technology. The senior administrative official's endorsement and Departmental Sponsor's certificate will be forwarded to the servicing security Office.

Information Required by a Foreign National includes the following: Full name, Gender, Date of birth, Place of birth, Passport Number and Issuing Country, Citizenship and Country(ies) of Dual Citizenship (if applicable), Country of Current Residence, Sponsoring

Bureau, Purpose of Visit, Facility number and location.

Approvals. Based upon the information required concerning each Foreign National, OSY Headquarters will conduct applicable agency checks and forward the results to the servicing security office. The servicing security office will make a risk assessment determination and notify the DS of approval or denial of access. In the event of denial of access, a senior executive of the affected bureau, operating unit, or office may appeal to the Director for Security who will consider whether the benefits of a proposed visit justify the risks.

Export Licenses. Approval of a visit by a Foreign National Visitor or Guest under this Order does not substitute for a license issued by the Bureau of Industry and Security pursuant to the Export Administration Regulations or any other U.S. Government agency with appropriate jurisdiction.

Debriefing. During the course of a visit by, or upon the departure of, select Visitors and Guests, particularly those from countries designated as State Sponsors of Terrorism and Countries of Proliferation Concern, the servicing security office or OSY Headquarters will conduct a debriefing of the DS and other employees of the Department who have had contact with the Foreign National.

### II. Method of Collection

Required information may be submitted via fax or secure file transfer. OSY Headquarters and the servicing security office will maintain a database containing identifying data for all Foreign National Visitors and Guests to which this applies.

### III. Data

*OMB Control Number:* 0605–XXXX.

*Form Number(s):* None.

*Type of Review:* Regular submission (new information collection).

*Affected Public:* Foreign Nationals (any persons who are not citizens or nationals of the United States).

*Estimated Number of Respondents:* 10,500.

*Estimated Time per Response:* 10 minutes.

*Estimated Total Annual Burden Hours:* 1,750.

*Estimated Total Annual Cost to Public:* $0.

### 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 29, 2014.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 2014–12776 Filed 6–2–14; 8:45 am]

BILLING CODE 3510–03–P

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## DEPARTMENT OF COMMERCE

### International Trade Administration

**[C–201–846]**

### Sugar From Mexico: Postponement of Preliminary Determination in Countervailing Duty Investigation

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

**DATES:** *Effective Date:* June 3, 2014.

**FOR FURTHER INFORMATION CONTACT:** Kaitlin Wojnar, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, (202) 482–3857; telephone: 202–482–3857.

**SUPPLEMENTARY INFORMATION:**

### Background

On April 17, 2014, the Department of Commerce (the Department) initiated the countervailing duty (CVD) investigation of sugar from Mexico.[1] Currently, the preliminary determination is due no later than June 23, 2014.

### Postponement of Preliminary Determination

Section 703(b)(1) of the Tariff Act of 1930, as amended (the Act), requires the Department to issue the preliminary determination in a CVD investigation no later than 65 days after the date on which the Department initiated the investigation. However, if the Department determines that the parties concerned in the investigation are cooperating and that the investigation is extraordinarily complicated, section 703(c)(1)(B) of the Act allows the Department to postpone making the preliminary determination until no later than 130 days after the date on which it initiated the investigation.

The Department determines that the parties involved in this proceeding are cooperating.[2] Since the petition for this CVD investigation was filed,[3] four separate Mexican sugar exporters/producers filed entries of appearances,[4] as well as one Mexican sugar industry trade group, which alone represents at least nineteen individual Mexican sugar companies, including the Mexican government's expropriated mill-operating organization, Fondo de Empresas Expropiadas del Sector Azucarero.[5] Each of these interested parties contributed to the record of this investigation.[6] Furthermore, the Government of Mexico (GOM) has been actively involved in this proceeding. The GOM is on the public service list for this investigation, sent a delegation to the Department's main building for consultations regarding initiation,[7] and has since filed comments on the investigation's scope.[8] Such actions by the Mexican sugar industry and the GOM indicate that the interested parties are currently cooperating in this investigation.

The Department also determines that this investigation is extraordinarily complicated in light of (1) the number and complexity of the alleged countervailable subsidy programs and (2) the need to determine the extent to which particular countervailable subsidies are used by individual manufacturers, producers, and

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[1] *See Sugar from Mexico: Initiation of Countervailing Duty Investigation,* 79 FR 22790 (April 24, 2014).

[2] *See* section 703(c)(1)(B) of the Act.

[3] *See* Petition for the Imposition of Countervailing Duties on Imports of Sugar from Mexico, March 28, 2014.

[4] *See, e.g.,* ''Entry of Appearance and APO Application,'' filed on behalf of Impulsora Azucarera del Noroeste, S.A. de C.V., April 24, 2014.

[5] *See* ''Entry of Appearance and Administrative Protective Order Application'' and ''Amended Entry of Appearance and Administrative Protective Order Application,'' filed on behalf of Camara Nacional de Las Industrias Azucarera Y Al Alcoholera, April 11, 2014.

[6] *See, e.g.,* ''Scope Comments,'' filed on behalf of Batory Foods Inc., May 7, 2014.

[7] *See* ''Consultations with the Government of Mexico Regarding the Countervailing Duty Petition on Sugar from Mexico,'' April 11, 2014.

[8] *See* ''Brief Submission of the Government of Mexico,'' May 7, 2014.

exporters.[9] Specifically, the Department must analyze at least 20 complex alleged subsidy programs, most of which have never before been examined by the Department.[10] These programs include debt discount and forgiveness, grants, various tax benefits, and preferential loans, which must be examined for each respondent selected and any company that is cross-owned with such respondents. If certain companies are selected as respondents, the Department will also analyze several company-specific uncreditworthiness allegations.[11] As such, the Department will likely have to issue multiple supplemental questionnaires. Moreover, the Department determines that additional time is necessary to make the preliminary determination in this investigation because initial questionnaires for this investigation have not yet been issued to the GOM or respondents and the Department will require additional time to review and analyze questionnaire responses once received from the GOM, respondents, and any companies cross-owned with respondents.

For these reasons, pursuant to section 703(c)(1) of the Act, the Department is hereby postponing the due date for the preliminary CVD determination to no later than 130 days after the day on which the investigation was initiated. As a result of this postponement, the deadline for completion of the preliminary determination is now August 25, 2014.

This notice is issued and published pursuant to section 703(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: May 28, 2014.

**Paul Piquado,**

*Assistant Secretary for Enforcement and Compliance.*

[FR Doc. 2014–12849 Filed 6–2–14; 8:45 am]

**BILLING CODE 3510–DS–P**

## CONSUMER PRODUCT SAFETY COMMISSION

**[CPSC Docket No. 12–2 and CPSC Docket No. 13–2]**

### Notice of Telephonic Prehearing Conference

**AGENCY:** U.S. Consumer Product Safety Commission.

**ACTION:** Notice.

**SUMMARY:** Notice of telephonic prehearing conference for the consolidated case: In the Matter of ZEN MAGNETS, LLC; and STAR NETWORKS USA, LLC; CPSC Docket No. 12–2; and CPSC Docket No. 13–2.

**DATES:** June 19, 2014, 12:00 p.m. Mountain/1:00 p.m. Central/2:00 p.m. Eastern

**ADDRESSES:** Members of the public are welcome to attend the prehearing conference at the Courtroom of Hon. Dean C. Metry at 601 25th Street, 5th Floor Courtroom, Galveston, Texas 77550.

**FOR FURTHER INFORMATION CONTACT:** Jan Emig, Paralegal Specialist, U.S. Coast Guard ALJ Program, (409) 765–1300.

**SUPPLEMENTARY INFORMATION:** Any or all of the following may be considered during the prehearing conference:

(1) Petitions for leave to intervene;

(2) Motions, including motions for consolidation of proceedings and for certification of class actions;

(3) Identification, simplification and clarification of the issues;

(4) Necessity or desirability of amending the pleadings;

(5) Stipulations and admissions of fact and of the content and authenticity of documents;

(6) Oppositions to notices of depositions;

(7) Motions for protective orders to limit or modify discovery;

(8) Issuance of subpoenas to compel the appearance of witnesses and the production of documents;

(9) Limitation of the number of witnesses, particularly to avoid duplicate expert witnesses;

(10) Matters of which official notice should be taken and matters which may be resolved by reliance upon the laws administered by the Commission or upon the Commission's substantive standards, regulations, and consumer product safety rules;

(11) Disclosure of the names of witnesses and of documents or other physical exhibits which are intended to be introduced into evidence;

(12) Consideration of offers of settlement;

(13) Establishment of a schedule for the exchange of final witness lists, prepared testimony and documents, and for the date, time and place of the hearing, with due regard to the convenience of the parties; and

(14) Such other matters as may aid in the efficient presentation or disposition of the proceedings.

Telephonic conferencing arrangements to contact the parties will be made by the court. Mary B. Murphy, Esq.; Jennifer C. Argabright, Esq.; Daniel R. Vice, Esq.; and Ray M. Aragon, Esq., Counsel for the U.S. Consumer Product Safety Commission, shall be contacted by a third party conferencing center at (301) 504–7809. David C. Japha, Esq., Counsel for ZEN MAGNETS, LLC and STAR NETWORKS USA, LLC shall be contacted by a third party conferencing center at (303) 964–9500.

Dated: May 22, 2014.

**Todd A. Stevenson,**

*Secretary.*

[FR Doc. 2014–12666 Filed 6–2–14; 8:45 am]

**BILLING CODE 6355–01–P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Renewal of Department of Defense Federal Advisory Committees

**AGENCY:** DoD.

**ACTION:** Re-establishment of Federal Advisory Committee.

**SUMMARY:** The Department of Defense is publishing this notice to announce that it is re-establishing the charter for the National Intelligence University Board of Visitors (''the Board'').

**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 re-established 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 Board is a discretionary Federal advisory committee that shall provide the Secretary of Defense and the Deputy Secretary of Defense, through the Under Secretary of Defense for Intelligence (USD(I)) and the Director, Defense Intelligence Agency, independent advice and recommendations on matters related to mission, policy, accreditation, faculty, students, facilities, curricula, educational methods, research, and administration of the National Intelligence University.

The Board shall report to the Secretary of Defense and the Deputy Secretary of Defense through the USD(I) and the Director, Defense Intelligence Agency, shall provide support, as deemed necessary, for the Board's performance, and shall ensure compliance with the requirements of the FACA, the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended)

**Authority:** Consumer Product Safety Act, 15 U.S.C. 2064.

[9] *See* section 703(c)(1)(B)(i) of the Act.

[10] *See generally* ''Countervailing Duty Initiation Checklist,'' April 17, 2014.

[11] *Id.* at 24–25.

(''the Sunshine Act''), governing Federal statutes and regulations, and established DoD policies and procedures.

The Board shall be comprised of no more than 12 individuals, who have extensive professional experience in the fields of national intelligence, national defense, and academia. The Director, Defense Intelligence Agency shall select the Board's chair.

Board members shall be appointed by the Secretary of Defense or the Deputy Secretary of Defense with annual renewals. Individuals who are not full-time or permanent part-time federal employees shall be appointed as experts or consultants pursuant to 5 U.S.C. 3109 to serve as special government employee (SGE) members. Individuals who are full-time or permanent part-time Federal employees shall be appointed pursuant to 41 CFR 102–3.130(a) to serve as regular government employee (RGE) members. Board members shall serve a term of service of one-to-four years. No member may serve more than two consecutive terms of service without Secretary or Deputy Secretary of Defense approval. This same term of service limitation also applies to any DoD authorized subcommittee.

All members of the Board are appointed to provide advice on the basis of their best judgment without representing any particular point of view and in a manner that is free from conflict of interest.

Board members will serve without compensation except for reimbursement of travel and per diem as it pertains to official business of the Board. DoD, when necessary and consistent with the Board's mission and DoD policies and procedures, may establish subcommittees, task forces, or working groups to support the Board.

Establishment of subcommittees will be based upon a written determination, to include terms of reference, by the Secretary of Defense, the Deputy Secretary of Defense, or the USD(I), as the Board's sponsor.

Such subcommittees shall not work independently of the Board and shall report all of their recommendations and advice solely to the Board for full and open deliberation and discussion. Subcommittees, task forces, or working groups have no authority to make decisions and recommendations, verbally or in writing, on behalf of the Board. No subcommittee or any of its members can update or report, verbally or in writing, on behalf of the Board, directly to the DoD or any Federal officer or employee.

The Secretary of Defense or the Deputy Secretary of Defense will 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 member of the Board. Subcommittee members shall not serve more than two consecutive terms of service unless authorized by the Secretary of Defense or the Deputy Secretary of Defense.

Subcommittee members, if not full-time or permanent part-time Federal employees, will be appointed as experts or consultants pursuant to 5 U.S.C. 3109 to serve as SGE members. Subcommittee members, who are full-time or permanent part-time Federal employees, shall be appointed pursuant to 41 CFR 102–3.130(a) to serve as RGE members. With the exception of reimbursement of official travel and per diem related to the Board or its subcommittees, 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 Board's Designated Federal Officer (DFO) shall be a full-time or permanent part-time DoD employee and shall be appointed in accordance with established DoD policies and procedures. The Board's DFO is required to be in attendance at all meetings of the Board and any subcommittees for the entire duration of each and every meeting. However, in the absence of the Board's DFO, a properly approved Alternate DFO, duly appointed to the Board according to established DoD policies and procedures, shall attend the entire duration of all meetings of the Board and its subcommittees.

The DFO, or the Alternate DFO, shall call all meetings of the Board and its subcommittees; prepare and approve all meeting agendas; and 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. Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to National Intelligence University Board of Visitors membership about the Board's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the National Intelligence University Board of Visitors.

All written statements shall be submitted to the DFO for the National Intelligence University Board of Visitors, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the National Intelligence University Board of Visitors 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 National Intelligence University Board of Visitors. 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 29, 2014.

**Aaron Siegel,**

*Alternate OSD Federal Register, Liaison Officer, Department of Defense.*

[FR Doc. 2014–12828 Filed 6–2–14; 8:45 am]

BILLING CODE 5001–06–P

## DEPARTMENT OF EDUCATION

**[Docket No. ED–2014–ICCD–0031]**

## Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

**AGENCY:** Department of Education (ED), Office of Management (OM).

**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 July 3, 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–0031 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 2 E105, Washington, DC 20202.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Stephanie Valentine, 202–401–0526.

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

*OMB Control Number:* 1880–0542.

*Type of Review:* An extension of an existing information collection.

*Respondents/Affected Public:* Individuals or households.

*Total Estimated Number of Annual Responses:* 450,000.

*Total Estimated Number of Annual Burden Hours:* 225,000.

*Abstract:* This collection of information is necessary to enable the Agency to garner customer and stakeholder feedback in an efficient, timely manner in accordance with our commitment to improving service delivery. The information collected from our customers and stakeholders will help ensure that users have an effective, efficient, and satisfying experience with the Agency's programs.

Dated: May 28, 2014.

**Stephanie Valentine,**

*Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.*

[FR Doc. 2014–12735 Filed 6–2–14; 8:45 am]

BILLING CODE 4000–01–P

## DEPARTMENT OF EDUCATION

**[CFDA No. 84.200A]**

## Funding Down the Grant Slate From Fiscal Year (FY) 2012; Graduate Assistance in Areas of National Need (GAANN) Program

**AGENCY:** Office of Postsecondary Education, Department of Education.

**ACTION:** Notice of intent to fund down the grant slate from fiscal year (FY) 2012.

**SUMMARY:** The Secretary intends to use the grant slate developed in FY 2012 for the GAANN Program authorized by Section 711 of the Higher Education Act of 1965, as amended (HEA), to make new grant awards in FY 2014. The Secretary takes this action because a significant number of high-quality applications remain on the FY 2012 grant slate and limited funding is available for new grant awards in FY 2014. We expect to use an estimated $1,268,000 for new awards in FY 2014.

**FOR FURTHER INFORMATION CONTACT:** Rebecca Ell, U.S. Department of Education, 1990 K Street NW., room 7105, K–OPE–7–7063, Washington, DC 20006. Telephone: (202) 502–7779 or via Internet: *Rebecca.Ell@ed.gov*.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

**SUPPLEMENTARY INFORMATION:**

### Background

On December 15, 2011, the Department of Education published a notice in the **Federal Register** (76 FR 77985) inviting applications for FY 2012 for new awards under the GAANN Program.

In response to that notice, we received a significant number of high-quality applications. Many applications that received high scores by peer reviewers were not selected for funding.

To conserve funding that would have been required for a peer review of new grant applications submitted under this program and instead use those funds to support grant activities, the FY 2013 GAANN grantees were selected from the slate of applicants developed during the FY 2012 competition using the priority, selection criteria, and application requirements referenced in the December 2011 notice. A number of high-quality applications from the 2012 competition were not funded in 2012 or 2013. We will select new grantees in FY 2014 from the existing slate developed in FY 2012 for the same reasons and in the same manner as we did in FY 2013.

**Program Authority:** 20 U.S.C. 1135.

*Electronic Access to This Document:* The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys*. At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at this site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov*. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: May 29, 2014.

**Lynn B. Mahaffie,**

*Senior Director, Policy Coordination, Development, and Accreditation Service, delegated the authority to perform the functions and duties of the Assistant Secretary for Postsecondary Education.*

[FR Doc. 2014–12842 Filed 6–2–14; 8:45 am]

BILLING CODE 4000–01–P

## DEPARTMENT OF EDUCATION

## Applications for New Awards; Centers for International Business Education Program

**AGENCY:** Office of Postsecondary Education, Department of Education

**ACTION:** Notice.

*Overview Information:*

Centers for International Business Education (CIBE) Program Notice inviting applications for new awards for fiscal year (FY) 2014.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.220A.

**DATES:** Applications Available: June 3, 2014.

Deadline for Transmittal of Applications: July 3, 2014.

Deadline for Intergovernmental Review: September 2, 2014.

**Full Text of Announcement**

**I. Funding Opportunity Description**

*Purpose of Program:* The purpose of the CIBE Program is to provide funding to institutions of higher education or consortia of such institutions for curriculum development, research, and training on issues of importance to U.S trade and competitiveness.

*Priorities:* This notice contains two competitive preference priorities and two invitational priorities. The competitive preference priorities are from the notice of final priorities for this program, published elsewhere in this issue of the **Federal Register**.

*Competitive Preference Priorities:* For FY 2014, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i), we award up to an additional five points to an application that meets Competitive Preference Priority 1, depending on how well the application meets Competitive Preference Priority 1, and up to an additional five points to an application that meets Competitive Preference Priority 2, depending on how well the application meets Competitive Preference Priority 2. An applicant may receive a maximum of 10 points for its response to these competitive preference priorities.

These priorities are:

*Competitive Preference Priority 1—Collaboration with a Professional Association or Business.* (0–5 points)

Applications that propose to collaborate with one or more professional associations and/or businesses on activities designed to expand employment opportunities for international business students, such as internships and work-study opportunities.

*Competitive Preference Priority 2—Collaboration with Minority-Serving Institutions (MSIs) or community colleges.* (0–5 points)

Applications that propose significant and sustained collaborative activities with one or more MSIs (as defined in this notice) and/or with one or more community colleges (as defined in this notice). These activities must be designed to incorporate international, intercultural, or global dimensions into the business curriculum of the MSI(s) and/or community college(s). If an applicant institution is an MSI (as defined in this notice), that institution may propose intra-campus collaborative activities instead of, or in addition to, collaborative activities with other MSIs or community colleges.

For the purpose of this priority:

*Community college* means an institution that meets the definition in section 312(f) of the Higher Education Act of 1965, as amended (HEA) (20 U.S.C. 1058(f)); or an institution of higher education (as defined in section 101 of the HEA (20 U.S.C. 1001)) that awards degrees and certificates, more than 50 percent of which are not bachelor's degrees (or an equivalent) or master's, professional, or other advanced degrees.

*Minority-Serving Institution* (MSI) means an institution that is eligible to receive assistance under sections 316 through 320 of part A of Title III, under part B of Title III, or under Title V of the HEA.

**Note:** You may view lists of Title III and Title V eligible institutions at the following links:

*http://www.ed.gov/about/offices/list/ope/idues/t3t5-eligibles-2014.pdf.*

*http://www2.ed.gov/programs/iduesaitcc/tribal-newgrantees2013.pdf.*

*http://www.ed.gov/programs/iduesaitcc/tribal-f-nccgrantees2013.pdf.*

The eligibility status is still current for institutions listed at the links above.

You may also view the list of Historically Black Colleges and Universities at 34 CFR 608.2.

*Invitational Priorities:* For FY 2014, these priorities are invitational priorities. Under 34 CFR 75.105(c)(1), we do not give an application that meets these invitational priorities a competitive or absolute preference over other applications.

These priorities are:

*Invitational Priority 1.*

Applications that propose programs or activities focused on language instruction and/or performance testing and assessment to strengthen the preparation of international business professionals.

*Invitational Priority 2.*

Applications that propose collaborative activities and partnerships with institutions in Sub-Saharan Africa, South Asia, or Southeast Asia.

**Program Authority:** 20 U.S.C. 1130–1.

*Applicable Regulations:* (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Education Department debarment and suspension regulations in 2 CFR part 3485. (c) The notice of final priorities, published elsewhere in this issue of the **Federal Register**.

As there are no program-specific regulations, we encourage each potential applicant to read the authorizing statute for the CIBE Program in section 612 of Title VI, part B, of the HEA, 20 U.S.C. 1130–1.

**Note:** The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

**Note:** The regulations in 34 CFR part 86 apply to institutions of higher education (IHEs) only.

*Area of National Need:* In accordance with section 601(c) of the HEA (20 U.S.C. 1121(c)), the Secretary has consulted with and received recommendations regarding national need for expertise in foreign languages and world regions from the head officials of a wide range of Federal agencies. The Secretary has taken these recommendations into account, and a list of foreign languages and world regions identified by the Secretary as areas of national need may be found using the following link: *http://www2.ed.gov/about/offices/list/ope/iegps/consultation-2014.pdf.*

**II. Award Information**

*Type of Award:* Discretionary grants.

*Estimated Available Funds:* $4,571,400.

*Estimated Range of Awards:* $265,000–$305,000.

*Estimated Average Size of Awards:* $285,000.

*Maximum Award:* We will reject any application that proposes a budget exceeding $365,000 for a single budget period of 12 months.

*Estimated Number of Awards:* 16.

**Note:** The Department is not bound by any estimates in this notice.

*Project Period:* Up to 48 months.

**III. Eligibility Information**

1. *Eligible Applicants:* IHEs or consortia of IHEs.

2. *Cost Sharing or Matching:* The matching requirement is described in section 612(e) of the HEA (20 U.S.C. 1130–1(e)(2)(3)(4)). The HEA requires that the Federal share of the cost of planning, establishing, and operating centers under this program shall be—

a. Not more than 90 percent for the first year in which Federal funds are received;

b. Not more than 70 percent for the second year; and

c. Not more than 50 percent for the third year and for each year thereafter.

The non-Federal share of the cost of planning, establishing, and operating centers under this program may be provided either in cash or in-kind.

Waiver of non-Federal share: In the case of an IHE receiving a grant under the CIBE Program and conducting outreach or consortium activities with another IHE in accordance with section 612(c)(2)(E) of the HEA, the Secretary may waive a portion of the requirements for the non-Federal share equal to the amount provided by the IHE receiving the grant to the other IHE for carrying out the outreach or consortium activities. Any such waiver is subject to the terms and conditions the Secretary deems necessary for carrying out the purposes of the program.

## IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the Internet or from the Education Publications Center (ED Pubs). To obtain a copy via the Internet, use the following address: *http://grants.gov.* To obtain a copy from ED Pubs, write, fax, or call the following: ED Pubs, U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. FAX: (703) 605–6794. If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *www.EDPubs.gov* or at its email address: *edpubs@inet.ed.gov.*

If you request an application from ED Pubs, be sure to identify the competition as follows: CFDA number 84.220A.

Individuals with disabilities can obtain a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the person or team listed under *Accessible Format* in section VIII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this program. Page Limit: The application narrative (Part III of the application) is the section where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit the application narrative to no more than 55 typed pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, *except* titles, headings, footnotes, quotations, references, and captions. Charts, tables, figures, and graphs in the application narrative may be single-spaced and will count toward the page limit.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch). However, you may use a 10-point font in charts, tables, figures, and graphs.
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman and Arial Narrow) will not be accepted.
- The page limit does not apply to Part I, the Application for Federal Assistance cover sheet (SF 424); the supplemental information form; Part II, the budget summary form (ED Form 524); Part IV, assurances, certifications, and the response to Section 427 of the General Education Provisions Act; the table of contents; the one-page project abstract; the appendices; or the line item budget.

We will reject your application if you exceed the page limit.

3. *Submission Dates and Times:*

Applications Available: June 3, 2014.

Deadline for Transmittal of Applications: July 3, 2014.

Applications for grants under this program must be submitted electronically using the Grants.gov Apply site (*grants.gov*). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV.7. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice. Deadline for Intergovernmental Review: September 2, 2014.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM) (formerly the Central Contractor Registry (CCR)), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet. A DUNS number can be created within one to two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow 2–5 weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data entered into the SAM database by an entity. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

**Note:** Once your SAM registration is active, you will need to allow 24 to 48 hours for the information to be available in Grants.gov and before you can submit an application through Grants.gov.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov.* To further assist you with obtaining and registering your

DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: *http://www2.ed.gov/fund/grant/apply/sam-faqs.html.*

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/web/grants/register.html.*

7. *Other Submission Requirements:* Applications for grants under this program must be submitted electronically unless an IHE qualifies for an exception to this requirement in accordance with the instructions in this section.

a. Electronic Submission of Applications

Applications for grants under the CIBE Program, CFDA number 84.220A, must be submitted electronically using the Governmentwide Grants.gov Apply site at *www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the CIBE Program at *www.Grants.gov.* You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.220, not 84.220A).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *www.G5.gov.*
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: the Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- You must upload any narrative sections and all other attachments to your application as files in a PDF (Portable Document) read-only, non-modifiable format. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF or submit a password-protected file, we will not review that material.
- Your electronic application must comply with any page-limit requirements described in this notice.
- After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).
- We may request that you provide us original signatures on forms at a later date.

*Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System:* If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that the problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

**Note:** The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the

technical problem you experienced is unrelated to the Grants.gov system.

*Exception to Electronic Submission Requirement:* You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

- You do not have access to the Internet; or
- You do not have the capacity to upload large documents to the Grants.gov system;

*and*

- No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Timothy Duvall, U.S. Department of Education, 1990 K Street NW., Room 6069, Washington, DC 20006–8521. FAX: (202) 502–7860.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. Submission of Paper Applications by Mail

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.220A), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

**Note:** The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. Submission of Paper Applications by Hand Delivery

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application, by hand, on or before the application deadline date, to the Department at the following address:

U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.220A), 550 12th Street SW., Room 7039, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

*Note for Mail or Hand Delivery of Paper Applications:* If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

## V. Application Review Information

1. *Selection Criteria:* The selection criteria for this program are from EDGAR (34 CFR 75.209 and 75.210) and are as follows: (a) meeting the purpose of the authorizing statute, which is to coordinate the programs of the Federal Government in the areas of research, education, and training in international business and trade competitiveness (see section 612(a)(1) of the HEA, 20 U.S.C. 1130–1(a)(1)), (b) significance, (c) quality of the project design, (d) quality of the management plan, (e) quality of project personnel, (f) adequacy of resources, and (g) quality of the project evaluation.

**Note:** Applicants should address these selection criteria only in the context of the program requirements in section 612 of the HEA.

Additional information regarding these criteria is in the application package for this program. The total number of points available under these selection criteria, combined with the competitive preference priorities, is as follows:

| Selection criteria | Maximum points possible |
|---|---|
| Meeting the purpose of the authorizing statute | 20 |
| Significance | 20 |
| Quality of the project design | 10 |
| Quality of the management plan | 10 |
| Quality of project personnel | 10 |
| Adequacy of resources | 10 |
| Quality of the project evaluation | 20 |
| Subtotal | 100 |
| Competitive preference priorities (Optional) | 10 |
| Total possible points | 110 |

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Special Conditions:* Under 34 CFR 74.14 and 80.12, the Secretary may impose special conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system

that does not meet the standards in 34 CFR parts 74 or 80, as applicable; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

**VI. Award Administration Information**

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c).

For the CIBE Program, final and annual reports must be submitted into the International Resource Information System (IRIS) online data and reporting system. You can view the performance report screens and instructions at *http://iris.ed.gov/iris/pdfs/CIBE.pdf*.

4. *Performance Measures:* Under the Government Performance and Results Act of 1993, as updated by the GPRA Modernization Act of 2010 on January 4, 2011, the Department will use the following performance measures to evaluate the success of the CIBE Program:

1: Percentage of CIBE Program participants who advanced in their professional field two years after their participation.

2: Percentage of CIBE projects that established or internationalized a concentration, degree, or professional program with a focus on or connection to international business over the course of the CIBE grant period. (long-term measure).

3: Percentage of CIBE projects for which there was an increase in the export business activities of the project's business industry participants.

The information provided by grantees in their performance reports submitted via IRIS will be the source of data for these measures.

5. *Continuation Awards:* In making a continuation award, the Secretary may consider, under 34 CFR 75.253, the extent to which a grantee has made ''substantial progress toward meeting the objectives in its approved application.'' This consideration includes the review of a grantee's progress in meeting the targets and projected outcomes in its approved application, and whether the grantee has expended funds in a manner that is consistent with its approved application and budget. In making a continuation grant, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

**VII. Agency Contact**

**FOR FURTHER INFORMATION CONTACT:** Timothy Duvall, U.S. Department of Education, 1990 K Street NW., Room 6069, Washington, DC 20006–8521. Telephone: (202) 502–7622 or by email: *timothy.duvall@ed.gov*.

If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

**VIII. Other Information**

*Accessible Format:* Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

*Electronic Access to This Document:* The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: May 29, 2014.

**Lynn B. Mahaffie,**

*Senior Director, Policy Coordination, Development, and Accreditation Service, delegated the authority to perform the functions and duties of the Assistant Secretary for Postsecondary Education.*

[FR Doc. 2014–12848 Filed 6–2–14; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF ENERGY

### Proposed Agency Information Collection

**AGENCY:** U.S. Department of Energy.

**ACTION:** Notice and request for OMB review and comment.

**SUMMARY:** The Department of Energy (DOE) has submitted to the Office of Management and Budget (OMB) for clearance, a proposal for collection of information under the provisions of the Paperwork Reduction Act of 1995. The proposed collection will provide the Secretary of Energy with the appropriate information needed to make an informed determination regarding a request to directly or indirectly engage or participate in the development or production of special nuclear material outside the United States. Section 57b.(2) of the Atomic Energy Act (AEA) of 1954, as amended by section 302 of the Nuclear Nonproliferation Act of 1978 (NNPA) enacted by Public Law 95–242, empowers the Secretary of Energy (Secretary) to authorize persons to directly or indirectly engage or participate in the development or production of special nuclear material outside the United States. In order to implement Section 57b.(2), DOE promulgated a rule found at 10 CFR part 810. This rule describes what activities are within the scope of control, what activities are generally authorized by the Secretary, and what activities require a specific authorization. The regulation requires the submission of specific information essential for the Secretary

to make a non-inimicality finding about the proposed transfer of U.S. nuclear technology, assistance or expertise.

**DATES:** Comments regarding this collection must be received on or before July 3, 2014. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, please advise the DOE Desk Officer at OMB of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at 202–395–4650.

**ADDRESSES:** Written comments should be sent to the DOE Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 735 17th Street NW., Washington, DC 20503 and LaReina Parker, Office of Nonproliferation and International Security (NA–24), National Nuclear Security Administration, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585.

**FOR FURTHER INFORMATION CONTACT:** LaReina Parker, Office of Nonproliferation and International Security, NA–24, National Nuclear Security Administration, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, telephone, (202) 586–6493; *Part810.SNOPR@hq.doe.gov*. The collection instrument can be viewed at the following Web site: *http://www.regulations.gov/index.jsp#!documentDetail;D=DOE_FRDOC_0001-2467*.

**SUPPLEMENTARY INFORMATION:** This information collection request contains: (1) OMB No. A1901–0263; (2) Information Collection Request Title: Assistance to Foreign Atomic Energy Activities; (3) Type of Request: Reinstatement; (4) Purpose: Pursuant to Section 57b.(2), DOE promulgated a rule found at 10 CFR part 810 that implements the broad provisions therein. Specifically, this rule describes what activities are within the scope of control, what activities are generally authorized, what activities require a specific authorization, provides information requirements for reporting generally and specifically authorized activities, and information requirements for applications for specific authorization. The information is essential for the Secretary to make a non-inimicality finding about the proposed transfer of U.S. nuclear technology, assistance or expertise, and applies to anyone that is a ''person'' under the regulation that engages in the export or provision of assistance to a foreign civilian nuclear program; (5) Annual Estimated Number of Respondents: 145; (6) Annual Estimated Number of Total Responses: 322; (7) Annual Estimated Number of Burden Hours: 966; (8) Annual Estimated Reporting and Recordkeeping Cost Burden: The total annual cost burden is estimated at $999.50.

Statutory Authority: Section 57 b.(2) of the Atomic Energy Act (AEA) of 1954, as amended by section 302 of the Nuclear Nonproliferation Act of 1978 (NNPA) enacted by Public Law 95–242.

Issued in Washington, DC, on May 23, 2014.

**Richard Goorevich,**

*Senior Policy Advisor, Office of Nonproliferation and International Security.*

[FR Doc. 2014–12800 Filed 6–2–14; 8:45 am]

BILLING CODE 6450–01–P

## DEPARTMENT OF ENERGY

### Commission To Review the Effectiveness of the National Energy Laboratories

**AGENCY:** Department of Energy.

**ACTION:** Notice of Intent To Establish the Commission To Review the Effectiveness of the National Energy Laboratories.

**SUMMARY:** Following consultation with the Committee Management Secretariat, General Services Administration, notice is hereby given that the Commission To Review the Effectiveness of the National Energy Laboratories (Commission) will be established. The Commission will provide advice and recommendations to the Secretary of Energy.

Additionally, the establishment of the Commission has been determined to be essential to the conduct of the Department's business and to be in the public interest in connection with the performance of duties imposed upon the Department of Energy by law and agreement. The Commission will operate in accordance with the provisions of the Federal Advisory Committee Act and the rules and regulations in implementation of that Act.

**SUPPLEMENTARY INFORMATION:** Pursuant to Section 14(a)(2)(A) of the Federal Advisory Committee Act (Pub. L. 92–463), section 319 of the Consolidated Appropriations Act of 2014, Public Law 113–76, and in accordance with title 41, Code of Federal Regulations, section 102–3.65, and following consultation with the Committee Management Secretariat, General Services Administration, notice is hereby given that the Commission to Review the Effectiveness of the National Energy Laboratories will be established.

The activities of the Commission will include, but are not limited to:

Two phases are planned for the Commission. In Phase 1, the objective of the Commission is to address whether the Department of Energy's (DOE) national laboratories are properly aligned with the Department's strategic priorities; have clear, well understood, and properly balanced missions that are not unnecessarily redundant and duplicative; have unique capabilities that have sufficiently evolved to meet current and future energy and national security challenges; are appropriately sized to meet the Department's energy and national security missions; and are appropriately supporting other Federal agencies and the extent to which it benefits DOE missions.

For Phase 2, the Commission shall also determine whether there are opportunities to more effectively and efficiently use the capabilities of the national laboratories, including consolidation and realignment, reducing overhead costs, reevaluating governance models using industrial and academic bench marks for comparison, and assessing the impact of DOE's oversight and management approach. In its evaluation, the Commission should also consider the cost and effectiveness of using other research, development, and technology centers and universities as an alternative to meeting DOE's energy and national security goals.

The Commission shall analyze the effectiveness of the use of laboratory directed research and development (LDRD) to meet the Department of Energy's science, energy, and national security goals. The Commission shall further evaluate the effectiveness of the Department's oversight approach to ensure LDRD-funded projects are compliant with statutory requirements and congressional direction, including requirements that LDRD projects be distinct from projects directly funded by appropriations and that LDRD projects derived from the Department's national security programs support the national security mission of the Department of Energy. Finally, the Commission shall quantify the extent to which LDRD funding supports recruiting and retention of qualified staff.

The Commission will submit a report containing the Commission's findings and conclusions to the Secretary of Energy, the Committees on Appropriations of the House of Representatives, and the Senate.

The Commission terminates following submission of its final report to the Secretary of Energy and the Committees on Appropriations of the House of Representatives and the Senate, unless,

prior to that time, the charter is renewed in accordance with Section 14 of the FACA.

The Commission shall be composed of approximately nine members, appointed by the Secretary of Energy to serve as special Government employees. The members shall be eminent in a field of science or engineering; and/or have expertise in managing scientific facilities; and/or have expertise in cost and/or program analysis; and have an established record of distinguished service. The membership of the Commission shall be representative of the broad range of scientific, engineering, financial, and managerial disciplines related to activities under this title. Subcommittees may be utilized.

**FOR FURTHER INFORMATION CONTACT:** Karen Gibson, (202) 586–3787.

Issued in Washington, DC, on May 28, 2014.

**Amy Bodette,**

*Committee Management Officer.*

[FR Doc. 2014–12801 Filed 6–2–14; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

**Filings Instituting Proceedings**

*Docket Numbers:* RP14–886–000.
*Applicants:* Equitrans, L.P.
*Description:* Docket RP14–442 Compliance Filing.
*Filed Date:* 5/15/14.
*Accession Number:* 20140515–5033.
*Comments Due:* 5 p.m. ET 5/27/14.

*Docket Numbers:* RP14–887–000.
*Applicants:* Rager Mountain Storage Company LLC.
*Description:* Docket No RP14–442 Compliance Filing.
*Filed Date:* 5/15/14.
*Accession Number:* 20140515–5034.
*Comments Due:* 5 p.m. ET 5/27/14.

*Docket Numbers:* RP14–888–000.
*Applicants:* Nautilus Pipeline Company, L.L.C.
*Description:* Purchase Capacity Compliance Filing to be effective 6/15/2014.
*Filed Date:* 5/15/14.
*Accession Number:* 20140515–5046.
*Comments Due:* 5 p.m. ET 5/27/14.

*Docket Numbers:* RP14–889–000.
*Applicants:* Garden Banks Gas Pipeline, LLC.
*Description:* Comply with Order RP14–442–000 to be effective 6/15/2014.
*Filed Date:* 5/15/14.
*Accession Number:* 20140515–5045.
*Comments Due:* 5 p.m. ET 5/27/14.

*Docket Numbers:* RP14–890–000.
*Applicants:* Mississippi Canyon Gas Pipeline, L.L.C.
*Description:* Purchase Capacity Compliance Filing to be effective 6/15/2014.
*Filed Date:* 5/15/14.
*Accession Number:* 20140515–5047.
*Comments Due:* 5 p.m. ET 5/27/14.

*Docket Numbers:* RP14–891–000.
*Applicants:* Transwestern Pipeline Company, LLC.
*Description:* Order to Show Cause Compliance Filing to be effective 7/1/2014.
*Filed Date:* 5/15/14.
*Accession Number:* 20140515–5058.
*Comments Due:* 5 p.m. ET 5/27/14.

*Docket Numbers:* RP14–892–000.
*Applicants:* Fayetteville Express Pipeline LLC.
*Description:* Order to Show Cause Compliance Filing to be effective 7/1/2014.
*Filed Date:* 5/15/14.
*Accession Number:* 20140515–5059.
*Comments Due:* 5 p.m. ET 5/27/14.

*Docket Numbers:* RP14–893–000.
*Applicants:* Stingray Pipeline Company, L.L.C.
*Description:* Offer to Purchase Capacity Compliance to be effective 6/15/2014.
*Filed Date:* 5/15/14.
*Accession Number:* 20140515–5060.
*Comments Due:* 5 p.m. ET 5/27/14.

*Docket Numbers:* RP14–894–000.
*Applicants:* ETC Tiger Pipeline, LLC.
*Description:* Order to Show Cause Compliance Filing to be effective 7/1/2014.
*Filed Date:* 5/15/14.
*Accession Number:* 20140515–5061.
*Comments Due:* 5 p.m. ET 5/27/14.

*Docket Numbers:* RP14–895–000.
*Applicants:* Central New York Oil And Gas, L.L.C.
*Description:* Capacity Release Purchase Offer Posting Show Cause Order Compliance Filing to be effective 12/31/9998.
*Filed Date:* 5/15/14.
*Accession Number:* 20140515–5078.
*Comments Due:* 5 p.m. ET 5/27/14.

*Docket Numbers:* RP14–896–000.
*Applicants:* Tallgrass Interstate Gas Transmission, L.
*Description:* Compliance to Show Cause—RP14–442 to be effective 6/14/2014.
*Filed Date:* 5/15/14.
*Accession Number:* 20140515–5087.
*Comments Due:* 5 p.m. ET 5/27/14.

*Docket Numbers:* RP14–897–000.
*Applicants:* National Grid LNG, LLC.
*Description:* RP14–442 Compliance.
*Filed Date:* 5/15/14.
*Accession Number:* 20140515–5119.
*Comments Due:* 5 p.m. ET 5/27/14.

*Docket Numbers:* RP14–898–000.
*Applicants:* Cameron Interstate Pipeline, LLC.
*Description:* Cameron Interstate Pipeline Requests to Purchase Capacity Compliance Filing to be effective 7/1/2014.
*Filed Date:* 5/15/14.
*Accession Number:* 20140515–5124.
*Comments Due:* 5 p.m. ET 5/27/14.

*Docket Numbers:* RP14–899–000.
*Applicants:* Mississippi Hub, LLC.
*Description:* Mississippi Hub Requests to Purchase Capacity Compliance Filing to be effective 7/1/2014.
*Filed Date:* 5/15/14.
*Accession Number:* 20140515–5125.
*Comments Due:* 5 p.m. ET 5/27/14.

*Docket Numbers:* RP14–900–000.
*Applicants:* LA Storage, LLC.
*Description:* LA Storage Request to Purchase Capacity Compliance Filing to be effective 7/1/2014.
*Filed Date:* 5/15/14.
*Accession Number:* 20140515–5126.
*Comments Due:* 5 p.m. ET 5/27/14.

*Docket Numbers:* RP14–901–000.
*Applicants:* Eastern Shore Natural Gas Company.
*Description:* Compliance to Show Cause Order.
*Filed Date:* 5/15/14.
*Accession Number:* 20140515–5127.
*Comments Due:* 5 p.m. ET 5/27/14.

*Docket Numbers:* RP14–902–000.
*Applicants:* Enable Gas Transmission, LLC.
*Description:* Negotiated Rate Filing—May 15, 2014 to be effective 5/15/2014.
*Filed Date:* 5/15/14.
*Accession Number:* 20140515–5143.
*Comments Due:* 5 p.m. ET 5/27/14.

*Docket Numbers:* RP14–903–000.
*Applicants:* SG Resources Mississippi, L.L.C.
*Description:* SG Resources Compliance with Capacity Release Purchase Offer to be effective 7/1/2014.
*Filed Date:* 5/15/14.
*Accession Number:* 20140515–5163.
*Comments Due:* 5 p.m. ET 5/27/14.

*Docket Numbers:* RP14–904–000.
*Applicants:* Pine Prairie Energy Center, LLC.
*Description:* Pine Prairie Compliance with Capacity Release Purchase Offer to be effective 7/1/2014.
*Filed Date:* 5/15/14.
*Accession Number:* 20140515–5166.

*Comments Due:* 5 p.m. ET 5/27/14.
*Docket Numbers:* RP14–905–000.
*Applicants:* Bluewater Gas Storage, LLC.
*Description:* Blue Water Compliance With Capacity Release Purchase Offer to be effective 7/1/2014.
*Filed Date:* 5/15/14.
*Accession Number:* 20140515–5170.
*Comments Due:* 5 p.m. ET 5/27/14.
*Docket Numbers:* RP14–906–000.
*Applicants:* Honeoye Storage Corporation.
*Description:* May 2014—Show Cause Order March 20, 2014 to be effective 5/20/2014.
*Filed Date:* 5/15/14.
*Accession Number:* 20140515–5189.
*Comments Due:* 5 p.m. ET 5/27/14.
*Docket Numbers:* RP14–907–000.
*Applicants:* Questar Pipeline Company.
*Description:* Notice of Offers to Release or to Purchase Capacity to be effective 6/16/2014.
*Filed Date:* 5/15/14.
*Accession Number:* 20140515–5244.
*Comments Due:* 5 p.m. ET 5/27/14.
*Docket Numbers:* RP14–908–000.
*Applicants:* Gulf Crossing Pipeline Company LLC.
*Description:* Compliance Filing to Show Cause Order in RP14–442–000 to be effective 6/15/2014.
*Filed Date:* 5/16/14.
*Accession Number:* 20140516–5035.
*Comments Due:* 5 p.m. ET 5/28/14.
*Docket Numbers:* RP14–909–000.
*Applicants:* Gulf South Pipeline Company, LP.
*Description:* Compliance Filing to Show Cause Order in RP14–442–000 to be effective 6/15/2014.
*Filed Date:* 5/16/14.
*Accession Number:* 20140516–5036.
*Comments Due:* 5 p.m. ET 5/28/14.
*Docket Numbers:* RP14–910–000.
*Applicants:* Texas Gas Transmission, LLC.
*Description:* Compliance filing in Docket No. RP14–442–000 to be effective 6/15/2014.
*Filed Date:* 5/16/14.
*Accession Number:* 20140516–5037.
*Comments Due:* 5 p.m. ET 5/28/14.
*Docket Numbers:* RP14–911–000.
*Applicants:* Petal Gas Storage, L.L.C.
*Description:* Compliance Filing in RP14–442 Show Cause Order to be effective 6/15/2014.
*Filed Date:* 5/16/14.
*Accession Number:* 20140516–5038.
*Comments Due:* 5 p.m. ET 5/28/14.
*Docket Numbers:* RP14–912–000.
*Applicants:* Boardwalk Storage Company, LLC.
*Description:* Compliance filing to Docket No. RP14–442–000 to be effective 6/15/2014.
*Filed Date:* 5/16/14.
*Accession Number:* 20140516–5039.
*Comments Due:* 5 p.m. ET 5/28/14.
*Docket Numbers:* RP14–913–000.
*Applicants:* Southwest Gas Storage Company.
*Description:* Order to Show Cause Compliance Filing to be effective 7/1/2014.
*Filed Date:* 5/16/14.
*Accession Number:* 20140516–5045.
*Comments Due:* 5 p.m. ET 5/28/14.
*Docket Numbers:* RP14–914–000.
*Applicants:* Sea Robin Pipeline Company, LLC.
*Description:* Order to Show Cause Compliance Filing to be effective 7/1/2014
*Filed Date:* 5/16/14.
*Accession Number:* 20140516–5047.
*Comments Due:* 5 p.m. ET 5/28/14.
*Docket Numbers:* RP14–915–000
*Applicants:* Trunkline LNG Company, LLC.
*Description:* Order to Show Cause Compliance Filing to be effective 7/1/2014.
*Filed Date:* 5/16/14.
*Accession Number:* 20140516–5050.
*Comments Due:* 5 p.m. ET 5/28/14.
*Docket Numbers:* RP14–916–000.
*Applicants:* Clear Creek Storage Company, L.L.C.
*Description:* Docket No. RP14–442–000 Compliance Filing to be effective 7/1/2014.
*Filed Date:* 5/16/14.
*Accession Number:* 20140516–5069.
*Comments Due:* 5 p.m. ET 5/28/14.
*Docket Numbers:* RP14–917–000.
*Applicants:* Rendezvous Pipeline Company, LLC.
*Description:* Docket No. RP14–442–000 Compliance Filing to be effective 7/1/2014.
*Filed Date:* 5/16/14.
*Accession Number:* 20140516–5070.
*Comments Due:* 5 p.m. ET 5/28/14.
*Docket Numbers:* RP14–918–000.
*Applicants:* EQT Energy, LLC.
*Description:* Petition for Temporary Waiver of EQT Energy, LLC.
*Filed Date:* 5/16/14.
*Accession Number:* 20140516–5081.
*Comments Due:* 5 p.m. ET 5/23/14.
*Docket Numbers:* RP14–919–000.
*Applicants:* Midcontinent Express Pipeline LLC.
*Description:* Show Cause Order Compliance Filing.
*Filed Date:* 5/16/14.
*Accession Number:* 20140516–5087.
*Comments Due:* 5 p.m. ET 5/28/14.
*Docket Numbers:* RP14–920–000.
*Applicants:* Kinder Morgan Louisiana Pipeline LLC.
*Description:* Kinder Morgan Louisiana Pipeline LLC submits tariff filing per 154.203: Show Cause Order Compliance Filing.
*Filed Date:* 5/16/14.
*Accession Number:* 20140516–5099.
*Comments Due:* 5 p.m. ET 5/28/14.
*Docket Numbers:* RP14–921–000.
*Applicants:* Kinder Morgan Illinois Pipeline LLC.
*Description:* Kinder Morgan Illinois Pipeline LLC submits tariff filing per 154.203: Show Cause Order Compliance Filing.
*Filed Date:* 5/16/14.
*Accession Number:* 20140516–5106.
*Comments Due:* 5 p.m. ET 5/28/14.
*Docket Numbers:* RP14–922–000.
*Applicants:* Horizon Pipeline Company, L.L.C.
*Description:* Horizon Pipeline Company, L.L.C. submits tariff filing per 154.203: Show Cause Order Compliance Filing.
*Filed Date:* 5/16/14.
*Accession Number:* 20140516–5107.
*Comments Due:* 5 p.m. ET 5/28/14.
*Docket Numbers:* RP14–923–000.
*Applicants:* Natural Gas Pipeline Company of America.
*Description:* Natural Gas Pipeline Company of America LLC submits tariff filing per 154.203: Show Cause Order Compliance Filing.
*Filed Date:* 5/16/14.
*Accession Number:* 20140516–5108.
*Comments Due:* 5 p.m. ET 5/28/14.
*Docket Numbers:* RP14–924–000.
*Applicants:* Cheyenne Plains Gas Pipeline Company, L.
*Description:* Cheyenne Plains Gas Pipeline Company, L.L.C. submits tariff filing per 154.203: Show Cause Order Compliance Filing to be effective 6/15/2014.
*Filed Date:* 5/16/14.
*Accession Number:* 20140516–5121.
*Comments Due:* 5 p.m. ET 5/28/14.
*Docket Numbers:* RP14–925–000.
*Applicants:* Ruby Pipeline, L.L.C.
*Description:* Ruby Pipeline, L.L.C. submits tariff filing per 154.203: Show Cause Order Compliance Filing to be effective 6/15/2014.
*Filed Date:* 5/16/14.
*Accession Number:* 20140516–5122.
*Comments Due:* 5 p.m. ET 5/28/14.
*Docket Numbers:* RP14–926–000.
*Applicants:* Colorado Interstate Gas Company, L.L.C.
*Description:* Colorado Interstate Gas Company, L.L.C. submits tariff filing per 154.203: Show Cause Order Compliance Filing to be effective 6/15/2014.
*Filed Date:* 5/16/14.
*Accession Number:* 20140516–5123.
*Comments Due:* 5 p.m. ET 5/28/14.
*Docket Numbers:* RP14–927–000.
*Applicants:* Wyoming Interstate Company, L.L.C.

*Description:* Wyoming Interstate Company, L.L.C. submits tariff filing per 154.203: Show Cause Order Compliance Filing to be effective 6/15/2014.
*Filed Date:* 5/16/14.
*Accession Number:* 20140516–5124.
*Comments Due:* 5 p.m. ET 5/28/14.

*Docket Numbers:* RP14–928–000.
*Applicants:* Young Gas Storage Company, Ltd.
*Description:* Young Gas Storage Company, Ltd. submits tariff filing per 154.203: Show Cause Order Compliance Filing to be effective 6/15/2014.
*Filed Date:* 5/16/14.
*Accession Number:* 20140516–5125.
*Comments Due:* 5 p.m. ET 5/28/14.

*Docket Numbers:* RP14–929–000.
*Applicants:* Guardian Pipeline, L.L.C.
*Description:* Guardian Pipeline, L.L.C. submits tariff filing per 154.203: RP14–442–000 Show Cause Compliance Filing to be effective 7/15/2014.
*Filed Date:* 5/16/14.
*Accession Number:* 20140516–5131.
*Comments Due:* 5 p.m. ET 5/28/14.

*Docket Numbers:* RP14–930–000.
*Applicants:* East Tennessee Natural Gas, LLC.
*Description:* East Tennessee Natural Gas, LLC submits tariff filing per 154.204: GeoMet temporary release to ARP to be effective 5/13/2014.
*Filed Date:* 5/16/14.
*Accession Number:* 20140516–5134.
*Comments Due:* 5 p.m. ET 5/28/14.

*Docket Numbers:* RP14–931–000.
*Applicants:* Midwestern Gas Transmission Company.
*Description:* Midwestern Gas Transmission Company submits tariff filing per 154.203: RP14–442–000 Show Cause Compliance Filing to be effective 7/15/2014.
*Filed Date:* 5/16/14.
*Accession Number:* 20140516–5140.
*Comments Due:* 5 p.m. ET 5/28/14.

*Docket Numbers:* RP14–932–000.
*Applicants:* OkTex Pipeline Company, L.L.C.
*Description:* OkTex Pipeline Company, L.L.C. submits tariff filing per 154.203: RP14–442–000 Show Cause Compliance Filing to be effective 7/15/2014.
*Filed Date:* 5/16/14.
*Accession Number:* 20140516–5144.
*Comments Due:* 5 p.m. ET 5/28/14.

*Docket Numbers:* RP14–933–000.
*Applicants:* Viking Gas Transmission Company.
*Description:* Viking Gas Transmission Company submits tariff filing per 154.203: RP14–442–000 Show Cause Compliance Filing to be effective 7/15/2014.
*Filed Date:* 5/16/14.
*Accession Number:* 20140516–5155.
*Comments Due:* 5 p.m. ET 5/28/14.

*Docket Numbers:* RP14–934–000.
*Applicants:* Questar Southern Trails Pipeline Company.
*Description:* Questar Southern Trails Pipeline Company submits tariff filing per 154.203: Notice of Offers to Release or to Purchase Released Capacity to be effective 6/16/2014.
*Filed Date:* 5/16/14.
*Accession Number:* 20140516–5185.
*Comments Due:* 5 p.m. ET 5/28/14.

*Docket Numbers:* RP14–935–000.
*Applicants:* Questar Overthrust Pipeline Company.
*Description:* Questar Overthrust Pipeline Company submits tariff filing per 154.203: Notice of Offers to Release or to Purchase Released Capacity to be effective 6/16/2014.
*Filed Date:* 5/16/14.
*Accession Number:* 20140516–5188.
*Comments Due:* 5 p.m. ET 5/28/14.

*Docket Numbers:* RP14–936–000.
*Applicants:* White River Hub, LLC.
*Description:* White River Hub, LLC submits tariff filing per 154.203: Notice of Offers to Release or to Purchase Released Capacity to be effective 6/16/2014.
*Filed Date:* 5/16/14.
*Accession Number:* 20140516–5189.
*Comments Due:* 5 p.m. ET 5/28/14.

*Docket Numbers:* RP14–937–000.
*Applicants:* Portland General Electric Company.
*Description:* Portland General Electric Company submits tariff filing per 154.203: PGE Response in RP14–442.
*Filed Date:* 5/16/14.
*Accession Number:* 20140516–5206.
*Comments Due:* 5 p.m. ET 5/28/14.

*Docket Numbers:* RP14–938–000.
*Applicants:* WestGas InterState, Inc.
*Description:* WestGas InterState, Inc. submits tariff filing per 154.203: 20140516_Compliance Filing_WGI Response to Order to Show Cause.
*Filed Date:* 5/16/14.
*Accession Number:* 20140516–5208.
*Comments Due:* 5 p.m. ET 5/28/14.

*Docket Numbers:* RP14–939–000.
*Applicants:* Tennessee Gas Pipeline Company, L.L.C.
*Description:* Tennessee Gas Pipeline Company, L.L.C. submits tariff filing per 154.204: Scheduling Priority Provisions to be effective 6/17/2014.
*Filed Date:* 5/16/14.
*Accession Number:* 20140516–5209.
*Comments Due:* 5 p.m. ET 5/28/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 19, 2014.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2014–12712 Filed 6–2–14; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

**Filings Instituting Proceedings**

*Docket Numbers:* RP14–218–000.
*Applicants:* High Island Offshore System, L.L.C.
*Description:* HIOS Motion Rate Filing (RP14–218) to be effective 6/1/2014.
*Filed Date:* 5/21/14.
*Accession Number:* 20140521–5101.
*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–989–000.
*Applicants:* Millennium Pipeline Company, LLC.
*Description:* Order to Show Cause Compliance Filing to be effective 5/20/2014.
*Filed Date:* 5/20/14.
*Accession Number:* 20140520–5125.
*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–990–000.
*Applicants:* Colorado Interstate Gas Company, L.L.C.
*Description:* Xpress to DART Conversion Filing to be effective 12/31/9998.
*Filed Date:* 5/21/14.
*Accession Number:* 20140521–5185.
*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–991–000.
*Applicants:* Wyoming Interstate Company, L.L.C.
*Description:* Xpress to DART Conversion Filing to be effective 12/31/9998.
*Filed Date:* 5/21/14.

*Accession Number:* 20140521–5186.
*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–992–000.
*Applicants:* Vector Pipeline L.P.
*Description:* Negotiated Rate Filing to be effective 6/23/2014.
*Filed Date:* 5/22/14.
*Accession Number:* 20140522–5005.
*Comments Due:* 5 p.m. ET 6/3/14.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR § 385.211 and § 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

**Filings in Existing Proceedings**

*Docket Numbers:* RP13–941–005.
*Applicants:* Southern Star Central Gas Pipeline, Inc.
*Description:* Rate Case (RP13–941) Settlement Filing to be effective 12/1/2013.
*Filed Date:* 5/21/14.
*Accession Number:* 20140521–5056.
*Comments Due:* 5 p.m. ET 6/2/14.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 22, 2014.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2014–12714 Filed 6–2–14; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER14–1388–001.
*Applicants:* El Paso Electric Company.
*Description:* OATT Revisions to Reflect Palo Verde Index Pricing for Sch 4 and 9 Imbalances to be effective 5/1/2014.
*Filed Date:* 5/22/14.
*Accession Number:* 20140522–5078.
*Comments Due:* 5 p.m. ET 6/12/14.

*Docket Numbers:* ER14–1606–002.
*Applicants:* Cosima Energy, LLC.
*Description:* 2nd Amended MBR Tariff Filing to be effective 5/1/2014.
*Filed Date:* 5/22/14.
*Accession Number:* 20140522–5049.
*Comments Due:* 5 p.m. ET 6/12/14.

*Docket Numbers:* ER14–1776–001.
*Applicants:* Broken Bow Wind II, LLC.
*Description:* Broken Bow Wind II, LLC. Market-Based Rates Tariff Supplement to be effective 7/1/2014.
*Filed Date:* 5/21/14.
*Accession Number:* 20140521–5180.
*Comments Due:* 5 p.m. ET 6/4/14.

*Docket Numbers:* ER14–2006–000.
*Applicants:* New York Independent System Operator, Inc.
*Description:* NYISO compliance re: behind the meter generation to be effective 12/31/9998.
*Filed Date:* 5/21/14.
*Accession Number:* 20140521–5187.
*Comments Due:* 5 p.m. ET 6/11/14.

*Docket Numbers:* ER14–2007–000.
*Applicants:* Southern California Edison Company.
*Description:* GIA and Distribution Service Agreement with SunEdison for Pico Rivera Project to be effective 5/23/2014.
*Filed Date:* 5/22/14.
*Accession Number:* 20140522–5001.
*Comments Due:* 5 p.m. ET 6/12/14.

*Docket Numbers:* ER14–2008–000.
*Applicants:* Southwest Power Pool, Inc.
*Description:* Notice of Cancellation of Golden Spread Letter Agreement of Southwest Power Pool, Inc.
*Filed Date:* 5/22/14.
*Accession Number:* 20140522–5025.
*Comments Due:* 5 p.m. ET 6/12/14.

*Docket Numbers:* ER14–2009–000.
*Applicants:* Southwest Power Pool, Inc.
*Description:* 2562R1 Kansas Municipal Energy Agency NITSA and NOA to be effective 5/1/2014.
*Filed Date:* 5/22/14.
*Accession Number:* 20140522–5029.
*Comments Due:* 5 p.m. ET 6/12/14.

*Docket Numbers:* ER14–2010–000.
*Applicants:* PJM Interconnection, L.L.C.
*Description:* Notice of Cancellation of Original Service Agreement No. 3089; Queue No. W3–029 to be effective 1/16/2012.
*Filed Date:* 5/22/14.
*Accession Number:* 20140522–5036.
*Comments Due:* 5 p.m. ET 6/12/14.

*Docket Numbers:* ER14–2011–000.
*Applicants:* PJM Interconnection, L.L.C.
*Description:* Notice of Cancellation of Original Service Agreement No. 2931; Queue No. W2–091 to be effective 2/14/2012.
*Filed Date:* 5/22/14.
*Accession Number:* 20140522–5037.
*Comments Due:* 5 p.m. ET 6/12/14.

*Docket Numbers:* ER14–2012–000.
*Applicants:* PJM Interconnection, L.L.C.
*Description:* First Revised Service Agreement No. 3250; Queue No. W2–091 to be effective 4/30/2014.
*Filed Date:* 5/22/14.
*Accession Number:* 20140522–5050.
*Comments Due:* 5 p.m. ET 6/12/14.

*Docket Numbers:* ER14–2013–000.
*Applicants:* RJUMR ENERGY PARTNERS CORP.
*Description:* RJUMR Energy Partners Corp., FERC Electric Tariff to be effective 7/1/2014.
*Filed Date:* 5/22/14.
*Accession Number:* 20140522–5053.
*Comments Due:* 5 p.m. ET 6/12/14.

*Docket Numbers:* ER14–2014–000.
*Applicants:* PJM Interconnection, L.L.C.
*Description:* Notice of Cancellation of Original Service Agreement No. 2929; Queue No. W2–088 to be effective 2/14/2012.
*Filed Date:* 5/22/14.
*Accession Number:* 20140522–5055.
*Comments Due:* 5 p.m. ET 6/12/14.

*Docket Numbers:* ER14–2015–000.
*Applicants:* PJM Interconnection, L.L.C.
*Description:* First Revised Service Agreement No. 3249; Queue No. W2–088 to be effective 4/30/2014.
*Filed Date:* 5/22/14.
*Accession Number:* 20140522–5083.
*Comments Due:* 5 p.m. ET 6/12/14.

*Docket Numbers:* ER14–2016–000.
*Applicants:* Riverside Energy Center, LLC.
*Description:* Cancellation of Tariff to be effective 5/23/2014.
*Filed Date:* 5/22/14.
*Accession Number:* 20140522–5120.
*Comments Due:* 5 p.m. ET 6/12/14.

*Docket Numbers:* ER14–2017–000.
*Applicants:* California Independent System Operator Corporation.
Description: 2014–05–22 Full Network Model Tariff Amendment to be effective 9/8/2014.
*Filed Date:* 5/22/14.
*Accession Number:* 20140522–5137.
*Comments Due:* 5 p.m. ET 6/12/14.

*Docket Numbers:* ER14–2018–000.
*Applicants:* Golden Spread Electric Cooperative, Inc.

Description: Pleasant Hill SGIA Second Amendment to be effective 5/20/2014.

*Filed Date:* 5/22/14.

*Accession Number:* 20140522–5138.

*Comments Due:* 5 p.m. ET 6/12/14.

Take notice that the Commission received the following qualifying facility filings:

*Docket Numbers:* QF14–142–000.

*Applicants:* ACB Energy Partners, LLC.

Description: FERC Form 556 Notice of Certification of Qualifying Facility Status for a Small Power Production or Cogeneration Facility.

*Filed Date:* 12/11/13.

Accession Number: 20131211–5173.

*Comments Due:* None Applicable.

*Docket Numbers:* QF14–222–000.

*Applicants:* North Davis Sewer District.

Description: FERC Form 556 Notice of Certification of Qualifying Facility Status for a Small Power Production or Cogeneration Facility.

*Filed Date:* 1/6/14.

Accession Number: 20140106–5170.

*Comments Due:* None Applicable.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 22, 2014.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2014–12711 Filed 6–2–14; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

*Docket Numbers:* EC14–89–000.

*Applicants:* PEI Power II, LLC.

*Description: Application For Authorization Under Section 203 Of The Federal Power Act, Requests For Waivers Of Filing Requirements, Expedited Review And Confidential Treatment of PEI Power II, LLC.*

*Filed Date:* 5/21/14.

*Accession Number:* 20140521–5118.

*Comments Due:* 5 p.m. ET 6/11/14.

Take notice that the Commission received the following exempt wholesale generator filings:

*Docket Numbers:* EG14–57–000.

*Applicants:* West Deptford Energy Associates Urban Re.

*Description: Notice of Self-Certification of Exempt Wholesale Generator Status of West Deptford Energy Associates Urban Renewal, L.P.*

*Filed Date:* 5/21/14.

*Accession Number:* 20140521–5082.

*Comments Due:* 5 p.m. ET 6/11/14.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER14–1751–000; *ER14–1751–001.*

*Applicants:* C2K Energy, LLC.

*Description:* Supplement to April 22, 2014 and May 7, 2014 C2K Energy, LLC tariff filing.

*Filed Date:* 5/21/14.

*Accession Number:* 20140521–5039.

*Comments Due:* 5 p.m. ET 6/11/14.

*Docket Numbers:* ER14–1984–000.

*Applicants:* AEP Energy Partners, Inc.

*Description:* Application for Authorization to make affiliate sales with Ohio Valley Electric Corporation of AEP Energy Partners, Inc.

*Filed Date:* 5/19/14.

*Accession Number:* 20140519–5173.

*Comments Due:* 5 p.m. ET 6/9/14.

*Docket Numbers:* ER14–1994–000.

*Applicants:* Southern California Edison Company.

*Description:* GIA and Distribution Service Agreement with SunEdison for 1050 South Dupont to be effective 5/22/2014.

*Filed Date:* 5/21/14.

*Accession Number:* 20140521–5001.

*Comments Due:* 5 p.m. ET 6/11/14.

*Docket Numbers:* ER14–1995–000.

*Applicants:* Southern California Edison Company.

*Description:* GIA and Distribution Service Agreement with SunEdison for 5491 E Philadelphia to be effective 5/22/2014.

*Filed Date:* 5/21/14.

*Accession Number:* 20140521–5002.

*Comments Due:* 5 p.m. ET 6/11/14.

*Docket Numbers:* ER14–1996–000.

*Applicants:* Southern California Edison Company.

*Description:* GIA and Distribution Service Agreement with SunEdison for IM Fontana Project to be effective 5/22/2014.

*Filed Date:* 5/21/14.

*Accession Number:* 20140521–5003.

*Comments Due:* 5 p.m. ET 6/11/14.

*Docket Numbers:* ER14–1997–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description: Notice of Cancellation of Original Service Agreement No. 2857; Queue No. W1–120 to be effective 2/14/2011.*

*Filed Date:* 5/21/14.

*Accession Number:* 20140521–5059.

*Comments Due:* 5 p.m. ET 6/11/14.

*Docket Numbers:* ER14–1998–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* First Revised Service Agreement No. 3247; Queue No. W1–120 to be effective 4/30/2014.

*Filed Date:* 5/21/14.

*Accession Number:* 20140521–5063.

*Comments Due:* 5 p.m. ET 6/11/14.

*Docket Numbers:* ER14–1999–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description: Notice of Cancellation of Original Service Agreement No. 2935; Queue No. W2–082 to be effective 9/22/2011.*

*Filed Date:* 5/21/14.

*Accession Number:* 20140521–5074.

*Comments Due:* 5 p.m. ET 6/11/14.

*Docket Numbers:* ER14–2000–000.

*Applicants:* Duke Energy Commercial Asset Management.

*Description: DECAM Notice of Succession Filing to be effective 4/24/2014.*

*Filed Date:* 5/21/14.

*Accession Number:* 20140521–5075.

*Comments Due:* 5 p.m. ET 6/11/14.

*Docket Numbers:* ER14–2001–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description: First Revised Service Agreement No. 3082; Queue No. W2–082 to be effective 4/30/2014.*

*Filed Date:* 5/21/14.

*Accession Number:* 20140521–5081.

*Comments Due:* 5 p.m. ET 6/11/14.

*Docket Numbers:* ER14–2002–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description: Notice of Cancellation of Original Service Agreement No. 2930; Queue No. W2–083 to be effective 2/14/2012.*

*Filed Date:* 5/21/14.

*Accession Number:* 20140521–5085.

*Comments Due:* 5 p.m. ET 6/11/14.

*Docket Numbers:* ER14–2003–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description: Ministerial Clean-Up re RAA Article 1 and Sched 8.1.D due to Overlapping Filings to be effective 3/2/2014.*
*Filed Date:* 5/21/14.
*Accession Number:* 20140521–5110.
*Comments Due:* 5 p.m. ET 6/11/14.

*Docket Numbers:* ER14–2004–000.
*Applicants:* Southwest Power Pool, Inc.
*Description: Notice of Cancellation of Ninnescah Wind Large Generator Interconnection Service Agreement of Southwest Power Pool, Inc.*
*Filed Date:* 5/21/14.
*Accession Number:* 20140521–5117.
*Comments Due:* 5 p.m. ET 6/11/14.

*Docket Numbers:* ER14–2005–000.
*Applicants:* Midcontinent Independent System Operator, Wolverine Power Supply Cooperative, Inc.
*Description: 2014–05–21_SA 1367 Wolverine-METC Redwood IFA to be effective 5/16/2014.*
*Filed Date:* 5/21/14.
*Accession Number:* 20140521–5130.
*Comments Due:* 5 p.m. ET 6/11/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 21, 2014.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2014–12710 Filed 6–2–14; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

**Filings Instituting Proceedings**

*Docket Numbers:* RP14–995–000.
*Applicants:* ANR Pipeline Company.
*Description:* Wisconsin P&L FTS Agmt to be effective 6/1/2014.
*Filed Date:* 5/27/14.
*Accession Number:* 20140527–5030.
*Comments Due:* 5 p.m. ET 6/9/14.

*Docket Numbers:* RP14–536–000.
*Applicants:* Rockies Express Pipeline LLC.
*Description:* Refund Report to be effective N/A.
*Filed Date:* 5/23/14.
*Accession Number:* 20140523–5175.
*Comments Due:* 5 p.m. ET 6/4/14.

*Docket Numbers:* RP14–995–000.
*Applicants:* ANR Pipeline Company.
*Description:* ANR Pipeline Company submits tariff filing per 154.601: Wisconsin P&L FTS Agmt to be effective 6/1/2014.
*Filed Date:* 5/27/14.
*Accession Number:* 20140527–5030.
*Comments Due:* 5 p.m. ET 6/9/14.

*Docket Numbers:* RP14–996–000.
*Applicants:* Columbia Gulf Transmission, LLC.
*Description:* ELEOP Retainage Filing to be effective 5/1/2011.
*Filed Date:* 5/27/14.
*Accession Number:* 20140527–5055.
*Comments Due:* 5 p.m. ET 6/9/14.

*Docket Numbers:* RP14–997–000.
*Applicants:* East Tennessee Natural Gas, LLC.
*Description:* Wacker Negotiated Rates to be effective 7/1/2014.
*Filed Date:* 5/27/14.
*Accession Number:* 20140527–5057.
*Comments Due:* 5 p.m. ET 6/9/14.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

**Filings in Existing Proceedings**

*Docket Numbers:* RP14–872–001.
*Applicants:* Granite State Gas Transmission, Inc.
*Description:* Amendment to Capacity Release Filing 21 to be effective 7/1/2014.
*Filed Date:* 5/23/14.
*Accession Number:* 20140523–5144.
*Comments Due:* 5 p.m. ET 6/4/14.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 27, 2014.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2014–12716 Filed 6–2–14; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

*Filings Instituting Proceedings*

*Docket Numbers:* RP14–863–000.
*Applicants:* Columbia Gas Transmission, LLC.
*Description:* Order to Show Cause Compliance Filing to be effective 5/20/2014.
*Filed Date:* 5/12/14.
*Accession Number:* 20140512–5084.
*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–998–000.
*Applicants:* Iroquois Gas Transmission System, L.P.
*Description:* 05/27/14 Negotiated Rates—Tenaska Marketing Ventures—RTS to be effective 6/1/2014.
*Filed Date:* 5/27/14.
*Accession Number:* 20140527–5150.
*Comments Due:* 5 p.m. ET 6/9/14.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 28, 2014.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2014–12789 Filed 6–2–14; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

**Filings Instituting Proceedings**

*Docket Numbers:* PR14–29–001.
*Applicants:* EnLink LIG, LLC.
*Description:* Tariff filing per 284.123(b), (e) + (g): Amendment to Revised SOC filing to be effective 5/14/2014; TOFC 1270.
*Filed Date:* 5/14/14.
*Accession Number:* 20140514–5070.
*Comments Due:* 5 p.m. ET 6/4/14.
*284.123(g) Protests Due:* 5 p.m. ET 6/4/14.

*Docket Numbers:* PR14–36–000.
*Applicants:* Acacia Natural Gas, L.L.C.
*Description:* Tariff filing per 284.123(e) + (g): Revised Statement of Operating Conditions to be effective 6/1/2014; TOFC: 1280.
*Filed Date:* 5/15/14.
*Accession Number:* 20140515–5176.
*Comments Due:* 5 p.m. ET 6/5/14.
*284.123(g) Protests Due:* 5 p.m. ET 7/14/14.

*Docket Numbers:* RP14–940–000.
*Applicants:* Venice Gathering System, L.L.C.
*Description:* Compliance Filing.
*Filed Date:* 5/19/14.
*Accession Number:* 20140519–5027.
*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–941–000.
*Applicants:* Chandeleur Pipe Line, LLC.
*Description:* Chandeleur Show Cause Section 8.7.7 to be effective 6/19/2014.
*Filed Date:* 5/19/14.
*Accession Number:* 20140519–5028.
*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–942–000.
*Applicants:* Sabine Pipe Line LLC.
*Description:* Sabine Show Cause Section 7.10 to be effective 6/19/2014.
*Filed Date:* 5/19/14.
*Accession Number:* 20140519–5029.
*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–943–000.
*Applicants:* Dauphin Island Gathering Partners.
*Description:* Order to Show Cause to be effective 6/18/2014.
*Filed Date:* 5/19/14.
*Accession Number:* 20140519–5034.
*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–944–000.
*Applicants:* Cimarron River Pipeline, LLC.
*Description:* Order to Show Cause to be effective 6/18/2014.
*Filed Date:* 5/19/14.
*Accession Number:* 20140519–5035.
*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–945–000.
*Applicants:* WBI Energy Transmission, Inc.
*Description:* Order to Show Cause Compliance Filing to be effective 6/19/2014.
*Filed Date:* 5/19/14.
*Accession Number:* 20140519–5036.
*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–946–000.
*Applicants:* Southern Natural Gas Company, L.L.C.
*Description:* Show Cause Order—Compliance Filing.
*Filed Date:* 5/19/14.
*Accession Number:* 20140519–5044.
*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–947–000.
*Applicants:* Trans-Union Interstate Pipeline, L.P.
*Description:* Compliance Filing to Modify Tariff to be effective 6/18/2014.
*Filed Date:* 5/19/14.
*Accession Number:* 20140519–5045.
*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–948–000.
*Applicants:* Southern LNG Company, L.L.C.
*Description:* Show Cause Order—Compliance Filing.
*Filed Date:* 5/19/14.
*Accession Number:* 20140519–5046.
*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–949–000.
*Applicants:* Elba Express Company, L.L.C.
*Description:* Show Cause Order—Compliance Filing.
*Filed Date:* 5/19/14.
*Accession Number:* 20140519–5047.
*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–950–000.
*Applicants:* Millennium Pipeline Company, LLC.
*Description:* System Map Update 2014 to be effective 6/23/2014.
*Filed Date:* 5/19/14.
*Accession Number:* 20140519–5048.
*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–951–000.
*Applicants:* Discovery Gas Transmission LLC.
*Description:* Compliance Filing to Show Cause Order dated March 19, 2014 to be effective 7/1/2014.
*Filed Date:* 5/19/14.
*Accession Number:* 20140519–5056.
*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–952–000.
*Applicants:* Destin Pipeline Company, L.L.C.
*Description:* Capacity Release Compliance Filing.
*Filed Date:* 5/19/14.
*Accession Number:* 20140519–5061.
*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–953–000.
*Applicants:* MarkWest New Mexico, L.L.C.
*Description:* MarkWest New Mexico Response to Show Cause Order in RP14–442 to be effective 6/19/2014.
*Filed Date:* 5/19/14.
*Accession Number:* 20140519–5063.
*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–954–000.
*Applicants:* MarkWest Pioneer, L.L.C.
*Description:* MarkWest Pioneer Response to Show Cause Order in RP14–442 to be effective 6/19/2014.
*Filed Date:* 5/19/14.
*Accession Number:* 20140519–5064.
*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–955–000.
*Applicants:* NGO Transmission, Inc.
*Description:* NGO Transmission Response to Show Cause Order in RP14–442 to be effective 6/19/2014.
*Filed Date:* 5/19/14.
*Accession Number:* 20140519–5067.
*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–956–000.
*Applicants:* Ryckman Creek Resources, LLC.
*Description:* Order to Show Cause Compliance Filing to be effective 6/18/2014.
*Filed Date:* 5/19/14.
*Accession Number:* 20140519–5068.
*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–957–000.
*Applicants:* KO Transmission Company.
*Description:* Posting of Offers to Purchase Released Capacity Compliance Filing to be effective 5/19/2014.
*Filed Date:* 5/19/14.
*Accession Number:* 20140519–5069.
*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–958–000.
*Applicants:* Enable Mississippi River Transmission, L.
*Description:* Compliance Filing for Offers to Purchase Release Capacity.
*Filed Date:* 5/19/14.
*Accession Number:* 20140519–5076.
*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–959–000.
*Applicants:* Black Marlin Pipeline Company.
*Description:* Compliance Filing to March 20, 2014 Order to Show Cause to be effective 7/1/2014.

*Filed Date:* 5/19/14.
*Accession Number:* 20140519–5077.
*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–960–000.
*Applicants:* Enable Gas Transmission, LLC.
*Description:* Compliance Filing to Show Cause Order in RP14–442.
*Filed Date:* 5/19/14.
*Accession Number:* 20140519–5078.
*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–961–000.
*Applicants:* USG Pipeline Company, LLC.
*Description:* Show Cause Order Compliance to be effective 6/18/2014.
*Filed Date:* 5/19/14.
*Accession Number:* 20140519–5088.
*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–962–000.
*Applicants:* Pine Needle LNG Company, LLC.
*Description:* Compliance Filing—GT&C Section 20—Posting of Offers to Purchase Released Capac to be effective 7/1/2014.
*Filed Date:* 5/19/14.
*Accession Number:* 20140519–5093.
*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–963–000.
*Applicants:* Transcontinental Gas Pipe Line Company.
*Description:* Compliance Filing—GT&C Section 42—Posting of Offers to Purchase Released Capac to be effective 7/1/2014.
*Filed Date:* 5/19/14.
*Accession Number:* 20140519–5094.
*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–964–000.
*Applicants:* Gulf Shore Energy Partners, LP.
*Description:* Gulf Shore Energy Show Cause Compliance filing.
*Filed Date:* 5/19/14.
*Accession Number:* 20140519–5095.
*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–965–000.
*Applicants:* Kinetica Energy Express, LLC.
*Description:* Kinetica Show Cause Compliance Filing.
*Filed Date:* 5/19/14.
*Accession Number:* 20140519–5096.
*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–966–000.
*Applicants:* Panther Interstate Pipeline Energy, LLC.
*Description:* Panther Response to Show Cause Order in RP14–442.
*Filed Date:* 5/19/14.
*Accession Number:* 20140519–5097.
*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–967–000.
*Applicants:* American Midstream (AlaTenn), LLC.
*Description:* AlaTenn Response to Show Cause Order in RP14–442.
*Filed Date:* 5/19/14.
*Accession Number:* 20140519–5108.
*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–968–000.
*Applicants:* Tennessee Gas Pipeline Company, L.L.C.
*Description:* Show Cause Order Compliance Filing.
*Filed Date:* 5/19/14.
*Accession Number:* 20140519–5109.
*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–969–000.
*Applicants:* Golden Pass Pipeline LLC.
*Description:* Compliance Filing per Docket No. RP14–442–000 Offer to Purch Capacity to be effective 7/1/2014.
*Filed Date:* 5/19/14.
*Accession Number:* 20140519–5110.
*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–970–000.
*Applicants:* High Point Gas Transmission, LLC.
*Description:* High Point Response to Show Cause Order in RP14–442.
*Filed Date:* 5/19/14.
*Accession Number:* 20140519–5111.
*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–971–000.
*Applicants:* Gulf States Transmission LLC.
*Description:* Compliance with FERC Docket No. RP14–442.
*Filed Date:* 5/19/14.
*Accession Number:* 20140519–5112.
*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–972–000
*Applicants:* Kern River Gas Transmission Company.
*Description:* 2014 Order to Show Cause Compliance.
*Filed Date:* 5/19/14.
*Accession Number:* 20140519–5114.
*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–973–000.
*Applicants:* American Midstream (Midla), LLC.
*Description:* Midla Response to Show Cause Order in RP14–442 to be effective 6/19/2014.
*Filed Date:* 5/19/14.
*Accession Number:* 20140519–5132.
*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–974–000.
*Applicants:* KPC Pipeline, LLC.
*Description:* KPC Response to Show Cause Order in RP14–442 to be effective 6/19/2014.
*Filed Date:* 5/19/14.
*Accession Number:* 20140519–5140.
*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–975–000.
*Applicants:* Northern Natural Gas Company.
*Description:* 20140519 Compliance Filing.
*Filed Date:* 5/19/14.
*Accession Number:* 20140519–5153.
*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–976–000.
*Applicants:* MoGas Pipeline LLC.
*Description:* Docket No. RP14–442–000 Compliance Filing to be effective 7/1/2014.
*Filed Date:* 5/19/14.
*Accession Number:* 20140519–5161.
*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–977–000.
*Applicants:* East Cheyenne Gas Storage, LLC.
*Description:* ECGS Filing in Response to Show Cause Order.
*Filed Date:* 5/19/14.
*Accession Number:* 20140519–5188.
*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–978–000.
*Applicants:* Cheniere Creole Trail Pipeline, L.P.
*Description:* Docket No. RP14–442–000 Compliance Filing to be effective 7/1/2014.
*Filed Date:* 5/19/14.
*Accession Number:* 20140519–5191.
*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–979–000.
*Applicants:* Dominion Transmission, Inc.
*Description:* DTI—Show Cause Order (RP14–442) Compliance Filing to be effective 7/1/2014.
*Filed Date:* 5/19/14.
*Accession Number:* 20140519–5197.
*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–980–000.
*Applicants:* High Island Offshore System, L.L.C.
*Description:* Capacity Release Update—Purchases of Released Capacity to be effective 6/19/2014.
*Filed Date:* 5/19/14.
*Accession Number:* 20140519–5198.
*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–981–000.
*Applicants:* Dominion Cove Point LNG, LP.
*Description:* DCP—Show Cause Order (RP14–442) Compliance Filing to be effective 7/1/2014.
*Filed Date:* 5/19/14.
*Accession Number:* 20140519–5199.
*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–982–000.
*Applicants:* National Fuel Gas Supply Corporation.
*Description:* National Fuel Gas Supply Corporation submits tariff filing per 154.203: Order to Show Cause CF (Supply) to be effective 6/18/2014.
*Filed Date:* 5/19/14.
*Accession Number:* 20140519–5212.
*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–983–000.
*Applicants:* Empire Pipeline, Inc.
*Description:* Empire Pipeline, Inc. submits tariff filing per 154.203: Order

to Show Cause CF (Empire) to be effective 6/18/2014.

*Filed Date:* 5/19/14.

*Accession Number:* 20140519–5214.

*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–984–000.

*Applicants:* El Paso Natural Gas Company, L.L.C.

*Description:* El Paso Natural Gas Company, L.L.C. submits tariff filing per 154.203: Show Cause Order Compliance Filing.

*Filed Date:* 5/19/14.

*Accession Number:* 20140519–5215

*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–985–000.

*Applicants:* Mojave Pipeline Company, L.L.C.

*Description:* Mojave Pipeline Company, L.L.C. submits tariff filing per 154.203: Show Cause Order Compliance Filing to be effective 6/19/2014.

*Filed Date:* 5/19/14.

*Accession Number:* 20140519–5216.

*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–986–000.

*Applicants:* TransColorado Gas Transmission Company L.

*Description:* Show Cause Order Compliance Filing.

*Filed Date:* 5/19/14.

*Accession Number:* 20140519–5217.

*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–987–000.

*Applicants:* Iroquois Gas Transmission System, L.P.

*Description:* 05/19/14—Show Cause Order RP14–442.

*Filed Date:* 5/19/14.

*Accession Number:* 20140519–5222.

*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP14–988–000.

*Applicants:* Paiute Pipeline Company.

*Description:* RP14–442 Compliance Filing.

*Filed Date:* 5/19/14.

*Accession Number:* 20140519–5238.

*Comments Due:* 5 p.m. ET 6/2/14.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR § 385.211 and § 385.214) on or before 5:00 p.m. Eastern time on the specified date(s). Protests may be considered, but intervention is necessary to become a party to the proceeding.

**Filings in Existing Proceedings**

*Docket Numbers:* RP13–673–001.

*Applicants:* B–R Pipeline Company.

*Description:* Show Cause Order Compliance to be effective 6/18/2014.

*Filed Date:* 5/19/14.

*Accession Number:* 20140519–5079.

*Comments Due:* 5 p.m. ET 6/2/14.

*Docket Numbers:* RP13–404–002.

*Applicants:* Transwestern Pipeline Company, LLC.

*Description:* Settlement in Compliance with RP13–404 Settlement.

*Filed Date:* 5/16/14.

*Accession Number:* 20140516–5143.

*Comments Due:* 5 p.m. ET 5/28/14.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 20, 2014.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2014–12713 Filed 6–2–14; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

**Filings Instituting Proceedings**

*Docket Numbers:* PR14–16–001.

*Applicants:* Washington Gas Light Company.

*Description:* Tariff filing per 284.123(b), (e) + (g): Amendment to General Rate Increase and Compliance Filing to be effective 2/1/2014; TOFC: 1270.

*Filed Date:* 5/21/14.

*Accession Number:* 20140521–5152.

*Comments Due:* 5 p.m. ET 6/11/14.

284.123(g) Protests Due: 5 p.m. ET 6/11/14.

*Docket Numbers:* RP14–993–000.

*Applicants:* Ruby Pipeline, L.L.C.

*Description:* Xpress to DART Conversion Filing to be effective 12/31/9998.

*Filed Date:* 5/22/14.

*Accession Number:* 20140522–5156.

*Comments Due:* 5 p.m. ET 6/3/14.

*Docket Numbers:* RP14–994–000.

*Applicants:* Cheyenne Plains Gas Pipeline Company, L.

*Description:* Xpress to DART Conversion Filing to be effective 12/31/9998.

*Filed Date:* 5/22/14.

*Accession Number:* 20140522–5157.

*Comments Due:* 5 p.m. ET 6/3/14.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified date(s). Protests may be considered, but intervention is necessary to become a party to the proceeding.

**Filings in Existing Proceedings**

*Docket Numbers:* RP14–772–002.

*Applicants:* Millennium Pipeline Company, LLC.

*Description:* Negotiated Rate Svc Agreement—TOC Amendment to be effective 5/1/2014.

*Filed Date:* 5/22/14.

*Accession Number:* 20140522–5142.

*Comments Due:* 5 p.m. ET 6/3/14.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated May 23, 2014.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2014–12715 Filed 6–2–14; 8:45 am]

**BILLING CODE 6717–01–P**

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## EXPORT-IMPORT BANK

**[Public Notice 2014–6004]**

### Agency Information Collection Activities; Proposals Submissions, and Approvals

**AGENCY:** Export-Import Bank of the United States.

**ACTION:** Submission for OMB review and comments request.

*Form Title:* EIB 92–79 Broker Registration Form.

**SUMMARY:** The Export-Import Bank of the United States (Ex-Im Bank), as a part

of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995. Our customers will be able to submit this form on paper or electronically. This form is used by insurance brokers to register with Export-Import Bank. It provides Export-Import Bank staff with the information necessary to make a determination of the eligibility of the broker to receive commission payments under Export-Import Bank's credit insurance programs.

Form can be viewed at *http://www.exim.gov/pub/pending/eib92-79.pdf.*

**DATES:** Comments must be received on or before July 3, 2014, to be assured of consideration.

**ADDRESSES:** Comments may be submitted electronically on *www.regulations.gov* or by mail to Office of Information and Regulatory Affairs, 725 17th Street NW., Washington, DC 20038, Attn: OMB 3048–0024.

**SUPPLEMENTARY INFORMATION:**

*Title and Form Number:* EIB 92–27 Broker Registration Form.

*OMB Number:* 3048–0024.

*Type of Review:* Regular.

*Need and Use:* This form is used by insurance brokers to register with Export Import Bank. The form provides Export Import Bank staff with the information necessary to make a determination of the eligibility of the broker to receive commission payments under Export Import Bank's credit insurance programs.

*Affected Public:* This form affects entities engaged in brokering export credit insurance policies.

*Annual Number of Respondents:* 50.

*Estimated Time per Respondent:* 15 minutes.

*Government Review Time per Response:* 2 hours.

*Frequency of Reporting or Use:* Once every three years.

*Government Reviewing Time per Year:* 100 hours.

*Average Wages per Hour:* $42.50.

*Average Cost per Year:* $4,250.

*Benefits and Overhead:* 20%.

*Total Government Cost:* $5,100.

**Bonita Jones,**

*Program Analyst, Records Management Divison.*

[FR Doc. 2014–12785 Filed 6–2–14; 8:45 am]

BILLING CODE 6690–01–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 18, 2014.

A. Federal Reserve Bank of Minneapolis (Jacquelyn K. Brunmeier, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Charles A. Bon, Robinson, North Dakota, and Thomas A. Bon,* Fargo, North Dakota; to acquire voting shares of The First and Farmers Bank Holding Company, and thereby indirectly acquire voting shares of The First and Farmers Bank, both in Portland, North Dakota.

B. Federal Reserve Bank of Dallas (E. Ann Worthy, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Robert F. Barnard, individually, Christopher G. Barnard, Robert F. Barnard, all of Celeste, Texas, and Bill N. Barnard,* Forney, Texas, collectively; to acquire voting shares of Metroplex North Bancshares, Inc., and thereby indirectly acquire voting shares of The First Bank of Celeste, both in Celeste, Texas.

Board of Governors of the Federal Reserve System, May 29, 2014.

**Michael J. Lewandowski,**

*Associate Secretary of the Board.*

[FR Doc. 2014–12783 Filed 6–2–14; 8:45 am]

BILLING CODE 6210–01–P

## FEDERAL TRADE COMMISSION

**[File No. 122 3255]**

### Lornamead, Inc.; Analysis of Proposed Consent Order To Aid Public Comment

**AGENCY:** Federal Trade Commission.

**ACTION:** Proposed Consent Agreement.

**SUMMARY:** The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices. The attached Analysis of Proposed Consent Order to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

**DATES:** Comments must be received on or before June 27, 2014.

**ADDRESSES:** Interested parties may file a comment at *https://ftcpublic.commentworks.com/ftc/lornameadconsent* online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Lornamead, Inc.—Consent Agreement; File No. 122 3255'' on your comment and file your comment online at *https://ftcpublic.commentworks.com/ftc/lornameadconsent* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

**FOR FURTHER INFORMATION CONTACT:** Linda K. Badger, FTC Western Region, San Francisco (415–848–5100), 901 Market Street, Suite 570, San Francisco, CA 94103.

**SUPPLEMENTARY INFORMATION:** Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for May 28, 2014), on the World Wide Web, at *http://www.ftc.gov/os/actions.shtm.*

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before June 27, 2014. Write ''Lornamead, Inc.—Consent Agreement; File No. 122 3255'' 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/public comments.shtm*. As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which . . . is privileged or confidential,'' as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).[1] Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, 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/lornameadconsent* 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 ''Lornamead, Inc.—Consent Agreement; File No. 122 3255'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before June 27, 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*.

**Analysis of Proposed Consent Order To Aid Public Comment**

The Federal Trade Commission (''FTC'' or ''Commission'') has accepted, subject to final approval, an agreement containing consent order from Lornamead, Inc. (''respondent''). The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

This matter involves respondent's advertising, marketing, and sale of a line of products including ''Lice Shield Shampoo & Conditioner in 1,'' ''Lice Shield Leave In Spray,'' and ''Lice Shield Gear Guard'' (collectively, ''Lice Shield products''). Respondent marketed Lice Shield products in retail stores and on the Internet. According to the FTC's proposed complaint, respondent promoted Lice Shield products, which contain essential oils such as citronella, as a way to avoid, or to reduce the risk of, getting a head lice infestation (''pediculosis''). Lice Shield products are intended strictly as a means to deter lice, and not as a means to treat an existing head lice infestation. These products do not kill head lice or their eggs.

The proposed complaint alleges that respondent made several claims in various advertisements regarding the efficacy of Lice Shield products to deter lice, including that applying the products to hair or head gear: prevents head lice infestations; decreases the likelihood of an infestation by over 80%; dramatically reduces the likelihood of an infestation during an outbreak; or reduces the likelihood of an infestation during an outbreak. Respondent also allegedly represented that Lice Shield products are more effective when consumers use both the shampoo and the leave-in spray. The proposed complaint alleges that these claims are unsubstantiated and thus violate the FTC Act. Further, the proposed complaint alleges that respondent represented, in various advertisements, that scientific tests prove that, when used as directed, Lice Shield products will significantly reduce the likelihood or chance of a head lice infestation. The complaint alleges that this claim is false and thus violates the FTC Act.

The proposed consent order contains provisions designed to prevent respondent from engaging in similar acts or practices in the future. Part I of the order prohibits respondent from representing that use of any drug, cosmetic, or pesticide is effective in: (a) Preventing pediculosis, (b) eliminating or reducing the risk of pediculosis by a specific percentage or amount, or (c) repelling all lice, or a specific percentage or amount of lice from a person's head, unless the representation is non-misleading, and, at the time it is made, respondent possesses and relies upon competent and reliable scientific evidence that substantiates that the representation is true. For purposes of this Part I, competent and reliable scientific evidence shall consist of at least one adequate and well-controlled human clinical study of the product, or of an essentially equivalent product, that conforms to an acceptable design and protocol and whose results, when considered in light of the entire body of relevant and reliable scientific evidence, are sufficient to substantiate that the representation is true.

Part II of the proposed order prohibits any representation, other than those covered under Part I, that use of any drug, cosmetic, or pesticide, will reduce the risk of a head lice infestation or repel lice, unless the representation is non-misleading, and, at the time of

[1] In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

making such representation, respondent possesses and relies upon competent and reliable scientific evidence that is sufficient in quality and quantity based on standards generally accepted in the relevant scientific fields, when considered in light of the entire body of relevant and reliable scientific evidence, to substantiate that the representation is true. For purposes of this Part, competent and reliable scientific evidence means tests, analyses, research, or studies that have been conducted and evaluated in an objective manner by qualified persons, and that are generally accepted in the profession to yield accurate and reliable results.

Part III of the proposed order prohibits any representation, other than those covered under Part I, about the health benefits of any drug, cosmetic, or pesticide, unless the representation is non-misleading, and at the time of making such representation, the respondent possesses and relies upon competent and reliable scientific evidence that is sufficient in quality and quantity based on standards generally accepted in the relevant scientific fields, when considered in light of the entire body of relevant and reliable scientific evidence, to substantiate that the representation is true. For purposes of this Part, competent and reliable scientific evidence means tests, analyses, research, or studies that have been conducted and evaluated in an objective manner by qualified persons, and that are generally accepted in the profession to yield accurate and reliable results.

Part IV of the proposed order addresses the allegedly false claim that scientific tests prove that use of Lice Shield products significantly reduces the risk or likelihood of a head lice infestation. Part IV prohibits respondent from misrepresenting the existence, contents, validity, results, conclusions, or interpretations of any test, study, or research, when advertising any drug, cosmetic, or pesticide.

Part V of the proposed order states that the order does not prohibit respondent from making representations for any drug that are permitted in labeling for that drug under any tentative or final standard promulgated by the Food and Drug Administration (''FDA''), or under any new drug application approved by the FDA.

Part VI of the proposed order requires respondent to pay five hundred thousand dollars ($500,000) to the Commission. This payment shall be deposited in the United States Treasury as disgorgement.

Parts VII, VIII, IX, and X of the proposed order require respondent to keep copies of relevant advertisements and materials substantiating claims made in the advertisements; to provide copies of the order to its personnel; to notify the Commission of changes in corporate structure that might affect compliance obligations under the order; and to file compliance reports with the Commission. Part XI provides that the order will terminate after twenty (20) years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the proposed order or to modify its terms in any way.

By direction of the Commission.

**Donald S. Clark,**

*Secretary.*

[FR Doc. 2014–12734 Filed 6–2–14; 8:45 am]

BILLING CODE 6750–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

### Statement of Organization, Functions, and Delegations of Authority; Office of the National Coordinator for Health Information Technology

Part A, Office of the Secretary, Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Chapter AR, Office of the National Coordinator for Health Information Technology (ONC), as last amended at 77 FR 29349–50 (May 17, 2012), 76 FR 65196 (Oct. 20, 2011), 76 FR 6795 (Feb. 8, 2011), 75 FR 49494 (Aug. 13, 2010), 74 FR 62785–86 (Dec. 1, 2009), and 70 FR 48718–20 (Aug. 19, 2005), is amended as follows:

I. Under AR.10, Organization, delete all of components and replace with the following:

A. Immediate Office of the National Coordinator (ARA)
B. Office of Clinical Quality and Safety (ARG)
C. Office of Planning, Evaluation, and Analysis (ARB)
D. Office of Standards and Technology (ARC)
E. Office of Programs (ARD)
F. Office of Public Affairs and Communications (ARH)
G. Office of the Chief Operating Officer (ARE)
H. Office of the Chief Privacy Officer (ARF)
I. Office of Policy (ARI)
J. Office of Care Transformation (ARJ)
K. Office of the Chief Scientist (ARK)

II. Delete AR.20, Functions, in its entirety and replace with the following:

Section AR.20, Functions

A. Immediate Office of the National Coordinator (ARA): The Immediate Office of the National Coordinator (IO/ONC) is headed by the National Coordinator, who provides leadership and executive and strategic direction for the ONC organization. The National Coordinator is responsible for carrying out ONC's mission and implementing the functions of the ONC. The IO/ONC: (1) Ensures that key health information technology initiatives are coordinated across HHS programs; (2) ensures that health information technology policy and programs of HHS are coordinated with those of relevant executive branch agencies (including federal commissions and advisory committees) with a goal of avoiding duplication of effort and of helping to ensure that each agency undertakes activities primarily within the areas of its greatest expertise and technical capability; (3) reviews federal health information technology investments to ensure federal health information technology programs are meeting the objectives of the strategic plan, required under Executive Order 13335, to create a nationwide interoperable health information technology infrastructure; (4) at the request of OMB, provides comments and advice regarding specific federal health information technology programs; (5) develops, maintains, and reports on measurable outcome goals for health information technology to assess progress within HHS and other executive branch agencies; and in the private sector, in developing and implementing a nationwide interoperable health infrastructure (HIE coordination); (6) provides oversight of the ONC federal health architecture; and (7) fulfills the administrative (i.e., executive secretariat), reporting, program management, legislative affairs, infrastructure, and budget support needs of the office.

The Deputy National Coordinator, a part of the IO/ONC, works with and reports directly to the National Coordinator and is responsible for supporting the National Coordinator in day-to-day operations and strategy for ONC, internal information technology strategy, and staff management of ONC for those reporting to the Deputy or as requested by the National Coordinator. The Deputy in conjunction with the National Coordinator and Chief of Staff provides executive oversight for the activities of all ONC offices.

B. Office of Clinical Quality and Safety (ARG): The Office of Clinical Quality and Safety is headed by a Director and is responsible for working with public and private sector medical organizations to achieve widespread use of health information technology by the medical community with special emphasis in the areas of clinical quality and patient safety. The office includes the Chief Nursing Officer (CNO) who advocates for patient care, clinical, and staffing nursing standards at the national level for ONC. The Office of Clinical Quality and Safety also engages with a wide array of clinical stakeholders and provides a clinically based perspective on ONC policies and activities. This includes clinical issues involving health IT safety, usability, clinical decision support, and quality measurement.

C. Office of Planning, Evaluation, and Analysis (ARB): The Office of Planning, Evaluation, and Analysis is headed by a Director. The Office: (1) Provides advanced analysis of health information technology strategies to ONC; (2) applies research methodologies to perform evaluation studies of federal investments in health information technology; and (3) applies advanced mathematical or quantitative modeling to the U.S. health care system for simulating the microeconomic and macroeconomic effects of investing in health information technology. Such modeling will be used with varying public policy scenarios to perform advanced health care policy analysis for requirements of the Recovery Act and other legislation as required, such as reductions in health care costs resulting from adoption and use of health information technology. Functions include strategic planning, building a national consensus agenda, developing external measures, evaluating external advancement, developing internal priorities and plans tied to measures, and evaluating organizational performance.

D. Office of Standards and Technology (ARC): The Office of Standards and Technology is headed by a Director. The Office of Standards and Technology is responsible for: (1) Leading research activities mandated under the HITECH Act provisions of ARRA; (2) promoting applications of health information technology that support basic and clinical research; (3) collecting and communicating knowledge of health care informatics from and to international audiences; (4) collaborating with other agencies and departments on assessments of new health information technology programs; (5) developing and maintaining educational programs for staff of the Office of the National Coordinator and advising the National Coordinator concerning the educational needs of the field of HIT; and (6) developing the mechanisms for establishing and implementing standards necessary for nationwide health information exchange. The Office of Standards and Technology possesses specialized knowledge of biomedical informatics, which involves the study and application of advanced information methods and technologies in support of health care delivery and population health.

E. Office of Programs (ARD): The Office of Programs is headed by a Director. The Office of Programs is responsible for implementing and overseeing grant programs and other initiatives that advance the nation toward universal adoption and meaningful use of interoperable health information technology in support of health care and population health. This Office supports care providers in the adoption, implementation and optimization of health information technology and adaptation to new care and payment models. The Office also oversees consumer use of electronic personal health information and activities for certification of health information technology.

F. Office of Public Affairs and Communications (ARH): The Office of Public Affairs and Communications is headed by a Director. The Office is responsible for: (1) Setting the strategic direction for ONC communications efforts; (2) guiding the development of a comprehensive stakeholder communications and constituency relations plan; and (3) ensuring that all communications activities are developed and implemented consistent with and in support of this plan.

G. Office of the Chief Operating Officer (ARE): The Office of the Chief Operating Officer is headed by the Chief Operating Officer. The Office of the Chief Operating Officer is responsible for performing the activities that support the Office of the National Coordinator for Health Information Technology's programs. These include: (1) Budget formulation and execution; (2) contracts and grants management; (3) facilities management and information technology infrastructure; (4) human resources; and (5) financial and human capital strategic planning.

H. Office of the Chief Privacy Officer (ARF): The Office of the Chief Privacy Officer is headed by the Chief Privacy Officer, who advises the National Coordinator as directed by the American Recovery and Reinvestment Act. The Chief Privacy Officer may also report to other individuals, as necessary. The Office of the Chief Privacy Officer is responsible for: (1) Advising the National Coordinator, the Secretary, or other Department of Health and Human Services leaders where indicated on privacy, security, and data stewardship of electronic health information; (2) overseeing privacy and security of the consumer use of electronic personal health information; and (3) coordinating the Office of the National Coordinator for Health Information Technology's efforts with similar privacy officers in other federal agencies, state and regional agencies, and foreign nations with regard to the privacy, security, and data stewardship of electronic, individually identifiable health information.

I. Office of Policy (ARI): The Office of Policy is headed by a Director. This Office is responsible for providing expertise and strategic direction for health information technology policy initiatives. The Office of Policy leads ONC's domestic policy initiatives and coordinates international policy efforts. In addition, the Office of Policy provides advanced analysis of health information technology polices to ONC. This office coordinates with executive branch agencies and other relevant organizations (including federal commissions and advisory committees) with a goal of avoiding duplication of efforts and of helping to ensure that each agency undertakes activities primarily within the areas of its greatest expertise and technical capability.

J. Office of Care Transformation (ARJ): The Office of Care Transformation is headed by a Director. This Office is responsible for providing expertise and strategic direction in the domain of transforming and optimizing health care through the leveraged use of health information technology throughout the Department of Health and Human Services, with the private sector, and with other federal partners. This office facilitates and informs payment and care delivery reform for physicians and other providers in the health system, and provides guidance for the facilitation and development of cross-cutting innovative payment reform programs in the public and private sector.

K. Office of the Chief Scientist (ARK): The Office of the Chief Scientist is headed by the Chief Scientist. This office is responsible for developing and evaluating ONC's overall scientific efforts and activities and, as necessary, develops, establishes, or recommends scientific policy to the National Coordinator. The office is also responsible for identifying, tracking,

and anticipating innovations in health care technology across the ONC organization.

III. Delegation of Authority. Pending further delegation, directives or orders by the Secretary or by the National Coordinator for Health Information Technology, all delegations and redelegations of authority made to officials and employees of affected organizational components will continue in them or their successors pending further redelegations, provided they are consistent with this reorganization.

Dated: May 29, 2014.

**E.J. Holland, Jr.,**

*Assistant Secretary for Administration.*

[FR Doc. 2014–12981 Filed 5–30–14; 4:15 pm]

**BILLING CODE 4150–24–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Community Living

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Extension of Certification of Maintenance of Effort for the Title III and the Certification of Long-Term Care Ombudsman Program Expenditures

**AGENCY:** Administration for Community Living, HHS.

**ACTION:** Notice.

**SUMMARY:** The Administration for Community Living (ACL) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

**DATES:** Submit written comments on the collection of information by July 3, 2014.

**ADDRESSES:** Submit written comments on the collection of information by fax 202.395.5806 or by email to *OIRA_submission@omb.eop.gov,* Attn: OMB Desk Officer for ACL.

**FOR FURTHER INFORMATION CONTACT:** Greg Case at 202–357–3442 or email: *Greg.Case@acl.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** In compliance with 44 U.S.C. 3507, ACL has submitted the following proposed collection of information to OMB for review and clearance. ACL invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of ACL's functions, including whether the information will have practical utility; (2) the accuracy of ACL's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques when appropriate, and other forms of information technology. The Certification on Maintenance of Effort for the Title III and Certification of Long-Term Care Ombudsman Program Expenditures provides statutorily required information regarding state's contribution to programs funded under the Older American's Act and conformance with legislative requirements, pertinent Federal regulations and other applicable instructions and guidelines issued by the Administration on Aging. This information will be used for Federal oversight of Title III Programs and the Title VII Ombudsman Program.

ACL estimates the burden of this collection of information as follows: 56 State Agencies on Aging respond annually with an average burden of one half (1/2) hour per State agency or a total of twenty-eight hours for all state agencies annually. In the **Federal Register** of March 21, 2014 (Vol. 79 No. 55 Page 15751) the agency requested comments on the proposed collection of information. No comments were received.

Dated: May 29, 2014.

**Kathy Greenlee,**

*Administrator and Assistant Secretary for Aging.*

[FR Doc. 2014–12803 Filed 6–2–14; 8:45 am]

**BILLING CODE 4154–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2013–N–1432]**

### Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Guide To Minimize Microbial Food Safety Hazards of Fresh-Cut Fruits and Vegetables

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Guide to Minimize Microbial Food Safety Hazards of Fresh-Cut Fruits and Vegetables'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

**FOR FURTHER INFORMATION CONTACT:** FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** On January 28, 2014, the Agency submitted a proposed collection of information entitled ''Guide to Minimize Microbial Food Safety Hazards of Fresh-Cut Fruits and Vegetables'' to OMB for review and clearance under 44 U.S.C. 3507. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0609. The approval expires on May 31, 2017. A copy of the supporting statement for this information collection is available on the Internet at *http://www.reginfo.gov/public/do/PRAMain.*

Dated: May 27, 2014.

**Leslie Kux,**

*Assistant Commissioner for Policy.*

[FR Doc. 2014–12815 Filed 6–2–14; 8:45 am]

**BILLING CODE 4160–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2013–N–1620]**

### Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Request for Information From United States Processors That Export to the European Community

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Request for Information from U.S. Processors that Export to the European Community'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

**FOR FURTHER INFORMATION CONTACT:** FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** On February 28, 2014, the Agency submitted a proposed collection of information entitled ''Request for Information from U.S. Processors that Export to the European Community'' to OMB for review and clearance under 44 U.S.C. 3507. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0320. The approval expires on May 31, 2017. A copy of the supporting statement for this information collection is available on the Internet at *http://www.reginfo.gov/public/do/PRAMain.*

Dated: May 27, 2014.

**Leslie Kux,**

*Assistant Commissioner for Policy.*

[FR Doc. 2014–12816 Filed 6–2–14; 8:45 am]

**BILLING CODE 4160–01–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2013–N–1619]**

### Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Current Good Manufacturing Practice in Manufacturing, Packaging, Labeling, or Holding Operations for Dietary Supplements

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Current Good Manufacturing Practice in Manufacturing, Packaging, Labeling, or Holding Operations for Dietary Supplements'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

**FOR FURTHER INFORMATION CONTACT:** FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** On February 27, 2014, the Agency submitted a proposed collection of information entitled ''Current Good Manufacturing Practice in Manufacturing, Packaging, Labeling, or Holding Operations for Dietary Supplements'' to OMB for review and clearance under 44 U.S.C. 3507. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0606. The approval expires on May 31, 2017. A copy of the supporting statement for this information collection is available on the Internet at *http://www.reginfo.gov/public/do/PRAMain.*

Dated: May 27, 2014.

**Leslie Kux,**

*Assistant Commissioner for Policy.*

[FR Doc. 2014–12818 Filed 6–2–14; 8:45 am]

**BILLING CODE 4160–01–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2011–N–0084]**

### Agency Information Collection Activities; Proposed Collection; Comment Request; Channels of Trade Policy for Commodities With Residues of Pesticide Chemicals, for Which Tolerances Have Been Revoked, Suspended, or Modified by the Environmental Protection Agency Pursuant to Dietary Risk Considerations

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA or we) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice invites comments on information collection provisions of FDA's guidance for industry entitled, ''Channels of Trade Policy for Commodities With Residues of Pesticide Chemicals, for Which Tolerances Have Been Revoked, Suspended, or Modified by the Environmental Protection Agency Pursuant to Dietary Risk Considerations.''

**DATES:** Submit either electronic or written comments on the collection of information by August 4, 2014.

**ADDRESSES:** Submit electronic comments on the collection of information to *http://www.regulations.gov.* Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, we are publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, we invite comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

**Channels of Trade Policy for Commodities With Residues of Pesticide Chemicals, for Which Tolerances Have Been Revoked, Suspended, or Modified by the Environmental Protection Agency Pursuant to Dietary Risk Considerations (OMB Control Number 0910–0562)–Extension**

The Food Quality Protection Act of 1996, which amended the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (the FD&C Act), established a new safety standard for pesticide residues in food, with an emphasis on protecting the health of infants and children. The Environmental Protection Agency (EPA) is responsible for regulating the use of pesticides (under FIFRA) and for establishing tolerances or exemptions from the requirement for tolerances for residues of pesticide chemicals in food commodities (under the FD&C Act). EPA may, for various reasons, e.g., as part of a systematic review or in response to new information concerning the safety of a specific pesticide, reassess whether a tolerance for a pesticide residue continues to meet the safety standard in section 408 of the FD&C Act (21 U.S.C. 346a). When EPA determines that a pesticide's tolerance level does not meet that safety standard, the registration for the pesticide may be canceled under FIFRA for all or certain uses. In addition, the tolerances for that pesticide may be lowered or revoked for the corresponding food commodities. Under section 408(*l*)(2) of the FD&C Act, when the registration for a pesticide is canceled or modified due to, in whole or in part, dietary risks to humans posed by residues of that pesticide chemical on food, the effective date for the revocation of such tolerance (or exemption in some cases) must be no later than 180 days after the date such cancellation becomes effective or 180 days after the date on which the use of the canceled pesticide becomes unlawful under the terms of the cancellation, whichever is later.

When EPA takes such actions, food derived from a commodity that was lawfully treated with the pesticide may not have cleared the channels of trade by the time the revocation or new tolerance level takes effect. The food could be found by FDA, the Agency that is responsible for monitoring pesticide residue levels and enforcing the pesticide tolerances in most foods (the U.S. Department of Agriculture has responsibility for monitoring residue levels and enforcing pesticide tolerances in egg products and most meat and poultry products), to contain a residue of that pesticide that does not comply with the revoked or lowered tolerance. We would normally deem such food to be in violation of the law by virtue of it bearing an illegal pesticide residue. The food would be subject to FDA enforcement action as an ''adulterated'' food. However, the channels of trade provision of the FD&C Act addresses the circumstances under which a food is not unsafe solely due to the presence of a residue from a pesticide chemical for which the tolerance has been revoked, suspended, or modified by EPA. The channels of trade provision (section 408(*l*)(5) of the FD&C Act) states that food containing a residue of such a pesticide shall not be deemed ''adulterated'' by virtue of the residue, if the residue is within the former tolerance, and the responsible party can demonstrate to FDA's satisfaction that the residue is present as the result of an application of the pesticide at a time and in a manner which were lawful under FIFRA.

In the **Federal Register** of May 18, 2005 (70 FR 28544), we announced the availability of a guidance document entitled, ''Channels of Trade Policy for Commodities With Residues of Pesticide Chemicals, for Which Tolerances Have Been Revoked, Suspended, or Modified by the Environmental Protection Agency Pursuant to Dietary Risk Considerations.'' The guidance represents FDA's current thinking on its planned enforcement approach to the channels of trade provision of the FD&C Act and how that provision relates to FDA-regulated products with residues of pesticide chemicals for which tolerances have been revoked, suspended, or modified by EPA pursuant to dietary risk considerations. The guidance can be found at the following link: *http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/ChemicalContaminantsMetalsNaturalToxinsPesticides/ucm077918.htm*. We anticipate that food bearing lawfully applied residues of pesticide chemicals that are the subject of future EPA action to revoke, suspend, or modify their tolerances, will remain in the channels of trade after the applicable tolerance is revoked, suspended, or modified. If we encounter food bearing a residue of a pesticide chemical for which the tolerance has been revoked, suspended, or modified, we intend to address the situation in accordance with provisions of the guidance. In general, we anticipate that the party responsible for food found to contain pesticide chemical residues (within the former tolerance) after the tolerance for the pesticide chemical has been revoked, suspended, or modified will be able to demonstrate that such food was handled, e.g., packed or processed, during the acceptable timeframes cited in the guidance by providing appropriate documentation to FDA as discussed in the guidance document. We are not suggesting that firms maintain an inflexible set of documents where anything less or different would likely be considered unacceptable. Rather, we are leaving it to each firm's discretion to maintain appropriate documentation to demonstrate that the food was so handled during the acceptable timeframes.

Examples of documentation which we anticipate will serve this purpose consist of documentation associated with packing codes, batch records, and inventory records. These are types of documents that many food processors routinely generate as part of their basic food-production operations. Accordingly, under the PRA, we are requesting the extension of OMB approval for the information collection provisions in the guidance.

*Description of Respondents:* The likely respondents to this collection of information are firms in the produce and food processing industries that handle food products that may contain residues of pesticide chemicals after the tolerances for the pesticide chemicals have been revoked, suspended, or modified.

We estimate the annual burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

| Activity | Number of respondents | Number of responses per respondent | Total annual responses | Average burden per response | Total hours |
|---|---|---|---|---|---|
| Submission of documentation | 1 | 1 | 1 | 3 | 3 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

We expect the total number of pesticide tolerances that are revoked, suspended, or modified by EPA pursuant to dietary risk considerations in the next 3 years to remain at a low level, as there have been no changes to the safety standard for pesticide residues in food since 1996. Thus, we expect the number of submissions we will receive pursuant to the guidance document will also remain at a low level. However, to avoid counting this burden as zero, we have estimated the burden at one respondent making one submission a year for a total of one annual submission.

We based our estimate of the hours per response on the assumption that the information requested in the guidance is readily available to the submitter. We expect that the submitter will need to gather information from appropriate persons in the submitter's company and to prepare this information for submission to FDA. The submitter will almost always merely need to copy existing documentation. We believe that this effort should take no longer than 3 hours per submission.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

| Activity | Number of recordkeepers | Number of records per recordkeeping | Total annual records | Average burden per record | Total hours |
|---|---|---|---|---|---|
| Develop documentation process | 1 | 1 | 1 | 16 | 16 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

In determining the estimated annual recordkeeping burden, we estimated that at least 90 percent of firms maintain documentation, such as packing codes, batch records, and inventory records, as part of their basic food production or import operations. Therefore, the recordkeeping burden was calculated as the time required for the 10 percent of firms that may not be currently maintaining this documentation to develop and maintain documentation, such as batch records and inventory records. In previous information collection requests, this recordkeeping burden was estimated to be 16 hours per record. We have retained our prior estimate of 16 hours per record for the recordkeeping burden. As shown in Table 1 of this document, we estimate that one respondent will make one submission per year. Although we estimate that only 1 out of 10 firms will not be currently maintaining the necessary documentation, to avoid counting the recordkeeping burden for the 1 submission per year as 1/10 of a recordkeeper, we estimate that 1 recordkeeper will take 16 hours to develop and maintain documentation recommended by the guidance.

Dated: May 27, 2014.

**Leslie Kux,**

*Assistant Commissioner for Policy.*

[FR Doc. 2014–12819 Filed 6–2–14; 8:45 am]

**BILLING CODE 4160–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2009–N–0501]**

### Agency Information Collection Activities; Proposed Collection; Comment Request; Third Party Disclosure and Recordkeeping Requirements for Reportable Food

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA or we) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice invites comments on the information collection provisions of FDA's third party disclosure and recordkeeping requirements for reportable food.

**DATES:** Submit either electronic or written comments on the collection of information by August 4, 2014.

**ADDRESSES:** Submit electronic comments on the collection of information to *http://www.regulations.gov*. Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov*.

**SUPPLEMENTARY INFORMATION:** Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' ' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, we are publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, we invite comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on

respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

**Third Party Disclosure and Recordkeeping Requirements for Reportable Food—21 U.S.C. 350f (OMB Control Number 0910–0643)—Extension**

The Federal Food, Drug, and Cosmetic Act (FD&C Act), as amended by the Food and Drug Administration Amendments Act of 2007 (FDAAA) (Pub. L. 110–85) requires the establishment of a Reportable Food Registry (the Registry) by which instances of reportable food must be submitted to FDA by responsible parties and may be submitted by public health officials. Section 417 of the FD&C Act (21 U.S.C. 350f) defines ''reportable food'' as an ''article of food (other than infant formula) for which there is a reasonable probability that the use of, or exposure to, such article of food will cause serious adverse health consequences or death to humans or animals.'' (Section 417(a)(2) of the FD&C Act). We believe that the most efficient and cost effective means to implement the Registry is by utilizing our electronic Safety Reporting Portal. The information collection provisions associated with the submission of reportable food reports has been approved under OMB control number 0910–0645.

In conjunction with the reportable foods requirements, section 417 of the FD&C Act also establishes third party disclosure and recordkeeping burdens. Specifically, we may require the responsible party to notify the immediate previous source(s) and/or immediate subsequent recipient(s) of a reportable food (sections 417(d)(6)(B)(i) to (ii) of the FD&C Act). Similarly, we may also require the responsible party that is notified (i.e., the immediate previous source and/or immediate subsequent recipient) to notify their own immediate previous source(s) and/or immediate subsequent recipient(s) of a reportable food (sections 417(d)(7)(C)(i) to (ii) of the FD&C Act).

Notification to the immediate previous source(s) and immediate subsequent recipient(s) of the article of food may be accomplished by electronic communication methods such as email, fax, or text messaging or by telegrams, mailgrams, or first-class letters. Notification may also be accomplished by telephone call or other personal contacts but we recommend that such notifications also be confirmed by one of the previous methods and/or documented in an appropriate manner. We may require that the notification include any or all of the following data elements: (1) The date on which the article of food was determined to be a reportable food; (2) a description of the article of food including the quantity or amount; (3) the extent and nature of the adulteration; (4) the results of any investigation of the cause of the adulteration if it may have originated with the responsible party, if known; (5) the disposition of the article of food, when known; (6) product information typically found on packaging including product codes, use-by dates, and the names of manufacturers, packers, or distributors sufficient to identify the article of food; (7) contact information for the responsible party; (8) contact information for parties directly linked in the supply chain and notified under section 417(d)(6)(B) or 417(d)(7)(C) of the FD&C Act, as applicable; (9) the information required by FDA to be included in the notification provided by the responsible party involved under section 417(d)(6)(B) or 417(d)(7)(C) of the FD&C Act or required to report under section 417(d)(7)(A) of the FD&C Act; and (10) the unique number described in section 417(d)(4) of the FD&C Act (section 417(d)(6)(B)(iii)(I), (d)(7)(C)(iii)(I), and (e) of the FD&C Act). We may also require that the notification provides information about the actions that the recipient of the notification will perform and/or any other information we may require (section 417(d)(6)(B)(iii)(II), (d)(6)(B)(iii)(III), (d)(7)(C)(iii)(II), and (d)(7)(C)(iii)(III) of the FD&C Act).

Section 417(g) of the FD&C Act requires that responsible persons maintain records related to reportable foods for a period of 2 years.

The congressionally-identified purpose of the Registry is to provide ''a reliable mechanism to track patterns of adulteration in food [which] would support efforts by the Food and Drug Administration to target limited inspection resources to protect the public health'' (FDAAA, section 1005(a)(4)). The reporting and recordkeeping requirements described previously are designed to enable FDA to quickly identify and track an article of food (other than infant formula) for which there is a reasonable probability that the use of or exposure to such article of food will cause serious adverse health consequences or death to humans or animals. We use the information collected under these regulations to help ensure that such products are quickly and efficiently removed from the market.

As required under section 1005(f) of FDAAA and to assist industry, we have issued the draft guidance document entitled, ''Questions and Answers Regarding the Reportable Food Registry as Established by the Food and Drug Administration Amendments Act of 2007 (Edition 2),'' which is available at *http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/RFR/ucm212793.htm*. The draft guidance contains questions and answers relating to the requirements under section 417 of the FD&C Act, including (1) how, when and where to submit reports to FDA; (2) who is required to submit reports to FDA; (3) what is required to be submitted to FDA; and (4) what may be required when providing notifications to other persons in the supply chain of an article of food. The guidance also refers to previously approved collections of information found in FDA regulations. The collections of information in questions D5 and D6 of the guidance have been approved under OMB control number 0910–0249.

*Description of Respondents:* Mandatory respondents to this collection of information are the owners, operators, or agents in charge of a domestic or foreign facility engaged in manufacturing, processing, packing, or holding food for consumption in the United States (''responsible parties'') who have information on a reportable food. Voluntary respondents to this collection of information are Federal, State, and local public health officials who have information on a reportable food.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL THIRD PARTY DISCLOSURE BURDEN [1]

| Activity/Section | Number of respondents | Number of disclosures per respondent | Total annual disclosures | Average burden per disclosure | Total hours |
|---|---|---|---|---|---|
| Notifying immediate previous source of the article of food under section 417(d)(6)(B)(i) of the FD&C Act (mandatory reporters only). | 1,200 | 1 | 1,200 | 0.6 (36 minutes) .... | 720 |
| Notifying immediate subsequent recipient of the article of food under section 417(d)(6)(B)(ii) of the FD&C Act (mandatory reporters only). | 1,200 | 1 | 1,200 | 0.6 (36 minutes) .... | 720 |
| Notifying immediate previous source of the article of food under section 417(d)(7)(C)(i) of the FD&C Act (mandatory reporters only). | 1,200 | 1 | 1,200 | 0.6 (36 minutes) .... | 720 |
| Notifying immediate subsequent recipient of the article of food under section 417(d)(7)(C)(ii) of the FD&C Act (mandatory reporters only). | 1,200 | 1 | 1,200 | 0.6 (36 minutes) .... | 720 |
| Total | | | | | 2,880 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

**Third Party Disclosure**

We estimate that approximately 1,200 reportable food events with mandatory reporters will occur annually. Based on past FDA experiences, we estimate that we could receive 200 to 1,200 ''reportable'' food reports annually from 200 to 1,200 mandatory and voluntary users of the electronic reporting system. We utilized the upper-bound estimate of 1,200 for these calculations.

We estimate that notifying the immediate previous source(s) will take 0.6 hours per reportable food and notifying the immediate subsequent recipient(s) will take 0.6 hours per reportable food. We also estimate that it will take 0.6 hours for the immediate previous source and/or the immediate subsequent recipient to also notify their immediate previous source(s) and/or immediate subsequent recipient(s). The Agency bases its estimate on its experience with mandatory and voluntary reports submitted to FDA.

Although it is not mandatory under FDAAA section 1005 that responsible persons notify the sources and recipients of instances of reportable food, for purposes of the burden estimate we are assuming FDA would exercise its authority and require such notifications in all such instances for mandatory reporters. This notification burden will not affect voluntary reporters of reportable food events. Therefore, we estimate that the total burden of notifying the immediate previous source(s) and immediate subsequent recipient(s) under section 417(d)(6)(B)(i), (d)(6)(B)(ii), (d)(7)(C)(i), and (d)(7)(C)(ii) of the FD&C Act for 1,200 reportable foods will be 2,880 hours annually (1,200 × 0.6 hours) + (1,200 × 0.6 hours) + (1,200 × 0.6 hours) + (1,200 × 0.6 hours). This annual burden is shown in Table 1.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

| Activity/section | Number of recordkeepers | Number of records per recordkeeping | Total annual records [2] | Average burden per record | Total hours |
|---|---|---|---|---|---|
| Maintenance of reportable food records under section 417(g) of the FD&C Act—mandatory reports. | 1,200 | 1 | 1,200 | 0.25 (15 minutes) .. | 300 |
| Maintenance of reportable food records under section 417(g) of the FD&C Act—voluntary reports. | 600 | 1 | 600 | 0.25 (15 minutes) .. | 150 |
| Total | | | | | 450 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

[2] For purposes of estimating number of records and hours per record, a ''record'' means all records kept for an individual reportable food by the responsible party or a voluntary reporter.

**Recordkeeping**

As noted previously, section 417(g) of the FD&C Act requires that responsible persons maintain records related to reportable foods reports and notifications under section 417 of the FD&C Act for a period of 2 years. Based on past FDA experiences, we estimate that each mandatory report and its associated notifications will require 30 minutes of recordkeeping for the 2-year period, or 15 minutes per record per year. The annual recordkeeping burden for mandatory reportable food reports and their associated notifications is thus estimated to be 300 hours (1,200 × 0.25 hours).

We do not expect that records will always be kept in relation to voluntary reportable food reports. Therefore, we estimate that records will be kept for 600 of the 1,200 voluntary reports we expect to receive annually. The recordkeeping burden associated with voluntary reports is thus estimated to be 150 hours annually (600 × 0.25 hours). The estimated total annual recordkeeping burden will be 450 hours annually (1,200 × 0.25 hours) + (600 × 0.25 hours). This annual burden is shown in Table 2.

Dated: May 27, 2014.

**Leslie Kux,**

*Assistant Commissioner for Policy.*

[FR Doc. 2014–12823 Filed 6–2–14; 8:45 am]

BILLING CODE 4160–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2013–N–0973]**

### Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Pet Event Tracking Network—State, Federal Cooperation To Prevent Spread of Pet Food Related Diseases

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Pet Event Tracking Network (PETNet)—State, Federal Cooperation to Prevent Spread of Pet Food Related Diseases'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

**FOR FURTHER INFORMATION CONTACT:** FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov*.

**SUPPLEMENTARY INFORMATION:** On March 3, 2014, the Agency submitted a proposed collection of information entitled ''Pet Event Tracking Network (PETNet)—State, Federal Cooperation to Prevent Spread of Pet Food Related Diseases'' to OMB for review and clearance under 44 U.S.C. 3507. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0680. The approval expires on May 31, 2017. A copy of the supporting statement for this information collection is available on the Internet at *http://www.reginfo.gov/public/do/PRAMain*.

Dated: May 27, 2014.

**Leslie Kux,**

*Assistant Commissioner for Policy.*

[FR Doc. 2014–12813 Filed 6–2–14; 8:45 am]

BILLING CODE 4160–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2013–D–0126]**

### Compliance Policy Guide Regarding Food Facility Registration—Human and Animal Food; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA or we) is announcing the availability of Compliance Policy Guide Sec. 100.250 Food Facility Registration—Human and Animal Food (the CPG). The CPG provides guidance for our staff on enforcement of food facility registration requirements.

**DATES:** Submit either electronic or written comments on FDA's CPGs at any time.

**ADDRESSES:** Submit written requests for single copies of the CPG to the Office of Policy and Risk Management, Office of Regulatory Affairs, Office of Global Regulatory Operations and Policy, Food and Drug Administration, 12420 Parklawn Dr., Rockville, MD 20857. Send two self-addressed adhesive labels to assist that office in processing your request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the CPG.

Submit electronic comments on the CPG to *http://www.regulations.gov*. Submit written comments on the CPG to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

**FOR FURTHER INFORMATION CONTACT:** Mischelle B. Ledet, Center for Food Safety and Applied Nutrition (HFS–615), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 240–205–1165; or Kim R. Young, Center for Veterinary Medicine (HFV–230), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–276–9207.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

FDA is announcing the availability of Compliance Policy Guide Sec. 100.250 Food Facility Registration—Human and Animal Food. The CPG is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The CPG represents our current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternate approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

The CPG provides guidance for FDA staff regarding enforcement of the food facility registration provisions of section 415 of the FD&C Act (21 U.S.C. 350d), including the requirement that certain food facilities register with FDA, the requirement that registered facilities biennially renew their registrations with FDA, and FDA's authority to suspend a food facility's registration. The CPG also contains information that may be useful for the regulated industry and to the public.

In the **Federal Register** of April 4, 2013 (78 FR 20326), we made available draft CPG Sec. 100.250 Food Facility Registration—Human and Animal Food and gave interested parties an opportunity to submit comments by May 6, 2013, for us to consider before beginning work on the final version of the CPG. We received two comments on the draft CPG. We are issuing the CPG with no substantive changes, but made editorial changes for clarity.

The CPG announced in this notice finalizes the draft CPG dated April 2013. The CPG replaces CPG Sec. 110.300 Registration of Food Facilities Under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002.

#### II. Comments

Interested persons may submit either electronic comments regarding the CPG to *http://www.regulations.gov* or written comments regarding the CPG 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. Electronic Access

Persons with access to the Internet may obtain the CPG at either *http://www.fda.gov/ICECI/ComplianceManuals/CompliancePolicyGuidanceManual/default.htm* or *http://www.regulations.gov*. Use the FDA Web site listed in the previous sentence to find the most current version of the CPG.

Dated: May 27, 2014.

**Melinda K. Plaisier,**

*Associate Commissioner for Regulatory Affairs, Office of Regulatory Affairs.*

[FR Doc. 2014–12786 Filed 6–2–14; 8:45 am]

BILLING CODE 4160–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2009–D–0007]**

### Product Development Under the Animal Rule, Revised Draft Guidance for Industry; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of a revised draft guidance for industry entitled ''Product Development Under the Animal Rule.'' When human efficacy studies are neither ethical nor feasible, FDA may rely on adequate and well-controlled animal efficacy studies to support approval of a drug or licensure of a biological product under the Animal Rule. This revised draft guidance replaces the 2009 draft guidance for industry entitled ''Animal Models—Essential Elements to Address Efficacy Under the Animal Rule'' and addresses a broader scope of issues for products developed under the Animal Rule. Once finalized, this guidance is intended to help potential sponsors (industry, academia, and government) understand FDA's expectations for product development under the Animal Rule.

**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 comment on this revised draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by August 4, 2014.

**ADDRESSES:** Submit written requests for single copies of the revised draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, rm. 4147, Silver Spring, MD 20993–0002; or 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 20993–0022. Send one self-addressed adhesive label to assist that office in processing your requests. The revised draft guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 240–402–7800. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit electronic comments on the revised 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:** Rosemary Roberts, Office of Counter-Terrorism and Emergency Coordination, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, Mailstop 2163, Silver Spring, MD 20993–0002, 301–796–2210; or Cynthia Kelley, Office of the Director, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, rm. 7204, Silver Spring, MD 20993–0002, 240–402–8089.

**SUPPLEMENTARY INFORMATION:**

## I. Background

In the **Federal Register** of January 21, 2009 (74 FR 3610), FDA announced the availability of a draft guidance for industry entitled ''Animal Models—Essential Elements to Address Efficacy Under the Animal Rule,'' which identified the critical characteristics (essential data elements) of an animal model to be addressed when developing drug or biological products for approval or licensure under the Animal Rule. The 2009 draft guidance is available to the public on FDA's Web site at *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm*.

This notice announces the availability of a revision to that draft guidance. The revised draft addresses a broader scope of issues for products developed under the Animal Rule. Based on written comments to the 2009 draft guidance and comments expressed at the related FDA public meeting held on November 5, 2010, FDA broadened the scope of the guidance to discuss product development under the Animal Rule. The revised draft guidance is intended to help potential sponsors understand FDA's expectations for product development under the Animal Rule.

The revised draft guidance has been placed in a new category/subject area, Animal Rule, and can be found under Guidances (Drugs) at the following Web link: *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm*.

New information addressing FDA's current thinking for studies related to the development of products under the Animal Rule is included in the revised draft guidance. Section III discusses regulatory considerations, including product development plans, access to investigational drugs during a public health emergency, communications with FDA, and animal model qualification program. General expectations for Animal Rule-specific studies are discussed in section IV, including a discussion of ensuring data quality and integrity. Additional information regarding the selection of an effective dose of the investigational drug for humans is discussed in section V. Design considerations for adequate and well-controlled efficacy studies in animals are described in section VI, which includes a discussion on general principles and dose selection in animals. Special considerations for vaccines and for cellular and gene therapies are outlined in sections VII.A and B, respectively. An additional checklist for the elements of an adequate and well-controlled animal efficacy study protocol is provided in section X. General principles for the care and use of animals in biomedical research and types of animal care interventions are explained in Appendices A and B, respectively. Finally, general expectations for natural history studies are described in Appendix C.

This revised 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 product development under the Animal Rule. 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. Paperwork Reduction Act

This revised draft guidance refers to previously approved collections of information that 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 collection of information in 21 CFR part 312 (investigational new drug applications) has been approved under OMB control number 0910–0014. The collection of information in 21 CFR part 314 (new drug applications) has been approved under OMB control number 0910–0001. The collection of information resulting from special protocol assessments has been approved under OMB control number 0910–0470. The collection of information resulting from formal meetings between applicants and FDA has been approved under OMB control number 0910–0429. The collection of information resulting

from Good Laboratory Practices has been approved under OMB control number 0910–0119. The collection of information resulting from current good manufacturing practices has been approved under OMB control number 0910–0139.

### III. 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*.

### IV. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm, http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm*, or *http://www.regulations.gov*.

Dated: May 29, 2014.

**Leslie Kux,**

*Assistant Commissioner for Policy.*

[FR Doc. 2014–12807 Filed 6–2–14; 8:45 am]

**BILLING CODE 4160–01–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2012–E–0594]**

### Determination of Regulatory Review Period for Purposes of Patent Extension; XIAFLEX

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) has determined the regulatory review period for XIAFLEX 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 biological 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 biological products, the testing phase begins when the exemption to permit the clinical investigations of the biological becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human biological product and continues until FDA grants permission to market the biological product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of U.S. 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 biological 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 biologic product XIAFLEX (collagenase clostridium histolyticum). XIAFLEX is indicated for treatment of adult patients with Dupuytren's contracture with a palpable cord. Subsequent to this approval, the U.S. Patent and Trademark Office received a patent term restoration application for XIAFLEX (U.S. Patent No. RE39941) from Auxilium Pharmaceuticals, Inc., and the U.S. Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated March 11, 2013, FDA advised the U.S. Patent and Trademark Office that this human biological product had undergone a regulatory review period and that the approval of XIAFLEX represented the first permitted commercial marketing or use of the product. Thereafter, the U.S. Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for XIAFLEX is 5,278 days. Of this time, 4,937 days occurred during the testing phase of the regulatory review period, while 341 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 (21 U.S.C. 355(i)) became effective:* August 24, 1995. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on August 24, 1995.

2. *The date the application was initially submitted with respect to the human biological product under section 351 of the Public Health Service Act (42 U.S.C. 262*): February 27, 2009. FDA has verified the applicant's claim that the biologics license application (BLA) for XIAFLEX (BLA 125338) was initially submitted on February 27, 2009.

3. *The date the application was approved:* February 2, 2010. FDA has verified the applicant's claim that BLA 125338 was approved on February 2, 2010.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. 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 1,806 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 August 4, 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 December 1, 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 27, 2014.

**Leslie Kux,**

*Assistant Commissioner for Policy.*

[FR Doc. 2014–12808 Filed 6–2–14; 8:45 am]

**BILLING CODE 4160–01–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

### Statement of Organization, Functions and Delegations of Authority

This notice amends Part R of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services (HHS), Health Resources and Services Administration (HRSA) (60 FR 56605, as amended November 6, 1995; as last amended at 79 FR 26258–26259 dated May 7, 2014).

This notice reflects organizational changes in the Health Resources and Services Administration. Specifically, this notice: (1) Establishes the Bureau of Health Workforce (RQ); (2) transfers all functions from the Bureau of Clinician Recruitment and Service (RU) to the newly established Bureau of Health Workforce (RQ); (3) abolishes the Bureau of Clinician Recruitment and Service (RU); (4) transfers all functions from the Bureau of Health Professions (RP) to the newly established Bureau of Health Workforce (RQ); (5) abolishes the Bureau of Health Professions (RP); (6) transfers the Nursing Education Partnership Initiative and Medical Education Partnership Initiative function from the HIV/AIDS Bureau, Office of the Associate Administrator (RV) to the newly established Bureau of Health Workforce (RQ), and; (7) updates the functional statement for the HIV/AIDS Bureau (RV).

**Chapter RQ, Bureau of Health Workforce (RQ)**

*Section RQ, OO Mission*

The Bureau of Health Workforce (BHW) improves the health of the nation's underserved communities and vulnerable populations by developing, implementing, evaluating, and refining programs that strengthen the nation's health care workforce. BHW programs holistically support a diverse, culturally competent workforce by addressing components including: Education and training; recruitment and retention; financial support for students, faculty, and practitioners, supporting institutions; data analysis, and evaluation and coordination of global health workforce activities. These efforts support development of a skilled health workforce serving in areas of the nation with the greatest need.

*Section RQ–10, Organization*

Delete the organization for the Bureau of Clinician Recruitment and Service (RU) and the Bureau of Health Professions (RP) in their entirety and replace with the following: The Bureau of Health Workforce (RQ) is headed by the Associate Administrator, who reports directly to the Administrator, Health Resources Services Administration. The Bureau of Health Workforce (RQ) includes the following components:

(1) Office of the Associate Administrator (RQ);

(2) Division of Policy and Shortage Designation (RQ1);

(3) Division of Business Operations (RQ2);

(4) Division of External Affairs (RQ3);

(5) Office of Workforce Development and Analysis (RQA);

(6) Office of Global Health Affairs (RQA1);

(7) Division of Global Training and Development (RQA11);

(8) National Center for Health Workforce Analysis (RQA2);

(9) Division of Medicine and Dentistry (RQA3);

(10) Division of Nursing and Public Health (RQA4);

(11) Division of Practitioner Data Bank (RQA5);

(12) Office of Health Careers (RQB);

(13) Division of Participant Support and Compliance (RQB1);

(14) Division of Health Careers and Financial Support (RQB2);

(15) Division of National Health Service Corps (RQB3); and

(16) Division of Regional Operations (RQB4).

*Section RQ–20, Functions*

(1) Establish the functional statement for the Bureau of Health Workforce (RQ); (2) delete the functional statement for the Bureau of Clinician and Recruitment and Service (RU) in its entirety and transfer the functions to the newly established Bureau of Health Workforce (RQ); (3) delete the functional statement for the Bureau of Health Professions (RP) in its entirety and transfer the functions to the newly established Bureau of Health Workforce (RQ); (4) transfer the Nursing Education Partnership Initiative (NEPI) and Medical Education Partnership Initiative (MEPI) function from the HIV/AIDS Bureau (RV) to the newly established Bureau of Health Workforce (RQ), and; (5) update the functional statement for the HIV/AIDS Bureau (RV).

*Office of the Associate Administrator (RQ)*

The Office of the Associate Administrator provides overall leadership, direction, coordination, and planning in support of the BHW's programs designed to help meet the health professions workforce needs of the nation and improve the health of the nation's underserved communities and vulnerable populations. The office guides and directs the bureau's workforce analysis efforts and provides guidance and support for advisory councils. Additionally, the office provides direction by coordinating the recruitment, education, training, and retention of diverse health professionals in the healthcare system and supporting communities' efforts to build more integrated and sustainable systems of care. Specifically: (1) Directs and provides policy guidance for workforce recruitment, student and faculty assistance, training, and placement of health professionals to serve in underserved areas; (2) leads workforce analysis efforts; (3) guides and supports work of advisory councils; (4) provides leadership, and guides bureau programs in recruiting and retaining a diverse workforce; (5) establishes program goals, objectives, and priorities, and provides oversight as to their execution; (6) maintains effective relationships within HRSA and with other federal and nonfederal agencies, state, and local governments, and other public and private organizations concerned with health workforce development and improving access to health care for the nation's underserved; (7) plans, directs, coordinates, and evaluates bureau-wide

management activities, i.e., budget, personnel, procurements, delegations of authority, and responsibilities related to the awarding of the BHW funds, and; (8) coordinates, reviews, and provides clearance of correspondence and official documents entering and leaving the bureau.

*Executive Office (RQ)*

The Executive Office collaborates with the BHW leadership to plan, coordinate, and direct bureau-wide administrative management activities. Specifically: (1) Executes the bureau's budget; (2) provides human resource services regarding all aspects of personnel management, workforce planning, and the allocation and utilization of personnel resources; (3) coordinates the business management functions for the bureau's grants programs; (4) plans, directs, and coordinates bureau-wide administrative management activities, i.e., budget, personnel, procurements, delegations of authority, and responsibilities related to the awarding of the BHW funds; (5) provides additional support services including the acquisition, management, and maintenance of supplies, equipment, space, training, and travel, and; (6) assumes special projects or takes the lead on certain issues as tasked by the bureau's leadership.

*Division of Policy and Shortage Designation (RQ1)*

The Division of Policy and Shortage Designation serves as the focal point for the development of the BHW programs and policies. Specifically: (1) Leads and coordinates the analysis, development, and drafting of policies impacting bureau programs; (2) coordinates program planning, and tracking of legislation and other information related to BHW's programs; (3) directly supports national efforts to analyze and address equitable distribution of health professionals for access to health care for underserved populations; (4) recommends health professional shortage areas and medically-underserved areas and populations; (5) approves designation requests and finalizes designation policies and procedures for both current and proposed designation criteria; (6) negotiates and approves state designation agreements; (7) oversees grants to state primary care offices and conducts all business management aspects of the review, negotiation, award, and administration of these grants; (8) provides oversight, processing, and coordination for the J1-visa program; (9) works collaboratively with other components within HRSA and HHS, and with other federal agencies, state, and local governments, and other public and private organizations on issues affecting the BHW's programs and policies; (10) performs environmental scanning on issues that affect the BHW's programs and assesses the impact of programs on underserved communities; (11) monitors BHW's activities in relation to HRSA's strategic plan; (12) develops budget projections and justifications, and; (13) serves as the bureau's focal point for program information.

*Division of Business Operations (RQ2)*

The Division of Business Operations serves as the focal point for the bureau's data management systems, reports, data analysis, and automation of business processes to support the administration of the BHW programs. Specifically: (1) Provides leadership for implementing the BHW's systems development, enhancement, and administration; (2) designs and implements data systems to assess and improve program performance; (3) provides user support and training to facilitate the effectiveness of the bureau's information systems and deliver excellent customer service to internal and external stake holders, and; (4) ensures that data management systems and other tools continue to evolve to support changes to program policy, process, and data throughout the bureau.

*Division of External Affairs (RQ3)*

The Division of External Affairs provides communication and public affairs expertise to the bureau and serves as the focal point for the development of all external messaging and dissemination of public information, promotional materials, brochures, speeches, and articles, in consultation with HRSA's Office of Communications. Specifically the division: (1) Leads, coordinates, and conducts outreach and engagement strategies for various audiences including students, clinicians, health care sites, and critical shortage facilities, as well as workforce grantees and applicants; (2) coordinates and conducts all bureau webinars and trainings for clinicians, grantees, sites, and applicants; (3) establishes and manages partner collaborations with national organizations, as well as National Health Service Corps (NHSC) Ambassadors and Alumni; (4) performs marketplace analysis to better understand information needs of various audiences; (5) coordinates requests for bureau speakers, and develops and implements communication initiatives on the bureau's programs; (6) oversees and coordinates the bureau's committee management activities; (7) coordinates, researches, writes, and prepares speeches and audiovisual presentations for the Associate Administrator and leadership, and; (8) maintains responsibility for all communication functions including, but not limited to, the bureau's Web site, external newsletters, social media, and response to media inquiries.

*Office of Workforce Development and Analysis (RQA)*

The Office of Workforce Development and Analysis (OWDA) serves as the focal point for health workforce analysis and data collection, and the coordination, direction, and oversight of the BHW's programs that provide grants to institutions and organizations in support of the recruitment, education, training, and retention of a diverse, culturally competent health care workforce that increases access to care for the nation's vulnerable and underserved populations. Specifically: (1) Directs policy guidance for the bureau's grants to institutions and organizations for the recruitment, retention, and training of a diverse health professions workforce and faculty; (2) directs the bureau's health professions workforce data collection and analysis efforts in support of the BHW's programs, and provides oversight for the evaluation of grantee performance and program outcomes; (3) establishes program goals, objectives, and priorities and provides oversight to their execution; (4) maintains effective relationships within HRSA and with other federal and non-federal partners concerned with health workforce development and improving access to health care for the nation's underserved; (5) plans, directs, coordinates, and evaluates office-wide management activities, i.e., budget, personnel, procurements, and awarding of funds; (6) coordinates, reviews, and provides clearance of correspondence and official documents entering and leaving the office; (7) guides and supports work of advisory councils, and; (8) represents the bureau, agency, and federal government, as designated, on national committees maintaining effective relationships within HRSA and with other federal and non-federal agencies, state and local governments, and other public and private organizations concerned with health personnel development, and improving access to health care for the nation's underserved.

*Office of Global Health Affairs (RQA1)*

The Office of Global Health Affairs serves as the principal advisor to the Office of Workforce Development and Analysis Director and the Associate Administrator on global health issues. Specifically: (1) Provides leadership, coordination, and advancement of global health activities relating to health care services for vulnerable and at-risk populations and for HRSA training programs; (2) provides support for the agency's International Visitors Program; (3) provides management and oversight of international programs aimed at improving quality and innovation in health professions education, retention, training, faculty development and applied research systems; (3) provides leadership within HRSA for the support of global health and coordinates policy development with the HHS Office of Global Health Affairs and other departmental agencies, and; (4) supports and conducts programs with respect to activities associated with the international migration, domestic training, and utilization of foreign medical graduates and U.S. citizens studying abroad.

*Division of Global Training and Development (RQA11)*

The Division of Global Training and Development is responsible for developing policy recommendations and implementing international programs to improve targeted health professions, education, and training; promote retention; and develop faculty and applied research systems. The division oversees grants and cooperative agreements for international workforce development efforts and is responsible for monitoring progress, performance, and compliance with established policies and procedures.

*National Center for Health Workforce Analysis (RQA2)*

The National Center for Health Workforce Analysis is the focal point for the coordination and management of the bureau's health professions workforce data collection, analysis, and evaluation efforts. The National Center for Health Workforce Analysis leads and monitors the development of workforce projections relating to the BHW programs and acts as a national resource for such information and data.

*Division of Medicine and Dentistry (RQA3)*

The Division of Medicine and Dentistry serves as the bureau's lead for the program administration and oversight of medical and dental programs. Specifically: (1) Administers grants to educational institutions and other eligible organizations for the development, improvement, and operation of educational programs for primary care physicians (pre-doctoral, residency), physician assistants, dentists and dental hygienists, including support for community-based training and funding for faculty development to teach in primary care specialties training; (2) provides technical assistance and consultation to grantee institutions and other governmental and private organizations on the operation of these educational programs; (3) evaluates programmatic data and promotes the dissemination and application of findings arising from supported programs; (4) collaborates within the bureau to identify and support analytical studies to determine the present and future supply and requirements of physicians, dentists, dental hygienists, and physician assistants by specialty, geographic location, and for state planning efforts; (5) encourages community-based training opportunities for primary care providers, particularly in underserved areas; (6) provides leadership and staff support for the Advisory Committee on Training in Primary Care Medicine and Dentistry; Advisory Committee on Interdisciplinary Community-Based Linkages, and for the Council on Graduate Medical Education, and; (7) represents the bureau, agency, and federal government, as designated, on national committees maintaining effective relationships within HRSA and with other federal and non-federal agencies, state and local governments, and other public and private organizations concerned with health personnel development and improving access to health care for the nation's underserved.

*Division of Nursing and Public Health (RQA4)*

The Division of Nursing and Public Health serves as the bureau's lead for the administration and oversight of nursing, behavioral and public health programs. Specifically: (1) Administers grants and provides technical assistance to educational institutions and other eligible entities in support of nursing education, practice, retention, diversity, and faculty development; (2) administers grants and provides technical assistance to educational institutions and other eligible entities in support of behavioral and public health education and practice; (3) addresses nursing workforce shortages through projects that focus on expanding enrollment in baccalaureate programs, and develops internships, residency programs, and other training mechanisms to improve the preparation of nurses, and behavioral and public health professionals, providing care for underserved populations; (4) collaborates within the bureau to identify and support analytical studies to determine the present and future supply and requirements for nurses, and behavioral and public health professionals; (5) evaluates programmatic data and promotes the dissemination and application of findings arising from supported programs; (6) provides staff support, and the Director, on behalf of the Secretary, serves as the Chair of the National Advisory Council on Nurse Education and Practice, and; (7) represents the bureau, agency, and federal government, as designated, on national committees maintaining effective relationships within HRSA and with other federal and non-federal agencies, state and local governments, and other public and private organizations concerned with health personnel development, and improving access to health care for the nation's underserved.

*Division of Practitioner Data Bank (RQA5)*

The Division of Practitioner Data Bank coordinates with the department and other federal entities, state licensing boards, national, state, and local professional organizations, to promote quality assurance efforts and deter fraud and abuse by administering the National Practitioner Data Bank (NPDB). Specifically, the division: (1) Monitors adverse licensure information on all licensed health care practitioners and health care entities; (2) develops, proposes, and monitors efforts for (a) credential assessment, granting of privileges, monitoring and evaluating programs for physicians, dentists, other health care professionals, (b) professional peer review to promote an evaluation of the competence, professional conduct, or the quality and appropriateness of patient care provided by health care practitioners, and (c) risk management and utilization reviews; (3) encourages and supports evaluation and demonstration projects and research using NPDB data on medical malpractice payments and adverse actions taken against practitioners' licenses, clinical privileges, professional society memberships, and eligibility to participate in Medicare/Medicaid; (4) ensures integrity of data collection, follows all disclosure procedures without fail; (5) conducts and supports research based on the NPDB data; (6) maintains active consultative relations with professional organizations,

societies, and federal agencies involved with the NPDB; (7) works with the Secretary's office to provide technical assistance to states undertaking malpractice reform, and; (8) maintains effective relations with the Office of the General Counsel, the Office of the Inspector General, and HHS concerning practitioner licensing and data bank issues.

*Office of Health Careers (RQB)*

The Office of Health Careers is the focal point for the coordination, direction, and oversight of BHW's loan repayment, loan, scholarship, and health careers pipeline programs that provide direct financial support to individuals and grantee institutions in support of the bureau's goals of recruiting and retaining a diverse and culturally competent health care workforce to serve underserved communities and vulnerable populations. Specifically: (1) Directs policy guidance for BHW loan repayment, loan, scholarship, and pipeline programs to eligible students, health professionals, faculty, and grantee institutions; (2) establishes program goals, objectives, and priorities and provides oversight to their execution; (3) maintains effective relationships within HRSA and with other federal and non-federal partners concerned with health workforce development and improving access to health care for the nation's underserved; (4) plans, directs, coordinates, and evaluates office-wide management activities, i.e., budget, personnel, procurements, and awarding of funds; (5) coordinates, reviews, and provides clearance of correspondence and official documents entering and leaving the office; (6) guides and supports work of advisory councils, and; (7) represents the bureau, agency, and federal government, as designated, on national committees maintaining effective relationships within HRSA and with other federal and non-federal agencies, state and local governments, and other public and private organizations concerned with health personnel development and improving access to health care for the nation's underserved.

*Division of Participant Support and Compliance (RQB1)*

The Division of Participant Support and Compliance serves as the organizational focal point for the bureau's centralized, comprehensive customer service function to support individual program participants. Provides regular and ongoing communication, technical assistance, and support to program participants through the period of obligated service and closeout. Specifically: (1) Manages the staff and daily operations of the bureau's centralized customer service function; (2) initiates contact with and monitors program participants throughout their service; (3) manages clinician support, site transfers, in-service reviews; (4) provides oversight and approval of the default, suspension, and waiver processes; (5) oversees the approval process and response for exception requests, congressional inquiries, contract terminations, and voids; (6) manages the six-month verification process; (7) conducts closeout activities for each program participant and issues completion certificates; (8) manages the monthly payroll for NURSE Corps Loan Repayment Program participants, and; (9) maintains program participants' case files in the bureau's management information system.

*Division of Health Careers and Financial Support (RQB2)*

The Division of Health Careers and Financial Support serves as the point of contact for responding to inquiries; disseminating program information; providing technical assistance; administering grants, and; processing applications and awards pertaining to health workforce scholarship, loan, loan repayment, and pipeline development programs. Specifically: (1) Reviews, ranks, and selects participants and grantees for NURSE Corps, Faculty Loan Repayment Program, Native Hawaiian Health Scholarship Program, and other discretionary grant programs that provide scholarships, loans, and loan repayment to students, health professionals and faculty; (2) verifies and processes loan and lender related payments in prescribed manner and maintains current information on NURSE Corps and other scholarship, loan, and loan repayment applications and awards through automated BHW information systems; (3) manages NURSE Corps scholar in-school activities; (4) facilitates NURSE Corps scholar placement, and; (5) administers grants and provides technical assistance to educational institutions and other eligible entities for the development of a diverse and culturally competent health workforce.

*Division of National Health Service Corps (RQB3)*

The Division of National Health Service Corps serves as the point of contact for responding to inquiries, disseminating program information, providing technical assistance, and processing applications and awards pertaining to the NHSC scholarship and loan repayment programs. Specifically: (1) Reviews, ranks, and selects participants for the scholarship and loan repayment programs; (2) verifies and processes loan and lender related payments in prescribed manner and maintains current information on scholarship and loan repayment applications and awards through automated BHW information systems; (3) manages scholar in-school activities, and; (4) administers the NHSC State Loan Repayment Program.

*Division of Regional Operations (RQB4)*

The Division of Regional Operations serves as the regional component of the BHW, cutting across divisions and working with the bureau programs that fund participants to serve in Health Professions Shortage Areas. Specifically, the Regional Offices support the bureau by: (1) Providing support for the recruitment and retention of primary health care providers in Health Professions Shortage Areas; (2) coordinating with state and regional level partners and stakeholders, and health professions schools in support of the BHW programs and initiatives; (3) reviewing and approving/disapproving NHSC site applications and recertification's; (4) completing NHSC site visits and providing technical assistance to sites, and; (5) managing the scholar placement process.

**Chapter RV, HIV/AIDS Bureau (RV)**

*Section RV–20, Functions*

(1) Delete the functional statement for the HIV/AIDS Bureau, Office of the Associate Administrator (RV) and replace in its entirety; (2) delete the functional statement for the HIV/AIDS Bureau, Division of HIV/AIDS Training and Capacity Development (RV7) and replace in its entirety.

*Office of the Associate Administrator (RV)*

The Office of the Associate Administrator provides leadership and direction for the HIV/AIDS programs and activities of the Bureau and oversees its relationship with other national health programs. Specifically: (1) Promotes the implementation of the National HIV/AIDS Strategy within the Agency and among Agency-funded programs; (2) coordinates the formulation of an overall strategy and policy for programs established by Title XXVI of the PHS Act as amended by the Ryan White HIV/AIDS Treatment Extension Act of 2009, Pub. L. 111–87; (3) coordinates the internal functions of the Bureau and its relationships with

other Agency Bureaus and Offices; (4) establishes HIV/AIDS program objectives, alternatives, and policy positions consistent with broad Administration guidelines; (5) provides leadership for and oversight of the Bureau's budgetary development and implementation processes; (6) provides clinical leadership to Ryan White-funded programs and global HIV/AIDS programs; (7) oversees the implementation of the training and systems strengthening for the Global HIV/AIDS Program as part of the President's Emergency Plan for AIDS Relief; (8) serves as a principal contact and advisor to the Department and other parties on matters pertaining to the planning and development of HIV/AIDS-related health delivery systems; (9) reviews HIV/AIDS related program activities to determine their consistency with established policies; (10) develops and oversees operating policies and procedures for the Bureau; (11) oversees and directs the planning, implementation, and evaluation of special studies related to HIV/AIDS and public health within the Bureau; (12) prioritizes technical assistance needs in consultation with each division/office; (13) plans, develops, implements and evaluates the Bureau's organizational and staff development, and staff training activities inclusive of guiding action steps addressing annual Employee Viewpoint Survey results; (14) plans, implements, and evaluates the Bureau's national Technical Assistance conference calls, TARGET Web site, Webex trainings and other distance learning modalities; (15) represents the Agency in HIV/AIDS related conferences, consultations, and meetings with other Operating Divisions, Office of the Assistance Secretary for Health, the Department of State, and the White House; (16) coordinates the development and distribution of all Bureau communication activities, materials and products internally and externally; (17) provides leadership for and oversees Bureau's grants processes, and; (18) oversees Bureau Executive Secretariat functions and coordinates HRSA responses and comments on HIV/AIDS-related reports, position papers, guidance documents, correspondence, and related issues, including Freedom of Information Act requests.

*Division of HIV/AIDS Training and Capacity Development (RV7)*

The Division of HIV/AIDS Training and Capacity Development provides national leadership and manages the implementation of Part F under Title XXVI of the PHS Act as amended by the Ryan White HIV/AIDS Treatment Extension Act of 2009, Pub. L. 111–87 (the Ryan White HIV/AIDS Program), including the Special Projects of National Significance and the AIDS Education and Training Centers Programs. The Special Projects of National Significance Program develops innovative models of HIV care and the AIDS Education and Training Centers Program increases the number of health care providers who are educated and motivated to counsel, diagnose, treat, and medically manage people with HIV disease and to help prevent high-risk behaviors that lead to HIV transmission. The division also implements the training and systems strengthening functions of the Global HIV/AIDS Program as part of the President's Emergency Plan for AIDS Relief (PEPFAR). This includes strengthening health systems for delivery of prevention, care and treatment services for people living with HIV/AIDS in PEPFAR funded countries. The division will translate lessons learned from both the Global HIV/AIDS Programs and Special Projects of National Significance projects to the Part A, B, C, D, and F grantee community. In collaboration with the Division of Policy and Data, the division assesses effectiveness of technical assistance efforts/initiatives, identifies new technical assistance needs and priority areas, and participates in the bureau-wide technical assistance workgroup.

*Section RV–30, Delegations of Authority*

All delegations of authority and re-delegations of authority made to HRSA officials that were in effect immediately prior to this reorganization, and that are consistent with this reorganization, shall continue in effect pending further re-delegation.

This reorganization is effective upon date of signature.

Dated: May 27, 2014.

**Mary K. Wakefield,**

*Administrator.*

[FR Doc. 2014–12726 Filed 6–2–14; 8:45 am]

**BILLING CODE 4165–15–P**

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## 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; Member Conflict: Integrative Neuroscience.

*Date:* June 9–10, 2014.

*Time:* 9:00 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:* Kirk Thompson, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5184, MSC 7844, Bethesda, MD 20892, 301–435–1242, *kgt@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group; Pregnancy and Neonatology Study Section.

*Date:* June 24, 2014.

*Time:* 7:30 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

*Contact Person:* Michael Knecht, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6176, MSC 7892, Bethesda, MD 20892, (301) 435–1046, *knechtm@csr.nih.gov.*

(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 28, 2014.

**David Clary,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2014–12743 Filed 6–2–14; 8:45 am]

**BILLING CODE 4140–01–P**

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## 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:* Healthcare Delivery and Methodologies Integrated Review Group; Community-Level Health Promotion Study Section.

*Date:* June 23–24, 2014.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* InterContinental Chicago Hotel, 505 North Michigan Avenue, Chicago, IL 60611.

*Contact Person:* Ping Wu, Ph.D., Scientific Review Officer, HDM IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3166, Bethesda, MD 20892, 301–451–8428, *wup4@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Cancer Biology.

*Date:* June 26, 2014.

*Time:* 9:00 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:* Svetlana Kotliarova, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, Bethesda, MD 20892, 301–451–3493, *kotliars@mail.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; PAR Panel: NIDDK Translational Research.

*Date:* June 26, 2014.

*Time:* 11:00 a.m. to 5:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

*Contact Person:* John Bleasdale, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6170, MSC 7892, Bethesda, MD 20892, 301–435–4514, *bleasdaleje@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 28, 2014.

**Carolyn A. Baum,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2014–12745 Filed 6–2–14; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Center for Complementary & Alternative Medicine; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Center for Complementary and Alternative Medicine Special Emphasis Panel; Fellowship, Career Development, AREA and Conference Grant-Program Announcements.

*Date:* June 27, 2014.

*Time:* 12:00 p.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Dem II, Suite 401, 6707 Democracy Blvd., Bethesda, MD 20817, (Virtual Meeting).

*Contact Person:* Martina Schmidt, Ph.D., Scientific Review Officer, National Center for Complementary & Alternative Medicine, NIH, 6707 Democracy Blvd., Suite 401, Bethesda, MD 20892, 301–594–3456, *schmidtma@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.213, Research and Training in Complementary and Alternative Medicine, National Institutes of Health, HHS).

Dated: May 28, 2014.

**Carolyn A. Baum,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2014–12748 Filed 6–2–14; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Deafness and Other Communication Disorders; 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 on Deafness and Other Communication Disorders Special Emphasis Panel; Hearing and Balance Clinical Trial.

*Date:* June 23, 2014.

*Time:* 12:00 p.m. to 2:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

*Contact Person:* Christine A. Livingston, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institutes of Health/NIDCD, 6001 Executive Blvd.—Room 8343, Bethesda, MD 20892, (301) 496–8683, *livingsc@mail.nih.gov.*

*Name of Committee:* National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; VSL Clinical Trial.

*Date:* June 26, 2014.

*Time:* 11:00 a.m. to 1:00 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:* Christine A. Livingston, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institutes of Health/NIDCD, 6001 Executive Blvd.—Room 8343, Bethesda, MD 20892, (301) 496–8683, *livingsc@mail.nih.gov.*

*Name of Committee:* National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; Clinical Trial Review.

*Date:* June 26, 2014.

*Time:* 1:00 p.m. to 3:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

*Contact Person:* Christine A. Livingston, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institutes of Health/NIDCD, 6001 Executive Blvd.—Room 8343, Bethesda, MD 20892, (301) 496–8683, *livingsc@mail.nih.gov*.

*Name of Committee:* National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; Clinical Trial Review.

*Date:* July 1, 2014.

*Time:* 11:00 a.m. to 1:00 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:* Christine A. Livingston, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institutes of Health/NIDCD, 6001 Executive Blvd.—Room 8343, Bethesda, MD 20892, (301) 496–8683, *livingsc@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS).

Dated: May 28, 2014.

**Melanie J. Gray,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2014–12747 Filed 6–2–14; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Advisory Committee to the Deputy Director for Intramural Research, National Institutes of Health.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

*Name of Committee:* Advisory Committee to the Deputy Director for Intramural Research, National Institutes of Health.

*Date:* June 30, 2014.

*Time:* 2:00 p.m. to 3:30 p.m.

*Agenda:* To discuss site visit report.

*Place:* National Institutes of Health, Conference Line: 888–790–1748, Participant Passcode: 39613, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Michael M Gottesman, National Institutes of Health, One Center Drive, Rm. 160, Bethesda, MD 20892, Phone: 301–496–1921.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: May 27, 2014.

**Anna Snouffer,**

*Deputy Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 2014–12662 Filed 6–2–14; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Drug Abuse Special Emphasis Panel; Tools for Monitoring and Manipulating Modified RNAs in the Nervous System.

*Date:* June 19, 2014.

*Time:* 9:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Hilton Garden Inn Bethesda, 7301 Waverly Street, Bethesda, MD 20814.

*Contact Person:* Jagadeesh S. Rao, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 4234, MSC 9550, Bethesda, MD 02892, 301–443–9511, *jrao@nida.nih.gov*.

*Name of Committee:* National Institute on Drug Abuse Special Emphasis Panel; NIH Summer Research Experience Programs (R25).

*Date:* June 25, 2014.

*Time:* 3:30 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:* Hiromi Ono, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 4238, MSC 9550, Bethesda, MD 20892, 301–402–6020, *hiromi.ono@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: May 28, 2014.

**Carolyn A. Baum,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2014–12744 Filed 6–2–14; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Substance Abuse and Mental Health Services Administration

### Current List of HHS-Certified Laboratories and Instrumented Initial Testing Facilities Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

**AGENCY:** Substance Abuse and Mental Health Services Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Department of Health and Human Services (HHS) notifies federal agencies of the laboratories and Instrumented Initial Testing Facilities (IITF) currently certified to meet the standards of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines). The Mandatory Guidelines were first published in the **Federal Register** on April 11, 1988 (53 FR 11970), and subsequently revised in the **Federal Register** on June 9, 1994 (59 FR 29908); September 30, 1997 (62 FR 51118); April 13, 2004 (69 FR 19644); November 25, 2008 (73 FR 71858); December 10, 2008 (73 FR 75122); and on April 30, 2010 (75 FR 22809).

A notice listing all currently HHS-certified laboratories and IITFs is published in the **Federal Register** during the first week of each month. If any laboratory or IITF certification is suspended or revoked, the laboratory or IITF will be omitted from subsequent lists until such time as it is restored to full certification under the Mandatory Guidelines.

If any laboratory or IITF has withdrawn from the HHS National Laboratory Certification Program (NLCP)

during the past month, it will be listed at the end and will be omitted from the monthly listing thereafter.

This notice is also available on the Internet at *http://www.workplace.samhsa.gov.*

**FOR FURTHER INFORMATION CONTACT:** Giselle Hersh, Division of Workplace Programs, SAMHSA/CSAP, Room 7–1051, One Choke Cherry Road, Rockville, Maryland 20857; 240–276–2600 (voice), 240–276–2610 (fax).

**SUPPLEMENTARY INFORMATION:** The Mandatory Guidelines were initially developed in accordance with Executive Order 12564 and section 503 of Public Law 100–71. The ''Mandatory Guidelines for Federal Workplace Drug Testing Programs,'' as amended in the revisions listed above, requires strict standards that laboratories and IITFs must meet in order to conduct drug and specimen validity tests on urine specimens for federal agencies.

To become certified, an applicant laboratory or IITF must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification, a laboratory or IITF must participate in a quarterly performance testing program plus undergo periodic, on-site inspections.

Laboratories and IITFs in the applicant stage of certification are not to be considered as meeting the minimum requirements described in the HHS Mandatory Guidelines. A HHS-certified laboratory or IITF must have its letter of certification from HHS/SAMHSA (formerly: HHS/NIDA), which attests that it has met minimum standards.

In accordance with the Mandatory Guidelines dated November 25, 2008 (73 FR 71858), the following HHS-certified laboratories and IITFs meet the minimum standards to conduct drug and specimen validity tests on urine specimens:

**HHS-Certified Instrumented Initial Testing Facilities**

Gamma-Dynacare Medical Laboratories, 6628 50th Street NW., Edmonton, AB Canada T6B 2N7, 780–784–1190.

**HHS-Certified Laboratories**

ACM Medical Laboratory, Inc., 160 Elmgrove Park, Rochester, NY 14624, 585–429–2264.

Aegis Analytical Laboratories, Inc., 345 Hill Ave., Nashville, TN 37210, 615–255–2400, (Formerly: Aegis Sciences Corporation, Aegis Analytical Laboratories, Inc., Aegis Analytical Laboratories).

Alere Toxicology Services, 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823, (Formerly: Kroll Laboratory Specialists, Inc., Laboratory Specialists, Inc.).

Alere Toxicology Services, 450 Southlake Blvd., Richmond, VA 23236, 804–378–9130, (Formerly: Kroll Laboratory Specialists, Inc., Scientific Testing Laboratories, Inc.; Kroll Scientific Testing Laboratories, Inc.).

Baptist Medical Center-Toxicology Laboratory, 11401 I–30, Little Rock, AR 72209–7056, 501–202–2783, (Formerly: Forensic Toxicology Laboratory Baptist Medical Center).

Clinical Reference Lab, 8433 Quivira Road, Lenexa, KS 66215–2802, 800–445–6917.

DrugScan, Inc., 200 Precision Road, Suite 200, Horsham, PA 19044, 800–235–4890.

ElSohly Laboratories, Inc., 5 Industrial Park Drive, Oxford, MS 38655, 662–236–2609.

Fortes Laboratories, Inc., 25749 SW Canyon Creek Road, Suite 600, Wilsonville, OR 97070, 503–486–1023.

Gamma-Dynacare Medical Laboratories *, A Division of the Gamma-Dynacare Laboratory Partnership, 245 Pall Mall Street, London, ONT, Canada N6A 1P4, 519–679–1630.

Laboratory Corporation of America Holdings, 7207 N. Gessner Road, Houston, TX 77040, 713–856–8288/800–800–2387.

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400/800–437–4986, (Formerly: Roche Biomedical Laboratories, Inc.).

Laboratory Corporation of America Holdings, 1904 Alexander Drive, Research Triangle Park, NC 27709, 919–572–6900/800–833–3984, (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group).

Laboratory Corporation of America Holdings, 1120 Main Street, Southaven, MS 38671, 866–827–8042/800–233–6339, (Formerly: LabCorp Occupational Testing Services, Inc.; MedExpress/National Laboratory Center).

LabOne, Inc. d/b/a Quest Diagnostics, 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/800–873–8845, (Formerly: Quest Diagnostics Incorporated; LabOne, Inc.; Center for Laboratory Services, a Division of LabOne, Inc.).

MedTox Laboratories, Inc., 402 W. County Road D, St. Paul, MN 55112, 651–636–7466/800–832–3244.

MetroLab-Legacy Laboratory Services, 1225 NE 2nd Ave., Portland, OR 97232, 503–413–5295/800–950–5295.

Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, MN 55417, 612–725–2088.

National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 661–322–4250/800–350–3515.

One Source Toxicology Laboratory, Inc., 1213 Genoa-Red Bluff, Pasadena, TX 77504, 888–747–3774, (Formerly: University of Texas Medical Branch, Clinical Chemistry Division; UTMB Pathology-Toxicology Laboratory).

Pacific Toxicology Laboratories, 9348 DeSoto Ave., Chatsworth, CA 91311, 800–328–6942, (Formerly: Centinela Hospital Airport Toxicology Laboratory).

Pathology Associates Medical Laboratories, 110 West Cliff Dr., Spokane, WA 99204, 509–755–8991/800–541–7891x7.

Phamatech, Inc., 10151 Barnes Canyon Road, San Diego, CA 92121, 858–643–5555.

Quest Diagnostics Incorporated, 1777 Montreal Circle, Tucker, GA 30084, 800–729–6432, (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).

Quest Diagnostics Incorporated, 400 Egypt Road, Norristown, PA 19403, 610–631–4600/877–642–2216, (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).

Quest Diagnostics Incorporated, 8401 Fallbrook Ave., West Hills, CA 91304, 818–737–6370, (Formerly: SmithKline Beecham Clinical Laboratories).

Redwood Toxicology Laboratory, 3700650 Westwind Blvd., Santa Rosa, CA 95403, 800–255–2159.

Southwest Laboratories, 4625 E. Cotton Center Boulevard, Suite 177, Phoenix, AZ 85040, 602–438–8507/800–279–0027.

STERLING Reference Laboratories, 2617 East L Street, Tacoma, Washington 98421, 800–442–0438.

U.S. Army Forensic Toxicology Drug Testing Laboratory, 2490 Wilson St., Fort George G. Meade, MD 20755–5235, 301–677–7085.

* The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that

date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. HHS, with the HHS' NLCP contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, HHS will recommend that DOT certify the laboratory (**Federal Register**, July 16, 1996) as meeting the minimum standards of the Mandatory Guidelines published in the **Federal Register** on April 30, 2010 (75 FR 22809). After receiving DOT certification, the laboratory will be included in the monthly list of HHS-certified laboratories and participate in the NLCP certification maintenance program.

**Janine Denis Cook,**

*Chemist, Division of Workplace Programs, Center for Substance Abuse Prevention, SAMHSA.*

[FR Doc. 2014–12777 Filed 6–2–14; 8:45 am]

**BILLING CODE 4160–20–P**

## DEPARTMENT OF HOMELAND SECURITY

### Office of the Secretary

**[Docket No. DHS–2014–0024]**

### Privacy Act of 1974; Computer Matching Program

**AGENCY:** Department of Homeland Security, U.S. Citizenship and Immigration Services

**ACTION:** Notice.

*Overview Information:* Privacy Act of 1974; Computer Matching Program between the Department of Homeland Security, U.S. Citizenship and Immigration Services and the New York State Department of Labor.

**SUMMARY:** This document provides notice of the existence of a computer matching program between the Department of Homeland Security, U.S. Citizenship and Immigration Services and the New York State Department of Labor, titled ''Verification Division DHS–USCIS/NYSDOL.''

**SUPPLEMENTARY INFORMATION:** The Department of Homeland Security, U.S. Citizenship and Immigration Services provides this notice in accordance with the Privacy Act of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503) and the Computer Matching and Privacy Protection Amendments of 1990 (Pub. L. 101–508) (Privacy Act); Office of Management and Budget (OMB) Final Guidance Interpreting the Provisions of Public Law 100–503, the Computer Matching and Privacy Protection Act of 1988, 54 FR 25818 (June 19, 1989); and OMB Circular A–130, Appendix I, 65 FR 77677 (December 12, 2000).

*Participating Agencies:* The Department of Homeland Security, U.S. Citizenship and Immigration Services (DHS–USCIS) is the source agency and the New York State Department of Labor (NYSDOL) is the recipient agency.

*Purpose of the Match:* This Computer Matching Agreement allows DHS–USCIS to provide the NYSDOL with electronic access to immigration status information contained within the DHS–USCIS Verification Information System (VIS). The immigration status information will enable NYSDOL to determine whether an applicant is eligible for benefits under the Unemployment Compensation (UC) program administered by NYSDOL.

*Authority for Conducting the Matching Program:* Section 121 of the Immigration Reform and Control Act (lRCA) of 1986, Public Law 99–603, as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), requires DHS to establish a system for the verification of immigration status of alien applicants for, or recipients of, certain types of benefits and to make this system available to state agencies that administer such benefits. Section 121(c) of IRCA amends Section 1137 of the Social Security Act and certain other sections of law that pertain to Federal entitlement benefit programs to require state agencies administering these programs to use the DHS–USCIS verification system to make eligibility determinations in order to prevent the issuance of benefits to alien applicants who are not entitled to program benefits because of their immigration status. The VIS database is the DHS–USCIS system established and made available to NYSDOL and other covered agencies for use in making these eligibility determinations.

NYSDOL seeks access to the information contained in the DHS–USCIS VIS database, for the purpose of confirming the immigration status of alien and naturalized/derived United Statues citizen applicants for, or recipients of, the benefits it administers, in order to discharge its obligation to conduct such verifications pursuant to Section 1137 of the Social Security Act, 42 U.S.C. 1320b–7 and to New York Unemployment Insurance Law, Article 18, Title 7, Section 590.

*Categories of Records and Individuals Covered*

DHS–USCIS will provide the following to NYSDOL: Records in the DHS–USCIS VIS database containing information related to the status of aliens and other persons on whom DHS–USCIS has a record as an applicant, petitioner, or beneficiary. See DHS/USCIS–004 Systematic Alien Verification for Entitlements Program System of Records Notice, 77 FR 47415 (August 8, 2012).

NYSDOL will provide the following to DHS–USCIS: NYSDOL records pertaining to alien and naturalized/derived United Statues citizen applicants for, or recipients of entitlement benefit programs administered by the State.

NYSDOL will match the following records with DHS–USCIS records:

- Alien Registration Number.
- I–94 Number.
- Last Name.
- First Name.
- Middle Name.
- Date of Birth.
- Nationality.
- Social Security Number (SSN).

DHS–USCIS will match the following records with NYSDOL records:

- Alien Registration Number.
- I–94 Number.
- Last Name.
- First Name.
- Middle Name.
- Date of Birth.
- Country of Birth (not nationality).
- SSN (if available).
- Date of Entry.
- Immigration Status Data.
- Sponsorship Information (sponsor's full name, SSN, and address).

*Inclusive Dates of the Matching Program:* The inclusive dates of the matching program are from June 29, 2014, and continuing for 18 months through December 28, 2015. The matching program may be extended for up to an additional 12 months thereafter, if certain conditions are met.

*Address for Receipt of Public Comments Or Inquires:* Individuals wishing to comment on this matching program or obtain additional information about the program, including requesting a copy of the computer matching agreement between DHS–USCIS and NYSDOL, may contact.

For general questions please contact: Donald K. Hawkins, 202–272–8030, Privacy Officer, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue NW., Washington, DC 20529.

For privacy questions please contact: Karen L. Neuman (202–343–1717), Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

Dated: May 16, 2014.

**Karen L. Neuman,**

*Chief Privacy Officer, Department of Homeland Security.*

[FR Doc. 2014–12766 Filed 6–2–14; 8:45 am]

BILLING CODE 9110–9L–P

## DEPARTMENT OF HOMELAND SECURITY

### Office of the Secretary

**[Docket No. DHS–2014–0023]**

### Privacy Act of 1974; Computer Matching Program

**AGENCY:** U.S. Citizenship and Immigration Services, Department of Homeland Security.

**ACTION:** Notice.

*Overview Information:* Privacy Act of 1974; Computer Matching Program between the Department of Homeland Security, U.S. Citizenship and Immigration Services and the New Jersey Department of Labor and Workforce Development.

**SUMMARY:** This document provides notice of the existence of a computer matching program between the Department of Homeland Security, U.S. Citizenship and Immigration Services and the New Jersey Department of Labor and Workforce Development, titled ''Verification Division DHS–USCIS/NJ–LWD.''

**SUPPLEMENTARY INFORMATION:** The Department of Homeland Security, U.S. Citizenship and Immigration Services provides this notice in accordance with the Privacy Act of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988 (Pub. L.100–503) and the Computer Matching and Privacy Protection Amendments of 1990 (Pub. L. 101–508) (Privacy Act); Office of Management and Budget (OMB) Final Guidance Interpreting the Provisions of Public Law 100–503, the Computer Matching and Privacy Protection Act of 1988, 54 FR 25818 (June 19, 1989); and OMB Circular A–130, Appendix I, 65 FR 77677 (December 12, 2000).

*Participating Agencies:* The Department of Homeland Security, U.S. Citizenship and Immigration Services (DHS–USCIS) is the source agency and the New Jersey Department of Labor and Workforce Development (NJ–LWD) is the recipient agency.

*Purpose of the Match:* This Computer Matching Agreement allows DHS–USCIS to provide NJ–LWD with electronic access to immigration status information contained within the DHS–USCIS Verification Information System (VIS). The immigration status information will enable NJ–LWD to determine whether an applicant is eligible for benefits under the Unemployment Compensation (UC) program administered by NJ–LWD.

*Authority for Conducting the Matching Program:* Section 121 of the Immigration Reform and Control Act (IRCA) of 1986, Public Law 99–603, as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), requires DHS to establish a system for the verification of immigration status of alien applicants for, or recipients of, certain types of benefits and to make this system available to state agencies that administer such benefits. Section 121(c) of IRCA amends Section 1137 of the Social Security Act and certain other sections of law that pertain to Federal entitlement benefit programs to require state agencies administering these programs to use the DHS–USCIS verification system to make eligibility determinations in order to prevent the issuance of benefits to alien applicants who are not entitled to program benefits because of their immigration status. The VIS database is the DHS–USCIS system established and made available to NJ–LWD and other covered agencies for use in making these eligibility determinations.

NJ–LWD seeks access to the information contained in the DHS–USCIS VIS database for the purpose of confirming the immigration status of alien and naturalized/derived United States citizen applicants for, or recipients of, the benefits it administers, in order to discharge its obligation to conduct such verifications pursuant to Section 1137 of the Social Security Act, 42 U.S.C. 1320b–7, and to New Jersey Statute 43:2.

*Categories of Records and Individuals Covered:* DHS–USCIS will provide the following to NJ–LWD: Records in the DHS–USCIS VIS database containing information related to the status of aliens and other persons on whom DHS–USCIS has a record as an applicant, petitioner, or beneficiary. See DHS/USCIS–004 Systematic Alien Verification for Entitlements Program System of Records Notice, 77 FR 47415 (August 8, 2012).

NJ–LWD will provide the following to DHS–USCIS: NJ–LWD records pertaining to alien and naturalized/derived United States citizen applicants for, or recipients of, entitlement benefit programs administered by the State.

NJ–LWD will match the following records with DHS–USCIS records:

- Alien Registration Number.
- I–94 Number.
- Last Name.
- First Name.
- Middle Name.
- Date of Birth.
- Nationality.
- Social Security Number (SSN).

DHS–USCIS will match the following records with NJ–LWD records:

- Alien Registration Number.
- I–94 Number.
- Last Name.
- First Name.
- Middle Name.
- Date of Birth.
- Country of Birth (not nationality).
- SSN (if available).
- Date of Entry.
- Immigration Status Data.
- Sponsorship Information (sponsor's full name, SSN, and address).

*Inclusive Dates of the Matching Program:* The inclusive dates of the matching program are from June 29, 2014, and continuing for 18 months through December 28, 2015. The matching program may be extended for up to an additional 12 months thereafter, if certain conditions are met.

*Address for Receipt of Public Comments Or Inquires:* Individuals wishing to comment on this matching program or obtain additional information about the program, including requesting a copy of the Computer Matching Agreement between DHS–USCIS and NJ–LWD, may contact:

For general questions please contact: Donald K. Hawkins, 202–272–8030, Privacy Officer, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue NW., Washington, DC 20529.

For privacy questions please contact: Karen L. Neuman (202–343–1717), Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

Dated: May 16, 2014.

**Karen L. Neuman,**

*Chief Privacy Officer, Department of Homeland Security.*

[FR Doc. 2014–12760 Filed 6–2–14; 8:45 am]

BILLING CODE 9110–9L–P

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

**[1651–0125]**

### Agency Information Collection Activities: Dominican Republic-Central America-United States Free Trade Agreement

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security.

**ACTION:** 60-Day Notice and request for comments; extension of an existing collection of information.

**SUMMARY:** U.S. Customs and Border Protection (CBP) of the Department of Homeland Security 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: Dominican Republic-Central America-United States Free Trade Agreement (CAFTA–DR). CBP is proposing that this information collection be extended with a change to the burden hours. This document is published to obtain comments from the public and affected agencies.

**DATES:** Written comments should be received on or before August 4, 2014 to be assured of consideration.

**ADDRESSES:** Direct all written comments to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3507). The comments should address: (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 estimates 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 including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs burden to respondents or record keepers from the collection of information (a total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for OMB approval. All comments will become a matter of public record. In this document, CBP is soliciting comments concerning the following information collection:

*Title:* Dominican Republic-Central America-United States Free Trade Agreement (CAFTA–DR).

*OMB Number:* 1651–0125.

*Form Number:* None.

*Abstract:* On August 5, 2004, the United States entered into the Dominican Republic-Central America-United States Free Trade Agreement (also known as CAFTA–DR) with Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua. The Agreement was approved by Congress in section 101(a) of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (Pub. L. 109–53, 119 Stat. 462) (19 U.S.C. 4001) and provides for preferential tariff treatment of certain goods originating in one or more of the CAFTA–DR countries. It was signed into law on August 2, 2005.

In order to ascertain if imported goods are eligible for preferential tariff treatment under CAFTA–DR, CBP collects a certification that contains information such as the name and contact information for importer and exporter; information about the producer of the good; a description of the good; the HTSUS tariff classification; and the applicable rule of origin. This collection of information is provided for by 19 CFR 10.583 through 19 CFR 10.592. Guidance on filing claims under CAFTA–DR may be found at: *http://www.cbp.gov/trade/free-trade-agreements/cafta-dr.*

*Current Actions:* This submission is being made to extend the expiration date with a change to the burden hours. There are no changes to the information collected.

*Type of Review:* Extension (with change).

*Affected Public:* Businesses.

*Estimated Number of Respondents:* 800.

*Estimated Number of Responses per Respondent:* 3.

*Estimated Number of Total Annual Responses:* 2,400.

*Estimated Time per Response:* 2 hours.

*Estimated Total Annual Burden Hours:* 4,800.

Dated: May 28, 2014.

**Tracey Denning,**

*Agency Clearance Officer, U.S. Customs and Border Protection.*

[FR Doc. 2014–12764 Filed 6–2–14; 8:45 am]

**BILLING CODE 9111–14–P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

**[1651–0073]**

### Agency Information Collection Activities: Notice of Detention

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security.

**ACTION:** 30-Day notice and request for comments; extension of an existing collection of information.

**SUMMARY:** U.S. Customs and Border Protection (CBP) of the Department of Homeland Security 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: Notice of Detention. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies.

**DATES:** Written comments should be received on or before July 3, 2014 to be assured of consideration.

**ADDRESSES:** Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *oira_submission@omb.eop.gov.* or faxed to (202) 395–5806.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

**SUPPLEMENTARY INFORMATION:** This proposed information collection was previously published in the **Federal**

**Register** (79 FR 17172) on March 27, 2014, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10. CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3507). The comments should address: (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 estimates 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 including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs burden to respondents or record keepers from the collection of information (a total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document, CBP is soliciting comments concerning the following information collection:

*Title:* Notice of Detention.

*OMB Number:* 1651–0073.

*Abstract:* Customs and Border Protection (CBP) may detain merchandise when it has reasonable suspicion that the subject merchandise may be inadmissible but requires more information to make a positive determination. If CBP decides to detain merchandise, a Notice of Detention is sent to the importer or to the importer's broker/agent no later than 5 business days from the date of examination stating that merchandise has been detained, the reason for the detention, and the anticipated length of the detention. The recipient of this notice may respond by providing information to CBP in order to facilitate the determination for admissibility, or may ask for an extension of time to bring the merchandise into compliance. The information provided assists CBP in making a determination whether to seize, deny entry of, or release detained goods into the commerce. Notice of Detention is authorized by 19 U.S.C. 1499 and provided for in 19 CFR 12.123, 151.16, and 133.21.

*Current Actions:* CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information collected.

*Type of Review:* Extension (without change).

*Affected Public:* Businesses.

*Estimated Number of Respondents:* 1,350.

*Estimated Number of Total Annual Responses:* 1,350.

*Estimated Time per Response:* 2 hours.

*Estimated Total Annual Burden Hours:* 2,700.

Dated: May 28, 2014.

**Tracey Denning,**

*Agency Clearance Officer, U.S. Customs and Border Protection.*

[FR Doc. 2014–12761 Filed 6–2–14; 8:45 am]

**BILLING CODE 9111–14–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–5759–N–08]**

## 60-Day Notice of Proposed Information Collection: Jobs Plus Pilot Program

**AGENCY:** Office of the Assistant Secretary for Public and Indian Housing, PIH, HUD.

**ACTION:** Notice.

**SUMMARY:** HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

**DATES:** *Comments Due Date:* August 4, 2014.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

**FOR FURTHER INFORMATION CONTACT:** Arlette Mussington, Office of Policy, Programs and Legislative Initiatives, PIH, Department of Housing and Urban Development, 451 7th Street SW., (L'Enfant Plaza, Room 2206), Washington, DC 20410; telephone 202–402–4109, (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Mussington.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

### A. Overview of Information Collection

The Jobs Plus Pilot Program Information Collection represents a new information request. The OMB approval number for this collection is pending. The information provided by the eligible applicants will be reviewed and evaluated by HUD. The information to be collected by HUD will be used to preliminarily rate applications, to determine eligibility for the Jobs Plus Pilot Grant Competition and to establish grant amounts. The Jobs Plus Pilot Grant Competition Application will be used to determine eligibility and funding for recipients. Respondents of this information collection will be public housing agencies. Forms for this information collection are under development, however it is anticipated that applicants will provide quantitative and qualitative data as well as narrative information for evaluation.

| Description of Information Collection | Number of respondents | Responses per year | Total annual responses | Hours per response | Total hours |
|---|---|---|---|---|---|
| SF424—Application for Federal Assistance | 350 | 1 | 350 | 0.50 | 175 |
| SF LLL—Disclosure of Lobbying Activities | 350 | 1 | 350 | 0.50 | 175 |
| SF 425—Federal Financial Report | 350 | 1 | 350 | 0.50 | 175 |
| HUD 2880—Applicant/Recipient/Disclosure/Update Form (OMB No. 2510–0011) | 350 | 1 | 350 | 0.50 | 175 |

| Description of Information Collection | Number of respondents | Responses per year | Total annual responses | Hours per response | Total hours |
|---|---|---|---|---|---|
| HUD 96011—Facsimile Transmittal (OMB No. 2535–0118) | 350 | 1 | 350 | 0.50 | 175 |
| HUD–2991—Certification of Consistency with the Consolidated Plan (OMB No. 2506–0112) | 350 | 1 | 350 | 0.50 | 175 |
| Sample Budget/Matching Form | 350 | 1 | 350 | 1 | 350 |
| Jobs Plus Pilot Application—Narrative(Strategy, Approach, Capacity) | 350 | 1 | 350 | 24 | 8400 |
| HUD 96010—Logic Model (OMB No. 2535–0114) | 350 | 1 | 350 | 3 | 1050 |
| Subtotal (Application) | | | | 31 | 10,850 |
| Partnership Agreement (American Job Center ) | 12 | 1 | 12 | 1 | 12 |
| Budget Worksheet | 12 | 1 | 12 | 1 | 12 |
| HUD–1044—Grant Agreement* | 12 | 1 | 12 | 1 | 12 |
| Annual Performance Report (Narrative and Data)—Quarterly | 12 | 4 | 48 | 1 | 192 |
| HUD–50058—Family Report (OMB No. 2577–0083) | 12 | 1 | 12 | 1 | 12 |
| Subtotal (Program Reporting/Recordkeeping) | | | | 5 | 240 |
| Total | | | | 36 | 11,090 |

## B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

**Authority:** Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: May 27, 2014.

**Merrie Nichols-Dixon,**

*Deputy Director, Office of Policy, Programs and Legislative Initiatives.*

[FR Doc. 2014–12729 Filed 6–2–14; 8:45 am]

**BILLING CODE 4210–67–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–5696–N–09]**

## Second Allocation, Waivers, and Alternative Requirements for Grantees Receiving Community Development Block Grant (CDBG) Disaster Recovery Funds in Response to Disasters Occurring in 2013

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Notice.

**SUMMARY:** This Notice advises the public of a second allocation for the purpose of assisting recovery in the most impacted and distressed areas identified in major disaster declarations in calendar year 2013. This is the fifth allocation of Community Development Block Grant disaster recovery (CDBG–DR) funds under the Disaster Relief Appropriations Act, 2013 (Pub. L. 113–2). In addition to an initial allocation for disasters occurring in 2013, prior allocations addressed the areas most impacted by Hurricane Sandy, as well as the areas most impacted by disasters occurring in 2011 or 2012. In prior **Federal Register** Notices, the Department described the allocations, relevant statutory provisions, the grant award process, criteria for Action Plan approval, eligible disaster recovery activities, and applicable waivers and alternative requirements. This Notice builds upon the requirements of those notices.

**DATES:** *Effective Date:* June 9, 2014.

**FOR FURTHER INFORMATION CONTACT:** Stan Gimont, Director, Office of Block Grant Assistance, Department of Housing and Urban Development, 451 7th Street, SW., Room 7286, Washington, DC 20410, telephone number 202–708–3587. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Relay Service at 800–877–8339. Facsimile inquiries may be sent to Mr. Gimont at 202–401–2044. (Except for the ''800'' number, these telephone numbers are not toll-free.) Email inquiries may be sent to *disaster_recovery@hud.gov.*

**SUPPLEMENTARY INFORMATION:**

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## I. Allocation

The Disaster Relief Appropriations Act, 2013 (Pub. L. 113–2, approved January 29, 2013) (Appropriations Act) made available $16 billion in Community Development Block Grant (CDBG) funds for necessary expenses related to disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas resulting from a major disaster declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (42 U.S.C. 5121 *et seq.*) (Stafford Act), due to Hurricane Sandy and other eligible

events in calendar years 2011, 2012, and 2013.

On March 1, 2013, the President issued a sequestration order pursuant to section 251A of the Balanced Budget and Emergency Deficit Control Act, as amended (2 U.S.C. 901a), and reduced funding for CDBG–DR grants under the Appropriations Act to $15.18 billion. To date, a total of $11.2 billion has been allocated— $10.5 billion in response to Hurricane Sandy, $514 million in response to disasters occurring in 2011 or 2012, and $128.5 million in response to 2013 disasters. This Notice advises the public of a second allocation for 2013 disasters— $436.6 million is provided for the purpose of assisting recovery in the most impacted and distressed areas in Colorado, Illinois and Oklahoma. As the Appropriations Act requires funds to be awarded directly to a State or unit of general local government (hereinafter, local government), the term ''grantee'' refers to any jurisdiction receiving a direct award from HUD under this Notice.

To comply with statutory direction that funds be used for disaster-related expenses in the most impacted and distressed areas, HUD computes allocations based on the best available data that cover all the eligible affected areas. Based on further review of the impacts from Presidentially-declared disasters that occurred in 2013, and estimates of remaining unmet need, this Notice provides the following awards:

TABLE 1—ALLOCATIONS FOR DISASTERS OCCURRING IN 2013

| Grantee | Second allocation | First allocation | Total |
|---|---|---|---|
| State of Colorado | $199,300,000 | $62,800,000 | $262,100,000 |
| State of Illinois | 6,800,000 | 3,600,000 | 10,400,000 |
| City of Chicago, IL | 47,700,000 | 4,300,000 | 52,000,000 |
| Cook County, IL | 54,900,000 | 13,900,000 | 68,800,000 |
| Du Page County, IL | 18,900,000 | 7,000,000 | 25,900,000 |
| State of Oklahoma | 83,100,000 | 10,600,000 | 93,700,000 |
| City of Moore, OK | 25,900,000 | 26,300,000 | 52,200,000 |
| Total | 436,600,000 | 128,500,000 | 565,100,000 |

As outlined in Table 2, to ensure funds provided under this Notice address unmet needs within the ''most impacted and distressed'' counties, each local government receiving a direct award under this Notice must expend its entire CDBG–DR award within its jurisdiction (e.g., Cook County must expend all funds within Cook County, excluding the city of Chicago; the city of Chicago must expend all funds in the city of Chicago, including the portions of Cook and Du Page counties located within the city's jurisdiction). The State of Oklahoma may expend funds (from both the first and/or second allocations) in areas it identifies as most impacted within any county that was declared a major disaster in 2011, 2012 or 2013, but must spend at least $41.2 million within Cleveland, and Creek Counties. The State of Illinois may expend funds in areas it identifies as most impacted within any county that was declared a major disaster in 2011, 2012 or 2013. The State of Colorado must expend at least 80 percent of its funds in the most impacted counties of Boulder, Weld and Larimer but may expend up to $52.4 million (combined first and second allocations) in other counties having a declared major disaster in 2011, 2012 or 2013. The following link provides access to maps showing declared disasters in each state, by year: *http://www.fema.gov/disasters/grid/state-tribal-government.* The opportunity for certain grantees to expend a portion of their allocations outside the most impacted and distressed counties identified by HUD enables those grantees to respond to highly localized distress identified via their own data. A detailed explanation of HUD's allocation methodology is provided at Appendix A.

TABLE 2—MOST IMPACTED AND DISTRESSED COUNTIES WITHIN WHICH FUNDS MAY BE EXPENDED

| Grantee | Most impacted and distressed counties | Minimum percentage that must be expended in most impacted and distressed counties |
|---|---|---|
| State of Colorado | Boulder, Weld and Larimer | 80 |
| State of Illinois | Cook and Du Page | 0 |
| City of Chicago | City of Chicago; portions of the city in Cook and Du Page | 100 |
| Cook County | Cook | 100 |
| Du Page County | Du Page | 100 |
| State of Oklahoma | Cleveland , Creek | 44 |
| City of Moore | City of Moore; portions of the city in Cleveland | 100 |

## II. Use of Funds

This Notice builds upon the requirements of the **Federal Register** Notices published by the Department on March 5, 2013 (78 FR 14329), April 19, 2013 (78 FR 23578), and December 16, 2013 (76 FR 76154), referred to collectively in this Notice as the ''Prior Notices''. The Prior Notices can be accessed through the OneCPD Web site at *https://www.onecpd.info/cdbg-dr/cdbg-dr-laws-regulations-and-federal-register-notices/.* In addition, the following links provide direct access to the Prior Notices: *http://www.gpo.gov/fdsys/pkg/FR-2013-03-05/pdf/2013-05170.pdf, http://www.gpo.gov/fdsys/pkg/FR-2013-04-19/pdf/2013-09228.pdf,* and *http://www.gpo.gov/fdsys/pkg/FR-2013-12-16/pdf/2013-29834.pdf.* The requirements of this Notice parallel

those established for other grantees receiving funds under the Appropriations Act in a **Federal Register** Notice published by the Department on November 18, 2013 (78 FR 69104) and located at: *http://www.gpo.gov/fdsys/pkg/FR-2013-11-18/pdf/2013-27506.pdf*

As a reminder, the Appropriations Act requires funds to be used only for specific disaster-recovery related purposes. This allocation provides additional funds to areas impacted by disasters in 2011, 2012 or 2013 for recovery, including mitigation and resilience as part of the recovery effort and directs grantees to undertake comprehensive planning to promote resilience as part of that effort. The law also requires that prior to the obligation of CDBG–DR funds, a grantee shall submit a plan detailing the proposed use of funds, including criteria for eligibility and how the use of these funds will address disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas. To access funds provide by the initial allocation, HUD has approved an Action Plan for each of the grantees identified as receiving funds in this Notice. Grantees are now directed to submit a substantial Action Plan Amendment in order to access funds provided in this Notice. For more guidance on requirements for substantial Action Plan Amendments, please see sections IV and V of this Notice.

Note that, as provided by the HCD Act, funds may be used as a matching requirement, share, or contribution for any other federal program when used to carry out an eligible CDBG–DR activity. However, pursuant to the requirements of the Appropriations Act, CDBG–DR funds may not be used for expenses reimbursable by, or for which funds are made available by FEMA or the United States Army Corps of Engineers (USACE).

In addition, sections V and VI of this Notice incorporate information developed in response to Hurricane Sandy that are also being applied to these disasters. Executive Order 13632 (published in the **Federal Register** at 77 FR 74341) established the Hurricane Sandy Rebuilding Task Force (Task Force) to: (1) ensure government-wide and region-wide coordination was available to assist communities in making decisions about long-term rebuilding;-, and (2) develop a comprehensive rebuilding strategy. The Task Force released the Hurricane Sandy Rebuilding Strategy (the Rebuilding Strategy) on August 19, 2013. The Rebuilding Strategy can be found at *http://portal.hud.gov/hudportal/documents/huddoc?id=HSRebuildingStrategy.pdf.* In recognition of the increased risk the nation faces from extreme weather events, the Rebuilding Strategy provides recommendations for both rebuilding more resiliently in the Sandy-affected region and improving the ability of communities to withstand and recover effectively from disasters across the country.

Section 5(b) of the executive order requires HUD, ''as appropriate and to the extent permitted by law, [to] align [the Department's] relevant programs and authorities'' with the Rebuilding Strategy. Thus, this Notice applies elements of the Rebuilding Strategy so that grantees may build back stronger and more resilient through comprehensive planning and investing in mitigation efforts.

## III. Timely Expenditure of Funds

The Appropriations Act requires that funds be expended within two years of the date HUD obligates funds to a grantee; and funds are obligated to a grantee upon HUD's signing of a grantee's CDBG–DR grant agreement. In its Action Plan, a grantee must demonstrate how funds will be fully expended within two years of obligation and HUD must obligate all funds not later than September 30, 2017. For any funds that the grantee believes will not be expended by the deadline and that it desires to retain, the grantee must submit a letter to HUD not less than 30 days in advance justifying why it is necessary to extend the deadline for a specific portion of funds. The letter must detail the compelling legal, policy, or operational challenges for any such waiver, and must also identify the date by when the specified portion of funds will be expended. The Office of Management and Budget (OMB) has provided HUD with authority to act on grantee waiver requests but grantees are cautioned that such waivers may not be approved. Approved waivers will be published in the **Federal Register**. Funds remaining in the grantee's line of credit at the time of its expenditure deadline will be returned to the U.S. Treasury, or if before September 30, 2017, will be recaptured by HUD.

## IV. Grant Amendment Process

To access funds allocated by this Notice grantees must submit a substantial Action Plan Amendment to their approved Action Plan. Any substantial Action Plan Amendment submitted after the effective date of this Notice is subject to the following requirements:

- Grantee consults with affected citizens, stakeholders, local governments and public housing authorities to determine updates to its needs assessment; in addition, grantee prepares a comprehensive risk analysis (see section V.3.d. of this Notice);
- Grantee amends its citizen participation plan to reflect the requirements of this Notice (e.g., new requirement for a public hearing);
- Grantee publishes a substantial amendment to its previously approved Action Plan for Disaster Recovery on the grantee's official Web site for no less than 30 calendar days and holds at least one public hearing to solicit public comment;
- Grantee responds to public comment and submits its substantial Action Plan Amendment to HUD (with any additional certifications required by this Notice) no later than 120 days after the effective date of this Notice;
- HUD reviews the substantial Action Plan Amendment within 60 days from date of receipt and approves the Amendment according to criteria identified in the Prior Notices and this Notice;
- HUD sends an Action Plan Amendment approval letter, revised grant conditions (may not be applicable to all grantees), and an amended unsigned grant agreement to the grantee. If the substantial Amendment is not approved, a letter will be sent identifying its deficiencies; the grantee must then re-submit the Amendment within 45 days of the notification letter;
- Grantee ensures that the HUD-approved substantial Action Plan Amendment (and updated Action Plan) is posted on its official Web site;
- Grantee signs and returns the grant agreement;
- HUD signs the grant agreement and revises the grantee's line of credit amount;
- If it has not already done so, grantee enters the activities from its published Action Plan Amendment into the Disaster Recovery Grant Reporting (DRGR) system and submits it to HUD within the system;
- The grantee may draw down funds from the line of credit after the Responsible Entity completes applicable environmental review(s) pursuant to *24 CFR part 58* (or paragraph A.20 under section VI of the March 5, 2013 Notice) and, as applicable, receives from HUD or the state an approved Request for Release of Funds and certification;
- Grantee amends its published Action Plan to include its projection of expenditures and outcomes within 90

days of the Action Plan Amendment approval as provided for in paragraph 4.g. of section V of this Notice; and

• Grantee updates its full consolidated plan to reflect disaster-related needs no later than its Fiscal Year 2015 consolidated plan update.

**V. Applicable Rules, Statutes, Waivers, and Alternative Requirements**

The Appropriations Act authorizes the Secretary to waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with HUD's obligation or use by the recipient of these funds (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment). Waivers and alternative requirements are based upon a determination by the Secretary that good cause exists and that the waiver or alternative requirement is not inconsistent with the overall purposes of title I of the HCD Act. Regulatory waiver authority is also provided by *24 CFR 5.110, 91.600,* and *570.5.*

This section of the Notice describes requirements imposed by the Appropriations Act, as well as applicable waivers and alternative requirements. For each waiver and alternative requirement described in this Notice, the Secretary has determined that good cause exists and the action is not inconsistent with the overall purpose of the HCD Act. The following requirements apply only to the CDBG–DR funds allocated in this Notice. Grantees may request additional waivers and alternative requirements to address specific needs related to their recovery activities. Except where noted, waivers and alternative requirements described below apply to all grantees under this Notice. Under the requirements of the Appropriations Act, regulatory waivers are effective five days after publication in the **Federal Register**.

1. *Incorporation of general requirements, waivers, alternative requirements, and statutory changes previously described.* Grantees are advised that general requirements, waivers and alternative requirements provided for and subsequently clarified or modified in the Prior Notices (published March 5, 2013, April 19, 2013, and December 16, 2013) apply to all funds under this Notice, except as modified herein. However, waivers and alternative requirements specific to one or more grantees only apply to those grantees. These waivers and alternative requirements described in the Prior Notices and this Notice provide additional flexibility in program design and implementation to support resilient recovery following the 2013 disasters, while also ensuring that statutory requirements unique to the Appropriations Act are met.

2. *Eligible activities and uses of funds.* Each grantee's Action Plan Amendment must describe uses and activities that: (1) Are authorized under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 *et seq.*) (HCD Act) or allowed by a waiver or alternative requirement published in this Notice or the Prior Notices; (2) meet a national objective; and (3) respond to a disaster-related impact in a county eligible for assistance. As described in the Prior Notices, eligible activities and uses typically fall under one of the following categories—housing, infrastructure, or economic revitalization.

3. *Action Plan for Disaster Recovery waiver and alternative requirement—Infrastructure Programs and Projects.* Grantees are advised that HUD will assess the adequacy of a grantee's response to each of the elements outlined in this subsection as a basis for the approval of a substantial Action Plan Amendment that *includes* infrastructure programs and projects. Going forward, and with the submission of additional Action Plan Amendments that include an infrastructure program or project, grantees need not resubmit responses to elements approved by HUD unless warranted by changing conditions or if project-specific analysis is required. Section VI(A)(1) of the March 5, 2013 Notice (''Action Plan for Disaster Recovery waiver and alternative requirement''), as amended by the April 19, 2013 Notice, is modified to require:

a. *Applicability.* The following guidance and criteria are applicable to all infrastructure programs and projects in an Action Plan Amendment submitted to HUD after the effective date of this Notice. Infrastructure programs and projects funded pursuant to the Prior Notices and submitted in an Action Plan Amendment after the effective date of this Notice are also subject to these requirements. However, projects scheduled to receive funding through FEMA's Public Assistance Grant Program, and for which funds have been obligated by FEMA on or before the effective date of this Notice, are not subject to these requirements.

b. *Definition of an Infrastructure Project and Related Infrastructure Projects.*

(1) Infrastructure Project: For purposes of this Notice, an infrastructure project is defined as an activity, or a group of related activities, designed by the grantee to accomplish, in whole or in part, a specific objective related to critical infrastructure sectors such as energy, communications, water and wastewater systems, and transportation, as well as other support measures such as flood control. This definition is rooted in the implementing regulations of the National Environmental Policy Act (NEPA) at 40 CFR part 1508 and 24 CFR Part 58. Further, consistent with HUD's NEPA implementing requirements at 24 CFR 58.32(a), in responding to the requirements of this Notice, a grantee must group together and evaluate as a single infrastructure project all individual activities which are related to one another, either on a geographical or functional basis, or are logical parts of a composite of contemplated infrastructure-related actions. Grantees should also ensure that each infrastructure project is eligible pursuant to section 105(a)(2) of the Housing and Community Development Act.

(2) Related Infrastructure Project: Consistent with 40 CFR part 1508, *infrastructure projects* are ''related'' if they automatically trigger other projects or actions, cannot or will not proceed unless other projects or actions are taken previously or simultaneously, or are interdependent parts of a larger action and depend on the larger action for their justification.

c. *Impact and Unmet Needs Assessment.* In Prior Notices, grantees were required to consult with affected citizens, stakeholders, local governments and public housing authorities to determine the impact of the 2013 disasters and any unmet disaster recovery needs. Grantees are required to update their impact and unmet needs assessments to address infrastructure projects, or any other projects or activities not previously considered, but for which an unmet need has become apparent.

d. *Comprehensive Risk Analysis.* Each grantee must describe the science-based risk analysis it has or will employ to select, prioritize, implement, and maintain infrastructure projects or activities. At a minimum, the grantee's analysis must consider a broad range of information and best available data, including forward-looking analyses of risks to infrastructure sectors from climate change and other hazards, such as the Midwest, Great Plains and Southwest United States Regional Climate Trends and Scenarios from the U.S. National Climate Assessment or comparable peer-reviewed information. The grantee should also consider costs

and benefits of alternative investment strategies, including green infrastructure options. In addition, the grantee should include, to the extent feasible and appropriate, public health and safety impacts; direct and indirect economic impacts; social impacts; environmental impacts; cascading impacts and interdependencies within and across communities and infrastructure sectors; changes to climate and development patterns that could affect the project or surrounding communities; and impacts on and from other infrastructure systems. The analyses should, wherever possible, include both quantitative and qualitative measures and recognize the inherent uncertainty in predictive analysis. Grantees should work with other states and units of general local government to undertake regional risk baseline analyses, to improve consistency and cost-effectiveness.

The description of the comprehensive risk analysis must be sufficient for HUD to determine if the analysis meets the requirements of this Notice. Where a grantee provides a local match (using CDBG–DR funds) for an infrastructure project that is covered by a comprehensive planning process required by another Federal agency (e.g., FEMA, the Department of Transportation, U.S. Army Corps of Engineers, Environmental Protection Agency, etc.) HUD does not require the grantee to repeat the analysis completed during that planning process as part of its comprehensive risk analysis. Rather, that process may be referenced and/or adopted to assist the grantee in meeting its responsibility to conduct the comprehensive risk analysis required by this Notice.

e. *Resilience Performance Standards.* Grantees are required to identify and implement resilience performance standards that can be applied to each infrastructure project. The grantee must describe its plans for the development and application of resilience performance standards in any Action Plan Amendment submitted pursuant to this Notice.

f. *Green Infrastructure Projects or Activities.* In any Action Plan Amendment submitted pursuant to this Notice, each grantee must describe its process for the selection and design of green infrastructure projects or activities, and/or how selected projects or activities will incorporate green infrastructure components. For the purposes of this Notice, green infrastructure is defined as the integration of natural systems and processes, or engineered systems that mimic natural systems and processes, into investments in resilient infrastructure. Green infrastructure takes advantage of the services and natural defenses provided by land and water systems such as wetlands, natural areas, vegetation, sand dunes, floodplains and forests, while contributing to the health and quality of life of those in recovering communities.

In addition, the HCD Act authorizes public facilities activities that may include green infrastructure approaches that restore degraded or lost natural systems (e.g., wetlands and floodplain ecosystems) and other shoreline and riparian areas to enhance storm protection and reap the many benefits that are provided by these systems. This includes activities that provide greater floodplain space for floodwaters and recharge groundwater. Protecting, retaining, and enhancing natural defenses should be considered as part of any climate resilience strategy.

g. *Additional Requirements for Major Infrastructure Projects.* Action Plan Amendments that propose a major infrastructure project will not be approved unless the project meets the criteria of this Notice. HUD approval is required for each major infrastructure project with such projects defined as having a total cost of $50 million or more (including at least $10 million of CDBG–DR funds), or physically located in more than one county. Additionally, two or more *related infrastructure projects* that have a combined total cost of $50 million or more (including at least $10 million of CDBG–DR funds) must be designated as major infrastructure projects. Projects encompassed by this paragraph are herein referred to as ''Covered Projects.'' Prior to funding a Covered Project, the grantee must incorporate each of the following elements into its Action Plan (i.e., via a substantial Action Plan Amendment):

(1) *Identification/Description.* A description of the Covered Project, including: total project cost (illustrating both the CDBG–DR award as well as other federal resources for the project, such as funding provided by the Department of Transportation or FEMA), CDBG eligibility (i.e., a citation to the HCD Act, applicable **Federal Register** notice, or a CDBG regulation), how it will meet a national objective, and the project's connection to a disaster covered by this Notice.

(2) *Use of Impact and Unmet Needs Assessment and the Comprehensive Risk Analysis.* A description of how the Covered Project is supported by the grantee's updated impact and unmet needs assessment, as well as the grantee's comprehensive risk analysis. The grantee must also describe how Covered Projects address the risks, gaps, and vulnerabilities in the region as identified by the comprehensive risk analysis.

(3) *Transparent and Inclusive Decision Processes.* A description of the transparent and inclusive processes that have been or will be used in the selection of a Covered Project(s), including accessible public hearings and other processes to advance the engagement of vulnerable populations. Grantees should demonstrate the sharing of decision criteria, the method of evaluating a project(s), and how all project stakeholders and interested parties were or are to be included to ensure transparency including, as appropriate, stakeholders and parties with an interest in environmental justice or accessibility.

(4) *Long-Term Efficacy and Fiscal Sustainability.* A description of how the grantee plans to monitor and evaluate the efficacy and sustainability of Covered Projects, including how it will reflect changing environmental conditions (such as development patterns) with risk management tools, and/or alter funding sources, if necessary.

(5) *Environmentally Sustainable and Innovative Investments.* A description of how the Covered Project(s) will align with the commitment expressed in the President's Climate Action Plan to ''identify and evaluate additional approaches to improve our natural defenses against extreme weather, protect biodiversity, and conserve natural resources in the face of a changing climate . . .''

h. *HUD Review of Covered Projects.* HUD may disapprove any Action Plan Amendment that proposes a Covered Project that does not meet the above criteria. In the course of reviewing an Action Plan Amendment, HUD will advise grantees of the deficiency of a Covered Project, and grantees must revise their plans accordingly to secure HUD approval. In making its decision, HUD will seek input from other relevant federal agencies. Grantees are strongly encouraged to consult with federal agencies as proposals are developed for major infrastructure projects. The goal of this coordination effort is to promote a regional and cross-jurisdictional approach to resilience in which neighboring communities come together to: identify interdependencies among and across geography and infrastructure systems; compound individual investments towards shared goals; foster leadership; build capacity; and share information and best practices on infrastructure resilience.

4. *Action Plan for Disaster Recovery waiver and alternative requirement—Housing, Business Assistance, and General Requirements.* The Prior Notices are modified as follows:

a. *Public and assisted multifamily housing.* In the December 16, 2013 Notice, grantees were required to describe how they would identify and address (if needed) the rehabilitation (as defined at 24 CFR 570.202), reconstruction, and replacement of the following types of housing affected by the disaster: Public housing (including administrative offices), HUD-assisted housing (defined at subparagraph (1) of the March 5, 2013, Notice, at 78 FR 14332), McKinney-Vento-funded shelters and housing for the homeless—including emergency shelters and transitional and permanent housing for the homeless, and private market units receiving project-based assistance or with tenants that participate in the Section 8 Housing Choice Voucher Program. As part of this requirement, each grantee was required to work with any impacted Public Housing Authority (PHA) located within its jurisdiction, to identify the unmet needs of damaged public housing. If unmet needs existed once funding became available to the grantee, the grantee was required to work with the impacted PHA(s) to identify necessary costs, and ensure adequate funding was dedicated to the recovery of the damaged public housing.

In addition to the above, grantees under this Notice must now describe how they will address the rehabilitation, mitigation and new construction needs of other assisted multifamily housing developments impacted by the disaster, including HUD-assisted multifamily housing, low income housing tax credit (LIHTC)—financed developments and other subsidized and tax credit-assisted affordable housing. For CDBG–DR purposes, HUD-assisted multifamily housing continues to be defined by paragraph VI.A.1.a. (1) of the March 5, 2013 Notice at 78 FR 14332. Grantees should focus on protecting vulnerable residents and should consider measures to protect vital infrastructure (e.g., HVAC and electrical equipment) from flooding. Grantees are strongly encouraged to provide assistance to PHAs and other assisted and subsidized multifamily housing to help them elevate critical infrastructure and rebuild to model resilient building standards. Examples of such standards include the I-Codes developed by the International Code Council (ICC), the Insurance Institute for Business and Home Safety (IBHS) FORTIFIED home programs, and standards under development by the American National Standards Institute (ANSI) and the American Society of Civil Engineers (ASCE).

b. *Certification of proficient controls, processes and procedures.* The Appropriations Act requires the Secretary to certify, in advance of signing a grant agreement, that the grantee has in place proficient financial controls and procurement processes and has established adequate procedures to prevent any duplication of benefits as defined by section 312 of the Stafford Act, ensure timely expenditure of funds, maintain comprehensive Web sites regarding all disaster recovery activities assisted with these funds, and detect and prevent waste, fraud, and abuse of funds. Grantees submitted this certification pursuant to the Prior Notices. In any Action Plan Amendment submitted after the effective date of this Notice, grantees are required to identify any material changes in its processes or procedures that could potentially impact the Secretary's or the grantee's prior certification. Grantees are advised that HUD may revisit any prior certification based on a review of an Action Plan Amendment submitted for this allocation of funds, as well as monitoring reports, audits by HUD's Office of the Inspector General, citizen complaints or other sources of information. As a result of HUD's review, the grantee may be required to submit additional documentation or take appropriate actions to sustain the certification.

c. *Certification of Resilience Standards.* The Prior Notices are amended to additionally require the grantee to certify that it will apply the resilience standards required in section V.3.e of this Notice.

d. *Amending the Action Plan.* The Prior Notices are amended, as necessary, to require each grantee to submit a substantial Action Plan Amendment to HUD within 120 days of the effective date of this Notice. All Action Plan Amendments submitted after the effective date of this Notice must be prepared in accordance with the Prior Notices, as modified by this Notice. In addition, they must budget all, or a portion, of the funds allocated under this Notice. Grantees are reminded that an Action Plan may be amended one or more times until it describes uses for 100 percent of the grantee's CDBG–DR award. The last date that grantees may submit an Action Plan Amendment is June 1, 2017 given that HUD must obligate all CDBG–DR funds not later than September 30, 2017. The requirement to expend funds within two years of the date of obligation will be enforced relative to the activities funded under each obligation, as applicable.

e. *HUD Review/Approval.* Consistent with the requirements of section 105(c) of the Cranston-Gonzalez National Affordable Housing Act, HUD will review each grantee's substantial Action Plan Amendment within 60 days from the date of receipt. The Secretary may disapprove an Amendment if it is determined that it does not meet the requirements of the Prior Notices, as amended by this Notice. Once an Amendment is approved, HUD will issue a revised grant agreement to the grantee.

f. *Projection of expenditures and outcomes.* The Prior Notices are amended, as necessary, to require each grantee to amend its Action Plan to update its projection of expenditures and outcomes within 90 days of its Action Plan Amendment approval. The projections must be based on each quarter's expected performance—beginning the quarter funds are available to the grantee and continuing each quarter until all funds are expended. Projections should include the entire amount allocated by this Notice. Amending the Action Plan to accommodate these changes is not considered a substantial amendment. Guidance on preparing the projections is available on HUD's OneCPD Web site at: *https://www.onecpd.info/cdbg-dr/cdbg-dr-laws-regulations-and-federal-register-notices/*.

5. *Citizen participation waiver and alternative requirement.* The Prior Notices are modified to require grantees to publish substantial Action Plan Amendments for comment for 30 days prior to submission to HUD. Grantees are reminded of both the citizen participation requirements of those Notices and that HUD will monitor grantee compliance with those requirements and the alternative requirements of this Notice. In addition, this Notice establishes the requirement that at least one public hearing must be held regarding any substantial Action Plan Amendment submitted after the effective date of this Notice, including any subsequent substantial amendment proposing or amending a Covered Project. Citizens and other stakeholders must have reasonable and timely access to these public hearings. Grantees are encouraged to conduct outreach to community groups, including those that serve minority populations, persons with limited English proficiency, and persons with disabilities, to encourage public attendance at the hearings and the submission of written comments concerning the Action Plan Amendment.

The grantee must continue to make the Action Plan, any amendments, and all performance reports available to the public on its Web site and on request and the grantee must make these documents available in a form accessible to persons with disabilities and persons of limited English proficiency, in accordance with the requirements of the Prior Notices. Grantees are also encouraged to outreach to local nonprofit and civic organizations to disseminate substantial Action Plan Amendments submitted after the effective date of this Notice. During the term of the grant, the grantee must provide citizens, affected local governments, and other interested parties with reasonable and timely access to information and records relating to the Action Plan and to the grantee's use of grant funds. This objective should be achieved through effective use of the grantee's comprehensive Web site mandated by the Appropriations Act.

6. *Reimbursement of disaster recovery expenses.* In addition to pre-award requirements described in the Prior Notices, grantees are subject to HUD's guidance issued July 30, 2013—''Guidance for Charging Pre-Award Costs of Homeowners, Businesses, and Other Qualifying Entities to CDBG Disaster Recovery Grants'' (CPD Notice 2013–05)—as well as any subsequent updates to this guidance that HUD may issue. The CPD Notice is available on HUD's OneCPD Web site at: *https://www.onecpd.info/resource/3138/notice-cpd-13-05-guidance-for-charging-pre-award-costs-to-cdbg-dr-grants/.*

7. *Duplication of benefits.* In addition to the requirements described in the Prior Notices and the **Federal Register** Notice published November 16, 2011 (76 FR 71060), grantees receiving an allocation under this Notice are subject to HUD's guidance issued July 25, 2013—''Guidance on Duplication of Benefit Requirements and Provision of CDBG–DR Assistance''. This guidance is available on HUD's OneCPD Web site at: *https://www.onecpd.info/resource/3137/cdbg-dr-duplication-of-benefit-requirements-and-provision-of-assistance-with-sba-funds/.*

8. *Eligibility of needs assessment and comprehensive risk analysis costs.* Grantees may use CDBG–DR funds to update their impact and unmet needs assessments and to develop the comprehensive risk analysis for infrastructure projects required by this Notice, consistent with the overall 20 percent limitation on the use of funds for planning, management and administrative costs.

9. *Eligibility of mold remediation costs.* Mold remediation is an eligible CDBG–DR rehabilitation activity (see the HCD Act, e.g., 42 U.S.C. 5305(a)(4)). Like other eligible activities, however, the activity encompassing mold remediation must address a direct or indirect impact caused by the disaster.

10. *Eligibility of public services and assistance to impacted households.* Grantees are reminded that households impacted by 2013 disasters may be assisted as part of an eligible public service activity, subject to applicable CDBG regulations. Public service activities often address needs such as employment and training, infant and child care and supportive services, counseling, education, healthcare, etc. Income payments, defined as a series of subsistence-type grant payments are made to an individual or family for items such as food, clothing, housing, or utilities, are generally ineligible for CDBG–DR assistance. However, per the CDBG regulations, grantees may make emergency grant payments for up to three consecutive months, to the provider of such items or services on behalf of an individual or family.

Additionally, as provided by the HCD Act, funds for public services activities may be used as a matching requirement, share, or contribution for any other federal program when used to carry out an eligible CDBG–DR activity. However, the activity must still meet a national objective and address all applicable CDBG cross-cutting requirements.

11. *Small business assistance—Modification of the alternative requirement to allow use of the Employer Identification Number (EIN).* In the March 5, 2013 Notice, the Department instituted an alternative requirement to the provisions at 42 U.S.C. 5305(a) prohibiting grantees from assisting businesses, including privately owned utilities, that do not meet the definition of a small business as defined by Small Business Administration (SBA) at 13 CFR part 121 in order to target assistance to the businesses most responsible for driving local and regional economies. To determine whether an entity is a small business under the SBA definition, the grantee must take into account all of its affiliations. Typically, companies that have common ownership or management are considered affiliated. Per the SBA regulations, if businesses are affiliated, the number of jobs and revenue for those businesses must be aggregated. However, this could preclude a number of small businesses from receiving assistance—particularly in cases where one or more persons have control (i.e., ownership or management) of multiple small businesses that each have separate employer identification numbers (EIN), file separate tax returns, or even operate in different industries. Thus, HUD is modifying its definition of a small business: Businesses must continue to meet the SBA requirements at 13 CFR part 121 to be eligible for CDBG–DR assistance, except that the size standards will only apply to each EIN. Businesses that share common ownership or management may be eligible for CDBG–DR assistance, as long as each business with a unique EIN meets the applicable SBA size standards.

12. *Eligibility of Local Disaster Recovery Manager costs.* Consistent with the recommendation of the Rebuilding Strategy, grantees may use CDBG–DR funds to fill Local Disaster Recovery Manager (LDRM) positions, which are recommended by the National Disaster Recovery Framework. Additional information about the National Disaster Recovery Framework can be found at *http://www.fema.gov/long-term-recovery.* A LDRM may coordinate and manage the overall long-term recovery and redevelopment of a community, which includes the local administration and leveraging of multiple federally-funded projects and programs. A LDRM may also ensure that federal funds are used properly, and can help local governments address the need for long-term recovery coordination. For additional guidance, grantees should consult the CPD Notice ''Allocating Staff Costs between Program Administration Costs vs. Activity Delivery Costs in the Community Development Block Grant (CDBG) Program for Entitlement Grantees, Insular Areas, Non-Entitlement Counties in Hawaii, and Disaster Recovery Grants,'' at: *http://portal.hud.gov/huddoc/13-07cpdn.pdf.*

13. *Waiver to permit some activities in support of the tourism industry (State of Colorado only).* The State of Colorado has requested a waiver to allow the State to use up to $500,000 in CDBG–DR funds to support its tourism industry and promote travel to communities in the flood-impacted areas. Tourism is the primary economic contributor to the State of Colorado economy and provides a valuable source of business revenue, taxes and employment. Preliminary Needs Assessment data indicate that after the floods, of the $19.7 million in Small Business Administration Loans given to date, 16.25 percent were awarded to businesses with NAICS codes within the lodging and restaurant industries. These range from hotel, lodges, motels, full-service restaurants,

limited-service restaurants, and specialty food shops. The lodging and restaurant industries are heavily dependent on tourism dollars, and serve as early indicators of a larger, long-term tourism-related impact that the State is already witnessing unfold. In addition, the tourism industry in the impacted areas employs many individuals who are of low- and moderate-income; some of these jobs have been lost as a result of the devastating floods. According to estimates, the Estes Park Local Marketing District (consisting of Estes Park, Drake, Glen Haven and rural areas) has 1,338 direct tourism jobs with an average income per job of $23,650. In addition, there are another 409 indirect and induced jobs with an average income of $36,978 per job. Major visitor draws, like the Rocky Mountain National Park (RMNP) and the community of Estes Park have already seen a significant negative impact to their tourism dollars. In just September and October of 2013, RMNP experienced a loss of 427,376 visitors. The estimated financial impact of this loss is more than $118 million.

The Estes Park community serves as a gateway to the RMNP. Tourism to the region is promoted by a quasi-governmental entity, funded in part through tax dollars, known as *Visit Estes Park.* However, its reliance on tax dollars to fund their efforts has severely minimized its ability to promote tourism to the area. The area now finds itself in a worsening economic cycle, from which it could take decades to recover, if ever, without the injection of much-needed cash into the regional economy brought in by tourism.

Tourism industry support, such as a national consumer awareness advertising campaign for an area in general, is ineligible for CDBG assistance. However, HUD understands that such support can be a useful recovery tool in a damaged regional economy that depends on tourism for many of its jobs and tax revenues and has granted similar waivers for several CDBG–DR disaster recovery efforts. As the State of Colorado is proposing advertising and marketing activities for this specific program, rather than direct assistance to tourism-dependent businesses, and because the measures of long-term benefit from the proposed activities must be derived using indirect means, 42 U.S.C. 5305(a) is waived only to the extent necessary to make eligible use of no more than $500,000 for assistance for the tourism industry. CDBG–DR funds may be used to promote a community or communities in general, provided the assisted activities are designed to support tourism to the most impacted and distressed areas related to the 2013 floods. This waiver will expire two years after it first draws CDBG–DR funds under this allocation.

## VII. Mitigation and Resilience Methods, Policies, and Procedures

Executive Order 13632 established the Hurricane Sandy Rebuilding Task Force. The Task Force was charged with identifying and working to remove obstacles to resilient rebuilding while taking into account existing and future risks and promoting the long-term sustainability of communities and ecosystems in the Sandy-affected region. The Task Force was further tasked with the development of a rebuilding strategy, which was released on August 19, 2013. The Executive Order directs HUD and other federal agencies, to the extent permitted by law, to align its relevant programs and authorities with the Rebuilding Strategy. The requirements set forth elsewhere in this Notice related to the selection of infrastructure projects and assistance to public and assisted multifamily housing reflect recommendations in the Rebuilding Strategy. To further address these recommendations, each grantee is strongly encouraged to incorporate the following components into its long-term strategy for recovery from eligible disasters under this Notice, and to reflect the incorporation of these components, to the extent appropriate, in Action Plan Amendments.

1. *Small business assistance.* To support small business recovery, grantees are encouraged to work with, and/or fund, small business assistance organizations that provide direct and consistent communication about disaster recovery resources to affected businesses. Selected organizations should have close relationships with local businesses and knowledge of their communities' needs and assets. In addition, grantees may support outreach efforts by a Community Development Finance Institution (CDFI) to small businesses in vulnerable communities.

2. *Energy Infrastructure.* Where necessary for recovery, CDBG–DR funds may be used to support programs, projects and activities to enhance the resilience of energy infrastructure. Energy infrastructure includes electricity transmission and distribution systems, including customer-owned generation where a significant portion of the generation is provided to the grid; and liquid and gaseous fuel distribution systems, both fixed and mobile. CDBG–DR recipients may use funds from this allocation for recovery investments that enhance the resilience of energy infrastructure so as to limit potential damages and future disturbance and thus reduce the need for any future federal assistance under such an event. CDBG–DR funds may be used to support public-private partnerships to enhance the resiliency of privately-owned energy infrastructure, if the CDBG–DR assisted activities meet a national objective and can be demonstrated to relate to recovery from the direct or indirect effects of eligible disasters under this Notice. Such projects may include microgrids or energy banks that may provide funds to entities consistent with all applicable requirements. Grantees should review DOE's report, ''U.S. Energy Sector Vulnerabilities to Climate Change and Extreme Weather,'' available at: *http://energy.gov/sites/prod/files/2013/07/f2/20130716-Energy%20Sector%20Vulnerabilities%20Report.pdf.* This report assesses vulnerabilities and provides guidance on developing a new approach for electric grid operations. In developing this component of their long-term recovery plans, grantees are reminded that pursuant to the March 5, 2013 Notice, grantees are prohibited from assisting businesses that do not meet the definition of a small business as defined by SBA at 13 CFR part 121 and as further modified by this Notice. The March 5, 2013 Notice also prohibits assistance to private utilities.

3. *Providing jobs to local workforce.* Grantees are reminded that they are required to comply with section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and implementing regulations at 24 CFR part 135, and to certify to such compliance. In addition to complying with Section 3, grantees are encouraged to undertake specialized skills, training programs and other initiatives to: (a) Employ very-low and low-income individuals; and (b) award contracts to local businesses for rebuilding from eligible disasters under this Notice and mitigate against future risk (e.g., mold remediation and construction (including elevation), ecosystem and habitat restoration, water conservation efforts and green infrastructure) and for professional services related to Section 3 covered projects (e.g., architecture, site preparation, engineering, accounting, etc.).

4. *Project labor agreements.* Executive Order 13502 (Use of Project Labor Agreements for Federal Construction Projects) governs the use of project labor agreements for large-scale construction projects procured by the federal government. Similarly, grantees are encouraged to make use of Project Labor Agreements (PLAs) on large-scale

construction projects in areas responding to disasters. Executive Order 13502 can be found at: *http://www.whitehouse.gov/the-press-office/executive-order-use-project-labor-agreements-federal-construction-projects.*

5. *Mitigating future risk.* Grantees should include programs to implement voluntary buyout programs or elevate or otherwise flood-proof all structures that were impacted by the disaster (whether they are homes, businesses or utilities) to mitigate flood risk as indicated by relevant data sources. Reducing risk is essential to the economic well-being of communities and business and is therefore an essential part of any disaster recovery, including elevating at least one foot higher than the latest FEMA-issued base flood elevation or best available data as required by the April 19, 2013 Notice. The relevant data source and best available data under Executive Order 11988 is the latest FEMA data or guidance, which includes advisory data (such as Advisory Base Flood Elevations) or preliminary and final Flood Insurance Rate Maps. Thus, in addition to the elevation requirements of the April 19, 2013 Notice, the Department strongly encourages grantees to elevate, relocate or remove all structures impacted by the disaster (including housing), even those requiring repairs of low or moderate damage, in addition to those requiring substantial improvements. FEMA maps are available here: *https://msc.fema.gov/webapp/wcs/stores/servlet/FemaWelcomeView?storeId=10001&catalogId=10001&langId=-1.*

In addition, all rehabilitation projects should apply appropriate construction standards to mitigate risk, which may include: (a) Raising utilities or other mechanical devices above expected flood level; (b) wet flood proofing in a basement or other areas below the Advisory Base Flood Elevation/best available data plus one foot; (c) using water resistant paints or other materials; or (d) dry flood proofing non-residential structures by strengthening walls, sealing openings, or using waterproof compounds or plastic sheeting on walls to keep water out.

Grantees are reminded of the mandatory mitigation requirements described in the April 19, 2013 Notice. That is, reconstruction and substantial improvement projects located in a floodplain, according to the best available data as defined above, must be designed using the base flood elevation plus one foot as the baseline standard for lowest floor elevation (or alternatively, for non-critical non-residential structures, for floodproofing). If higher elevations are required by locally adopted code or standards, those higher standards apply.

In addition to the mandatory requirements of the April 19, 2013 Notice, grantees may also engage in voluntary risk mitigation measures. For example, grantees may assist in floodproofing non-residential structures that are not critical actions (as defined at 24 CFR 55.2(b)(3)) in accordance with the floodproofing standards of the April 19, 2013 Notice, where the structures were impacted by the disaster but the needed repairs do not constitute a substantial improvement. Flood proofing requires structures to be water tight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic loads, hydrodynamic loads, the effects of buoyancy, or higher standards required by the FEMA National Flood Insurance Program as well as state and locally adopted codes.

6. *Leveraging funds and evidence-based strategies.* Grantees are encouraged, where appropriate, to leverage grant funds with public and private funding sources—including through infrastructure banks, Community Development Finance Institutions, and other intermediaries—and to make use of evidence-based strategies, including social impact bonds and other pay-for-success strategies.

## VIII. Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number for the disaster recovery grants under this Notice is as follows: 14.269.

### *Finding of No Significant Impact*

A Finding of No Significant Impact (FONSI) with respect to the environment has been made in accordance with HUD regulations at *24 CFR part 50,* which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The FONSI is available for public inspection between 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410–0500. Due to security measures at the HUD Headquarters building, an advance appointment to review the docket file must be scheduled by calling the Regulations Division at 202–708–3055 (this is not a toll-free number). Hearing or speech-impaired individuals may access this number through TTY by calling the toll-free Federal Relay Service at 800–877–8339.

Dated: May 27, 2014.

**Clifford Taffett,**

*Assistant Secretary for Community Planning and Development (Acting).*

## Appendix A—Allocation Methodology

The first allocation for Disaster Recovery needs associated with 2013 disasters was based on preliminary data. The second allocation reflects updated housing and business unmet needs that have more complete information on insurance coverage and updated infrastructure repair costs from FEMA. This allocation is calculated based on relative share of needs HUD has estimated are required to rebuild to a higher standard consistent with CDBG program requirements and the goals set forth in the Hurricane Sandy Rebuilding Strategy. The methodology used to allocate these funds was designed to provide funding to cover a level of estimated unmet severe repair and resiliency recovery needs at the same proportional level as has been provided through the two allocations for Sandy recovery.

HUD calculates the cost to rebuild the most impacted and distressed homes, businesses, and infrastructure back to pre-disaster conditions. From this base calculation, HUD calculates both the amount not covered by insurance and other federal sources to rebuild back to pre-disaster conditions as well as a ''resiliency'' amount which is calculated at 30 percent of the total basic cost to rebuild back the most distressed homes, businesses, and infrastructure to pre-disaster conditions. The estimated cost to repair unmet needs are combined with the resiliency needs to calculate the total severe unmet needs estimated to achieve long-term recovery. The formula allocation is made proportional to those calculated severe unmet needs.

### Available Data

The ''best available'' data HUD staff have identified as being available to calculate unmet needs at this time for all disasters in 2011, 2012, and 2013 in each state meeting HUD's Most Impacted threshold comes from the following data sources:

- FEMA Individual Assistance program data on housing unit damage;
- SBA for management of its disaster assistance loan program for housing repair and replacement;
- SBA for management of its disaster assistance loan program for business real estate repair and replacement as well as content loss; and
- FEMA data on infrastructure.

These funds are only allocated to states where the aggregate of their severe housing and business unmet needs (excluding resiliency) associated with disasters in 2011, 2012, and 2013 exceed $25 million from counties with $10 million or more in severe housing and business unmet needs.

### Calculating Unmet Housing Needs

The core data on housing damage for both the unmet housing needs calculation and the concentrated damage are based on home

inspection data for FEMA's Individual Assistance program. For unmet housing needs, the FEMA data are supplemented by Small Business Administration data from its Disaster Loan Program. HUD calculates ''unmet housing needs'' as the number of housing units with unmet needs times the estimated cost to repair those units less repair funds already provided by FEMA, where:

• Each of the FEMA inspected owner units are categorized by HUD into one of five categories:

○ Minor-Low: Less than $3,000 of FEMA inspected real property damage.

○ Minor-High: $3,000 to $7,999 of FEMA inspected real property damage.

○ Major-Low: $8,000 to $14,999 of FEMA inspected real property damage (if basement flooding only, damage categorization is capped at major-low).

○ Major-High: $15,000 to $28,800 of FEMA inspected real property damage and/or 4 to 6 feet of flooding on the first floor.

○ Severe: Greater than $28,800 of FEMA inspected real property damage or determined destroyed and/or 6 or more feet of flooding on the first floor.

To meet the statutory requirement of ''most impacted'' in this legislative language, homes are determined to have a high level of damage if they have damage of ''major-low'' or higher. That is, they have a real property FEMA inspected damage of $8,000 or flooding over 4 foot. Furthermore, a homeowner is determined to have unmet needs if they have received a FEMA grant to make home repairs. For homeowners with a FEMA grant and insurance for the covered event, HUD assumes that the unmet need ''gap'' is 20 percent of the difference between total damage and the FEMA grant.

• FEMA does not inspect rental units for real property damage so personal property damage is used as a proxy for unit damage. Each of the FEMA inspected renter units are categorized by HUD into one of five categories:

○ Minor-Low: Less than $1,000 of FEMA inspected personal property damage.

○ Minor-High: $1,000 to $1,999 of FEMA inspected personal property damage.

○ Major-Low: $2,000 to $3,499 of FEMA inspected personal property damage (if basement flooding only, damage categorization is capped at major-low).

○ Major-High: $3,500 to $7,499 of FEMA inspected personal property damage or 4 to 6 feet of flooding on the first floor.

○ Severe: Greater than $7,500 of FEMA inspected personal property damage or determined destroyed and/or 6 or more feet of flooding on the first floor.

For rental properties, to meet the statutory requirement of ''most impacted'' in this legislative language, homes are determined to have a high level of damage if they have damage of ''major-low'' or higher. That is, they have a FEMA personal property damage assessment of $2,000 or greater or flooding over 4 foot. Furthermore, landlords are presumed to have adequate insurance coverage unless the unit is occupied by a renter with income of $30,000 or less. Units are occupied by a tenant with income less than $30,000 are used to calculate likely unmet needs for affordable rental housing. For those units occupied by tenants with incomes under $30,000, HUD estimates unmet needs as 75 percent of the estimated repair cost.

• The median cost to fully repair a home for a specific disaster to code within each of the damage categories noted above is calculated using the average real property damage repair costs determined by the Small Business Administration for its disaster loan program for the subset of homes inspected by both SBA and FEMA. Because SBA is inspecting for full repair costs, it is presumed to reflect the full cost to repair the home, which is generally more than the FEMA estimates on the cost to make the home habitable. If fewer than 100 SBA inspections are made for homes within a FEMA damage category, the estimated damage amount in the category for that disaster has a cap applied at the 75th percentile of all damaged units for that category for all disasters and has a floor applied at the 25th percentile.

**Calculating Unmet Infrastructure Needs**

• To proxy unmet infrastructure needs, HUD uses data from FEMA's Public Assistance program on the state match requirement. This allocation uses only a subset of the Public Assistance damage estimates reflecting the categories of activities most likely to require CDBG funding above the Public Assistance and state match requirement. Those activities are categories: C-Roads and Bridges; D-Water Control Facilities; E-Public Buildings; F-Public Utilities; and G-Recreational-Other. Categories A (Debris Removal) and B (Protective Measures) are largely expended immediately after a disaster and reflect interim recovery measures rather than the long-term recovery measures for which CDBG funds are generally used. Because Public Assistance damage estimates are available only statewide (and not county), CDBG funding allocated by the estimate of unmet infrastructure needs are sub-allocated to non-state grantees based on the share of housing and business unmet needs in each of the local jurisdictions.

**Calculating Economic Revitalization Needs**

• Based on SBA disaster loans to businesses, HUD used the sum of real property and real content loss of small businesses not receiving an SBA disaster loan. This is adjusted upward by the proportion of applications that were received for a disaster that content and real property loss were not calculated because the applicant had inadequate credit or income. For example, if a state had 160 applications for assistance, 150 had calculated needs and 10 were denied in the pre-processing stage for not enough income or poor credit, the estimated unmet need calculation would be increased as (1 + 10/160) * calculated unmet real content loss.

• Because applications denied for poor credit or income are the most likely measure of needs requiring the type of assistance available with CDBG–DR funds, the calculated unmet business needs for each state are adjusted upwards by the proportion of total applications that were denied at the pre-process stage because of poor credit or inability to show repayment ability. Similar to housing, estimated damage is used to determine what unmet needs will be counted as severe unmet needs. Only properties with total real estate and content loss in excess of $30,000 are considered severe damage for purposes of identifying the most impacted areas.

○ Category 1: real estate + content loss = below $12,000.

○ Category 2: real estate + content loss = $12,000 to $30,000.

○ Category 3: real estate + content loss = $30,000 to $65,000.

○ Category 4: real estate + content loss = $65,000 to $150,000.

○ Category 5: real estate + content loss = above $150,000.

To obtain unmet business needs, the amount for approved SBA loans is subtracted out of the total estimated damage.

**Resiliency Needs**

CDBG Disaster Recovery Funds are often used to not only support rebuilding to pre-storm conditions, but also to build back much stronger. For the disasters covered by this Notice, HUD has required that grantees use their funds in a way that results in rebuilding back stronger so that future disasters do less damage and recovery can happen faster. To calculate these resiliency costs, HUD multiplied it estimates of total repair costs for seriously damaged homes, small businesses, and infrastructure by 30 percent. Total repair costs are the repair costs including costs covered by insurance, SBA, FEMA, and other federal agencies. The resiliency estimate at 30 percent of damage is intended to reflect some of the unmet needs associated with building to higher standards such as elevating homes, voluntary buyouts, hardening, and other costs in excess of normal repair costs.

[FR Doc. 2014–12709 Filed 6–2–14; 8:45 am]

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## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–5750–N–21]**

## Federal Property Suitable as Facilities To Assist the Homeless

*Correction*

In Notice document 2014–11695, appearing on pages 29789–29791 in the Issue of Friday, May 23, 2014, make the following correction:

On page 29791, in the first column, after the seventeenth line and prior to the word ''California'', the following headings were inadvertently omitted:

''**Unsuitable Properties**

*Building''*

[FR Doc. C1–2014–11695 Filed 6–2–14; 8:45 am]

BILLING CODE 1505–01–D

## DEPARTMENT OF THE INTERIOR

### Office of the Secretary

**[XXXD4523WT DWT000000.000000 DS65101000]**

## Privacy Act of 1974, as Amended; Notice To Amend an Existing System of Records

**AGENCY:** Department of the Interior.

**ACTION:** Notice of an amendment to an existing system of records.

**SUMMARY:** Under the Privacy Act of 1974, as amended, the Department of the Interior is issuing a public notice of its intent to amend the Office of the Secretary Privacy Act system of records, ''Incident Management, Analysis and Reporting System,'' to update the address for the system manager and amend Routine Use (16). The amendment will protect ongoing law enforcement proceedings, the identity of certain confidential informants, the health and safety of individuals, and the privacy interests of parties involved, injured or identified in incident reports related to traffic accidents, personal injuries, or the loss or damage of property.

**DATES:** Comments must be received by July 14, 2014. This amended system will be effective July 14, 2014.

**ADDRESSES:** Any person interested in commenting on this amendment may do so by: submitting comments in writing to the Departmental Privacy Act Officer, 1849 C Street NW., Mail Stop 5547 MIB, Washington, DC 20240; hand-delivering comments to the Departmental Privacy Act Officer, 1849 C Street NW., Mail Stop 5547 MIB, Washington, DC 20240 or emailing comments to *Privacy@ios.doi.gov.*

**FOR FURTHER INFORMATION CONTACT:** IMARS System Manager, 1849 C Street NW., Mail Stop 3060 MIB, Washington, DC 20240, or by phone at 202–208–3601.

**SUPPLEMENTARY INFORMATION:**

### I. Background

The Department of the Interior (DOI), Office of the Secretary, maintains an enterprise-wide system of records known as the ''Incident Management, Analysis and Reporting System, DOI–10'' system of records. The amendment to the Incident Management, Analysis and Reporting System (IMARS) will revise the routine uses section to update Routine Use (16) to provide information to parties who need it to adjudicate a claim. The amendment to Routine Use (16) states that:

- The release of information under these circumstances should only occur when it will not interfere with ongoing law enforcement proceedings, risk the health or safety of an individual, or reveal the identity of an informant or witness that has received an explicit assurance of confidentiality.
- To protect individual privacy, Social Security numbers and tribal identification numbers should not be released under these circumstances unless the Social Security number or tribal identification number belongs to the individual requester.

The IMARS system provides a unified system for Department of the Interior law enforcement agencies to manage law enforcement investigations, measure performance and meet reporting requirements. The system also provides the capability to prevent, detect and investigate known and suspected criminal activity; to interface with Department of Homeland Security and National Incident Based Reporting System; analyze and prioritize protection efforts; provide information to justify law enforcement funding requests and expenditures; assist in managing visitor use and protection programs, including training; investigate, detain and apprehend those committing crimes on DOI properties or tribal reservations (for the purpose of this system of records notice, tribal reservations include contiguous areas policed by tribal or Bureau of Indian Affairs law enforcement offices) managed by a Native American tribe under DOI's Bureau of Indian Affairs; and investigate and prevent visitor accident injuries on DOI properties or tribal reservations. Incident and non-incident data related to criminal and civil activity will be collected in support of law enforcement, homeland security, and security (physical, personnel and stability, information, and industrial) activities. This may include data documenting investigations and law enforcement activities, traffic safety, property damage claims, traffic accidents and domestic issues, and emergency management, sharing and analysis activities.

Accordingly, DOI consolidated the following DOI Privacy Act systems of records: Bureau of Reclamation Law Enforcement Management Information System (RLEMIS)—Interior, WBR–50 (73 FR 62314, October 20, 2008); Fish and Wildlife Service Investigative Case File System—Interior, FWS–20 (48 FR 54719, December 6, 1983); Bureau of Land Management Criminal Case Investigation—Interior, BLM–18 (73 FR 17376, April 1, 2008); Bureau of Indian Affairs Law Enforcement Services—Interior, BIA–18 (70 FR 1264, January 6, 2005); and National Park Service Case Incident Reporting System, NPS–19 (70 FR 1274, January 6, 2005) into one Department of the Interior system of records, titled the Incident Management, Analysis and Reporting System (IMARS). The IMARS system is maintained by the DOI Office of Law Enforcement Services, and is managed by the IMARS Security Manager (the ''System Manager''). The IMARS system notice was last published in the **Federal Register** on July 30, 2013 (Volume 78, Number 146).

The amendments to the system will be effective as proposed at the end of the comment period (the comment period will end 40 days after the publication of this notice in the **Federal Register**), unless comments are received which would require a contrary determination. DOI will publish a revised notice if changes are made based upon a review of the comments received.

The Department of the Interior published a notice of proposed rulemaking in the **Federal Register** on August 1, 2013 (Volume 78, Number 148) in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e), to exempt records maintained in this system from certain provisions of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and (k)(2). The exemptions for the consolidated system of records will continue to be applicable until the final rule has been completed.

### II. Privacy Act

The Privacy Act of 1974, as amended, embodies fair information practice principles in a statutory framework governing the means by which Federal Agencies collect, maintain, use, and disseminate individuals' personal information. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency for which information about an individual is retrieved by the name or by some identifying number, symbol, or other identifying particulars assigned to the individual. The Privacy Act defines an individual as a United States citizen or lawful permanent resident. As a matter of policy, DOI extends administrative Privacy Act protections to all individuals. Individuals may request access to their own records that are maintained in a system of records in the possession or under the control of DOI by complying with DOI Privacy Act regulations, 43 CFR Part 2, subpart K.

The Privacy Act requires each agency to publish in the **Federal Register** a

description denoting the type and character of each system of records that the agency maintains and the routine uses of each system to make agency recordkeeping practices transparent, notify individuals regarding the uses of their records, and assist individuals to more easily find such records within the agency. The system notice for the amended ''Incident Management, Analysis and Reporting System, DOI–10'' is published in its entirety below.

In accordance with 5 U.S.C. 552a(r), DOI has provided a report of this system of records to the Office of Management and Budget and to Congress.

## III. Public Disclosure

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Teri Barnett,**

*Departmental Privacy Act Officer.*

### System Name

Incident Management, Analysis and Reporting System, DOI–10

#### SYSTEM LOCATION:

Interior Business Center, U.S. Department of the Interior, 7301 W Mansfield Ave., Denver, CO 80235.

#### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The categories of individuals covered in the system include current and former Federal employees and contractors, Federal, tribal, state and local law enforcement officers. Additionally, this system contains information regarding members of the general public, including individuals and/or groups of individuals involved with law enforcement incidents involving Federal assets or occurring on public lands and tribal reservations, such as witnesses, individuals making complaints, individuals being investigated or arrested for criminal or traffic offenses, or certain types of non-criminal incidents; and members of the general public involved in an accident on DOI properties or tribal reservations.

#### CATEGORIES OF RECORDS IN THE SYSTEM:

The system includes law enforcement incident reports, law enforcement personnel records, and law enforcement training records, which contain the following information: Social Security numbers, drivers license numbers, vehicle identification numbers, license plate numbers, names, home addresses, work addresses, telephone numbers, email addresses and other contact information, emergency contact information, ethnicity and race, tribal identification numbers or other tribal enrollment data, work history, educational history, affiliations, and other related data, dates of birth, places of birth, passport numbers, gender, fingerprints, hair and eye color, and any other physical or distinguishing attributes of an individual. Incident reports and records may include attachments such as photos, video, sketches, medical reports, and email and text messages. Incident reports may also include information concerning criminal activity, response, and outcome of the incident. Records in this system also include information concerning Federal civilian employees and contractors, Federal, tribal, state and local law enforcement officers and may contain information regarding an officer's name, contact information, station and career history, firearms qualifications, medical history, background investigation and status, date of birth and Social Security Number. Information regarding officers' equipment, such as firearms, tasers, body armor, vehicles, computers and special equipment related skills is also included in this system.

#### AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Uniform Federal Crime Reporting Act, 28 U.S.C. 534; Intelligence Reform and Terrorism Prevention Act of 2004 (Pub. L. 108–458); Homeland Security Act of 2002 (Pub. L. 107–296); USA PATRIOT ACT of 2001 (Pub. L. 107–56); USA PATRIOT Improvement Act of 2005 (Pub. L. 109–177); Tribal Law and Order Act of 2010 (Pub. L. 111–211); Homeland Security Presidential Directive 7—Critical Infrastructure Identification, Prioritization, and Protection; Homeland Security Presidential Directive 12—Policy for a Common Identification Standard for Federal Employees and Contractors; Criminal Intelligence Systems Operating Policies, 28 CFR part 23.

#### ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The IMARS system of records is an incident management and reporting application used to prevent, detect and investigate known and suspected criminal activity; protect natural and cultural resources; capture, integrate and share law enforcement and related information and observations from other sources; measure performance of law enforcement programs and management of emergency incidents; meet reporting requirements, provide Department of Homeland Security (DHS) and National Incident Based Reporting System (NIBRS) interface frameworks; analyze and prioritize protection efforts; assist in managing visitor use and protection programs; employee training; enable the ability to investigate, detain and apprehend those committing crimes on DOI properties or tribal reservations; and to investigate and prevent visitor accident injuries on DOI properties or tribal reservations.

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, records or information contained in this system may be disclosed outside DOI as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

(1) (a) To any of the following entities or individuals, when the circumstances set forth in paragraph (b) are met:

(i) The U.S. Department of Justice (DOJ);

(ii) A court or an adjudicative or other administrative body;

(iii) A party in litigation before a court or an adjudicative or other administrative body; or

(iv) Any DOI employee acting in his or her individual capacity if DOI or DOJ has agreed to represent that employee or pay for private representation of the employee;

(b) When:

(i) One of the following is a party to the proceeding or has an interest in the proceeding:

(A) DOI or any component of DOI;

(B) Any other Federal agency appearing before the Office of Hearings and Appeals;

(C) Any DOI employee acting in his or her official capacity;

(D) Any DOI employee acting in his or her individual capacity if DOI or DOJ has agreed to represent that employee or pay for private representation of the employee;

(E) The United States, when DOJ determines that DOI is likely to be affected by the proceeding; and

(ii) DOI deems the disclosure to be:

(A) Relevant and necessary to the proceeding; and

(B) Compatible with the purpose for which the records were compiled.

(2) To a congressional office in response to a written inquiry that an individual covered by the system, or the heir of such individual if the covered individual is deceased, has made to the office, to the extent the records have not been exempted from disclosure

pursuant to 5 U.S.C. 552a(j)(2) and (k)(2).

(3) To the Executive Office of the President in response to an inquiry from that office made at the request of the subject of a record or a third party on that person's behalf, or for a purpose compatible for which the records are collected or maintained, to the extent the records have not been exempted from disclosure pursuant to 5 U.S.C. 552a(j)(2) and (k)(2).

(4) To any criminal, civil, or regulatory law enforcement authority (whether Federal, State, territorial, local, tribal or foreign) when a record, either alone or in conjunction with other information, indicates a violation or potential violation of law—criminal, civil, or regulatory in nature, and the disclosure is compatible with the purpose for which the records were compiled.

(5) To an official of another Federal agency to provide information needed in the performance of official duties related to reconciling or reconstructing data files or to enable that agency to respond to an inquiry by the individual to whom the record pertains.

(6) To Federal, State, territorial, local, tribal, or foreign agencies that have requested information relevant or necessary to the hiring, firing or retention of an employee or contractor, or the issuance of a security clearance, license, contract, grant or other benefit, when the disclosure is compatible with the purpose for which the records were compiled.

(7) To representatives of the National Archives and Records Administration to conduct records management inspections under the authority of 44 U.S.C. 2904 and 2906.

(8) To State and local governments and tribal organizations to provide information needed in response to court order and/or discovery purposes related to litigation, when the disclosure is compatible with the purpose for which the records were compiled.

(9) To an expert, consultant, or contractor (including employees of the contractor) of DOI that performs services requiring access to these records on DOI's behalf to carry out the purposes of the system.

(10) To appropriate agencies, entities, and persons when:

(a) It is suspected or confirmed that the security or confidentiality of information in the system of records has been compromised; and

(b) The Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interest, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and

(c) The disclosure is made to such agencies, entities and persons who are reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

(11) To the Office of Management and Budget during the coordination and clearance process in connection with legislative affairs as mandated by OMB Circular A–19.

(12) To the Department of the Treasury to recover debts owed to the United States.

(13) To a consumer reporting agency if the disclosure requirements of the Debt Collection Act, as outlined at 31 U.S.C. 3711(e)(1), have been met.

(14) To the Department of Justice, the Department of Homeland Security, and other federal, state and local law enforcement agencies for the purpose of information exchange on law enforcement activity.

(15) To agency contractors, grantees, or volunteers for DOI or other Federal Departments who have been engaged to assist the Government in the performance of a contract, grant, cooperative agreement, or other activity related to this system of records and who need to have access to the records in order to perform the activity.

(16) To any of the following entities or individuals, for the purpose of providing information on traffic accidents, personal injuries, or the loss or damage of property:

(a) Individuals involved in such incidents;

(b) Persons injured in such incidents;

(c) Owners of property damaged, lost or stolen in such incidents; and/or

(d) These individuals' duly verified insurance companies, personal representatives, administrators of estates, and/or attorneys.

The release of information under these circumstances should only occur when it will not interfere with ongoing law enforcement proceedings; risk the health or safety of an individual; or reveal the identity of an information or witness that has received an explicit assurance of confidentiality. Social Security numbers and tribal identification numbers should not be released under these circumstances unless the Social Security number or tribal identification number belongs to the individual requestor.

(17) To any criminal, civil, or regulatory authority (whether Federal, State, territorial, local, tribal or foreign) for the purpose of providing background search information on individuals for legally authorized purposes, including but not limited to background checks on individuals residing in a home with a minor or individuals seeking employment opportunities requiring background checks.

(18) To the news media and the public, with the approval of the System Manager in consultation with the Office of the Solicitor and the Senior Agency Official for Privacy, in support of the law enforcement activities, including obtaining public assistance with identifying and locating criminal suspects and lost or missing individuals, and providing the public with alerts about dangerous individuals.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Electronic records are maintained in password protected removable drives and other user-authenticated, password-protected systems that are compliant with the Federal Information Security Management Act. All records are accessed only by authorized personnel who have a need to access the records in the performance of their official duties. Paper records are contained in file folders stored in file cabinets.

**RETRIEVABILITY:**

Multiple fields allow retrieval of individual record information including Social Security number, first or last name, badge number, address, phone number, vehicle information and physical attributes.

**SAFEGUARDS:**

The records contained in this system are safeguarded in accordance with 43 CFR 2.226 and other applicable security rules and policies. During normal hours of operation, paper records are maintained in locked filed cabinets under the control of authorized personnel. Computerized records systems follow the National Institute of Standards and Technology standards as developed to comply with the Privacy Act of 1974 (Pub. L. 93–579), Paperwork Reduction Act of 1995 (Pub. L. 104–13), Federal Information Security Management Act of 2002 (Pub. L. 107–347), and the Federal Information Processing Standards 199, Standards for Security Categorization of Federal Information and Information Systems. Computer servers in which electronic records are stored are located in secured Department of the Interior facilities.

Access to records in the system is limited to authorized personnel who have a need to access the records in the performance of their official duties. Electronic data is protected through user identification, passwords, database permissions and software controls. Such security measures establish different access levels for different types of users associated with pre-defined groups and/or bureaus. Each user's access is restricted to only the functions and data necessary to perform that person's job responsibilities. Access can be restricted to specific functions (create, update, delete, view, assign permissions) and is restricted utilizing role-based access.

Authorized users are trained and required to follow established internal security protocols and must complete all security, privacy, and records management training and sign the Rules of Behavior. Contract employees with access to the system are monitored by their Contracting Officer's Technical Representative and the agency Security Manager.

**RETENTION AND DISPOSAL:**

Records in this system are retained and disposed of in accordance with Office of the Secretary Records Schedule 8151, Incident, Management, Analysis and Reporting System, which was approved by the National Archives and Records Administration (NARA) (N1–048–09–5), and other NARA approved bureau or office records schedules. The specific record schedule for each type of record or form is dependent on the subject matter and records series. After the retention period has passed, temporary records are disposed of in accordance with the applicable records schedule and DOI policy. Disposition methods include burning, pulping, shredding, erasing and degaussing in accordance with DOI 384 Departmental Manual 1. Permanent records that are no longer active or needed for agency use are transferred to the National Archives for permanent retention in accordance with NARA guidelines.

**SYSTEM MANAGER AND ADDRESS:**

IMARS Security Manager, 1849 C Street NW., Mail Stop 3060 MIB, Washington, DC 20240.

**NOTIFICATION PROCEDURES:**

The Department of the Interior has exempted portions of this system from the notification procedures of the Privacy Act pursuant to sections (j)(2) and (k)(2). An individual requesting notification of the existence of records on himself or herself should send a signed, written inquiry to the System Manager identified above. The request envelope and letter should both be clearly marked ''PRIVACY ACT INQUIRY.'' A request for notification must meet the requirements of 43 CFR 2.235.

**RECORDS ACCESS PROCEDURES:**

The Department of the Interior has exempted portions of this system from the access procedures of the Privacy Act pursuant to sections (j)(2) and (k)(2). An individual requesting records on himself or herself should send a signed, written inquiry to the System Manager identified above. The request should describe the records sought as specifically as possible. The request envelope and letter should both be clearly marked ''PRIVACY ACT REQUEST FOR ACCESS.'' A request for access must meet the requirements of 43 CFR 2.238.

**CONTESTING RECORDS PROCEDURES:**

The Department of the Interior has exempted portions of this system from the amendment procedures of the Privacy Act pursuant to sections (j)(2) and (k)(2). An individual requesting corrections or the removal of material from his or her records should send a signed, written request to the System Manager identified above. A request for corrections or removal must meet the requirements of 43 CFR 2.246.

**RECORD SOURCE CATEGORIES:**

Sources of information in the system include Department, bureau, office, tribal, State and local law officials and management, complainants, informants, suspects, victims, witnesses, visitors to Federal properties, and other Federal agencies including the Federal Bureau of Investigation or the Department of Justice.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

The Privacy Act (5 U.S.C. 552a(j)(2) and (k)(2)) provides general exemption authority for some Privacy Act systems. In accordance with that authority, the Department of the Interior adopted regulations 43 CFR 2.254(a–b). Pursuant to 5 U.S.C. 552a(j)(2) and (k)(2) of the Privacy Act, portions of this systems are exempt from the following subsections of the Privacy Act (as found in 5 U.S.C. 552a); (c)(3), (c)(4), (d), (e)(1) through (e)(3), (e)(4)(G) through (e)(4)(I), (e)(5), (e)(8), (f), and (g).

[FR Doc. 2014–12851 Filed 6–2–14; 8:45 am]

BILLING CODE 4310–RK–P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[FWS–R8–ES–2014–N104; FXES11130800000–145–FF08E00000]**

## Endangered Species Recovery Permit Applications

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of receipt of permit applications; request for comment.

**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. With some exceptions, the Endangered Species Act (Act) prohibits activities with endangered and threatened species unless a Federal permit allows such activity. The Act also requires that we invite public comment before issuing recovery permits to conduct certain activities with endangered species.

**DATES:** Comments on these permit applications must be received on or before July 3, 2014.

**ADDRESSES:** Written data or comments should be submitted to the Endangered Species Program Manager, U.S. Fish and Wildlife Service, Region 8, 2800 Cottage Way, Room W–2606, Sacramento, CA 95825 (telephone: 916–414–6464; fax: 916–414–6486). Please refer to the applicant's name and affiliation for each application when submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Daniel Marquez, Fish and Wildlife Biologist; see **ADDRESSES** (telephone: 760–431–9440; fax: 760–431–9624).

**SUPPLEMENTARY INFORMATION:** The following applicants have applied for scientific research permits to conduct certain activities with endangered species under section 10(a)(1)(A) of the Act (16 U.S.C. 1531 *et seq.*). Permit numbers have not been assigned to the three applications for new permits. However, because of the time-sensitive nature of the surveys and research, we are proceeding to provide notice of these applications and solicit input from the public on these activities. We seek review and comment from local, State, and Federal agencies and the public on the following permit requests.

### Applicants

*Applicant:* Mary H. Toothman, University of California, Santa Barbara, Satellite Amphibian Research Facility, Santa Barbara, California.

The applicant requests a permit to take (survey, capture, handle, mark, release, hold in captivity, and relocate)

the mountain yellow-legged frog (northern California Distinct Population Segment (DPS)) (*Rana muscosa*) and Sierra Nevada yellow-legged frog (*Rana sierrae*) in conjunction with presence/absence surveys and research on the effects of chytridiomycosis, caused by the amphibian chytrid fungus (*Batrachochytrium dendrobatidis*) throughout the range of each species in California, for the purpose of enhancing the species' survival.

*Applicant:* Roland A. Knapp, University of California Sierra Nevada Aquatic Research Laboratory, Mammoth Lakes, California.

The applicant requests a permit to take (survey, capture, handle, mark, release, hold in captivity, and relocate) the mountain yellow-legged frog (northern California DPS) (*Rana muscosa*) and Sierra Nevada yellow-legged frog (*Rana sierrae*) in conjunction with presence/absence surveys and long-term surveillance of chytridiomycosis, caused by the amphibian chytrid fungus (*Batrachochytrium dendrobatidis*) throughout the range of each species in California, for the purpose of enhancing the species' survival.

*Applicant:* Cathy Brown, U.S. Forest Service, Pacific Southwest Research Station, Albany, California.

The applicant requests a permit to take (survey, capture, handle, mark, release, hold in captivity, and relocate) the mountain yellow-legged frog (northern California DPS) (*Rana muscosa*), Sierra Nevada yellow-legged frog (*Rana sierrae*), and Yosemite toad (*Anaxyrus canorus*) in conjunction with presence/absence and population surveys on U.S. Forest Service lands, for the purpose of enhancing the species' survival.

*Permit No. TE–844852*

*Applicant:* Patrick Kleeman, U.S. Geological Survey, Point Reyes Field Station, Point Reyes, California.

The applicant requests an amendment to a permit to take (survey, capture, handle, mark, release, hold in captivity, and relocate) the mountain yellow-legged frog (northern California DPS) (*Rana muscosa*), Sierra Nevada yellow-legged frog (*Rana sierrae*), and Yosemite toad (*Anaxyrus canorus*), in addition to the species already included on the permit in conjunction with presence/absence and population surveys throughout the range of each species in California, for the purpose of enhancing the species' survival.

**Public Comments**

We invite public review and comment on each of these recovery permit applications. Comments and materials we receive will be available for public inspection, by appointment, during normal business hours at the address listed in the **ADDRESSES** section of this notice.

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 28, 2014.

**Darrin Thome,**

*Acting Regional Director, Pacific Southwest Region, Sacramento, California.*

[FR Doc. 2014–12839 Filed 6–2–14; 8:45 am]

**BILLING CODE 4310–55–P**

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[FWS–HQ–MB–2014–N099; 91100–3740–GRNT 7C]**

### Meeting Announcement: North American Wetlands Conservation Council

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of meeting.

**SUMMARY:** The North American Wetlands Conservation Council (Council) will meet to consider proposals for U.S. Standard Grants, one of the types of grants in the North American Wetlands Conservation Act (NAWCA) program, for recommendation to the Migratory Bird Conservation Commission (Commission). The grants proposals involve wetland acquisition, restoration, enhancement, and management projects. This meeting is open to the public, and interested persons may present oral or written statements.

**DATES:** The meeting is scheduled for June 26, 2014, from 8:30 a.m. to 4:30 p.m. If you are interested in attending or presenting information, contact the Council Coordinator (see **FOR FURTHER INFORMATION CONTACT**) by the appropriate deadline (see Public Input under **SUPPLEMENTARY INFORMATION**). The subsequent meeting at which the Commission will consider the Council's recommendations is tentatively scheduled for September, 2014.

**ADDRESSES:** The Council meeting will take place at Greenpoint Environmental Learning Center, 3010 Maple Street, Saginaw, MI 48602.

**FOR FURTHER INFORMATION CONTACT:** Cynthia Perry, Council Coordinator, by phone at 703–358–2432; by email at *dbhc@fws.gov*; or by U.S. mail at U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, MBSP 4075, Arlington, VA 22203.

**SUPPLEMENTARY INFORMATION:**

**About the Council**

In accordance with NAWCA (Pub. L. 101–233, 103 Stat. 1968, December 13, 1989, as amended), the State-private-Federal Council meets to consider wetland acquisition, restoration, enhancement, and management projects for recommendation to, and final funding approval by, the Commission.

**U.S. Standard Grants Program**

The U.S. Standard Grants Program is a competitive matching grants program that supports public-private partnerships carrying out projects in the United States that further the goals of NAWCA. These projects must involve long-term protection, restoration, and/or enhancement of wetlands and associated uplands habitats for the benefit of all wetlands-associated migratory birds. Grant requests may not exceed $1 million, and funding priority is given to grantees or partners new to the NAWCA Grants Program.

Project proposal due dates, application instructions, and eligibility requirements are available on the NAWCA Web site at *http://www.fws.gov/birdhabitat/Grants/NAWCA.*

**Public Input**

| If you wish to: | You must contact the Council Coordinator (see **FOR FURTHER INFORMATION CONTACT**) no later than |
|---|---|
| (1) Attend the Council meeting | June 26, 2014. |
| (2) Submit written information or questions before the Council meeting for consideration during the meeting | June 9, 2014. |

*Submitting Written Information or Questions*

Interested members of the public may submit relevant information or questions for the Council to consider during the public meeting. If you wish to submit a written statement, so that the information may be made available to the Council for their consideration prior to this meeting, you must contact the Council Coordinator by the date above. Written statements must be supplied to the Council Coordinator in both of the following formats: One hard copy with original signature, and one electronic copy via email (acceptable file formats are Adobe Acrobat PDF, MS Word, MS PowerPoint, or rich text file).

*Giving an Oral Presentation*

Individuals or groups requesting to make an oral presentation at the Council meeting will be limited to 2 minutes per speaker, with no more than a total of 30 minutes for all speakers. Interested parties should contact the Council Coordinator by the date above, in writing (preferably via email; see **FOR FURTHER INFORMATION CONTACT**), to be placed on the public speaker list for either of these meetings. Non-registered public speakers will not be considered during the Council meeting. Registered speakers who wish to expand upon their oral statements, or those who had wished to speak but could not be accommodated on the agenda, are invited to submit written statements to the Council within 30 days following the meeting.

**Meeting Minutes**

Summary minutes of the Council and meeting will be maintained by the Council Coordinator at the address under **FOR FURTHER INFORMATION CONTACT**. Council meeting minutes will be available by contacting the Council Coordinator within 30 days following the meeting. Personal copies may be purchased for the cost of duplication.

**Jerome Ford,**

*Assistant Director, Migratory Birds.*

[FR Doc. 2014–12782 Filed 6–2–14; 8:45 am]

**BILLING CODE 4310–55–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLWO320000.L19900000.PO0000]**

### Renewal of Approved Information Collection

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** 60-Day notice and request for comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act, the Bureau of Land Management (BLM) invites public comments on, and plans to request approval to continue, the collection of information which pertains to the use and occupancy under mining laws. The Office of Management and Budget (OMB) has assigned control number 1004–0169 to this information collection.

**DATES:** Please submit comments on the proposed information collection by August 4, 2014.

**ADDRESSES:** Comments may be submitted by mail, fax, or electronic mail.

Mail: U.S. Department of the Interior, Bureau of Land Management, 1849 C Street NW., Room 2134LM, Attention: Jean Sonneman, Washington, DC 20240. Fax: to Jean Sonneman at 202–245–0050. Electronic mail: *Jean_Sonneman@blm.gov*. Please indicate ''Attn: 1004–0169'' regardless of the form of your comments.

**FOR FURTHER INFORMATION CONTACT:** Adam Merrill at 202–912–7044. Persons who use a telecommunication device for the deaf may call the Federal Information Relay Service at 1–800–877–8339, to leave a message for Mr. Merrill.

**SUPPLEMENTARY INFORMATION:** OMB regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act, 44 U.S.C. 3501–3521, require that interested members of the public and affected agencies be given an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d) and 1320.12(a)). This notice identifies an information collection that the BLM plans to submit to the OMB for approval. The Paperwork Reduction Act provides that an agency may not conduct or sponsor a collection of information unless it displays a valid OMB control number. Until the OMB approves a collection of information, you are not obligated to respond.

The BLM will request a 3-year term of approval for this information collection activity. Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) The accuracy of the agency's burden estimates; (3) Ways to enhance the quality, utility and clarity of the information collection; and (4) Ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany our submission of the information collection requests to the OMB.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information — may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

The following information is provided for the information collection:

*Title:* Use and Occupancy Under the Mining Laws (43 CFR subpart 3715).

*OMB Control Number:* 1004–0169.

*Summary:* This notice pertains to the collection of information that is necessary to manage the use and occupancy of public lands for developing mineral deposits under the Mining Laws.

*Frequency of Collection:* On occasion.

*Forms:* None.

*Description of Respondents:* Mining claimants and operators of prospecting, exploration, mining and procession operations.

*Estimated Annual Non-Hour Costs:* None.

The estimated annual reporting burdens for this collection are itemized in the table below.

| Type of response<br>A. | Number of responses<br>B. | Time per response<br>C. | Total hours (column B × column C)<br>D. |
|---|---|---|---|
| Proposed occupancy 43 CFR 3715.3–2 | 156 | 2 hours | 312 |
| Notification of existing use or occupancy 43 CFR 3715.4 | 10 | 2 hours | 20 |
| Totals | 166 | | 332 |

**Jean Sonneman,**

*Bureau of Land Management, Information Collection Clearance Officer.*

[FR Doc. 2014–12802 Filed 6–2–14; 8:45 am]

**BILLING CODE 4310–84–P**

## DEPARTMENT OF THE INTERIOR

## Bureau of Land Management

**[LLIDT000000.L11200000.DD0000.241A.00]**

## Notice of Public Meetings, Twin Falls District Resource Advisory Council, Idaho

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Public Meetings.

**SUMMARY:** In accordance with the Federal Land Policy and Management Act (FLPMA), the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Twin Falls District Resource Advisory Council (RAC) will meet as indicated below.

**DATES:** The Twin Falls District Resource Advisory Council will participate in a field tour of the Bruneau Overlook and the Saylor Creek Wild Horse Herd Management Area. The tour will take place June 24, 2014. RAC members will meet at the Idaho Department of Labor building, 420 Falls Ave., Twin Falls, ID, 83301 8:30 a.m. for a short meeting prior to traveling to the Hagerman area for the field tour. A public comment period will take place from 8:45 a.m.–9:15 a.m.

**FOR FURTHER INFORMATION CONTACT:** Heather Tiel-Nelson, Twin Falls District, Idaho 2536 Kimberly Road, Twin Falls, Idaho, 83301, (208) 736–2352.

**SUPPLEMENTARY INFORMATION:** The 15-member RAC advises the Secretary of the Interior, through the Bureau of Land Management, on a variety of planning and management issues associated with public land management in Idaho. The purpose of the June 24th tour is to learn more about the proposed improvements to the Bruneau Overlook area and to receive a status update about the Saylor Creek wild horse herd.

Additional topics may be added and will be included in local media announcements. More information is available at *www.blm.gov/id/st/en/res/resource_advisory.3.html.* RAC meetings are open to the public.

Dated: May 21, 2014.

**Michael C. Courtney,**

*District Manager (Acting).*

[FR Doc. 2014–12673 Filed 6–2–14; 8:45 am]

**BILLING CODE 4310–GG–M**

## DEPARTMENT OF THE INTERIOR

## Bureau of Land Management

**[LLAK930000.L13100000.EI0000]**

## Call for Nominations and Comments for the 2014 National Petroleum Reserve in Alaska Oil and Gas Lease Sale

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** The Bureau of Land Management (BLM) Alaska State Office, under the authority of 43 CFR 3131.2, is issuing a call for nominations and comments on tracts for oil and gas leasing for the 2014 National Petroleum Reserve in Alaska (NPR–A) oil and gas lease sale. A map of the NPR–A showing available areas is online at *http://www.blm.gov/ak.*

**DATES:** BLM-Alaska must receive all nominations and comments on these tracts for consideration on or before July 18, 2014.

**ADDRESSES:** Mail nominations and/or comments to: State Director, Bureau of Land Management, Alaska State Office, 222 West 7th Ave., Mailstop 13; Anchorage, AK 99513–7504. Before including your address, phone number, email address, or other personal identifying information with your nominations and/or comments, 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.

**FOR FURTHER INFORMATION CONTACT:** Wayne Svejnoha, BLM-Alaska Energy and Minerals Branch Chief, 907–271–4407. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** When describing tracts nominated for leasing or providing comments please refer to the NPR–A maps, legal descriptions of the tracts, and additional information available through the BLM-Alaska Web site at *http://www.blm.gov/ak.*

**Bud C. Cribley,**

*State Director.*

[FR Doc. 2014–12804 Filed 6–2–14; 8:45 am]

**BILLING CODE 4310–JA–P**

## DEPARTMENT OF THE INTERIOR

## Bureau of Land Management

**[LLNM940000 L13110000.BX0000 14XL1109PF]**

## Notice of Filing of Plats of Survey, New Mexico

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Filing of Plats of Survey.

**SUMMARY:** The plats of survey described below are scheduled to be officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, thirty (30) calendar days from the date of this publication.

**FOR FURTHER CONTACT INFORMATION:** These plats will be available for inspection in the New Mexico State Office, Bureau of Land Management, 301 Dinosaur Trail, Santa Fe, New Mexico. Copies may be obtained from this office upon payment. Contact Marcella Montoya at 505–954–2097, or by email at *mmontoya@blm.gov*, for

assistance. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours.

**SUPPLEMENTARY INFORMATION:**

**New Mexico Principal Meridian, New Mexico (NM)**

The plat, representing the dependent resurvey and survey in Township 14 North, Range 14 West, of the New Mexico Principal Meridian, accepted March 27, 2014, for Group 1139 NM.

The plat, in six sheets, representing the dependent resurvey and survey in Township 19 North, Range 6 East, of the New Mexico Principal Meridian, accepted May 9, 2014, for Group 1133 NM.

The plat, representing the dependent resurvey and survey in Township 19 North, Range 8 East, of the New Mexico Principal Meridian, accepted May 19, 2014, for Group 1120 NM.

**Sixth Principal Meridian, Kansas (KS)**

The plat, representing the dependent resurvey and survey, in Township 8 South, Range 13 East, of the Sixth Principal Meridian, accepted May 8, 2014, for Group 38 KS. These plats are scheduled for official filing 30 days from the notice of publication in the **Federal Register**, as provided for in the BLM Manual Section 2097—Opening Orders. Notice from this office will be provided as to the date of said publication. If a protest against a survey, in accordance with 43 CFR 4.450–2, of the above plats is received prior to the date of official filing, the filing will be stayed pending consideration of the protest.

A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

A person or party who wishes to protest against any of these surveys must file a written protest with the Bureau of Land Management New Mexico State Director stating that they wish to protest.

A statement of reasons for a protest may be filed with the Notice of Protest to the State Director or the statement of reasons must be filed with the State Director within thirty (30) days after the protest is filed.

**Thomas A. Maestas,**

*Acting Branch Chief, Cadastral Survey.*

[FR Doc. 2014–12778 Filed 6–2–14; 8:45 am]

**BILLING CODE 4310–FB–P**

## DEPARTMENT OF THE INTERIOR

## National Indian Gaming Commission

## 2014 Final Fee Rate and Fingerprint Fees

**AGENCY:** National Indian Gaming Commission, Interior.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given, pursuant to 25 CFR 514.2, that the National Indian Gaming Commission has adopted its 2014 final annual fee rates of 0.00% for tier 1 and 0.070% (.00070) for tier 2. These rates shall apply to all assessable gross revenues from each gaming operation under the jurisdiction of the Commission. If a tribe has a certificate of self-regulation under 25 CFR part 518, the 2014 final fee rate on Class II revenues shall be one-half of the annual fee rate, which is 0.035% (.00035). The final fee rates being adopted here are effective June 1st, 2014 and will remain in effect until new rates are adopted.

Pursuant to 25 CFR 514.16, the National Indian Gaming Commission has also adopted its fingerprint processing fees of $22 per card, which is the same as the fingerprint fees announced in March 2014.

**FOR FURTHER INFORMATION CONTACT:** Yvonne Lee, National Indian Gaming Commission, 1441 L Street NW., Suite 9100, Washington, DC 20005; telephone (202) 632–7003; fax (202) 632–7066.

**SUPPLEMENTARY INFORMATION:** The Indian Gaming Regulatory Act (IGRA) established the National Indian Gaming Commission, which is charged with, among other things, regulating gaming on Indian lands.

Commission regulations (25 CFR part 514) provide for a system of fee assessment and payment that is self-administered by gaming operations. Pursuant to those regulations, the Commission is required to adopt and communicate assessment rates and the gaming operations are required to apply those rates to their revenues, compute the fees to be paid, report the revenues, and remit the fees to the Commission. All gaming operations within the jurisdiction of the Commission are required to self administer the provisions of these regulations, and report and pay any fees that are due to the Commission.

Pursuant to 25 CFR part 514, the Commission must also review annually the costs involved in processing fingerprint cards and set a fee based on fees charged by the Federal Bureau of Investigation and costs incurred by the Commission. Commission costs include Commission personnel, supplies, equipment costs, and postage to submit the results to the requesting tribe. Based on that review, the 2014 fingerprint processing fee will remain the same at $22 per card.

Dated: May 28, 2014.

**Jonodev Chaudhuri,**

*Acting Chairman.*

Dated: May 28, 2014.

**Daniel Little,**

*Associate Commissioner.*

[FR Doc. 2014–12767 Filed 6–2–14; 8:45 am]

**BILLING CODE 7565–01–P**

## INTERNATIONAL TRADE COMMISSION

## 60-Day Notice for Extension of Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

**AGENCY:** United States International Trade Commission.

**ACTION:** In accordance with the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the U.S. International Trade Commission (Commission) hereby gives notice that it plans to submit a request for extension of approval to the Office of Management and Budget (OMB) for review and requests public comment on the ''Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.''

**SUMMARY:** The U.S. International Trade Commission, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public to take this opportunity to comment on the ''Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery'' to be submitted for approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 et seq.). This collection was developed as part of a Federal Government-wide effort to streamline the process for seeking feedback from the public on service delivery. This notice announces the Commission's intent to submit this collection to OMB for approval and solicits comments on specific aspects of the proposed information collection.

**DATES:** To ensure consideration, written comments must be submitted on or before July 30, 2014.

**ADDRESSES:** Direct all written comments to Jeremy Wise, Division Chief, Statistical and Data Services Division, Office of Analysis and Research Services, U.S. International Trade Commission, 500 E Street SW.,

Washington, DC 20436 (or via email at *jeremy.wise@usitc.gov*).

*Additional Information:* Copies of the draft questionnaire and supporting documents may be obtained from Jeremy Wise (*jeremy.wise@usitc.gov* or 202–205–3190). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202–205–1810. General information concerning the Commission may also be obtained by accessing its Web site (*http://www.usitc.gov*). 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.

Comments submitted in response to this notice may be made available to the public through the Commission's Web site. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or confidential business within the meaning of the Commission's rules (See 19 CFR 201.6 (a)). If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comments that may be made available to the public notwithstanding the inclusion of the routine notice.

*Summary of Proposal:*

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

*Abstract:* The proposed information collection activity provides a means to garner qualitative customer and stakeholder feedback in an efficient and timely manner, in accordance with the Federal Government's commitment to improving service delivery. By qualitative feedback, the Commission means information that provides useful insights on perceptions and opinions, and not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences, and expectations; provide an early warning of issues with service; or focus attention on areas where communication, training, or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative communications between the Commission and its customers and stakeholders. They will also contribute directly to the improvement of program management.

The solicitation of feedback will target areas such as timeliness, appropriateness, accuracy of information, courtesy, efficiency of service delivery, and resolution of issues with service delivery. Responses will be assessed to plan and inform efforts to improve or maintain the quality of service offered to the public. If this information is not collected, vital feedback from customers and stakeholders on the Agency's services will be unavailable.

The Agency will only submit a collection for approval under this generic clearance if it meets the following conditions:

- The collections are voluntary;
- The collections are low-burden for respondents (based on considerations of total burden hours, total number of respondents, or burden-hours per respondent) and are low-cost for both the respondents and the Federal Government;
- The collections are non-controversial and do not raise issues of concern to other Federal agencies;
- Any collection is targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future;
- Personally identifiable information (PII) is collected only to the extent necessary and is not retained;
- Information gathered will be used only internally for general service improvement and program management purposes and is not intended for release outside of the agency;
- Information gathered will not be used for the purpose of substantially informing influential policy decisions; and
- Information gathered will yield qualitative information; the collections will not be designed or expected to yield statistically reliable results or used as though the results are generalizable to the population of study.

Feedback collected under this generic clearance provides useful information, but it does not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous survey designs that address the target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior to fielding the study

As a general matter, information collections will not result in any new system of records containing privacy information and will not ask questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

- *Current Actions:* Extension of approval for a collection of information.
- *Type of Review:* Extension.
- *Affected Public:* Businesses and Organizations.
- *Average Expected Annual Number of Activities:* 10.
- *Average Number of Respondents per Activity:* 60.
- *Annual Responses:* 600.
- *Frequency of Response:* Once per request.
- *Average Minutes per Response:* 40.
- *Burden Hours:* 400.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. 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. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information; processing and maintaining information, and disclosing and providing information; to train personnel, and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to

transmit or otherwise disclose the information.

By order of the Commission.

Dated: May 28, 2014.

**Lisa R. Barton,**

*Secretary to the Commission.*

[FR Doc. 2014–12750 Filed 6–2–14; 8:45 am]

BILLING CODE 7020–02–P

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 731–TA–1148 (Review)]**

### Frontseating Service Valves From China; Termination of Five-Year Review

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** The subject five-year review was initiated on March 3, 2014 to determine whether revocation of the antidumping duty order on frontseating service valves from China would be likely to lead to continuation or recurrence of material injury. On May 14, 2014, the Department of Commerce published notice that it was revoking the order effective April 28, 2014, because ''no domestic interested party filed a notice of intent to participate in response to the *Initiation Notice* by the applicable deadline.'' (79 FR 27573). Accordingly, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)), the subject review is terminated.

**DATES:** *Effective Date:* May 21, 2014.

**FOR FURTHER INFORMATION CONTACT:** Christopher J. Cassise (202–708–5408), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*).

**Authority:** This review is being terminated under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.69 of the Commission's rules (19 CFR 207.69).

By order of the Commission.

Issued: May 27, 2014.

**William R. Bishop,**

*Supervisory Hearings and Information Officer.*

[FR Doc. 2014–12657 Filed 6–2–14; 8:45 am]

BILLING CODE 7020–02–P

## DEPARTMENT OF JUSTICE

**[OMB Number 1121–0064]**

### Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension and Minor Revision of Existing Collection

**AGENCY:** Bureau of Justice Statistics, Department of Justice.

**ACTION:** Annual Parole Survey, Annual Probation Survey, and Annual Probation Survey (Short Form); 30-day Notice.

**SUMMARY:** The Department of Justice (DOJ), Office of Justice Programs, will be submitting the following information collection 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 60, pages 17775–17576, on March 28, 2014, allowing a 60-day comment period. Following publication of the 60-day notice, the Bureau of Justice Statistics received and responded to one request for a copy of the proposed information collection instrument and instructions. No other comments were received.

**DATES:** Comments are encouraged and will be accepted for an additional 30 days until July 3, 2014.

**FOR FURTHER INFORMATION CONTACT:** Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden or associated response time, should be directed to *OIRA_submission@omb.eop.gov.*

**SUPPLEMENTARY INFORMATION:** This process is conducted in accordance with 5 CFR 1320.10. Request 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 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 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:* Extension and minor revision of currently approved collection.

(2) *Title of the Form/Collection:* Annual Parole Survey, Annual Probation Survey, and Annual Probation Survey (Short Form).

(3) *Agency form number:* Forms: CJ–7 Annual Parole Survey; CJ–8 Annual Probation Survey; and CJ–8A Annual Probation Survey (Short Form). Corrections Statistics Program, Bureau of Justice Statistics, Office of Justice Programs, United States Department of Justice.

(4) *Affected public who will be asked to respond, as well as a brief abstract:* Primary: state departments of corrections or state probation and parole authorities. Others: The Federal Bureau of Prisons, city and county courts and probation offices for which a central reporting authority does not exist. For the CJ–7 form, the affected public consists of 53 respondents including 51 central reporters (two state respondents in Pennsylvania, and one each from the remaining states), the District of Columbia, and the Federal Bureau of Prisons responsible for keeping records on parolees. For the CJ–8 form, the affected public includes 307 reporters including 51 state respondents (two state respondents in Pennsylvania, and one each from the remaining states), the District of Columbia, the Federal Bureau of Prisons, and 254 from local authorities responsible for keeping records on probationers. For the CJ–8A form, the affected public includes 161 reporters from local authorities responsible for keeping records on probationers. The Annual Parole Survey and Annual Probation surveys have been used since 1977 to collect annual yearend counts and yearly movements of community corrections populations; characteristics of the community supervision population, such as gender, racial composition, ethnicity, conviction status, offense, supervision status; outcomes including the number of

revocations and the re-incarceration rate of parolees (i.e., recidivism measures); and the numbers of probationers and parolees who had their location tracked through a Global Positioning System (GPS). Starting with the 2014 Annual Probation Survey, three questions will be added to assess the scope of probation agencies being included by respondents and the levels of court responsible for referring adults to probation supervision. This is an increase of one question compared with the two questions that were proposed in the 60-day notice for this collection. One of the two questions originally proposed was separated into two questions to improve user comprehension and ease of reporting. A pretest with 9 respondents who agreed to a pretest of the three new items demonstrated that the additional items will increase burden by an average of 5 minutes per response for the 2014 Annual Probation Survey as compared with the 2013 Annual Probation Survey. The estimate obtained from the pre-test is less than the estimate of 15 minutes per response for the Annual Probation Survey that appeared in the 60-day notice. The burden estimates in the 30-day notice have been revised accordingly. The Bureau of Justice Statistics uses this information in published reports and for the U.S. Congress, Executive Office of the President, practitioners, researchers, students, the media, and others interested in criminal justice statistics.

(5) *An estimate of the total number of respondents and the amount of time needed for an average respondent to respond:* 521 respondents each taking an average of 1.49 hours to respond.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 778 annual burden 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 Avenue, 145 N Street NE., Room 3E.405B, Washington, DC 20530.

Dated: May 28, 2014.

**Jerri Murray,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2014–12753 Filed 6–2–14; 8:45 am]

**BILLING CODE 4410–18–P**

## DEPARTMENT OF JUSTICE

**[OMB Number 1125–0007]**

## Agency Information Collection Activities; Proposed Collection; Comments Requested

**AGENCY:** Executive Office for Immigration Review, Department of Justice.

**ACTION:** Immigration Practitioner Complaint Form, 30-day notice.

**SUMMARY:** The Department of Justice (DOJ), Executive Office for Immigration Review (EOIR), 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 63, page 18581, on April 2, 2014, allowing for a 60 day comment period.

**DATES:** Comments are encouraged and will be accepted for an additional 30 days until July 3, 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 Jeff Rosenblum, General Counsel, USDOJ–EOIR–OGC, Suite 2600, 5107 Leesburg Pike, Falls Church, Virginia 22041; telephone: (703) 305–0470, or you may submit your comments to *OIRA_submission@omb.eop.gov*.

**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:* Extension of a currently approved collection.

(2) Title *of the Form/Collection:* Immigration Practitioner Complaint Form.

(3) *Agency form number:* EOIR–44 (OMB #1125–0007).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals who wish to file a complaint against an immigration practitioner authorized to appear before the Board of Immigration Appeals and the immigration courts. Other: None. Abstract: The information on this form will be used to determine whether, assuming the truth of the factual allegations, the Office of the General Counsel of the Executive Office for Immigration Review should conduct a preliminary disciplinary inquiry, request additional information from the complainant, refer the matter to a state bar disciplinary authority or other law enforcement agency, or take no further action.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 200 respondents will complete each form within approximately 2 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 400 total annual burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3E.405B, Washington, DC 20530.

Dated: May 29, 2014.

**Jerri Murray,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2014–12820 Filed 6–2–14; 8:45 am]

**BILLING CODE 4410–30–P**

## DEPARTMENT OF JUSTICE

**[OMB Number 1140–NEW]**

### Agency Information Collection Activities: Proposed eCollection eComments Requested; Tobacco Inventory Report and Direct Sales Report

**AGENCY:** Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice

**ACTION:** 30-day notice.

**SUMMARY:** The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 79, Number 63, page 18580 on April 2, 2014, allowing for a 60 day comment period.

**DATES:** The purpose of this notice is to allow for an additional 30 days for public comment until July 3, 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 Joseph Fox, Chief, Alcohol and Tobacco Enforcement Branch, Bureau of Alcohol, Tobacco, Firearms and Explosives, 99 New York Avenue NE., Washington, DC 20226. Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington DC 20503 or email to *OIRA_submission@omb.eop.gov*.

**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 1140–NEW**

(1) *Type of Information Collection:* New collection.

(2) *Title of the Form/Collection:* Tobacco Inventory Report and Direct Sales Report.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:*

*Form number(s):* ATF Form 5200.25 and ATF Form 5200.26.

*Component:* Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

*Primary:* Business or other-for-profit.

*Other:* None.

*Abstract:* The amendment of the Contraband Cigarette Trafficking Act (CCTA) requires a person who sells more than 10,000 cigarettes or more than 500 single-unit consumer-sized cans or packages of smokeless tobacco per month and conducts non-face-to-face consumer sales must report to ATF specific information regarding their inventory and those sales. These forms will be used to report tobacco inventory and sales and identify persons or businesses that are selling and moving tobacco products illegally.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: An estimated 3,000 respondents will take 1 hour each month to complete ATF Form 5200.25; and 3,500 respondents will take 30 minutes each month to complete ATF Form 5200.26. The combined estimated total number of respondents for this collection is 6,500.

(6) An estimate of the total public burden (in hours) associated with the collection:

The estimated public burden associated with this collection is 57,000 hours. It is estimated that respondents for ATF Form 5200.25 will take 36,000 hours annually; and respondents for ATF Form 5200.26 will take 21,000 hours annually.

*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 3E–405B, Washington, DC 20530.

Dated: May 29, 2014.

**Jerri Murray,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2014–12821 Filed 6–2–14; 8:45 am]

BILLING CODE 4410–FY–P

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

**[Docket No. DEA–392]**

### Bulk Manufacturer of Controlled Substances Application: Wildlife Laboratories, Inc.

**ACTION:** Notice of application.

**DATES:** Registered bulk manufacturers of the affected basic class, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.33(a) on or before August 4, 2014.

**ADDRESSES:** Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152.

**SUPPLEMENTARY INFORMATION:** The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, and dispensers of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to section 7(g) of 28 CFR part 0, subpart. R, App.

In accordance with 21 CFR 1301.33(a), this is notice that on February 10, 2014, Wildlife Laboratories, Inc., 1230 W. Ash Street,

Suite D, Windsor, Colorado 80550, applied to be registered as a bulk manufacturer of Carfentanil (9743), a basis class of narcotic controlled substance listed in schedule II.

The company plans to manufacture the above listed controlled substance for sale to veterinary pharmacies, zoos, and other animal and wildlife applications.

Dated: May 28, 2014.

**Joseph T. Rannazzisi,**

*Deputy Assistant Administrator.*

[FR Doc. 2014–12792 Filed 6–2–14; 8:45 am]

**BILLING CODE 4410–09–P**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

**[Docket No. DEA–392]**

### Importer of Controlled Substances Application: Alltech Associates, Inc.

**ACTION:** Notice of application.

**DATES:** Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.34(a) on or before July 3, 2014. Such persons may also file a written request for a hearing on the application pursuant to 21 CFR 1301.43 on or before July 3, 2014.

**ADDRESSES:** Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152.

**SUPPLEMENTARY INFORMATION:** The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, and dispensers of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to sec. 7(g) of 28 CFR pt. 0, subpt. R, App.

In accordance with 21 CFR 1301.34(a), this is notice that on March 5, 2014, Alltech Associates, Inc., 2051 Waukegan Road, Deerfield, Illinois 60015, applied to be registered as an importer of the following basic classes of narcotic or non-narcotic controlled substances:

| Controlled substance | Schedule |
|---|---|
| Gamma Hydroxybutyric Acid (2010). | I |
| Lysergic acid diethylamide (7315) | I |
| Heroin (9200) | I |
| Cocaine (9041) | II |
| Codeine (9050) | II |
| Hydrocodone (9193) | II |
| Meperidine (9230) | II |
| Methadone (9250) | II |
| Morphine (9300) | II |

The company plans to import these controlled substances for the manufacture of reference standards.

Dated: May 28, 2014.

**Joseph T. Rannazzisi,**

*Deputy Assistant Administrator.*

[FR Doc. 2014–12793 Filed 6–2–14; 8:45 am]

**BILLING CODE 4410–09–P**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

### Importer of Controlled Substances; Notice of Registration; Hospira

By Notice dated December 16, 2013, and published in the **Federal Register** on January 2, 2014, 79 FR 151, Hospira, 1776 North Centennial Drive, McPherson, Kansas 67460–1247, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of Remifentanil (9739), a basic class of controlled substance listed in schedule II.

The company plans to import Remifentanil for use in dosage form manufacturing.

No comments or objections have been received. The DEA has considered the factors in 21 U.S.C. 823(a) and 952(a) and determined that the registration of Hospira to import the basic class of controlled substance is consistent with the public interest and in accordance with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA has investigated Hospira to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history.

Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic class of controlled substance listed.

Dated: May 28, 2014.

**Joseph T. Rannazzisi,**

*Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.*

[FR Doc. 2014–12795 Filed 6–2–14; 8:45 am]

**BILLING CODE 4410–09–P**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

**[Docket No. DEA–392]**

### Bulk Manufacturer of Controlled Substances Application: MALLINCKRODT, LLC

**ACTION:** Notice of application.

**DATES:** Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.33(a) on or before August 4, 2014.

**ADDRESSES:** Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152.

**SUPPLEMENTARY INFORMATION:** The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, and dispensers of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to sec. 7(g) of 28 CFR pt. 0, subpt. R, App.

In accordance with 21 CFR 1301.33(a), this is notice that on January 16, 2014, Mallinckrodt, LLC., 3600 North Second Street, St. Louis, Missouri 63147, applied to be registered as a bulk manufacturer of the following basic classes of narcotic or nonnarcotic controlled substances:

| Controlled substance | Schedule |
|---|---|
| Tetrahydrocannabinols (7370) | I |
| Codeine-N-oxide (9053) | I |
| Dihydromorphine (9145) | I |
| Difenoxin (9168) | I |
| Morphine-N-oxide (9307) | I |
| Normorphine (9313) | I |
| Norlevorphanol (9634) | I |
| Amphetamine (1100) | II |
| Methamphetamine (1105) | II |
| Phenylacetone (8501) | II |
| Methylphenidate (1724) | II |
| Nabilone (7379) | II |
| 4-Anilino-N-phenethyl-4-piperidine (8333). | II |
| Codeine (9050) | II |
| Dihydrocodeine (9120) | II |
| Oxycodone (9143) | II |
| Hydromorphone (9150) | II |
| Diphenoxylate (9170) | II |
| Ecgonine (9180) | II |
| Hydrocodone (9193) | II |
| Levorphanol (9220) | II |
| Meperidine (9230) | II |
| Methadone (9250) | II |
| Methadone intermediate (9254) | II |
| Dextropropoxyphene, bulk (non-dosage forms) (9273). | II |
| Morphine (9300) | II |
| Thebaine (9333) | II |
| Opium tincture (9630) | II |
| Opium, powdered (9639) | II |
| Oxymorphone (9652) | II |
| Noroxymorphone (9668) | II |
| Alfentanil (9737) | II |
| Remifentanil (9739) | II |
| Sufentanil (9740) | II |
| Fentanyl (9801) | II |

The company plans to manufacture the listed controlled substances for internal use and for distribution to other companies.

Dated: May 28, 2014.

**Joseph T. Rannazzisi,**

*Deputy Assistant Administrator.*

[FR Doc. 2014–12794 Filed 6–2–14; 8:45 am]

BILLING CODE 4410–09–P

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

**[Docket No. DEA–392]**

### Bulk Manufacturer of Controlled Substances Application: Pharmacore, Inc.

**ACTION:** Notice of application.

**DATES:** Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.33(a) on or before August 4, 2014.

**ADDRESSES:** Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152.

**SUPPLEMENTARY INFORMATION:** The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, and dispensers of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to sec. 7(g) of 28 CFR part 0, subpart R, App.

In accordance with 21 CFR 1301.33(a), this is notice that on March 20, 2014, Pharmacore, Inc., 4180 Mendenhall Oaks Parkway, High Point, North Carolina 27265, applied to be registered as a bulk manufacturer of Noroxymorphone (9668), a basic class of narcotic controlled substance listed in schedule II.

The company plans to manufacture the listed controlled substance as an active pharmaceutical ingredient (API) for clinical trials.

Dated: May 28, 2014.

**Joseph T. Rannazzisi,**

*Deputy Assistant Administrator.*

[FR Doc. 2014–12797 Filed 6–2–14; 8:45 am]

BILLING CODE 4410–09–P

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

**[Docket No. DEA–392]**

### Manufacturer of Controlled Substances Registration: Cody Laboratories, Inc.

**ACTION:** Notice of registration.

**SUMMARY:** Cody Laboratories, Inc. applied to be registered as a manufacturer of certain basic classes of narcotic or non-narcotic controlled substances. The DEA grants Cody Laboratories, Inc. registration as a manufacturer of those controlled substances.

**SUPPLEMENTARY INFORMATION:** By notice dated December 31, 2013, and published in the **Federal Register** on January 10, 2014, 79 FR 1890, Cody Laboratories, Inc., 601 Yellowstone Avenue, Cody, Wyoming 82414–9321, applied to be registered as a manufacturer of certain basic classes of narcotic or non-narcotic controlled substances.

The Drug Enforcement Administration (DEA) has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Cody Laboratories, Inc. to manufacture the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verified the company's compliance with state and local laws, and reviewed the company's background and history.

Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the above-named company is granted registration as a bulk manufacturer of the basic classes of narcotic or non-narcotic controlled substances listed:

| Controlled Substance | Schedule |
|---|---|
| Dihydromorphine (9145) | I |
| Amphetamine (1100) | II |
| Methamphetamine (1105) | II |
| Methylphenidate (1724) | II |
| Amobarbital (2125) | II |
| Pentobarbital (2270) | II |
| Secobarbital (2315) | II |
| 4-Anilino-N-phenethyl-4-piperidine (ANPP) (8333). | II |
| Phenylacetone (8501) | II |
| Cocaine (9041) | II |
| Codeine (9050) | II |
| Dihydrocodeine (9120) | II |
| Oxycodone (9143) | II |
| Hydromorphone (9150) | II |
| Diphenoxylate (9170) | II |
| Ecgonine (9180) | II |
| Hydrocodone (9193) | II |
| Meperidine (9230) | II |
| Methadone (9250) | II |
| Morphine (9300) | II |
| Thebaine (9333) | II |
| Oxymorphone (9652) | II |
| Alfentanil (9737) | II |
| Remifentanil (9739) | II |
| Sufentanil (9740) | II |
| Tapentadol (9780) | II |
| Fentanyl (9801) | II |

The company plans to manufacture the listed controlled substances in bulk for sale to its customers.

No comments or objections have been received.

Dated: May 27, 2014.

**Joseph T. Rannazzisi,**

*Deputy Assistant Administrator.*

[FR Doc. 2014–12799 Filed 6–2–14; 8:45 am]

BILLING CODE 4410–09–P

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

**[Docket No. DEA–392]**

### Manufacturer of Controlled Substances Registration: Siegfried (USA), LLC

**ACTION:** Notice of registration.

**SUMMARY:** Siegfried (USA), LLC applied to be registered as a manufacturer of certain basic classes of narcotic or non-narcotic controlled substances. The DEA grants Siegfried (USA), LLC registration as a manufacturer of those controlled substances.

**SUPPLEMENTARY INFORMATION:** By notice dated December 23, 2013, and published in the **Federal Register** on January 8, 2014, 79 FR 1391, Siegfried (USA), LLC, 33 Industrial Park Road, Pennsville, New Jersey 08070, applied to be registered as a manufacturer of certain basic classes of narcotic or non-narcotic controlled substances.

The Drug Enforcement Administration (DEA) has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Siegfried (USA), LLC to manufacture the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verified the company's compliance with state and local laws, and reviewed the company's background and history.

Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the above-named company is granted registration as a bulk manufacturer of the basic classes of narcotic or non-narcotic controlled substances listed:

| Controlled substance | Schedule |
|---|---|
| Gamma Hydroxybutyric Acid (2010). | I |
| Dihydromorphine (9145) | I |
| Hydromorphinol (9301) | I |
| Methylphenidate (1724) | II |
| Amobarbital (2125) | II |
| Pentobarbital (2270) | II |
| Secobarbital (2315) | II |
| Codeine (9050) | II |
| Oxycodone (9143) | II |
| Hydromorphone (9150) | II |
| Hydrocodone (9193) | II |
| Meperidine (9230) | II |
| Methadone (9250) | II |
| Methadone intermediate (9254) | II |
| Dextropropoxyphene, bulk (9273) | II |
| Morphine (9300) | II |
| Oripavine (9330) | II |
| Thebaine (9333) | II |
| Opium tincture (9630) | II |
| Oxymorphone (9652) | II |

The company plans on manufacturing the listed controlled substances in bulk for distribution to its customers.

No comments or objections have been received.

Dated: May 28, 2014.

**Joseph T. Rannazzisi,**

*Deputy Assistant Administrator.*

[FR Doc. 2014–12796 Filed 6–2–14; 8:45 am]

**BILLING CODE 4410–09–P**

## DEPARTMENT OF LABOR

### Office of the Assistant Secretary for Labor

### Secretary of Labor Extends the Transition Period of the Commonwealth of the Northern Mariana Islands—Only Transitional Worker Program

**AGENCY:** Office of the Assistant Secretary for Labor, Department of Labor.

**ACTION:** Notice of an extension of the transition period.

**SUMMARY:** The Consolidated Natural Resources Act of 2008 (CNRA) extended U.S. immigration laws to the Commonwealth of the Northern Mariana Islands (CNMI), and authorized the Department of Homeland Security (DHS) to create the CNMI-Only Transitional Worker (CW–1) program to ensure adequate employment in the CNMI until the program is phased out on December 31, 2014. The CNRA also requires the Secretary of Labor, in consultation with the Secretary of Homeland Security, the Secretary of Defense, the Secretary of the Interior, and the Governor of the CNMI, to determine by July 4, 2014, whether an extension of up to five years of the CW–1 program is necessary to ensure an adequate number of workers will be available for legitimate businesses in the CNMI. Based on the factors set out in the CNRA, the Secretary of Labor has made the determination to extend the CW–1 program for five years.

**DATES:** This Notice is effective June 3, 2014.

**FOR FURTHER INFORMATION CONTACT:** For further information, contact James Moore, Deputy Assistant Secretary for Policy, Office of the Assistant Secretary for Policy, U.S. Department of Labor, 200 Constitution Avenue NW., Room S–2312, Washington, DC 20210; Telephone (202) 693–5959.

**SUPPLEMENTARY INFORMATION:** Section 702(a) of the Consolidated Natural Resources Act of 2008 (CNRA), Public Law 110–229, 122 Stat. 754 (May 8, 2008), extends the immigration laws of the United States to the Commonwealth of the Northern Mariana Islands (CNMI). 48 U.S.C. 1806(a)(1). To minimize the potential adverse economic effects of phasing out the CNMI-Only Transitional Worker (CW–1 for principal workers and CW–2 for spouses and minor children) program, the CNRA provides for a five-year transition period ending on December 31, 2014. 48 U.S.C. 1806(a)(2). However, the CNRA authorizes the Secretary of Labor to extend the transitional worker program for up to five years based on the labor needs of the CNMI to ensure that an adequate number of workers are available for legitimate businesses. 48 U.S.C. 1806(d)(5). Nonimmigrant worker visa programs under the Immigration and Nationality Act are not adequate substitutes for the CW–1 program because the jobs that CNMI businesses fill with CW–1 workers are not temporary or seasonal in nature and thus cannot be filled by H–2B temporary non-agricultural workers; are not in a specialty occupation suitable for H–1B temporary workers; and do not otherwise fit under one of the other nonimmigrant programs (such as the H–2A program for temporary agricultural workers, the O program for individuals of extraordinary ability, the P program for artists and athletes, or the R program for religious workers, etc.).

The CNRA requires the Secretary of Labor, in consultation with the Secretary of Homeland Security, the Secretary of Defense, the Secretary of the Interior, and the Governor of the CNMI, to ascertain the current and anticipated labor needs of the CNMI before making a determination. 48 U.S.C. 1806(d)(5)(A). The Secretary of Labor's decision to extend the CNMI-Only Transition Worker program must be made 180 days prior to the expiration of the transition period, *id.,* which is by July 4, 2014.

The CNRA stipulates that in making the determination of whether foreign workers are necessary to ensure an adequate number of workers in the CNMI, the Secretary of Labor may consider several factors. 48 U.S.C. 1806(d)(5)(C). The Secretary may consider: (1) government, industry, or independent workforce studies reporting on the need, or lack thereof,

for alien workers in the Commonwealth's businesses; (2) the unemployment rate of U.S. citizen workers residing in the Commonwealth; (3) the unemployment rate of aliens in the Commonwealth who have been lawfully admitted for permanent residence; (4) the number of unemployed alien workers in the Commonwealth; (5) any good faith efforts to locate, educate, train, or otherwise prepare U.S. citizen residents, lawful permanent residents, and unemployed alien workers already within the Commonwealth, to assume those jobs; (6) any available evidence tending to show that U.S. citizen residents, lawful permanent residents, and unemployed alien workers already in the Commonwealth are not willing to accept jobs of the type offered; (7) the extent to which admittance of alien workers will affect the compensation, benefits, and living standards of existing workers within those industries and other industries authorized to employ alien workers; and (8) the prior use, if any, of alien workers to fill those jobs, and whether the industry requires alien workers to fill those jobs. *Id.*

Regarding the first factor, the Department of Labor (the Department) reviewed and considered workforce studies that examined the economic impact of alien workers on the CNMI economy and labor market.[1] A review of the workforce studies found that the majority of the CNMI's current labor supply is provided by foreign workers. The studies unanimously concluded that restrictions on the foreign labor supply will exacerbate the CNMI's current economic problems and restrain economic growth.

The Department conducted a labor force analysis to determine the unemployment rates of the populations identified in factors two through four. According to the 2010 Island Areas Census, which contains the most recent labor market data, the CNMI population was 53,883, with 24,168 U.S. citizens and 29,715 non-citizens. The total number of U.S. citizens age 16 and over was 13,016. The Department's calculation, using the 2010 Island Areas Census, found that 24 percent of U.S. workers[2] residing in the CNMI were unemployed. Regarding factors three and four, due to the lack of data, the Department was not able to measure the unemployment rate of workers who have been lawfully admitted for permanent residence or the number of unemployed foreign workers in the CNMI. Based on the CNMI Department of Finance tax data for 2002–2012 and the 2010 Island Areas Census, the Department concluded that there are an insufficient number of U.S. workers in the CNMI to fill all of the jobs held by foreign workers. The total number of unemployed U.S. workers in the CNMI in 2010 amounted to only about 20 percent of the 14,958 foreign workers. Even if all the U.S. workers in the labor force were employed, more than 11,000 jobs would still need to be filled by foreign workers.

In regard to the fifth factor, we consulted with CNMI government officials and other stakeholders, to obtain information related to training, education, and other assistance provided to U.S. citizens and lawful permanent residents. The Government of the CNMI shared with the Department the good-faith efforts it has made and its continuing efforts to locate, educate, and train U.S. citizens and lawful permanent residents to assume jobs in the CNMI. They reported that they continue to provide education and training to unemployed or underemployed U.S. workers to help them become sufficiently qualified to replace foreign workers. They developed high school career technical education (CTE) curriculum that is responsive to the needs of employers in the CNMI.

Concerning the sixth factor, officials from the CNMI government reported that some U.S. citizens and lawful permanent residents are not willing to accept certain jobs, including low-wage jobs or jobs with few or no benefits. Our analysis of the CNMI Department of Finance tax data for 2002–2012 found that foreign workers generally earn significantly less than U.S. workers. In 2011, the average annual wage for U.S. workers was $15,737 compared to $10,280 for foreign workers. On average, foreign workers are paid $5,457 (or 35 percent) less than U.S. workers.

In regard to the seventh factor, the Department was unable to assess the extent to which the admission of foreign workers affects the compensation, benefits, and living standards of existing workers in industries authorized to employ foreign workers due to limitations in current data. To address the seventh factor, the Department conducted an analysis similar to the approach used by GAO in its 2008 report to measure the potential economic impact of applying U.S. immigration law in the CNMI.

To address the eighth factor, we consulted with CNMI government officials and other stakeholders to determine if there is a need for foreign workers to fill specific industry jobs. CNMI government officials reported that legitimate businesses in the CNMI have difficulty finding qualified applicants for skilled jobs who are U.S. citizens and lawful permanent residents.

Finally, the Department engaged in the interagency and intergovernmental consultation process, as contemplated by the statute. 48 U.S.C. 1806(d)(5)(A). As part of this process, the Department conducted a series of meetings with DHS, the Department of Defense, the Department of the Interior, and CNMI elected officials, including the Governor, during which the participants examined the statutory criteria to assess whether the Department should extend the transition period. None of the participants in those consultations registered objections to the grant of an extension for up to five years to ensure that an adequate number of workers are available for legitimate businesses in the CNMI.

After reviewing existing studies, consulting with DHS, the Department of Defense, the Department of the Interior, and CNMI elected officials, including the Governor, and conducting a quantitative analysis of relevant data, the Secretary of Labor has concluded that there is an insufficient number of U.S. workers to meet CNMI businesses' current needs, and has further determined that a five year extension of the CW–1 program is warranted. A five-year extension will allow CNMI businesses to continue to hire CW–1 workers to meet their current and future needs for foreign workers.

Because the CNRA allows the Secretary of Labor to provide for an additional extension period of up to five years, the Department will continue to monitor and assess the current and anticipated labor needs of the CNMI to ensure that there are an adequate number of workers for CNMI's legitimate businesses. 48 U.S.C. 1806(d)(5)(C). In particular, we will continue to assess any good faith efforts to locate, educate, train, or otherwise prepare U.S. citizens, lawful permanent residents and unemployed foreign workers already in the CNMI to assume

[1] These studies include U.S. Department of the Interior, ''Economic Impact of Federal Laws on the Commonwealth of the Northern Mariana Islands,'' 2008; U.S. Department of the Interior, ''Report on the Alien Worker Population in the Commonwealth of the Northern Mariana Islands,'' 2010; U.S. Government Accountability Office, ''Commonwealth of the Northern Mariana Islands: Managing Potential Economic Impact of Applying U.S. Immigration Law Requires Coordinated Federal Decisions and Additional Data,'' GAO–08–791, Aug. 2008; and U.S. Department of Homeland Security, ''Regulatory Assessment for the Final Rule, Commonwealth of the Northern Mariana Islands Transitional Worker Classification,'' 2011.

[2] In this document, the term ''U.S. workers'' includes lawful permanent residents and the term ''foreign workers'' does not.

jobs in legitimate businesses. 48 U.S.C. 1806(d)(5)(C)(v). In order for us to properly assess the CNMI's workforce in the future, we request that the CNMI government provide updates to the Department on a yearly basis about its good faith efforts to locate, educate, train, or otherwise prepare U.S. citizens, lawful permanent residents, and unemployed alien workers already in the CNMI.

Section 701 of the CNRA states it is the intent of the Congress to minimize potential adverse economic and fiscal effects of phasing-out CNMI's nonresident contract worker program and to maximize the CNMI's potential for future economic and business growth by, among other things, assuring that foreign workers are protected from the potential for abuse and exploitation. Pub. L. 110–229, Sec. 701(a)(1)(E), 48 U.S.C. 1806 note. The Department emphasizes the importance of Congress's intent in this regard, and further notes that this notice should not be construed to alter or amend the continuing obligations of CNMI employers to adhere to and comply with applicable civil rights, labor and workplace safety laws. Employers in CNMI remain subject to the array of federal laws that, among others, ensure and protect the rights of workers to a workplace based on fair treatment, and free of unlawful discrimination and hazards to safety and health. Those and other workplace rights will continue to be applied forcefully by the Department and other federal agencies with jurisdiction to administer and enforce federal worker protection laws.

Signed at Washington, DC, this 27 of May, 2014.

**Thomas E. Perez,**

*Secretary of Labor.*

[FR Doc. 2014–12607 Filed 6–2–14; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

### Notice of Availability of Funds and Solicitation for Grant Applications for Disability Employment Initiative Grants

**AGENCY:** Employment and Training Administration, Labor.

**ACTION:** Notice of Solicitation for Grant Applications (SGA).

*Funding Opportunity Number:* SGA/DFA PY 13–11

**SUMMARY:** The Employment and Training Administration (ETA), in coordination with the Department's Office of Disability Employment Policy, announces the availability of approximately $15 million in grant funds authorized by Section171 of the Workforce Investment Act of 1998 for the Round V Disability Employment Initiative. We expect to fund approximately eight grants, ranging from $1.5 million to $2.5 million each. Applicants may apply for up to $2.5 million.

The complete SGA and any subsequent SGA amendments in connection with this solicitation are described in further detail on ETA's Web site at *http://www.doleta.gov/grants/* or on *http://www.grants.gov.* The Web sites provide application information, eligibility requirements, review and selection procedures, and other program requirements governing this solicitation.

**DATES:** The closing date for receipt of applications under this announcement is July 8, 2014. Applications must be received no later than 4:00:00 p.m. Eastern Time.

**FOR FURTHER INFORMATION CONTACT:** Cam Nguyen, 200 Constitution Avenue NW., Room N–4716, Washington, DC 20210; Email: *Nguyen.Cam@dol.gov.*

Signed: May 28, 2014 in Washington, DC.

**Eric D. Luetkenhaus,**

*Grant Officer, Employment and Training Administration.*

[FR Doc. 2014–12784 Filed 6–2–14; 8:45 am]

**BILLING CODE 4510–FN–P**

## DEPARTMENT OF LABOR

### Bureau of Labor Statistics

### Proposed Collection, Comment Request

**ACTION:** Notice.

**SUMMARY:** The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that the requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed revision of the ''Report on Current Employment Statistics.'' A copy of the proposed information collection request (ICR) can be obtained contacting the individual listed below in the **ADDRESSES** section of this notice.

**DATES:** Written comments must be submitted to the office listed in the **ADDRESSES** section of this notice on or before August 4, 2014.

**ADDRESSES:** Send comments to Carol Rowan, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 4080, 2 Massachusetts Avenue NE., Washington, DC 20212. Written comments also may be transmitted by fax to 202–691–5111 (this is not a toll free number).

**FOR FURTHER INFORMATION CONTACT:** Carol Rowan, BLS Clearance Officer, 202–691–7628 (this is not a toll free number). (See **ADDRESSES** section.)

**SUPPLEMENTARY INFORMATION:**

### I. Background

The Current Employment Statistics (CES) program provides current monthly statistics on employment, hours, and earnings, by industry and geography. CES estimates are among the most visible and widely-used Principal Federal Economic Indicators (PFEIs). CES data are also among the timeliest of the PFEIs, with their release each month by the BLS in the *Employment Situation,* typically on the first Friday of each month. The statistics are fundamental inputs in economic decision processes at all levels of government, private enterprise, and organized labor.

The CES monthly estimates of employment, hours, and earnings are based on a sample of U.S. nonagricultural establishments. Information is derived from approximately 271,400 reports (from a sample of 144,000 employers with State Unemployment Insurance (UI) accounts comprised of 554,000 individual worksites), as of January 2014. Each month, firms report their employment, payroll, and hours on forms identified as the BLS–790. The sample is collected under a probability-based design. Puerto Rico and the Virgin Islands collect an additional 7,400 reports.

A list of all form types currently used appears in the table below. Respondents receive variations of the basic collection forms, depending on their industry.

The CES program is a voluntary program under Federal statute. Reporting to the State agencies is voluntary in all but four States (Oregon, Washington, North Carolina, and South Carolina), Puerto Rico, and the Virgin

Islands. To our knowledge, the States that do have mandatory reporting rarely exercise their authority. The collection form's confidentiality statement cites the Confidential Information Protection and Statistical Efficiency Act of 2002 and mentions the State mandatory reporting authority.

**II. Current Action**

Office of Management and Budget clearance is being sought for the Report on Current Employment Statistics.

Automated data collection methods are now used for most of the CES sample. Approximately 111,700 reports are received through Electronic Data Interchange as of January 2014. Web data collection accounts for 47,700 reports. Computer Assisted Telephone Interviewing is used to collect 81,400. Fax is also a significant collection mode, as 11,600 reports are collected via this method. Touchtone Data Entry is used for 8,600 reports.

The balance of the sample is collected through other methods including submission of transcripts, emails, and other special arrangements.

**III. Desired Focus of Comments**

The Bureau of Labor Statistics 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.
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

*Type of Review:* Revision of a currently approved collection.

*Agency:* Bureau of Labor Statistics.

*Title:* Report on Current Employment Statistics.

*OMB Number:* 1220–0011.

*Affected Public:* State or local governments; businesses or other for profit; non-profit institutions.

| Form | Reports | Minutes per report | Frequency of response | Annual responses | Annual burden hours |
|---|---|---|---|---|---|
| A—Mining and Logging | 1,289 | 11 | 12 | 15,468 | 2,836 |
| B—Construction | 11,102 | 11 | 12 | 133,224 | 24,424 |
| C—Manufacturing | 10,411 | 11 | 12 | 124,932 | 22,904 |
| E—Service Providing Industries | 178,366 | 11 | 12 | 2,140,392 | 392,405 |
| G—Public Administration | 47,398 | 6 | 12 | 568,776 | 56,878 |
| S—Education | 11,208 | 6 | 12 | 134,496 | 13,450 |
| Fax790 A,B,C,E,G,S | 11,627 | 11 | 12 | 139,524 | 25,579 |
| Total | 271,401 | | | 3,256,812 | 538,476 |

*Total Burden Cost (capital/startup):* $0.

*Total Burden Cost (operating/maintenance):* $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, this 28th day of May 2014.

**Kimberley D. Hill,**

*Chief, Division of Management Systems, Bureau of Labor Statistics.*

[FR Doc. 2014–12722 Filed 6–2–14; 8:45 am]

**BILLING CODE 4510–24–P**

## LEGAL SERVICES CORPORATION

### Sunshine Act Meeting

**DATE AND TIME:** The Legal Services Corporation's Finance Committee will meet telephonically on June 9, 2014. The meeting will commence at 2 p.m., EDT, and will continue until the conclusion of the Committee's agenda.

**LOCATION:** John N. Erlenborn Conference Room, Legal Services Corporation Headquarters, 3333 K Street NW., Washington, DC 20007.

**PUBLIC OBSERVATION:** Members of the public who are unable to attend in person but wish to listen to the public proceedings may do so by following the telephone call-in directions provided below.

**CALL-IN DIRECTIONS FOR OPEN SESSIONS:**

- Call toll-free number: 1–866–451–4981;
- When prompted, enter the following numeric pass code: 5907707348
- When connected to the call, please immediately ''MUTE'' your telephone.

Members of the public are asked to keep their telephones muted to eliminate background noises. To avoid disrupting the meeting, please refrain from placing the call on hold if doing so will trigger recorded music or other sound. From time to time, the Chair may solicit comments from the public.

**STATUS OF MEETING:** Open.

**MATTERS TO BE CONSIDERED:**

1. Approval of agenda
2. Approval of minutes of the Committee's meeting of April 6, 2014
3. Public comment regarding LSC's fiscal year 2016 budget request
   - Presentation by a representative of the American Bar Association's Standing Committee on Legal Aid and Indigent Defendants
   - Presentation by a representative of National Legal Aid and Defender Association
   - Other Interested Parties
4. Public comment
5. Consider and act on other business
6. Consider and act on adjournment of meeting.

**CONTACT PERSON FOR INFORMATION:** Katherine Ward, Executive Assistant to the Vice President & General Counsel, at (202) 295–1500. Questions may be sent by electronic mail to *FR_NOTICE_QUESTIONS@lsc.gov.*

**ACCESSIBILITY:** LSC complies with the Americans with Disabilities Act and Section 504 of the 1973 Rehabilitation Act. Upon request, meeting notices and materials will be made available in alternative formats to accommodate individuals with disabilities. Individuals needing other accommodations due to disability in order to attend the meeting in person or telephonically should contact Katherine Ward, at (202) 295–1500 or *FR_NOTICE_QUESTIONS@lsc.gov,* at least 2 business days in advance of the

meeting. If a request is made without advance notice, LSC will make every effort to accommodate the request but cannot guarantee that all requests can be fulfilled.

Dated: May 29, 2014.

**Katherine Ward,**

*Executive Assistant to the Vice President for Legal Affairs and General Counsel.*

[FR Doc. 2014–12905 Filed 5–30–14; 11:15 am]

**BILLING CODE 7050–01–P**

## LIBRARY OF CONGRESS

### Copyright Office, Library of Congress

**[Docket No. 2012–5]**

### Verification of Statements of Account Submitted by Cable Operators and Satellite Carriers

**AGENCY:** U.S. Copyright Office, Library of Congress.

**ACTION:** Notice of public roundtable.

**SUMMARY:** The U.S. Copyright Office will host a public roundtable concerning a new procedure to allow copyright owners to audit the Statements of Account and royalty payments that cable operators and satellite carriers deposit with the Office. The roundtable is intended to elicit specific information concerning the topics listed in this notice. The Office is especially interested in hearing from accounting professionals with experience and expertise in auditing procedures and statistical sampling techniques.

**DATES:** The public roundtable will be held on July 9, 2014 beginning at 10:00 a.m. at the address listed below. Requests to participate in the roundtable discussion must be submitted in writing no later than June 26, 2014.

**ADDRESSES:** The public roundtable will take place in the Office of the Register of Copyrights, LM–403 of the Madison Building of the Library of Congress, 101 Independence Avenue SE., Washington, DC 20559. The Office strongly prefers that requests to participate in the discussion be submitted electronically using the form which will be posted on the Office's Web site at *http://www.copyright.gov/docs/soaaudit/public-roundtable/*. If electronic submission is not feasible, please contact the Office at (202) 707–8350 for special instructions.

**FOR FURTHER INFORMATION CONTACT:** Jacqueline C. Charlesworth, General Counsel and Associate Register of Copyrights, by email at *jcharlesworth@loc.gov*, or by telephone at 202–707–8350; Erik Bertin, Assistant General Counsel, by email at *ebertin@loc.gov*, or by telephone at 202–707–8350; or Sarang V. Damle, Special Advisor to the General Counsel, by email at *sdam@loc.gov*, or by telephone at 202–707–8350.

**SUPPLEMENTARY INFORMATION:**

## I. Background

The Satellite Television Extension and Localism Act of 2010 (''STELA'') directed the Register of Copyrights to establish a new procedure to allow copyright owners to audit the Statements of Account (''SOAs'') and royalty fees that cable operators and satellite carriers file with the U.S. Copyright Office (the ''Office''). *See* 17 U.S.C. 111(d)(6), 119(b)(2). Cable operators and satellite carriers file SOAs and deposit royalties every six months in order to obtain the benefits of the statutory licenses that allow for the retransmission of over-the-air broadcast signals.

On January 31, 2012, a group of copyright owners filed a Petition for Rulemaking and provided the Office with proposed language for the new audit procedure.[1] *See* Petition at 1–4. On June 14, 2012, the Office published a notice of proposed rulemaking that set forth its initial proposal for this new procedure (the ''First NPRM''), which was based, in part, on audit regulations that the Office has adopted in the past, as well as the petition that the Office received from the copyright owners. *See* 77 FR 35643 (June 14, 2012).

The Office received extensive comments from groups representing copyright owners, cable operators, and individual companies that use the statutory licenses. The Office carefully studied these comments and revised its proposal based on the suggestions it received. On May 9, 2013 the Office issued a second notice of proposed rulemaking setting forth a revised proposal for the audit procedure (the ''Second NPRM''), which was largely based on a joint recommendation that the Office received from certain stakeholders.[2] *See* 78 FR 27137 (May 9, 2013). Once again, the Office received extensive comments.

On December 26, 2013, the Office issued an interim rule that establishes one aspect of the audit procedure (the ''Interim Rule''). *See* 78 FR 78257 (Dec. 26, 2013). Specifically, the Interim Rule allows copyright owners to initiate an audit by filing a notice with the Office and by delivering a copy of that notice to the statutory licensee that will be subject to the procedure. *See id.* at 78257. The Office also explained that it was in the process of reviewing the comments submitted in response to the Second NPRM. *See id.* at 78258.

After analyzing the latest round of comments, the Office has decided to revisit several issues that were identified and discussed in the First and Second NPRMs. In addition, the Office has identified some new issues that were not addressed in any of the comments. These issues are described in Sections II.A through II.E below. Many of them are overlapping in the sense that there may be a common solution for multiple issues.

The public roundtable is intended to elicit specific information on these designated topics, preferably from individuals with experience and expertise in accounting. At this time, the Office is seeking input only on the topics specifically mentioned in this notice. Following the roundtable, the Office expects to issue another notice of proposed rulemaking (the ''Third NPRM''), which will set forth a revised proposal for the audit procedure. The Third NPRM will address various issues that the parties raised in response to the Second NPRM, as well as relevant input that the Office receives during the roundtable. The Third NPRM will be published in the **Federal Register** and copyright owners, cable operators, satellite carriers, accounting professionals, and other interested parties will be given an opportunity to submit written comments at that time.

## II. Topics for the Public Roundtable

### *A. Concerns Regarding Backlogs of Pending Audits*

As noted above, the proposed rule set forth in the Second NPRM borrows heavily from the joint recommendation that the Office received from certain

[1] This group included the Program Suppliers (commercial entertainment programming), Joint Sports Claimants (professional and college sports programming), National Association of Broadcasters (''NAB'') (commercial television programming), Commercial Television Claimants (local commercial television programming), Broadcaster Claimants Group (U.S. commercial television stations), American Society of Composers, Authors and Publishers (''ASCAP'') (musical works included in television programming), Broadcast Music, Inc. (''BMI'') (same), Public Television Claimants (noncommercial television programming), Public Broadcasting Service (''PBS'') (same), National Public Radio (''NPR'') (noncommercial radio programming), Canadian Claimants (Canadian television programming), and Devotional Claimants (religious television programming).

[2] The joint recommendation was submitted by DIRECTV, the National Cable Television Association, and a group representing certain copyright owners, namely, the Program Suppliers, Joint Sports Claimants, ASCAP, BMI, SESAC, the Public Television Claimants, the Canadian Claimants Group, the Devotional Claimants, and NPR.

stakeholders. After studying the comments received in response to the Second NPRM, the Office is concerned that the audit procedure contemplated by this rule could lead to significant backlogs in pending audits.

This concern arises out of the interplay of several provisions of the proposed rule and the probable timeline for conducting most audits. First, the proposed rule limits the number of SOAs that may be audited at one time. Licensees may be subject to only one audit during a calendar year, and each audit may involve no more than two SOAs. *See* 78 FR at 27152. For multiple system operators (''MSOs''), each audit may cover a sample of no more than ten percent of the MSO's systems, and the audit of each system may involve no more than two SOAs filed by each system. *Id.* at 27153. Significantly, the Second NPRM made clear that if a single audit spanned multiple years, the licensee would not be subject to any other audits during those years. For example, if an auditor initiated an audit in 2013, and delivered his or her final report in 2014, the licensee could not be subject to any other audits in calendar year 2013 or 2014, because the licensee would already be subject to an audit during those years. *See id.* at 27143. If copyright owners wished to audit additional SOAs filed by that licensee, they would have to wait until calendar year 2015 to review those statements.

These limitations come with a safety valve of sorts: if the auditor concludes that there was a net aggregate underpayment of five percent or more, the copyright owners could audit all of the SOAs that the licensee filed during the previous six accounting periods.[3] *Id.* at 27153. But while this expanded audit was taking place copyright owners would be barred from commencing a separate audit of other SOAs filed by that licensee (*e.g.,* more recently filed SOAs that were not included in the current audit).

Second, under the Interim Rule, a copyright owner may preserve the right to audit a particular SOA so long as it files a notice of intent within three years after the last day of the year in which that statement was filed. 37 CFR 201.16(c)(1). Notably, however, the Interim Rule and the proposed rule do not specify a precise deadline by which a copyright owner must commence the actual audit. Likewise, the Office did not propose any deadline for the completion of a full audit, although the proposed rule included a detailed description of the steps necessary to complete the audit and provided several interim deadlines for completing some of those steps.

The Office offered these proposals on the assumption that most audits could be completed within a single calendar year. But that may not be a realistic assumption in some cases, especially where the copyright owners conduct an expanded audit or where a licensee fails to cooperate with an auditor's requests for documentation in a timely manner. If an audit is not completed in the expected time frame, a backlog of pending audits could easily develop. For instance, if copyright owners initiate an audit of a cable operator's SOAs for the 2014–1 and 2014–2 accounting periods during calendar year 2015, those audits would have to be fully completed by December 31, 2015 if copyright owners want to audit the operator's SOAs for the 2015–1 and 2015–2 accounting periods in calendar year 2016. But if the audit of the 2014 SOAs extended into January of 2016, the fact that an operator would be subject to no more than one audit per calendar year would force the copyright owners to wait until the start of 2017 to begin the audit of the 2015 SOAs. And if the audit of the 2015 SOAs did not conclude by December 31, 2017, copyright owners would have to wait until 2019 to initiate a new audit involving no more than two of the seven other SOAs that the operator filed in 2016, 2017, 2018, and 2019. At the same time, the copyright owners could indefinitely preserve the right to audit those seven SOAs under the Interim Rule by timely filing notices of intent within the applicable three-year deadline. *See* 37 CFR 201.16(c)(1).

The problem of backlogs appears especially acute in the case of MSOs. Under the proposed rule, copyright owners are permitted to file notices of intent to audit the SOAs filed by all of the cable systems owned by an MSO, but in any given year they may audit only ten percent of those systems. As a result, backlogs would occur immediately and it could conceivably take decades for copyright owners to verify all of the statements that they wish to review for a given period.

Such backlogs would obviously place an undue burden on both copyright owners and licensees. Copyright owners should be able to audit an SOA within a reasonable amount of time after it is filed, but this may not be possible if there are many pending audits in the queue. In such cases, copyright owners may feel obligated to file notices of intent to audit on a routine basis in order to preserve the option of auditing a particular licensee, even if they do not expect to proceed with the audit in the foreseeable future. At the same time, the licensee might be required to maintain records related to SOAs for many years before an audit gets underway, which creates administrative burdens and could increase the risk that records may be lost or damaged in the interim.

The Office would like to discuss the concerns described above, and is interested in hearing stakeholders' views on possible safeguards against such backlogs. We believe there are a number of solutions that, individually or taken together, could help mitigate these concerns. One possibility is to set precise deadlines for starting and completing each audit. Once a notice has been filed with the Office, should the auditor be required to begin his or her review within a specified period of time? If so, should the deadline be one month, three months, six months, or some other time period? If the auditor does not proceed with the audit in a timely manner, should the copyright owners lose the opportunity to audit the SOAs identified in the notice of intent to audit? Once the audit begins, should the auditor be required to complete his or her review within a specified period of time? Should the licensee be penalized (for example, by allowing the commencement of a concurrent audit) if the auditor determines that the licensee did not reasonably cooperate with his or her requests and that this compromised the auditor's ability to complete the audit within the time allowed?

Another possibility is to loosen the restrictions on the number of SOAs that may be included in each audit or the number of separate audits that can take place at any given time. Would it be more efficient to allow the copyright owners to audit more than two SOAs at a time? If the typical audit may require more than twelve months, would it be preferable if the licensee were subject to no more than one audit at a time, rather than no more than one audit per calendar year? Are there circumstances where it might make sense to allow audits to overlap?

We are particularly interested in hearing potential solutions to the problem of MSOs. In the case of an audit involving an MSO, would it be reasonable to apply the auditor's findings to SOAs filed by other systems that were not included in the audit? In other words, if the auditor discovers an underpayment or overpayment in the SOAs filed by ten percent of the MSO's Form 2 and Form 3 systems, is it reasonable to assume that the auditor

[3] In the case of an audit involving an MSO the copyright owners would be permitted to audit up to thirty percent of the MSO's systems and for each of those systems the auditor would be permitted to review up to six SOAs from the previous six accounting periods.

would find similar discrepancies in the SOAs filed by the other systems owned by that MSO? What accounting methods, if any, could be used to extrapolate findings for one system to the other systems? Should the final rule specify the methods that may be used for this purpose? Should an MSO be given the opportunity to include a larger sample of systems in the audit if it is concerned that statistical sampling may yield unreliable results? If the auditor is allowed to audit more than two SOAs and/or to apply his or her findings to multiple cable systems, would there be any need to allow copyright owners to expand the scope of the initial audit to preceding periods as contemplated by the Second NPRM?

In addition, there may be other possibilities for avoiding potential backlogs that the Office has not considered, and we welcome other ideas that could mitigate the significant concern that the audit process could lag far behind periods for which review may be sought.

*B. The Proper Auditing Standard*

The proposed rule set forth in the Second NPRM specifies that the audit must be conducted ''according to generally accepted auditing standards.'' 78 FR at 27151. Guidance from the American Institute of Certified Public Accountants (''AICPA'') indicates that ''generally accepted auditing standards'' are those that are used by accountants to audit corporate financial statements.[4] In modern accounting practice, are ''generally accepted auditing standards'' the proper standards to apply to the audits contemplated here? Or is there an alternative approach, such as ''attestation standards,'' that might be more appropriate? [5]

*C. Limitation on Ex Parte Communications*

The Second NPRM contains a detailed provision governing *ex parte* communications. Specifically, the provision bans *ex parte* communications regarding the audit between the selected auditor and the participating copyright owners, except in certain narrow circumstances. The Office included this provision based on the joint stakeholder's recommendation and with the understanding that this provision was intended to maintain the independence of the auditor. *See* 78 FR at 27151. We note, however, that such a restriction does not appear in other audit regulations promulgated by the Copyright Office or the Copyright Royalty Board.[6] Could this restriction create inefficiencies in the audit process by preventing copyright owners from communicating with the auditor without first coordinating with the licensee? Is this restriction consistent with the relevant professional standards for auditors? Are the concerns that prompted the joint stakeholders to recommend this provision already addressed by those professional standards?

*D. Disputing the Facts and Conclusions Set Forth in the Auditor's Report*

Section 111(d)(6) of the Copyright Act directs the Office to issue regulations that ''require a consultation period for the independent auditor to review its conclusions with a designee of the cable system,'' ''establish a mechanism for the cable system to remedy any errors identified in the auditor's report,'' and ''provide an opportunity to remedy any disputed facts or conclusions.'' 17 U.S.C. 111(d)(6)(C).

The Second NPRM proposed to implement this directive by requiring the auditor to prepare a written report setting forth his or her conclusions, to consult with the licensee for a period of thirty days, and, if the auditor agreed that a mistake had been made, to correct the report before delivering it to the copyright owners. *See* 78 FR at 27144–45. If the auditor and the licensee are unable to resolve their disagreements, the proposed rule states that the licensee may prepare a written response within fourteen days thereafter, which would be attached as an exhibit to the auditor's final report. *Id.*

After further analysis, the Office is concerned that this may be unduly restrictive, in part due to the time constraints imposed by the proposed rule. The Office would like to know whether the auditor and licensee should have more flexibility in conducting this phase of the audit to increase the possibility that points of disagreement can be resolved. For instance, the Copyright Royalty Board adopted audit regulations for royalty payments made under Sections 112(e) and 114 that simply state, ''the auditor shall review the tentative written findings of the audit with the appropriate agent or employee of the Licensee being audited in order to remedy any factual errors and clarify any issues relating to the audit; [p]rovided that an appropriate agent or employee of the Licensee reasonably cooperates with the auditor to remedy promptly any factual errors or clarify any issues raised by the audit.'' [7] Should the Office consider a similar approach for audits involving cable operators and satellite providers? If so, how might such an approach impact the timing and completion of audits?

If the Office retains the approach set forth in the Second NPRM, should the licensee be given an opportunity to review the initial draft of the auditor's report before the consultation period begins? Is thirty days a sufficient amount of time for the consultation period? Should the auditor provide the licensee with a revised draft of the report at the end of the consultation period reflecting any errors or mistakes that have been corrected? If the licensee disagrees with the conclusions set forth in the revised draft, should the licensee be given an opportunity to prepare a written response, and if so, is fourteen days a sufficient amount of time to prepare that response? Should the auditor be given more than five days to prepare the final draft of his or her report?

*E. Cost of the Audit Procedure*

The Office would appreciate input on two issues related to the cost of the audit procedure. First, the proposed rule set forth in the Second NPRM states that if the auditor discovers a net aggregate underpayment of more than ten percent, the statutory licensee shall pay the copyright owners for the cost of the audit. *See* 78 FR at 27152. If, however, ''the statutory licensee provides the auditor with a written explanation of its

[4] *See* AICPA, Clarified Statements on Auditing Standards AU–C Section 200.01, *available at http://www.aicpa.org/Research/Standards/AuditAttest/DownloadableDocuments/AU-C-00200.pdf.*

[5] *See* AICPA, *Statements on Standards for Attestation Engagements* at Section 101.01, *available at http://www.aicpa.org/Research/Standards/AuditAttest/DownloadableDocuments/AT-00101.pdf.*

[6] *See* 37 CFR 201.30 (verification of SOAs filed under Section 1003(c)); 37 CFR 380.6 and 380.7 (verification of royalty payments made by commercial and noncommercial webcasters under Sections 112(e) and 114); 37 CFR 380.15 and 380.16 (verification of royalty payments made by broadcasters under Sections 112(e) and 114); 37 CFR 380.25 and 380.26 (verification of royalty payments made by noncommercial educational webcasters under Sections 112(e) and 114); 37 CFR 382.6 and 382.7 (verification of royalty payments made by nonexempt preexisting subscription services under Sections 112(e) and 114); 37 CFR 382.15 and 382.16 (verification of royalty payments made by preexisting satellite digital audio radio services under Sections 112(e) and 114); 37 CFR 384.6 and 384.7 (verification of royalty payments made by business establishment services under Section 112(e)).

[7] 37 CFR 380.6(f) and 380.7(f) (royalty payments made by commercial and noncommercial webcasters). Similar language appears in the regulations governing the verification of royalty payments made by broadcasters (37 CFR 380.15(f) and 380.16(f)), noncommercial educational webcasters (37 CFR 380.25(f) and 380.26(f)), preexisting satellite digital audio radio services (37 CFR 382.15(f) and 382.16(f)), and business establishment services (37 CFR 384.6(f) and 384.7(f)).

good faith objections to the auditor's report pursuant to paragraph (h)(2) of this section and the net aggregate underpayment made by the statutory licensee on the basis of that explanation is not more than [ten] percent and not less than [five] percent, the costs of the auditor shall be split evenly between the statutory licensee and the participating copyright owners.'' *Id.*

The Office is inclined to keep the provision providing for cost shifting where the auditor concludes there was a net aggregate underpayment of more than ten percent. But after further analysis, we question whether the provision providing for cost splitting should be included in the final rule. Under the proposed rule, the determination of whether there has been a net aggregate underpayment would be based on the auditor's final report, *i.e.,* after the auditor has evaluated the licensee's ''written explanation of its good faith objections'' to the initial report. If the auditor considered and rejected those objections, it is unclear why they should gain renewed significance for the purpose of allocating costs. Would it make more sense to adopt a simple rule that the copyright owners would pay the audit costs if the final report concludes that the underpayment is ten percent or less, and the licensee would pay the cost if the final report concludes that the underpayment is more than ten percent (with the qualification that the licensee would never be required to pay costs that exceed the amount of the underpayment identified in the final report)?

Second, the proposed rule states that ''if a court, in a final judgment (*i.e.,* after all appeals have been exhausted) concludes that the statutory licensee's net aggregate underpayment, if any, was [ten] percent or less, the participating copyright owner(s) shall reimburse the licensee, within [sixty] days of the final judgment, for any costs of the auditor that the licensee has paid.'' 78 FR at 27152. In the Second NRPM the Office assumed that if the licensee disagrees with the auditor's conclusions, the licensee might seek a declaratory judgment of non-infringement and an order directing the copyright owners to reimburse the licensee for the cost of the audit. *See* 78 FR at 27149. Do the parties in fact expect to be engaged in this sort of litigation as an outgrowth of the audit process? Do stakeholders anticipate that a royalty underpayment or overpayment would be addressed in a federal infringement (or non-infringement) action? Have the stakeholders given any thought to whether or how the statute of limitations might affect such claims? Should the appropriate remedy in any such proceeding, including reimbursement of audit costs, be left to the court?

In any event, if it is necessary to include a provision requiring the copyright owners to reimburse the licensee, we are interested in the stakeholders' views on alternate ways in which this might be accomplished, given the concerns expressed by some commenters about the potential difficulty of recovering costs from multiple copyright owners in the event an auditor's findings are overturned. *See* AT&T Second Comment at 2; ACA Second Comment at 3–4. If the licensee disagrees with the auditor's conclusions, should the licensee place the cost of the audit procedure into escrow pending the resolution of any litigation between the licensee and the copyright owners? Should the licensee be required to release those funds to the copyright owners if the parties fail to take legal action within a specified period of time? If so, what would be a reasonable amount of time for the funds to remain in escrow?

### III. Requests To Participate in the Public Roundtable

The Office invites copyright owners, cable operators, satellite carriers, accounting professionals, and other interested parties to participate in the public roundtable to address these issues. The Office is particularly interested in hearing from accounting professionals with experience and expertise regarding auditing procedures and statistical sampling techniques. The Office encourages parties that share interests and views to designate common spokespeople to discuss the topics listed in this notice. The Office also encourages copyright owners and licensees to confer with each other prior to the meeting to identify common ground or areas of disagreement concerning these issues.

Persons wishing to participate in the discussion should submit a request electronically no later than June 26, 2014 using the form posted on the Office's Web site at *http://www.copyright.gov/docs/soaaudit/public-roundtable/*. If electronic submission is not feasible, please contact the Office at (202) 707–8350 for special instructions. Seating in the room where the roundtable will be held is limited and will be offered first to persons who submitted a timely request to participate. To the extent available, observer seats will be offered on a first-come, first-served basis on the day of the meeting.

Parties do not need to submit written comments or prepared testimony in order to participate in the public roundtable. However, the Office strongly encourages participants to familiarize themselves with the Notices of Proposed Rulemaking and the Interim Rule that the Office issued in this proceeding, as well as the questions presented in this notice and the comments that have been submitted to date.

Dated: May 28, 2014.

**Jacqueline C. Charlesworth,**

*General Counsel and Associate Register of Copyrights.*

[FR Doc. 2014–12755 Filed 6–2–14; 8:45 am]

BILLING CODE 1410–30–P

## NATIONAL LABOR RELATIONS BOARD

### Sunshine Act Meetings: June 2014

**TIME AND DATES:** All meetings are held at 2:00 p.m.: Tuesday, June 3; Wednesday, June 4; Tuesday, June 10; Wednesday, June 11; Thursday, June 12; Tuesday, June 17; Wednesday, June 18; Thursday, June 19; Tuesday, June 24; Wednesday, June 25; Thursday, June 26.

**PLACE:** Board Agenda Room, No. 11820, 1099 14th St. NW., Washington, DC 20570.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Pursuant to § 102.139(a) of the Board's Rules and Regulations, the Board or a panel thereof will consider ''the issuance of a subpoena, the Board's participation in a civil action or proceeding or an arbitration, or the initiation, conduct, or disposition . . . of particular representation or unfair labor practice proceedings under section 8, 9, or 10 of the [National Labor Relations] Act, or any court proceedings collateral or ancillary thereto.'' See also 5 U.S.C. 552b(c)(10).

**CONTACT PERSON FOR MORE INFORMATION:** Henry Breiteneicher, Associate Executive Secretary, (202) 273–2917.

Dated: May 30, 2014.

**William B. Cowen,**

*Solicitor.*

[FR Doc. 2014–12864 Filed 5–30–14; 11:15 am]

BILLING CODE 7545–01–P

## SECURITIES AND EXCHANGE COMMISSION

### Submission for OMB Review; Comment Request

*Upon Written Request, Copies Available From:* Securities and Exchange

Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

*Extension:*

Rule 19b–7 and Form 19b–7; SEC File No. 270–495, OMB Control No. 3235–0553.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.* ''PRA''), the Securities and Exchange Commission (''SEC'' or ''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the existing collection of information provided for in Rule 19b–7 (17 CFR 240.19b–7) and Form 19b–7—Filings with respect to proposed rule changes submitted pursuant to Section 19b(7) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (''Exchange Act'').

The Exchange Act provides a framework for self-regulation under which various entities involved in the securities business, including national securities exchanges and national securities associations (collectively, self-regulatory organizations or ''SROs''), have primary responsibility for regulating their members or participants. The role of the Commission in this framework is primarily one of oversight; the Exchange Act charges the Commission with supervising the SROs and assuring that each complies with and advances the policies of the Exchange Act.

The Exchange Act was amended by the Commodity Futures Modernization Act of 2000 (''CFMA''). Prior to the CFMA, Federal law did not allow the trading of futures on individual stocks or on narrow-based stock indexes (collectively, ''security futures products''). The CFMA removed this restriction and provided that trading in security futures products would be regulated jointly by the Commission and the Commodity Futures Trading Commission (''CFTC'').

The Exchange Act requires all SROs to submit to the SEC any proposals to amend, add, or delete any of their rules. Certain entities (Security Futures Product Exchanges) would be notice registered national securities exchanges only because they trade security futures products. Similarly, certain entities (Limited Purpose National Securities Associations) would be limited purpose national securities associations only because their members trade security futures products. The Exchange Act, as amended by the CFMA, established a procedure for Security Futures Product Exchanges and Limited Purpose National Securities Associations to provide notice of proposed rule changes relating to certain matters.[1] Rule 19b–7 and Form 19b–7 implemented this procedure. Effective April 28, 2008, the SEC amended Rule 19b–7 and Form 19b–7 to require that Form 19b–7 be submitted electronically.[2]

The collection of information is designed to provide the Commission with the information necessary to determine, as required by the Exchange Act, whether the proposed rule change is consistent with the Exchange Act and the rules thereunder. The information is used to determine if the proposed rule change should remain in affect or abrogated.

The respondents to the collection of information are SROs. Three respondents file an average total of 5 responses per year.[3] Each response takes approximately 12.5 hours to complete and each amendment takes approximately 3 hours to complete, which correspond to an estimated annual response burden of 62.5 hours ((5 rule change proposals × 12.5 hours) + (0 amendments[4] × 3 hours)). The average cost per response is $4,533 (11.5 legal hours multiplied by an average hourly rate of $379[5] plus 1 hour of paralegal work multiplied by an average hourly rate of $175[6]). The total resulting related cost of compliance for respondents is $22,668 per year (5 responses × $4,533 per response).

Compliance with Rule 19b–7 is mandatory. Information received in response to Rule 19b–7 is not kept confidential; the information collected is public information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following Web site: *www.reginfo.gov*. Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov*; and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: May 28, 2014.

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014–12773 Filed 6–2–14; 8:45 am]

**BILLING CODE 8011–01–P**

[1] These matters are higher margin levels, fraud or manipulation, recordkeeping, reporting, listing standards, or decimal pricing for security futures products; sales practices for security futures products for persons who effect transactions in security futures products; or rules effectuating the obligation of Security Futures Product Exchanges and Limited Purpose National Securities Associations to enforce the securities laws. *See* 15 U.S.C. 78s(b)(7)(A).

[2] *See* Securities Exchange Act Release No. 57526 (March 19, 2008), 73 FR 16179 (March 27, 2008).

[3] There are currently five Security Futures Product Exchanges and one Limited Purpose National Securities Association, the National Futures Authority. However, one Security Futures Product Exchange is dormant and two Security Futures Product Exchanges do not currently trade security futures products. Therefore, there are currently three respondents to Form 19b–7.

[4] SEC staff notes that even though no amendments were received in the previous three years and that staff does not anticipate the receipt of any amendments, calculation of amendments is a separate step in the calculation of the PRA burden and it is possible that amendments are filed in the future. Therefore, instead of removing the calculation altogether, staff has shown the calculation as anticipating zero amendments.

[5] The $379 per hour figure for an Attorney is from SIFMA's *Management & Professional Earnings in the Securities Industry 2012,* modified by Commission staff to account for an 1800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead.

[6] The $175 per hour figure for a Paralegal is from SIFMA's *Management & Professional Earnings in the Securities Industry 2012,* modified by Commission staff to account for an 1800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead.

## SECURITIES AND EXCHANGE COMMISSION

### Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

*Extension:*

Rule 611; SEC File No. 270–540, OMB Control No. 3235–0600.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Rule 611 (17 CFR 242.611).

On June 9, 2005, effective August 29, 2005 (*see* 70 FR 37496, June 29, 2005), the Commission adopted Rule 611 of Regulation NMS under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et*

*seq.*) to require any national securities exchange, national securities association, alternative trading system, exchange market maker, over-the-counter market maker, and any other broker-dealer that executes orders internally by trading as principal or crossing orders as agent, to establish, maintain, and enforce written policies and procedures reasonably designed to prevent the execution of a transaction in its market at a price that is inferior to a bid or offer displayed in another market at the time of execution (a ''trade-though''), absent an applicable exception and, if relying on an exception, that are reasonably designed to assure compliance with the terms of the exception. Without this collection of information, respondents would not have a means to enforce compliance with the Commission's intention to prevent trade-throughs pursuant to the rule.

There are approximately 641 respondents [1] per year that will require an aggregate total of 38,460 hours to comply with this rule. It is anticipated that each respondent will continue to expend approximately 60 hours annually: Two hours per month of internal legal time and three hours per month of internal compliance time to ensure that its written policies and procedures are up-to-date and remain in compliance with Rule 611. The estimated cost for an in-house attorney is $379 per hour and the estimated cost for an assistant compliance director in the securities industry is $354 per hour. Therefore the estimated total cost of compliance for the annual hour burden is as follows: [(2 legal hours × 12 months × $379) × 641] + [(3 compliance hours × 12 months × $354) × 641] = $13,999,440.[2]

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following Web site: *www.reginfo.gov*. Comments should be directed to (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov*. Comments must be submitted within 30 days of this notice.

Dated: May 28, 2014.

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014–12775 Filed 6–2–14; 8:45 am]

**BILLING CODE 8011–01–P**

[1] This estimate includes thirteen national securities exchanges and one national securities association that trade NMS stocks. The estimate also includes the approximately 584 firms that were registered equity market makers or specialists at year-end 2012, as well as 43 alternative trading systems that operate trading systems that trade NMS stocks.

[2] The total cost of compliance for the annual hour burden has been revised to reflect updated estimated cost figures for an in-house attorney and an assistant compliance director. These figures are from SIFMA's *Management & Professional Earnings in the Securities Industry 2012,* modified by Commission staff for an 1800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead.

## SECURITIES AND EXCHANGE COMMISSION

### Submission for OMB Review; Comment Request

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–2833.

*Extension:*

Rule 30b1–5; SEC File No. 270–520, OMB Control No. 3235–0577.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information discussed below.

Rule 30b1–5 (17 CFR 270.30b1–5) under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) (the ''Investment Company Act'') requires registered management investment companies, other than small business investment companies registered on Form N–5 (17 CFR 239.24 and 274.5) (''funds''), to file a quarterly report via the Commission's EDGAR system on Form N–Q (17 CFR 249.332 and 274.130), not more than sixty calendar days after the close of each first and third fiscal quarter, containing their complete portfolio holdings. The purpose of the collection of information required by rule 30b1–5 is to meet the disclosure requirements of the Investment Company Act and to provide investors with information necessary to evaluate an interest in the fund by improving the transparency of information about the fund's portfolio holdings.

The Commission estimates that there are 2,460 management investment companies, with a total of approximately 9,640 portfolios that are governed by the rule. For purposes of this analysis, the burden associated with the requirements of rule 30b1–5 has been included in the collection of information requirements of Form N–Q, rather than the rule.

The collection of information under rule 30b1–5 is mandatory. The information provided under rule 30b1–5 is not kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: May 28, 2014.

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014–12774 Filed 6–2–14; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Wednesday, June 4, 2014 at 11:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or her designee, has certified that, in her opinion, one or more of the exemptions set forth in 5

U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matter at the Closed Meeting.

Commissioner Gallagher, as duty officer, voted to consider the items listed for the Closed Meeting in closed session, and determined that no earlier notice thereof was possible.

The subject matter of the Closed Meeting will be: institution and settlement of injunctive actions; institution and settlement of administrative proceedings; and other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551–5400.

Dated: May 29, 2014.

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014–12891 Filed 5–30–14; 11:15 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–72268; File No. SR–OCC–2014–802]**

## Self-Regulatory Organizations; The Options Clearing Corporation; Advance Notice Concerning the Consolidation of the Governance Committee and Nominating Committee Into a Single Committee, Changes to the Nominating Process for Directors, and Increasing the Number of Public Directors on The Options Clearing Corporation's Board of Directors

May 28, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4(n)(1)(i),[2] notice is hereby given that on May 8, 2014, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the advance notice described in Items I and II below, which Items have been prepared by OCC.[3] The Commission is publishing this notice to solicit comments on the advance notice from interested persons.

### I. Clearing Agency's Statement of the Terms of Substance of the Advance Notice

This advance notice is filed by OCC in connection with a proposed change that would amend OCC's By-Laws regarding its Nominating Committee (''NC'') and the Charter for OCC's Governance Committee (''GC'') to consolidate the two Committees into a single Governance and Nominating Committee (''GNC''), make changes to OCC's nomination process for Directors and increase the number of Public Directors on OCC's Board of Directors.

### II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Advance Notice

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the advance notice and discussed any comments it received on the advance notice. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A) and (B) below, of the most significant aspects of such statements.

*(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Advance Notice*

1. Purpose

OCC is proposing to amend its By-Laws and Governance Committee Charter to combine the current NC and GC to establish a single GNC, make changes concerning OCC's nomination process for Directors and to increase the number of Public Directors on OCC's Board of Directors (''Board''). The proposed modifications are based on recommendations from the GC in the course of carrying out its mandate of reviewing the overall corporate governance of OCC and recommending improvements to the structure of OCC's Board. In part, the GC's recommendations stem from suggestions of an outside consultant that was retained to review and report on OCC's governance structure in relationship to industry governance practices. To conform to these proposed changes OCC is also proposing to make certain edits to its Stockholders Agreement, Board of Directors Charter and Fitness Standards for Directors.

Currently, the GC operates pursuant to its own Charter.[4] The NC is not a Board level Committee and does not operate pursuant to a charter, however, provisions in Article III of OCC's By-Laws prescribe certain aspects of the NC's structure and operation. OCC is proposing to apply to the GNC many of the existing provisions of the relevant By-Laws and GC Charter that apply to the NC and GC. Where OCC is proposing amendments to the existing By-Laws and GC Charter, they are discussed below.

Certain provisions of Article III govern the role the NC plays in nominating persons as Member Directors[5] on OCC's Board as well as the composition and structure of the NC itself. The NC is required to endeavor to achieve balanced representation in its Member Director and Non-Director Member nominees, giving due consideration to business activities and geographic distribution.

Presently, the NC is composed of seven total members: One Public Director and six Non-Director Members.[6] The Public Director member, who is nominated by the Executive Chairman with the approval of a majority of the Board, generally serves a three year term, unless he or she ceases to be a Public Director. The six Non-Director Members nominated by the NC and selected by OCC's stockholders are divided into two equal classes of three members, and the classes serve staggered two year terms.[7] By comparison, the GC Charter requires the current GC to have not fewer than five directors and to include at least one Public Director, at least one Exchange Director, and at least one Member Director. It also provides that no Management Directors may serve on the Committee.

OCC's Board currently has 19 members consisting of nine Member Directors, five Exchange Directors, three Public Directors, who under Article III, Section 6A of OCC's By-Laws, may not be affiliated with any national securities exchange or national securities

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4(n)(1)(i).

[3] OCC also filed the proposal in this advance notice as a proposed rule change under Section 19(b)(1) of the Exchange Act and Rule 19b-4 thereunder. 15 U.S.C. 78s(b)(1); 17 CFR 240.19b–4. *See* SR–OCC–2014–802.

[4] Securities Exchange Act Release Nos. 71030 (Dec. 11, 2013), 78 FR 7612 (Dec. 16, 2013) (SR–OCC–2013–18); 71083 (Dec. 16, 2013), 78 FR 77182 (Dec. 20, 2013) (SR–OCC–2013–807).

[5] Under Article III, Section 2 every Member Director must be either a Clearing Member or a representative of a Clearing Member Organization.

[6] Under Sections 4 and 5 of Article III, a Non-Director Member of the NC must be a representative of a Clearing Member and no person associated with the same Clearing Member Organization as a member of the NC may be nominated by the NC for a position as a Member Director on the Board of Directors or a Non-Director Member of the NC for the ensuing year.

[7] This tiered structure eliminated the complete turnover of the members of the NC each year and fostered greater continuity among its elected members. Securities Exchange Act Release No. 29437 (July 12, 1991), 56 FR 33319 (July 19, 1991) (SR–OCC–91–11).

association or any broker or dealer in securities, and OCC's Executive Chairman and President, who are Management Directors. Based on recommendations from the GC in the course of review of OCC's overall corporate governance, OCC is proposing certain amendments detailed below to merge OCC's NC, GC and their related responsibilities into a single GNC and increase the number of Public Directors from three to five.

a. Proposed Amendments Common to the By-Laws and Other OCC Governance Documents

Certain of the proposed changes would amend the existing By-Laws as well as other governance documents of OCC. For example, conforming edits would be made throughout the By-Laws and GC Charter to delete NC and GC references and in many cases those references would be replaced with references to the GNC.

(1) GNC Composition

The new GNC would be composed of a minimum of three total members: at least one Public Director, at least one Exchange Director and at least one Member Director. To reflect this change, OCC would eliminate in Section 4 of Article III the requirement for six Non-Director Members, add requirements for at least one Member Director and one Exchange Director, and modify the current requirement for one Public Director to instead require that there must be at least one Public Director. The proposed composition for the GNC already mirrors the existing composition specified in the GC Charter. Therefore, no changes are proposed to the current GC Charter in that respect, other than the elimination of the requirements that the GNC have no fewer than five directors. That limitation would be eliminated with the goal of providing the Board with greater flexibility to determine the optimal size and composition of the GNC, so long as the composition also facilitates diverse representation by satisfying the proposed requirement for at least one GNC representative from each of the Member Director, Exchange Director and Public Director categories.

(2) GNC Member Appointment Process and Term Limits

The members of the GNC would be appointed annually by the Board from among certain Board members recommended by the GNC after consultation with OCC's Executive Chairman, and GNC Members would serve at the pleasure of the Board. The GNC's Chairman (''GNC Chair''), would be designated from among the GNC's Public Directors. Provisions implementing these changes would be added to Section 4 of Article III to entirely supplant the class and term limit structure and nominations process that currently applies to the NC and its Non-Director Members and Public Director, and references to Non-Director Members would be removed from the By-Laws. Section II.A. of the GC Charter would also be amended to reflect this structure for GNC nominations and appointments.

(3) Number of Public Directors and Member Directors

OCC is proposing to amend its By-Laws to increase the number of Public Directors on its Board from three to five and to make certain other changes related to the overall composition of the Board and the classification and term of office of Public Directors. The proposed change in the number of Public Directors from three to five would reconstitute OCC's Board with a total of 21 directors. OCC continues to believe that, as indicated in OCC's initial 1992 proposal to add Public Directors to its Board,[8] Public Directors broaden the mix of viewpoints and business expertise that is represented on the Board. Accordingly, OCC believes that the input and expertise of two more Public Directors will further benefit OCC in the administration of its affairs in respect of the markets that it serves, and in the discharge of its obligations as a systemically important financial market utility. In addition, the decision to add two more Public Directors is consistent with the principles discussed in the Commission's recent release on standards for covered clearing agencies.[9] In particular, the additional Public Directors would facilitate OCC's compliance with the public interest requirements of Section 17A of the Act and allow OCC to balance potentially competing viewpoints of various stakeholders in its decision making.

The proposed changes would remove a provision that currently is designed under certain conditions to automatically adjust the number of Member Directors serving on the Board. Article III, Section 1 requires that if the aggregate number of Exchange Directors and Public Directors equals at least nine, the total number of Member Directors must be automatically increased to always exceed that number by one. This provision would be removed to provide the Board with greater flexibility to be able to determine its optimal composition. OCC also proposes to make corresponding changes to Article III, Section 3 under which it would remove provisions that provide for the classification and term of office of Member Directors where the number of Member Directors increases based on the provision in Article III, Section 1 that OCC proposes to delete. The proposed changes also remove a provision that reduces the number of Member Directors if the number is above nine and exceeds the sum of the number of Exchange Directors and the number of Public Directors by more than one, because as a result of the deletion of the above provision in Article III, Section 1, the number of Member Directors would be fixed at nine.

OCC is also proposing certain amendments to its Stockholders Agreement, Board of Directors Charter and Fitness Standards for Directors, Clearing Members and Others. In each case, conforming changes would be made to recognize the merger of the Nominating Committee and Governance Committee into the GNC as a standing Committee of the Board and reflect the role it would play in OCC's director nomination process. The proposed modifications to the Board Charter and Fitness Standards would reflect the increase in the number of Public Directors serving on the Board from three to five and the removal of the provision that currently is designed under certain conditions to automatically adjust the number of Member Directors serving on the Board. The criteria specified in the Fitness Standards for Directors, Clearing Members and Others for use in considering Member Director nominees would also be revised for consistency with the criteria proposed to be added to Article III, Section 5 designed to achieve balanced Board representation.

The Stockholders Agreement also contains proposed amendments to replace the term Chairman with Executive Chairman. This parallels a separate proposed amendment by OCC to implement this change in its By-Laws and Rules, but a consolidated amendment to the Stockholders Agreement is proposed for ease of administration.

b. Proposed Amendments to By-Laws Only

As explained in more detail below, certain of the proposed changes would require amendments only to OCC's existing By-Laws. One such example is that Sections 2 and 5 of Article III

[8] Securities Exchange Act Release No. 30328 (January 31, 1992), 57 FR 4784 (February 7, 1992) (SR–OCC–1992–02).

[9] Securities Exchange Act Release No. 71699 (March 12, 2014), 79 FR 16866 (March 26, 2014).

would be amended to remove prohibitions against representation of the same Clearing Member Organization on the Board and the NC.[10] This barrier would be eliminated since GNC members will be selected from among the members of the Board under the new approach.

(1) Balanced Representation

The NC's responsibility to endeavor to achieve balanced representation among Clearing Members on the Board would be carried over to the GNC. The proposed amendments would also add more detailed guidance for the GNC concerning how to achieve balanced Board representation. Specifically, the GNC would be required to assure that not all of the Member Directors represent the Clearing Member Organizations having the largest volume of business with OCC during the prior year and that the mix of Member Directors includes Clearing Member Organizations primarily engaged in agency trading on behalf of retail customers or individual investors.

(2) Nomination and Election Process

In place of the existing structure under which the NC nominates candidates to be Non-Director Members, who are not also required to be Board members, the Board would appoint members to the GNC from among the Board's members who are recommended by the GNC. This change requires certain proposed modifications to the nomination and election process currently reflected in Article III, Section 5. Changes are also proposed that would change the deadlines for nominations of Member Directors by both the GNC and Clearing Members, and OCC would preserve the petition process by which Clearing Members may nominate additional candidates for Member Director positions on the Board. In recognition of the elimination of the concept of Non-Director Members, several provisions in Section 5 of Article III addressing the ability of stockholders to elect or nominate Non-Director Members of the NC would be deleted. In relevant part, however, these provisions would be retained to the extent they apply to the ability of stockholders under certain conditions to nominate and elect Member Directors of the Board.

(3) Public Directors

Proposed changes to Section 6A of Article III would require the GNC to nominate Public Directors for election by OCC's stockholders and to use OCC's fitness standards in making such nominations. Presently, OCC's Executive Chairman makes Public Director nominations with Board approval. Changes are also proposed to help clarify the class structure and term limits of Public Directors that are independent of changes proposed to facilitate the formation of the GNC. These changes would specify that, aside from the Class II Public Director who was elected to the Board at the 2011 annual meeting, two other Public Directors were appointed to the Board prior to its 2013 annual meeting, one designated as a Class I Public Director and the other designated as a Class III Public Director. Generally, the three year terms for Public Directors with staggered expiration for each class would be preserved, however, an exception would be added for the initial Class I and III Public Directors.

The proposed changes to Article III, Section 6A would also provide for the classification of the two new Public Directors, who will be first appointed or elected after the 2014 annual meeting. One of the new Public Directors will be designated as a Class I Public Director, and the other will be designated as a Class III Public Director. The proposed changes also establish the times at which the successors of the two new Public Directors will be elected. The successor of the new Public Director that is a Class III Public Director will be elected at the 2015 annual meeting of stockholders, and the successor of the new Public Director that is a Class I Public Director will be elected at the 2016 annual meeting.

(4) Disqualifications and Filling Vacancies and Newly Created Directorships

The disqualification provisions in Article III, Section 11 would be revised to reflect that any determination to disqualify a director would be effective and result in a vacancy only if the GNC makes a recommendation for disqualification in addition to an affirmative vote for disqualification by a majority of the whole Board. The By-Laws currently provide that if a Member Director vacancy is filled by the Board, the person filling the vacancy will serve until the next scheduled election for the relevant class of Member Director and a successor is elected. However, if the term for that class of Member Director extends beyond the Board's next annual meeting the vacancy must be filled by a person who is recommended by the Nominating Committee. Proposed changes to these terms in respect of the GNC would require the Board in all cases to appoint a person who is recommended by the GNC. Similarly, Public Director vacancies would be required to be filled by the Board as generally provided for in Section 6A of Article III, including with regard to candidates being nominated by the GNC using OCC's fitness standards for directors. Provisions concerning filling vacancies with respect to the NC would be deleted, consistent with its elimination in favor of the GNC.

(5) Ministerial Changes

The proposed changes to Article III also include certain ministerial changes. A reference to stockholder exchanges in the interpretation and policy to Section 6 would be replaced by the defined term Equity Exchanges, and a reference in Section 14 to notice by telegram would be changed to facsimile to reflect current means of communication.

c. Proposed Amendments to the GC Charter Only

Certain of the proposed amendments relating to the creation of the GNC would apply only to OCC's existing GC Charter. These amendments are discussed below.

(1) GNC Purpose

The statement of purpose in the GC Charter would be revised to reflect the GNC's larger scope of responsibilities. The existing GC purpose of reviewing the overall corporate governance of OCC would be maintained, along with language clarifying that this review would be performed on a regular basis and that recommendations concerning Board improvements should be made when necessary. The GNC Charter would also provide that the GNC assists the Board in identifying, screening and reviewing individuals qualified to serve as directors and by recommending candidates to the Board for nomination for election at the annual meeting of stockholders or to fill vacancies. The GNC Charter would also specify that the GNC would develop and recommend to the Board, and oversee the implementation of, a Board Code of Conduct.

(2) GNC Membership and Organization

The requirement in the GC Charter that the GC hold four meetings annually would be modified to also permit the GNC to call additional meetings as it deems appropriate.[11] The GC Charter requirement for regular reporting to the Board on Committee activities by the GC

[10] A Clearing Member Organization is a Clearing Member that is a legal entity rather than a natural person.

[11] This would bring the Governance and Nominating Committee Charter in line with the Charters of OCC's other Board Committees.

chair or a designee would be revised in favor of placing the reporting responsibility solely on the GNC Chair and requiring the GNC Chair to make timely reports to the Board on important issues discussed at GNC meetings. Taking into consideration certain pre-established guidelines in the GNC Charter, the GNC Chair would also be given responsibility for determining whether minutes should be recorded at any executive session. Aside from this exception for executive sessions, GNC meeting minutes would be required to be recorded. The GNC Charter would also create a position to be filled by an OCC officer who would assist the GNC and liaise between it and OCC's staff.

(3) GNC Authority

As in the case of the existing GC, the GNC would have authority to inquire into any matter relevant to its purpose and responsibilities in the course of carrying out its duties. The GNC Charter would further specify that in connection with any such inquiry the GNC would have access to all books, records, facilities and personnel of OCC. Unlike the existing GC Charter, the GNC Charter would not provide express authority for the GNC to rely on members of OCC's management for assistance. Instead, this relationship between the GNC and OCC's management would be more specifically addressed through the role of the newly created staff liaison position. Additional revisions to the GC Charter would also establish that the GNC Chair would not have discretion to take unilateral action on behalf of the Committee, even in special circumstances.

(4) Board Composition

Without limiting the GNC to particular activities, the GNC Charter would specify certain responsibilities meant to guide the GNC in achieving its purposes, including with respect to its role in the development of the Board's composition. As an overarching goal, the GNC's Charter would require it to pursue development of a Board comprised of individuals who have a reputation for integrity and represent diverse professional backgrounds as well as a broad spectrum of experience and expertise. The GNC Charter would also prescribe more detailed responsibilities designed to further this goal. For example, the GNC would be required to conduct periodic reviews of the composition of the Board against the goal, including whether the Board reflects the appropriate balance of types of directors, business specialization, technical skills, diversity and other qualities.[12] The GNC would be required to recommend policies and procedures to the Board for identifying and reviewing Board nominee candidates, and it would implement and oversee the effectiveness of those policies, including with regard to criteria for Board nominees. Using criteria approved by the Board, the GNC would identify, screen and review persons who it determines are qualified to serve as directors. This process would also extend to incumbent directors concerning any potential re-nomination. In all cases, the GNC would only recommend candidates to the Board for nomination for election after consulting with OCC's Executive Chairman. In the event that a sitting director offers to resign because of a change in occupation or business association, the GNC would be responsible for reviewing whether continued service is appropriate and making a recommendation of any action, consistent with OCC's By-Laws and Rules, that should be taken by the Board. The GNC would also undertake periodic reviews of term limits for certain directors and recommend changes to these limits where appropriate.

(5) Governance Practices

The GNC would have responsibility for reviewing the Board's Charter for consistency with regulatory requirements, transparency of the governance process and other sound governance practices. Currently, this is a GC function, and certain GC Charter amendments are proposed to help further detail the GNC's review responsibilities. These include a general responsibility to recommend changes, as the GNC deems appropriate, to the Board concerning Committee Charters. This would include the GNC Charter, which the GNC would be required to review annually.[13] In connection with a periodic review of Board Committee structure, the GNC would advise the Board regarding related matters of structure, operations and charters. Furthermore, and in each case after consultation with OCC's Executive Chairman, the GNC would recommend to the Board for its approval certain directors for Committee service as well as for assignment as Committee chair persons.

The GNC would develop and recommend to the Board the annual process used by the Board and Board Committees for self-evaluation of their role and performance in the governance of OCC. The GNC would also be responsible for coordinating and providing oversight of that process. Corporate governance principles applicable to OCC would be developed by the GNC for recommendation to the Board, and the GNC would review them at least once a year.

(6) Other Proposed GC Charter Amendments

The GNC Charter would require the Committee to regularly evaluate its performance and the performance of its individual members and provide results of such assessments to the Board. It would also require an annual report to be prepared by the GNC and delivered to the Board regarding the GNC's activities for the preceding year, and the GNC would be required to include a statement that it carried out all of its GNC Charter responsibilities. In addition to such responsibilities, the GNC would generally be empowered to perform any other duties that it deems necessary or appropriate and consistent with the GNC Charter or as may otherwise be further delegated to it by the Board.

d. Fair Representation Requirement for Clearing Agencies

Section 17A(b)(3)(C) of the Act requires the rules of a clearing agency to assure fair representation of its shareholders (or members) and participants[14] in the selection of its directors and administration of its affairs.[15] The Act does not define fair representation but instead reserves to the Commission the authority to determine whether a clearing agency's rules give fair voice to participants and shareholders or members in the selection of directors and administration of affairs. On this subject, the Division of Market Regulation's Announcement of Standards for the Registration of Clearing Agencies provides that a clearing agency's procedures concerning fair representation are evaluated on a case-by-case basis but that a clearing agency could comply with the standard,

[12] The GNC would also review director conflicts of interest and the manner in which any such conflicts are to be monitored and resolved.

[13] As part of the annual review, the GNC would also submit the GNC Charter to the Board for re-approval, including any changes the GNC deems advisable.

[14] In relevant part, a clearing agency participant is defined in Section 3(a)(24) of the Act as ''any person who uses a clearing agency to clear or settle securities transactions or to transfer, pledge, lend, or hypothecate securities . . .''

[15] 15 U.S.C. 78q–1(b)(3)(C). The statute further provides that one way of establishing that the representation of participants is fair is by affording them a reasonable opportunity to acquire voting stock of the clearing agency in reasonable proportion to their use.

including with respect to board nominations, through the use of a nominating committee composed of and selected by participants or their representatives.[16] Subsequent Commission guidance in this area also provides that the entity responsible for nominating individuals for membership on the board of directors should be obligated by by-law or rule to make nominations with a view toward assuring fair representation of the interests of shareholders and a cross-section of the community of participants.[17]

OCC believes for several reasons that the proposed amendments to the By-Laws and GC Charter would continue to assure fair representation of OCC's shareholders and participants in the selection of its directors and the administration of its affairs. First, as the body responsible for nominating Member Director and Public Director candidates to OCC's Board, the GNC would be composed of and selected by OCC's participants and shareholders or their representatives because, along with at least one Public Director, the GNC would be composed of Board members who represent OCC's Clearing Members and equity exchanges. Furthermore, the GNC would be obligated by OCC's By-Laws and the GNC Charter to make nominations that serve the interests of shareholders and a cross-section of participants because it would be required to nominate candidates with a view toward: assuring that the Board consists of, among other things, individuals who have a reputation for integrity and represent diverse professional backgrounds and a broad spectrum of experience and expertise; that not all Member Directors of the Board would represent the largest Clearing Member Organizations; and that the mix of Member Directors on the Board should include representatives of Clearing Member Organizations primarily engaged in agency trading on behalf of retail customers or individual investors. Finally, rather than prescribing pre-set term limits, OCC believes that having GNC members serve at the pleasure of the Board would help foster continuity on the GNC and thereby strengthen the quality of the representation of OCC's participants and shareholders in the administration of its affairs.

2. Statutory Basis

OCC believes that the proposed change to OCC's By-Laws are consistent with Section 805(b) of the Clearing Supervision Act[18] because the changes are designed to improve the structure and effectiveness of the Board, thereby promoting robust risk management,[19] as well as safety and soundness.[20] The proposed change achieve this purpose by, among other things, creating a framework that requires the GNC to be composed of representatives of at least one Member Director, Exchange Director and Public Director, requiring the GNC to endeavor to develop a Board that represents a broad range of skills and experience and increasing the number of Public Directors the proposed changes would help ensure that OCC continues to have clear and transparent governance arrangements that are in the public interest. The proposed change is not inconsistent with the existing rules of OCC, including any other rules proposed to be amended or any advance notice filings pending with the Commission.

3. Clearing Agency's Statement on Comments on the Advance Notice Received From Members, Participants, or Others

Written comments on the advance notice were not and are not intended to be solicited with respect to the advance notice and none have been received.

## III. Date of Effectiveness of the Advance Notice and Timing for Commission Action

The proposed changes contained in the advance notice may be implemented pursuant to Section 806(e)(1)(G) of Clearing Supervision Act[21] if the Commission does not object to the proposed changes within 60 days of the later of (i) the date that the advance notice was filed with the Commission or (ii) the date that any additional information requested by the Commission is received. The clearing agency shall not implement the proposed changes contained in the advance notice if the Commission objects to the proposed changes.

The Commission may extend the period for review by an additional 60 days if the proposed changes raise novel or complex issues, subject to the Commission providing the clearing agency with prompt written notice of the extension. Proposed changes may be implemented in fewer than 60 days from the date the advance notice is filed, or the date further information requested by the Commission is received, if the Commission notifies the clearing agency in writing that it does not object to the proposed changes and authorizes the clearing agency to implement the proposed changes on an earlier date, subject to any conditions imposed by the Commission.

OCC has also filed the advance notice as a proposed rule change pursuant to Section 19(b)(1) of the Act[22] and Rule 19b–4 thereunder.[23] Pursuant to those provisions, within 45 days of the date of publication of the notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will: (A) By order approve or disapprove the proposed rule change or (B) institute proceedings to determine whether the proposed rule change should be disapproved.

The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed. The clearing agency shall post notice on its Web site of proposed changes that are implemented.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–OCC–2014–802 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–OCC–2014–802. 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

[16] Securities Exchange Act Release No. 16900 (June 17, 1980), 45 FR 41 (June 23, 1980) (citing in relevant part Securities Exchange Act Release 14531 (March 6, 1978), 43 FR 10288, 10291 (March 10, 1978) regarding proposed Commission-level standards for clearing agency registration). The Division of Market Regulation is now known as the Division of Trading and Markets.

[17] Securities Exchange Act Release No. 20221 (September 23, 1983), 48 FR 45167, 45172 (October 3, 1983) (Depository Trust Co., et. al.; Order).

[18] 12 U.S.C. 5464(b).

[19] 12 U.S.C. 5464(b)(1).

[20] 12 U.S.C. 5464(b)(2).

[21] 12 U.S.C. 5465(e)(1)(G).

[22] 15 U.S.C. 78s(b)(1).

[23] 17 CFR 240.19b–4. *See supra* note 3.

Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the advance notice that are filed with the Commission, and all written communications relating to the advance notice between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings also will be available for inspection and copying at the principal office of OCC and on OCC's Web site at *http://www.theocc.com/about/publications/bylaws.jsp.*

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–OCC–2014–802 and should be submitted on or before June 24, 2014.

By the Commission.

**Kevin O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014–12772 Filed 6–2–14; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–72269; File No. SR–FINRA–2014–008]**

## Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1, Relating To Protecting Personal Confidential Information in Documents Filed With FINRA Dispute Resolution

May 28, 2014.

### I. Introduction

On February 13, 2014, the Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend FINRA's Code of Arbitration Procedure for Customer Disputes (the ''Customer Code'') and the Code of Arbitration Procedure for Industry Disputes (the ''Industry Code'') to require parties to redact all but the last four digits of an individual's Social Security number, taxpayer identification number, or financial account number (collectively, ''personal confidential information'' or ''PCI'') from documents filed with FINRA Dispute Resolution (''DR''). The proposed rule change was published for comment in the **Federal Register** on February 28, 2014.[3] The Commission received six comments on the proposal.[4]

On April 10, 2014, FINRA granted the Commission an extension of time to act on the proposal until May 29, 2014.[5] On May 5, 2014, FINRA responded to the comment letters [6] and filed Amendment No. 1 to the proposed rule change in response to a commenter's concern.[7] The Commission is publishing this notice and order to solicit comments on Amendment No. 1 from interested persons, and to approve the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

### II. Description of the Proposed Rule Change

*Overview*

FINRA filed the proposed rule change to amend the Customer Code and the Industry Code to provide that any document that a party files with DR that contains an individual's Social Security number, taxpayer identification number, or financial account number must be redacted to include only the last four digits of any of these numbers.[8] The proposed redaction requirements would apply only to documents filed with DR and would not apply to documents that parties exchange with each other or submit to the arbitrators at a hearing on the merits.[9] In addition, the proposed redaction requirements would not apply to cases administered under FINRA Rule 12800 of the Customer Code and FINRA Rule 13800 of the Industry Code (collectively, the ''Simplified Arbitration rules'').[10]

*Requiring Parties To Redact Specified PCI From Documents Filed With FINRA*

During an arbitration proceeding, parties file pleadings and other supporting documents with DR that may contain individuals' PCI. FINRA stated that, as a service to forum users, DR serves certain pleadings on other parties to an arbitration.[11] DR also provides arbitrators with pleadings and attachments.[12] FINRA believes that the greatest risk of DR staff misdirecting PCI occurs when DR staff serves pleadings on a party at an incorrect or outdated address (*e.g.,* an associated person of a member who has not updated his or her Central Registration Depository record).[13] In addition, FINRA stated that arbitrators occasionally have misplaced parties' pleadings containing PCI.[14]

FINRA also stated that, since FINRA employees are regularly exposed to PCI as they handle party documents, it has policies and procedures in place to help guide staff on how to keep confidential information safe.[15] For example, FINRA maintains an Information Privacy and Protection Policy, and administers Information Privacy and Protection Training to all FINRA staff annually.[16] In addition, DR has its own procedures for protecting confidential information relating to, among other matters, storage and disposal of case materials in a manner that preserves the confidentiality of the information, and removal of PCI that appears in awards

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 71608 (Feb. 24, 2014), 79 FR 11491 (Feb. 28, 2014) (''Notice'').

[4] *See* Letters from Steven B. Caruso, Esq., Maddox Hargett & Caruso, P.C., dated March 4, 2014 (''Caruso Letter''); Nataliya Nemtseva, Student Intern, Timothy Guilmette, Student Intern, Thomas Abrahamson, Student Intern, and Nicole Iannarone, Assistant Clinical Professor, Georgia State University College of Law's Investor Advocacy Clinic, dated March 14, 2014 (''Georgia State Letter''); Kara Cain, Esq., Aderant CompuLaw, dated March 19, 2014 (''Aderant Letter''); Jason Doss, Public Investors Arbitration Bar Association, dated March 20, 2014 (''PIABA Letter''); Ryan Jennings, Legal Intern, Christian Corkery, Legal Intern, and Daniel Coleman, Legal Intern, Securities Arbitration Clinic, St. Vincent DePaul Legal Program, Inc., St. John's University School of Law, dated March 20, 2014 (''St. John's Letter''); and Jill I. Gross, James D. Hopkins Professor of Law, Director, Investor Rights Clinic, Pace Law School, dated March 24, 2014 (''Pace Letter'').

[5] *See* Letter from Margo A. Hassan, Assistant Chief Counsel, FINRA Dispute Resolution, Inc., to Lourdes Gonzalez, Assistant Chief Counsel, Sales Practices, Division of Trading and Markets, Securities and Exchange Commission, dated April 10, 2014.

[6] *See* Letter from Margo A. Hassan, Assistant Chief Counsel, FINRA Dispute Resolution, Inc., to Secretary, Securities and Exchange Commission, dated May 5, 2014 (''FINRA Response Letter'').

[7] *See* Aderant Letter.

[8] *See* proposed FINRA Rules 12300(g)(1) and 13300(g)(1); *see also* Notice, 79 FR at 11492. The text of the proposed rule change is available at the principal office of FINRA, on FINRA's Web site at *http://www.finra.org,* and at the Commission's Public Reference Room.

[9] *See* proposed FINRA Rules 12300(g)(2) and 13300(g)(2); *see also* Notice, 79 FR at 11492.

[10] *See* proposed FINRA Rules 12300(g)(3) and 13300(g)(3); *see also* Notice, 79 FR at 11492. The Simplified Arbitration rules generally apply to arbitrations involving $50,000 or less, exclusive of interest and expenses.

[11] *See* Notice, 79 FR at 11492.

[12] *See id.*

[13] *See id.*

[14] *See id.*

[15] *See* Notice, 79 FR at 11492.

[16] *See id.*

that will be published.[17] In particular, DR procedures require arbitrators to keep confidential all information obtained in connection with arbitration and to participate in FINRA training programs on information security.[18]

In addition, FINRA has published guidance recommending that parties to an arbitration and their counsel take steps to protect confidential information.[19] FINRA's Protecting PCI Notice states, among other things, that parties and their counsel can safeguard confidential information by redacting such information from pleadings, exhibits, and other documents upon agreement of the parties.[20] For example, parties may agree not to use, or to redact, Social Security, account, or driver license numbers and, where such data must be referenced, parties can use only the last few digits of these numbers or similar information.[21]

FINRA believes that while these efforts have enhanced the security of parties' confidential information, the risks associated with the loss of PCI (*e.g.,* identity theft) remain as long as parties continue to file with DR pleadings and attachments containing PCI.[22] Accordingly, FINRA is proposing to amend the Customer Code and the Industry Code to require parties to redact specified PCI from documents that parties file with DR. Specifically, FINRA is proposing to amend Rule 12300 (Filing and Serving Documents) [23] and Rule 12307 (Deficient Claims) [24] of the Customer Code and Rule 1330 (Filing and Serving Documents) [25] and Rule 13307 (Deficient Claims) [26] of the Industry Code as described below.

Given that the proposed amendments to Rules 13300 and 13307 of the Industry Code are identical to the proposed amendments to Rules 12300 and 12307 of the Customer Code, the description below only refers to Rules 12300 and 12307 of the Customer Code. FINRA stated that its rationale is the same for both sets of rules.[27]

*Proposed Amendments to FINRA Rule 12300*

FINRA is proposing to amend Rule 12300 to provide that any document that a party files with DR that contains an individual's Social Security number, taxpayer identification number, or financial account number must be redacted to include only the last four digits of any of these numbers.[28] As proposed, the rule would specify that a party shall not include the full numbers.[29]

Under the proposed rule, if DR receives a claim, including supporting documents, with a full Social Security, taxpayer identification, or financial account number, it would deem the filing deficient under Rule 12307 and request that the party refile the document, without the PCI, within 30 days of receiving notice of non-compliance from DR.[30] In addition, if a party files a document with PCI that is not covered by Rule 12307 (a document other than a claim, such as a motion), FINRA would deem the filing to be improper and would request that the party refile the document, with the required redaction, within 30 days.[31] If the party refiles the document within the prescribed 30 days in compliance with the rule, FINRA would consider the document to be filed on the date the party initially filed it (*i.e.,* the non-complying document) with DR.[32]

*Two Exemptions to the Proposed Amendments to FINRA Rule 12300*

The proposed rule change would include two exemptions: (1) For documents that parties exchange with each other (not with DR) or submit to the arbitrators at a hearing on the merits; [33] and (2) for cases administered under the Simplified Arbitration rules.[34]

As explained above, FINRA believes that its greatest risk of misdirecting PCI occurs when DR staff is transmitting pleadings and documents to parties and arbitrators (*e.g.,* serving pleadings).[35] Therefore, FINRA is proposing to exempt documents that parties exchange with each other or submit as exhibits during a hearing in order to minimize the burden of the new requirements.[36] FINRA stated, however, that parties can always agree to measures that protect PCI in documents they exchange with each other or submit or use at a hearing and DR staff would not be at risk of transmitting PCI.[37] Similarly, FINRA stated that parties typically only bring hard copies of exhibits to hearings, as opposed to transmitting them via email, and can safely dispose of them by using secure shredding services.[38] FINRA believes that its proposal represents a balanced approach to protecting PCI while minimizing the burden on parties.[39]

The second exemption relates to claims administered under FINRA's Simplified Arbitration rules.[40] Generally, a single arbitrator decides these claims based solely on the parties' written submissions. FINRA noted that many claimants who initiate claims under its Simplified Arbitration rules are not represented by counsel (*i.e.,* pro se parties).[41] FINRA believes that the redaction requirements in the proposed rule change may prove difficult for pro se parties.[42] Therefore, FINRA is proposing to exempt from this proposed rule all claims administered under the Simplified Arbitration rules.

*Proposed Amendments to FINRA Rule 12307*

FINRA Rule 12307 states that the DR Director will not serve any claim that is deficient, and identifies many reasons why a claim may be deficient, including that the claims does not name all the parties.[43] FINRA is proposing to make conforming changes to FINRA Rule 12307(a) to include as a claim that is deficient failure to "comply with the restrictions on filings with personal confidential information under Rule

[17] *See id.* at n.4 (stating that FINRA "keeps all documents and information in DR case files confidential except for arbitration awards. FINRA publishes every award in the Arbitration Awards Online Database on FINRA's Web site").

[18] *See* Notice, 79 FR at 11492.

[19] FINRA Notice to Parties, *Protecting Personal Confidential Information,* available at *http://www.finra.org/ArbitrationAndMediation/Arbitration/Rules/NoticestoArbitratorsParties/NoticestoParties/P123999* ("Protecting PCI Notice"); *see also id.*

[20] *See* Notice, 79 FR at 11492 (discussing FINRA's Protecting PCI Notice).

[21] *See id.*

[22] *See id.*

[23] *See* proposed FINRA Rule 12300(g)(1)–(3); *see also* Notice, 79 FR at 11492.

[24] *See* proposed FINRA Rule 12307(a)–(c); *see also* Notice, 79 FR at 11492.

[25] *See* proposed FINRA Rule 13300(g)(1)–(3); *see also* Notice, 79 FR at 11492.

[26] *See* proposed FINRA Rule 13307(a)–(c); *see also* Notice, 79 FR at 11492.

[27] *See* Notice, 79 FR at 11492.

[28] *See* proposed FINRA Rule 12300(g)(1); *see also* Notice, 79 FR at 11492.

[29] *See* proposed FINRA Rule 12300(g)(1).

[30] *See* proposed FINRA Rule 12307; *see also* Notice, 79 FR at 11492 n.7 (stating that "[t]he term "claim" means an allegation or request for relief and includes counterclaims, cross claims and third party claims").

[31] *See* Notice, 79 FR at 11492.

[32] *See* proposed FINRA Rule 12307(c); *see also* Notice, 79 FR at 11492.

[33] *See* proposed FINRA Rule 12300(g)(2); *see also* Notice, 79 FR at 11492.

[34] *See* proposed FINRA Rule 12300(g)(3); *see also* Notice, 79 FR at 11492.

[35] *See supra* note 13 ("The greatest risk of DR staff misdirecting PCI occurs when DR staff serves pleadings on a party . . . at an incorrect/outdated address.").

[36] *See* proposed FINRA Rule 12300(g)(2); *see also* Notice, 79 FR at 11493.

[37] *See* Notice, 79 FR at 11493; *see also supra* note 19 (discussing FINRA's Protecting PCI Notice).

[38] *See* Notice, 79 FR at 11493.

[39] *See* Notice, 79 FR at 11493.

[40] *See* proposed FINRA Rule 12300(g)(3); *see also* Notice, 79 FR at 11493.

[41] *See* Notice, 79 FR at 11493.

[42] *See id.* (noting that pro se parties may not be familiar with the practice of redacting documents).

[43] *See* proposed FINRA Rule 12307; *see also* Notice, 79 FR at 11493.

12300(g).'' [44] The proposal would also amend Rule 12307(c) to clarify that if the submitting party corrects any deficiency within 30 days, the claim would be considered filed on the date the deficient claim was filed initially with FINRA.[45] FINRA would also amend Rule 12307(c) to correct a typographical error by deleting the word ''the'' (indicated by brackets below) in the sentence that currently reads: ''The Director will notify the party making the counterclaim, cross claim or third party claim of [the] any deficiencies in writing.'' [46]

## III. Summary of Comments, FINRA's Response, and Proposed Amendment No. 1

*Overview*

As noted above, the Commission received six comment letters on the proposed rule change [47] and a response letter from FINRA.[48] Five of the six commenters expressed support, in whole or in part, for FINRA's proposal.[49] Each of these five commenters, however, raised specific concerns about certain aspects of the proposed rule change as discussed in more detail below.[50] The sixth commenter, although not expressing a general view of support for or opposition to the proposal, questioned what event triggers the 30-day deadline to correct a non-compliant document that is included in the proposed rule change.[51]

*A. Deadline for Correcting Non-Compliant Documents and Amendment No. 1*

Under the proposed rule change, if FINRA finds a document to be deficient because a party did not comply with the redaction requirement, the filing party has 30 days to correct the submission.[52] One commenter affirmatively supported the proposed 30-day cure period.[53] Two other commenters, however, suggested amendments to FINRA's proposal.[54] One commenter suggested that FINRA should give parties an additional 15 days to submit compliant documents after the proposed 30-day period expired.[55] Specifically, this commenter suggested that if a party does not resubmit a compliant document within the original 30-day cure period, FINRA should send the party a second notice granting an additional 15 days in which to comply.[56] Another commenter requested that FINRA clarify what event triggers the 30-day deadline for a non-complying party to correct a deficiency.[57] This commenter stated that, as drafted, the proposed rule is ambiguous and could be read to begin either: 30 days from the date FINRA deems the filing improper, 30 days from the date of FINRA's written notice of the deficiency, or 30 days from the date of the party's receipt of the notice.[58]

In response to the comment suggesting that FINRA provide parties an additional 15 days to correct non-complaint submissions, FINRA noted that its existing deficient claim Rules 12307(b) and 13307(b) provide a 30-day deadline to correct other claim deficiencies.[59] FINRA also stated that it believes that the 30-day deadline for correcting any deficient claim, whether for non-compliance with redaction obligations or otherwise, should be consistent under FINRA's rules.[60] For this reason, FINRA believes that the proposed 30-day cure period is appropriate.[61]

In response to the comment recommending that FINRA clarify what event triggers the 30-day deadline to correct a deficiency, FINRA noted that its existing Deficient Claims Rules 12307(b) and 13307(b) provide that if the claimant corrects the deficiency ''within 30 days from the time the claimant receives notice,'' FINRA would consider the claim to be filed on the date the initial statement of claim was filed.[62] FINRA also stated that it believes the deadline to submit compliant documents should be consistent under its rules.[63] Therefore, FINRA proposed Amendment No. 1 to the proposed rule change to clarify that the triggering event for the deadline to submit compliant documents is 30 days ''from the time a party receives notice'' of non-compliance from the Director of FINRA arbitration.[64]

*B. Exemptions From FINRA's Proposed Redaction Requirements*

As noted above, the proposed rule change would include two exemptions: (1) For documents that parties exchange with each other (not with DR) or submit to the arbitrators at a hearing on the merits; [65] and (2) for cases administered under the Simplified Arbitration rules.[66] Four commenters either raised concerns about or recommended changes to the proposed exemptions.[67]

One commenter suggested that the proposal should be more comprehensive.[68] In particular, the commenter suggested that FINRA require parties to redact PCI from all documents submitted or exchanged in all stages, and in every type, of arbitration proceeding regardless of whether the documents are submitted to DR, another party, or an arbitrator.[69] The same commenter reasoned that investors face the same potential harm regardless of the method of submission (*e.g.,* electronically or on paper), the type of proceeding (including simplified arbitration), whether the submitting party is pro se or represented by counsel, or to whom the documents are provided.[70]

Similarly, another commenter suggested that FINRA not exempt from the redaction obligations documents submitted to DR by pro se parties.[71] Specifically, this commenter stated that even if FINRA is concerned that many claimants in simplified arbitration are pro se parties who, in the absence of counsel, may have difficulty with the redaction process, ''that concern is soundly outweighed by far greater concerns over identity theft.'' [72] The commenter also suggested that instead of exempting pro se investors, FINRA should assist those pro se parties with the redaction process, if needed.[73] Alternatively, this commenter stated that if indeed FINRA believes that pro se parties might have difficulty

[44] *See* proposed FINRA Rule 12307(a).

[45] *See* proposed FINRA Rule 12307(c).

[46] *See id.*

[47] *See supra* note 4.

[48] *See supra* note 6.

[49] *See* Caruso Letter; Georgia State Letter; PIABA Letter; St. John's Letter; and Pace Letter.

[50] *See supra* note 49.

[51] *See* Aderant Letter

[52] *See* proposed FINRA Rule 12307(c).

[53] *See* PIABA Letter at 2.

[54] *See* Aderant Letter and Georgia State Letter.

[55] *See* Georgia State Letter.

[56] *See id.*

[57] *See* Aderant Letter.

[58] *See id.* at 1–2.

[59] *See* FINRA Response Letter at 4.

[60] *See id.*

[61] *See id.* (''FINRA staff believes that the deadline for all non-compliance should be . . . consistent, and that 30 days is sufficient.'').

[62] *See id.*

[63] *See id.*

[64] *See id.* at 4–6 (reflecting the text of FINRA's Amendment No. 1 to the proposed rule).

[65] *See* proposed FINRA Rule 12300(g)(2); *see also* Notice, 79 FR at 11492.

[66] *See* proposed FINRA Rule 12300(g)(3); *see also* Notice, 79 FR at 11492.

[67] *See* Georgia State Letter; PIABA Letter; St. John's Letter; and Pace Letter.

[68] *See* Georgia State Letter.

[69] *See id.*

[70] *See id.*

[71] *See* Pace Letter.

[72] *Id.* (stating that ''[i]f anything, pro se investors need more protection from the possibility of identity theft, not less'').

[73] *See id.; see also* Georgia State Letter at 2–3 (recommending that FINRA inform parties about the redaction process by (1) ''creating a guide outlining the process and offering tips for compliance'' and (2) providing instructions, in both the Submission Agreement and the notices of non-compliance, on how to redact documents and the risks associated with non-compliance).

complying with the proposed redaction obligations, then the simplified arbitration exemption should be amended to exempt all pro se parties and not just all claims under the Simplified Arbitration rules. If FINRA decides to adopt an exception for pro se parties, the commenter stated that FINRA should explain to pro se parties the importance of protecting confidential information and strongly encourage them to redact PCI from the documents they file with FINRA.[74]

Two other commenters recommended that FINRA exempt all pro se parties from complying with the proposed redaction requirements, and not just those filing simplified arbitration claims, noting that pro se claims may be heard in both arbitration and simplified arbitration.[75] One of these commenters also suggested that FINRA should not exempt represented parties in simplified arbitration as many claimants in simplified arbitration are represented by counsel.[76]

In its response, FINRA stated that the exemption for documents parties exchange with each other or submit to arbitrators at a hearing is appropriate because it ''would reduce the burden of the redaction requirements on the parties and would not raise the risk of DR staff transmitting PCI.'' [77] FINRA also noted that currently parties can agree to measures to help protect PCI in documents they share (*e.g.,* parties can agree to use secure shredding facilities to dispose of documents used at a hearings).[78] In addition, as a practical matter, FINRA does not receive copies of the documents parties exchange with each other during discovery, which would make policing that exchange more difficult.[79] Moreover, FINRA explained that if it instructed arbitrators to reject documents with PCI at a hearing, the rejection could disrupt the hearing, resulting in significant delays in completing a case.[80] FINRA also stated that given the current precautions in place it believes that, by adopting this exemption, ''it is taking a balanced approach to protecting PCI and minimizing burden on parties.'' [81]

FINRA also believes that the exemption for cases administered under the Simplified Arbitration rules is appropriate because, in part, ''the risk of FINRA, the parties, or arbitrators misdirecting or losing documents with PCI is reduced'' in simplified arbitration because, among other things, a single arbitrator resolves the dispute and hearings are not generally held in simplified arbitration.[82] In addition, FINRA also stated that there is a large concentration of pro se parties in cases administered under the Simplified Arbitration rules and, as previously noted, those parties may have greater difficulty with the redaction process than parties represented by counsel.[83] Finally, FINRA acknowledged that while not every simplified arbitration proceeding involves a pro se party and not every other type of arbitration proceeding involves represented parties, as a practical matter, ''having a clear distinction between cases administered under the Simplified Arbitration rules and all other cases makes application of the exemption more straight forward for FINRA staff administering cases.'' [84]

For the reasons stated above, FINRA declined to amend the two exemptions from its proposed redaction requirements.[85] FINRA also stated, however, that in order to respond to the concerns raised by commenters about the proposed exemption for cases administered under the Simplified Arbitration rules, FINRA would add a discussion to its Web page alerting pro se parties to the potential for identity theft associated with the disclosure of PCI and emphasizing the importance of excluding and/or redacting PCI from documents filed with FINRA.[86] FINRA believes that this is a practical approach to alerting pro se parties to the importance of protecting PCI. FINRA also noted that its staff answers parties' questions about the arbitration process on a regular basis, and that FINRA staff would explain the redaction process if asked by a party, pro se or otherwise.[87]

*C. Additional Redaction Requested by Certain Commenters*

Two commenters requested that FINRA amend the proposal to require the redaction of additional confidential information.[88] One commenter recommended that FINRA also require parties to redact the day and month of birth from documents filed with FINRA, noting that this would be consistent with the Federal Rules of Civil Procedure, Criminal Procedure, and Bankruptcy Procedure, and ''should not place an unreasonable burden on the parties.'' [89] The second commenter recommended that FINRA amend the proposal to require parties to redact the entire Social Security number and taxpayer identification number, stating that full redaction would provide the parties with more protection and would not be any more burdensome than partial redaction.[90] This second commenter also noted that FINRA's Discovery Guide already requires full redaction of these numbers for certain items set forth in the Document Production Lists.[91]

In response, FINRA stated that during the development of the proposed rule change, FINRA identified Social Security numbers, taxpayer identification numbers, and financial account numbers as the types of confidential information ''most commonly found in arbitration documents'' filed with DR and, as such, FINRA's constituents raised concerns only about those numbers.[92] Accordingly, FINRA declined to amend the proposal to require the redaction of an individual's date of birth at this time. FINRA also stated, however, that if the Commission approves the proposal, FINRA would ''consider whether it makes sense to propose additional redaction requirements after it evaluates the efficacy of the amendments.'' [93] In addition, FINRA stated that it would update and reissue its Protecting PCI Notice [94] to include a reference to birth dates.[95]

In its response, FINRA also stated that it believes that the last four digits of an individual's Social Security numbers, taxpayer identification numbers, and financial account numbers provide a useful way to identify parties and their accounts during an arbitration proceeding.[96] In addition, FINRA

[74] *Id.*

[75] *See* PIABA Letter and St. John's Letter.

[76] *See* St. John's Letter.

[77] *See* FINRA Response Letter at 2 (claiming that ''[t]he number and size of documents produced during discovery or submitted at a hearing can be voluminous, and the burden of redaction can be onerous'').

[78] *See id.* at 2–3.

[79] *See id.* at 3 n.6.

[80] *See id.* at 3.

[81] *See id.*

[82] *See id.*

[83] *See id.; see also* Notice, 79 FR at 11493 (noting that pro se parties may not be familiar with the practice of redacting documents).

[84] *See* FINRA Response Letter at 3.

[85] *See id.* at 3.

[86] *See id.* (explaining that FINRA's Web site provides resources to pro se parties in arbitration and mediation such as a section on its Web site entitled ''Resources for Investors Representing Themselves in FINRA Arbitrations and Mediations'').

[87] *See id.*

[88] *See* Georgia State Letter and PIABA Letter.

[89] Georgia State Letter at 2.

[90] *See* PIABA Letter.

[91] *See id.; see also* Georgia State Letter (claiming that FINRA's proposal ''would take away some investor protections that are already in place, since the FINRA Discovery Guide requires certain redactions on documents parties exchange in the discovery process'').

[92] *See* FINRA Response Letter at 3.

[93] *Id.*

[94] *See supra* note 19.

[95] *See* FINRA Response Letter at 3–4.

[96] *See id.* at 4 (FINRA also explained that its Discovery Guide, which requires full redaction for

explained that the Federal Rules of Civil Procedure allow parties to include the last four digits of the Social Security number and taxpayer identification number in filings made with the court.[97] For these reasons, FINRA declined to amend the proposal to require the redaction of individuals' entire Social Security numbers, taxpayer identification numbers, and financial account numbers.[98]

## IV. Solicitation of Comments on Amendment No. 1

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended by Amendment No. 1, is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2014–008 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2014–008. 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 FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2014–008 and should be submitted on or before June 24, 2014.

## V. Discussion and Commission Findings

After carefully considering the proposed rule change, as modified by Amendment No. 1, the comments submitted, and FINRA's response to the comments, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.[99] In particular, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Act,[100] which requires, among other things, that FINRA's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

As discussed above, FINRA proposes to amend the Customer Code and the Industry Code to provide that any document that a party files with FINRA that contains an individual's Social Security number, taxpayer identification number, or financial account number must be redacted to include only the last four digits of any of these numbers.[101] Pursuant to the proposal, the proposed redaction requirements would not apply to documents (1) that parties exchange with each other or submit to the arbitrators at a hearing on the merits [102] or (2) related to cases administered under its Simplified Arbitration rules.[103]

The Commission believes that the proposed rule change would further the purposes of the Act as it is reasonably designed to protect investors and the public interest. In particular, the Commission agrees with FINRA's assessment that prohibiting parties from submitting documents with PCI would help ''reduce the risk to forum users of identity theft.'' [104] The Commission also agrees with FINRA's assessment that given the processes FINRA already has in place,[105] the proposed redaction requirements should enhance FINRA's ongoing efforts to protect forum users' PCI and that the proposed exemptions to those redaction requirements provide relief from the burden of redaction at minimal risk to the parties.[106] The Commission also notes FINRA's representations, made in response to various commenters, to: (1) Amend its Web site to alert pro se parties to the potential for identity theft associated with the disclosure of PCI and emphasize the importance of excluding and/or redacting PCI from documents filed with FINRA; [107] (2) explain the redaction process to any pro se party seeking guidance; [108] (3) consider whether to propose additional redaction requirements after it evaluates the efficacy of the amendments; [109] and (4) update and reissue its 2010 Protecting PCI Notice to include a reference to birth dates.[110]

In addition, the Commission also believes that the clarification provided in Amendment No. 1 is also consistent with the Act. In response to FINRA's initial proposal, one commenter suggested that, as drafted, the proposed rule was ambiguous as to what event triggers the 30-day deadline for a non-complying party to correct a deficiency.[111] FINRA responded by partially amending its proposed rule to clarify that FINRA intends the deadline for correcting non-compliant documents to be 30 days from the time the party receives notice of non-compliance from FINRA.[112] The Commission agrees with FINRA's assessment that this trigger event is consistent with other trigger events used in its rules.[113] Accordingly,

certain items in the Document Production Lists, applies only to customer cases over $50,000, whereas the context of this proposed rule change is much broader).

[97] *See id.*

[98] *See id.*

[99] In approving the proposed rule change, the Commission has also considered the rule change's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[100] 15 U.S.C. 78o–3(b)(6).

[101] *See* proposed FINRA Rules 12300(g)(1) and 13300(g)(1); *see also* Notice, 79 FR at 11492.

[102] *See* proposed FINRA Rules 12300(g)(2) and 13300(g)(2); *see also* Notice, 79 FR at 11492.

[103] *See* proposed FINRA Rules 12300(g)(3) and 13300(g)(3); *see also* Notice, 79 FR at 11492.

[104] *See* FINRA Response Letter at 2; *see also* Notice, 79 FR at 11493.

[105] *See* FINRA Response Letter at 2 (explaining that, as a general matter, FINRA has procedures in place to guide its staff on how to keep confidential information safe, maintains an Information Privacy and Protection Policy, and administers Information Privacy and Protection training to all FINRA staff annually. FINRA also noted that DR has its own procedures for protecting confidential information).

[106] *See* FINRA Response Letter at 2; *see also* Notice, 79 FR at 11493.

[107] *See* FINRA Response Letter at 3.

[108] *See id.*

[109] *See* id.

[110] *See id.* at 3–4.

[111] *See* Aderant Letter.

[112] *See* FINRA Response Letter at 4–6 (reflecting the text of FINRA's Amendment No. 1 to the proposed rule change).

[113] *See id.* at 4 (stating that FINRA believes that the deadline for all non-compliance should be consistent under FINRA's deficient claim rules).

the Commission believes that Amendment No. 1 is consistent with the Act.

## VI. Accelerated Approval

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[114] for approving the proposed rule change, as amended by Amendment No. 1 thereto, prior to 30th day after publication of Amendment No. 1 in the **Federal Register**. As discussed above, Amendment No. 1 responds to one concern raised by a commenter by partially amending FINRA's proposed rule change to clarify that FINRA intends the deadline for correcting non-compliant documents to be 30 days from the time the party receives notice of non-compliance from FINRA. The scope of the amendment adds clarity to one aspect of the proposal, and does not raise any novel regulatory concerns. Furthermore, accelerated approval would allow FINRA to institute the proposed rule change, as amended by Amendment No. 1, without delay. Accordingly, the Commission finds that good cause exists to approve the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

## VII. Conclusion

*It is therefore ordered,* pursuant to Section 19(b)(2) of the Act,[115] that the proposed rule change (SR–FINRA–2014–008), as modified by Amendment No. 1, be and hereby is approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[116]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014–12771 Filed 6–2–14; 8:45 am]

**BILLING CODE 8011–01–P**

[114] 15 U.S.C. 78s(b)(2).

[115] *Id.*

[116] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–72267; File No. SR–CBOE–2014–031]**

## Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Withdrawal of a Proposed Rule Change To Amend the Fees Schedule

May 28, 2014.

On March 28, 2014, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,[1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt a fee of $50 per month per login ID for off-floor PULSe Workstation users that elect to access a Complex Order Book Feed. On May 27, 2014, the Exchange withdrew the proposed rule change (SR–CBOE–2014–031).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[3]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014–12770 Filed 6–2–14; 8:45 am]

**BILLING CODE 8011–01–P**

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–72265; File No. SR–NYSEArca–2013–127]**

## Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change, as Modified by Amendments No. 1 and No. 2 Thereto, To List and Trade Shares of Nine Series of the IndexIQ Active ETF Trust Under NYSE Arca Equities Rule 8.600

May 28, 2014.

On November 18, 2013, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares of the IQ Long/Short Alpha ETF, IQ Bear U.S. Large Cap ETF, IQ Bear U.S. Small Cap ETF, IQ Bear International ETF, IQ Bear Emerging Markets ETF, IQ Bull U.S. Large Cap ETF, IQ Bull U.S. Small Cap ETF, IQ Bull International ETF and IQ Bull Emerging Markets ETF (collectively, ''Funds''). On November 26, 2013, the Exchange filed Amendment No. 1 to the proposed rule change.[3] The proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal Register** on December 4, 2013.[4]

On January 15, 2014, pursuant to Section 19(b)(2) of the Act,[5] the Commission designated a longer period within which to either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[6] On March 4, 2014, the Commission instituted proceedings to determine whether to approve or disapprove the proposed rule change.[7] On April 11, 2014, the Exchange submitted Amendment No. 2 to the proposed rule change.[8] The Commission received no comments on the proposed rule change.

Section 19(b)(2) of the Act [9] provides that, after initiating disapproval proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule change was published for notice and comment in the **Federal Register** on December 4, 2013. June 2, 2014 is 180 days from that date, and August 1, 2014 is 240 days from that date.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 clarifies (i) how certain holdings will be valued for purposes of calculating a fund's net asset value, and (ii) where investors will be able to obtain pricing information for certain underlying holdings.

[4] Securities Exchange Act Release No. 70954 (November 27, 2013), 78 FR 72955 (''Notice'').

[5] 15 U.S.C. 78s(b)(2).

[6] *See* Securities Exchange Act Release No. 71309, 79 FR 3657 (January 22, 2014). The Commission determined that it was appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission designated March 4, 2014 as the date by which it should approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

[7] *See* Securities Exchange Act Release No. 71645, 79 FR 13349 (March 10, 2014).

[8] In Amendment No. 2, the Exchange provided additional details describing how the contents of the portfolio composition of the Fund would be disclosed on a daily basis. Specifically, the Fund will disclose on the Fund's Web site the following information regarding each portfolio holding, as applicable to the type of holding: ticker symbol, CUSIP number or other identifier, if any; a description of the holding (including the type of holding, such as the type of swap); the identity of the security, commodity, index or other asset or instrument underlying the holding, if any; for options, the option strike price; quantity held (as measured by, for example, par value, notional value or number of shares, contracts or units); maturity date, if any; coupon rate, if any; effective date, if any; market value of the holding; and the percentage weighting of the holding in the applicable Fund's portfolio.

[9] 15 U.S.C. 78s(b)(2).

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider this proposed rule change. The proposed rule change would permit the listing and trading of shares of the Funds, which intend to invest primarily in exchange-traded funds (''ETFs''), swap agreements, options contracts and futures contracts. Four of the Funds would use the leverage inherent in swaps and other derivatives to give the funds 200% exposure to their investments.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[10] designates August 1, 2014 as the date by which the Commission should either approve or disapprove the proposed rule change (File Number SR–NYSEArca–2013–127), as modified by Amendments No. 1 and No. 2 thereto.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014–12768 Filed 6–2–14; 8:45 am]

**BILLING CODE 8011–01–P**

[10] *Id.*

[11] 17 CFR 200.30–3(a)(57).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–72266; File No. SR–OCC–2014–10]**

## Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Require That Intraday Margin Be Collected and Margin Assets Not Be Withdrawn When a Clearing Member's Reasonably Anticipated Settlement Obligations to OCC Would Exceed the Liquidity Resources Available to OCC To Satisfy Such Settlement Obligations

May 28, 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 19, 2014, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by OCC. OCC filed the proposal pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(1) thereunder[4] so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(1).

### I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

This proposed rule change by OCC would amend OCC's Rules to require (rather than continue to permit as a discretionary determination) that intraday margin be collected and margin assets not be withdrawn when a clearing member's reasonably anticipated settlement obligations to OCC would exceed the liquidity resources available to OCC to satisfy such settlement obligations.

### II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

*(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The purpose of the proposed rule change is to modify existing OCC Rules 608 and 609 (collectively, the ''Rules''), which address the withdrawal of margin and deposit of intra-day margin, respectively. More specifically, OCC is proposing to modify these Rules to require that intraday margin be collected and to preclude margin assets from being withdrawn, to the extent that a clearing member's reasonably anticipated settlement obligations to OCC would exceed the liquidity resources available to OCC to satisfy such settlement obligations (a ''Liquidity Situation'').

OCC Rule 608 (''Rule 608'') already permits OCC to prohibit margin withdrawals in a Liquidity Situation, and OCC Rule 609 (''Rule 609'') already permits OCC to require the collection of intraday margin in a Liquidity Situation. In 2012,[5] OCC adopted an interpretation under each of the Rules to put clearing members on notice that OCC may refuse a margin withdrawal request or request additional intra-day margin where a clearing member's future settlement obligations could result in a need for liquidity in excess of liquidity resources available to OCC. In adopting the interpretations, OCC made it clear that such action might be taken even though OCC has made no adverse determination as to the financial condition of the clearing member,[6] the market risk of the clearing member's positions, or the adequacy of the clearing member's total overall margin deposit in the accounts in question.

OCC further identified that a circumstance in which OCC might desire to reject a margin withdrawal request or make an intra-day margin call to ensure it had sufficient liquidity concerned the ''unwinding'' of a ''box spread'' position. A box spread position involves a combination of two long and two short options on the same underlying interest with the same expiration date that results in an amount to be paid or received upon settlement that is fixed regardless of fluctuations in the price of the underlying interest. Box spreads can be used as financing transactions, and they may require very large fixed payments upon expiration. In this situation, if much of the margin deposited by the relevant clearing member is in the form of common stock and if the clearing member failed to make the settlement payment, the available liquidity resources might be insufficient to cover the settlement obligation. In anticipation of this settlement, OCC might therefore require the clearing member to deposit intra-day margin in the form of cash, or reject a requested withdrawal of cash or U.S. Government securities, so that liquidity resources would be sufficient to cover the clearing member's obligations. Under the adopted interpretations, OCC would always include margin assets of the relevant clearing member in the form of cash in determining available liquidity resources and could, in its discretion, consider the amount of margin assets in the form of highly liquid U.S. Government securities and/or the amount that OCC would be able to borrow on short order.

Since the adoption of these interpretations, OCC has effected margin calls and precluded clearing members from withdrawing liquid forms of margin assets in three instances, each of which involved the ''unwind'' of a box

[5] *See* Securities Exchange Act Release No. 68308 (November 28, 2012), 77 FR 71848 (December 4, 2012) (SR–OCC–2012–21).

[6] *Id* at 71849.

spread.[7] In two instances, the affected clearing member had sufficient ''liquid'' forms of margin (i.e., cash and cash equivalents) already on deposit with OCC to meet the applicable intraday margin calls.[8] However, in the third instance, the affected clearing member did not have a sufficient amount of liquid forms of margin on deposit with OCC and was required to make a margin deposit in the form of cash.[9] In all of the instances, the amount of margin that OCC prohibited from being withdrawn was less than thirty percent of the affected clearing member's total margin deposit at OCC.

While the current rule authority has achieved its intended purpose, going forward, and for the protection of its clearing members and the public, OCC believes it should make the margin withdrawal prohibition and the intra-day collection of margin mandatory, not discretionary, in a Liquidity Situation. Moreover, making these actions mandatory in a Liquidity Situation would create greater certainty that OCC's liquidity resources, under such circumstances, would be sufficient to cover the clearing member's settlement obligations.

Accordingly, the proposed changes to Rules 608 and 609 would make OCC's application of the withdrawal restriction and intraday margin collection requirement non-discretionary in a Liquidity Situation. Additional amendments to Interpretation & Policy .02 to Rule 608 and Interpretation & Policy .01 to Rule 609 are designed to remove any references suggesting that the margin withdrawal restriction or intraday margin collection requirement, respectively, is discretionary.

OCC has already provided its clearing members with notification concerning the proposed rule change. In addition, OCC individually contacted the clearing members that OCC identified to be most affected by the proposed rule change. No concerns were raised.

2. Statutory Basis

OCC believes the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act,[10] and the rules and regulations thereunder, including Rule 17Ad–22(b)(3),[11] because the proposed rule change provides for the safeguarding of securities and funds in the custody and control of OCC for which it is responsible as well as ensuring that OCC maintains sufficient liquid financial resources to withstand the default of a clearing member to which it has the largest exposure in extreme, but plausible, market conditions. The proposed change will enhance OCC's margin policies by making certain intra-day margin calls and certain prohibitions of margin withdrawals mandatory rather than discretionary, thereby strengthening OCC's risk management process as its relates to OCC's access to financial resources with minimal delay in the event of clearing member default (including the default of the clearing member to which OCC has the largest exposure) in extreme, but plausible, market conditions. Improving OCC's available liquid financial resources enhances OCC's financial stability and, consequently, reduces systemic risk within the financial system as a whole. Additionally, making the margin withdrawal restriction and intraday margin collection requirements mandatory, rather than applied only at OCC's discretion, furthers the goal of Rule 17Ad–22(d)(1)[12] by ensuring that OCC will maintain written policies and procedures that provide for a well-founded, transparent, and enforceable legal framework for its activities. The proposed rule change is not inconsistent with the existing rules of OCC, including any other rules proposed to be amended.

*(B) Clearing Agency's Statement on Burden on Competition*

OCC does not believe that the proposed rule change would impose a burden on competition.[13] This proposed rule change affects OCC clearing members and OCC believes that the proposed rule change would not disadvantage or favor any particular clearing member in relationship to another clearing member because the non-discretionary margin collection requirements and margin withdrawal restrictions will be applied equally to every clearing member in a Liquidity Situation. Accordingly, the proposed rule change will not impose any burden on competition.

*(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments on the proposed rule change were not and are not intended to be solicited with respect to the proposed rule change and none have been received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[14] and paragraph (f)(1) of Rule 19b–4 thereunder.[15] 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.[16]

**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–OCC–2014–10 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–OCC–2014–10. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements

[7] With respect to each of the three instances, there were several different dates on which OCC made an intraday margin call and prohibited the withdrawal of margin assets. Moreover, and with respect to the intraday margin calls, OCC required the clearing member to deposit additional cash, or cash equivalents, so that the clearing member's anticipated settlement obligation less OCC's liquid financial resources equaled the amount of the clearing member's cash, or cash equivalent, margin on deposit at OCC on the day the intraday margin call was made. In this context, OCC only considers letters of credit to be cash equivalents.

[8] It is not uncommon for clearing members to deposit with OCC amounts in excess of their margin requirement.

[9] With respect to the one instance, there were several different dates when OCC required the deposit of additional intra-day margin.

[10] 15 U.S.C. 78q–1(b)(3)(F).

[11] 17 CFR 240.17Ad–22(b)(3).

[12] 17 CFR 240.17Ad–22(d)(1).

[13] 15 U.S.C. 78q–1(b)(3)(I).

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(1).

[16] Notwithstanding the foregoing, implementation of this rule change will be delayed until this rule change is deemed certified under CFTC Regulation § 40.6.

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 OCC and on OCC's Web site (*http://www.theocc.com/about/publications/bylaws.jsp*). All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–OCC–2014–10 and should be submitted on or before June 24, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014–12769 Filed 6–2–14; 8:45 am]

BILLING CODE 8011–01–P

[17] 17 CFR 200.30–3(a)(12).

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #13950 and #13951]**

### Indiana Disaster Number IN–00054

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Amendment 1.

**SUMMARY:** This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Indiana (FEMA–4173–DR), dated 04/22/2014.

*Incident:* Severe Winter Storm and Snowstorm.

*Incident Period:* 01/05/2014 through 01/09/2014.

*Effective Date:* 05/23/2014.

*Physical Loan Application Deadline Date:* 06/23/2014.

*Economic Injury (EIDL) Loan Application Deadline Date:* 01/22/2015.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of INDIANA, dated 04/22/2014, is hereby amended to include the following areas as adversely affected by the disaster.

*Primary Counties:*

Blackford; Clinton; Fulton; Hamilton; Johnson; Lagrange; Marion; Montgomery; Vanderburgh.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

**James E. Rivera,**

*Associate Administrator, for Disaster Assistance.*

[FR Doc. 2014–12752 Filed 6–2–14; 8:45 am]

BILLING CODE 8025–01–P

## SMALL BUSINESS ADMINISTRATION

### National Small Business Development Center Advisory Board

**AGENCY:** U.S. Small Business Administration (SBA).

**ACTION:** Notice of open Federal Advisory Committee meetings.

**SUMMARY:** The SBA is issuing this notice to announce the change in date and time and agenda for June 17, 2014 meeting of the National Small Business Development Center (SBDC) Advisory Board.

**DATES:** The meeting for June will be held on the following date: Wednesday, June 25, 2014 at 2:00 p.m. EST.

**ADDRESSES:** This meeting will be held via conference call.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 10(a) of the Federal Advisory Committee Act (5 U.S.C. Appendix 2), SBA announces the meetings of the National SBDC Advisory Board. This Board provides advice and counsel to the SBA Administrator and Associate Administrator for Small Business Development Centers.

The purpose of this meeting is to discuss following issues pertaining to the SBDC Advisory Board:

—SBA Update
—Annual Meetings
—Board Assignments
—Member Roundtable

**FOR FURTHER INFORMATION CONTACT:** The meeting is open to the public however advance notice of attendance is requested. Anyone wishing to be a listening participant must contact Monika Nixon by fax or email. Her contact information is Monika Nixon, Program Specialist, 409 Third Street SW., Washington, DC 20416, Phone, 202–205–7310, Fax 202–481–5624, email, *monika.nixon@sba.gov.*

Additionally, if you need accommodations because of a disability or require additional information, please contact Monika Nixon at the information above.

**Diana Doukas,**

*Committee Management Officer.*

[FR Doc. 2014–12751 Filed 6–2–14; 8:45 am]

BILLING CODE 8025–01–P

## DEPARTMENT OF STATE

**[Public Notice 8753]**

### Determination by the Secretary of State Relating to Iran Sanctions

**AGENCY:** Department of State.

This notice is to inform the public that the Secretary of State determined on May 27, 2014, pursuant to Section 1245(d)(4)(D) of the National Defense Authorization Act for Fiscal Year 2012 (NDAA) (Pub. L. 112–81), as amended by the Iran Threat Reduction and Syria Human Rights Act (Pub. L. 112–158), that as of May 27, 2014, each of the following purchasers of oil from Iran has qualified for the 180-day exception outlined in section 1245(d)(4)(D): Malaysia, Singapore, South Africa. The Secretary of State last made exception determinations under Section 1245(d)(4)(D) of the NDAA regarding these purchasers on November 29, 2013.

**FOR FURTHER INFORMATION CONTACT:** Amos J. Hochstein, Deputy Assistant Secretary of State, Bureau of Energy Resources, (202) 736–7873.

**Amos J. Hochstein,**

*Deputy Assistant Secretary of State, Bureau of Energy Resources, Department of State.*

[FR Doc. 2014–12811 Filed 6–2–14; 8:45 am]

BILLING CODE 4710–07–P

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

### Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending May 3, 2014

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier

Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

*Docket Number:* DOT–OST–1996–1023 and DOT–OST–1996–1071.

*Date Filed:* April 28, 2014.

*Due Date for Answers, Conforming Applications, or Motion to Modify Scope:* May 19, 2014.

*Description:* Application of Gulf & Caribbean Cargo, Inc. requesting reissuance of its certificates of public convenience and necessity to remove the restriction on the total number of large aircraft Gulf & Caribbean is authorized to operate.

*Docket Number:* DOT–OST–2013–0085.

*Date Filed:* April 28, 2014.

*Due Date for Answers, Conforming Applications, or Motion to Modify Scope:* May 19, 2014.

*Description:* Application of Empresa Publica TAME Linea Aerea del Ecuador TAME EP (''TAME'') requesting that the Department amend its foreign air carrier permit to enable it to engage in scheduled foreign air transportation of persons, property, and mail between Quito, Ecuador, on the one hand, and Fort Lauderdale, Florida, on the other hand. TAME also requests exemption authority to the extent necessary so that they may exercise the rights requested in this Application prior to the issuance of the amended foreign air carrier permit.

**Barbara J. Hairston,**

*Supervisory Dockets Officer, Docket Operations, Federal Register Liaison.*

[FR Doc. 2014–12791 Filed 6–2–14; 8:45 am]

**BILLING CODE 4910–9X–P**

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

### Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending May 17, 2014

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 et seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

*Docket Number:* DOT–OST–2014–0071

*Date Filed:* May 12, 2014

*Due Date for Answers, Conforming Applications, or Motion to Modify Scope:* June 2, 2014

*Description:*

Application of Dynamic Airways, LLC (''Dynamic'') requesting a certificates of public convenience and necessity authorizing Dynamic to engage in interstate scheduled air transportation of persons, property and mail.

*Docket Number:* DOT–OST–2014–0069

*Date Filed:* May 12, 2014

*Due Date for Answers, Conforming Applications, or Motion to Modify Scope:* June 2, 2014

*Description:*

Application of Dynamic Airways, LLC (''Dynamic'') requesting a certificates of public convenience and necessity authorizing Dynamic to engage in foreign scheduled air transportation of persons, property and mail.

**Barbara J. Hairston,**

*Supervisory Dockets Officer, Docket Operations, Federal Register Liaison.*

[FR Doc. 2014–12806 Filed 6–2–14; 8:45 am]

**BILLING CODE 4910–9X–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

### Notice of Final Federal Agency Actions on Proposed Highways in Colorado

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of Limitation on Claims for Judicial Review of Actions by FHWA and Other Federal Agencies.

**SUMMARY:** This notice announces actions taken by the FHWA and other Federal agencies that are final within the meaning of 23 U.S.C. 139(l)(1). The actions relate to various proposed highway projects in the State of Colorado. Those actions grant licenses, permits, and approvals for the projects.

**DATES:** By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on any of the listed highway projects will be barred unless the claim is filed on or before October 31, 2014. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

**FOR FURTHER INFORMATION CONTACT:** Stephanie Gibson, Environmental Program Manager, Federal Highway Administration Colorado Division, 12300 W. Dakota Avenue, Lakewood, Colorado 80228, 720–963–3013, *Stephanie.gibson@dot.gov* normal business hours are 8:00 a.m. to 4:30 p.m. (Mountain time); You may also contact Vanessa Henderson, NEPA Program Manager, Colorado Department of Transportation, 4201 E. Arkansas Avenue, Shumate Building, Denver, Colorado 80222, 303–757–9878, *Vanessa.henderson@dot.state.co.us,* normal business hours are 7:00 a.m. to 4:30 p.m. (Mountain time).

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that the FHWA and other Federal agencies have taken final agency actions by issuing licenses, permits, and approvals for the highway projects in the State of Colorado that are listed below. The actions by the Federal agencies on a project, and the laws under which such actions were taken, are described in the environmental assessment (EA) or environmental impact statement (EIS) issued in connection with the project and in other key project documents. The EA or EIS, and other key documents for the listed projects are available by contacting the FHWA or the Colorado Department of Transportation at the addresses provided above. The EA, Finding of No Significant Impact (FONSI), Final EIS, and Record of Decision (ROD) documents can be viewed and downloaded from the Web sites listed below.

This notice applies to all Federal agency decisions on the project as of the issuance date of this notice and all laws under which such actions were taken. This notice does not, however, alter or extend the limitation period of 150 days for challenges to final agency actions subject to previous notices published in the **Federal Register**, including notice given by the Federal Transit Administration on September 23, 2010 related to U.S. 36 (75 FR 58017).

This notice applies to all Federal agency decisions, actions, approvals, licenses and permits on the project as of the issuance date of this notice, including but not limited to those

arising under the following laws, as amended:

1. General: National Environmental Policy Act [42 U.S.C. 4321–4347]; Federal-Aid Highway Act [23 U.S.C. 109].

2. Air: Clean Air Act, as amended [42 U.S.C. 7401–7671(q)].

3. Land: Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303]; Landscaping and Scenic Enhancement (Wildflowers) [23 U.S.C. 319].

4. Wildlife: Endangered Species Act [16 U.S.C. 1531–1544]; Fish and Wildlife Coordination Act [16 U.S.C. 661–667(e)]; Magnuson-Stevenson Fishery Conservation and Management Act of 1976, as amended [16 U.S.C. 1801 et seq.].

5. Historic and Cultural Resources: Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470f]; Archaeological Resources Protection Act of 1977 [16 U.S.C. 470aa–470mm]; Archaeological and Historic Preservation Act [16 U.S.C. 469–469c–2]; Native American Grave Protection and Repatriation Act [25 U.S.C. 3001–3013].

6. Social and Economic: Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act [7 U.S.C. 4201–4209]; the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended [42 U.S.C. 61].

7. Wetlands and Water Resources: Clean Water Act, 33 U.S.C. 1251–1377 [Section 404, Section 401, Section 319]; Land and Water Conservation Fund Act [16 U.S.C. 4601–4–4601–11]; Safe Drinking Water Act [42 U.S.C. 300f et seq.]; Rivers and Harbors Act of 1899 [33 U.S.C. 401–406]; TEA–21 Wetlands Mitigation [23 U.S.C. 103(b)(6)(m), 133(b)(11)]; Flood Disaster Protection Act [42 U.S.C. 4001–4129].

8. Hazardous Materials: Comprehensive Environmental Response, Compensation, and Liability Act [42 U.S.C. 9601–9675]; Superfund Amendments and Reauthorization Act of 1986 [PL 99–499]; Resource Conservation and Recovery Act [42 U.S.C. 6901–6992(k)].

9. Executive Orders: E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898 Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species. The projects subject to this notice are:

1. *North I–25 EIS and 404 Permit.* Project Location: I–25 corridor from Denver to Wellington in northern Colorado. Project reference number: IM 0253(179). Project overview: The I–25 North project is an improvements project that includes; general purpose lanes, tolled express lanes, interchange reconstruction, and multi-modal services such as: I–25 express bus, US 85 commuter bus, and commuter rail service. Project purpose: The purpose of the I–25 North project is to make improvements to provide modal alternatives, correct geometric deficiencies, improve safety, mobility and accessibility, and replace aging and obsolete infrastructure. Signed NEPA documents and permits: FEIS was signed August 19, 2011 and ROD was signed December 29, 2011. Department of the Army Permit No. NWO–2004–80110–DEN issued on May 17, 2013. *http://www.coloradodot.info/projects/north-i-25-eis.*

2. *Arapahoe and I–25 EA.* Project Location: Interstate 25 (I–25)/Arapahoe Interchange Complex. Project reference number: STA 0251(330). Project Overview: The I–25/Arapahoe Interchange project is an interchange improvement project, to improve congestion between I–25 and Arapahoe Road Interchange Complex. Project Purpose: The purpose of the project is to reduce congestion and improve traffic operations and safety for the traveling public within the I–25 and Arapahoe Road interchange complex. Signed NEPA Documents and permits: EA was signed on August 29, 2012 and FONSI on February 22, 2013. *www.I25ArapahoeRoadEA.com.*

3. *I–25 Improvements through Pueblo EIS.* Project Location: I–25 from just south of US 50/SH 47 to just south of Pueblo Boulevard in Pueblo, Colorado, a distance of approximately 7 miles. Project reference number: IM 0251–156. Project overview: The roadway in this section pre-dates the interstate system and is among the oldest segments of the interstate system in Colorado. The Modified I–25 Alternative would widen I–25 from four to six lanes through much of the project area and reconstructs and reconfigures interchanges throughout. The central part of the project would be realigned, and a portion of the existing highway would be converted to a local road. Project purpose: The purpose of the project is to improve safety by addressing deteriorating roadways and bridges and non-standard road characteristics on I–25 and improve local and regional mobility within and through Pueblo to meet existing and future travel demands. Signed NEPA documents and permits: FEIS was signed on August 15, 2013 and ROD was signed on April 17, 2014. *www.newpueblofreeway.org/.*

4. *Dillon Extension EA.* Location: I–25 to Platteville Boulevard/Dillon Drive south of the existing Eden Interchange in Pueblo County, CO. Federal project number: 0251(331). Project overview: The proposed new access to I–25 requires construction of a new bridge over I–25 at Platteville Boulevard/Dillon Drive and new on and off ramps to I–25 South of the bridge. This configuration is known as a split diamond interchange. The split diamond interchange will connect Platteville Boulevard/Dillon Drive and Eden Road. A new one-way frontage road east of I–25 and a two-way frontage road along the west side of I–25 would connect the south half of this interchange at Platteville Boulevard/Dillon Drive with the north half at Eden Road. Project purpose: The project is designed to provide more direct access to I–25 from Pueblo West, and to accommodate traffic from existing and planned growth along Platteville Boulevard/Dillon Drive west of I–25. Signed NEPA documents and permits: EA was signed on January 26, 2011 and the FONSI signed on July 27, 2011. *http://www.pacog.net/pacog/dillon-eden-interchange-project*

5. *North Meadows EA.* Location: Primarily in the northern portion of the Town of Castle Rock and Douglas County, CO. Project overview: The North Meadows Extension project is an interchange project that will provide a second northern access to the Meadows development area, Castle View High School, and Castle Rock Middle School to and from US 85 and I–25. Additionally, the project will improve operations and safety in the vicinity of the I–25/Meadows Parkway interchange, which is being compromised by off-ramp backups on the mainline I–25 and by over-capacity on-ramp merges. Project purpose: The purpose of the project is to relieve traffic congestion and improve safety at the US 85/Meadows Parkway intersection and I–25/Meadows Parkway interchange. Signed NEPA documents and permits: EA was signed on March 23, 2010 and the FONSI was signed on March 17, 2011. *http://crgov.com/index.aspx?nid=373.*

**Authority:** 23 U.S.C. 139(l)(1).

Dated: May 20, 2014.

**John M. Cater,**

*Division Administrator, Lakewood, Colorado.*

[FR Doc. 2014–12611 Filed 6–2–14; 8:45 am]

**BILLING CODE 4910–22–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

### Sunshine Act Meetings; Unified Carrier Registration Plan Board of Directors

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of Unified Carrier Registration Plan Board of Directors meeting.

**TIME AND DATE:** The meeting will be held on June 11, 2014, from 8 a.m. to 12 noon, Pacific Daylight Time.

**PLACE:** This meeting will be open to the public at the Mayflower Park Hotel, 405 Olive Way, Seattle, WA 98101 and via conference call. Those not attending the meeting in person may call 1–877–422–1931, passcode 2855443940, to listen and participate in this meeting.

**STATUS:** Open to the public.

**MATTERS TO BE CONSIDERED:** The Unified Carrier Registration Plan Board of Directors (the Board) will continue its work in developing and implementing the Unified Carrier Registration Plan and Agreement and to that end, may consider matters properly before the Board.

**FOR FURTHER INFORMATION CONTACT:** Mr. Avelino Gutierrez, Chair, Unified Carrier Registration Board of Directors at (505) 827–4565.

Issued on: May 28, 2014.

**Larry W. Minor,**

*Associate Administrator, Office of Policy, Federal Motor Carrier Safety Administration.*

[FR Doc. 2014–13000 Filed 5–30–14; 4:15 pm]

**BILLING CODE 4910–EX–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2013–0445]**

### Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of applications for exemption, request for comments.

**SUMMARY:** FMCSA announces receipt of applications from 11 individuals for an exemption from the prohibition against persons with a clinical diagnosis of epilepsy or any other condition which is likely to cause a loss of consciousness or any loss of ability to operate a commercial motor vehicle (CMV) from operating CMVs in interstate commerce. The regulation and the associated advisory criteria published in the Code of Federal Regulations as the ''Instructions for Performing and Recording Physical Examinations'' have resulted in numerous drivers being prohibited from operating CMVs in interstate commerce based on the fact that they have had one or more seizures and are taking anti-seizure medication, rather than an individual analysis of their circumstances by a qualified medical examiner. If granted, the exemptions would enable these individuals who have had one or more seizures and are taking anti-seizure medication to operate CMVs for 2 years in interstate commerce.

**DATES:** Comments must be received on or before July 3, 2014.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–2013–0445 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Each submission must include the Agency name and the docket ID for this Notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

*Docket:* For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

*Privacy Act:* Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on January 17, 2008 (73 FR 3316; January 17, 2008). This information is also available at *http://Docketinfo.dot.gov.*

**FOR FURTHER INFORMATION CONTACT:** Elaine Papp, Chief, Medical Programs Division, (202) 366–4001, or via email at *fmcsamedical@dot.gov,* or by letter FMCSA, Room W64–113, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

### Background

Under 49 U.S.C. 31315 and 31136(e), FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statutes also allow the Agency to renew exemptions at the end of the 2-year period. The 11 individuals listed in this notice have recently requested an exemption from the epilepsy prohibition in 49 CFR 391.41(b)(8), which applies to drivers who operate CMVs as defined in 49 CFR 390.5, in interstate commerce. Section 391.41(b)(8) states that a person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

FMCSA provides medical advisory criteria for use by medical examiners in determining whether drivers with certain medical conditions should be certified to operate CMVs in intrastate commerce. The advisory criteria indicate that if an individual has had a sudden episode of a non-epileptic seizure or loss of consciousness of unknown cause which did not require anti-seizure medication, the decision whether that person's condition is likely to cause the loss of consciousness or loss of ability to control a CMV should

be made on an individual basis by the medical examiner in consultation with the treating physician. Before certification is considered, it is suggested that a 6-month waiting period elapse from the time of the episode. Following the waiting period, it is suggested that the individual have a complete neurological examination. If the results of the examination are negative and anti-seizure medication is not required, then the driver may be qualified.

In those individual cases where a driver had a seizure or an episode of loss of consciousness that resulted from a known medical condition (e.g., drug reaction, high temperature, acute infectious disease, dehydration, or acute metabolic disturbance), certification should be deferred until the driver has fully recovered from that condition, has no existing residual complications, and is not taking anti-seizure medication. Drivers who have a history of epilepsy/seizures, off anti-seizure medication and seizure-free for 10 years, may be qualified to operate a CMV in interstate commerce. Interstate drivers with a history of a single unprovoked seizure may be qualified to drive a CMV in interstate commerce if seizure-free and off anti-seizure medication for a 5-year period or more.

**Submitting Comments**

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission. To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number ''FMCSA–2013–0445'' and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

**Viewing Comments and Documents**

To view comments, as well as any documents mentioned in this preamble, To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number ''FMCSA–2013–0445'' and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

**Summary of Applications**

*Raymond C. Burns, Jr.*

Mr. Burns is a 60 year-old class C chauffeur license holder in Michigan. He has a history of epilepsy and has remained seizure free since 2007. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Burns receiving an exemption.

*Ronald G. Blout, Jr.*

Mr. Blout is a 33 year-old class A CDL holder in Georgia. He has a history of seizures and has remained seizure free since 2005. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Blout receiving an exemption.

*John S. Darden, Jr.*

Mr. Darden is a 39 year-old driver in California. He has a history of seizures and his last seizure was in 1996. He takes anti-seizure medication with the dosage and frequency remaining the same for over 2 years. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Darden receiving an exemption.

*Christopher F. Dodson*

Mr. Dodson is a 34 year-old driver in Pennsylvania. He has a history of seizure disorder and has remained seizure free since 2010. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Dodson receiving an exemption.

*Wayne L. Guthrie*

Mr. Guthrie is a 26 year-old class A CDL holder in Ohio. He has a history of epilepsy and has remained seizure free since 2011. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Guthrie receiving an exemption.

*Randy S. Hoffmann*

Mr. Hoffman is a 46 year-old driver in Pennsylvania. He has a history of seizures and has remained seizure free since 1999. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Hoffman receiving an exemption.

*Patricia V. Morgan*

Ms. Morgan is a 55 year-old driver in North Carolina. She has a history of seizure disorder and has remained seizure free since 2012. She takes anti-seizure medication with the dosage and frequency remaining the same for 10 years. Her physician states that she is supportive of Ms. Morgan receiving an exemption.

*Marcus Reamon*

Mr. Reamon is a 36 year-old driver in Virginia. He has a history of a seizure and has remained seizure free since 2008. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Reamon receiving an exemption.

*Jerrod Rust*

Mr. Rust is a 38 year-old driver in Kentucky. He has a history of epilepsy and has remained seizure free since 2012. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Rust receiving an exemption.

*Walter J. Siwula, III*

Mr. Siwula is a 54 year-old driver in Pennsylvania. He has a history of seizures and has remained seizure free since 2009. He takes anti-seizure medication with the dosage and frequency remaining the same for 2 years. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Siwula receiving an exemption.

*Paul D. Thompson*

Mr. Thompson is a 51 year-old driver in Oklahoma. He has a history of seizure disorder and has remained seizure free since 1991. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Thompson receiving an exemption.

**Request for Comments**

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA requests public comment from all interested persons on the exemption applications described in this notice. We will consider all comments received before the close of business on the closing date indicated earlier in the notice.

Issued on: May 16, 2014.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2014–12790 Filed 6–2–14; 8:45 am]

**BILLING CODE 4910–EX–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

**[Docket No. FRA–2014–0011–N–12]**

### Proposed Agency Information Collection Activities; Comment Request

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Notice and Request for Comments

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, this notice announces that the renewal Information Collection Request (ICR) abstracted below is being forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** notice with a 60-day comment period soliciting comments on the following collection of information was published on March 21, 2014 (79 FR 15795).

**DATES:** Comments must be submitted on or before July 3, 2014.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert Brogan, Office of Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 25, Washington, DC 20590 (Telephone: (202) 493–6292), or Ms. Kimberly Toone, Office of Information Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 35, Washington, DC 20590 (Telephone: (202) 493–6132). (These telephone numbers are not toll-free.)

**SUPPLEMENTARY INFORMATION:** The Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, sec. 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On March 21, 2014, FRA published a 60-day notice in the **Federal Register** soliciting comment on ICRs that the agency was seeking OMB approval. *See* 79 FR 15795. FRA received one comment in response to this notice.

The comment was not about the collection of information itself, its requirements, or the burden estimates delineated in the **Federal Register** Notice. Rather, it pertained to the issue of fatigue and came from a resident, Ms. Michelle Horton, of East Moline, Illinois. She wrote the following:

> As a wife of a railroader I feel an area of what you are classifying as ''fatigue'' is only in context of scheduled hours worked. Identifying the ''fatigue'' is the issue. Currently railroad employees are required to work in conditions that in itself cause fatigue. Switch men walking miles a day in -30 [degree] weather, at times in two feet of snow, in blizzard conditions for 8 hours a day is detrimental to their health, but with hours of service laws, employers can force these men to work in these conditions for 12 hours for 5 days straight. AND they do it. In opposite conditions 110 degrees and no wind walking miles a day. I see it every day and watch my husband struggle to walk, hold his head up, or even focus on a conversation for 5 minutes without falling asleep, right after he gets home from work. The cramping he endures is intense. And now railroad employees are required to submit all their time off with no sick days. My husband was very ill, worked 9 1/2 hours reported he had to go see a doctor when he was being forced to continue and upon his return (after he saw a doctor) was placed on a 30 day suspension for not completing his job duties. Workers are in fear of losing their jobs for reporting fatigue! My husband has been with the railroad for 17 years. No discipline was in his file. He is only 42. Currently there is no regulation to support an employee to say I am fatigued without persecution and dismissal. After 8 hours an employee should have a say especially under the conditions I noted. Not supporting the ability to have a choice after 8 hours of service is simply stating even the law could care less about fatigue.

This comment is outside the scope of the Notice requirements of the 1995 Paperwork Reduction Act (PRA) and OMB PRA Implementing Guidance. However, the issue of fatigue is one that has been of longstanding concern to FRA and one that FRA plans to address by rulemaking in the near future.

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30 day notice is published. 44 U.S.C. 3507 (b)–(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30 day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); *see also* 60 FR 44983, Aug. 29, 1995.

The summary below describes the nature of the information collection request (ICR) and the expected burden. The revised request is being submitted for clearance by OMB as required by the PRA.

*Title:* Hours of Service Regulations.

*OMB Control Number:* 2130–0005.

*Abstract:* FRA amended its hours of service recordkeeping regulations, to add substantive hours of service regulations, including maximum on-duty periods, minimum off-duty periods, and other limitations, for train employees (*e.g.,* locomotive engineers and conductors) providing commuter and intercity rail passenger transportation on August 12, 2011. *See* 76 FR 50359. The new substantive regulations require that railroads employing such train employees analyze and mitigate the risks for fatigue in the schedules worked by these train employees, and that the railroads submit to FRA for its approval the relevant schedules and fatigue mitigation plans. This final rule also made corresponding changes to FRA's hours of service recordkeeping regulation to require railroads to keep hours of service records and report excess service to FRA in an manner consistent with the new substantive requirements. This regulation was authorized by the Rail Safety Improvement Act (RSIA) of 2008. The information collected under this rule is used by FRA and its inspectors to ensure compliance with the Hours of Service Laws and the requirements of this regulation. In particular, the new information collected as a result of new

Subpart F is used by FRA to verify that the employees of covered commuter and intercity passenger railroads do not exceed maximum on-duty periods, abide by minimum off-duty periods, and adhere to other limitations set forth in this regulation to enhance rail safety and reduce the risk of accidents/incidents caused by train employee fatigue, as well as those accident/incidents where fatigue of train employees served as a contributory factor.

*Type of Request:* Extension with change of a currently approved information collection.

*Affected Public:* Businesses (Railroads).

*Form(s):* FRA F 6180.3.

*Annual Estimated Burden:* 3,514,805 hours.

*Addressee:* Send comments regarding these information collections to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street NW., Washington, DC 20503, Attention: FRA Desk Officer. Comments may also be sent via email to OMB at the following address: *oira_submissions@omb.eop.gov.*

*Comments are invited on the following:* Whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collections; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collections of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register.**

**Authority:** 44 U.S.C. 3501–3520.

Issued in Washington, DC, on May 29, 2014.

**Erin McCartney,**

*Acting Chief Financial Officer.*

[FR Doc. 2014–12827 Filed 6–2–14; 8:45 am]

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# FEDERAL REGISTER

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Part II

## Department of Energy

10 CFR Parts 429 and 430

Energy Conservation Program: Test Procedures for Integrated Light-Emitting Diode Lamps; Proposed Rule

**DEPARTMENT OF ENERGY**

**10 CFR Parts 429 and 430**

**[Docket No. EERE–2011–BT–TP–0071]**

**RIN 1904–AC67**

## Energy Conservation Program: Test Procedures for Integrated Light-Emitting Diode Lamps

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

**ACTION:** Supplemental notice of proposed rulemaking.

**SUMMARY:** On April 9, 2012, the U.S. Department of Energy (DOE) published a notice of proposed rulemaking (NOPR) in which DOE proposed a test procedure for light-emitting diode (LED) lamps (hereafter referred to as LED lamps). This supplemental notice of proposed rulemaking (SNOPR), revises DOE's proposal for a new test procedure for LED lamps. This SNOPR supports implementation of labeling provisions by the Federal Trade Commission (FTC) and implementation of DOE's energy conservation standards for general service lamps that includes general service LED lamps. The SNOPR continues to define methods for measuring the lumen output, input power, and relative spectral distribution (to determine correlated color temperature, or CCT). Further, the SNOPR revises the method for calculating the lifetime of LED lamps, and defines the lifetime as the time required for the LED lamp to reach a lumen maintenance of 70 percent (that is, 70 percent of initial light output). Additionally, the SNOPR adds calculations for lamp efficacy as well as the color rendering index (CRI) of LED lamps, which were not proposed in the test procedure NOPR.

**DATES:** DOE will accept comments, data, and information regarding this SNOPR, but no later than August 4, 2014. See section V, ''Public Participation,'' for details.

**ADDRESSES:** Any comments submitted must identify the SNOPR for Test Procedures for LED lamps, and provide docket number EE–2011–BT–TP–0071 and/or regulatory information number (RIN) number 1904–AC67. Comments may be submitted using any of the following methods:

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

2. *Email: LEDLamps-2011-TP-0071@ee.doe.gov.* Include the docket number and/or RIN in the subject line of the message.

3. *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW., Washington, DC, 20585–0121. If possible, please submit all items on a CD. It is not necessary to include printed copies.

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

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

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

A link to the docket Web page can be found at: *www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/18.* This Web page will contain a link to the docket for this notice on the regulations.gov site. The regulations.gov Web page contains simple instructions on how to access all documents, including public comments, in the docket. See section V for information on how to submit comments through regulations.gov.

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

**FOR FURTHER INFORMATION CONTACT:** Ms. Lucy deButts, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW., Washington, DC, 20585–0121. Telephone: (202) 287–1604. Email: *light_emitting_diodes@ee.doe.gov.*

Ms. Celia Sher, U.S. Department of Energy, Office of the General Counsel, GC–71, 1000 Independence Avenue SW., Washington, DC, 20585–0121. Telephone: (202) 287–6122. Email: *Celia.Sher@hq.doe.gov.*

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## I. Authority and Background

Title III of the Energy Policy and Conservation Act of 1975 (42 U.S.C. 6291, et seq.; ''EPCA'') sets forth a variety of provisions designed to improve energy efficiency. (All

references to EPCA refer to the statute as amended through the American Energy Manufacturing Technical Corrections Act (AEMTCA), Public Law 112–210 (Dec. 18, 2012)). Part B of title III, which for editorial reasons was redesignated as Part A upon incorporation into the U.S. Code (42 U.S.C. 6291–6309, as codified), establishes the ''Energy Conservation Program for Consumer Products Other Than Automobiles.''

Under EPCA, this program consists of four parts: (1) testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. This SNOPR proposes test procedures that manufacturers of integrated LED lamps (hereafter referred to as ''LED lamps'') would use to meet two requirements, namely, to: (1) satisfy any future energy conservation standards for general service LED lamps, and (2) meet obligations under labeling requirements for LED lamps promulgated by the Federal Trade Commission (FTC).

First, this SNOPR would be used to assess the performance of LED lamps relative to any potential energy conservation standards in a future rulemaking that includes general service LED lamps. DOE is currently developing energy conservation standards for general service lamps (GSLs), a category of lamps that includes general service LED lamps. *See* 78 FR 73737 (Dec. 9, 2013).

Second, the LED lamp SNOPR supports obligations under labeling requirements promulgated by FTC under section 324(a)(6) of EPCA (42 U.S.C. 6294(a)(6)). The Energy Independence and Security Act of 2007 (EISA 2007) section 321(b) amended EPCA (42 U.S.C. 6294(a)(2)(D)) to direct FTC to consider the effectiveness of lamp labeling for power levels or watts, light output or lumens, and lamp lifetime. This SNOPR supports FTC's determination that LED lamps, which had previously not been labeled, require labels under EISA section 321(b) and 42 U.S.C. 6294(a)(6) in order to assist consumers in making purchasing decisions. 75 FR 41696, 41698 (July 19, 2010).

FTC published a final rule for light bulb [1] labeling (Lighting Facts) that required compliance on January 1, 2012. 75 FR 41696 (July 19, 2010). The FTC Lighting Facts label covers three types of medium screw base lamps: general service incandescent lamps (GSIL), compact fluorescent lamps (CFL), and general service LED lamps.[2] The label requires manufacturers to disclose information about the lamp's brightness [3] (lumen output), estimated annual energy cost, life [4] (lifetime), light appearance (CCT), and energy use (input power). FTC requires manufacturers to calculate the estimated annual energy cost by multiplying together the energy used, annual operating hours, and an estimate for energy cost per kilowatt-hour. FTC references DOE test procedures, when available, for testing lamps for the FTC Lighting Facts label. *See* 42 U.S.C. 6294(c). This SNOPR would enable FTC to reference a DOE test procedure for LED lamps. DOE invites comments on all aspects of the SNOPR for LED lamps.

## II. Summary of the Supplemental Notice of Proposed Rulemaking

In this SNOPR, DOE proposes test procedures for determining the lumen output, input power, lamp efficacy, CCT, CRI, lifetime, and standby mode power of an LED lamp. DOE proposes to define an LED lamp using the ANSI [5]/IESNA [6] RP–16–2010 [7] definition of an integrated LED lamp. DOE pursued an SNOPR for two main reasons: (1) to revise the method of measuring lifetime based on public comment and (2) to add directions for calculating the metrics lamp efficacy and CRI and standby mode power to support the ongoing general service lamp rulemaking. To determine lumen output, input power, CCT, and CRI, DOE proposes to incorporate by reference IES LM–79–2008.[8] DOE reviewed several potential approaches to testing lamp lumen output, input power, CCT, and CRI, and determined that this IES standard is the most appropriate based on discussions with industry experts. IES LM–79–2008 appears to yield reliable results, and industry generally uses it to measure photometric characteristics of LED lamps. To determine the standby mode power, DOE proposes to incorporate by reference International Electrotechnical Commission (IEC) 62301.[9] In addition, DOE proposes to calculate the efficacy of an LED lamp in units of lumens per watt by dividing the measured initial lamp lumen output in lumens by the measured lamp input power in watts. Lastly, no industry standards are available for determining the lifetime of LED lamps. Therefore, the SNOPR proposes a method for measuring and projecting LED lamp lifetime that uses a continuous equation based on the underlying exponential decay function in the ENERGY STAR Program Requirements for Lamps (Light Bulbs): Eligibility Criteria—Version 1.0.[10]

## III. Discussion

### *A. Scope of Applicability*

EISA 2007 section 321(a)(1)(B) added the definition for LED as a p-n junction [11] solid state device, the radiated output of which, either in the infrared region, the visible region, or the ultraviolet region, is a function of the physical construction, material used, and exciting current [12] of the device. (42 U.S.C. 6291(30)(CC)) In the NOPR, published on April 9, 2012, DOE stated that this rulemaking applies to LED lamps that meet DOE's proposed definition of an LED lamp, which is based on the term as defined by ANSI/IESNA RP–16–2010, ''Nomenclature and Definitions for Illuminating Engineering.'' This standard defines integrated LED lamps as an integrated assembly that comprises LED packages (components) or LED arrays (modules) (collectively referred to as an LED source), LED driver, ANSI standard base, and other optical, thermal, mechanical and electrical components (such as phosphor layers, insulating materials, fasteners to hold components within the lamp together, and electrical wiring). The LED lamp is intended to connect directly to a branch circuit through a corresponding ANSI standard

[1] FTC uses the term 'bulb,' while DOE uses the term 'lamp.' Bulb and lamp refer to the same product.

[2] FTC defines general service LED lamps as a lamp that is a consumer product; has a medium screw base; has a lumen range not less than 310 lumens and not more than 2,600 lumens; and is capable of being operated at a voltage range at least partially within 110 and 130 volts. This proposed test procedure rulemaking could be applied to general service LED lamps as defined by FTC as well as all other integrated LED lamps as discussed in section 0 of this SNOPR.

[3] Although 'light output' is the technically correct term, FTC uses the term 'brightness' on the Lighting Facts label because FTC's research indicated that consumers prefer the term 'brightness' to 'light output.'

[4] FTC uses the term 'life' while DOE uses the term 'lifetime.' Life and lifetime have the same meaning.

[5] American National Standards Institute.

[6] Illuminating Engineering Society of North America (also abbreviated as IES).

[7] ''Nomenclature and Definitions for Illuminating Engineering.'' Approved by ANSI on October 16, 2009. Approved by IES on November 15, 2009.

[8] ''Approved Method: Electrical and Photometric Measurements of Solid-State Lighting Products.'' Approved by IES on December 31, 2007.

[9] ''Household electrical appliances—Measurement of standby power.'' Edition 2.0 2011–01.

[10] ''ENERGY STAR Program Requirements for Lamps (Light Bulbs): Eligibility Criteria—Version 1.0.'' U.S. Environmental Protection Agency, August 28, 2013.

[11] P-n junction is the boundary between p-type and n-type material in a semiconductor device, such as LEDs. P-n junctions are active sites where current can flow readily in one direction but not in the other direction—in other words, a diode.

[12] Exciting current is the current passing through an LED chip during steady state operation.

socket. 77 FR 21038, 21041 (April 9, 2012)

The National Electrical Manufacturers Association (hereafter referred to as NEMA) agreed with the proposed scope and incorporation of ANSI/IESNA RP–16–2010 for the definition of LED lamps. (NEMA, Public Meeting Transcript, No. 7 at p. 2 [13]) DOE received no adverse comment on this proposal. Thus, in this SNOPR, DOE proposes to maintain the scope and definition of LED lamps.

*B. Standby and Off-Mode*

EPCA directs DOE to amend test procedures ''to include standby mode and off mode energy consumption . . . with such energy consumption integrated into the overall energy efficiency, energy consumption, or other energy descriptor for each covered product, unless the Secretary determines that—(i) the current test procedures for a covered product already fully account for and incorporate the standby and off mode energy consumption of the covered product . . .'' 42 U.S.C. 6295(gg)(2)(A(i) Because LED lamps are placed in Part A of EPCA, they are covered consumer products, and thus the standby and off mode applicability of these products must be reviewed.

First, to provide context for standby and off-modes, active mode is defined as the condition in which an energy-using product—is connected to a main power source; has been activated; and provides one or more main functions.10 CFR 430.2 DOE's proposals for active mode test metrics include lumen output, input power, lamp efficacy, CCT, CRI, and lifetime.

Standby mode is defined as the condition in which energy-using product—is connected to a main power source; and offers one or more of the following user-oriented or protective functions: to facilitate the activation or deactivation of other functions (including active mode) by remote switch (including remote control), internal sensor, or timer; or continuous functions, including information or status displays (including clocks) or sensor-based functions.10 CFR 430.2 Some LED lamps can be operated by a remote control to activate active mode or to change the appearance of the light (color or dimming). Therefore, standby mode applies to LED lamps.

Off mode is defined as the condition in which an energy using product—is connected to a main power source; and is not providing any standby or active mode function.10 CFR 430.2 LED lamps do not operate in off mode because when connected to a main power source, the LED lamp is either in active mode or standby mode. No other modes of operation exist for LED lamps beyond active and standby mode.

EPCA directs DOE to amend its test procedures for all covered products to integrate measures of standby mode and off mode energy consumption, if technically feasible. (42 U.S.C. 6295(gg)(2)(A)) Standby mode and off mode energy must be incorporated into the overall energy efficiency, energy consumption, or other energy descriptor for each covered product unless the current test procedures already account for and incorporate standby and off mode energy consumption or such integration is technically infeasible. If an integrated test procedure is technically infeasible, DOE must prescribe a separate standby mode and off mode energy use test procedure for the covered product, if technically feasible. *Id.* Any such amendment must consider the most current versions of IEC Standard 62301, ''Household electrical appliances—measurement of standby power,'' and IEC Standard 62087, ''Methods of measurements for the power consumption of audio, video, and related equipment,'' [14] as applicable.

DOE proposes separate test methods for standby and active mode metrics. This proposal is consistent with other lighting products (fluorescent lamp ballasts and metal halide ballasts) which use separate test methods for active and standby modes. Any future energy conservation standards that cover LED lamps will consider the most effective method of addressing both active and standby mode energy use. DOE proposes a method of measuring standby mode power in section III.E.

DOE requests comment on its characterization of the modes of operation that apply to LED lamps.

*C. Proposed Approach for Determining Lumen Output, Input Power, Lamp Efficacy, Correlated Color Temperature, and Color Rendering Index*

1. NOPR Proposals

The NOPR proposed to incorporate IES LM–79–2008 for determining lumen output, input power, and CCT, with some modifications. 77 FR at 21041 (April 9, 2012) IES LM–79–2008 specifies the test setup and conditions at which the measurements and calculations must be performed. These include ambient conditions, power supply characteristics, lamp orientation, and stabilization methods for LED lamps, and instrumentation and electrical settings. These requirements, and any related comments, are further discussed in the sections III.C.1 through III.C.4.

Kristopher Kritzer (hereafter referred to as Kritzer) expressed support for adopting the complete NOPR test method and backed DOE's efforts to adopt industry practices for testing LED lamps. (Kritzer, No. 3 at p. 1) Lutron Electronics Company, Inc. (hereafter referred to as Lutron) and NEMA did not support all test methods proposed in the NOPR, but did agree that IES LM–79–2008 should be used to determine lumen output, input power, and CCT. (Lutron, Public Meeting Transcript, No. 7 at p. 25; NEMA, Public Meeting Transcript, No. 7 at p. 2) However, several interested parties expressed concern with the overall proposal. Delft University of Technology (which refers to itself as TUD) and an anonymous commenter had reservations about adopting the test methods proposed in the NOPR. TUD indicated that the NOPR proposal will not guarantee tested LED products are well-qualified. (Anonymous, No. 8 at p. 1; TUD, No. 15 at p. 1) NEMA, the California Investor Owned Utilities (hereafter referred to as CA IOUs), and Philips Lighting Electronics N.A. (hereafter referred to as Philips) urged that DOE not modify or supplement any industry standard. (NEMA, No. 16 at p. 2, 7; CA IOUs, No. 19 at p. 5, 6; Philips, Public Meeting Transcript, No. 7 at p. 114) Finally, the Appliance Standards Awareness Project, the American Council for an Energy Efficient Economy, and the Natural Resources Defense Council (hereafter referred to as the Joint Comment) stated that test procedures need to mimic real world installations whenever possible and, when knowledge of real world installations is not available, the test method needs to approximate a worst-case installation scenario. (Joint Comment, No. 18 at p. 1)

IES is the recognized technical authority on illumination, and the IES LM–79–2008 standard was prepared by the IES subcommittee on Solid-State Lighting Sources of the IESNA Testing Procedure Committee. IES LM–79–2008 was also developed in collaboration with the ANSI Solid State Lighting Joint Working Group C78–09 and C82–09 comprising individuals from several

[13] A notation in the form ''NEMA, Public Meeting Transcript, No. 7 at p. 2'' identifies a statement made in a public meeting that DOE has received and has included in the docket of this rulemaking. This particular notation refers to a comment: (1) submitted during the public meeting on May 3, 2012; (2) in document number 7 in the docket of this rulemaking; and (3) appearing on page 2 of the transcript.

[14] IEC standards are available online at *www.iec.ch.*

organizations. DOE believes that the committee members who worked on developing the IES LM–79–2008 standard represent relevant industry groups and interested parties. Based on an independent review by DOE and general acceptance by industry, DOE proposes that IES LM–79–2008 specifies much of the information that is required for providing a complete test procedure for determining lumen output, input power, CCT, and CRI of LED lamps. DOE agrees that the LED lamp test procedure needs to mimic real world installations and believes that the procedures described in the IES LM–79–2008 standard are representative of such conditions. IES LM–79–2008 specifies the test conditions and setup at which the measurements and calculations must be performed. However, DOE proposes some clarifications to establish a repeatable procedure for all LED lamp testing. These clarifications to IES LM–79–2008 include mounting orientation and electrical setting requirements. These requirements, and any clarifications proposed by DOE, are further discussed in the sections III.C.2 through III.C.4.

2. Test Conditions

In the NOPR, DOE proposed that the ambient conditions for testing LED lamps be as specified in section 2.0 [15] of IES LM–79–2008. 77 FR at 21041. These conditions include setup and ambient temperature control, as well as air movement requirements. Both are discussed in further detail below.

Section 2.2 of IES LM–79–2008 specifies that photometric measurements shall be taken at an ambient temperature of 25 degrees Celsius (°C) ±1 °C. In the NOPR, DOE indicated that a tolerance of 1°C for the ambient temperature is practical, limits the impact of ambient temperature on measurements, and would not be burdensome because the instruments used to measure the temperature provide greater accuracy than required, allowing the test laboratories to maintain the temperature within the required tolerance for testing. *Id.* Section 2.2 of IES LM–79–2008 further specifies that the temperature shall be measured at a point not more than one meter from the LED lamp and at the same height as the lamp. The standard requires that the temperature sensor that is used for measurements be shielded from direct optical radiation from the lamp or any other source to reduce the impact of radiated heat on the ambient temperature measurement. The NOPR stated that this setup for measuring and controlling ambient temperature is appropriate for testing because it requires that the lamp be tested at room temperature and in an environment that is commonly used for testing other lighting technologies. *Id.* DOE did not receive adverse comments, and therefore maintains this proposal for ambient temperature conditions in the SNOPR.

In the NOPR, DOE proposed that the requirement for air movement around the LED lamp be as specified in section 2.4 of IES LM–79–2008, which requires that the air flow around the LED lamp be such that it does not affect the lumen output measurements of the tested lamp. *Id.* DOE also considered specifying a method for determination of a draft-free environment, such as that in section 4.3 of IES LM–9–2009,[16] which requires that a single ply tissue paper be held in place of the lamp to allow for visual observation of any drafts.

Philips, Osram Sylvania, Inc. (hereafter referred to as OSI), and NEMA all indicated that the surrounding air temperature and airflow for LED lamps does not have a noticeable impact on long-term lumen degradation. Based on this, DOE believes that the IES LM–79–2008 air movement requirements proposed in the NOPR are more than adequate to ensure the accuracy of test data. (Philips, Public Meeting Transcript, No. 7 at p. 27; OSI, Public Meeting Transcript, No. 7 at pp. 27–28; NEMA, Public Meeting Transcript, No. 7 at pp. 2–3; NEMA, No. 16 at p. 2–3) However, other stakeholders suggested adding quantitative requirements for air movement. The People's Republic of China (hereafter referred to as P.R. China) suggested that air movement in the vicinity of the luminaire not exceed 0.2 m/s. For lamps designed with a larger tolerance for ambient temperature changes, faster air movement may be acceptable. (P.R. China, No. 12 at p. 3) The Joint Comment noted that the air movement procedures in IES LM–79–2008 are informative, but not very specific. Therefore, they recommended that DOE investigate a quantitative approach so that air flow around the device is better understood. However, the Joint Comment expressed concern that direct measurement of the airflow (anemometry) would increase the testing burden to manufacturers substantially; instead, they recommended DOE investigate a suitable proxy measure to judge the stability of the airflow around the lamp. As an example, they suggested DOE may want to consider stability criteria on a measurement of the case temperature. The Joint Comment noted that it is likely that other parameters may also provide valuable information about the airflow while minimizing testing burden. (Joint Comment, No. 18 at p. 3)

Although DOE agrees that the air movement requirement in IES LM–79–2008 could be more precise, DOE is maintaining its proposal from the NOPR not to modify the surrounding air temperature and airflow specifications provided in IES LM–79–2008. DOE does not believe that additional requirements to establish a draft-free environment would improve measurement accuracy relative to current industry practice. Furthermore, specifying a quantitative procedure for measuring air movement would result in an unnecessary increase to testing burden. Therefore, in this SNOPR, DOE maintains its proposal to retain the requirements in IES LM–79–2008 to ensure that air movement is minimized to acceptable levels. These requirements would apply to lamps measured in both active mode and standby mode.

3. Test Setup

a. Power Supply

In the NOPR, DOE proposed that section 3.1 and 3.2 of IES LM–79–2008 be incorporated by reference to specify requirements for both alternating current (AC) and direct current (DC) power supplies. 77 FR at 21042. Section 3.1 specifies that an AC power supply shall have a sinusoidal voltage waveshape at the input frequency required by an LED lamp such that the root mean square (RMS) [17] summation of the harmonic components does not exceed three percent of the fundamental frequency [18] while operating the LED lamp. Section 3.2 of IES LM–79–2008 also requires that the voltage of an AC power supply (RMS voltage) or DC power supply (instantaneous voltage) applied to the LED lamp be within ±0.2 percent of the specified lamp input voltage (see section III.C.3.d for discussion of the proposed electrical settings, including input voltage). These requirements are achievable with

[15] IES standards use the reference 2.0, 3.0, etc. for each primary section heading. Sub-sections under each of these sections are referenced as 2.1, 2.2, 3.1, 3.2, etc. This SNOPR refers to each IES section exactly as it is referenced in the standard.

[16] ''IES Approved Method for the Electrical and Photometric Measurement of Fluorescent Lamps.'' Approved January 31, 2009.

[17] Root mean square (RMS) voltage/current is a statistical measure of the magnitude of a voltage/current signal. RMS voltage/current is equal to the square root of the mean of all squared instantaneous voltages/currents over one complete cycle of the voltage/current signal.

[18] Fundamental frequency, often referred to as fundamental, is defined as the lowest frequency of a periodic waveform.

minimal testing burden and provide reasonable stringency in terms of power quality based on their similarity to voltage tolerance requirements for testing of other lighting technologies. DOE did not receive adverse comment on this proposal and, therefore, this proposal remains unchanged for the SNOPR. These power supply requirements would apply to lamps measured in both active mode and standby mode.

b. Instrumentation

In the NOPR, DOE proposed that instrumentation requirements for the AC power meter and the AC and DC voltmeter and ammeter, as well as the acceptable tolerance for these instruments, be as specified in section 8.0 of IES LM–79–2008. *Id.* Section 8.1 of IES LM–79–2008 specifies that for DC-input LED lamps, a DC voltmeter and DC ammeter shall be connected between the DC power supply and the LED lamp under test. The DC voltmeter shall be connected across the electrical power input of the LED lamp, and the input electrical power shall be calculated as the product of the measured input voltage and current. Section 8.2 of IES LM–79–2008 specifies that the tolerance for the DC voltage and current measurement instruments shall be ±0.1 percent. For AC-input LED lamps, section 8.1 of IES LM–79–2008 further specifies that an AC power meter shall be connected between the AC power supply and the LED lamp under test. The AC power, input voltage, and current shall be measured. Section 8.2 of IES LM–79–2008 specifies that the tolerance of the AC voltage and current measurement instruments shall be ±0.2 percent and the tolerance of the AC power meter shall be ±0.5 percent. In the NOPR, DOE concluded that the electrical instrumentation requirements set forth in section 8.0 of IES LM–79–2008 are achievable and provide reasonable stringency in terms of measurement tolerance based on their similarity to instrument tolerance requirements for testing of other lighting technologies. *Id.* DOE did not receive adverse comment on these electrical instrumentation requirements and, therefore, this proposal remains unchanged for the SNOPR.

Regarding photometric instrumentation used for measuring lumen output, CCT, and CRI, DOE proposed in the NOPR that either a sphere-spectroradiometer, sphere-photometer, or goniophotometer system be used for lumen output measurement of the LED lamp as specified in IES LM–79–2008. DOE requested comment on the differences in values measured by an integrating sphere (via photometer or spectroradiometer) versus a goniophotometer. 77 FR at 21042 NEMA commented that both systems are appropriate for lumen determination, but acknowledged that a perfect correlation between the two techniques is not possible. (NEMA, No. 16 at p. 3)

While DOE recognizes that the integrating sphere and goniophotometer (a goniometer fitted with a photometer as the light detector) are both valid means of photometric measurement, DOE is concerned about the potential for a difference in the measured values. A test procedure that yields more than one possible value depending on instrumentation presents problems for certification and enforcement. If DOE and the manufacturer use different test methods, DOE could find that a lamp certified as compliant could be tested as non-compliant during a verification or enforcement proceeding. IES LM–79–2008 does not explicitly specify the scanning resolution (i.e., quantity and location of measurements around the lamp), and instead provides guidance that must be implemented differently for each lamp. DOE also determined that further specification of the goniophotometer method is unreasonable, because the scanning resolution specification would need to be adequate for the lamp that requires the finest resolution. This would likely present an overly burdensome test method for many other lamps that could be measured at a lower resolution. In contrast, use of an integrating sphere enables photometric characteristics of the LED lamp to be determined with a single measurement. Therefore, integrating spheres are the preferred method for photometric measurement due to the reduction in time required for testing.

In consideration of the lack of measurement correlation between integrating spheres and goniophotometers and the reduced burden and much higher incidence of use of integrating spheres, DOE proposes in the SNOPR to require all photometric measurements, including lumen output, CCT, and CRI to be carried out in an integrating sphere and that goniometer systems must not be used. Therefore, DOE proposes that the instrumentation used for lumen output measurements be as described in sections 9.1 and 9.2 of IES LM–79–2008, and CCT and CRI measurements be as described in section 12.0 of IES LM–79–2008 with the exclusion of section 12.2 of IES LM–79–2008, as goniometers must not be used. DOE invites interested parties to comment on the proposal to require all photometric values be measured by an integrating sphere (via photometer or spectroradiometer). These instrumentation requirements would apply to lamps measured in both active mode and standby mode.

c. Lamp Mounting and Orientation

In the NOPR, DOE considered testing LED lamps as specified in section 6.0 of IES LM–79–2008, which states that LED lamps shall be tested in the operating orientation recommended by the lamp manufacturer for the intended use of the LED lamp. *Id.* As discussed in the NOPR, DOE determined that manufacturers do not typically specify the operating orientation for an LED lamp in their product literature. Further, DOE indicated that it is possible manufacturers would recommend an orientation for testing that provides the highest lumen output rather than the orientation in which the lamp is most frequently operated in practice. Therefore, the NOPR proposed that an LED lamp be mounted as specified in section 2.3 of IES LM–79–2008 and be positioned in the base-up, base-down, and horizontal orientations for testing.

Numerous commenters raised concerns about DOE's proposal. General Electric Lighting (hereafter referred to as GE), Philips, NEMA, Samsung Electronics (hereafter referred to as Samsung), and P.R. China commented that the base-up and base-down orientations constitute the best and worst-case scenarios. (GE, Public Meeting Transcript, No. 7 at p. 29; Philips, Public Meeting Transcript, No. 7 at pp. 29–30; NEMA, No. 16 at p. 3; Samsung, No. 14 at p. 1; China, No. 12 at p. 3) Samsung stated that testing in the base up and base down positions is also consistent with ENERGY STAR test procedures. (Samsung, No. 14 at p. 1) In addition, GE and NEMA commented that testing in the horizontal position with either type of sphere will add uncertainty to the lumen output measurement, and that testing in the horizontal position with a goniophotometer is very difficult or even impossible. (GE, Public Meeting Transcript, No. 7 at pp. 42–43; NEMA, No. 16 at p. 3) Underwriter Laboratories (hereafter referred to as UL) indicated that shadowing is an issue with testing in the horizontal position. Lamps are usually supported from above or below, and if tested horizontally the support structure could interfere with the light measurement. (UL, Public Meeting Transcript, No. 7 at p. 54) NEMA commented that current FTC instruction for CFLs does not require testing in multiple orientations, only that the manufacturer specify if an orientation

change will result in a greater than five percent difference in measured performance. (NEMA, No. 16 at p. 6) The Republic of Korea (hereafter referred to as South Korea) suggested that DOE be consistent with both International Electrotechnical Commission (IEC) 62612 [19] and IES LM–79–2008, which require that the orientation of lamps during testing follow the manufacturer's recommendations. (South Korea, No. 17 at p. 2) Finally, P.R. China noted that testing in the horizontal position will increase the cost of the testing as well as the total time required for testing. (P.R. China, No. 12 at p. 3)

Other commenters supported DOE's proposals and suggested further research. The Joint Comment and the CA IOUs agreed with DOE's proposal to include the horizontal position for lumen output testing because it is likely a worst-case condition. This is because heat sink fins are most effective at dissipating heat when air flow is parallel to the direction of the fins, rather than when air flow is perpendicular to the fins. Because most heat sink fins are parallel to the body of the lamp, they are likely to dissipate heat differently when the lamp is oriented vertically than when oriented horizontally. When heat is not dissipated effectively in a lamp, lumen output generally decreases. (Joint Comment, No. 18 at p. 4; CA IOUs, No. 19 at p. 6) In addition, the CA IOUs indicated that they expect to have LED lamp performance data collected in all three orientations by the end of 2012 (subsequently published in February 2013).[20] The CA IOUs further commented that manufacturer concerns about testing in the horizontal position are not an issue for testing in a sphere-spectroradiometer or sphere-photometer. The CA IOUs stated that accurate horizontal measurements are regularly taken for other lamp technologies, and they do not believe any unique challenge exists for measuring LED lamps that do not exist for other lamps of similar shapes and base types. (CA IOUs, No. 19 at p. 6) The Joint Comment suggested that DOE investigate whether shadowing is a significant concern in a goniophotometer when the lamp is configured horizontally. (Joint Comment, No. 18 at p. 4) The Joint Comment also suggested that DOE consider the appropriateness of testing at intermediate angles for certain types of lamps that contain heat pipes, noting that heat pipes often have the best heat transfer performance at inclinations of 60–70 degrees. (Joint Comment, No. 18 at p. 4)

In light of commenters' varying opinions about the impact of lamp orientation on lamp performance, DOE collected test data for several LED lamps tested in each of the three orientations. DOE investigated two sets of photometric test data, the first provided by ENERGY STAR and the second (mentioned by the CA IOUs in the previous paragraph) from a collaborative testing effort between the Pacific Gas and Electric Company (hereafter referred to as PG&E), California Lighting Technology Center (hereafter referred to as CLTC), and the Collaborative Labeling and Appliance Standards Program (hereafter referred to as CLASP). *Id.* These test data represent 10 samples each of 47 different LED lamp products. Of the 47 lamp products tested, 36 were mounted in base-up, base-down, and horizontal configurations, and 11 were mounted in base-up and base-down configurations. DOE analyzed the data to determine the variation of input power, lumen output, CCT, and CRI in each of the three orientations. The analysis of the test data revealed that some lamp models exhibited variation between the three orientations. Of the three orientations, analysis indicated that the base-up and base-down orientations represent the best (highest lumen output) and worst (lowest lumen output) case scenarios. Therefore, DOE believes that there is no need to test horizontally.

The Joint Comment stated that other lamp orientations may represent the best-case scenario and suggested that DOE investigate testing at intermediate angles, such as 60 to 70 degrees. DOE notes that intermediate angles could represent a best-case scenario for some lamps; however, testing LED lamps at these angles is not common industry practice. Although there is no data available for testing LED lamps at intermediate angles, DOE consulted an LED lamp manufacturer as to whether intermediate angle testing could be a best-case scenario for some LED lamps. The manufacturer indicated that this could improve efficiency theoretically; however, this possible improvement would be negligible and likely within the measurement error of the lumen output measuring equipment. From this, DOE has determined that these performance gains would not be measureable. Therefore, DOE is not proposing testing of LED lamps at intermediate angles.

As mentioned above, DOE also received comments about whether it was possible to test LED lamps in all potential orientations. GE, NEMA, and UL indicated that testing in the horizontal position could interfere with the lumen output measurement. (GE, Public Meeting Transcript, No. 7 at pp. 42–43; NEMA, No. 16 at p. 3; UL, Public Meeting Transcript, No. 7 at p. 54) DOE researched this concern by consulting with the Lighting Research Center (LRC), which has extensive lamp testing experience, and believes that testing lumen output in the horizontal position does not lead to significant measurement error when using the majority of sphere-spectroradiometer, sphere-photometer, and goniophotometer systems. For either a sphere-spectroradiometer or sphere-photometer system, the bracket, which secures the lamp in place, can be designed and configured to eliminate any significant measurement error due to shadowing. For large goniophotometer systems, there would be sufficient space to make a bracket to hold the lamp in any orientation without risk of significant shadowing. It is possible that smaller goniophotometer systems could have mounting and bracket limitations that result in error when testing in the horizontal orientation due to shadowing. However, as discussed in section III.C.3.b, DOE proposes in the SNOPR to require all photometric measurements to be carried out in an integrating sphere and that goniometer systems must not be used.

In the SNOPR, DOE proposes that LED lamps be positioned such that an equal number of units are oriented in the base-up and base-down orientations. This proposal specifies two commonly used orientations for LED lamps that span the highest and lowest light-output scenarios, creating a dataset that represents average performance in practice. These lamp mounting and orientation requirements would apply to lamps measured in both active mode and standby mode. DOE requests comment on the proposal for an equal number of lamps to be operated in the base-up and base-down orientations during lumen output, input power, CCT, and CRI testing.

d. Electrical Settings

In the NOPR, DOE proposed requiring testing of LED lamps at the rated voltage as specified in IES LM–79–2008. For lamps with multiple operating voltages, DOE proposed that lamps be tested at

[19] IEC/PAS 62612: Self-ballasted LED-lamps for general lighting services—Performance requirements.

[20] CLTC, ''Omni-Directional Lamp Testing'' Prepared for PG&E and CLASP, February 25th, 2013. *http://www.energy.ca.gov/appliances/2013rulemaking/documents/responses/Lighting_12-AAER-2B/California_IOUs_Response_to_the_Invitation_to_Participate_for_LED_Lamps_REFERENCE/PGandE_2013a_Omni-Directional_Lamp_Testing-Report_Draft.pdf.*

120 volts because 120 volts is the most common operating voltage of available lamps. However, if the lamp is not rated at 120 volts, DOE proposed that it be tested at the highest rated voltage. *Id.* NEMA disagreed with DOE's proposal to test at rated voltage only, arguing the proposal was in conflict with FTC regulations that require testing lamps at 120 volts and the rated voltage. (NEMA, No. 16 at p. 3)

In this SNOPR, DOE maintains the NOPR proposal but, in addition, indicates that manufacturers may also test at other operating voltages as long as the final DOE test procedure is used for making energy representations. These electrical settings would apply to lamps measured in both active mode and standby mode. To ensure the SNOPR proposal is not in conflict with the FTC Lighting Facts label requirements, as was suggested by NEMA, DOE reviewed the FTC regulations detailed in 16 CFR 305.15. The FTC regulation states that a general service lamp shall be measured at 120 volts, regardless of the lamp's design or rated voltage. If a lamp's design voltage is 125 volts or 130 volts, the disclosures of the wattage, light output, energy cost, and lifetime must disclose the voltage at which these metrics were measured. DOE's proposal is not in conflict with FTC's Lighting Facts requirements because manufacturers must test at 120 volts as required by FTC and, if the LED lamp is rated for additional voltages, the lamp may also be tested at the highest rated voltage. This supports FTC's program and does not provide conflicting instructions.

In the NOPR, DOE proposed incorporating section 7.0 of IES LM–79–2008, which specifies electrical settings for LED lamps with multiple modes of operation, such as variable CCT and dimmable lamps. 77 FR at 21043. Section 7.0 of IES LM–79–2008 indicates LED lamps with variable CCT shall be tested in each mode of operation, and for dimmable lamps, directs that they be tested at the maximum input power.

Philips commented that when specifying electrical settings for variable CCT lamps it is important that DOE consider the scenario that the testing is intended to reflect (i.e., worst-case versus most common operating conditions) because lumen output can change based on the CCT mode. (Philips, Public Meeting Transcript, No. 7 at p. 32) OSI agreed with this point and indicated that in the future it is foreseeable that LED lamps with variable CCT, CRI, and lumen output will be available. (OSI, Public Meeting Transcript, No. 7 at pp. 32–33) Both P.R. China and Samsung stated that LED lamps with multiple modes of operation are currently available. (P.R. China, No. 12 at p. 4; Samsung, No. 14 at p. 1) GE and Samsung indicated that multiple mode lamps in the future could operate at continuously variable CCT making testing at a distinct CCT impossible. (GE, Public Meeting Transcript, No. 7 at p. 32; Samsung, No. 14 at p. 1) OSI commented that testing at the worst-case scenario could be a possible option for LED lamps with variable CCT, while Samsung suggested requiring both a best- and worst-case scenario. (OSI, Public Meeting Transcript, No. 7 at pp. 33; Samsung, No. 14 at p. 1) P.R. China suggested DOE follow international standard IEC/PAS 62717–2011,[21] which states that LED modules with adjustable color point must be adjusted/set to one fixed value as indicated by the manufacturer or responsible vendor. (P.R. China, No. 12 at p. 3) At the May 3, 2012 NOPR public meeting (hereafter the May 2012 public meeting), NEMA argued against testing at a CCT, CRI, or lumen output setting that would rarely be used in the field. For lamps that can vary CCT over the power range, NEMA suggested testing the lamps only at the CCT that occurs at full power. (NEMA, Public Meeting Transcript, No. 7 at p. 33; NEMA, No. 16 at p. 3) Finally, regarding dimming, NEMA agreed with DOE's proposal to measure dimmable lamps at full power as this will reflect the rating on the packaging. (NEMA, No. 16 at p. 3)

DOE believes that LED lamps with multiple modes of operation, including variable CCT and CRI as well as dimmable lamps, should be tested at maximum input power because this is the highest energy consuming state. Therefore, DOE proposes to require testing for such lamps at the mode that occurs at maximum input power, since this is the highest energy consuming state. When multiple modes (such as multiple CCTs and CRIs) occur at the same maximum input power, the manufacturer can select any of these modes for testing. Manufacturers may also test at other modes as long as the final DOE test procedure is used for making representations about the energy consumption of an LED lamp. All measurements (lumen output, input power, efficacy, CCT, CRI, lifetime, and standby mode power) must be conducted at the same mode of operation. DOE invites comment on its proposals for testing lamps for which multiple modes (such as multiple CCTs and CRIs) can occur at the same maximum input power.

4. Test Method

a. Lamp Seasoning

In the NOPR, DOE proposed requiring energizing and operating LED lamps for 1,000 hours to season them before beginning photometric measurements. 77 FR at 21043. DOE proposed a 1,000 hour seasoning time because it has been indicated by industry [22] [23] that light output of an LED source (and therefore, potentially the lamp) can change during the first 1,000 hours of operation. DOE also noted that IES TM–21–2011 [24] specifies that the data obtained from the first 1,000 hours of operating an LED source shall not be used to project the lifetime of an LED source.

Cree, Philips, Feit Electric Company, NEMA, P.R. China, the Joint Comment, CA IOUs, Northwest Energy Efficiency Alliance (hereafter referred to as NEEA), and South Korea all commented that LED lamps not be seasoned for 1,000 hours prior to collecting lumen output data. They argued that due to the evolving nature of these products, there is no common seasoning time. (Cree, Public Meeting Transcript, No. 7 at pp. 34–35; Philips, Public Meeting Transcript, No. 7 at p. 35, 36; Feit, Public Meeting Transcript, No. 7 at p. 45; NEMA, Public Meeting Transcript, No. 7 at p. 36; P.R. China, No. 12 at p. 4; NEMA, No. 16 at p. 3; Joint Comment, No. 18 at pp. 5–6; CA IOUs, No. 19 at p. 5; NEEA, No. 20 at p. 2; South Korea, No. 17 at p. 2) Cree indicated that sudden increases or decreases in light output in the first 1,000 hours of operation depend on several factors in the construction of the LED lamp. (Cree, Public Meeting Transcript, No. 7 at pp. 36–37) P.R. China, NEEA, and the CA IOUs stated that DOE should remain consistent with the specifications of IES LM–79–2008, and require no seasoning prior to photometric measurements. (P.R. China, No. 12 at p. 4; NEEA, No. 20 at p. 2; CA IOUs, No. 19 at p. 5)

The Joint Comment indicated that when taking photometric measurements, it is not obvious if seasoning is necessary. They suggested that DOE investigate and report on the

[21] IEC/PAS 62717: LED modules for general lighting—Performance requirements.

[22] Cheong, Kuan Yew. ''LED Lighting Standards Update.'' CREE, August 5, 2011. Page 31. *www.nmc.a-star.edu.sg/LED_050811/Kuan_CREE.pdf*

[23] Richman, Eric. ''Understanding LED Tests: IES LM–79, LM–80, and TM–21.'' DOE SSL Workshop, July 2011. Page 13. *http://apps1.eere.energy.gov/buildings/publications/pdfs/ssl/richman_tests_sslmiw2011.pdf*

[24] ''Projecting Long Term Lumen Maintenance of LED Light Sources.'' Approved by IES on July 25, 2011.

necessity of seasoning lamps prior to photometric measurements, as this seasoning is in direct conflict with procedures established in IES LM–79–2008. Should DOE decide that there is sufficient variability in devices that can be mitigated by seasoning; they recommend that DOE collaborate with industry to minimize testing burden and potential re-testing of current LED sources/lamps. (Joint Comment, No. 18 at pp. 5–6) The National Institute of Standards and Technology (hereafter referred to as NIST) and Samsung, however, commented that seasoning LED lamps for 1,000 hours prior to collecting lumen output data is reasonable. (NIST, Public Meeting Transcript, No. 7 at p. 47; Samsung, No. 14 at p. 1) NIST argued that including a seasoning time of 1,000 hours would help identify faulty products. (NIST, Public Meeting Transcript, No. 7 at p. 47)

In the SNOPR, DOE proposes to eliminate the requirement to season lamps for 1,000 hours prior to taking photometric measurements. Although some LED lamps do experience changes in light output during the first 1,000 hours of operation, independent research and manufacturer comments indicate that this is not true for all LED lamps. Each LED lamp is unique, and as a result, initial trends in light output are not consistent from lamp to lamp. Therefore, seasoning all lamps for a predetermined duration does not provide a more accurate initial test measurement, though it does increase testing burden. The current industry-accepted test procedure, IES–79–2008, reflects this understanding by not allowing lamp seasoning. Therefore, the SNOPR proposes to remain consistent with section 4.0 of IES LM–79–2008, which indicates LED lamps shall not be seasoned before beginning photometric measurements. These seasoning requirements would apply to lamps measured in both active mode and standby mode. DOE requests comment on this proposal.

b. Lamp Stabilization

In the NOPR, DOE proposed stabilizing lamps for the time specified in section 5.0 of IES LM–79–2008. DOE further proposed that stability of the LED lamp is reached when the variation [(maximum—minimum)/minimum] of at least three readings of light output and electrical power over a period of 30 minutes, taken 15 minutes apart, is less than 0.5 percent. 77 FR at 21043. This calculation was included to add clarification to the method specified in section 5.0 of IES LM–79–2008. For stabilization of a number of products of the same model, section 5.0 of IES LM–79–2008 suggests that preburning [25] of the product may be used if it has been established that the method produces the same stabilized condition as when using the standard method described above.

NEMA agreed that the lamp stabilization method in IES LM–79–2008 be used for the LED lamp test procedure but argued that the standard did not need further clarification. (NEMA, Public Meeting Transcript, No. 7 at pp. 38–39; NEMA, No. 16 at p. 3) However, GE advocated for presenting the lamp stabilization equation as a percent. (GE, Public Meeting Transcript, No. 7 at p. 39)

DOE reconsidered its NOPR proposal, but came to the same conclusion for the SNOPR. IES LM–79–2008 does not clearly specify the calculation for determining the stabilization value, leaving this requirement open to interpretation. Therefore, DOE continues to propose in the SNOPR that variation of at least three readings of light output and electrical power over a period of 30 minutes, taken 15 minutes apart is calculated as [maximum—minimum]/minimum. DOE expects this proposal is the same or very similar to the stabilization calculation methods already used in practice. As in the NOPR, DOE continues to propose in this SNOPR that stabilization of multiple products of the same model can be carried out as specified in section 5.0 of IES LM–79–2008. These stabilization requirements would apply to lamps measured in both active mode and standby mode.

c. Lumen Output Metric

In the NOPR, DOE proposed that the test method for measuring the lumen output of an LED lamp be as specified in section 9.0 of IES LM–79–2008 and proposed the same lumen output measurement method for all LED lamps, including directional [26] LED lamps. *Id.* For directional LED lamps, DOE suggested measuring total lumen output from the lamp rather than beam lumens [27] because other directional lamp technologies currently measure and report total lumen output on the FTC Lighting Facts label.

As discussed in section III.C.3.b, DOE proposes in the SNOPR that goniometers may not be used for photometric measurements. As a result, DOE proposes that the method for measuring lumen output in the SNOPR be as specified in sections 9.1 and 9.2 of IES LM–79–2008. Section 9.3 of IES LM–79–2008 discusses usage of goniometers, and DOE is not including that method in the SNOPR proposal.

Regarding directional lamps, NEMA commented that industry has not yet reached consensus regarding a light output metric for directional lamps. (NEMA, Public Meeting Transcript, No. 7 at p. 43; NEMA, No. 16 at p. 4) Furthermore, NEMA highlighted that DOE has other rulemakings specifically for reflector lamps that specify the use of total lumens. Therefore, a deviation from measuring total lumens in the LED lamp test procedure would have a significant impact on all types of directional lamps. (NEMA, Public Meeting Transcript, No. 7 at p. 44) The CA IOUs commented that if measuring beam lumens is only required for the LED lamp test procedure and not all general service reflector lamps, this could hinder the industry's ability to compare lamps across technologies. (CA IOUs, No. 19 at p. 7) However, the CA IOUs supported DOE's efforts to develop a beam efficacy metric and recommended that this metric be applied to all directional lamp technologies. (CA IOUs, No. 19 at p. 7) In contrast, P.R. China argued that testing total lumen output instead of the beam lumen output and center-beam candle power might bring inconsistency and confusion to the industry. Therefore, they recommended that DOE reference the Energy Star Program Requirements for Integral LED Lamps: Eligibility Criteria—Version 1.4 [28] which specifies that the center-beam candle power and beam angle be tested for directional lamps. (P.R. China, No. 12 at p. 4)

Because total lumen output is the measurement reported on the FTC Lighting Facts label for other directional lamp technologies, DOE agrees with NEMA and the CA IOUs comments not to include measurements for beam lumens in this test procedure. Therefore, DOE maintains its proposal from the NOPR to measure the total lumen output for LED lamps. Measuring the total lumen output for LED lamps

[25] IES LM–79–2008 defines preburning as the operation of a light source prior to mounting on a measurement instrument, to shorten the required stabilization time on the instrument.

[26] Directional lamps are designed to provide more intense light to a particular region or solid angle. Light provided outside that region is less useful to the consumer, as directional lamps are typically used to provide contrasting illumination relative to the background or ambient light.

[27] Please refer to the NOPR Test Procedures for Light-Emitting Diode Lamps (Docket No. EERE–2011–BT–TP–0071) for a detailed explanation of why DOE is not proposing to measure beam lumens for directional LED lamps (77 FR at 21043; April 9, 2012).

[28] ''Energy Star Program Requirements for Integral LED Lamps: Eligibility Criteria—Version 1.4.'' U.S. Environmental Protection Agency, August 28, 2013.

will enable industry and consumers to compare general service lamp products across different technologies.

d. Input Power

Following seasoning and stabilization, input power to the LED lamp is measured using the instrumentation specified in section III.C.3.b. All test conditions and test setup requirements from sections III.C.2 and III.C.3 should also be followed.

e. Lamp Efficacy Metric

In the NOPR, DOE proposed test procedures for measuring lumen output and input power, and also specified testing dimmable lamps at full light output. 77 FR at 21041. However, commenters noted that efficacy may appear in future mandates, and therefore recommended it be included in DOE's test procedure for LED lamps. The CA IOUs commented that a test procedure with an efficacy metric would be needed in the future to comply with federal legislative mandates, and for this reason they urged DOE to include an efficacy metric in the test procedure. Both the CA IOUs and NEEA recommended that DOE adopt IES LM–79–2008, which defines luminous efficacy as the quotient of the measured total luminous flux (in lumens) and the measured electrical input power (in watts), or lumens per watt. (CA IOUs, No. 19 at p. 3; NEEA, No. 20 at p. 1)

As discussed in section I, this proposed test procedure will support any potential future energy conservation standards for general service LED lamps, which may include efficacy as a metric for setting standards. Accordingly, for the SNOPR, DOE proposes that the efficacy of an LED lamp be calculated by dividing measured initial lamp lumen output in lumens by the measured lamp input power in watts, in units of lumens per watt. DOE believes that providing a calculation for efficacy of an LED lamp does not increase testing burden because the test procedure already includes metrics for input power and lumen output. DOE requests comment on the proposal to add a calculation for efficacy of an LED lamp.

f. Measuring Correlated Color Temperature

In the NOPR, DOE proposed that the CCT of an LED lamp be calculated as specified in section 12.4 of IES LM–79–2008. 77 FR at 21044. The CCT is determined by measuring the relative spectral distribution, calculating the chromaticity coordinates, and then matching the chromaticity coordinates to a particular CCT of the Planckian radiator. The setup for measuring the relative spectral distribution, which is required to calculate the CCT of the LED lamp, shall be as specified in section 12.0 of IES LM–79–2008. That section describes the test method to calculate CCT using a sphere-spectroradiometer system and a spectroradiometer or colorimeter system. Section 12.0 of IES LM–79–2008 also specifies the spectroradiometer parameters that affect CCT and the method to evaluate spatial non-uniformity of chromaticity.

South Korea disagreed with the proposal in the NOPR and recommended that DOE follow industry standard IEC/PAS 62612 which states that nominal CCT values shall be reported (South Korea, No. 17 at pp. 3–4). Nominal CCT values are defined by a region of the chromaticity diagram and any lamp that falls in a certain region is assigned a single CCT value. However, nominal CCT values do not address all regions of the chromaticity diagram. Although manufacturers in the marketplace may choose to design lamps that fall within regions defined by nominal CCT, DOE's goal is to establish one test method that applies to all LED lamps. Therefore, DOE is not proposing to follow a nominal CCT methodology and maintains its proposal in the NOPR regarding the method to calculate the CCT of an LED lamp. Furthermore, as discussed in section III.C.3.b, DOE also proposes in the SNOPR to require all photometric measurements (including CCT) be carried out in an integrating sphere, and that goniometer systems must not be used. Therefore, DOE proposes that the instrumentation used for CCT measurements be as described in section 12.0 of IES LM–79–2008 with the exclusion of section 12.2 of IES LM–79–2008.

g. Measuring Color Rendering Index

In the SNOPR, DOE proposes to add a requirement that the CRI of an LED lamp be determined as specified in section 12.4 of IES LM–79–2008. As discussed in section III.C.3.b, DOE also proposes in the SNOPR to require all photometric measurements (including CRI) be carried out in an integrating sphere. Therefore, the setup for measuring the relative spectral distribution, which is required to calculate the CRI of the LED lamp, must be as specified in section 12.0 of IES LM–79–2008 with the exclusion of section 12.2 of IES LM–79–2008, as goniometer systems must not be used. Section 12.4 of IES LM–79–2008 also specifies that CRI be calculated according to the method defined in the International Commission on Illumination (CIE) 13.3–1995.[29] DOE proposes that the test procedure for LED lamps include measurement methods for CRI in order to support the upcoming general service lamps energy conservation standard rulemaking. DOE requests comment on the proposal to add CRI to the test procedure for LED lamps.

*D. Proposed Approach for Lifetime Measurements*

1. LED Lamp Lifetime Definition

There are currently no industry standards that define or provide instructions for measuring the lifetime[30] of LED lamps. Thus, for the NOPR, DOE conducted literature research and interviewed several subject matter experts to understand how industry characterized lifetime for these products. Based on the information gathered, DOE proposed to measure lumen maintenance to determine the lifetime of LED lamps. Although other lighting technologies define lamp lifetime as the time at which 50 percent of tested samples stop producing light, industry believes that an LED lamp has reached the end of its useful life when it achieves a lumen maintenance of 70 percent (i.e. 70 percent of initial lumen output, or $L_{70}$). 77 FR at 21046.

Philips, OSI, and Cree agreed that currently no industry accepted procedure exists for measuring the lifetime of LED-based lighting products. (Philips, Public Meeting Transcript, No. 7 at p. 64; OSI, Public Meeting Transcript, No. 7 at pp. 74–75; Cree, Public Meeting Transcript, No. 7 at p. 65) However, Litecontrol and NEMA disagreed with DOE's proposal, stating that the report *LED Luminaire Lifetime: Recommendation for Testing and Reporting*[31] explicitly argues that lumen maintenance alone cannot be used as a proxy for the lifetime of LED-based lighting products. (Litecontrol, No. 11 at p. 1; NEMA, No. 16 at p. 5) Radcliffe Advisors and the CA IOUs emphasized that color shift be considered when determining the lifetime because this could also render a lamp un-usable or undesirable to a consumer before the lamp reaches $L_{70}$. (Radcliffe Advisors,

[29] ''Method of Measuring and Specifying Colour Rendering Properties of Light Sources.'' Approved by CIE in 1995.

[30] In the NOPR, DOE used the term ''rated lifetime.'' For the SNOPR, DOE replaces the term ''rated lifetime'' with ''lifetime'' to refer to the same parameter.

[31] U.S. Department of Energy, ''*LED Luminaire Lifetime: Recommendation for Testing and Reporting,*'' June 2011. *http://apps1.eere.energy.gov/buildings/publications/pdfs/ssl/led_luminaire-lifetime-guide_june2011.pdf.*

No. 13 at p. 1; CA IOUs, No. 19 at p. 4)

In the absence of industry consensus regarding a definition or test procedure for lifetime, NEMA, Lutron, the CA IOUs, and Radcliffe Advisors emphasized that DOE should wait for industry to develop new and revised standards that address lifetime and then reference them for the purposes of the FTC Lighting Facts label. (NEMA, No. 16 at p. 2; Lutron, Public Meeting Transcript, No. 7 at p. 80; CA IOUs, No. 19 at p. 5; Radcliffe Advisors, No. 13 at p. 1) NEMA indicated that this includes revisions of IES LM–79–2008, IES LM–80–2008,[32] and emerging standards IES LM–84 [33] and IES TM–26.[34] (NEMA, No. 16 at p. 2, 5, 7) The Joint Comment, NEMA, NEEA, and the CA IOUs encouraged DOE to work with industry to develop a test procedure that would quantify the lifetime of an LED lamp system. (Joint Comment, No. 18 at p. 1; NEMA, No. 16 at p. 4; NEEA, No. 20 at pp. 2–3; CA IOUs, No. 19 at p. 5) NEMA, Philips, and Radcliffe Advisors pointed out that there are several industry groups working on this issue, such as the LED Systems Reliability Consortium. (NEMA, No. 16 at p. 4; Philips, Public Meeting Transcript, No. 7 at p. 64; Radcliffe Advisors, No. 13 at p. 1) Other interested parties cited additional efforts; the CA IOUs commented that DOE should coordinate efforts with ENERGY STAR while the Joint Comment recommended that DOE coordinate test procedure development with work in the European Union. (CA IOUs, No. 19 at p. 5; Joint Comment, No. 18 at p. 5)

DOE recognizes that there are degradation mechanisms other than lumen maintenance, such as color shift, that can affect the useful lifetime of LED lamps. However, color shift is not very well-understood, well-studied, or commonly used even for traditional incandescent lamps and CFLs.[31] After conducting thorough research of existing test procedures for all lighting products and industry literature regarding LED lamp lifetime, DOE has tentatively concluded that there is no industry consensus for how to characterize lifetime of LED lamps in terms of performance metrics other than lumen maintenance. Therefore, DOE is not proposing to use metrics such as color shift to determine the lifetime of LED lamps.

Although industry may be working to develop new and revised standards to define lifetime and establish test procedures for measuring this quantity, the timeframe for their development is unknown. DOE reviewed the efforts of other working groups, as suggested by interested parties, but was unable to find any U.S. or international standard that provides a test procedure for measuring and/or projecting LED lamp lifetime. The only publicly available approach for measuring LED lamp lifetime is ENERGY STAR Program Requirements for Lamps (Light Bulbs): Eligibility Criteria—Version 1.0,[10] which uses a lumen maintenance of 70 percent (i.e. 70 percent of initial lumen output, or $L_{70}$) as an estimate for lifetime. Therefore, in this SNOPR, DOE proposes to continue to define lifetime as the time at which the lumen output of the LED lamp falls below 70 percent of the initial lumen output.

2. NOPR Proposals

As mentioned above, there are currently no industry standards that address how to measure lifetime for LED lamps. Therefore, DOE reviewed methods to measure lifetime that were contained in industry standards for related components and also investigated recent efforts in DOE and ENERGY STAR working groups. In the NOPR, DOE presented four potential lifetime measurement approaches, all of which characterized the lifetime of LED lamps as the time required to reach a lumen maintenance of 70 percent. 77 FR at 21044–5. Three of these approaches tested an LED lamp to determine the lifetime and the fourth approach tested the LED source as a proxy for the lifetime of the lamp. Ultimately, DOE determines in this SNOPR that the test procedure for lifetime must directly measure the performance of an LED lamp and not the LED source, and proposes the revised lifetime measurement detailed in section III.D.3.

Approach 1, based largely on the procedures in IES LM–79–2008, directed manufacturers to measure the lumen output of the LED lamp until it reaches 70 percent of its initial lumen output. In the NOPR, DOE stated that Approach 1 is advantageous because it does not project the time at which the lamp reaches $L_{70}$ and therefore measures the actual performance of the lamp over its useful life. However, DOE determined that Approach 1 was not practical because it may require up to six years of testing, by which time the LED lamp may be obsolete. *Id.*

Approach 2 called for measuring lumen output of the LED lamp for a specified period of time, 6,000 hours, and then projecting the time at which the lamp reached $L_{70}$ based on the minimum lumen maintenance at 6,000 hours. This method was largely based on the ENERGY STAR Specification for Integral LED Lamps Version 1.4 (*see supra* note 28). In addition, DOE proposed in the NOPR that a rapid-cycle stress test be performed to assess catastrophic lamp failure (*e.g.* when a lamp immediately ceases to emit light, rather than gradually decreasing in light output). Approach 2 also enabled lifetime claims to be based on the performance of an LED lamp, but was less time consuming than Approach 1 because it only required 6,000 hours of testing and then projected the lifetime based on the lumen maintenance at 6,000 hours. However, DOE noted in the NOPR that the method used to develop the ENERGY STAR lifetime projection is unverified and purely theoretical. Furthermore, Approach 2 did not account for catastrophic lamp failure beyond the 6,000 hour testing time. *Id.*

Similar to Approach 2, Approach 3, based on IES LM–79–2008, directed measuring the lumen output of the LED lamp for a minimum of 6,000 hours. In the NOPR, DOE stated that the collected lumen output data would then be used to project the $L_{70}$ lifetime of the LED lamp using an alternative procedure that would be developed by DOE. This method would project lifetime based on the performance of an LED lamp, but would not necessarily be based on a standardized method for projecting lifetime. 77 FR at 21045.

Finally, Approach 4 required measuring the lumen output of LED sources (the component of the LED lamp that produces light) at regular intervals for a minimum of 6,000 hours, based largely on the procedures in IES LM–80–2008. DOE would then project the time at which the lumen output of the source reached 70 percent of its initial lumen output using the projection method in IES TM–21–2011. In the NOPR, DOE indicated that, although the preferred methodology is to project the lifetime of an LED lamp rather than an LED source, an industry standardized method only exists for projecting the lifetime of an LED source and not an LED lamp. For this reason, DOE tentatively concluded in the NOPR that Approach 4 was the most appropriate and proposed that this method be used for estimating the lifetime of an LED lamp. *Id.*

[32] ''Measuring Lumen Maintenance of LED Light Sources.'' Approved by IES on September 22, 2008.

[33] LM–84 ''IES Approved Method for Measuring Lumen and Color Maintenance LED Lamps, Lighting engines, and Luminaires,'' will provide the method for measurement of lumen and color maintenance of LED lamps, light engines, and LED luminaires.

[34] TM–26 ''Projecting Long-Term Lumen Maintenance for LED Lamps and Luminaires,'' will provide an LED lamp and luminaire level counterpart to IES TM–21–2011 using the IES LM–80–2008 (revision) and LM–84 testing data for projecting long-term lumen maintenance.

DOE received many comments regarding its proposal for measuring lifetime. Both Kritzer and Samsung agreed with NOPR Approach 4, as written, for measuring the lifetime of LED lamps. (Kritzer, No. 3 at p. 1, Samsung, No. 14 at p. 1) Kritzer commented that it would be expected that the proposed method would reduce the amount of time needed for testing LED lamps and hence also reduce costs. (Kritzer, No. 3 at p. 1) However, NEMA, Radcliffe Advisors, and the Joint Comment disagreed with all suggested approaches within the NOPR document, including Approaches 1, 2, and 3 which DOE did not adopt as its proposal. (NEMA, No. 16 at p. 4; Radcliffe Advisors, No. 13 at p. 1; Joint Comment, No. 18 at p. 1)

Despite their disagreement, NEMA did offer an interim solution to use until new and revised industry standards are released. Their proposal combined NOPR Approach 2 and 4. They indicated that NOPR Approach 2 could be used by those manufacturers who do not have IES LM–80–2008 data for the LED source within the lamp and that NOPR Approach 4 could be used for those products for which IES LM–80–2008 data does exist. (NEMA, No. 16 at p. 4, 8) In addition, they suggested that DOE not include the rapid cycle stress testing suggested in Approach 2. They indicated that rapid cycle stress testing is practiced for some lighting technologies; however, this technique is not widely practiced by the LED industry and has not been verified as relevant to LED lifetime and performance. (NEMA, No. 16 at p. 9)

DOE appreciates NEMA's interim proposal, but notes that combining Approaches 2 and 4 would result in some manufacturers reporting lifetime based on testing of an LED lamp and others reporting lifetime based on testing of an LED source. The differences between Approaches 2 and 4 would lead to different results for lifetime. DOE cannot adopt alternative test methods that yield different results as there would be no basis for establishing any future energy conservation standards. Furthermore, this combined approach still contains many of the drawbacks related to the individual approaches.

Regarding Approach 4, DOE received several comments that outlined the disadvantages of the NOPR proposal for determining the lifetime of LED lamps. NEMA, Philips, OSI, TUD, the Joint Comment, the CA IOUs, NEEA, Radcliffe Advisors, the Appliance Standards Awareness Project (hereafter referred to as ASAP), and Litecontrol advocated basing the lifetime on measurements of the whole LED lamp and not the LED source component. They commented that it is undesirable for the lifetime of LED lamps to be approximated by the lumen maintenance of the LED source and stated that other components may cause lamp failure before the LED source falls below 70 percent of its initial light output. (NEMA, Public Meeting Transcript, No. 7 at p. 83, 84–85, 85; NEMA, No. 16 at p. 2, 4, 5, 8, 9; Philips, Public Meeting Transcript, No. 7 at pp. 63–64, 83; OSI, Public Meeting Transcript, No. 7 at p. 69, 100–101; TUD, No. 15 at p. 1; Joint Comment, No. 18 at p. 1, 2, 4; CA IOUs, No. 19 at p. 4; NEEA, No. 20 at p. 2, 3; Radcliffe Advisors, No. 13 at p. 1; ASAP, Public Meeting Transcript, No. 7 at pp. 83–84; Litecontrol, No. 11 at p. 1)

Some interested parties suggested additional considerations for a procedure that measured the performance of an LED lamp rather than an LED source. The Joint Comment stated that the test procedure for LED lamp lifetime include measurements and projections of driver lifetime. They explained that industry has developed reliability models to predict theoretical failure rates of LED drivers, and DOE should investigate these models to determine if using them would help better capture system effects of an LED lamp. (Joint Comment, No. 18 at p. 1, 4–5) The CA IOUs also suggested that DOE use accelerated testing based on elevated temperatures, such as the method being explored by the LRC. (CA IOUs, No. 19 at p. 5)

DOE has considered all comments received about the four approaches discussed in the NOPR and has decided to significantly change its approach for determining the lifetime of LED lamps in this SNOPR. DOE agrees that there are several potential issues with requiring lumen maintenance testing of the LED source component, as proposed in Approach 4. DOE has preliminarily concluded in this SNOPR that the test procedure for lifetime must directly measure the performance of an LED lamp. DOE acknowledges that LED driver degradation and interactions between the LED sources and other components are known to affect the lifetime of integrated LED lamps. Regarding the proposal by the Joint Comment, DOE conducted research of existing driver reliability modeling and test procedures, including those specified in the military handbook MIL–HDBK–217F,[35] to determine whether driver failure could be included in the projection of LED lamp lifetime. However, DOE determined that no test procedures are available that use the expected failure of the LED driver to predict the failure of the complete LED lamp system. The CA IOUs suggested that DOE consider accelerated testing based on elevated temperatures for the lifetime test procedure. However, DOE research of existing literature and industry test procedures indicates that accelerated test methods for LED lamp lifetime are not available, and therefore, are not ready for inclusion in the SNOPR.

As mentioned above, DOE has decided to measure directly the performance of an LED lamp and does not propose requiring testing of LED sources or any individual lamp component. The complete SNOPR method is described in section III.D.3. Although DOE has decided to make this change, DOE did receive comments on specific aspects of the NOPR proposal. These comments are discussed in further detail below.

a. Industry Standards

In the NOPR, DOE proposed measuring the lumen output of LED sources based on IES LM–80–2008 and then projecting the time at which the lumen output of the source reached 70 percent of the initial lumen output based on IES TM–21–2011. 77 FR at 21045 NEMA, Cree, Radcliffe Advisors, the CA IOUs, and Philips commented that the NOPR proposal modifies and misapplies industry standards, and argued that both IES LM–80–2008 and IES TM–21–2011 provide procedures to measure lumen maintenance of the LED source and should not be used to estimate the lifetime of LED lamps. (NEMA, No. 16 at p. 2, 5, 7; Cree, Public Meeting Transcript, No. 7 at pp. 95–96, 109; Radcliffe Advisors, No. 13 at p. 1; CA IOUs, No. 19 at p. 5, 6; Philips, Public Meeting Transcript, No. 7 at p. 114) NEMA specified that DOE only reference IES LM–79–2008 because this standard applies to LED lamps, which are the subject of this rulemaking. (NEMA, No. 16 at p. 6)

DOE understands that both IES LM–80–2008 and IES TM–21–2011 are industry standards for measuring and predicting the lumen maintenance of an LED source. In the NOPR, DOE proposed referencing these standards to measure the lumen maintenance of an LED source because DOE believed it would be an adequate approximation for determining the lifetime of LED lamps. However, based on the comments received in response to the NOPR, DOE has changed its proposed procedure to

[35] Society of Reliability Engineers, Reliability Prediction of Electronic Equipment, December 1991. *http://www.sre.org/pubs/Mil-Hdbk-217F.pdf.*

measure the lifetime of LED lamps. In this SNOPR, DOE proposes assessing the lumen maintenance of an LED lamp and does not require testing of LED sources. DOE's lifetime proposal, described in section III.D.3, uses the procedures of IES LM–79–2008 to measure the lumen output of an LED lamp.

b. LED Source In-Situ Temperature

In the NOPR, DOE proposed performing an in-situ temperature measurement test (ISTMT) to determine the case temperature at which the lumen maintenance data shall be obtained to project the lifetime of the LED source. 77 FR at 21047 DOE proposed that the test setup, conditions, test equipment, instrumentation, and test box material and construction for the ISTMT be as specified in UL 1993–2009.[36] UL, GE, Cree, NEMA, and Feit argued that the test setup specified in UL 1993–2009 is designed to represent a worst-case installation scenario. (UL, Public Meeting Transcript, No. 7 at p. 110; GE, Public Meeting Transcript, No. 7 at p. 91; Cree, Public Meeting Transcript, No. 7 at p. 93; NEMA, No. 16 at p. 5; Feit, Public Meeting Transcript, No. 7 at p. 93) Specifically, NEMA expressed concern that the test setup described in UL 1993–2009 would elevate the ambient air to a temperature greater than 25 °C, which conflicts with the requirement to measure photometric characteristics at 25 °C. This increase in temperature could also lead to changes in the photometric performance of the LED sources. Furthermore, NEMA commented that using UL 1993–2009 would force LED lamp manufacturers to increase design margins for lumens and other lamp characteristics to account for the temperature increase of the UL test conditions. This would lead to the over-design of LED lamps. (NEMA, No. 16 at p. 7) GE and NEMA concluded that UL 1993–2009 should not be used as part of the instruction for the ISTMT. (GE, Public Meeting Transcript, No. 7 at p. 91; NEMA, No. 16 at p. 5, 7) The Joint Comment indicated that DOE should carefully consider whether UL 1993–2009 represents an average installation or a worst-case scenario. (Joint Comment, No. 18 at p. 3) However, Intertek argued that UL 1993–2009 is designed to represent typical installation conditions. (Intertek, Public Meeting Transcript, No. 7 at p. 92, 93).

The Joint Comment explained that temperature plays a critical role in the failure of LED lamps. They commented that an appropriate lifetime test method would take careful account of all the real-world installation parameters that could impact the natural operating temperature of the device. The Joint Comment indicated that this would include orientation, natural air circulation around the device, and all the effects from other physical connections/thermal pathways. In contrast with the manufacturers' recommendation, the Joint Comment supported a test procedure that approximates a worst-case installation scenario if knowledge about field installations is missing or insufficient. (Joint Comment, No. 18 at p. 2–3) The Joint Comment recommended that DOE carefully consider whether UL 1993–2009 represents an average U.S. installation or a worst-case scenario and provide justification as to why its use is appropriate. (Joint Comment, No. 18 at p. 3)

In this SNOPR, DOE has proposed a new test procedure for measuring the lifetime of LED lamps that does not require determining the in-situ temperature of the LED source. The test conditions for the new proposal are discussed in section III.D.3.b.

c. LED Source Lumen Maintenance

IES LM–80–2008 requires manufacturers to test LED sources at three temperatures: 55 °C, 85 °C, and a third temperature suggested by the source manufacturer. A lamp manufacturer can then interpolate the performance of the source at any temperature bounded by those three temperatures, avoiding the need to conduct additional LED source testing for their specific LED lamp. However, IES LM–80–2008 does not provide a method for *extrapolating* LED source performance at an in-situ temperature that is not bounded by those three temperatures. In this case (an uncommon situation), DOE proposed in the NOPR that LED lamp manufacturers would need to test the LED sources at the in-situ temperature of their lamp to obtain the lumen maintenance data to project the lifetime. 77 FR at 21046 DOE's NOPR proposal did not modify IES LM–80–2008, instead it provided additional test methods for situations outside the applicability of IES LM–80–2008.

DOE received several comments requesting that DOE not modify IES LM–80–2008 and stating that proposed testing of LED sources would be costly. NEMA, the CA IOUs, and NEEA commented that DOE should not modify the test procedures specified in IES LM–80–2008. (NEMA, No. 16 at p. 5; CA IOUs, No. 19 at pp. 5–6; NEEA, No. 20 at p. 2). Furthermore, NEEA commented that aligning DOE's test procedure and IES LM–80–2008 will reduce the testing burden on manufacturers. (NEEA, No. 20 at p. 2) The CA IOUs elaborated that LED source testing at the case temperature identified during the ISTMT would be impractical and/or costly for industry because LED sources are often brought to market with their IES LM–80–2008 testing already complete. (CA IOUs, No. 19 at pp. 5–6)

Two commenters requested further clarification of IES LM–80–2008. Regarding the temperature requirements, South Korea commented that international standards do not prescribe any specific temperatures at which to measure the lumen maintenance of the LED source. If DOE determines it is important to test the sources at 55 °C and 85 °C, DOE should seek scientific justification for these requirements. (South Korea, No. 17 at p. 3) Samsung also requested that DOE specify the location on the LED source where temperature is measured. (Samsung, No. 14 at p. 1)

DOE also received several comments indicating that DOE's proposal for procurement of LED source lumen maintenance data could require disassembly of a lamp in some cases. GE, OSI, and NEMA commented that manufacturers would need to extract the LED source from the finished lamp product if IES LM–80–2008 data is unavailable. (GE, Public Meeting Transcript, No. 7 at p. 94, 95, 100; OSI, Public Meeting Transcript, No. 7 at pp. 100–101; NEMA, No. 16 at p. 6) To avoid extracting the LED source, GE recommended that DOE consider multiple lifetime measurement approaches depending on the availability of IES LM–80–2008 data. (GE, Public Meeting Transcript, No. 7 at pp. 78–79)

In the NOPR, DOE also proposed using the relevant guidelines from an ENERGY STAR specification document to measure the lumen maintenance for LED sources.[37] 77 FR at 21048 Cree commented that for lamps that use both white and red LED sources there is uncertainty as to whether the IES LM–80–2008 data from the individual sources can be added together to accurately represent their combined performance. Cree also noted ENERGY STAR is currently accepting this practice. (Cree, Public Meeting

[36] "Self-Ballasted Lamps and Lamp Adapters." Published by UL on August 28, 2009.

[37] ENERGY STAR Program Guidance Regarding LED Package, LED Array and LED Module Lumen Maintenance Performance Data Supporting Qualification of Lighting Products, September 9, 2011. *www.energystar.gov/ia/partners/prod_development/new_specs/downloads/luminaires/ENERGY_STAR_Final_Lumen_Maintenance_Guidance.pdf.*

Transcript, No. 7 at p. 106) Both NEMA and Radcliffe Advisors stated that this is not an issue because DOE's test procedure should not require testing of any individual component of an LED lamp. All testing procedures should measure performance of the complete lamp product. (NEMA, No. 16 at p. 4–5; Radcliffe Advisors, No. 13 at p. 1)

DOE agrees there are drawbacks (including disassembly of the lamp to extract an LED source) to testing the LED source component as a proxy for estimating the lifetime of an LED lamp as outlined in IES LM–80–2008. Therefore, DOE has developed a new proposal that only requires testing of an LED lamp and is no longer using the test procedures in IES LM–80–2008 or IES TM–21–2011. The new test procedure for LED lamps indicates that after the test duration, lumen output must be measured as specified in IES LM–79–2008. The lifetime of the LED lamp can then be projected using an equation. The proposed method for lifetime testing is discussed in more detail in section III.D.3.

d. Test Conditions

In the NOPR, DOE proposed that the temperature of the surrounding air during testing be maintained between the case temperature and 5 °C below the case temperature as specified in section 4.4.2 of IES LM–80–2008. DOE also proposed that airflow around the LED sources be as specified in section 4.4.3 of IES LM–80–2008, which states that the airflow shall be maintained to minimize air drafts but allow some movement of the air to avoid thermal stratification. 77 FR at 21046 NEMA and Cree commented that the upcoming IES LM–80–2008 revisions will include recommendations on best practices for measuring and monitoring air flow through the test system. (NEMA, Public Meeting Transcript, No. 7 at p. 97; Cree, Public Meeting Transcript, No. 7 at p. 97) However, NEMA indicated that current test methods have led industry to believe that the surrounding air temperature and airflow do not have noticeable impact on long-term LED lumen degradation. They suggested that current IES LM–79–2008 air movement requirements are more than adequate to ensure the accuracy of test data. (NEMA, No. 16 at p. 5) TUD disagreed with the specified test conditions, indicating that they cannot sufficiently simulate all real world conditions. (TUD, No. 15 at p. 1)

As previously mentioned, for this SNOPR, DOE has developed a test procedure that only requires testing of an LED lamp. Therefore, DOE no longer references IES LM–80–2008, which applies to LED sources. The SNOPR has proposed less stringent ambient temperature and airflow conditions for periods when a lamp is operating but measurements are not being taken. These requirements are discussed in more detail in section III.D.3.b.

e. LED Source Orientation

In the NOPR, DOE proposed that the LED sources be operated in accordance with section 4.4.4 of IES LM–80–2008, which requires operating LED sources in the orientation specified by the source manufacturer. *Id.* DOE noted that it is not specifying the orientation for testing LED sources and invited interested parties to comment on whether the operating orientation of the LED sources during testing affects the lumen depreciation over time. Cree, Samsung, and NEMA commented that DOE should not require additional marking or testing based on orientation. (Cree, Public Meeting Transcript, No. 7 at p. 98; Samsung, No. 14 at p. 1; NEMA, No. 16 at p. 6) NEMA stated that the orientation specified in IES LM–80–2008 is only provided to establish a common testing protocol, not because there is any evidence that orientation affects performance. In this SNOPR, DOE is not referencing the test procedures provided in IES LM–80–2008, which apply to LED sources. Instead, DOE is proposing a new test procedure for lifetime which measures the performance of LED lamps. Because DOE believes that orientation impacts the performance of LED lamps, DOE is proposing that lamps be tested in both the base-up and base-down positions. The orientation requirements for lifetime are discussed in section III.C.3.b.

f. External Driver Requirements

As specified in IES LM–80–2008, in the NOPR, DOE proposed using an external driver that is compliant with manufacturer's guidance to drive the LED source. 77 FR at 21047 Both Cree and NEMA opposed using external drivers to test LED sources, while Samsung thought the use of an external driver was appropriate. (Cree, Public Meeting Transcript, No. 7 at p. 99; NEMA, No. 16 at p. 6; Samsung, No. 14 at p. 1) NEMA indicated that the FTC label only regulates medium screw-base products (as defined in CFR 430.2). Therefore, if the lamp is to connect to the power supply via an ANSI base, there must be an integrated driver rather than an external driver. (NEMA, No. 16 at p. 6) In this SNOPR, DOE is proposing a new test procedure that measures the performance of an LED lamp and is no longer utilizing the test procedures provided in IES LM–80–2008. The new proposal does not require the use of an external driver because an internal driver is included in an integrated LED lamp. The SNOPR proposal for determining the lifetime of LED lamps is detailed in section III.D.3.

g. Lumen Maintenance Measuring Equipment

IES LM–80–2008 specifies using a spectroradiometer to measure the lumen output of an LED source. In the NOPR, DOE proposed using a sphere-spectroradiometer, sphere-photometer, or a goniophotometer to measure the lumen output of the LED source. 77 FR at 21043 Cree agreed that all three instruments are appropriate to measure the lumen output of LED sources. Cree indicated that IES LM–80–2008 does not specify the use of a goniophotometer because this equipment cannot be used to measure many of the other photometric and electrical characteristics that the standard requires. (Cree, Public Meeting Transcript, No. 7 at p. 103) NEMA disagreed with DOE's proposal and recommended that DOE not modify the IES LM–80–2008 procedures. (NEMA, Public Meeting Transcript, No. 7 at p. 104; NEMA, No. 16 at p. 6) Samsung commented that requiring only a sphere-spectroradiometer would be suitable. (Samsung, No. 14 at p. 1)

For this SNOPR, DOE is no longer proposing to use the test procedures provided in IES LM–80–2008. Because DOE proposes to measure the lifetime of LED lamps rather than LED sources, the SNOPR proposes the use of the lumen output measuring equipment described in IES LM–79–2008. As discussed in section III.C.3.b, DOE proposes that the instrumentation used for lumen output measurement of LED lamps be as described in sections 9.1 and 9.2 of IES LM–79–2008 and that goniometer systems not be used.

h. LED Source Seasoning

Regarding seasoning of the LED source for lifetime measurements, the Joint Comment argued that if DOE proposes a lifetime test method that involves projection of the LED source using the Arrhenius equation as the functional form of lumen degradation, the proposal should include seasoning. (Joint Comment, No. 18 at pp. 5–6) DOE's proposal in the SNOPR (discussed in section III.D.3) involves measurements of the LED lamp, not the LED source. Therefore, DOE is not proposing a seasoning requirement for LED sources in the SNOPR.

i. Maximum Lifetime

In the NOPR, DOE proposed projecting the lifetime as specified in

section 5.0 of IES TM–21–2011. DOE also proposed that if the projected rate lifetime is greater than 25,000 hours, the maximum lifetime is 25,000 hours. If the projected lifetime is less than 25,000 hours, the lifetime is the projected value. 77 FR at 21048

Litecontrol, Radcliffe Advisors, South Korea, Kritzer, an Anonymous commenter, the CA IOUs, NEMA, and Philips disagreed with the proposal to cap lifetime at 25,000 hours, stating that applying an arbitrary cap discourages manufacturer improvements to lifetime. (Litecontrol, No. 11 at p. 1; Radcliffe Advisors, No. 13 at p. 2; South Korea, No. 17 at p. 3; Kritzer, No. 8 at p. 1; Anonymous, No. 8 at p. 1; CA IOUs, No. 19 at p. 4; NEMA, Public Meeting Transcript, No. 7 at p. 65, 72–74; NEMA, No. 16 at p. 5; Philips, Public Meeting Transcript, No. 7 at p. 111) NEMA commented that applying a cap of 25,000 hours is contrary to FTC instruction, contradicts the recent L-Prize winning lamp's lifetime rating,[38] and limits payback analysis for rebate programs. (NEMA, No. 16 at p. 5) The Joint Comment indicated that the lifetime cap leaves little incentive for manufacturers to test for longer periods of time with larger samples to reduce measurement uncertainty. (Joint Comment, No. 18 at p. 5) Kritzer pointed out that LED lamps are rapidly improving in performance and limiting these products to a lifetime of 25,000 hours would affect their ability to compete with fluorescent technologies, which advertise lifetimes as long as 40,000 hours. (Kritzer, No. 8 at p. 1)

Some interested parties suggested alternate proposals for limiting maximum lifetime claims. South Korea proposed that the lifetime cap be raised to 36,000 hours to be consistent with IES TM–21–2011, which specifies that if the LED sources are tested beyond 6,000 hours they can report up to 36,000 hours. (South Korea, No. 17 at p. 3) NIST commented that the lifetime cap should only be raised if manufacturers can provide statistics to prove their reported values. (NIST, Public Meeting Transcript, No. 7 at p. 78) Alternatively, NEMA suggested that methods for projecting lifetime beyond 25,000 hours could be drawn from the ENERGY STAR solid-state lighting (hereafter referred to as SSL) program and other products such as electronic fluorescent ballasts. (NEMA, No. 16 at p. 7) The ENERGY STAR test procedure for lifetime includes a projection method based on lumen maintenance testing of an integrated lamp and does not require testing of the embedded LED source. In addition, their projection method specifies that an LED lamp has the potential to be rated at a lifetime greater than 25,000 hours if additional testing beyond the minimum required 6,000 hours of lumen maintenance testing is conducted (*see supra* note 28). The Joint Comment agreed with the need to limit unreasonable lifetime claims and asked DOE to work with industry to investigate a set of confidence criteria to define a lifetime metric. (Joint Comment, No. 18 at p. 5) The Joint Comment argued that the goal of the FTC Lighting Facts label should be to give customers the most accurate information possible regarding the quality and lifetime of this product, and that establishing proper test procedures will help ensure this happens. (Joint Comment, No. 18 at p. 5)

After considering the comments about the NOPR lifetime cap proposal, DOE has removed the 25,000 hour lifetime cap and developed a proposal where the maximum lifetime of LED lamps depends on the test duration. To prevent unreasonable lifetime claims based on a limited amount of test data, DOE proposes that lifetime claims be limited to no more than four times the duration of the test period. This limit reflects ENERGY STAR's requirements to support lifetime claims beyond 25,000 hours, which require a test duration that is 25 percent of the maximum projection. For example, to report a projected $L_{70}$ lifetime of 30,000 hours, at least 7,500 hours of testing (and a lumen maintenance of at least 70 percent at that time) would be required. Requiring four times the duration of the test period is more conservative than industry standard IES TM–21–2011 for LED sources, which limits the $L_{70}$ projection to no more than 5.5 or 6 times the testing time (depending on sample size). A more conservative approach is reasonable because this test procedure applies to integrated LED lamps rather than LED sources. DOE invites comment on the proposed requirement to limit lifetime claims to four times the duration of the test period.

j. Market Introduction

TUD commented that requiring a minimum test duration of 6,000 hours could delay the market introduction of LED lamp products. (TUD, No. 15 at p. 1) In this SNOPR, DOE is proposing a new test method which does not require a minimum duration of testing. Rather, DOE allows the manufacturer to determine the test duration and then limits lifetime claims to four times the test duration.

3. SNOPR Proposed Lifetime Method

In this SNOPR, DOE proposes a new test procedure for lifetime that addresses many of the stakeholder concerns regarding the NOPR proposal for measuring the lifetime of LED lamps. This proposal is simple, straightforward, and allows significant flexibility if lifetimes of LED products change in the future. As stated in section III.D.1, DOE defines the lifetime of an LED lamp as the time at which a lamp reaches a lumen maintenance of 70 percent (i.e., 70 percent of initial lumen output, or $L_{70}$). In this SNOPR, DOE proposes to measure the lumen output of an LED lamp rather than the LED source contained in the lamp. Thus, the test procedure directly measures the performance of the actual product rather than an internal component. This considerably simplifies compliance testing and provides a consistent procedure to be used for all products. The methodology proposed in the SNOPR consists of four main steps: (1) measuring the initial lumen output; (2) operating the lamp for a period of time (test duration); (3) measuring the lumen output at the end of the test duration; and (4) projecting $L_{70}$ using an equation adapted from the underlying exponential decay function in ENERGY STAR's most recent specification for integrated LED lamps, Program Requirements for Lamps (Light Bulbs): Eligibility Criteria—Version 1.0. (*see supra* note 10) The equation projects lifetime using the test duration and the lumen maintenance at the end of the test duration as inputs. The following sections discuss the methodology in greater detail.

a. Initial Lumen Output

Initial lumen output is the measured amount of light that a lamp provides at the beginning of its life, after it is initially energized and stabilized using the stabilization procedures in section III.C.4.b. An initial lumen output measurement is required to calculate lumen maintenance, which is an input for the lifetime projection. The test procedure for lumen output is described in section III.B. The methodology, test conditions, and setup requirements are unchanged when measuring initial lumen output for the lifetime test procedure.

b. Test Duration

The period of time starting immediately after the initial lumen output measurement and ending when the final lumen output measurement is

[38] The Philips L-Prize Winning LED Bulb is rated at 30,000 hours and has undergone over 7,000 hours of lumen maintenance testing. *www.lightingprize.org/60watttest.stm.*

recorded, is referred to as the ''test duration'' or time ''t.'' The test duration does not include any time when the lamp is not energized. If lamps are turned off (possibly for transport to another testing area or during a power outage), DOE proposes that the time spent in the off-state not be included in the test duration. DOE does not specify a minimum test duration or measurement interval, so manufacturers can customize the test duration based on the expected lifetime of the LED lamp. During this time, the LED lamps are turned on (energized) and operated for a period of time determined by the manufacturer. To reduce test burden, the operating conditions required during the test duration while measurements are not being taken are less stringent than those required when taking photometric measurements (e.g., ambient temperature). The following sections discuss the required operating conditions for lamp operation between lumen output measurements in more detail.

Ambient Temperature and Air Flow

DOE recognizes that while operating an LED lamp, lumen output can vary with changes in ambient temperature, air flow, vibration, and shock. For this reason, DOE proposes specific requirements for quantities such as ambient temperature and air flow for photometric measurements in section III.C.2. However, because lamps may need to be operated for an extended period of time for the purpose of lifetime testing, DOE proposes less stringent requirements when measurements are not being taken. DOE proposes that ambient temperature be maintained between 15 °C and 40 °C. DOE also proposes minimizing air movement surrounding the test racks, and that the LED lamps not be subject to excessive vibration or shock. These test conditions will enable reliable, repeatable, and consistent test results without significant test burden and are discussed in further detail below:

To determine ambient temperature requirements, DOE reviewed industry standard IES LM–65–10 ''Approved Method Life Testing of Compact Fluorescent Lamps.'' [39] Section 4.3 of IES LM–65–10 requires that ambient temperature be controlled between 15 °C and 40 °C. Although industry standard IES LM–65–10 is intended for compact fluorescent lamps, DOE proposes that this ambient temperature range is appropriate for the operation of LED lamps because NEMA commented that current test methods have led industry to believe that the surrounding air temperature and airflow does not have a noticeable impact on long-term LED lumen degradation. (NEMA, Public Meeting Transcript, No. 7 at pp. 2–3; NEMA, No. 16 at p. 2–3) DOE believes that an ambient temperature range between 15 °C and 40 °C encompasses the majority of possible room temperature conditions while limiting test burden. Therefore, in this SNOPR, DOE proposes that ambient temperature be controlled between 15 °C and 40 °C. DOE requests comments on this proposal.

DOE proposes that LED lamp testing racks be open and designed with adequate lamp spacing and minimal structural components to maintain ambient temperature conditions. Furthermore, similar to the requirements in section 4.2 of IES LM–65–10, DOE proposes minimizing airflow surrounding the LED lamp testing racks and that the lamps not be subjected to excessive vibration or shock. DOE believes that these requirements would minimize the impact of airflow and the physical environment while minimizing test burden. DOE invites comments on the minimization of vibration, shock, and air movement, as well as the requirement for adequate lamp spacing during lamp operation in order to maintain ambient temperature conditions.

Power Supply

DOE proposes that section 3.1 of IES LM–79–2008 be incorporated by reference to specify requirements for both AC and DC power supplies. This section specifies that an AC power supply shall have a sinusoidal voltage waveshape at the input frequency required by the LED lamp such that the RMS summation of the harmonic components does not exceed three percent of the fundamental frequency while operating the LED lamp. Section 3.2 of IES LM–79–2008 also requires that the voltage of an AC power supply (RMS voltage) or DC power supply (instantaneous voltage) applied to the LED lamp shall be within ±0.2 percent of the specified lamp input voltage. However, DOE determined that the IES LM–79–2008 voltage tolerances are too burdensome to maintain for the extended time period for which a lamp may need to be operated to determine lifetime. When not taking measurements, DOE proposes to adopt provisions similar to section 5.3 of IES LM–65–10 which requires that the input voltage be monitored and regulated to within ±2.0 percent of the rated RMS voltage. DOE believes that this requirement is achievable with minimal test burden and provides reasonable stringency in terms of power quality based on its similarity to voltage tolerance requirements for other lamp types. DOE invites comments on the proposal to adopt section 3.1 of IES LM–79–2008 requirements for both AC and DC power supplies. DOE also requests comment on the requirement that input voltage be monitored and regulated to within ±2.0 percent of the rated RMS voltage as specified in section 5.3 of IES LM–65–2010.

Lamp Mounting and Orientation

DOE proposes that the LED lamps be tested in the base-up and base-down orientations for lumen maintenance testing. Section III.C.3.b notes that LED lamp test data provided by ENERGY STAR, as well as PG&E, CLASP, and CLTC, has revealed that there was variation between the base-up, base-down and horizontal orientations (*see supra* note 20). Of the three orientations, analysis revealed that the base-up and base-down orientations represent the best (highest lumen output) and worst (lowest lumen output) case scenarios.

Electrical Settings

DOE proposes adopting the electrical settings in section 7.0 of IES LM–79–2008. Section III.C.3.d details the required electrical settings for input voltage and how to operate lamps with multiple modes of operation, such as variable CCT and dimmable lamps.

Operating Cycle

Lifetime test procedures for other lamp types sometimes require ''cycling,'' which means turning the lamp on and off at specific intervals over the test period. However, industry has stated that unlike other lighting technologies, the lifetime of LED lamps is minimally affected by power cycling.[40] Therefore, in this SNOPR, DOE proposes to operate the LED lamp continuously and requests feedback on the appropriateness of not requiring cycling in the test procedure for lifetime.

c. Lumen Output at the End of the Test Duration

Any lumen output measurement after the measurement of initial lumen output, including that at the end of the test duration, is measured under the

[39] ''Approved Method Life Testing of Compact Fluorescent Lamps.'' Approved by IES on December 13, 2010.

[40] NEMA Comments on ENERGY STAR Program Requirements Product Specification for Lamps (Light Bulbs) Version 1.0, Draft 2*http://energystar.gov/products/specs/sites/products/files/NEMA.pdf.*

conditions and setup described in section III.B. DOE proposes stabilizing the LED lamp before measuring lumen output at the end of the test duration. Section III.C.4.b details the LED lamp stabilization procedure.

d. Lumen Maintenance Calculation and Lifetime Projection

As discussed in section III.D.1, DOE proposes to define LED lamp lifetime as the time required to reach a lumen maintenance of 70 percent ($L_{70}$). Lumen maintenance is the measure of lumen output after an elapsed operating time, expressed as a percentage of the initial lumen output (the definition of initial lumen output is provided in section III.D.3.a). DOE proposes that the lumen maintenance at the end of the test duration equal the lumen output at the end of the test duration (see section III.D.3.c) divided by the initial lumen output.

DOE developed an equation to project the time at which an LED lamp reaches $L_{70}$ based on the underlying exponential decay function used in the ENERGY STAR Program Requirements for Lamps (Light Bulbs): Eligibility Criteria—Version 1.0 (*see supra* note 10). ENERGY STAR utilizes an exponential decay function to calculate maximum $L_{70}$ life claims between 15,000 and 50,000 hours at increments of 5,000 hours. The ENERGY STAR procedure requires a 6,000 hour test duration and provides lumen maintenance thresholds for each incremental $L_{70}$ lifetime claim. Unlike ENERGY STAR, DOE does not have minimum lifetime requirements for LED lamps. Therefore, to enable reporting of lifetimes less than 15,000 hours and greater than 50,000 hours, DOE has reorganized the underlying ENERGY STAR equation to calculate $L_{70}$ given the initial lumen output ''x0'', the test duration ''t'', and the final lumen output at the end of the test duration ''$x_t$'' as inputs. DOE's equation is detailed below.

$$L70 = t * \frac{\ln(0.7)}{\ln(\frac{x_0}{x_t})}$$

$L_{70}$ = Time to Reach 70% Lumen Maintenance
t = Test Duration
$x_0$ = Initial Lumen Output
$x_t$ = Final Lumen Output at time ''t''

DOE requests comment on the proposed equation for projecting the $L_{70}$ lifetime of LED lamps.

DOE proposes that lifetime claims be limited to no more than four times the test duration ''t.'' For example, if an LED lamp is tested for 6,000 hours and has a lumen maintenance value of 93.1 percent at that time, the $L_{70}$ projection equation indicates that the $L_{70}$ lifetime is about 30,000 hours. However, the maximum that could be reported based on the DOE proposal is only 24,000 hours (four times the testing time of 6,000 hours). For lumen maintenance values less than 70 percent, including lamp failures that result in complete loss of light output, the SNOPR proposes that lifetime must not be projected; instead, the lumen maintenance is equal to the previously recorded lumen output measurement at the test duration where the lumen maintenance is greater than or equal to 70 percent. DOE also recognizes that it is possible that the calculated lumen maintenance at time ''t'' could be greater than or equal to 100 percent. When this occurs, DOE proposes that lifetime claims be determined by the maximum projection limit. Due to the similarity of the DOE and ENERGY STAR lifetime test procedures, manufacturers may choose to utilize lumen maintenance measurements collected for the ENERGY STAR specification. However, measurements must adhere to DOE's electrical setting requirements proposed in section III.C.3.d and manufacturers must include all LED lamps within the 10 lamp sample in the reported results including lamp failures. DOE requests comments on its proposal to limit the maximum lifetime to four times the test duration with no minimum test duration.

Finally, DOE also notes that a manufacturer can report the test duration as measured without applying the projection equation. This approach applies to two scenarios. In the first scenario, a manufacturer can test the lamp until it reaches 70 percent lumen maintenance and use that test duration as the lifetime of the lamp. This is equivalent to using the projection equation, because the output of the projection equation would be the same as the test duration when lumen maintenance of 70 percent is reached. In the second scenario, a manufacturer can use the test duration associated with a lumen maintenance greater than 70 percent. This scenario is equivalent to a manufacturer using the projection equation, but electing to report a more conservative value for business reasons. Reporting of conservative values is permitted and is also discussed in section III.F.3.

*E. Proposed Approach for Standby Mode Power*

EPCA section 325(gg)(2)(A) in part directs DOE to establish test procedures to include standby mode, ''taking into consideration the most current versions of Standards 62301 and 62087 of the International Electrotechnical Commission . . .'' (42 U.S.C. 6295(gg)(2)(A)) IEC Standard 62087 applies only to audio, video, and related equipment, but not to lighting equipment. Thus, IEC Standard 62087 does not apply to this rulemaking, so DOE developed this SNOPR consistent with procedures outlined in IEC Standard 62301, which applies generally to household electrical appliances. However, to (1) develop a test method that would be familiar to LED lamp manufacturers and (2) maintain consistent requirements to the active mode test procedure, DOE referenced language and methodologies presented in IES LM–79–2008 for test conditions and test setup requirements.

A standby mode power measurement is an input power measurement made while the LED lamp is connected to the main power source, but not generating light (active mode). All test condition and test setup requirements used for active mode measurements (e.g., input power) (see sections III.C.2 and III.C.3) also apply to standby mode power measurements. Once the test conditions and setup have been implemented, the LED lamp should be seasoned and stabilized in accordance with the requirements in sections III.C.4.a and III.C.4.b of this SNOPR. After the lamp has stabilized, the technician should send a signal to the LED lamp instructing it to enter standby mode (which is defined as providing zero light output). Standby power is then measured in accordance with section 5 of IEC 62301.

*F. Basic Model, Sampling Plan, and Reported Value*

1. Basic Model

In this SNOPR, DOE proposes amendments to the term ''basic model'' to include LED lamps. ''Basic model'' is currently defined (with some exceptions) to mean all units of a given type of covered product (or class thereof) manufactured by one manufacturer, having the same primary energy source, and which have essentially identical electrical, physical, and functional (or hydraulic) characteristics that affect energy consumption, energy efficiency, water consumption, or water efficiency; and with respect to general service fluorescent lamps, general service incandescent lamps, and reflector lamps: Lamps that have essentially identical light output and electrical characteristics—including lumens per

watt (lm/W) and color rendering index (CRI). 10 CFR 430.2

DOE proposes to add a specification for LED lamps in the definition of basic model in order to provide further guidance on the electrical, physical, and functional characteristics that constitute a basic model. Specifically, DOE proposes that a basic model for an integrated LED lamp should represent lamps that have essentially identical light output and electrical characteristics including lumens per watt, CRI, CCT, and lifetime. Because these are the general characteristics by which manufacturers identify their lamps in catalogs and marketing material, DOE believes these parameters should be used to group lamps of the same type.

DOE proposes to qualify the term ''basic model'' in 10 CFR 430.2 for LED lamps as lamps that have essentially identical light output and electrical characteristics—including lumens per watt (lm/W), color rendering index (CRI), correlated color temperature (CCT), and lifetime.

DOE requests comments on the revision to the definition of ''basic model'' to address LED lamps.

2. Sampling Plan

In the NOPR, DOE proposed a sampling plan for LED lamps to determine input power, lumen output, and CCT, and a separate sampling plan for LED sources to determine lifetime. DOE proposed testing a minimum of 21 LED lamps to determine the input power, lumen output, and CCT. DOE proposed that manufacturers select a minimum of three lamps per month for seven months of production out of a 12 month period. If lamp production occurs in fewer than seven months of the year, three or more lamps must be selected for each month that production occurs, distributed as evenly as possible to meet the minimum 21 unit requirement. The seven months need not be consecutive and could be a combination of seven months out of the 12 months. Sample sizes greater than 21 must be multiples of three so that an equal number of lamps were tested in each orientation (based on the lamp orientation requirements in the NOPR). 77 FR at 21049 (April 9, 2012)

To determine the lifetime of LED lamps, DOE proposed in the NOPR that the sample size for testing LED sources be as specified in section 4.2 of IES TM–21–2011. The IES TM–21–2011 industry standard requires a minimum of ten units to be tested, but recommends a sample set of 20 units for projecting the lifetime of the LED sources. The method of projection specified in IES TM–21–2011 cannot be used for less than ten units. 77 FR at 21049

Regarding the sampling plan proposal for lumen output, CCT, and wattage testing, NEMA and P.R. China commented that the sampling plan should be based on the ENERGY STAR specification for integral LED lamps, which requires a sample size of 10: five base-up and five base-down. (NEMA, Public Meeting Transcript, No. 7 at p. 49; NEMA, No. 16 at p. 8; P.R. China, No. 12 at pp. 4–5) In addition, ENERGY STAR has no requirements for how lamps are selected for testing. NEMA opposed gathering product samples over the course of a year because the associated time to gather and test samples is much greater than a year. (NEMA, No. 16 at p. 8) NEMA recommended that DOE not copy the sampling requirements from other lighting technology rules. (NEMA, No. 16 at p. 9) In addition, NEMA, Cree, OSI, and South Korea commented that solid-state lighting is still an emerging technology and requiring large test samples and long testing time will significantly delay market introduction. (NEMA, Public Meeting Transcript, No. 7 at p. 51; Cree, Public Meeting Transcript, No. 7 at p. 52; OSI, Public Meeting Transcript, No. 7 at p. 53; South Korea, No. 17 at pp. 2–3) Philips added that LED lamp designs are evolving rapidly and often product models are produced for less than a year before they are replaced by more efficient designs. (Philips, Public Meeting Transcript, No. 7 at p. 53) Lutron and Cree also commented that it is very important that the LED lamp test procedure comply with FTC labeling requirements, which allow for provisional labeling prior to completing all testing. (Lutron, Public Meeting Transcript, No. 7 at pp. 51–52; Cree, Public Meeting Transcript, No. 7 at p. 52) Alternatively, GE suggested that DOE could retain the 21 lamp sample size, remove the requirement to collect products for testing over the course of a year, and only test product samples from initial production. (GE, Public Meeting Transcript, No. 7 at pp. 52–53) Radcliffe Advisors commented that a 21 lamp sample size is small and does not have a rational basis. They recommended that DOE give consideration to the relationship between accuracy and the choice of sample size. (Radcliffe Advisors, No. 13 at p. 1)

In reference to the sampling plan for determining the lifetime of LED lamps, NEMA agreed with DOE's summary of IES TM–21–2011 stating that it recommends a minimum of 20 LED sources be used during IES LM–80–2008 testing to allow for lifetime projections of up to 36,000 hours. IES TM–21–2011 allows fewer LED sources to be used, but reduces the maximum projection value to 25,000 hours. (NEMA, Public Meeting Transcript, No. 7 at pp. 113–114) An Anonymous commenter suggested allowing manufacturers to exclude from the overall average one unit that fails during lifetime testing. (Anonymous, No. 8 at p. 1)

In this SNOPR, DOE proposes a new test procedure for lifetime that measures the performance of an LED lamp and not its subcomponents (i.e., the LED source). Therefore, DOE determined it did not need different sampling requirements for lifetime relative to the non-lifetime metrics. These sampling requirements proposed in the SNOPR for all metrics are described below.

In order to address concerns regarding the sample size requirements in the NOPR proposal, DOE collected photometric test data from two sources, the first data set was provided by ENERGY STAR, and the second from a collaborative effort between PG&E, CLASP, and CLTC (*see supra* note 20). These test data, combined, represent 10 samples of 47 different LED lamp products each. Statistical analysis of the LED lamp test data indicates that a minimum sample size of 10 lamps is appropriate to estimate the average input power, initial lumen output, efficacy, CCT, and CRI given the variation present in the data set. Standby mode power is assumed to vary to the same degree as input power (active mode). In addition, 37 LED lamps from the data set were tested for lumen output after 3,000 hours of operation. DOE used this data to help determine the sample size required for estimating the lifetime of the LED lamp. Analysis of the test data revealed that a minimum sample size of 10 should also be sufficient to estimate lumen output for the LED lamp after an elapsed operating time. In addition, requiring a minimum sample size of 10 LED lamps aligns with ENERGY STAR's sampling procedure. Therefore, the SNOPR proposes testing a minimum of 10 LED lamps to determine the input power, lumen output, efficacy, CCT, CRI, lifetime, and standby mode power. DOE also proposes that all LED lamps within the sample, including those that fail prematurely, be included in the reported results for input power, lumen output, efficacy, CCT, CRI, lifetime, and standby mode power. DOE's view is that LED lamp failure should not be exempt from reporting, because this would potentially mislead consumers, particularly with respect to lamp lifetime. Furthermore, DOE proposes

that no selection process be required for the LED lamp test procedure. Lamps for testing can be selected at any time from production units. DOE invites interested parties to comment on the appropriateness of adopting a minimum sample size of 10 LED lamps for input power, lumen output, efficacy, CCT, CRI, lifetime, and standby mode power.

3. Reported Value

As in the NOPR (77 FR at 21049), DOE proposes that the CCT of the units be averaged and that average be rounded as specified in section III.G. The average CCT is calculated using the following equation:

$$\bar{x} = \frac{1}{n}\sum_{i=1}^{n} x_i$$

and, $\bar{x}$ is the sample mean; n is the number of units; and $x_i$ is the $i^{th}$ unit.

The LED lamp test data provided by ENERGY STAR as well as PG&E, CLASP, and CLTC (*see supra* note 20) indicates variability within a sample for measured lumen output, both at the initial lumen output reading and after an elapsed operating time. Therefore, DOE proposes that the reported value of lumen output as well as the reported value of lifetime be equal to the lower of the average lumen output of the sample set and the lower 99 percent confidence limit (LCL) of the sample mean divided by 0.97.[41] Additionally, the LED lamp test data indicates that variability in the CRI and efficacy should be expected within a sample. Therefore, DOE proposes that the reported value of CRI be equal to the lower of the average CRI of the sample set and the lower 99 percent confidence limit of the sample mean divided by 0.99, and that the reported value of efficacy be equal to the lower of the average efficacy of the sample set and the lower 99 percent confidence limit of the sample mean divided by 0.98.[42] DOE proposes the following equation to calculate LCL for lumen output, lifetime, CRI, and efficacy:

$$LCL = \bar{x} - t_{0.99}\left(\frac{s}{\sqrt{n}}\right)$$

where, $\bar{x}$ is the sample mean; s is the sample standard deviation; n is the number of samples; and $t_{0.99}$ is the t statistic for a 99 percent one-tailed confidence interval with n − 1 degrees of freedom.

Similarly, the LED lamp test data provided by ENERGY STAR as well as PG&E, CLASP, and CLTC (*see supra* note 20) indicates variability within a sample for measured input power. Therefore, DOE proposes that the reported value of input power and standby mode power be equal to the greater of the average lumen output of the sample set and the upper 99 percent confidence limit (UCL) of the sample mean divided by 1.01.[43] DOE proposes the following equation to calculate UCL:

$$UCL = \bar{x} + t_{0.99}\left(\frac{s}{\sqrt{n}}\right)$$

where, $\bar{x}$ is the sample mean; s is the sample standard deviation; n is the number of samples; and $t_{0.99}$ is the t statistic for a 99 percent one-tailed confidence interval with n − 1 degrees of freedom.

The proposed reported value requirements for lumen output, input power, CRI, lamp efficacy, lifetime, and standby mode power represent the ''best'' value that manufacturers may report. For lumen output, CRI, lamp efficacy, and lifetime, the reported value may be rounded to a lower value. For input power and standby mode power, the reported value may be rounded to higher values. CCT must be reported as calculated, as the concept of a conservative value does not apply to these metrics. If conservative rounding is used, manufacturers must report the conservatively rounded value to DOE so that values reported to DOE match those used in all representations.

DOE invites interested parties to comment on the proposed reported value requirements.

*G. Rounding Requirements*

In the SNOPR, DOE proposes rounding requirements for determining lumen output, input power, efficacy, CCT, CRI, estimated annual energy cost, lifetime, and standby mode power. Each of these is discussed in the following sections.

1. Lumen Output

In the NOPR, DOE proposed that the lumen output of all units be averaged and the value be rounded to the nearest tens digit. 77 FR at 21044 NEMA, OSI, and Cooper Lighting indicated that tight tolerances on rounding requirements are undesirable. (NEMA, No. 16 at p. 4; OSI, Public Meeting Transcript, No. 7 at pp. 55–56; Cooper, Public Meeting Transcript, No. 7 at p. 56) NEMA commented that this will only set up unrealistic expectations of accuracy and repeatability. (NEMA, No. 16 at p. 4) In their written comment, NEMA suggested that for lumen output DOE round values of 0–499 to the nearest five lumens, 500–999 to the nearest ten lumens, and 1000–9999 lumens to three significant digits. If the lumen output is greater than or equal to 10,000, NEMA recommended that DOE round to two significant digits. (NEMA, No. 16 at p. 4) ASAP offered another solution, suggesting that DOE determine appropriate rounding requirements based on the resolution of the test measurement. (ASAP, Public Meeting Transcript, No. 7 at p. 56)

DOE agrees that rounding requirements should reflect realistic expectations of accuracy and repeatability. Based on a review of commercially available LED lamp products as well as testing equipment measurement capabilities, DOE determined that three significant figures is an achievable level of accuracy for LED lamps. Therefore, for this SNOPR, DOE proposes rounding of three significant figures[44] so that lumen outputs of all sizes are provided a similar level of specificity.

2. Input Power

In the NOPR, DOE proposed that the input power of all test units be averaged and the average value be rounded to the nearest tenths digit. 77 FR at 21044 NEMA agreed that this is acceptable. (NEMA, No. 16 at p. 4) In the SNOPR, DOE maintains its proposal for the rounding requirements for input power.

[41] Based on the collected LED lamp test data, provided by ENERGY STAR as well as PG&E, CLASP, and CLTC, DOE expects that the variability for measured lumen output is within a margin of 3 percent. Thus, DOE proposes to divide the LCL value by 0.97 to adjust for this expected variation. For example, if the mean lumen output of 10 LED lamp units is 100 lumens with a standard deviation of three, the LCL value will be three percent lower than the mean, and dividing by 0.97 would result in a value that is equal to the lumen output mean of 100 lumens. In this case, the LCL divided by 0.97 is equal to the sample mean, and 100 lumens would be reported. If the variation within a sample set exceeds DOE's expectation, the sample set would have a smaller LCL, such that a value less than 100 lumens would be reported.

[42] Based on the collected LED lamp test data, provided by ENERGY STAR as well as PG&E, CLASP, and CLTC, DOE expects that variability for CRI is within a margin of 1 percent and for efficacy is within a margin of 2 percent. Thus, DOE proposes to divide the LCL value for CRI by 0.99 and the LCL value for efficacy by 0.98 to adjust for this expected variation.

[43] Based on the collected LED lamp test data, provided by ENERGY STAR as well as PG&E, CLASP, and CLTC, DOE expects that the variability for measured input power is within a margin of 1 percent. Thus, DOE proposes to divide the UCL value by 1.01 to adjust for this expected variation.

[44] If the number 3,563 is rounded to three significant digits it becomes 3,560—with the 3, 5, and 6 being the significant digits.

3. Lamp Efficacy

In the SNOPR, DOE proposes that the efficacy of LED lamps be rounded to the nearest tenth as this is consistent with rounding for other lighting technologies and is achievable with today's equipment.

4. Correlated Color Temperature

In the NOPR, DOE proposed that the CCT of all units be averaged and the value be rounded to the tens digit. 77 FR at 21044 However, NEMA argued that most consumers can only distinguish lamp color temperature variations on the order of 100 K. Therefore, NEMA suggested that any CCT rating be rounded to the nearest hundreds digit. They stated that DOE's proposal of rounding CCT values to the nearest tens digit would cause undue consumer confusion when comparing products. (NEMA, No. 16 at p. 4)

In rulemakings for other lamp types, DOE established CCT rounding requirements to the nearest tens place based on the precision of the test procedure. In a rulemaking for general service fluorescent lamps, DOE consulted with NIST and concluded that, because all laboratories are able to measure CCT to three significant figures (a typical value is four digits), DOE should require manufacturers to round CCT to the nearest ten kelvin. 74 FR 31829, 31835 (July 6, 2009). In this SNOPR, DOE continues this requirement and proposes rounding to the nearest tens digit for measurements of individual lamp units.

However, DOE also recognizes NEMA's comment that consumers may not be able to distinguish changes in CCT as small as 10 K. By using CCT values rounded to the nearest 10 K, consumers could be confused, since products with different CCT values may not have a perceptible difference in appearance. DOE does not have data or market studies quantifying the smallest difference in CCT that can be perceived by consumers, but welcomes comment on this topic. DOE has observed that the vast majority of CCT values provided in LED product literature are rounded to the nearest hundreds place. DOE proposes to round the reported value (i.e., certified or rated value) of the entire sample (all lamp units collectively) to the nearest hundreds place to avoid consumer confusion around any representations of CCT. DOE seeks comment on this proposal.

5. Color Rendering Index

In the SNOPR, DOE proposes that the CRI of LED lamps be rounded to the nearest whole number as this is consistent with rounding for other lighting technologies.

6. Annual Energy Cost

Consistent with FTC's final rule that established the Lighting Facts label (75 FR 41702 (July 19, 2010)), in the NOPR DOE proposed calculating the estimated annual energy cost for LED lamps, expressed in dollars per year, as the product of the average input power, in kilowatts, the electricity cost rate of 11 cents per kilowatt-hour, and the estimated average annual use at three hours per day, which is 1,095 hours per year. 77 FR at 21044 DOE proposed that the estimated annual energy cost be rounded to the nearest cent because the cost of electricity is specified to the nearest cent.

Although NEMA pointed out that the usage patterns and associated hours used in the NOPR do not agree with DOE's 2010 U.S. Lighting Market Characterization,[45] NEMA agreed with DOE's proposed formula to calculate annual energy cost and the associated rounding to the nearest cent. (NEMA, No. 16 at p. 4) For consistency with FTC's calculations for other lamp types, DOE proposes to maintain the rounding requirements for estimated annual energy cost.

7. Lifetime

In the SNOPR, DOE proposes that lifetime be rounded to the nearest whole hour. This is consistent with the unit of time used for lifetime metrics for other lamp technologies and is a level of accuracy a laboratory is capable of measuring with a standard time-keeping device.

8. Life

In the NOPR, DOE proposed that the life of LED lamps be calculated in terms of years based on three hours per day of operation. 77 FR at 21048 This is consistent with the FTC Lighting Facts label requirements for other lamp technologies. DOE also proposed that the resulting value be rounded to the nearest tenth of a year. Cooper Lighting recommended that DOE consider rounding to two significant digits rather than to tenths of a year to better capture the range in product lifetimes across the different lighting technologies. (Cooper, Public Meeting Transcript, No. 7 at p. 109) NEMA stated that tight rounding tolerances only set up unrealistic expectations for the performance of LED lamps and indicated that rounding the lifetime to the nearest tenth of a year can be confusing to customers if they do not realize that the lifetime values are based on three hours of use per day. (NEMA, No. 16 at p. 4, 8) Furthermore, both NEMA and the CA IOUs argued that lifetime be reported in hours, because year-ratings are confusing to consumers, who might assume a calendar lifetime rather than a lifetime based on hourly use. (NEMA, No. 16 at p. 8; CA IOUs, No. 19 at p. 4) DOE proposes to retain the rounding requirements provided in the NOPR which states that the life of LED lamps be calculated in terms of years based on three hours per day of operation and that the resulting value be rounded to the nearest tenth of a year. As stated previously, this is consistent with the FTC Lighting Facts label requirements for other lamp technologies. FTC determines how the prescribed metrics appear on its Lighting Facts label, as well as the overall format of the label. Interested parties may contact FTC for concerns regarding the Lighting Facts label.

9. Standby Mode Power

In the SNOPR, DOE proposes rounding standby mode power to the nearest tenths place, consistent with its proposal for rounding input power for active mode in section III.G.2.

*H. Acceptable Methods for Initial Certification or Labeling*

Because testing for lifetime could require six months or more from start to finish, DOE anticipates the potential need for initial certification requirements (such as those currently provided in 10 CFR 429.12(e)(2)) or early or interim labeling requirements. Any initial certification requirements, if adopted, would be established by the ongoing general service lamp energy conservation standard rulemaking. *See* 78 FR 73737 (Dec. 9, 2013) Early labeling requirements, if adopted, would be established by FTC. However, to support these potential needs, DOE considered acceptable methods for use with initial certification or labeling.

Test methods with shorter overall start to finish time requirements are not available for measuring or projecting lifetime. Therefore, initial certification and labeling is best substantiated by comparisons to similarly designed lamps produced by the same manufacturer. A future rulemaking addressing standards for LED lamps could require manufacturers to provide a description of why the comparison to another lamp is valid, including a description of the expected impact of design differences on lifetime (if any).

[45] Navigant Consulting, Inc., ''2010 U.S. Lighting Market Characterization'' Prepared for the DOE Solid-State Lighting Program, January, 2012. *http://apps1.eere.energy.gov/buildings/publications/pdfs/ssl/2010-lmc-final-jan-2012.pdf.*

DOE requests comment on the notion of early certification and labeling, and the acceptable methods for substantiating those claims.

*I. Laboratory Accreditation*

In the NOPR, DOE did not require testing LED lamps by an accredited laboratory. DOE received several comments during the May 2012 public meeting as well as written comment submissions inquiring whether DOE plans to require using accredited laboratory facilities.

Cree commented that DOE should consider requiring certification of laboratories that are performing these tests as this is a requirement for the ENERGY STAR program. (Cree, Public Meeting Transcript, No. 7 at p. 57) OSI clarified that DOE should consider laboratory accreditation, and not a certification program. Accreditation is the process by which an authoritative third party gives formal recognition that a body or person is competent to carry out specific testing. Certification is a procedure by which a third party gives written assurance (certificate of conformity) that a product, process, or service conforms to specified requirements. (OSI, Public Meeting Transcript, No. 7 at pp. 60–61) NIST commented that laboratories are accredited for industry standards. If testing in accredited laboratories is required for the DOE's LED test procedure, this could confuse clients expecting industry standards to be followed without modification. (NIST, Public Meeting Transcript, No. 7 at p. 104) South Korea requested that in the final rule DOE detail its certification procedures, its requirements for testing laboratories, its designation process for testing laboratories, and future prospects concerning these matters. (South Korea, No. 17 at p. 4) Finally, Samsung suggested that DOE accept testing by existing laboratories that have received accreditation from the International Laboratory Accreditation Cooperation (ILAC). They argued that the ILAC promotes international acceptance of test results and inspection reports. (Samsung, No. 14 at p. 2)

Regarding the National Voluntary Laboratory Accreditation Program (NVLAP) accreditation, DOE proposes in the SNOPR to require lumen output, input power, lamp efficacy, CCT, CRI, lifetime, and standby mode power (if applicable) testing be conducted by test laboratories accredited by NVLAP or an accrediting organization recognized by ILAC. NVLAP is a member of the ILAC organization, so test data collected by any laboratory accredited by an accrediting body recognized by ILAC would be acceptable. DOE requests comment on its proposal to require accreditation by NVLAP or an entity recognized by ILAC, and on the costs and benefits associated with such a requirement.

The FTC has developed a Lighting Facts Label to help inform consumers about the efficiency and performance attributes of general service lamp products. The label became effective January 1, 2012, and requires that a lamp's lumen output, energy cost, lifetime, CCT and wattage appear on the product packaging. Concerns regarding the FTC Lighting Facts Label requirements were raised at the May 2012 NOPR public meeting and in several comment submissions. These comments pertained to the physical appearance and content displayed on the FTC Lighting Facts Label, the time it would take for FTC to certify LED lamp testing results, and whether using lumen maintenance as a proxy for lifetime could confuse or mislead consumers. The comments received are highlighted below:

- OSI commented that FTC needs to take into account that product information on small packages is often printed too small, making the information illegible and/or difficult to identify. (OSI, Public Meeting Transcript, No. 7 at p. 81)
- An Anonymous commenter asked for DOE to indicate how long it would take FTC to certify the results and grant permission to advertise the lifetime values required for the FTC Lighting Facts label. (Anonymous, No. 8 at p. 1)
- NEMA, Radcliffe Advisors, OSI, Cooper Lighting, NEEA, the Joint Comment, and the CA IOUs commented that the proposed definition of lifetime would not be directly comparable to other general service lamp products, which could mislead or confuse consumers. (NEMA, Public Meeting Transcript, No. 7 at pp. 76–77; NEMA, No. 16 at p. 2; Radcliffe Advisors, No. 13 at p. 1; OSI, Public Meeting Transcript, No. 7 at pp. 74–75; Cooper Lighting, Public Meeting Transcript, No. 7 at p. 77; NEEA, No. 20 at p. 2; Joint Comment, No. 18 at pp. 1–2; CA IOUs, No. 19 at p. 4) Cree, Radcliffe Advisors, and the CA IOUs recommend that for LED lamps, FTC consider changing its label to ''lumen maintenance'' rather than ''lifetime,'' or not provide a lifetime value at all. (Cree, Public Meeting Transcript, No. 7 at p. 66, 67; Radcliffe Advisors, No. 13 at p. 1; CA IOUs, No. 19 at p. 4, 5) OSI pointed out that the FTC Lighting Facts label provides the opportunity to educate consumers on the meaning of lumen maintenance and how this differs from metrics used to define lifetime for other lighting products. (OSI, Public Meeting Transcript, No. 7 at pp. 74–75)

DOE recognizes these concerns about the FTC Lighting Facts label. However, DOE does not have authority over how to display metrics on the FTC Lighting Facts label or the format of the label. Interested parties may contact FTC about these issues.

*J. State Preemption for Efficiency Metrics*

In the NOPR, DOE proposed test procedures for measuring lumen output and input power, and also specified testing dimmable lamps at full light output. 77 FR 21028 (April 9, 2012) Only those metrics required for the FTC Lighting Facts label were included in the NOPR test procedure. The FTC Lighting Facts label does not require reporting of metrics such as power factor, total harmonic distortion (THD), and dimming; therefore none were included in the NOPR test procedure for LED lamps. However, commenters noted that these metrics may appear in state mandates in the future, and therefore recommended they be included in DOE's test procedure for LED lamps in order to avoid state preemption.

The CA IOUs commented that DOE not preempt California from developing test procedures for other performance metrics such as efficacy, power factor, THD, and dimming. The CA IOUs commented that including in DOE's proposal test methods for power factor, THD, and dimming would likely require significant additional time and industry coordination. They asked that DOE specifically identify these metrics and procedures as exempt from preemption. (CA IOUs, No. 19 at p. 2, 3)

Representations about the energy consumption of an LED lamp must fairly disclose the results of testing in accordance with the DOE test procedure. *See* 42 U.S.C. 6293(c). The DOE test procedure for LED lamps will preempt any state regulation regarding the testing of the energy efficiency of LED lamps. *See* 42 U.S.C. 6297(a)(1). States that have regulations mandating efficiency standards for LED lamps must therefore use the DOE test procedure when providing for the disclosure of information with respect to any measure of LED lamp energy consumption. To support the general service lamp rulemaking, DOE proposes to define a calculation for the efficacy of an LED lamp as measured initial lamp lumen output in lumens divided by measured lamp input power in watts. See section III.C.4.d for details regarding the calculation for efficacy of an LED lamp.

*K. Effective and Compliance Date*

If adopted, the effective date for this test procedure would be 30 days after publication of the test procedure final rule in the **Federal Register**. Pursuant to EPCA, manufacturers of covered products must use the applicable test procedure as the basis for determining that their products comply with the applicable energy conservation standards adopted pursuant to EPCA and for making representations about the efficiency of those products. (42 U.S.C. 6293(c); 42 U.S.C. 6295(s)) For those energy efficiency or consumption metrics covered by the DOE test procedures, manufacturers must make representations in accordance with the DOE test procedure methodology and sampling plan beginning 180 days after publication of the final rule in the **Federal Register**.

## IV. Procedural Issues and Regulatory Review

*A. Review Under Executive Order 12866*

The Office of Management and Budget (OMB) has determined that test procedure rulemakings do not constitute ''significant regulatory actions'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, 58 FR 51735 (Oct. 4, 1993). Accordingly, this action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget.

*B. Review under the Regulatory Flexibility Act*

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (IRFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the DOE 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 test procedures considered in this SNOPR under the provisions of the Regulatory Flexibility Act (RFA) and the policies and procedures published on February 19, 2003. As discussed in more detail below, DOE found that because the proposed test procedures have not previously been required of manufacturers, all manufacturers, including small manufacturers, may potentially experience a financial burden associated with this new testing requirement. While examining this issue, DOE determined that it could not certify that the proposed rule, if promulgated, would not have a significant impact on a substantial number of small entities. Therefore, DOE has prepared an IRFA for this rulemaking. The IRFA describes the potential impacts on small businesses associated with LED lamp testing and labeling requirements. DOE has transmitted a copy of this IRFA to the Chief Counsel for Advocacy of the Small Business Administration (SBA) for review.

1. Estimated Small Business Burden

SBA has set a size threshold for electric lamp manufacturers to describe those entities that are classified as ''small businesses'' for the purposes of the RFA. DOE used the SBA's small business size standards to determine whether any small manufacturers of LED lamps would be subject to the requirements of the rule. 65 FR 30836, 30849 (May 15, 2000), as amended at 65 FR 53533, 53545 (Sept. 5, 2000) and codified at 13 CFR part 121. The size standards are listed by North American Industry Classification System (NAICS) code and industry description and are available at *www.sba.gov/sites/default/files/Size_Standards_Table.pdf.* LED lamp manufacturing is classified under NAICS 335110, ''Electric Lamp Bulb and Part Manufacturing.'' The SBA sets a threshold of 1,000 employees or less for an entity to be considered as a small business for this category.

In the NOPR, DOE identified 17 potential small businesses that manufacture LED lamps. In total, DOE estimated that the use of the NOPR test method for determining light output, input power, and CCT would result in testing-related labor costs of $57,000 for each of the identified small businesses. In addition, DOE estimated that the test method described in the NOPR for determining lifetime would result in related labor costs of $11,000 for each manufacturer. Finally, in the NOPR, DOE estimated initial setup costs of $12,000. DOE also indicated that the setup cost would be a one-time cost to manufacturers and that the labor costs to perform testing would be smaller than $68,000 after the first year of testing. 77 FR at 21050–1 (April 9, 2012)

OSI indicated that they believe the number of impacted small businesses is greater than DOE's estimate of 17 and speculated that the actual number could be between two and ten times greater. (OSI, Public Meeting Transcript, No. 7 at pp. 117–118) NEMA suggested that DOE contact Jim Brodrick, Program Manager of the U.S. DOE SSL program, to help determine a better estimate for the total number of small businesses that will likely be affected by implementing this test procedure. (NEMA, Public Meeting Transcript, No. 7 at p. 119)

For this SNOPR, DOE reexamined the number of small businesses that will potentially be affected by the LED lamps test procedure. This reevaluation indicated that the test procedure requirements proposed in this SNOPR will apply to about 41 small business manufacturers of LED lamps. DOE compiled this revised list of manufacturers by reviewing the DOE LED Lighting Facts label list of partner manufacturers,[46] the SBA database, ENERGY STAR's list of qualified products,[47] and performing a general search for LED manufacturers. DOE determined which companies manufacture LED lamps by reviewing company Web sites, the SBA Web site when applicable, calling companies directly, and/or reviewing the Hoovers Inc. company profile database. Through this revised process, DOE identified 41 small businesses that manufacture LED lamps. DOE was also able to collect annual revenue estimates for several of the small business LED lamp manufacturers using the Hoovers.com company profile database. DOE determined that the median revenue of the identified small business manufacturers is $890,000.[48] DOE requests comment on the estimated number of small businesses that would be impacted by the proposed rulemaking.

DOE also received several comments about the estimate of testing burden. GE, Feit, and OSI expressed concern that DOE was underestimating the cost burden to small manufacturers because the costs associated with NOPR Approach 4 for lifetime testing would be significant if IES LM–80–2008 data were unavailable. (GE, Public Meeting Transcript, No. 7 at p. 117; Feit, Public Meeting Transcript, No. 7 at p. 120; OSI,

[46] DOE LED Lighting Facts Partner List, *http://www.lightingfacts.com/Partners/Manufacturer.*

[47] ENERGY STAR Qualified Lamps Product List, *http://downloads.energystar.gov/bi/qplist/Lamps_Qualified_Product_List.xls?dee3-e997.*

[48] According to Hoovers.com, there are some small business LED lamp manufacturers with revenue as little as $120,000 per year.

Public Meeting Transcript, No. 7 at p. 117) ICF International commented that DOE's estimate for the cost of initial setup was low. ICF International estimated that if a manufacturer were to purchase all required testing equipment, train personnel to operate it, and then go through the accreditation process, it could cost more than $100,000. (ICF International, Public Meeting Transcript, No. 7 at p. 119, 120) Cree and Intertek also commented that instrumentation costs could be significant, pointing out that a Type C goniophotometer could cost as much as $200,000 and that a two meter integrating sphere with accessories could cost about $60,000. (Cree, Public Meeting Transcript, No. 7 at p. 120; Intertek, Public Meeting Transcript, No. 7 at pp. 121–122) In addition to instrumentation costs, an anonymous commenter also indicated that the cost of storing inventory during lifetime testing would be significant and should be included in the cost burden estimate. (Anonymous, No. 8 at p. 1) When estimating the burden to small manufacturers, NEMA suggested that DOE also include FICA taxes, unemployment taxes, workman's compensation, health care insurance, holiday and vacation time, and retirement benefits in addition to the office, laboratory, equipment, and other overhead costs for the engineers and their support staff. (NEMA, No. 16 at p. 8) Finally, GE commented that it would be unlikely that small business manufacturers would want to set up an accredited laboratory for testing. They speculated that small manufacturers would likely send their LED lamps out for third party testing. (GE, Public Meeting Transcript, No. 7 at p. 115)

In the NOPR, DOE determined that the labor rate to create the initial setup and conduct the testing for input power, lumen output, CCT, and lifetime of LED lamps would be $39.79 per hour.[49] 77 FR at 21050 However, in its analysis for the SNOPR, DOE determined that an electrical engineer is likely over qualified, and would not be hired by manufacturers to conduct these required tasks. DOE's view is that an electrical engineering technician is a better representation of the personnel likely to perform the initial setup and required tests for LED lamps. DOE estimated that the wages for an electrical engineering technician are $24.18 per hour.[49] This cost is only representative of the hourly billing rate for an electrical engineering technician and does not include any other compensation costs. DOE estimated that providing additional benefits[50] would add 31 percent[51] to the overall cost to the manufacturer, increasing the cost of employing an electrical engineering technician to $31.68 per hour. For the SNOPR, DOE also applied this labor rate to measurement of standby mode power.

DOE estimates that the labor costs associated with conducting the input power, lumen output, CCT, CRI, and standby mode power testing contribute to overall burden. However, DOE believes that calculating the efficacy of an LED lamp does not result in any incremental testing burden beyond the cost of carrying out lumen output and input power testing. DOE estimates that testing for input power, lumen output, CCT, CRI, and standby mode would require approximately four hours per lamp by an electrical engineering technician. DOE expects standby mode power testing to require a negligible incremental amount of time in addition to the time required for the other metrics. Therefore, DOE maintained its estimate of four hours per lamp used in the NOPR (77 FR at 21050) for testing for input power, lumen output, CCT, and CRI. DOE estimates about 41 small business manufacturers of LEDs would be impacted, each offering about 23 different basic models. In total, using the DOE test method to determine light output, input power, CCT, CRI, and standby mode power would result in an estimated incremental labor burden of $29,140 for each manufacturer. DOE expects that the majority of manufacturers are already testing for lumen output, input power, CCT, and CRI as these metrics are well established and required within the industry standard IES LM–79–2008. However, DOE's sample size, input power, and orientation settings may differ from those selected for a manufacturer's existing data. Therefore, DOE included the cost of carrying out these tests in its assessment of testing burden.

In addition, DOE estimates that lifetime testing would also contribute to overall cost burden. The initial setup would require a custom-built rack to mount up to 120 lamps for testing, which may require up to 120 hours of labor to build. The cost for an electrical engineering technician to build such a rack would be approximately $3,800. Similar to the NOPR analysis, DOE estimated that the material cost to build a custom-built rack holding 120 sockets would be $3,600, and the power supply and regulator costs would be $4,000 and $1,500 respectively. Therefore, the revised SNOPR estimate for the total cost to build one rack is approximately $12,900. DOE estimated that a total of two racks would be needed to hold about 23 different LED lamp models, each tested in sample sets of 10 lamps (a total of 230 LED lamps). Therefore, DOE estimates the total cost to build two test racks to be $25,800. However, DOE notes that LED lamp manufacturers may already have sufficient testing racks for their own internal uses and for FTC labeling requirement testing. DOE expects that manufacturers of LED lamps would already have other instrumentation necessary for testing because IES LM–79–2008 is the recommended standard for testing LED lamps for the FTC Lighting Facts label. The labor cost for lifetime testing also contributes to overall burden. DOE estimates that the combination of monitoring the lamps during the test duration, measuring lumen maintenance, and calculating lifetime at the end of the test duration would require approximately four hours per lamp by an electrical engineering technician. This estimate does not include the initial lumen output measurement required for the lifetime test procedure, because the testing burden for that measurement is already included in the estimate for input power, lumen output, CCT, and CRI testing. DOE estimates about 41 small business manufacturers of LEDs, each offering about 23 different basic models, would be affected. In total, DOE expects that using this test method to determine lifetime would result in testing-related labor costs of $29,140 for each manufacturer.

As discussed in section III.I, DOE is also proposing to require test facilities conducting LED lamp light output, input power, CCT, CRI, lifetime, and standby mode power (if applicable) testing to be NVLAP-accredited or accredited by an organization recognized by NVLAP. However, NVLAP imposes a variety of fees during the accreditation process including fixed administrative fees, variable assessment fees, and proficiency testing fees. If a laboratory already has NVLAP accreditation for other industry standards, there would be no

[49] Obtained from the Bureau of Labor Statistics (National Compensation Survey: Occupational Earnings in the United States 2008, U.S. Department of Labor (August 2009), Bulletin 2720, Table 3 (''Full-time civilian workers,'' mean and median hourly wages) *http://bls.gov/ncs/ocs/sp/nctb0717.pdf.*

[50] Additional benefits include; paid leave, supplemental pay, insurance, retirement and savings, Social Security, Medicare, unemployment insurance and workers compensation.

[51] Obtained from the Bureau of Labor Statistics (News Release: Employer Cost For Employee Compensation—December 2012, U.S. Department of Labor (December 2012), *www.bls.gov/news.release/ecec.nr0.htm.*

incremental administrative fees associated with the SNOPR proposal. However, if a laboratory does not already have NVLAP accreditation for other industry standards, there would be an administrative fee of $5,050 assessed annually. NVLAP also collects an assessment fee corresponding to the amount of time the assessor requires to complete evaluation of the laboratory. A laboratory seeking to expand its scope of accreditation to include IES LM–79–2008 as well as DOE's lifetime test procedure for LED lamps would most likely not experience an increase in cost. However, a laboratory with no existing NVLAP accreditations would likely require two full days of an assessor's time at the cost of $7,470 per assessment. Assessments are required during the initial accreditation, on the first anniversary (year 1), and then every other year following the first anniversary (year 3, 5, 7, etc.). Finally, every laboratory seeking accreditation to IES LM–79–2008 is required to participate in SSL proficiency testing. A $2,800 fee is involved with this proficiency testing.

For each manufacturer producing 23 basic models, assuming testing instrumentation is already available, DOE's estimate of the first year NVLAP accreditation cost would be $15,320, initial setup cost would be $25,800, and the labor costs to carry out testing would be approximately $58,280. Therefore, in the first year, for manufacturers without testing racks or NVLAP accreditation who choose to test in-house, DOE estimates a total cost burden of $99,400 or about $432 per LED lamp tested. DOE expects the setup cost to be a onetime cost to manufacturers. Further, DOE expects that the labor costs to perform testing would be smaller than $58,280 after the first year because only new products or redesigned products would need to be tested. Alternatively, if a manufacturer opts to send lamps to a third-party test facility, DOE estimates testing of lumen output, input power, CCT, CRI, lifetime, and standby mode power to cost $500 per lamp. In total, the LED lamp test procedure would result in expected third party testing costs of $115,000 for each manufacturer of 23 basic models.

DOE was able to collect annual revenue estimates for several of the small business LED lamp manufacturers using the Hoovers.com company profile database. DOE determined that the median revenue of the identified small business manufacturers is $890,000, therefore, initial testing costs would represent about 11.2 percent of revenue when completed in a manufacturer's own laboratory, and 12.9 percent when completed through a third-party test facility. As mentioned earlier, the setup cost would be a one-time cost to manufacturers, and the labor costs to perform testing would be smaller after the first year of testing. Furthermore, when amortized over subsequent years, testing costs would be significantly less. DOE requests comments on its analysis of initial setup and labor costs as well as the average annual burden for conducting testing of LED lamps.

2. 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 proposed rule being considered today.

3. Significant Alternatives to the Proposed Rule

DOE tentatively determined that there are no alternatives to the proposed test procedure, including test procedures that incorporate industry test standards other than the proposed standards. IES LM–79–2008, the test procedure referenced in this SNOPR, is the most commonly used industry standard that provides instructions for the electrical and photometric measurement of LED lamps. DOE also reviewed the efforts of other working groups, as suggested by interested parties, but was unable to find any U.S. or international standard that provides a test procedure for measuring and/or projecting LED lamp lifetime. The only publicly available approach for measuring LED lamp lifetime is the ENERGY STAR Program Requirements for Lamps (Light Bulbs): Eligibility Criteria—Version 1.0 (*see supra* note 10).

*C. Review Under the Paperwork Reduction Act of 1995*

DOE established regulations for the certification and recordkeeping requirements for certain covered consumer products and commercial equipment. 76 FR 12422 (March 7, 2011). The collection-of-information requirement for the certification and recordkeeping was subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement was approved by OMB under OMB Control Number 1910–1400. Public reporting burden for the certification was 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.

There is currently no information collection requirement related to certifying compliance for LED lamps. Notwithstanding any other provision of the law, no person is required to respond to, nor must 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*

In this proposed rule, DOE is proposing a test procedure for LED lamps that will be used to support the upcoming general service lamps energy conservation standard rulemaking as well as FTC's Lighting Facts labeling program. DOE has determined that this rule falls into a class of actions that are categorically excluded from review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and DOE's implementing regulations at 10 CFR part 1021. Specifically, this proposed rule would adopt existing industry test procedures for LED lamps, so it would not affect the amount, quality or distribution of energy usage, and, therefore, would not result in any environmental impacts. Thus, this rulemaking is covered by Categorical Exclusion A5 under 10 CFR part 1021, subpart D. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

*E. Review Under Executive Order 13132*

Executive Order 13132, ''Federalism,'' 64 FR 43255 (August 4, 1999) imposes certain requirements on 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. DOE has examined this proposed rule and has determined that it 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. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this proposed rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297(d)) No further action is required by Executive Order 13132.

*F. Review Under Executive Order 12988*

Regarding the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (Feb. 7, 1996), 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; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. 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 sections 3(a) and 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, the proposed rule meets the relevant standards of Executive Order 12988.

*G. Review Under the Unfunded Mandates Reform Act of 1995*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a proposed regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820; also available at *http://energy.gov/gc/office-general-counsel*. DOE examined this proposed rule according to UMRA and its statement of policy and determined that the rule contains neither an intergovernmental mandate, nor a mandate that may result in the expenditure of $100 million or more in any year, so these requirements do not apply.

*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 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 agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). DOE has reviewed this proposed 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 OMB, a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This proposed regulatory action to establish a test procedure for measuring the lumen output, input power, efficacy, CCT, CRI, lifetime, and standby mode power of LED lamps is not a significant regulatory action under Executive Order 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as a significant energy action by the Administrator of OIRA. Therefore, it is not a significant energy action, and, accordingly, DOE has not prepared a Statement of Energy Effects.

*L. Review Under Section 32 of the Federal Energy Administration Act of 1974*

Under section 301 of the Department of Energy Organization Act (Pub. L. 95–91; 42 U.S.C. 7101), DOE must comply with section 32 of the Federal Energy Administration Act of 1974, as amended by the Federal Energy Administration Authorization Act of 1977. (15 U.S.C. 788; FEAA) Section 32 essentially provides in relevant part that, where a proposed rule authorizes or requires use of commercial standards, the notice of proposed rulemaking must inform the public of the use and background of such standards. In addition, section 32(c) requires DOE to consult with the

Attorney General and the Chairman of the FTC concerning the impact of the commercial or industry standards on competition.

The proposed rule incorporates test methods contained in the following commercial standards: ANSI/IESNA RP–16–2010 ''Nomenclature and Definitions for Illuminating Engineering'' and IES LM–79–2008 ''Approved Method: Electrical and Photometric Measurements of Solid-State Lighting Products.'' The Department has evaluated these standards and is unable to conclude whether they fully comply with the requirements of section 32(b) of the FEAA, (*i.e.,* that they were developed in a manner that fully provides for public participation, comment, and review). DOE will consult with the Attorney General and the Chairman of the FTC concerning the impact of these test procedures on competition prior to prescribing a final rule.

## V. Public Participation

### *A. Submission of Comments*

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

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

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

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

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

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

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

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

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

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

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

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

### *B. Issues on Which DOE Seeks Comment*

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

1. DOE requests comment on its characterization of the modes of operation (active, standby, and off modes) that apply to LED lamps.

2. DOE requests comment on the proposal for an equal number of lamps to be operated in the base-up and base-down orientations during lumen output, input power, CCT, CRI, lifetime, and standby mode testing.

3. DOE invites interested parties to comment on the proposal to require all photometric values, including lumen output, CCT, and CRI, be measured by an integrating sphere (via photometer or spectroradiometer) and that goniometer systems must not be used.

4. DOE invites interested parties to comment on the proposal to remain consistent with section 4.0 of IES LM–79–2008, which indicates no seasoning is required for LED lamps before beginning photometric measurements.

5. DOE requests comments on the test conditions when lamps are operating but no measurements are being taken. Specifically, DOE requests comment on requiring ambient temperature to be controlled between 15 °C and 40 °C; the minimization of vibration, shock, and air movement, as well as the requirement for adequate lamp spacing; the proposal to adopt the section 3.1 of IES LM–79–2008 requirements for both AC and DC power supplies; and the requirement that input voltage be monitored and regulated to within ±2.0 percent of the rated RMS voltage as specified in section 5.3 of IES LM–65–2010.

6. DOE requests comment on the proposed test method for CRI.

7. DOE requests comment on the proposed calculation for lamp efficacy.

8. For lifetime testing, DOE proposes to continuously operate the LED lamp and requests feedback on the appropriateness of not requiring an operating cycle during lumen maintenance testing.

9. DOE requests comment on the proposed equation to project the $L_{70}$ lifetime of LED lamps.

10. DOE requests comment on the revision to the definition of ''basic model'' to address LED lamps.

11. DOE requests comment on the appropriateness of adopting a minimum sample size of 10 LED lamps for input power, lumen output, CCT, CRI, lifetime, and standby mode.

12. DOE requests comment on the proposal to allow measurements collected for the ENERGY STAR Program Requirements for Lamps (Light Bulbs): Eligibility Criteria—Version 1.0 to be used for calculating reported values of lumen output, input power, lamp efficacy, CCT, CRI, and lifetime.

13. DOE requests comment on the proposal to round CCT values for individual units to the tens place; and the proposal to round the certified CCT values for the sample to the hundreds place.

14. DOE requests comment on its proposal to require accreditation by NVLAP or an entity recognized by ILAC, and on the costs and benefits associated with laboratory accreditation.

15. DOE requests comment on the estimated number of entities that would be affected by the proposed rulemaking and the number of these companies that are ''small businesses.''

16. DOE requests comments on its analysis of initial setup and labor costs as well as the average annual burden for conducting testing of LED lamps.

## VI. Approval of the Office of the Secretary

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

## List of Subjects

*10 CFR Part 429*

Confidential business information, Energy conservation, Household appliances, Imports, Reporting and recordkeeping requirements.

*10 CFR Part 430*

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

Issued in Washington, DC, on May 16, 2014.

**Kathleen B. Hogan,**

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

For the reasons stated in the preamble, DOE is proposing to amend parts 429 and 430 of Chapter II of Title 10, Subchapter D of the Code of Federal Regulations to read as set forth below:

## PART 429—CERTIFICATION, COMPLIANCE, AND ENFORCEMENT FOR CONSUMER PRODUCTS AND COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 429 continues to read as follows:

**Authority:** 42 U.S.C. 6291–6317.

### § 429.12 [Amended]

■ 2. Section 429.12(b)(13) is amended by removing ''429.54'' and adding ''429.69'' in its place.

■ 3. Section 429.56 is added to read as follows:

### § 429.56 Integrated light-emitting diode lamps.

(a) *Determination of Represented Value.* (1) Manufacturers must determine the represented value, which includes the certified rating, for each basic model of integrated light-emitting diode lamps by testing, in conjunction with the following sampling provisions:

(i) *Units to be tested.* (A) The general requirements of § 429.11(a) are applicable except that the sample must be comprised of production units; and

(B) For each basic model of integrated light-emitting diode lamp, the minimum number of units tested shall be no less than 10 and the same units must be used for testing all metrics. If more than 10 units are tested as part of the sample, the total number of units must be a multiple of two. For each basic model, a sample of sufficient size shall be randomly selected and tested to ensure that:

(*1*) Represented values of initial lumen output, lifetime, lamp efficacy, and color rendering index (CRI) of a basic model for which consumers would favor higher values must be less than or equal to the lower of:

(*i*) The mean of the sample, where:

$$\bar{x} = \frac{1}{n}\sum_{i=1}^{n} x_i$$

and, $\bar{x}$ is the sample mean; n is the number of units; and $x_i$ is the $i^{th}$ unit;

Or,

(*ii*) The lower 99 percent confidence limit (LCL) of the true mean divided by 0.97 for initial lumen output, life, and lifetime; the lower 99 percent confidence limit (LCL) of the true mean divided by 0.98 for lamp efficacy; and the lower 99 percent confidence limit (LCL) of the true mean divided by 0.99 for CRI, where:

$$LCL = \bar{x} - t_{0.99}\left(\frac{s}{\sqrt{n}}\right)$$

and, $\bar{x}$ is the sample mean; s is the sample standard deviation; n is the number of samples; and $t_{0.99}$ is the t statistic for a 99 percent one-tailed confidence interval with n − 1 degrees of freedom (from Appendix A of this part).

(*2*) Represented values of input power and standby mode power of a basic model for which consumers would favor lower values must be greater than or equal to the higher of:

(*i*) The mean of the sample, where:

$$\bar{x} = \frac{1}{n}\sum_{i=1}^{n} x_i$$

and, $\bar{x}$ is the sample mean; n is the number of units; and $x_i$ is the $i^{th}$ unit;

Or,

(*ii*) The upper 99 percent confidence limit (UCL) of the true mean divided by 1.01, where:

$$UCL = \bar{x} + t_{0.99}\left(\frac{s}{\sqrt{n}}\right)$$

and, $\bar{x}$ is the sample mean; s is the sample standard deviation; n is the number of samples; and $t_{0.99}$ is the t statistic for a 99 percent one-tailed confidence interval with n − 1 degrees

of freedom (from Appendix A of this part);

(*3*) Represented values of correlated color temperature (CCT) of a basic model must be equal to the mean of the sample, where:

$$\bar{x} = \frac{1}{n}\sum_{i=1}^{n} x_i$$

and, $\bar{x}$ is the sample mean; n is the number of units; and $x_i$ is the $i^{th}$ unit.

(ii) [Reserved]

(2) [Reserved]

(b) [Reserved]

(c) *Rounding requirements for representative values, including certified and rated values, of lumen output, input power, efficacy, CCT, CRI, lifetime, standby mode power, and estimated annual energy cost.* (1) The represented value of input power must be rounded to the nearest tenth of a watt.

(2) The represented value of lumen output must be rounded to three significant digits.

(3) The represented value of lamp efficacy must be rounded to the nearest tenths place.

(4) The represented value of correlated color temperature must be rounded to the nearest 100 Kelvin.

(5) The represented value of color rendering index must be rounded to the nearest whole number.

(6) The represented value of lifetime must be rounded to the nearest whole hour.

(7) The represented value of standby mode power must be rounded to the nearest tenth of a watt.

## PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 4. The authority citation for part 430 continues to read as follows:

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

■ 5. Section 430.2 is amended by revising the definition of ''Basic model'' and adding in alphabetical order the definition of ''Integrated light-emitting diode lamp'' to read as follows:

### § 430.2 Definitions.

* * * * *

*Basic model* means all units of a given type of covered product (or class thereof) manufactured by one manufacturer, having the same primary energy source, and which have essentially identical electrical, physical, and functional (or hydraulic) characteristics that affect energy consumption, energy efficiency, water consumption, or water efficiency; and

(1) With respect to general service fluorescent lamps, general service incandescent lamps, and incandescent reflector lamps: Lamps that have essentially identical light output and electrical characteristics—including lumens per watt (lm/W) and color rendering index (CRI).

(2) With respect to integrated light-emitting diode lamps: Lamps that have essentially identical light output and electrical characteristics—including lumens per watt (lm/W), color rendering index (CRI), correlated color temperature (CCT), and lifetime.

(3) With respect to faucets and showerheads: Have the identical flow control mechanism attached to or installed within the fixture fittings, or the identical water-passage design features that use the same path of water in the highest flow mode.

(4) With respect to furnace fans: Are marketed and/or designed to be installed in the same type of installation.

* * * * *

*Integrated light-emitting diode lamp* means an integrated LED lamp as defined in ANSI/IESNA RP–16 (incorporated by reference; see § 430.3).

* * * * *

■ 6. Section 430.3 is amended by:

■ a. Adding paragraphs (n)(8) and (n)(9); and

■ b. Removing ''and X'' in paragraph (o)(4) and adding in its place, ''X and BB'' .

The additions read as follows:

### § 430.3 Materials incorporated by reference.

* * * * *

(n) *IESNA.* * * *

(8) ANSI/IESNA RP–16–2010, Nomenclature and Definitions for Illuminating Engineering, approved October 15, 2005; IBR approved for § 430.2.

(9) IES LM–79–2008 (''IES LM–79''), Approved Method: Electrical and Photometric Measurements of Solid-State Lighting Products, approved December 31, 2007; IBR approved for Appendix BB to subpart B of this part.

* * * * *

■ 7. Section 430.23 is amended by adding paragraph (dd) to read as follows:

### § 430.23 Test procedures for the measurement of energy and water consumption.

* * * * *

(dd) *Integrated light-emitting diode lamp.* (1) The input power of an integrated light-emitting diode lamp must be measured in accordance with section 3 of Appendix BB of this subpart. Individual unit input power must be rounded to the nearest tenth of a watt.

(2) The lumen output of an integrated light-emitting diode lamp must be measured in accordance with section 3 of Appendix BB of this subpart. Individual unit lumen output must be rounded to three significant digits.

(3) The lamp efficacy of an integrated light-emitting diode lamp must be calculated in accordance with section 3 of Appendix BB of this subpart. Individual unit lamp efficacy must be rounded to the nearest tenths place.

(4) The correlated color temperature of an integrated light-emitting diode lamp must be measured in accordance with section 3 of Appendix BB of this subpart. Individual unit correlated color temperature must be rounded to the nearest 10 Kelvin.

(5) The color rendering index of an integrated light-emitting diode lamp must be measured in accordance with section 3 of Appendix BB of this subpart. Individual unit color rendering index must be rounded to the nearest whole number.

(6) The lifetime of an integrated light-emitting diode lamp must be measured in accordance with section 5 of Appendix BB of this subpart. Individual unit lifetime must be rounded to the nearest hour.

(7) The life of an integrated light-emitting diode lamp must be calculated by dividing the represented rated lifetime (see 10 CFR 429.56) by the estimated annual operating hours as specified in 16 CFR 305.15(b)(3)(iii). The life must be rounded to the nearest tenth of a year.

(8) The estimated annual energy cost for an integrated light-emitting diode lamp, expressed in dollars per year, must be the product of the average input power in kilowatts as determined in accordance with Appendix BB to this subpart, an electricity cost rate as specified in 16 CFR 305.15(b)(1)(ii), and an estimated average annual use as specified in 16 CFR 305.15(b)(1)(ii). The resulting estimated annual energy cost for an individual unit must be rounded to the nearest cent per year.

(9) The standby mode power must be measured in accordance with section 5 of Appendix BB of this subpart. Individual unit standby mode power must be rounded to the nearest tenth of a watt.

■ 8. Section 430.25 is revised to read as follows:

### § 430.25 Laboratory Accreditation Program.

(a) Testing for general service fluorescent lamps, general service

incandescent lamps, and incandescent reflector lamps must be performed in accordance with Appendix R to this subpart. Testing for medium base compact fluorescent lamps must be performed in accordance with Appendix W to this subpart. Testing for fluorescent lamp ballasts must be performed in accordance with Appendix Q1 to this subpart. This testing, with the exception of lifetime testing of general service incandescent lamps, must be conducted by test laboratories accredited by the National Voluntary Laboratory Accreditation Program (NVLAP) or an accrediting organization recognized by International Laboratory Accreditation Cooperation (ILAC). NVLAP is a program of the National Institute of Standards and Technology, U.S. Department of Commerce. NVLAP standards for accreditation of laboratories that test are set forth in 15 CFR part 285. The following metrics should be measured by test laboratories accredited by NVLAP or an accrediting organization recognized by International Laboratory Accreditation Cooperation (ILAC):

(1) Fluorescent lamp ballasts: ballast luminous efficiency (BLE);

(2) General service fluorescent lamps: lamp efficacy, color rendering index;

(3) General service incandescent reflector lamps: lamp efficacy;

(4) General service incandescent lamps: lamp efficacy; and

(5) Medium base compact fluorescent lamps: initial efficacy, lamp life. Testing for BLE may also be conducted by laboratories accredited by Underwriters Laboratories or Council of Canada. Testing for fluorescent lamp ballasts performed in accordance with Appendix Q to this subpart is not required to be conducted by test laboratories accredited by NVLAP or an accrediting organization recognized by NVLAP.

(b) Testing of integrated light-emitting diode lamps must be performed in accordance with Appendix BB of this subpart. Testing must be conducted in test laboratories accredited by NVLAP or an accrediting organization recognized by International Laboratory Accreditation Cooperation (ILAC) for the following metrics: input power, lumen output, lamp efficacy, correlated color temperature, color rendering index, lifetime, and standby mode power. A manufacturer's own laboratory, if accredited, may conduct the testing.

■ 9. Appendix BB to subpart B of part 430 is added to read as follows:

## Appendix BB to Subpart B of Part 430—Uniform Test Method for Measuring the Input Power, Lumen Output, Lamp Efficacy, Correlated Color Temperature (CCT), Color Rendering Index (CRI), Lifetime, and Standby Mode Power of Integrated Light-Emitting Diode (LED) Lamps

**Note:** After [DATE 180 DAYS AFTER PUBLICATION OF FINAL RULE IN THE **Federal Register**], any representations made with respect to the energy use or efficiency of light-emitting diode lamps must be made in accordance with the results of testing pursuant to this appendix. Given that after [DATE 180 DAYS AFTER PUBLICATION OF FINAL RULE IN THE **Federal Register**] representations with respect to the energy use or efficiency of light-emitting diode lamps must be made in accordance with tests conducted pursuant to this appendix, manufacturers may wish to begin using this test procedure as soon as possible.

1. *Scope:* This appendix specifies how to measure input power, lumen output, lamp efficacy, CCT, CRI, lifetime, and standby mode power for integrated LED lamps.

*2. Definitions*

2.1. The definitions specified in section 1.3 of IES LM–79 except section 1.3(f) (incorporated by reference; see § 430.3) apply.

2.2. *Initial lumen output* means the measured lumen output after the lamp is initially energized and stabilized using the stabilization procedures in section 3 of Appendix BB of this subpart.

2.3. *Rated input voltage* means the voltage(s) marked on the lamp as the intended operating voltage. If not marked on the lamp, assume 120 V.

2.4. *Lamp efficacy* means the ratio of measured initial lumen output in lumens to the measured lamp input power in watts, in units of lumens per watt.

2.5. *CRI* means color rendering index as defined in § 430.2.

2.6. *Test duration* means the operating time of the LED lamp after the initial lumen output measurement and before, during, and including the final lumen output measurement.

2.7. *Lifetime* means the time at which the lumen output is equal to 70 percent of the initial lumen output measured using section 4 of Appendix BB of this subpart.

*3. Active Mode Test Method for Determining Lumen Output, Input Power, CCT, CRI, and Lamp Efficacy*

In cases where there is a conflict, the language of the test procedure in this appendix takes precedence over IES LM–79 (incorporated by reference; see § 430.3).

*3.1. Test Conditions and Setup*

3.1.1. The ambient conditions, power supply, electrical settings, and instrumentation must be established in accordance with the specifications in sections 2.0, 3.0, 7.0, and 8.0 of IES LM–79 (incorporated by reference; see § 430.3), respectively.

3.1.2. An equal number of integrated LED lamps must be positioned in the base up and base down orientations throughout testing.

3.1.3. The integrated LED lamp must be operated at the rated voltage throughout testing. For an integrated LED lamp with multiple rated voltages including 120 volts, the integrated LED lamp must be operated at 120 volts. If an integrated LED lamp with multiple rated voltages is not rated for 120 volts, the integrated LED lamp must be operated at the highest rated input voltage. Additional tests may be conducted at other rated voltages.

3.1.4. The integrated LED lamp must be operated at maximum input power. If multiple modes occur at the same maximum input power (such as variable CCT or CRI), the manufacturer can select any of these modes for testing; however, all measurements described in section 3 and section 4 must be taken at the same selected mode.

*3.2. Test Method, Measurements, and Calculations*

3.2.1. The integrated LED lamp must be stabilized prior to measurement as specified in section 5.0 of IES LM–79 (incorporated by reference; see § 430.3). The stabilization variation is calculated as [maximum − minimum)/minimum] of at least three readings of the input power and lumen output over a period of 30 minutes, taken 15 minutes apart.

3.2.2. The input power in watts must be measured as specified in section 8.0 of IES LM–79 (incorporated by reference; see § 430.3).

3.2.3. Lumen output must be measured as specified in section 9.1 and 9.2 of IES LM–79 (incorporated by reference; see § 430.3). Goniometers must not be used.

3.2.4. CCT must be determined according to the method specified in section 12.0 of IES LM–79 (incorporated by reference; see § 430.3) with the exclusion of section 12.2 of IES LM–79. Goniometers must not be used.

3.2.5. CRI must be determined according to the method specified in section 12.0 of IES LM–79 (incorporated by reference; see § 430.3) with the exclusion of section 12.2 of IES LM–79. Goniometers must not be used.

3.2.6. Lamp efficacy must be determined by dividing measured initial lumen output by the measured input power.

*4. Active Mode Test Method for Lifetime*

In cases where there is a conflict, the language of the test procedure in this appendix takes precedence over IES LM–79 (incorporated by reference; see § 430.3).

*4.1. Measure Initial Lumen Output. Measure the Initial Lumen Output According to Section 3 of This Appendix*

4.2. *Test Duration.* Operate the integrated LED lamp for a period of time (the test duration) after the initial lumen output measurement and before, during, and including the final lumen output measurement.

4.2.1. There is no minimum test duration requirement for the integrated LED lamp. The test duration is selected by the manufacturer. See section 4.5.3 for instruction on the maximum lifetime.

4.2.2. The test duration only includes time when the integrated LED lamp is energized and operating.

4.2.3. Operating conditions and setup during the test duration other than time during which lumen output measurements are being conducted are specified in section 4.3 of this appendix.

*4.3. Operating Conditions and Setup Between Lumen Output Measurements*

4.3.1. Ambient temperature must be controlled between 15 °C and 40 °C.

4.3.2. The integrated LED lamps must be spaced to allow airflow around each lamp.

4.3.3. The integrated LED lamps must not be subjected to excessive vibration or shock during lamp operation.

4.3.4. Line voltage waveshape must be as described in section 3.1 of IES LM–79 (incorporated by reference; see § 430.3).

4.3.5. Input voltage must be monitored and regulated to within ±2 percent of the voltage required in section 3.1.3 for the duration of the test.

4.3.6. Electrical settings must be as described in section 7.0 IES LM–79 (incorporated by reference; see § 430.3).

4.3.7. An equal number of integrated LED lamps must be positioned in the base up and base down orientations throughout testing.

4.3.8. The integrated LED lamp must be operated at maximum input power. If multiple modes occur at the same maximum input power (such as variable CCT and CRI), the manufacturer can select any of these modes for testing. Measurements of all quantities described in sections 3 and 4 of this appendix must be taken at the same selected mode.

*4.4. Measure Final Lumen Output.* Measure the lumen output at the end of the test duration according to section 3.

*4.5.Calculate Lumen Maintenance and Lifetime*

4.5.1. Calculate the lumen maintenance of the lamp after the test duration ''t'' by dividing the final lumen output ''$x_t$'' by the initial lumen output ''$x_0$''. Initial and final lumen output must be measured in accordance with sections 4.1 and 4.4 of this appendix, respectively.

4.5.2. For lumen maintenance values greater than 1, the lifetime (in hours) is limited to a value less than or equal to four times the test duration.

4.5.3. For lumen maintenance values less than 1 but greater than or equal to 0.7, the lifetime (in hours) is calculated using the following equation:

$$Lifetime = t * \frac{\ln(0.7)}{\ln(\frac{x_t}{x_0})}$$

Where: t is the test duration in hours; $x_0$ is the initial lumen output; $x_t$ is the final lumen output at time t, and ln is the natural logarithm function.

The maximum lifetime is limited to four times the test duration t.

4.5.4. For lumen maintenance values less than 0.7, including lamp failures that result in complete loss of light output, lifetime is equal to the previously recorded lumen output measurement at a shorter test duration where the lumen maintenance is greater than or equal to 70 percent, and lifetime shall not be calculated in accordance with section 4.5.3 of this appendix.

*5. Standby Mode Test Method for Determining Standby Mode Power*

In cases where there is a conflict, the language of the test procedure in this appendix takes precedence over IES LM–79 (incorporated by reference; see § 430.3) and IEC 62301 (incorporated by reference; see § 430.3).

*5.1. Test Conditions and Setup*

5.1.1. The ambient conditions, power supply, electrical settings, and instrumentation must be established in accordance with the specifications in sections 2.0, 3.0, 7.0, and 8.0 of IES LM–79 (incorporated by reference; see § 430.3), respectively.

5.1.2. An equal number of integrated LED lamps must be positioned in the base up and base down orientations throughout testing.

5.1.3. The integrated LED lamp must be operated at the rated voltage throughout testing. For an integrated LED lamp with multiple rated voltages, the integrated LED lamp must be operated at 120 volts. If an integrated LED lamp with multiple rated voltages is not rated for 120 volts, the integrated LED lamp must be operated at the highest rated input voltage.

*5.2. Test Method, Measurements, and Calculations*

5.2.1. Standby mode power consumption must be measured for integrated LED lamps if applicable.

5.2.2. The integrated LED lamp must be stabilized prior to measurement as specified in section 5.0 of IES LM–79 (incorporated by reference; see § 430.3). The stabilization variation is calculated as [maximum—minimum)/minimum] of at least three readings of the input power and lumen output over a period of 30 minutes, taken 15 minutes apart.

5.2.3. The integrated LED must be configured in standby mode by sending a signal to the integrated LED lamp instructing it to have zero light output.

5.2.4. The standby mode power in watts must be measured as specified in section 5 of IEC 62301 (incorporated by reference; see § 430.3).

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Part III

## Department of Energy

10 CFR Part 431

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

**DEPARTMENT OF ENERGY**

**10 CFR Part 431**

**[Docket Number EERE–2008–BT–STD–0015]**

**RIN 1904–AB86**

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

**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 walk-in coolers and walk-in freezers. EPCA also requires the U.S. Department of Energy (DOE) to determine whether more-stringent standards would be technologically feasible and economically justified, and would save a significant amount of energy. In this final rule, DOE is adopting more-stringent energy conservation standards for some classes of walk-in cooler and walk-in freezer components and has determined that these standards are technologically feasible and economically justified and would result in the significant conservation of energy.

**DATES:** The effective date of this rule is August 4, 2014. Compliance with the amended standards established for walk-in coolers and walk-in freezers in this final rule is required on June 5, 2017.

**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 *www.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-0003*. 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*.

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## I. Summary of the Final Rule and Its Benefits

Title III, Part C of EPCA, Public Law 94–163 (42 U.S.C. 6311–6317, as codified), added by Public Law 95–619, Title IV, section 441(a), established the Energy Conservation Program for Certain Industrial Equipment, a program covering certain industrial equipment, which includes the walk-in coolers and walk-in freezers that are the focus of this notice.[1] [2] (42 U.S.C. 6311(1), (20), 6313(f) and 6314(a)(9)) Pursuant to EPCA, any new or amended energy conservation standard that DOE prescribes for certain equipment, such as walk-in coolers and walk-in freezers (collectively, ''walk-ins'' or ''WICFs''), shall be designed to achieve the maximum improvement in energy efficiency that DOE determines is both technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) Furthermore, the new or amended standard must result in the significant conservation of energy. (42 U.S.C. 6295(o)(3)(B)) In accordance with these and other statutory provisions discussed in this notice, DOE is adopting amended energy conservation standards for the main components of walk-in coolers and walk-in freezers (walk-ins), refrigeration systems, panels, and doors. These standards are expressed in terms of annual walk-in energy factor (AWEF) for the walk-in refrigeration systems, R-value for walk-in panels, and maximum energy consumption (MEC) for walk-in doors. These standards are shown in Table I.1. These standards apply to all equipment listed in Table I.1 and manufactured in, or imported into, the United States once the compliance date listed above is reached.

TABLE I.1—ENERGY CONSERVATION STANDARDS FOR WALK-IN COOLERS AND WALK-IN FREEZERS

| Class descriptor | Class | Standard level |
|---|---|---|
| Refrigeration Systems | | Minimum AWEF (Btu/W-h) * |
| Dedicated Condensing, Medium Temperature, Indoor System, <9,000 Btu/h Capacity | DC.M.I, <9,000 | 5.61 |
| Dedicated Condensing, Medium Temperature, Indoor System, ≥9,000 Btu/h Capacity | DC.M.I, ≥9,000 | 5.61 |
| Dedicated Condensing, Medium Temperature, Outdoor System, <9,000 Btu/h Capacity | DC.M.O, <9,000 | 7.60 |
| Dedicated Condensing, Medium Temperature, Outdoor System, ≥9,000 Btu/h Capacity | DC.M.O, ≥9,000 | 7.60 |
| Dedicated Condensing, Low Temperature, Indoor System, <9,000 Btu/h Capacity | DC.L.I, <9,000 | $5.93 \times 10^{-5} \times Q + 2.33$ |
| Dedicated Condensing, Low Temperature, Indoor System, ≥9,000 Btu/h Capacity | DC.L.I, ≥9,000 | 3.10 |
| Dedicated Condensing, Low Temperature, Outdoor System, <9,000 Btu/h Capacity | DC.L.O, <9,000 | $2.30 \times 10^{-4} \times Q + 2.73$ |
| Dedicated Condensing, Low Temperature, Outdoor System, ≥9,000 Btu/h Capacity | DC.L.O, ≥9,000 | 4.79 |
| Multiplex Condensing, Medium Temperature | MC.M | 10.89 |
| Multiplex Condensing, Low Temperature | MC.L | 6.57 |
| Panels | | Minimum R-value (h-ft2-°F/Btu) |
| Structural Panel, Medium Temperature | SP.M | 25 |
| Structural Panel, Low Temperature | SP.L | 32 |
| Floor Panel, Low Temperature | FP.L | 28 |
| Non-Display Doors | | Maximum energy consumption (kWh/day) ** |
| Passage Door, Medium Temperature | PD.M | $0.05 \times A_{nd} + 1.7$ |
| Passage Door, Low Temperature | PD.L | $0.14 \times A_{nd} + 4.8$ |
| Freight Door, Medium Temperature | FD.M | $0.04 \times A_{nd} + 1.9$ |
| Freight Door, Low Temperature | FD.L | $0.12 \times A_{nd} + 5.6$ |

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

[2] For editorial reasons, upon codification in the U.S. Code, Part C was re-designated Part A–1.

TABLE I.1—ENERGY CONSERVATION STANDARDS FOR WALK-IN COOLERS AND WALK-IN FREEZERS—Continued

| Class descriptor | Class | Standard level |
|---|---|---|
| Display Doors | | Maximum Energy Consumption (kWh/day) † |
| Display Door, Medium Temperature | DD.M | $0.04 \times A_{dd} + 0.41$ |
| Display Door, Low Temperature | DD.L | $0.15 \times A_{dd} + 0.29$ |

* Q represents the system gross capacity as calculated in AHRI 1250.
** $A_{nd}$ represents the surface area of the non-display door.
† $A_{dd}$ represents the surface area of the display door.

*A. Benefits and Costs to Customers*

Table I.2 presents DOE's evaluation of the economic impacts of these standards on customers of walk-in coolers and walk-in freezers, as measured by the average life-cycle cost (LCC) savings and the median payback period (PBP). The average LCC savings are positive for all equipment classes for which customers are impacted by the standards.

TABLE I.2—IMPACTS OF THE FINAL RULE'S STANDARDS ON CUSTOMERS OF WALK-IN COOLERS AND WALK-IN FREEZERS

| Equipment class | Average LCC savings *2013$* | Median payback period *Years* |
|---|---|---|
| **Refrigeration System Class** * | | |
| DC.M.I * | 5942 | 3.5 |
| DC.M.O * | 6533 | 2.2 |
| DC.L.I * | 2078 | 1.6 |
| DC.L.O * | 5942 | 3.5 |
| MC.M | 547 | 3.1 |
| MC.L | 362 | 3.1 |
| **Panel Class** | | |
| SP.M | | |
| SP.L | | |
| FP.L | | |
| **Non-Display Door Class** | | |
| PD.M | | |
| PD.L | | |
| FD.M | | |
| FD.L | | |
| **Display Door Class** | | |
| DD.M | 143 | 7.3 |
| DD.L | 902 | 5.4 |

**Note:** "—" indicates no impact because standards are set at the baseline level.
*For dedicated condensing (DC) refrigeration systems, results include all capacity ranges.

*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 (2013) through the end of the analysis period (2046). Using real discount rates of 10.5 percent for panels, 9.4 percent for doors, and 10.4 percent for refrigeration,[3] DOE estimates that the INPV for manufacturers of walk-in coolers and walk-in freezers is $1,291 million in 2012$. Under these standards, DOE expects the industry net present value to change by −4.10 percent to 6.21 percent. Total industry conversion costs are expected to total $33.61 million. DOE does not expect any plant closings or significant loss of employment to result from these standards.

*C. National Benefits*[4]

DOE's analyses indicate that these standards would save a significant amount of energy. The lifetime savings for walk-in coolers and walk-in freezers purchased in the 30-year period that begins in the year of compliance with amended standards (2017–2046) amount to 3.149 quadrillion British thermal units (quads). The annual savings in 2030 (0.10 quads) is equivalent to 0.5 percent of total U.S. commercial energy use in 2014.

The cumulative net present value (NPV) of total consumer costs and savings of these standards for walk-in coolers and walk-in freezers ranges from $3.98 billion (at a 7-percent discount rate) to $9.90 billion (at a 3-percent discount rate). This NPV expresses the estimated total value of future operating cost savings minus the estimated

[3] These rates were used to discount future cash flows in the Manufacturer Impact Analysis. The discount rates were calculated from SEC filings and then adjusted based on cost of capital feedback collected from walk-in door, panel, and refrigeration manufacturers in MIA interviews. For a detailed explanation of how DOE arrived at these discount rates, refer to chapter 12 of the final rule TSD.

[4] All monetary values in this section are expressed in 2013 dollars and are discounted to 2014.

increased equipment costs for equipment purchased in 2016–2047.

In addition, these standards are expected to have significant environmental benefits. The energy savings would result in cumulative emission reductions of approximately 159.2 million metric tons (Mt) [5] of carbon dioxide ($CO_2$), 833 thousand tons of methane, 229 thousand tons of sulfur dioxide ($SO_2$), 254.4 thousand tons of nitrogen oxides ($NO_X$), 3.5 thousand tons of nitrous oxide ($N_2O$), and 0.27 tons of mercury (Hg).[6] Through 2030, the cumulative emissions reductions of $CO_2$ amount to 61.6 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.[7] The derivation of the SCC values is discussed in section IV.M. Using discount rates appropriate for each set of SCC values, DOE estimates that the net present monetary value of the $CO_2$ emissions reductions is between $1.2 billion and $16.3 billion. DOE also estimates that the net present monetary value of the $NO_X$ emissions reductions is $183.5 million at a 7-percent discount rate, and $366.1 million at a 3-percent discount rate.[8]

Table I.3 summarizes the national economic costs and benefits expected to result from these standards for walk-in coolers and walk-in freezers.

TABLE I.3—SUMMARY OF NATIONAL ECONOMIC BENEFITS AND COSTS OF WALK-IN COOLERS AND WALK-IN FREEZERS ENERGY CONSERVATION STANDARDS

| Category * | Present Value *Billion 2013$* | Discount Rate (percent) |
|---|---|---|
| **Benefits** | | |
| Operating Cost Savings | 9.5 | 7 |
| | 19.7 | 3 |
| $CO_2$ Reduction Monetized Value ($12.0/t case) ** | 1.2 | 5 |
| $CO_2$ Reduction Monetized Value ($40.5/t case) ** | 5.3 | 3 |
| $CO_2$ Reduction Monetized Value ($62.4/t case) ** | 8.4 | 2.5 |
| $CO_2$ Reduction Monetized Value ($119/t case) ** | 16.3 | 3 |
| $NO_X$ Reduction Monetized Value (at $2,684/ton) ** | 0.2 | 7 |
| | 0.4 | 3 |
| Total Benefits † | 15.0 | 7 |
| | 25.4 | 3 |
| **Costs** | | |
| Incremental Installed Costs | 5.5 | 7 |
| | 9.8 | 3 |
| **Net Benefits** | | |
| Including $CO_2$ and $NO_X$ Reduction Monetized Value † | 9.5 | 7 |
| | 15.6 | 3 |

* This table presents the costs and benefits associated with walk-in coolers and walk-in freezers shipped in 2017–2046. These results include benefits to customers which accrue after 2046 from the equipment purchased in 2017–2046. 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 average SCC with 3-percent discount rate.

The benefits and costs of these standards, for equipment sold in 2017–2046, can also be expressed in terms of annualized values. The annualized monetary values are the sum of (1) the annualized national economic value of the benefits from operating the equipment (consisting primarily of operating cost savings from using less energy, minus increases in equipment purchase and installation costs, which is another way of representing consumer NPV, plus (2) the annualized monetary value of the benefits of emission reductions, including $CO_2$ emission reductions.[9]

Although adding the value of consumer savings to the values of emission reductions provides a valuable perspective, two issues should be considered. First, the national operating cost savings are domestic U.S. consumer monetary savings that occur as a result of market transactions, while the value

[5] A metric ton is equivalent to 1.1 short tons. Results for $NO_X$ and Hg are presented in short tons.

[6] DOE calculated emissions reductions relative to the *Annual Energy Outlook 2013* (*AEO 2013*) Reference case, which generally represents current legislation and environmental regulations for which implementing regulations were available as of December 31, 2012.

[7] *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.*

[8] DOE is investigating the valuation of the other emissions reductions.

[9] 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.4. From the present value, DOE then calculated the fixed annual payment over a 30-year period (2017 through 2046) that yields the same present value. The fixed annual payment is the annualized value. Although DOE calculated annualized values, this does not imply that the time-series of cost and benefits from which the annualized values were determined is a steady stream of payments.

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 walk-in coolers and walk-in freezers shipped in 2017–2046. The SCC values, on the other hand, reflect the present value of all future climate-related impacts resulting from the emission of one metric ton of carbon dioxide in each year. These impacts continue well beyond 2100.

Estimates of annualized benefits and costs of these standards are shown in Table I.4. 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 this rule is $511 million per year in increased equipment costs, while the benefits are $879 million per year in reduced equipment operating costs, $287 million in $CO_2$ reductions, and $16.93 million in reduced $NO_X$ emissions. In this case, the net benefit amounts to $671 million per year. Using a 3-percent discount rate for all benefits and costs and the average SCC series, the cost of the standards in this rule is $528 million per year in increased equipment costs, while the benefits are $1,064 million per year in reduced operating costs, $287 million in $CO_2$ reductions, and $19.82 million in reduced $NO_X$ emissions. In this case, the net benefit amounts to $842 million per year.

TABLE I.4—ANNUALIZED BENEFITS AND COSTS OF AMENDED STANDARDS FOR WALK-IN COOLERS AND WALK-IN FREEZERS

| | Discount rate | Million 2013$/year | | |
|---|---|---|---|---|
| | | Primary estimate * | Low net benefits estimate * | High net benefits estimate * |
| **Benefits** | | | | |
| Operating Cost Savings | 7% | 879 | 854 | 917. |
| | 3% | 1064 | 1027 | 1115. |
| $CO_2$ Reduction at ($12.08/t case) ** | 5% | 86 | 86 | 86. |
| $CO_2$ Reduction at ($40.5/t case) ** | 3% | 287 | 287 | 287. |
| $CO_2$ Reduction at ($62.4/t case) ** | 2.5% | 420 | 420 | 420. |
| $CO_2$ Reduction at ($119/t case) ** | 3% | 884 | 884 | 884. |
| $NO_X$ Reduction at ($2,684/ton) ** | 7% | 16.93 | 16.93 | 16.93. |
| | 3% | 19.82 | 19.82 | 19.82. |
| Total Benefits † | 7% plus $CO_2$ range. | 981 to 1,780 | 957 to 1,755 | 1,020 to 1,818. |
| | 7% | 1,183 | 1,158 | 1,221. |
| | 3% plus $CO_2$ range. | 1,169 to 1,968 | 1,133 to 1,931 | 1,221 to 2,019. |
| | 3% | 1,371 | 1,334 | 1,422. |
| **Costs** | | | | |
| Incremental Equipment Costs | 7% | 511 | 501 | 522. |
| | −3% | 528 | 515 | 541. |
| **Net Benefits** | | | | |
| Total † | 7% plus $CO_2$ range. | 470 to 1,269 | 456 to 1,255 | 498 to 1,296. |
| | 7% | 671 | 657 | 699. |
| | 3% plus $CO_2$ range. | 641 to 1,440 | 617 to 1,416 | 680 to 1,478. |
| | 3% | 842 | 818 | 881. |

* This table presents the annualized costs and benefits associated with walk-in coolers and walk-in freezers shipped in 2017–2046. These results include benefits to customers which accrue after 2046 from the equipment purchased in 2017–2046. 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 the final rule. The primary, low, and high estimates utilize projections of energy prices from the *AEO 2013* Reference case, Low Estimate, and High Estimate, respectively. In addition, incremental equipment costs reflect a medium decline rate for projected equipment price trends in the Primary Estimate, a low decline rate for projected equipment price trends in the Low Benefits Estimate, and a high decline rate for projected equipment price trends in the High Benefits Estimate. The methods used to derive projected price trends are explained in section IV.I.

** 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, which is the $39.7/t $CO_2$ reduction case. 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*

Based on the analyses culminating in this final rule, DOE found the benefits to the nation from the standards (energy savings, consumer LCC savings, positive NPV of consumer benefit, and emission reductions) outweigh the burdens (loss of INPV and LCC increases for some users of this equipment). DOE has concluded that the standards in this final rule represent the maximum

improvement in energy efficiency that is technologically feasible and economically justified, and would result in significant conservation of energy. (42 U.S.C. 6295(o), 6316(e))

## II. Introduction

The following section briefly discusses the statutory authority underlying this final rule, as well as some of the relevant historical background related to the establishment of standards for walk-in coolers and walk-in freezers.

### *A. Authority*

Title III, Part C of EPCA, Public Law 94–163 (42 U.S.C. 6311–6317, as codified), added by Public Law 95–619, Title IV, section 441(a), established the Energy Conservation Program for Certain Industrial Equipment, a program covering certain industrial equipment, which includes the walk-in coolers and walk-in freezers that are the focus of this notice.[10] [11] (42 U.S.C. 6311(1), (20), 6313(f) and 6314(a)(9)) Walk-ins consist of two major pieces—the structural ''envelope'' within which items are stored and a refrigeration system that cools the air in the envelope's interior.

DOE's energy conservation program for covered equipment generally consists of four parts: (1) Testing; (2) labeling; (3) the establishment of Federal energy conservation standards; and (4) certification and enforcement procedures. For walk-ins, DOE is responsible for the entirety of this program. The DOE test procedures for walk-ins, including those prescribed by Congress in the Energy Independence and Security Act of 2007, Public Law 110–140 (December 19, 2007) (''EISA''), and those established by DOE in a test procedure final rule, currently appear at title 10 of the Code of Federal Regulations (CFR) part 431, section 304.

Any new or amended performance standards that DOE prescribes for walk-ins must achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified. (42 U.S.C. 6313(f)(4)(A)) For purposes of this rulemaking, DOE also plans to adopt those standards that are likely to result in a significant conservation of energy that satisfies both of these requirements. See 42 U.S.C. 6295(o)(3)(B).

Technological feasibility is determined by examining technologies or designs that could be used to improve the efficiency of the covered equipment. DOE considers a design to be technologically feasible if it is in use by the relevant industry or if research has progressed to the development of a working prototype.

In ascertaining whether a particular standard is economically justified, DOE considers, to the greatest extent practicable, the following 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))

DOE does not generally prescribe an amended or new standard if interested persons have established by a preponderance of the evidence that the standard is likely to result in the unavailability in the United States of any covered product type (or class) of performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the United States. Further, under EPCA's provisions for consumer products, there is a rebuttable presumption that a standard is economically justified if the Secretary finds that the additional cost to the consumer of purchasing a product complying with an energy conservation standard level will be less than three times the value of the energy savings during the first year that the consumer will receive as a result of the standard, as calculated under the applicable test procedure. (42 U.S.C. 6295(o)(2)(B)(iii)) For purposes of its walk-in analysis, DOE plans to account for these factors.

Additionally, when a type or class of covered equipment such as walk-ins has two or more subcategories, in promulgating standards for such equipment, DOE often specifies more than one standard level. DOE generally will adopt a different standard level than that which applies generally to such type or class of products for any group of covered products that have the same function or intended use if DOE determines that products within such group (A) consume a different kind of energy than that consumed by other covered products within such type (or class) or (B) have a capacity or other performance-related feature that other products within such type (or class) do not have, and which justifies a higher or lower standard. Generally, in determining whether a performance-related feature justifies a different standard for a group of products, DOE considers such factors as the utility to the consumer of the feature and other factors DOE deems appropriate. In a rule prescribing such a standard, DOE typically includes an explanation of the basis on which such higher or lower level was established. DOE plans to follow a similar process in the context of this rulemaking.

DOE notes that since the inception of the statutory requirements setting standards for walk-ins, Congress has since made one additional amendment to those provisions. That amendment provides that the wall, ceiling, and door insulation requirements detailed in 42 U.S.C. 6313(f)(1)(C) do not apply to the given component if the component's manufacturer has demonstrated to the Secretary's satisfaction that ''the component reduces energy consumption at least as much'' if those specified requirements were to apply to that manufacturer's component. American Energy Manufacturing Technology Corrections Act, Public Law 112–210, Sec. 2 (Dec. 18, 2012) (codified at 42 U.S.C. 6313(f)(6)) (AEMTCA). Manufacturers seeking to avail themselves of this provision must ''provide to the Secretary all data and technical information necessary to fully evaluate its application.'' *Id.* DOE codified this amendment into its regulations on October 23, 2013, at 78 FR 62988.

Since the promulgation of the amendment, one company, HH Technologies, submitted data on May 24, 2013, demonstrating that its RollSeal doors satisfied this new AEMTCA provision. DOE reviewed these data and all other submitted information and concluded that the RollSeal doors at issue satisfied 42 U.S.C. 6313(f)(6). Accordingly, DOE issued a determination letter on June 14, 2013, indicating that these doors met Section

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

[11] For editorial reasons, upon codification in the U.S. Code, Part C was re-designated Part A–1.

6313(f)(6) and that the applicable insulation requirements did not apply to the RollSeal doors HH Technologies identified. Nothing in this rule affects the previous determination regarding HH Technologies.

Federal energy conservation requirements generally pre-empt state laws or regulations concerning energy conservation testing, labeling, and standards. (42 U.S.C. 6297(a); 42 U.S.C. 6316(b)) However, EPCA provides that for walk-ins in particular, any state standard issued before publication of the final rule shall not be pre-empted until the standards established in the final rule take effect. (42 U.S.C. 6316(h)(2)(B))

Where applicable, DOE generally considers standby and off mode energy use for certain covered products or equipment when developing energy conservation standards. See 42 U.S.C. 6295(gg)(3). Because the vast majority of walk-in coolers and walk-in freezers operate continuously to keep their contents cold at all times, DOE is not proposing standards for standby and off mode energy use.

*B. Background*

1. Current Standards

EPCA defines a walk-in cooler and a walk-in freezer as an enclosed storage space refrigerated to temperatures above, and at or below, respectively, 32 °F that can be walked into. The statute also defines walk-in coolers and freezers as having a total chilled storage area of less than 3,000 square feet, excluding equipment designed and marketed exclusively for medical, scientific, or research purposes. (42 U.S.C. 6311(20)) EPCA also provides prescriptive standards for walk-ins manufactured on or after January 1, 2009, which are described below.

First, EPCA sets forth general prescriptive standards for walk-ins. Walk-ins must have automatic door closers that firmly close all walk-in doors that have been closed to within 1 inch of full closure, for all doors narrower than 3 feet 9 inches and shorter than 7 feet; walk-ins must also have strip doors, spring hinged doors, or other methods of minimizing infiltration when doors are open. Walk-ins must also contain wall, ceiling, and door insulation of at least R–25 for coolers and R–32 for freezers, excluding glazed portions of doors and structural members, and floor insulation of at least R–28 for freezers. Walk-in evaporator fan motors of under 1 horsepower and less than 460 volts must be electronically commutated motors (brushless direct current motors) or three-phase motors, and walk-in condenser fan motors of under 1 horsepower must use permanent split capacitor motors, electronically commutated motors, or three-phase motors. Interior light sources must have an efficacy of 40 lumens per watt or more, including any ballast losses; less-efficacious lights may only be used in conjunction with a timer or device that turns off the lights within 15 minutes of when the walk-in is unoccupied. See 42 U.S.C. 6313(f)(1).

Second, EPCA sets forth new requirements related to electronically commutated motors for use in walk-ins. See 42 U.S.C. 6313(f)(2)). Specifically, in those walk-ins that use an evaporator fan motor with a rating of under 1 horsepower and less than 460 volts, that motor must be either a three-phase motor or an electronically commutated motor unless DOE determined prior to January 1, 2009 that electronically commutated motors are available from only one manufacturer. (42 U.S.C. 6313(f)(2)(A)) DOE determined by January 1, 2009 that these motors were available from more than one manufacturer; thus, according to EPCA, walk-in evaporator fan motors with a rating of under 1 horsepower and less than 460 volts must be either three-phase motors or electronically commutated motors. DOE documented this determination in the rulemaking docket as docket ID EERE–2008–BT–STD–0015–0072. This document can be found at *http://www.regulations.gov/#!documentDetail;D=EERE-2008-BT-STD-0015-0072*. Additionally, EISA authorized DOE to permit the use of other types of motors as evaporative fan motors—if DOE determines that, on average, those other motor types use no more energy in evaporative fan applications than electronically commutated motors. (42 U.S.C. 6313(f)(2)(B)) DOE is unaware of any other motors that would offer performance levels comparable to the electronically commutated motors required by Congress. Accordingly, all evaporator motors rated at under 1 horsepower and under 460 volts must be electronically commutated motors or three-phase motors.

Third, EPCA sets forth additional requirements for walk-ins with transparent reach-in doors. Freezer doors must have triple-pane glass with either heat-reflective treated glass or gas fill for doors and windows for freezers. Cooler doors must have either double-pane glass with treated glass and gas fill or triple-pane glass with treated glass or gas fill. (42 U.S.C. 6313(f)(3)(A)–(B)) For walk-ins with transparent reach-in doors, EISA also prescribed specific anti-sweat heater-related requirements: Walk-ins without anti-sweat heater controls must have a heater power draw of no more than 7.1 or 3.0 watts per square foot of door opening for freezers and coolers, respectively. Walk-ins with anti-sweat heater controls must either have a heater power draw of no more than 7.1 or 3.0 watts per square foot of door opening for freezers and coolers, respectively, or the anti-sweat heater controls must reduce the energy use of the heater in a quantity corresponding to the relative humidity of the air outside the door or to the condensation on the inner glass pane. See 42 U.S.C. 6313(f)(3)(C)–(D).

2. History of Standards Rulemaking for Walk-In Coolers and Walk-In Freezers

EPCA directs the Secretary to issue performance-based standards for walk-ins that would apply to equipment manufactured 3 years after the final rule is published, or 5 years if the Secretary determines by rule that a 3-year period is inadequate. (42 U.S.C. 6313(f)(4))

DOE initiated the current rulemaking by publishing a notice announcing the availability of its ''Walk-In Coolers and Walk-In Freezers Energy Conservation Standard Framework Document'' and a meeting to discuss the document. The notice also solicited comment on the matters raised in the document. 74 FR 411 (Jan 6, 2009). More information on the framework document is available at: *http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/30*. The framework document described the procedural and analytical approaches that DOE anticipated using to evaluate energy conservation standards for walk-ins and identified various issues to be resolved in conducting this rulemaking.

DOE held the framework public meeting on February 4, 2009, in which it: (1) Presented the contents of the framework document; (2) described the analyses it planned to conduct during the rulemaking; (3) sought comments from interested parties on these subjects; and (4) in general, sought to inform interested parties about, and facilitate their involvement in, the rulemaking. Major issues discussed at the public meeting included: (1) The scope of coverage for the rulemaking; (2) development of a test procedure and appropriate test metrics; (3) manufacturer and market information, including distribution channels; (4) equipment classes, baseline units, and design options to improve efficiency; and (5) life-cycle costs to consumers, including installation, maintenance, and repair costs, and any consumer subgroups DOE should consider. At the

meeting and during the comment period on the framework document, DOE received many comments that helped it identify and resolve issues pertaining to walk-ins relevant to this rulemaking.

DOE then gathered additional information and performed preliminary analyses to help develop potential energy conservation standards for this equipment. This process culminated in DOE's announcement of another public meeting to discuss and receive comments on the following matters: (1) The equipment classes DOE planned to analyze; (2) the analytical framework, models, and tools that DOE used to evaluate standards; (3) the results of the preliminary analyses performed by DOE; and (4) potential standard levels that DOE could consider. 75 FR 17080 (April 5, 2010) (the April 2010 Notice). DOE also invited written comments on these subjects and announced the availability on its Web site of a preliminary technical support document (preliminary TSD) it had prepared to inform interested parties and enable them to provide comments. *Id.* (More information about the preliminary TSD is available at: *http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/30.*) Finally, DOE sought views on other relevant issues that participants believed either would impact walk-in standards or that the proposal should address. *Id.* at 17083.

The preliminary TSD provided an overview of the activities DOE undertook to develop standards for walk-ins and discussed the comments DOE received in response to the framework document. The preliminary TSD also addressed separate standards for the walk-in envelope and the refrigeration system, as well as compliance and enforcement responsibilities and food safety regulatory concerns. The document also described the analytical framework that DOE used (and continues to use) in considering standards for walk-ins, including a description of the methodology, the analytical tools, and the relationships between the various analyses that are part of this rulemaking. Additionally, the preliminary TSD presented in detail each analysis that DOE had performed for these products up to that point, including descriptions of inputs, sources, methodologies, and results. These analyses were as follows:

- A *market and technology assessment* addressed the scope of this rulemaking, identified existing and potential new equipment classes for walk-in coolers and walk-in freezers, characterized the markets for this equipment, and reviewed techniques and approaches for improving its efficiency;
- A *screening analysis* reviewed technology options to improve the efficiency of walk-in coolers and walk-in freezers, and weighed these options against DOE's four prescribed screening criteria;
- An *engineering analysis* estimated the manufacturer selling prices (MSPs) associated with more energy efficient walk-in coolers and walk-in freezers;
- An *energy use analysis* estimated the annual energy use of walk-in coolers and walk-in freezers;
- A *markups analysis* converted estimated MSPs derived from the engineering analysis to customer purchase prices;
- A *life-cycle cost analysis* calculated, for individual customers, the discounted savings in operating costs throughout the estimated average life of walk-in coolers and walk-in freezers, compared to any increase in installed costs likely to result directly from the imposition of a given standard;
- A *payback period analysis* estimated the amount of time it would take customers to recover the higher purchase price of more energy efficient equipment through lower operating costs;
- A *shipments analysis* estimated shipments of walk-in coolers and walk-in freezers over the time period examined in the analysis;
- A *national impact analysis* (NIA) assessed the national energy savings (NES), and the national NPV of total customer costs and savings, expected to result from specific, potential energy conservation standards for walk-in coolers and walk-in freezers; and
- A *manufacturer impact analysis* (MIA) assessed the potential effects on manufacturers of amended efficiency standards.

The public meeting announced in the April 2010 Notice took place on May 19, 2010. At this meeting, DOE presented the methodologies and results of the analyses set forth in the preliminary TSD. Interested parties that participated in the public meeting discussed a variety of topics, but the comments centered on the following issues: (1) Separate standards for the refrigeration system and the walk-in envelope; (2) responsibility for compliance; (3) equipment classes; (4) technology options; (5) energy modeling; (6) installation, maintenance, and repair costs; (7) markups and distributions chains; (8) walk-in cooler and freezer shipments; and (9) test procedures. The comments received since publication of the April 2010 Notice, including those received at the May 2010 public meeting, have contributed to DOE's resolution of the issues in this rulemaking as they pertain to walk-ins. This final rule responds to the issues raised by the commenters. (A parenthetical reference at the end of a quotation or paraphrase provides the location of the item in the public record.)

On September 11, 2013, DOE published a notice of proposed rulemaking (NOPR) in this proceeding (September 2013 NOPR). 78 FR 55781. In the September 2013 NOPR, DOE addressed, in detail, the comments received in earlier stages of rulemaking, and proposed new energy conservation standards for walk-ins. In conjunction with the September 2013 NOPR, DOE also published on its Web site the complete technical support document (TSD) for the proposed rule, which incorporated the analyses DOE conducted and technical documentation for each analysis. Also published on DOE's Web site were the engineering analysis spreadsheets, the LCC spreadsheet, and the national impact analysis standard spreadsheet; these can be found at: *http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/30.*

The standards DOE proposed for walk-in coolers and walk-in freezers are shown in Table II.1.

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**Table II.1 Proposed Energy Conservation Standards for Walk-in Coolers and Walk-in Freezers from the September 2013 NOPR**

| Class Descriptor | Class | Proposed Standard Level |
|---|---|---|
| **Refrigeration Systems** | | **Minimum AWEF (Btu/W-h)*** |
| Dedicated Condensing, Medium Temperature, Indoor System, < 9,000 Btu/h Capacity | DC.M.I, < 9,000 | $2.63\times10^{-4}\times Q+4.53$ |
| Dedicated Condensing, Medium Temperature, Indoor System, ≥ 9,000 Btu/h Capacity | DC.M.I, ≥ 9,000 | 6.90 |
| Dedicated Condensing, Medium Temperature, Outdoor System, < 9,000 Btu/h Capacity | DC.M.O, < 9,000 | $1.34\times10^{-3}\times Q+0.12$ |
| Dedicated Condensing, Medium Temperature, Outdoor System, ≥ 9,000 Btu/h Capacity | DC.M.O, ≥ 9,000 | 12.21 |
| Dedicated Condensing, Low Temperature, Indoor System, < 9,000 Btu/h Capacity | DC.L.I, < 9,000 | $1.93\times10^{-4}\times Q+1.89$ |
| Dedicated Condensing, Low Temperature, Indoor System, ≥ 9,000 Btu/h Capacity | DC.L.I, ≥ 9,000 | 3.63 |
| Dedicated Condensing, Low Temperature, Outdoor System, < 9,000 Btu/h Capacity | DC.L.O, < 9,000 | $5.70\times10^{-4}\times Q+1.02$ |
| Dedicated Condensing, Low Temperature, Outdoor System, ≥ 9,000 Btu/h Capacity | DC.L.O, ≥ 9,000 | 6.15 |
| Multiplex Condensing, Medium Temperature | MC.M | 10.74 |
| Multiplex Condensing, Low Temperature | MC.L | 5.53 |
| **Panels** | | **Minimum U-Factor(Btu/ h-ft$^2$-°F)**** |
| Structural Panel, Medium Temperature | SP.M | $-0.012\times\left(\frac{A_{nf\ edge}}{A_{nf\ core}}\right)^2+0.024\times\left(\frac{A_{nf\ edge}}{A_{nf\ core}}\right)+0.041$ |
| Structural Panel, Low Temperature | SP.L | $-0.0083\times\left(\frac{A_{nf\ edge}}{A_{nf\ core}}\right)^2+0.017\times\left(\frac{A_{nf\ edge}}{A_{nf\ core}}\right)+0.029$ |
| Floor Panel, Low Temperature | FP.L | $-0.0091\times\left(\frac{A_{fp\ edge}}{A_{fp\ core}}\right)^2+0.018\times\left(\frac{A_{fp\ edge}}{A_{fp\ core}}\right)+0.033$ |
| **Non-Display Doors** | | **Maximum Energy Consumption (kWh/day)†** |
| Passage Door, Medium Temperature | PD.M | $0.05\times A_{nd}+1.7$ |
| Passage Door, Low Temperature | PD.L | $0.14\times A_{nd}+4.8$ |
| Freight Door, Medium Temperature | FD.M | $0.04\times A_{nd}+1.9$ |
| Freight Door, Low Temperature | FD.L | $0.12\times A_{nd}+5.6$ |
| **Display Doors** | | **Maximum Energy Consumption (kWh/day)††** |
| Display Door, Medium Temperature | DD.M | $0.04\times A_{dd}+0.41$ |
| Display Door, Low Temperature | DD.L | $0.15\times A_{dd}+0.29$ |

In the September 2013 NOPR, in addition to seeking comments generally on its proposal, DOE identified a number of specific issues on which it was particularly interested in receiving comments and views of interested parties, which were detailed in section VII.E of that notice. 78 FR at 55882–55887 (September 11, 2013) After the publication of the September 2013 NOPR, DOE received written comments on these and other issues. DOE also held a public meeting in Washington, DC, on October 9, 2013, to hear oral comments on, and solicit information relevant to, the proposed rule. The comments on the NOPR are addressed in this document.

## III. General Discussion

### *A. Component Level Standards*

In the NOPR, DOE proposed component-level standards for walk-in coolers and freezers, in order to ensure accurate testing and compliance. Specifically, DOE proposed to regulate separately three main components of a walk-in: Panels, doors, and refrigeration systems. See 78 FR at 55822 (September 11, 2013). DOE received comments from a number of different entities. A list of these entities is included in Table III.1 below.

TABLE III.1—INTERESTED PARTIES WHO COMMENTED ON THE WICF NOPR

| Commenter | Acronym | Affiliation | Comment number (docket reference) |
|---|---|---|---|
| Air Conditioning Contractors of America | ACCA | Trade Association | 119 |
| Air-Conditioning, Heating, and Refrigeration Institute | AHRI | Trade Association | 083, 114 |
| Alex Milgroom | Milgroom | Individual | 090 |
| American Panel Corporation | APC, American Panel | Manufacturer | 099 |
| Architectural Testing, Inc. | AT | Manufacturer | 111 |
| Arctic Industries, Inc. | Arctic | Manufacturer | 117 |
| Appliance Standards Awareness Project, American Council for an Energy Efficient Economy, and Natural Resources Defense Council. | ASAP, ACEEE, NRDC (ASAP et al.). | Efficiency Organization | 113 |
| Bally Refrigerated Boxes, Inc. | Bally | Manufacturer | 102 |
| California Investor Owned Utilities | CA IOUs | Utility Association | 089, 110 |
| Center for the Study of Science Cato Institute | Cato, CSS | Efficiency Organization | 106 |
| Crown Tonka, ThermalRite and International Cold Storage | ICS et al. | Manufacturer | 100 |
| ebm-papst Inc. | ebm-papst | Component/Material Supplier | 092 |
| Hillphoenix | Hillphoenix | Manufacturer | 107 |
| Hussmann Corporation | Hussmann | Manufacturer | 093 |
| Imperial-Brown | IB | Manufacturer | 098 |
| KeepRite Refrigeration | KeepRite | Manufacturer | 105 |
| Lennox International Inc./Heatcraft Refrigeration Products, LLC. | Lennox | Manufacturer | 109 |
| Louisville Cooler | Louisville Cooler | Manufacturer | 081 |
| Manitowoc Company | Manitowoc | Manufacturer | 108 |
| National Coil Company | NCC | Component/Material Supplier | 096 |
| National Restaurant Association | NRA | Consumer Advocate | 112 |
| New York State Office of the Attorney General | AGNY | State Official/Agency | 116 |
| Nor-Lake, Inc. | Nor-Lake | Manufacturer | 115 |
| North American Association of Food Equipment Manufacturers. | NAFEM | Consumer Advocate | 118 |
| Northwest Energy Efficiency Alliance and Northwest Power and Conservation Council. | NEEA, NPCC (NEEA et al.) | Efficiency Organization | 101 |
| Natural Resources Defense Council, Environmental Defense Fund, Union of Concenrned Scientists, Institute for Policy Integrity. | NRDC, EDC, UCS, IPI (NRDC et al.). | Efficiency Organization | 094 |
| Robert Kopp | Kopp | Individual | 080 |
| Society of American Florists | SAF | Consumer Advocate | 103 |
| Suzanne Jaworowski | Jaworowski | Individual | 074 |
| The Mercatus Center at George Mason University | Mercatus, Mercatus Center | Efficiency Organization | 091 |
| THERMO–KOOL/Mid-South Industries, Inc. | Thermo-Kool | Manufacturer | 097 |
| U.S. Chamber of Commerce | US Chamber of Commerce | Regional Agency/Association | 095 |
| U.S. Cooler—Division of Craig Industries Inc | US Cooler | Manufacturer | 075, 104 |
| Heatcraft Refrigeration Products, LLC | Heatcraft | Manufacturer | * |
| Honeywell | Honeywell | Manufacturer | * |
| SmithBucklin Corporation | SmithBucklin | Manufacturer | * |
| Heating, Air-Conditioning & Refrigeration Distributors International. | HARDI | Manufacturer | * |
| Heat Transfer Products Group | HT, Heat Transfer | Manufacturer | * |
| The Danfoss Group | Danfoss | Component/Material Supplier | * |

* These commenters were present at the public meeting but did not submit written comments.

DOE received several comments supporting its component-based approach to setting standards for walk-ins. Nor-Lake, Kysor, and Louisville Cooler agreed with this approach. (Nor-Lake, No. 115 at p. 1, Kysor, Public Meeting Transcript, No. 88 at p. 40, and Louisville Cooler, No. 81 at p. 1) Bally, IB, and ICS commented that component-level standards were practical. (Bally, No. 102 at p. 1, IB, No. 98 at p. 1, and Hillphoenix, No. 107 at p. 2) ACCA notes that component-level standards simplify the compliance burden for assemblers. (ACCA, No. 119 at p. 2) US Cooler also agreed with the component approach, noting that the refrigeration industry is well established, and adding

that a component-level approach will give US Cooler more flexibility to meet the proposed requirements. (US Cooler, No. 88 at p. 51) ASAP and the CA IOUs agreed with the component performance approach for panels and doors. (ASAP, Public Meeting Transcript, No. 88 at p. 16 and CA IOUs, Public Meeting Transcript, No. 88 at p. 30)

DOE received additional comments concerning how WICF component standards could be set. Thermo-Kool commented that while component level standards were feasible, components added to doors such as windows and heater wires, among others, should be regulated separately—it added that doors should be regulated along with wall and ceiling panels. (ThermoKool, No. 97 at p. 1) Hillphoenix commented that standards for panels, walls, ceilings, and floors should also include the door panel. (Hillphoenix, No. 107 at p. 2) Bally noted that setting separate standards for windows would eliminate the need for door manufacturers to test the same door twice—i.e. with and without windows. (Bally, No. 102 at p. 5) APC commented that electrical components, such as vision windows, heater wires, relief vents, and temperature alarms, should have separate standards and not be included in the analysis of non-display doors. (APC, No. 99 at p. 2) The CA IOUs commented that separate standards for the envelope and refrigeration systems would be highly effective because they would reduce the possibility of underperforming envelopes or under-performing refrigeration systems. The CA IOUs remarked that it would have been difficult to enforce a standard that allowed performance trade-offs between the envelope and refrigeration system. (CA IOUs, No. 110 at p. 1) The CA IOUs further commented that separate lighting performance standards for walk-ins would create more clarity for performance requirements of display doors. (CA IOUs, No. 110 at p. 4)

In light of the comments received, DOE is finalizing an approach that sets out separate component-level standards for panels, doors, and refrigeration systems of WICFs. DOE recognizes that refrigeration systems may be sold as two other separate components—a unit cooler and a condensing unit—and is addressing this through a separate approach and certification process for this equipment. For more details on this approach, see section III.B.2.

*B. Test Procedures and Metrics*

While Congress had initially prescribed certain performance standards and test procedures concerning walk-ins as part of the EISA 2007 amendments, Congress also instructed DOE to develop specific test procedures for walk-in equipment. DOE subsequently established a test procedure for walk-ins. See 76 FR 21580 (April 15, 2011). See also 76 FR 33631 (June 9, 2011) (final technical corrections). Recently, DOE published additional amendments that would, among other things, permit the use of alternative efficiency determination methods when evaluating the energy usage of refrigeration system unit coolers and condenser units. See 79 FR 27387 (May 13, 2014). These amendments have been taken into account when formulating the standards promulgated in this notice.

The proposed amendments provide an approach that would base compliance on the ability of component manufacturers to produce components that meet the required standards. This approach is also consistent with the framework established by Congress, which set specific energy efficiency performance requirements on a component-level basis. (42 U.S.C. 6313(f)) The approach is discussed more fully below.

1. Panels

In the test procedure final rule for walk-ins, DOE defines ''panel'' as a construction component, excluding doors, used to construct the envelope of the walk-in (*i.e.,* elements that separate the interior refrigerated environment of the walk-in from the exterior). 76 FR 21580, 21604 (April 15, 2011). DOE explained that panel manufacturers would test their panels to obtain a thermal transmittance metric—known as U-factor, measured in British thermal units (Btus) per hour-per square foot degrees (Fahrenheit) (Btu/h-ft$^2$ – °F)—and identified three types of panels: display panels, floor panels, and non-floor panels. A display panel is defined as a panel that is entirely or partially comprised of glass, a transparent material, or both, and is used for display purposes. Id. It is considered equivalent to a window and the U-factor is determined by NFRC 100–2010–E0A1, ''Procedure for Determining Fenestration Product U-factors.'' 76 FR at 33639. Floor panels are used for walk-in floors, whereas non-floor panels are used for walls and ceilings.

The U-factor for floor and non-floor panels accounts for any structural members internal to the panel and the long-term thermal aging of foam. This value is determined by a three-step process. First, both floor and non-floor panels must be tested using ASTM C1363–10, ''Standard Test Method for Thermal Performance of Building Materials and Envelope Assemblies by Means of a Hot Box Apparatus.'' The panel's core and edge regions must be used during testing. Second, the panel's core U-factor must be adjusted with a degradation factor to account for foam aging. The degradation factor is determined by EN 13165:2009–02, ''Thermal Insulation Products for Buildings—Factory Made Rigid Polyurethane Foam (PUR) Products—Specification,'' or EN 13164:2009–02, ''Thermal Insulation Products for Buildings—Factory Made Products of Extruded Polystyrene Foam (XPS)—Specification,'' as applicable. Third, the edge and modified core U-factors are then combined to produce the panel's overall U-factor. All industry protocols were incorporated by reference most recently in the test procedure final rule correction. 76 FR 33631.

In response to the energy conservation standards NOPR, DOE received comments stating that the ASTM C1363, DIN EN 13164, and DIN EN 13165 were significantly burdensome for manufacturers to conduct. DOE addressed these comments in a separate notice published on May 13, 2014, which proposed certain simplifications to the current procedure. See 79 FR 27387. Specifically, under this approach, manufacturers would no longer need to use the performance-based test procedures for WICF floor and non-floor panels, which include ASTM C1363, DIN EN 13164, and DINE EN 13165 (10 CFR Part 431, Subpart R, Appendix A, sections 4.2, 4.3, 5.1, and 5.2). DOE recognizes that these performance-based procedures for WICF floor and non-floor panels are in addition to the prescriptive requirements established in EPCA for panel insulation R-values and, therefore, may increase the test burden to manufacturers. As DOE is no longer requiring the performance-based procedures which were ultimately used to calculate a U-value of a walk-in panel, the Department reverted to thermal resistance, or R-value, as measured by ASTM C518, as the metric for establishing performance standards for walk-in cooler and freezer panels. Based on the comments submitted by interested parties, DOE finds that using ASTM C518 will provide a sufficient robust method to measure panel energy efficiency while minimizing manufacturer testing burdens.

2. Doors

The walk-in test procedure final rule addressed two door types: display and non-display doors. Within the general context of walk-ins, a door consists of the door panel, glass, framing materials,

door plug, mullion, and any other elements that form the door or part of its connection to the wall. DOE defines display doors as doors designed for product movement, display, or both, rather than the passage of persons; a non-display door is interpreted to mean any type of door that is not captured by the definition of a display door. See generally 76 FR 33631.

The test metric for doors is in terms of energy use, measured in kilowatt-hours per day (kWh/day). The energy use accounts for thermal transmittance through the door and the electricity use of any electrical components associated with the door. The thermal transmittance is measured by NFRC 100–2010–E0A1, and is converted to energy consumption via conduction losses using an assumed efficiency of the refrigeration system in accordance with the test procedure. See 76 FR at 33636–33637. The electrical energy consumption of the door is calculated by summing each electrical device's individual consumption and accounts for all device controls by applying a ''percent time off'' value to the appropriate device's energy consumption. For any device that is located on the internal face of the door or inside the door, 75 percent of its power is assumed to contribute to an additional heat load on the compressor. Finally, the total energy consumption of the door is found by combining the conduction load, electrical load, and additional compressor load.

DOE received several comments about the proposed metric. NEEA, et al. agreed with the door metric being a combination of the refrigeration load created by the heat loss through the door plus heater draw components associated with the door. (NEEA, et al., No. 101 at p. 5) Nor-Lake commented that doors also have a U-value metric like panels and that other energy consuming devices should be considered as an additional load on the refrigeration system. (Nor-Lake, No. 115 at p. 2) Bally commented that the metric for doors should be a function of the temperature of the WICF box, the linear periphery dimensions of the door, the thickness of the door and the temperature or humidity conditions that exist on the outside of the door. (Bally, No. 102 at p. 3) Hillphoenix commented that the energy consumption posed by the perimeter heat on a door is not associated with surface area, but instead the length of the heater wire. (Hillphoenix, No. 107 at p. 2) At the public meeting, Kysor commented that the door metric should include the R-value as tested by ASTM C518 and the electrical draw for heater wire, if used. (Kysor, Public Meeting Transcript, No. 88 at p. 96) AHRI suggested that the energy metric for door efficiency be expressed as a function of door perimeter length, as opposed to surface area, since the largest heat gain was at the periphery and edges. AHRI pointed out that while the perimeter of a ''medium'' door was 11% greater than a ''small'' door, the surface area was 29% greater causing smaller doors to be over penalized. (AHRI, No. 114 at p. 5)

In response to Nor-Lake's comment, DOE agrees that non-display doors are very similar to panels in that they are both primarily made up of insulation. However, the DOE test procedure adds the additional heat load caused by components like lighting and heater wire to the daily power consumption of these doors. DOE opted for this method because the electrical components, like heater wire, are integrated into the doors. DOE thought this method was more appropriate because the door manufacturers determine which electricity consuming components are integrated into the door. In response to Bally's comment, DOE agrees that the space conditions of a walk-in have an impact on a door's energy consumption. However, the thermal conductance of a cooler or freezer door, a portion of the maximum energy consumption metric, is measured at specific rating conditions to allow for equipment comparisons. These conditions are listed in 10 CFR 431.304 and 10 CFR Subpart R, appendix A. Additionally, DOE expects the thermal transmittance as measured by NFRC 100–2010–E0A1 to capture the energy loss though the periphery of the door because this test method measures the heat transfer through an entire door. DOE appreciates Kysor's comment, but finds that NFRC 100–2010–E0A1, and industry accepted test procedure, more accurately represents the thermal transmittance of the door. DOE agrees with AHRI that the energy consumption of the heater wire is directly related to the amount or length of heater wire used. However, EISA set a precedent by limiting the amount of heater wire per door opening area. Therefore, DOE is setting the standards in terms of door surface area instead of perimeter.

DOE also received comments on the door test procedure. Bally remarked at the public meeting that the percent time off for device controls should be a floating value because it would be more practical than a set percent time off. (Bally, Public Meeting Transcript, No. 88 at p. 148) DOE appreciates Bally's comment and acknowledges that some controls may reduce more energy than other. However, the current test procedure does not measure the effectiveness of the controls. Additionally, DOE is concerned that incorporating additional testing to measure a controls percent time off value would great undue burden on manufacturers. For these reasons the Department is not considering floating percent time off values.

3. Refrigeration

The DOE test procedure incorporates an industry test procedure that applies to walk-in refrigeration systems: AHRI 1250 (I–P)-2009, ''2009 Standard for Performance Rating of Walk-In Coolers and Freezers'' (''AHRI 1250–2009''). (10 CFR 431.304) This procedure applies to three different scenarios—(1) unit coolers and condensing units sold together as a matched system, (2) unit coolers and condensing units sold separately, and (3) unit coolers connected to compressor racks or multiplex condensing systems. It also describes methods for measuring the refrigeration capacity, on-cycle electrical energy consumption, off-cycle fan energy, and defrost energy. Standard test conditions, which are different for indoor and outdoor locations and for coolers and freezers, are also specified.

The test procedure includes a calculation methodology to compute an annual walk-in energy factor (AWEF), which is the ratio of heat removed from the envelope to the total energy input of the refrigeration system over a year. AWEF is measured in Btu/W-h and measures the efficiency of a refrigeration system. DOE established a metric based on efficiency, rather than energy use, for describing refrigeration system performance, because a refrigeration system's energy use would be expected to increase based on the size of the walk-in and on the heat load that the walk-in produces. An efficiency-based metric would account for this relationship and would simplify the comparison of refrigeration systems to each other. Therefore, DOE is using an energy conservation standard for refrigeration systems that would be presented in terms of AWEF.

Several stakeholders commented on the applicability of the test procedure to refrigeration components (i.e., the unit cooler and the condensing unit) sold separately. NEEA, et al. expressed support for the proposed standard's approach of using AHRI 1250 for testing and rating all condensing units. (NEEA, et al., No. 101 at p. 3) CA IOUs, on the other hand, asserted that the AHRI 1250 test was inadequate because it requires a unit cooler for testing a dedicated condensing unit, which is a less reliable rating method due to the lack of a viable enforcement mechanism. (CA IOUs,

Public Meeting Transcript, No. 88 at p. 384) CA IOUs recommended modifying the AHRI 1250 test method so that all unit coolers connected to remote condensing units are treated the same, whether they are connected to a dedicated, shared, or multiplex remote condensing unit. (CA IOUs, No. 110 at p. 2) CA IOUs further recommended developing a separate AHRI Standard for the performance rating of WICF refrigeration condensing units, along with TSLs (i.e. Trial Standard Levels) and energy conservation standards specific to refrigeration condensing units. (CA IOUs, No. 110 at p. 3) Manitowoc asserted that manufacturers that build only condensing units—but not evaporator coils—could not test the efficiency of the entire refrigeration system. (Manitowoc, No. 108 at p. 2)

Other stakeholders commented specifically on the metrics established by the test procedure. KeepRite and Bally suggested that the energy efficiency ratio (EER) of the condensing unit and evaporator be used as the refrigeration system metric and basis of performance specifications in place of AWEF. (KeepRite, No. 105 at p. 1; Bally, No. 102 at p. 3) AHRI commented that the use of duty-cycle adjusted EER for condensing units and unit coolers, separately, was a more accurate metric than AWEF and should be the basis for performance specifications, because evaporator assemblies, condensing units, and refrigerants were often specified by contractors, procured from multiple manufacturers, and assembled as custom systems. (AHRI, No. 114 at p. 2) Louisville Cooler commented that using a watts-per-hour was a more practical and replicable method of measuring energy use, and AWEF is impacted by variables such as ambient temperature and seasonal changes. (Louisville Cooler, No. 81 at p. 1) NEEA, et al., on the other hand, stated that AWEF was a logical metric to rate cooling system component efficiency in a way that enabled marketplace differentiation and simplified compliance and enforcement. (NEEA, et al., No. 101 at p. 2)

DOE understands that the test procedure, as originally conceived, required both a unit cooler and a condensing unit to be tested in order to derive an AWEF rating for the system. In light of the issues about enforcement and manufacturer burden raised by the CA IOUs and Manitowoc, DOE has developed a separate approach addressing certification issues for manufacturers who produce and sell condensing units and/or unit coolers as separate products. Under that approach, a manufacturer who sells a unit without a matched condensing unit must rate and certify a refrigeration system containing that unit cooler by testing according to the methodology in AHRI 1250 for unit coolers intended to be used with a parallel rack system (see AHRI 1250, section 7.9). The manufacturer would use the calculation method in this section to determine the system AWEF and certify this AWEF to DOE. Additionally, all unit coolers tested and rated as part of a system under this method must comply with the standards in the multiplex equipment classes. DOE notes that this approach is consistent with the approach recommended by the CA IOUs because the same approach is used for separately-sold unit coolers regardless of what kind of condensing unit they are paired with. A manufacturer who sells a condensing unit separately must rate and certify a refrigeration system containing that condensing unit by conducting the condensing unit portion of the test method (using the standard ratings in section 5.1 of AHRI 1250–2009) but applying nominal values for saturated suction temperature, evaporator fan power, and defrost energy, in order to calculate an AWEF for the refrigeration system basic model containing that condensing unit. These nominal values would be standardized, which means that other similarly situated manufacturers would use these values when calculating the efficiency of a refrigeration system using their particular condensing unit. For complete details on how refrigeration system components must be rated and certified under this approach, see 79 FR 27387 at 27397 (detailing revised approach to be incorporated under 10 CFR 431.304(c)(10)). In response to the comments about the appropriate metrics to use, DOE notes that it is continuing to use AWEF as the metric for WICF refrigeration systems and components, and continues to base its standards on AWEF. DOE believes AWEF is sufficient to capture WICF system and component performance and has not established a different metric, such as EER or watts/hour, for rating refrigeration equipment. In response to Louisville Cooler's comment on the effect of seasonal changes and temperatures, DOE notes that the test procedure established a set of uniform rating conditions that cover multiple ambient temperatures as a proxy for seasonal changes a system exposed to the outdoors may encounter. DOE's standards are based on rating systems under the uniform rating conditions contained in the test procedure, thus maximizing the repeatability of the test.

Lennox noted that the test procedure did not contain provisions for multiple unit cooler matches on a single condensing unit. (Lennox, No. 109 at p. 3) DOE acknowledges this fact but notes that manufacturer installation instructions typically include setup of multiple unit coolers because this setup is commonly used; for instance, by installers who wish to distribute airflow more evenly around a large walk-in. During the test, the system should be set up per the manufacturer's installation instructions. DOE successfully conducted testing of a system with two unit coolers as part of its rulemaking analysis. However, if DOE finds that such instructions are sufficiently unclear to others testing their equipment, DOE may introduce a test procedure addendum or amendment with more specific instructions for setup and testing.

Further, some commenters identified types of systems or technologies that would not be covered by the test procedure. Hussmann commented that the AHRI 1250 procedure did not contain test methods for secondary refrigeration systems, such as those utilizing glycol, brine, or $CO_2$. (Hussmann, No. 93 at p. 2) Danfoss commented that by regulating units in steady-state conditions, the proposed rule automatically excluded adaptive controls, which had tremendous energy savings potential. (Danfoss, Public Meeting Transcript, No. 88 at p. 115) ACEEE agreed with Danfoss that the AHRI 1250 procedure lacked the ability to account for controls, and other design options not affecting steady-state energy consumption. (ACEEE, Public Meeting Transcript, No. 88 at p. 149) AHRI added that the AHRI 1250 test procedure was likely to be updated in the next three to six months. (AHRI, No. 114 at p. 3)

DOE agrees with Hussmann that the AHRI 1250 procedure does not cover secondary refrigeration systems, and agrees with Danfoss and ACEEE that controls or other options not affecting steady-state energy would also not be covered by AHRI 1250. If a manufacturer believes that the test procedure in its current form does not measure the efficiency of the equipment in a manner representative of its true energy use, the manufacturer may apply for a test procedure waiver. DOE also notes that should the industry develop a test method for WICF units with secondary refrigeration systems or adaptive controls, or update the existing test method so as to include such provisions, DOE will consider adopting it for WICFs. To address AHRI's comment, DOE will also consider

adopting test procedure revisions once they are developed.

*C. Certification, Compliance, and Enforcement*

In keeping with the requirements of EPCA, DOE proposed a compliance date of three years from the date of publication of the final rule. 78 FR 55830 (September 11, 2013) DOE received a variety of comments regarding this issue. Several stakeholders commented in favor of a three-year period between the final rule and the compliance date. Specifically, ASAP, et al. urged DOE to adopt a compliance date three years after publication of the final rule, since DOE's analysis of manufacturer impacts suggests that conversion costs to meet the proposed standards would be modest. (ASAP, et al., No. 113 at p. 5) Manitowoc stated that once the standard is finalized, three years is a sufficient timeframe for compliance. (Manitowoc, No. 108 at p. 3) ASAP, et al. noted that a compliance date of three years after the publication of the final rule is reasonable and that a later compliance date would result in avoidable loss of energy savings. (ASAP et al., No. 113 at p. 5)

Several stakeholders favored a longer period between the final rule and the compliance date. Hussmann stated that DOE should consider the certification process when setting the compliance date and that the compliance date of the proposed standard should be delayed so as to allow for an AEDM to be enforced before the compliance date. (Hussmann, Public Meeting Transcript, No. 88 at p. 75, and No. 93 at p. 6) Lennox expressed concern that a three-year compliance timeframe is not adequate. (Lennox, No. 109 at p. 7) Nor-Lake requested that DOE extend the compliance date beyond 2017 and noted that a compliance date of April 2017 may not give manufacturers enough time to complete required testing since there are currently no known labs in the U.S. that can perform the DIN EN 13164/13165 tests. Nor-Lake observed that manufacturers that produce panels and refrigeration would be overloaded with having to perform both sets of tests. (Nor-Lake, No. 115 at pp. 3–5) Hillphoenix requested additional time for the compliance date and testing to allow for more labs to qualify for testing, because currently none can. (Hillphoenix, No. at p. 69) AHRI recommended that the timeline consider the fact that there is no AHRI or other third-party certification program for these products. (AHRI, Public Meeting Transcript, No. 88 at p. 76)

Regarding enforcement, Hussmann commented that it was unclear how DOE intended to enforce the standard for cooling systems, and ACCA suggested that an outline of DOE's intended enforcement policy be included in the final rule. (Hussmann, No. 93 at p. 1; ACCA, No. 119 at p. 2) ACCA further urged that DOE simplify compliance obligations for the assembler, including giving the industry one year after adoption of an enforcement policy to comply with enforcement provisions. (ACCA, No. 119 at p. 3)

DOE notes that it has since simplified the testing requirements for WICF components—in part by eliminating the requirement to test panels using the ASTM C1363 and DIN EN 13164/13165 tests. For refrigeration systems, DOE established a testing approach for unit coolers and condensing units sold separately and allowed refrigeration systems, unit coolers, and condensing units to be rated using an Alternative Efficiency Determination Method, or AEDM. See 79 FR 27387 (May 14, 2014). DOE believes these changes substantially simplify the process for certification, compliance, and enforcement. Therefore, DOE does not believe additional time is needed for compliance beyond three years from the publication of this notice.

Since component-level standards were proposed in the NOPR, DOE requested comments on who should be responsible for complying with the regulation. DOE received comments from multiple interested parties in this regard. The CA IOUs stated that DOE found that the contractor is the ''manufacturer'' and that DOE should therefore provide a path to certification for contractors. (CA IOUs, No. 89 at p. 20) The CA IOUs further commented that manufacturers sell lighting systems specifically designed for cold storage facilities and these could therefore be regulated at the point of manufacture. (CA IOUs, No. 110 at p. 4) ACCA noted that the assembly of WICF component parts is often performed by independent heating, ventilation, air-conditioning, and refrigeration (HVAC/R) technicians not employed by component part manufacturers. (ACCA, No. 119 at p. 1) US Cooler noted that the proposed standard could significantly impact manufacturers who made individual refrigeration components that were then assembled into complete systems by contractors. (US Cooler, Public Meeting Transcript, No. 88 at p. 344) More specifically, US Cooler expressed concern that wholesalers and contractors would not be held to the same level of compliance as component manufacturers, which would put US Cooler at a competitive disadvantage. (US Cooler, Public Meeting Transcript, No. 88 at p. 51) American Panel agreed that the standards must also apply to wholesalers, as well as component manufacturers to prevent wholesalers from circumventing the regulation (for instance, by selling cooler panels for freezer applications). (American Panel, No. 99 at p. 2) HARDI stated that holding the wholesaler responsible would limit product availability for replacement and repair. (HARDI, Public Meeting Transcript, No. 88 at p. 53) ACEEE stated that the approach chosen should support the goal of legitimate repair parts without abusing the system, where ''repair'' components are being sold by manufacturers to subvert the law. (ACEEE, Public Meeting Transcript, No. 88 at p. 54) Danfoss noted that about 25 percent of WICF refrigeration systems are assembled by contractors and not sold as combined sets, and American Panel noted that 15 percent of systems are unit coolers connected to rack systems, where below 10 percent are dedicated systems matched by a contractor. (Danfoss, Public Meeting Transcript, No. 88 at p. 60, and APC, Public Meeting Transcript, No. 88 at p. 60) Danfoss further expressed concern that the proposed standard would preclude manufacturers like itself who sold only condensing units, but not complete systems, from being able to sell products into the WICF market. (Danfoss, Public Meeting Transcript, No. 88 at p. 343)

In general, DOE notes that the term ''manufacturer'' of a walk-in refers to any person who (1) manufactures a component of a walk-in cooler or walk-in freezer that affects energy consumption, including, but not limited to, refrigeration, doors, lights, windows, or walls; or (2) manufactures or assembles the complete walk-in cooler or walk-in freezer. (See 10 CFR 431.302.) For purposes of certification, DOE will require the manufacturer of the walk-in component to certify compliance with DOE's standards, which are component-based. Namely, the manufacturer of a panel or door that is used in a walk-in must certify compliance. Manufacturers of refrigeration system components—namely, unit coolers and condensing units—that sell those components separately must rate and certify those components, while manufacturers of complete refrigeration systems whose components are not already separately certified must rate and certify those systems, in a manner consistent with DOE's recent final rule, published at 79

FR 27387. This approach will allow manufacturers of one refrigeration component but not the other to sell their products into the WICF market, addressing Danfoss's concern. The manufacturer of the complete walk-in, or the assembler of any component thereof (for example, a person who assembles a walk-in refrigeration system from a separately-sold unit cooler and condensing unit) must use components that are certified to and compliant with DOE's WICF standards. This approach avoids the compliance and certification issues inherent in requiring assemblers or contractors to certify WICF equipment, while maintaining the responsibility of assemblers or contractors to abide by the same standards as WICF components manufacturers, which DOE believes addresses US Cooler's concern about competitive disadvantage. This approach also requires that newly manufactured components comply with the DOE standards, regardless of whether they are being assembled into a new walk-in or being used as a replacement component on an existing walk-in, which addresses ACEEE's concern about the abuse of the ''repair'' designation. DOE appreciates the statements made by Danfoss and American Panel, and notes that because several paths to ''manufacture'' are available for walk-in coolers, it has developed its certification requirements accordingly.

*D. Technological Feasibility*

1. General

In each standards rulemaking, DOE conducts a screening analysis, which it bases 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 analysis, DOE develops a list of design options for consideration in consultation with manufacturers, design engineers, and other interested parties. DOE then determines which of these means for improving efficiency are technologically feasible. DOE considers technologies incorporated in commercial products or in working prototypes to be technologically feasible. 10 CFR part 430, subpart C, appendix A, section 4(a)(4)(i) Although DOE considers technologies that are proprietary, it will not consider efficiency levels that can only be reached through the use of proprietary technologies (*i.e.,* a unique pathway), as it could allow a single manufacturer to monopolize the market.

Once DOE has determined that particular design options are technologically feasible, it generally evaluates each of these design options in light of the following additional screening criteria: (1) Practicability to manufacture, install, or service; (2) adverse impacts on product utility or availability; and (3) adverse impacts on health or safety. 10 CFR part 430, subpart C, appendix A, section 4(a)(4)(ii)–(iv) Section IV.C of this notice discusses the results of the screening analyses for walk-in coolers and freezers. Specifically, it presents the designs DOE considered, those it screened out, and those that are the basis for the TSLs in this rulemaking. For further details on the screening analysis for this rulemaking, see chapter 4 of the TSD.

2. Maximum Technologically Feasible Levels

When DOE proposes to adopt an amended standard for a type or class of covered product, it must determine the maximum improvement in energy efficiency or maximum reduction in energy use that is technologically feasible for such product. (42 U.S.C. 6295(p)(1)) Accordingly, in the engineering analysis, DOE determined the maximum technologically feasible (''max-tech'') improvements in energy efficiency for walk-ins using the design parameters for the most efficient products available on the market or in working prototypes. (See chapter 5 of the final rule TSD.) The max-tech levels that DOE determined for this rulemaking are described in section V.A.2 of this final rule.

*E. Energy Savings*

1. Determination of Savings

For each TSL, DOE projected energy savings from the equipment at issue that are purchased during a 30-year period that begins in the year of compliance with amended standards (2017–2046). The savings are measured over the entire lifetime of products purchased in the 30-year period.[12] The model forecasts total energy use over the analysis period for each representative equipment class at efficiency levels set by each of the considered TSLs. DOE then compares the energy use at each TSL to the base-case energy use to obtain the NES. The NIA model is described in section IV.I of this notice and in chapter 10 of the final rule TSD.

The NIA spreadsheet model calculates energy savings in site energy, which is the energy directly consumed by products at the locations where they are used. For electricity, DOE reports national energy savings in terms of the savings in the primary energy that is used to generate and transmit the site electricity. To calculate this quantity, DOE derives annual conversion factors from the model used to prepare the Energy Information Administration's (EIA) *Annual Energy Outlook* (*AEO*).

DOE has begun to also estimate 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, 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.[13] The NAS report discusses that FFC was primarily intended for energy efficiency standards rulemakings where multiple fuels may be used by a particular product. In the case of this rulemaking pertaining to walk-ins, 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 the inclusion of FFC savings does not affect DOE's choice of proposed standards. For more information on FFC energy savings, see section IV.I.

2. Significance of Savings

To adopt more-stringent standards for a covered product, DOE must determine

[12] 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 during 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.

[13] ''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.*

that such action would result in significant additional energy savings. (42 U.S.C. 6295(o)(3)(B),(v) and 6316(a)) Although the term ''significant'' is not defined in EPCA, the U.S. Court of Appeals for the District of Columbia, in *Natural Resources Defense Council* v. *Herrington,* 768 F.2d 1355, 1373 (D.C. Cir. 1985), indicated that Congress intended significant energy savings in the context of EPCA to be savings that were not ''genuinely trivial.'' The energy savings for these standards are nontrivial, and, therefore, DOE considers them ''significant'' within the meaning of section 325 of EPCA.

*F. Economic Justification*

1. Specific Criteria

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) and 6316(a)) The following sections generally discuss how DOE is addressing each of those seven factors in this rulemaking.

a. Economic Impact on Manufacturers and Commercial Customers

In determining the impacts of a potential new or amended energy conservation standard on manufacturers, DOE conducts a manufacturer impact analysis (MIA), as discussed in section IV.K. First, DOE determines its quantitative impacts using an annual cash flow approach. This includes both a short-term assessment (based on the cost and capital requirements associated with new or amended standards during the period between the announcement of a regulation and the compliance date of the regulation) and a long-term assessment (based on the costs and marginal impacts over the 30-year analysis period [14]). The impacts analyzed include INPV (which values the industry based on expected future cash flows), cash flows by year, changes in revenue and income, and other measures of impact, as appropriate. Second, DOE analyzes and reports the potential impacts on different types of manufacturers, paying particular attention to impacts on small manufacturers. Third, DOE considers the impact of new or amended standards on domestic manufacturer employment and manufacturing capacity, as well as the potential for new or amended standards to result in plant closures and loss of capital investment. Finally, DOE takes into account cumulative impacts of other DOE regulations and non-DOE regulatory requirements on manufacturers.

For individual customers, measures of economic impact include the changes in LCC and the 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. Savings in Operating Costs Compared to Increase in Price

EPCA requires DOE to consider the savings in operating costs throughout the estimated average life of the covered product compared to any increase in the price of the covered product that are likely to result from the imposition of the standard. (42 U.S.C. 6295(o)(2)(B)(i)(II)) DOE conducts this comparison in its LCC and PBP analysis.

The LCC is the sum of the purchase price of equipment (including the cost of its installation) and the operating costs (including energy and maintenance and repair costs) discounted over the lifetime of the equipment. To account for uncertainty and variability in specific inputs, such as product lifetime and discount rate, DOE uses a distribution of values, with probabilities attached to each value. For its analysis, DOE assumes that consumers will purchase the covered products in the first year of compliance with amended standards.

The LCC savings and the PBP for the considered efficiency levels are calculated relative to a base-case scenario, which reflects likely trends in the absence of new or 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. DOE's LCC and PBP analysis is discussed in further detail in section IV.G.

c. Energy Savings

Although significant conservation of energy is a separate statutory requirement for adopting an energy conservation standard, EPCA also 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)) DOE uses NIA spreadsheet results to project national energy savings.

For the results of DOE's analyses related to the potential energy savings, see section I.A.3 of this notice.

d. Lessening of Utility or Performance of Equipment

In establishing classes of equipment, and in evaluating design options and the impact of potential standard levels, DOE seeks to develop standards that would not lessen the utility or performance of the equipment under consideration. DOE has determined that none of the TSLs presented in this final rule would reduce the utility or performance of the equipment considered in the rulemaking. (42 U.S.C. 6295(o)(2)(B)(i)(IV) and 6316(a)) During the screening analysis, DOE eliminated from consideration any technology that would adversely impact customer utility. For the results of DOE's analyses related to the potential impact of amended standards on equipment utility and performance, see section IV.C of this notice and chapter 4 of the final rule TSD.

e. Impact of Any Lessening of Competition

EPCA requires DOE to consider any lessening of competition that is likely to result from setting new or amended standards for a covered product. Consistent with its obligations under EPCA, DOE sought the views of the United States Department of Justice (DOJ). DOE asked DOJ to provide a written determination of the impact, if any, of any lessening of competition likely to result from the amended standards, together with an analysis of the nature and extent of such impact. 42 U.S.C. 6295(o)(2)(B)(i)(V) and (B)(ii). To assist DOJ in making such a determination, DOE provided DOJ with copies of both the NOPR and NOPR TSD for review. DOJ subsequently determined that the amended standards are unlikely to have a significant adverse impact on competition. Accordingly, DOE concludes that this final rule would not be likely to lead to a lessening of competition.

f. Need of the Nation To Conserve Energy

DOE also considers the need for national energy and water conservation in determining whether a new or amended standard is economically justified. (42 U.S.C. 6295(o)(2)(B)(i)(VI) and 6316(a)) The energy savings from new or amended standards are likely to improve the security and reliability of

[14] DOE also presents a sensitivity analysis that considers impacts for equipment shipped in a 9-year period.

the Nation's energy system. Reductions in the demand for electricity may also result in reduced costs for maintaining the reliability of the Nation's electricity system. DOE conducts a utility impact analysis to estimate how new or amended standards may affect the Nation's needed power generation capacity.

Energy savings from amended standards for walk-ins are also likely to result in environmental benefits in the form of reduced emissions of air pollutants and GHGs associated with energy production (*e.g.,* from power plants). For a discussion of the results of the analyses relating to the potential environmental benefits of the amended standards, see sections IV.L, IV.M and V.B.6 of this notice. DOE reports the expected environmental effects from the amended standards, as well as from each TSL it considered for walk-ins in the emissions analysis contained in chapter 13 of the final rule TSD. DOE also reports estimates of the economic value of emissions reductions resulting from the considered TSLs in chapter 14 of the final rule TSD.

g. Other Factors

EPCA allows the Secretary, in determining whether a new or amended 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)) There were no other factors considered for this final rule.

2. Rebuttable Presumption

As set forth in 42 U.S.C. 6295(o)(2)(B)(iii) and 6316(a), EPCA provides for a rebuttable presumption that an energy conservation standard is economically justified if the additional cost to the customer of equipment that meets the new or amended standard level is less than three times the value of the first-year energy (and, as applicable, water) savings resulting from the standard, as calculated under the applicable DOE test procedure. DOE's LCC and PBP analyses generate values that calculate the PBP for customers of potential new and amended energy conservation standards. These analyses include, but are not limited to, the 3-year PBP contemplated under the rebuttable presumption test. However, DOE routinely conducts a full 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) and 6316(a). The results of these analyses serve as the basis for DOE to evaluate the economic justification for a potential standard level definitively (thereby supporting or rebutting the results of any preliminary determination of economic justification). The rebuttable presumption payback calculation is discussed in section IV.G.12 of this notice.

## IV. Methodology and Discussion of Comments

### *A. General Rulemaking Issues*

During the October 9, 2013 NOPR public meeting, and in subsequent written comments, stakeholders provided input regarding general issues pertinent to the rulemaking, including the trial standard levels, the rulemaking timeline, and other subjects. These issues are discussed in this section.

1. Trial Standard Levels

In the NOPR, DOE proposed the adoption of TSL 4 as the energy conservation standard for walk-ins, based on analysis showing that this level was both technically and economically feasible. 78 FR 55845 (September 11, 2013) NEEA et al. agreed with DOE's proposal, noting that TSL 4 represented the highest economically justified efficiency level, even though higher efficiencies were technologically feasible. (NEEA et al., No. 101 at p. 4)

Reaction to DOE's proposal was somewhat mixed with several parties viewing the proposed standard as sufficiently aggressive for some components but insufficient for other components. Specifically, ASAP opined that DOE's proposed efficiency level was strong, but urged DOE to consider a TSL 4.5, which would combine the envelope components of TSL 4, and the refrigeration components of TSL 5. (ASAP, No. at p. 15) Similarly, the CA IOUs, while agreeing with the proposed TSL for panels, urged DOE to adopt TSL 5 for refrigeration systems, since enhanced condenser coil, improved evaporator fan blades, and improved defrost controls—all of which are refrigeration systems components—offered cost effective options DOE should consider. (CA IOUs, Public Meeting Transcript, No. 88 at p. 26)

On the other hand, some commenters viewed the proposal as infeasible for manufacturers to meet. ThermoKool and US Cooler opined that TSL 2 was adequate. (US Cooler, Public Meeting Transcript, No. 88 at p. 376, ThermoKool, No. 97 at p. 5) Lennox International also noted that DOE's AWEF values for TSL 4 were overly aggressive, based on modeling errors. (Lennox, No. 109 at p. 1)

With regard to the selection of design options at each TSL, Nor-Lake recommended that TSL 4 should consider standard levels requiring panels no thicker than 4 inches for class SP.L, as this was the current panel thickness most common in the industry. Nor-Lake noted that increasing panel thickness greatly increases production time and cost. (Nor-Lake, No. 115 at p. 2)

In response to the comments from stakeholders, DOE reformulated its TSLs. See section V.A for further discussion on the TSLs.

2. Rulemaking Timeline

A number of stakeholders commented on DOE's proposed rulemaking timeline. ICS requested that the target date for the final rule be moved beyond April 2014 to allow more opportunity for discussion and the development of a standard, and specifically recommended the final rule date be extended to at least 2016 to resolve all uncertainties in the analysis, using more accurate industry data. (ICS, et al., No. 100 at p. 2 and 6). Lennox recommended a twelve-month delay in finalizing the proposed rule, in order for DOE to address modeling discrepancies and assumption errors in addition to providing separate performance targets for unit coolers and condensing units. (Lennox, No. 109 at p. 7) Hillphoenix urged DOE to consider extending the completion date of the final rule, to allow, at minimum, four more opportunities for exchange of information between DOE and manufacturers. (Hillphoenix, No. 107 at p. 3) The CA IOUs suggested that DOE delay the adoption of energy conservation standards for walk-in coolers in order to rewrite the standards to make them more enforceable, and to develop separate standards for condensing units. (CA IOUs, No. 110 at p. 3)

Additionally, Bally commented that the timeline is probably unrealistic due to the need for an additional public meeting. (Bally, No. 102 at p. 3) IB stated that DOE's proposal to have a final rule in place by April 2014 is very ambitious and does not allow enough time to make necessary modifications to the proposed rule. IB requested additional public meetings where the analysis assumptions can be reviewed in depth with manufacturers. (IB, No. 98 at p. 4) NCC stated that the time provided by DOE for manufacturers to evaluate the proposed standard was insufficient. (NCC, No. 96 at p. 2) Thermo-Kool commented that the target date for the final rule should be extended in order to allow manufacturers to fully understand DOE's analysis, and to facilitate more public meetings. (ThermoKool, No. 97 at

p. 5) Danfoss urged DOE to consider moving forward with the overall rulemaking but to take more time with the condensing unit and unit cooler split, potentially with an SNOPR, and to take separated condensing and cooling units into account. (Danfoss, Public Meeting Transcript, No. 88 at pp. 88 and 72)

Public comment was also received opposing to extending the schedule. On the industry side, ebm-papst recommended proceeding quickly with the regulation because it raises the bar and spurs development toward a more sustainable refrigeration industry. (ebm-papst, No. 92 at p. 2) Similarly, AGNY commented that the delay in amending efficiency standards for walk-ins has led to inefficient products staying on the market, depriving purchasers of more effective options, and further asserted that delays have cost the nation $2.2 billion in lost savings. (AGNY, No. 116 at p. 2)

While DOE appreciates the concerns expressed by commenters regarding the current rulemaking timeline, DOE believes that the recent modifications it has made will permit manufacturers to much more easily address the various requirements that will be established by this rule. For details regarding the separate analysis and certification of refrigeration system components, see 79 FR 27387 (May 14, 2014).

*B. Market and Technology Assessment*

When beginning an energy conservation standards rulemaking, 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 (*e.g.,* manufacturer specification sheets, industry publications) and data submitted by manufacturers, trade associations, and other stakeholders. The subjects addressed in the market and technology assessment for this rulemaking include: (1) Quantities and types of equipment sold and offered for sale; (2) retail market trends; (3) equipment covered by the rulemaking; (4) equipment classes; (5) manufacturers; (6) regulatory requirements and non-regulatory programs (such as rebate programs and tax credits); and (7) technologies that could improve the energy efficiency of the equipment under examination. DOE researched manufacturers of walk-in coolers and walk-in freezers and made a particular effort to identify and characterize small business manufacturers. See chapter 3 of the final rule TSD for further discussion of the market and technology assessment.

1. Equipment Included in This Rulemaking

a. Panels and Doors

In the NOPR, DOE identified three types of panels used in the walk-in industry: display panels, floor panels, and non-floor panels. Based on its research, DOE determined that display panels, typically found in beer caves (i.e. walk-ins used for the display and storage of beer or other alcoholic beverages often found in a supermarket) make up a small percentage of all panels currently present in the market. Therefore, because of the extremely limited energy savings potential currently projected to result from amending the requirements that these panels must meet, DOE did not propose to set new standards for walk-in display panels. Display panels, however, must still follow all applicable design standards already prescribed by EPCA. See 10 CFR 431.306(b). Additionally, DOE declined to propose standards for walk-in cooler floor panels because DOE determined through manufacturer interviews and market research that the majority of walk-in coolers are made with concrete floors and do not use insulated floor panels. DOE did, however, propose standards for other panels (i.e. door, ceiling and wall).

Several stakeholders supported DOE's proposal to not set new standards for display and cooler floor panels. Thermo-Kool and Hillphoenix agreed that display panels and cooler floor panels should be excluded. (Thermo-Kool, No. 97 at p. 2; Hillphoenix, No. 107 at p. 3) NEEA stated that it was impractical to regulate or require floors for walk-in coolers. (NEEA, No. 101 at p. 3) American Panel, however, believed that additional energy savings were possible while imposing only a minimal burden on industry if walk-in coolers were required to use insulated floor panels or insulated concrete slabs with thermal breaks instead of requiring panel manufacturers to increase panel thickness. (American Panel, No. 99 at p. 10) DOE agrees with American Panel that in theory a walk-in coolers would consume less energy with a insulated floor. However, EPCA directs DOE to adopt performance standards of walk-in and thus the Department cannot require all walk-in coolers to be installed with insulated floors. Additionally, the Department expected that setting an R-value requirement for walk-in cooler floor panels would cause manufactures to stop selling cooler floor panels to avoid the certification burden.

American Panel asked if DOE considered freezers built inside a walk-in that are built inside another walk-in. American Panel noted that for cooler-freezer combination units, complicated dividing wall panels were required, which were complicated to manufacture, and would be very expensive, should the walk-in freezer require 5 inch insulation. (American Panel, No. 99 at p. 5) DOE agrees that its analysis does not account for the specific installation scenarios of walk-in panels beyond cooler versus freezer applications. However, the Department reiterates that it is not establishing prescriptive standards so freezer panels would not be required to be a specific thickness—only that they meet a particular thermal resistance value.

DOE also identified two types of doors used in the walk-in market, display doors and non-display doors, which are discussed in section VI.2.A. of this NOPR. All types of doors will be subject to the performance standards proposed in this rulemaking.

b. Refrigeration Systems

Blast Chillers and Blast Freezers

In the NOPR, DOE did not include blast freezers in its rulemaking analysis, but proposed to apply the same standards to blast freezer refrigeration systems as to storage freezer refrigeration systems, unless DOE were to find that blast freezer refrigeration systems would have difficulty complying with DOE's standards. DOE requested comments from the public on the inclusion of blast freezers within the scope of the proposed rule. 78 FR at 55799. In response, NEEA, et al., Hussmann, ACEEE, American Panel, the California IOU's, Heatcraft, Bally, Hillphoenix, Lennox, AHRI and Nor-Lake urged DOE to carefully define blast chillers and freezers, and to exclude them from the products covered by the proposed rule, since these were food processing equipment, as opposed to food storage equipment like most other walk-in coolers and freezers. (NEEA, et al., No. 101 at p. 5; Hussmann, No. 93 at p. 7; ACEEE, Public Meeting Transcript, No. 88 at p. 112; APC, Public Meeting Transcript, No. 88 at p. 111; CA IOUs, Public Meeting Transcript, No. 88 at p. 109; Heatcraft, Public Meeting Transcript, No. 88 at p. 108; Bally, Public Meeting Transcript, No. 88 at p. 108; Hillphoenix, No. 107 at p. 3; Lennox, No. 109 at p. 4; AHRI, No. 114 at p. 3; Nor-Lake, No. 115 at p. 1) APC recommended that in addition to blast freezers, blast chillers should also be

excluded from the ambit of the proposed rule for similar reasons. (APC, No. 99 at p. 3) AHRI, on the other hand, suggested that blast coolers and freezers, along with ripening rooms, should be held to different efficiency standards than WICFs. (AHRI, No. 114 at p. 3)

After considering the comments received and conducting additional research, DOE agrees with commenters that blast chillers and blast freezers are food processing equipment and place them outside of the definition of a walk-in, which is defined as an ''enclosed storage space.'' (42 U.S.C. 6311(20)(A)) Additionally, DOE has found that blast chillers and blast freezers have very different energy consumption characteristics from storage coolers and freezers, which would justify their classification as a distinct product.

Based on the comments, along with other information reviewed by DOE (e.g. manufacturer brochures and literature) regarding the operation and use of blast chillers and blast freezers. DOE is declining to treat these equipment categories as walk-ins. As a result, these two categories of equipment would not be required to meet the standards that DOE has detailed in this notice. In delineating these equipment, in DOE's view, a blast chiller (or shock chiller) refers to a type of cooling device that is designed specifically to, when fully loaded, cool its contents from 150 °F to 55 °F in less than 90 minutes. Similarly, a blast freezer (or shock freezer) refers to a type of freezer that is designed specifically to, when fully loaded, cool its contents from 150 °F to 32 °F in less than 90 minutes.

While DOE believes that the above descriptions should be sufficiently clear to enable manufacturers to readily determine whether a particular device they produce falls under these descriptions, DOE may revise these descriptions in the future through guidance should additional clarification be necessary.

Special Application Walk-In Coolers

Several commenters suggested that certain walk-in coolers designed for special applications should be excluded from the rulemaking. ebm-papst commented that the proposed standard did not separate low-velocity and low-profile unit coolers. (ebm-papst, No. 92 at p. 4) NCC and KeepRite commented that two-way or low-velocity coolers were designed as food-processing workspaces, and should be excluded from the scope of the proposed rule. (NCC, No. 96 at p. 2; K–RP, No. 105 at p. 2) SAF noted that the floriculture industry had unique requirements with regard to air movement and humidity for walk-in coolers since potted plants and cut flowers had a rapid rate of respiration, and further expressed concern that the proposed standard did not account for the large degree of customization used in the engineering of floral storage units due to the higher humidity and gentle airflow required. (SAF, No. 103 at pp. 3 and 7) Manitowoc commented that grouping packaged refrigeration systems with split systems would make it difficult for packaged systems to meet the proposed standard levels at a reasonable cost, since packaged systems were typically 1 horsepower (hp) or less, and increased efficiency would have a greater cost impact. (Manitowoc, No. 108 at p. 2) Lennox stated that there were no known test laboratories in the U.S. that were certified or fully capable of testing the range of products and application temperatures covered by the proposed rule. (Lennox, No. 109 at p. 2)

With respect to low-velocity and floral application coolers, DOE agrees that there is a certain category of medium- and low-temperature unit coolers that are characterized by low airflow. In medium-temperature applications, these unit coolers may also be operated at a higher-than-usual temperature difference between the evaporator coil and the air, which contributes to a high humidity environment necessary for some applications. (For more details on temperature difference, see section IV.D.5.b.) Because these products are used for both storage and process applications, DOE cannot categorically exclude them from coverage, although DOE notes that equipment used for process cooling applications is excluded from the WICF standards. Also, DOE has not found evidence that such products would be at a disadvantage by having to satisfy the standards being adopted today, when tested under the rating conditions in the test procedure. In response to Manitowoc's comment, Manitowoc did not provide, nor has DOE found, evidence that packaged systems would have difficulty meeting the proposed standard; DOE notes that for dedicated condensing systems, which would include packaged systems, its standards for smaller systems are lower than those for larger systems and the required efficiency for smaller systems decreases with system size. To address Lennox's concern, if a manufacturer believes that the test procedure in its current form does not measure the efficiency of a model of covered equipment in a manner representative of its true energy use, the manufacturer may apply for a test procedure waiver for that model.

High-Temperature Products

Hillphoenix commented that the definition of a walk-in cooler as having a maximum temperature of 55 °F was incongruent with the NSF limit of 41 °F as the maximum safe temperature for food. (Hillphoenix, No. 107 at p. 1) ICS, et al., American Panel, IB, Kysor, and ThermoKool suggested that DOE revise its definition of a walk-in cooler to align with the NSF's requirement of food storage at or below 41 °F. (ICS, et al., No. 100 at p. 3; APC, No. 99 at p. 2; IB, No. 98 at p. 1; Kysor, Public Meeting Transcript, No. 88 at p. 40; ThermoKool, No. 97 at p. 1) Hussmann expressed concern that if the standards cover products up to 55 degrees, it may cover some products that have very different energy profiles than traditional [food] storage systems. (Hussmann, Public Meeting Transcript, No. 88 at p. 62) Lennox, however, agreed with DOE's proposal to base the definition of freezers vs. coolers on an operating temperature [at or] below and above 32 °F, respectively. (Lennox, No. 109 at p. 5)

DOE recognizes that the NSF requires food storage at 41 °F or below. However, DOE is retaining its definition of walk-in coolers and freezers because while the foodservice industry accounts for a large portion of the walk-in cooler market, these units also have applications in other industries, which do not fall within the ambit of the NSF standard. DOE notes that it based its analysis on coolers operating at 35 °F (the AHRI 1250 test procedure rating temperature for coolers), which should not disadvantage products that must comply with the NSF requirement.

2. Equipment Classes

In evaluating and establishing energy conservation standards, DOE generally divides covered equipment into classes by the type of energy used, or by capacity or other performance-related feature that justifies a different standard for equipment having such a feature. (42 U.S.C. 6295(q) and 6316(a)) In deciding whether a feature justifies a different standard, DOE must consider factors such as the utility of the feature to users. DOE normally establishes different energy conservation standards for different equipment classes based on these criteria. In the NOPR, DOE proposed separate classes for panels, display doors, non-display doors, and refrigeration systems because each component type has a different utility to the consumer and possesses different energy use characteristics.

a. Panels and Doors

In the NOPR, DOE proposed three equipment classes for walk-in panels: cooler structural panels, freezer structural panels, and freezer floor panels. DOE's proposal was based on the understanding that freezer floor panels and structural panels serve two different utilities.

Freezer floor panels, which are panels used to construct the floor of a walk-in freezer, must often support the load of small machines like hand carts and pallet jacks. Structural panels are panels used to construct the ceiling or wall of a walk-in, provide structure for the walk-in.

Structural panels are further divided into two more classes based on temperature—*i.e.,* cooler versus freezer panels. Cooler structural panels are rated at an average foam temperature of 55 °F, as required in the test procedure. Freezer structural panels are used in walk-in freezers and rated at an average foam temperature of 20 °F, also a test procedure requirement. See 79 FR at 27412. Walk-in freezer panels must also meet a higher R-value than walk-in cooler panels. See 10 CFR 431.306.

For doors, DOE distinguished between two different door types used in walk-ins: display doors and non-display doors. DOE proposed separate classes for display doors and non-display doors to retain consistency with the dual approach laid out by EPCA for these walk-in components. (42 U.S.C. 6313(f)(1)(C) and (3)) Non-display doors and display doors also serve separate purposes in a walk-in. Display doors contain mainly glass in order to display products or objects located inside the walk-in. Non-display doors function as passage and freight doors and are mainly used to allow people and products to be moved into and out of the walk-in. Because of their different utilities, display and non-display doors are made up of different material. Display doors are made of glass or other transparent material, while non-display doors are made of highly insulative materials like polyurethane. The different materials found in display and non-display doors significantly affect their energy consumption.

DOE divided display doors into two equipment classes based on temperature differences: cooler and freezer display doors. Cooler display doors and freezer display doors are exposed to different internal temperature conditions, which affect the total energy consumption of the doors. DOE's test procedure contains an internal rating temperature of 35 °F for walk-in cooler display doors and −10 °F for walk-in freezer display doors. See 76 FR at 21606 and 10 CFR 431.303

DOE also separated non-display doors into two equipment classes, passage and freight doors. Passage doors are typically smaller doors and mostly used as a means of access for people and small machines, like hand carts. Freight doors typically are larger doors used to allow access for larger machines, like forklifts, into walk-ins. The different shape and size of passage and freight doors affects the energy consumption of the doors. Both passage and freight doors are also separated into cooler and freezer classes because, as explained for display doors, cooler and freezer doors are rated at different temperature conditions. A different rating temperature impacts the door's energy consumption.

One stakeholder agreed with DOE's classification of equipment. Nor-Lake commented that the proposed definitions for all three door equipment classes appeared to be reasonable. (Nor-Lake, No. 115 at p. 1)

Other stakeholders recommended changes to the envelope equipment classes. Hillphoenix noted that classifying doors based on whether they were display or non-display doors, and whether they were hinged or non-hinged would allow for standards that would better represent their performance. (Hillphoenix, No. 107 at p. 3) ICS, et al., recommended that DOE categorize door panels with wall, floor, and ceiling panels and account for electrical consuming devices separately. (ICS, et al., No. 100 at pp. 2 and 3) American Panel also suggested that non-display doors should be classified with panels for the purpose of this rulemaking because they share the same R-value. (APC, No. 99 at p. 2) IB agreed with the proposed classes of panels and requested that door panels be included in these categories as they are manufactured from the same materials as those used in wall, floor and ceiling panels. (IB, No. 98 at p. 3)

DOE agrees that non-display doors are very similar to panels because both components are primarily composed of insulation. However, non-display doors have a different utility than panels and for that reason may require features, like windows or heater wire, which walk-in panels do not require. For this reason, in this final rule the Department is creating separate equipment classes for non-display doors and panels.

The Department did not receive any adverse comments regarding the equipment classes proposed for display doors.

The equipment classes being adopted are listed in Table IV.1 below.

TABLE IV.1—EQUIPMENT CLASSES FOR PANELS AND DOORS

| Product | Temperature | Class |
|---|---|---|
| Structural Panel | Medium | SP.M |
| | Low | SP.L |
| Floor Panel | Low | FP.L |
| Display Door | Medium | DD.M |
| | Low | DD.L |
| Passage Door | Medium | PD.M |
| | Low | PD.L |
| Freight Door | Medium | FD.M |
| | Low | FD.L |

b. Refrigeration Systems

In the NOPR, DOE divided refrigeration systems into classes based on condensing unit type (i.e. whether the refrigeration system uses a dedicated condensing unit or is connected to a multiplex system), operating temperature (whether the system is designed to operate at medium or low temperature, corresponding to a walk-in cooler or walk-in freezer, respectively), location (for dedicated condensing systems, whether the condensing unit is located indoors or outdoors), and size (for dedicated condensing systems, whether the gross refrigerating capacity exceeds or is less than 9,000 Btu/h). DOE received comments on its proposed equipment classes.

General Comments

NAFEM and Lennox opined that the equipment classes defined in the proposed rule did not fully encompass the variety of products and customizations currently available on the market. (NAFEM, No. 118 at p. 3; Lennox, No. 109 at p. 2) The CA IOUs suggested that the standard would be more enforceable if, instead of classifying products as dedicated condensing or multiplex condensing, WICF refrigeration is treated like commercial refrigeration equipment, with separate classes for self-contained systems, unit coolers, and condensing units. In its view, this approach would address the splitting of the unit cooler from the condensing unit in cases where they are separate. (CA IOUs, No. 89 at p. 19 and Public Meeting Transcript, No. 88 at pp. 30 and 103) ASAP commented that DOE should set a standard level for packaged dedicated refrigeration systems. (ASAP et al., No. 113 at p. 2) American Panel pointed out that the current classification did not account for pre-charged units (i.e. refrigeration units that come ''pre-charged'' with refrigerant coolant added to the unit). (APC, No. 99 at p. 3)

DOE takes note of manufacturer comments that the representative sizes in DOE's analysis do not fully

encompass the large variety of products and possible customizations. While recognizing that it would be impossible to model each and every one of these niche products, DOE has not changed the equipment classes or representative units from those analyzed in the NOPR, since these classes and units represent a large majority of the total market for walk-in coolers and freezers. DOE has not found, nor have stakeholders provided evidence, that ''niche'' products would be unable to meet the standards based on current equipment classification. DOE believes that its approach to testing and certification of unit coolers and condensing units sold separately addresses the comment from CA IOUs, and separate equipment classes are not needed; see section III.C for further discussion of certification. If a manufacturer believes that its design is subjected to undue hardship by regulations, the manufacturer may petition DOE's Office of Hearings and Appeals (OHA) for exception relief or exemption from the standard pursuant to OHA's authority under section 504 of the DOE Organization Act (42 U.S.C. 7194), as implemented at subpart B of 10 CFR part 1003. OHA has the authority to grant such relief on a case-by-case basis if it determines that a manufacturer has demonstrated that meeting the standard would cause hardship, inequity, or unfair distribution of burdens.

Condensing Unit Location

Lennox commented that for dedicated condensing units, systems manufactured and certified as outdoor units should be allowed to be used indoors without having to certify their units as indoor units as well; this approach would greatly reduce the testing and certification burden on manufacturers. (Lennox. No. 109 at p. 6) On the other hand, AHRI noted that it was possible for manufacturers to market a unit for use indoors, whereas contractors could choose to assemble it outdoors, where it may not meet the requisite standard. (AHRI, Public Meeting Transcript, No. 88 at p. 106)

DOE understands that indoor and outdoor refrigeration systems are rated differently under the DOE test procedure, and this warrants the creation of separate equipment classes for indoor and outdoor refrigeration systems. Furthermore, indoor and outdoor refrigeration systems are often easily distinguishable visually: outdoor systems are characterized by a metal cover that protects the system from the elements. DOE realizes that a product may be used in a different application from which it was originally designed. In response to Lennox's comment, the standard for an outdoor refrigeration system is generally more stringent than for an indoor refrigeration system of the same size and operating temperature. Therefore, DOE is not opposed to systems rated as outdoor systems being used in practice as indoor systems, without having to be separately certified as ''indoor'' systems. Conversely, as AHRI pointed out, an indoor system used outdoors would not likely meet the requisite standard. DOE believes that in practice, this is not likely to occur at a significant rate because indoor units lack the protective features of outdoor units and therefore would be very unlikely to be installed outdoors. However, if DOE finds that indoor systems are being installed outdoors so as to circumvent the more stringent requirements for outdoor systems, DOE may promulgate future labeling standards specifying that a unit used outdoors must be labeled as an outdoor unit.

Capacity

Lennox commented that the proposed classification for unit coolers did not fully account for various applications and that for dedicated condensing systems, the proposed equipment classification did not fully reflect the range currently available in the market. Further, Lennox noted that linear equations for units with capacity up to 36,000BTU/h, and fixed values for units with higher capacity, would be reasonable. (Lennox, No. 109 at p. 5) Similarly, on the classification of condensing systems, KeepRite commented that the definition between large and small classes at 9,000 Btu/hr was fairly low, and left a disproportionately wide range of products in the ''Large'' category. (K–RP, No. 105 at p. 2) American Panel, too, made a similar suggestion, recommending that equipment be divided into three categories—small (<10,000 Btu), medium, and large (>25,000 Btu)—to better represented the market. (APC, No. 99 at p. 3) Heatcraft stated that DOE did not look at a broad enough range of equipment, and that refrigeration systems can get up to 190,000 Btus in the 3,000 square foot range. (Heatcraft, Public Meeting Transcript, No. 88 at p. 102)

In response to the comments from Lennox, KeepRite, and American Panel suggesting that separating the ''large'' equipment class could better represent the market, DOE notes that above the threshold for ''large'' equipment, the standard level is equally attainable by varying sizes of equipment. DOE did not receive data or evidence from Heatcraft suggesting that systems larger than the ones analyzed would have difficulty meeting DOE's standards. Therefore, DOE is maintaining the size thresholds for refrigeration system classes proposed in the NOPR.

In this document, the Department is adopting the equipment classes listed in Table IV.2.

TABLE IV.2—EQUIPMENT CLASSES FOR REFRIGERATION SYSTEMS

| Condensing type | Operating temperature | Condenser location | Refrigeration capacity (Btu/h) | class |
|---|---|---|---|---|
| Dedicated | Medium | Indoor | <9,000 | DC.M.I, <9,000. |
| | | | ≥9,000 | DC.M.I, ≥9,000. |
| | | Outdoor | <9,000 | DC.M.O, <9,000. |
| | | | ≥9,000 | DC.M.O, ≥9,000. |
| | Low | Indoor | <9,000 | DC.L.I, <9,000. |
| | | | ≥9,000 | DC.L.I, ≥9,000. |
| | | Outdoor | <9,000 | DC.L.O, <9,000. |
| | | | ≥9,000 | DC.L.O, ≥9,000. |
| Multiplex | Medium | | | MC.M. |
| | Low | | | MC.L. |

3. *Technology Assessment*

As part of the market and technology assessment performed for the final rule analysis, DOE developed a comprehensive list of technologies that would be expected to improve the energy efficiency of walk-in panels, non-display doors, display doors, and refrigeration systems. Chapter 3 of the TSD contains a detailed description of each technology that DOE identified. Although DOE identified a number of technologies that improve efficiency, DOE considered in its analysis only those technologies that would impact the efficiency rating of equipment as tested under the DOE test procedure. Therefore, DOE excluded several technologies from the analysis during the technology assessment because they would not improve the rated efficiency of equipment as measured under the specified test procedure. Technologies that DOE determined would impact the rated efficiency were carried through to the screening analysis and are discussed in section IV.C.

ACEEE commented that there were significant technology options used abroad which could, if included in the DOE analysis, provide greater potential for energy savings. (ACEEE, Public Meeting Transcript, No. 88 at p. 142) However, ACEEE did not identify any specific technology options and in the absence of an actionable recommendation, DOE is continuing to apply its methodology. DOE notes that its methodology does not exclude technology options primarily used outside the U.S. if they meet the requirements of the screening analysis.

*C. Screening Analysis*

DOE uses four screening criteria to determine which design options are suitable for further consideration in a standards rulemaking. Namely, design options will be removed from consideration if they are not technologically feasible; are not practicable to manufacture, install, or service; have adverse impacts on product utility or product availability; or have adverse impacts on health or safety. 10 CFR part 430, subpart C, appendix A, sections (4)(a)(4) and (5)(b)

1. Panels and Doors

DOE proposed three efficiency improvements for walk-in panels: insulation thickness, insulation material, and framing material. Subsequent to the NOPR's publication, DOE modified its regulations to permit manufacturers to use ASTM C518—which measures panel performance by examining the panel's insulation performance—rather than ASTM C1363—which accounts for, among other things, the impact of structural members in a panel.. Because of this change, framing materials no longer impact the rated efficiency of walk-in panels—and hence, are no longer considered as design options.

Some manufacturers and consumers urged DOE to screen out any design options which would even marginally affect the geometry of a unit, either by increasing its total footprint or reducing the cooled internal space. Specifically, these comments referred to DOE's consideration of added insulation thickness as a design option. ICS, et al., Louisville Cooler, and NRA noted that the increased footprint or decreased internal volume associated with thicker foam panels reduced storage utility and increased cost, perhaps even requiring full kitchen redesigns.(ICS, et al., No. 100 at p. 4; Louisville Cooler, No. 81 at p. 1; NRA, No. 112 at p. 4) SAF expressed concern that some of the design options considered in the WICF analysis, like thicker insulation, would reduce the size of the walk-in and cause a substantial negative impact on floral industry businesses. (SAF, No. 103 at p. 7)

DOE understands stakeholder concerns that increased panel thickness may reduce the interior space of a walk-in and affect the equipment's utility. DOE discussed the relationship between panel thickness and interior walk-in space during the manufacturer interviews. During the interviews, manufacturers agreed that the addition of ½″ of insulation above the baseline thicknesses modeled would be accepted by commercial customers. Manufacturers noted that increased panel thickness would require them to redesign their equipment and, in some cases, replace current foaming fixtures. DOE incorporated these potential outcomes into its engineering and manufacturer impact analyses. Regarding insulation greater than ½ an inch above the baseline thickness having an impact on the usefulness of the product to consumers, DOE notes that manufacturers are already employing these wall thicknesses in currently-available models. DOE believes that fact demonstrates that using thicker insulation is a viable technology option. Accordingly, DOE did not screen out increased panel thickness from its analysis.

In the NOPR, DOE proposed to screen in the following technologies for non-display doors: insulation thickness, insulation material, framing material, improved window glass systems, and anti-sweat heat controls.

DOE also proposed to ''screen in'' electronic lighting ballasts and high-efficiency lighting, occupancy sensors, improved glass system insulation performance, and anti-sweat heater controls as technologies that could improve the performance of display doors are rated by the test procedure.

Several manufacturers were concerned with DOE's proposal to require tinted glass for transparent doors. Hussmann, ACCA and the California IOU's noted that the use of low-e coatings on high-performance display doors would add a considerable tint to the glass, making product visibility difficult and impacting consumer utility. (Hussmann, No. 93 at p. 2) (ACCA, No. 119 at p. 2) (CA IOUs, No. 88 at p. 152) SAF commented that low-e coating would obscure floral products, and have a negative impact on the U.S. floral industry. (SAF, No 103 at pp. 6–7)

DOE clarifies that the performance standards proposed in the NOPR did not require manufacturers to use low-e coating on their doors. Low-e coating was considered as a design option. In the NOPR, DOE proposed TSL 4 which mapped to display cooler doors at efficiency level 1 (a baseline cooler door with LED lighting instead of fluorescent lighting) and mapped to baseline freezer doors. Baseline cooler doors do have one layer of hard coat low-e coating, but DOE expects that manufacturers could achieve this same level of performance by incorporating other design options like an additional pane of glass or a lighting sensor. Baseline display freezer doors do not have low-e coating. DOE notes that its market research shows that some display doors may have a low-e coating. While not all doors may have this feature, it is a viable one that manufacturers could opt to use in certain circumstances when appropriate. DOE also would like to remind stakeholders that it is not setting prescriptive standards, and should manufacturers value some features over others, they are free to use different design paths in order to attain the performance levels required by this rule.

American Panel suggested that DOE should consider air curtains, a device that blows air parallel to an opening to create an infiltration barrier, because the technology would reduce air infiltration, a major contributor to the heat load in a walk-in. American Panel commented that air curtains may save almost as much energy as freezer panels with 5-inches of insulation. (American Panel, No. 99 at p. 10) Manitowoc also commented that the largest factor to energy consumption was door open time and that cooler doors may be open

more than 200 times per day. Manitowoc suggested that door closers would significantly reduce energy consumption. (Manitowoc, No. 108 at p. 1) DOE agrees with American Panel and Manitowoc that infiltration adds heat load to walk-ins and that air curtains can be used to reduce infiltration. However, DOE's test procedure establishes metrics to measure the energy consumption or energy use of walk-in components and does not include the heat load caused by infiltration. See 76 FR at 21594–21595. As a result, infiltration-related technologies do not improve the rated performance of walk-ins.

2. Refrigeration Systems

NRA commented that reducing the energy usage of walk-ins has the potential to reduce cooling recovery time for equipment subjected to constant door openings and closings in busy kitchen environments, which could result in food spoilage and create public health and safety risks. (NRA, No. 112 at p. 3) DOE's analysis has not shown that the improvements in equipment efficiency required by its standards would negatively impact the capacity of that equipment or its cooling ability; therefore, DOE does not believe its standards alone would be likely to increase the risks to public health and safety. As noted earlier, DOE has screened from consideration particular design options that it believes may pose undue risks to health and safety.

*D. Engineering Analysis*

The engineering analysis determines the manufacturing costs of achieving increased efficiency or decreased energy consumption. DOE historically has used the following three methodologies to generate the manufacturing costs needed for its engineering analyses: (1) The design-option approach, which provides the incremental costs of adding to a baseline model design options that will improve its efficiency; (2) the efficiency-level approach, which provides the relative costs of achieving increases in energy efficiency levels, without regard to the particular design options used to achieve such increases; and (3) the cost-assessment (or reverse engineering) approach, which provides ''bottom-up'' manufacturing cost assessments for achieving various levels of increased efficiency, based on detailed data as to costs for parts and material, labor, shipping/packaging, and investment for models that operate at particular efficiency levels.

As discussed in the Framework document, preliminary analysis, and NOPR analysis, DOE conducted the engineering analyses for this rulemaking using a design-option approach for walk-ins. The decision to use this approach was made due to several factors, including the wide variety of equipment analyzed, the lack of equipment efficiency data regarding currently available equipment, and the prevalence of relatively easily implementable energy-saving technologies applicable to this equipment. More specifically, DOE identified design options for analysis, used a combination of industry research and teardown-based cost modeling to determine manufacturing costs, and employed numerical modeling to determine the energy consumption for each combination of design options used to increase equipment efficiency. Additional details of the engineering analysis are available in chapter 5 of the final rule TSD.

1. Representative Equipment for Analysis

In performing its engineering analysis, DOE selected representative units for each primary equipment class to serve as analysis points in the development of cost-efficiency curves.

a. Panels and Doors

DOE proposed three different panel sizes to represent the variations within each class. Table IV.3 shows each equipment class and the representative sizes associated with that class.

TABLE IV.3—SIZES ANALYZED: PANELS

| Equipment family name | Equipment family code | Temperature code | Size code | Representative height (feet) | Representative width (feet) |
|---|---|---|---|---|---|
| Structural Members | S | C | S | 8 | 1.5 |
| | | | M | 8 | 4 |
| | | | L | 9 | 5.5 |
| | | F | S | 8 | 1.5 |
| | | | M | 8 | 4 |
| | | | L | 9 | 5.5 |
| Floor Panels | F | F | S | 8 | 2 |
| | | | M | 8 | 4 |
| | | | L | 9 | 6 |

Similar to the panel analysis, the engineering analyses for walk-in display and non-display doors both use three different sizes to represent the differences in doors within each size class DOE examined. Details are provided in Table IV.4 for non-display doors and Table IV.5 for display doors.

TABLE IV.4—SIZES ANALYZED: NON-DISPLAY DOORS

| Equipment family name | Equipment family code | Temperature code | Size code | Representative height (feet) | Representative width (feet) |
|---|---|---|---|---|---|
| Passage Doors | D | C | S | 6.5 | 2.5 |
| | | | M | 7 | 3 |
| | | | L | 7.5 | 4 |
| | | F | S | 6.5 | 2.5 |
| | | | M | 7 | 3 |
| | | | L | 7.5 | 4 |
| Freight Doors | F | C | S | 8 | 5 |
| | | | M | 9 | 7 |
| | | | L | 12 | 7 |

TABLE IV.4—SIZES ANALYZED: NON-DISPLAY DOORS—Continued

| Equipment family name | Equipment family code | Temperature code | Size code | Representative height (feet) | Representative width (feet) |
|---|---|---|---|---|---|
| | | F | S | 8 | 5 |
| | | | M | 9 | 7 |
| | | | L | 12 | 7 |

TABLE IV.5—SIZES ANALYZED: DISPLAY DOORS

| Equipment family name | Equipment family code | Temperature code | Size code | Representative height (feet) | Representative width (feet) |
|---|---|---|---|---|---|
| Display Doors | D | C | S | 5.25 | 2.25 |
| | | | M | 6.25 | 2.5 |
| | | | L | 7 | 3 |
| | | F | S | 5.25 | 2.25 |
| | | | M | 6.25 | 2.5 |
| | | | L | 7 | 3 |

American Panel commented that freight doors are typically more than 5 ft wide in order to allow for forklifts to pass through. (American Panel, No. 99 at p. 3) DOE notes that all the freight doors evaluated were 5ft or more in width, as shown in Table IV.4.

b. Refrigeration

In the engineering analysis for walk-in refrigeration systems, DOE used a range of capacities as analysis points for each equipment class. The name of each equipment class along with the naming convention was discussed in section IV.B.2.b. In addition to the multiple analysis points, scroll, hermetic, and semi-hermetic compressors were also investigated because different compressor types have different efficiencies and costs.[15]

Table IV.6 identifies, for each class of refrigeration system, the sizes of the equipment DOE analyzed in the engineering analysis. Chapter 5 of the TSD includes additional details on the representative equipment sizes and classes used in the analysis.

TABLE IV.6—SIZES ANALYZED FOR REFRIGERATION SYSTEM ANALYSIS

| Equipment class | Sizes analyzed (Btu/h) | Compressor types analyzed |
|---|---|---|
| DC.M.I, <9,000 | 6,000 | Hermetic, Semi-hermetic. |
| DC.M.I, ≥9,000 | 18,000 | Hermetic, Semi-hermetic, Scroll. |
| | 54,000 | Semi-Hermetic, Scroll. |
| | 96,000 | Semi-Hermetic, Scroll. |
| DC.M.O, <9,000 | 6,000 | Hermetic, Semi-hermetic. |
| DC.M.O, ≥9,000 | 18,000 | Hermetic, Semi-hermetic, Scroll. |
| | 54,000 | Semi-Hermetic, Scroll. |
| | 96,000 | Semi-Hermetic, Scroll. |
| DC.L.I, <9,000 | 6,000 | Hermetic, Semi-hermetic, Scroll. |
| DC.L.I, ≥9,000 | 9,000 | Hermetic, Semi-hermetic, Scroll. |
| | 54,000 | Semi-Hermetic, Scroll. |
| DC.L.O, <9,000 | 6,000 | Hermetic, Semi-hermetic, Scroll. |
| DC.L.O, ≥9,000 | 9,000 | Hermetic, Semi-hermetic, Scroll. |
| | 54,000 | Semi-Hermetic, Scroll. |
| | 72,000 | Semi-Hermetic. |
| MC.M | 4,000 | |
| | 9,000 | |
| | 24,000 | |
| MC.L | 4,000 | |
| | 9,000 | |
| | 18,000 | |
| | 40,000 | |

2. Refrigerants

DOE used R404A, a hydrofluorocarbon (HFC) refrigerant blend, in its analysis for this NOPR because it is widely used currently in the walk-in industry, but requested comment on the ability of systems using other refrigerants to meet a standard based on systems with 404A. 78 FR at 55799. Several stakeholders suggested that future refrigerant policy would play a role in dictating which refrigerant would be used with future refrigeration systems and noted this possibility in response to the engineering analysis.

[15] Scroll compressors are compressors that operate using two interlocking, rotating scrolls that compress the refrigerant. Hermetic and semi-hermetic compressors are piston-based compressors and the key difference between the two is that hermetic compressors are sealed and hence more difficult to repair, resulting in higher replacement costs, while semi-hermetic compressors can be repaired relatively easily.

AHRI commented that future changes in refrigerant policy were likely to drive the market towards low global warming potential (GWP) refrigerants, which could detrimentally affect the performance and efficiency of units. (AHRI, No. 114 at p. 5) KeepRite stated that policies in the near future may require the phase-out of 404A in favor of low-GWP refrigerants which may be less efficient than 404A, making it more difficult to meet the proposed standard. (KeepRite, No. 105 at p. 2) Hussmann agreed that upcoming policies would likely require the phasing-out of 404A in favor of low-GWP refrigerants, which could negatively affect system performance (Hussmann, No. 93 at p. 2) ICS, et al. opined that the DOE analysis did not sufficiently factor in the impending phase-out of HFCs. (ICS, et al., No. 100 at p. 10) Lennox agreed that alternative refrigerants were likely to see growing adoption in walk-ins over the timeline of the rule, but added that this factor may affect the achievable efficiency of a unit either positively or negatively. It suggested that DOE should be prepared to establish separate classes for equipment that uses non-HFC refrigerants if they have an adverse impact on equipment performance. (Lennox, No. 109 at p. 4) Danfoss noted that a change in policy requiring low-GWP refrigerants would greatly impact the cost of production of refrigeration systems, as WICF units use a relatively large volume of charge. (Danfoss, Public Meeting Transcript, No. 88 at p. 164) Manitowoc stated that moving from HFCs to alternative refrigerants would increase cost. (Manitowoc, No. 108 at p. 2)

At this time, DOE does not believe that there is sufficient specific, actionable data presented at this juncture to warrant a change in its analysis and assumptions regarding the refrigerants used in walk-in cooler and freezer applications. As of now, there is inadequate publicly-available data on the design, construction, and operation of equipment featuring alternative refrigerants to facilitate the level of analysis of equipment performance which would be needed for standard-setting purposes. DOE is aware that many low-GWP refrigerants are being introduced to the market, and wishes to ensure that this rule is consistent with the phase-down of HFCs proposed by the United States under the Montreal Protocol. DOE continues to welcome comments on experience within the industry with the use of low-GWP alternative refrigerants. However, there are currently no mandatory initiatives such as refrigerant phase-outs driving a change to alternative refrigerants. Absent such action, DOE will continue to analyze the most commonly-used, industry-standard refrigerants in its analysis.

DOE wishes to clarify that it will continue to consider WICF models meeting the definition of walk-in coolers and freezers to be part of their applicable covered equipment class, regardless of the refrigerant that the equipment uses. If a manufacturer believes that its design is subjected to undue hardship by regulations, the manufacturer may petition DOE's Office of Hearing and Appeals (OHA) for exception relief or exemption from the standard pursuant to OHA's authority under section 504 of the DOE Organization Act (42 U.S.C. 7194), as implemented at subpart B of 10 CFR part 1003. OHA has the authority to grant such relief on a case-by-case basis if it determines that a manufacturer has demonstrated that meeting the standard would cause hardship, inequity, or unfair distribution of burdens.

3. Baseline Specifications

a. Panels and Doors

In the NOPR, DOE set the baseline level of performance to correspond to the most common, least efficient component that is compliant with the standards set forth in EPCA. (42 U.S.C. 6313(f)(1)(3)) DOE determined specifications for each equipment class by surveying currently available units and models. More detail about the specifications for each baseline model can be found in chapter 5 of the TSD.

DOE proposed that the baseline cooler structural panels would be comprised of 3.5 inches of polyurethane insulation, with wood framing members around the perimeter of the panel. Baseline freezer structural panels had 4-inches of polyurethane insulation, with wood framing members around the perimeter of the panel. Baseline freezer floor panels had 3.5 inches of polyurethane insulation with wood framing materials around the perimeter of the panel and additional wood structural material in the panel.

Nor-Lake and Thermo Kool commented that DOE's baseline panels seemed reasonable. (Nor-Lake, No. 115 at p. 2; Thermo Kool, No 97 at p. 2) American Panel made a number of suggestions regarding baseline panels. American Panel stated that 85% of the floor panels they built did not need additional structural members because they were going into restaurants. Thus, the floor panel is very similar to the structural panel. (American Panel, Public Meeting Transcript, No. 88 at p. 90) Additionally, American Panel commented that a 3.5-inch thick wood framed panel is not representative of the baseline for walk-in cooler structural panels. Baseline structural cooler panels should be 4 inches thick because that has the food service industry standard for the last 10 to 20 years. Regarding freezer panels materials, American Panel estimated that less than 5% of the total market share has wood framing materials. (American Panel, No. 99 at p. 4) At the NOPR public meeting, American Panel generally stated that wood and hard nose framing material is not commonly used with foam-in-place polyurethane insulation. (American Panel, Public Meeting Transcript, No. 88 at p. 128) Kinser also stated that 4-inch thick urethane panels without framing materials would be a representative baseline. (Kinser, No. 81 at p. 1) US Cooler also disagreed with the baseline assumptions and noted that by misrepresenting the baseline, DOE could overestimate the monetary and emissions savings resulting from this rulemaking. (US Cooler, Public Meeting Transcript, No. 88 at p. 129) NEEA stated that most panel manufacturers were using high density PU foam as panel framing instead of wood. (NEEA, No. 101 at p. 3)

DOE agrees with stakeholders that wood is not the predominate type of framing material in the WICF market, but it is present in the market. In a separate rulemaking, DOE proposed to eliminate the ASTM C1363 test, which measures the full panel thermal conductivity and accounts for features such as framing materials. (DOE subsequently finalized that proposal. See 79 FR at 27391 and 27405–27406.) Therefore, the impacts of framing material would not be captured by the WICF test procedure and framing material was no longer considered a design option for walk-in panels. In the final rule analysis, DOE incorporated high density polyurethane as the framing material for walk-in panels in order to more accurately capture the typical construction and cost of a baseline panel. However, for non-display doors, DOE continued to use wood as the baseline framing material, but DOE accounted for the market share of the baseline type unit and other design options in its efficiency distribution as part of the shipments analysis. See TSD chapter 9.

At the NOPR public meeting, Arctic noted that solid core foam insulation, which DOE interprets as extruded polystyrene, is also found in the walk-in market. (Arctic, Public Meeting Transcript, No. 88 at p. 126) US Cooler also commented that a sizable number

of units on the market use extruded polystyrene. US Cooler opined that polyurethane insulation did not have better long term thermal performance than extruded polystyrene. (US Cooler, No. 75 at p. 1) DOE agrees that some walk-ins use extruded polystyrene insulation, but found that the majority of panels are made with poured-in-place polyurethane. For its analysis of a representative panel, DOE continued to use one type of insulation material (i.e. poured-in-place polyurethane) in order to more accurately evaluate the energy consumption of a representative baseline walk-in panel. DOE notes that manufacturers can use any insulation or other features so long as they meet the energy conservation standard levels.

In this final rule, DOE based its analysis on a representative model of a cooler structure panel by assuming that it is comprised of 3.5 inches of polyurethane insulation. Baseline freezer structural panels had 4-inches of polyurethane insulation. Baseline freezer floor panels had 3.5 inches of polyurethane insulation. As previously stated, DOE accounted for high density polyurethane framing materials in all types of panels, but the framing materials did not have an impact on the panel's measured energy efficiency. DOE modeled a baseline cooler structural panel, freezer structural panel, and freezer floor panel to portray an industry representative baseline panel for these equipment classes. These baseline panels correspond to the most common, least efficient component found in the market that complies with the standards set forth in EPCA. (42 U.S.C. 6313(f)(1)(3)) In the case of walk-in cooler structural panels, the Department found that the most common, least efficient panel has an R-value that is higher than the current levels prescribed by EISA. However, the Department recognizes that there are other panel thicknesses and insulation materials employed in the WICF market. DOE used the baseline representative panels in its cost benefit evaluation to determine if energy efficiency improvements based on panel thickness were technologically feasible and economically justifiable.

DOE's NOPR analysis assumed that the baseline non-display doors are constructed in a similar manner to baseline panels. Therefore, DOE uses baseline non-display doors that consist of wood framing materials, foamed-in-place polyurethane insulation. Passage doors were assumed to have a 2.25-square foot window with anti-sweat heater wire. The small freight doors have a 2.25-square foot window with anti-sweat heater wire and both the medium and large freight doors have a 4-square foot window with anti-sweat heater wire. DOE did not include heater wire in the perimeter of the cooler doors in its models, but included heater wire in the perimeter of freezer doors.

Bally stated DOE should add heater wire to cooler doors because condensate from cooler doors could cause a workplace safety issue. (Bally, No. 102 at p. 3) DOE agrees with Bally and for this reason added heater wire to the perimeter of non-display cooler doors.

Nor-Lake, ICS, et al., and American Panel remarked that non-display doors typically do not have windows. (Nor-Lake, No. 115 at pp. 1 and 2; ICS, et al., No. 100 at p. 4; American Panel, Public Meeting Transcript, No. 88 at p. 121) American Panel stated that less than 20% of their non-display doors have windows. (American Panel, Public Meeting Transcript, No. 88 at p. 121) Manitowoc commented that 25% of non-display doors sold by its company were fitted with 1.36-square foot windows and 5% of non-display doors sold had 2.23-square foot windows. (Manitowoc, No. 108 at p. 2) DOE found from its manufacturer interviews that windows in non-display doors serve a specific utility for consumers by allowing the user to look through the window instead of opening the door causing heat gain through infiltration. Therefore, DOE modeled its walk-in cooler doors with windows.

At the public meeting Bally noted that consumers may choose to have windows on WICF doors, and these windows would need additional power to eliminate condensation. Therefore, Bally urged DOE to regulate doors (which DOE interprets to mean the door insulation) separately from windows and other electrical components. (Bally, Public Meeting Transcript, No. 88 at p. 379). DOE agrees with Bally that windows require heater wire to eliminate condensation and accounted for this power consumption in the engineering analysis. DOE is choosing not to regulate windows and electrical components separately from the door because they are inherent to a given door's total energy consumption. Each of these components contributes to the door's efficiency performance, much like the insulation in the door does.

Hillphoenix commented that passage doors do not have complete frames, but instead use backings made of wood, fiber re-enforced plastic, or other materials. (Hillphoenix, Public Meeting Transcript, No. 88 at p. 131) DOE's own research through manufacturer interviews or market research did not indicate that a majority of walk-in non-display doors were constructed with wood backings instead of wood framing material. Accordingly, DOE continued to model the baseline non-display door with a complete wood frame.

Nor-Lake expressed concern that DOE misinterpreted EPCA's requirements for windows in non-display doors, but offered no specific details as to how DOE misinterpreted EPCA. (Nor-Lake, No. 115 at p. 2) DOE notes that all the windows and display doors must meet the design requirements specified in 10 CRF 431.306(b).

Nor-Lake commented that freezer windows in non-display doors tend not to be gas-filled since they have heated glass and the heater wires allow the gas to escape. (Nor-Lake, No. 115 at p. 2) In the display door market, DOE found that freezer display doors have both gas fill and anti-sweat heater wire. From an engineering perspective, it is unclear why windows in non-display doors would be significantly different from the glass packets used in display doors. DOE received no other comments stating that windows in freezer non-displays would lose all gas fill due to anti-sweat heater wire. Accordingly, both design features are included in the analysis.

The baseline display doors modeled in DOE's analysis are based on the minimum specifications set by EPCA. (42 U.S.C. 6313(f)(3)) DOE modeled baseline display cooler doors comprised of two panes of glass with argon gas fill, hard coat low emittance or low-e coating, 2.9 Watts per square foot of anti-sweat heater wire, no heater wire controller, and one fluorescent light. The baseline display freezer doors modeled in DOE's analysis consist of three panes of glass, argon gas, and soft coat low-e coating, 15.23 watts per square foot of anti-sweat heater wire power, an anti-sweat heater wire controller, and one fluorescent light.

Thermo-Kool commented that the Department's baseline for panels and doors was accurate. (Thermo-Kool, No. 97 at p. 2) US Cooler noted that DOE considered heater wire in doors that remained on all the time, whereas most units in the market used wires which only came on as needed. (US Cooler, Public Meeting Transcript, No. 88 at p. 143) DOE included heater wire controllers as a design option as a result of US Cooler's comment. Bally remarked that a typical cooler display door draws about 1.15 amps or 1.6 Wh/day. (Bally, Public Meeting Transcript, No. 88 at p. 135; Bally No. 102 at p.4) However, DOE found in its research that display doors typically drew more than 1.6 Wh/day—which prompted DOE to include a higher power draw in its engineering analysis.

b. Refrigeration

DOE determined baseline characteristics for refrigeration systems based on typical low-cost, low-efficiency products currently on the market that meet the standards set forth in EPCA See 42 U.S.C. 6313(f)(1)–(3). In the NOPR, DOE asked for comment on its assumptions about baseline equipment and received several responses, which are addressed below.

In the NOPR, DOE tentatively proposed not to include piping and insulation between the unit cooler and condensing unit, as it believes these components would not be supplied by the manufacturer or included in the equipment's MSP, but by the contractor upon installation of the equipment. DOE requested comment on this assumption. Hussmann agreed with DOE's proposal that equipment such as piping that is used for final installation should not be included in the rulemaking. (Hussmann, No. 93 at p. 4) Thus, DOE has continued not to include such final installation components in its analysis.

DOE made certain assumptions regarding the baseline temperature difference (TD) between saturated condensing temperature (SCT) and ambient air temperature for the condenser and between walk-in internal air temperature and saturated evaporating temperature (SET) for the evaporator that it used in the analysis for freezers and coolers and indoor and outdoor units. The SCT is the dew-point temperature [16] of the refrigerant that corresponds to the refrigerant pressure in the compressor discharge line at the entrance to the condenser, while the SET is the dew-point temperature of the refrigerant that corresponds to the refrigerant pressure at the exit of the evaporator. DOE's baseline assumptions for the NOPR are listed in Table IV.10 below. DOE notes that the temperatures of air entering the evaporator and condenser coils are prescribed by the test procedure. The temperature difference (TD) is calculated as the difference between the air temperature and the refrigerant temperature (SET or SCT).

TABLE IV.10—SATURATION TEMPERATURES ASSUMED IN THE NOPR

| Application | Temperature of air entering the evaporator coil (°F) | Saturated evaporating temperature (SET) (°F) | Temperature difference (TD) between entering air and SET (°F) |
|---|---|---|---|
| **Evaporator** | | | |
| Medium Temperature | 35 | 25 | 10 |
| Low Temperature | −10 | −20 | 10 |
| **Condenser** | | | |
| Application | Temperature of air entering the condenser coil (°F) | Saturated condensing temperature (SCT) (°F) | Temperature difference (TD) between entering air and SCT (°F) |
| Medium Temperature Indoor | 90 | 115 | 25 |
| Medium Temperature Outdoor | 95 | 115 | 20 |
| Low Temperature Indoor | 90 | 110 | 20 |
| Low Temperature Outdoor | 95 | 110 | 15 |

Several interested parties commented on the values of SET, SCT, and/or TD used in the analysis. Nor-Lake pointed out that the TD for evaporators could range from 7 °F to 25 °F depending on the application. (Nor-Lake, No. 115 at p. 2) Lennox commented that the DOE model used a constant condenser TD for fixed, floating, and variable speed calculations. (Lennox, No. 109 at p. 7) Lennox also stated that baseline SCT values of 120 °F for medium temperature applications and 115 °F for low temperature applications would be more in line with industry practice. (Lennox, No. 109 at p. 7) Heatcraft noted that the TDs DOE assumed were lower than industry standards. (Heatcraft, Public Meeting Transcript, No. 88 at p. 135)

DOE conducted further testing in preparing the final rule and observed the following SET, SCT, and TDs at the highest ambient rating condition (that is, a 95 °F ambient air temperature for the units tested):

[16] Dew-point temperature is the vapor-liquid equilibrium point for a refrigerant mixture where the temperature of the mixture at a defined pressure is the maximum temperature required for a liquid drop to form in the vapor. (ANSI/ASHRAE Standard 23.1–2010, ''Methods of Testing for Rating the Performance of Positive Displacement Refrigerant Compressors and Condensing Units that Operate at Subcritical Temperatures of the Refrigerant.'')

TABLE IV.11—SATURATION TEMPERATURES OBSERVED DURING TESTING

| Unit tested | Temperature of air entering the evaporator coil (°F) | Saturated evaporating temperature (SET) (°F) | Temperature difference (TD) between entering air and SET (°F) |
|---|---|---|---|
| **Evaporator** | | | |
| Medium Temperature Outdoor—Unit 1 | 35 | 22 | 13 |
| Medium Temperature Outdoor—Unit 2 | 35 | 20 | 15 |
| Low Temperature Outdoor—Unit 3 | −10 | −10 | 10 |
| Low Temperature Outdoor—Unit 4 | −10 | −21 | 11 |
| **Condensor** | | | |
| Unit tested | Temperature of air entering the condenser coil (°F) | Saturated condensing temperature (SCT) (°F) | Temperature difference (TD) between entering air and SCT (°F) |
| Medium Temperature Outdoor—Unit 1 | 95 | 109 | 14 |
| Medium Temperature Outdoor—Unit 2 | 95 | 114 | 20 |
| Low Temperature Outdoor—Unit 3 | 95 | 106 | 11 |
| Low Temperature Outdoor—Unit 4 | 95 | 106 | 11 |

The test results for evaporator TDs are close to the values DOE assumed in the NOPR, while the test results for condenser TDs are equal to or lower than the values DOE assumed in the NOPR. Based on these test results, DOE continued to use its assumed values in Table IV.10 for SET, SCT, and TD at the highest ambient rating condition, with the exception of unit cooler (evaporator) TD for medium temperature systems, which DOE changed to 14 °F. To address Nor-Lake's comment, DOE acknowledges that some units may operate with different evaporator TDs, and notes that if a manufacturer believes that the test procedure in its current form does not measure the efficiency of the equipment in a manner representative of its true energy use, the manufacturer may apply for a test procedure waiver. In response to Lennox's comment about constant condenser TD, DOE has updated its model such that, for lower ambient rating conditions, the model recalculates the TD based on the head pressure, with different values for fixed and floating head pressure. The model's treatment of the variable speed condenser fan option also takes the differences in TD into account. DOE discusses these calculations in more detail in chapter 5 of the TSD. To address Lennox's and Heatcraft's concern about baseline SCT values, DOE notes that it did not observe a higher condenser TD in testing than its baseline assumptions. Although DOE recognizes that some units on the market may have higher TDs, DOE is unaware of specific units that have higher TDs. Additionally, assigning a higher TD for the baseline might overestimate the energy savings of design options that lower the TD, such as having a larger condenser coil.

4. Cost Assessment Methodology

a. Teardown Analysis

To calculate the manufacturing costs of the different walk-in components, DOE disassembled baseline equipment. This process of disassembling systems to obtain information on their baseline components is referred to as a ''physical teardown.'' During the physical teardown, DOE characterized each component that makes up the disassembled equipment according to its weight, dimensions, material, quantity, and the manufacturing processes used to fabricate and assemble it. The information was used to compile a bill of materials (BOM) that incorporates all materials, components, and fasteners classified as either raw materials or purchased parts and assemblies.

DOE also used a supplementary method, called a ''virtual teardown,'' which examines published manufacturer catalogs and supplementary component data to estimate the major physical differences between equipment that was physically disassembled and similar equipment that was not. For virtual teardowns, DOE gathered product data such as dimensions, weight, and design features from publicly-available information, such as manufacturer catalogs.

The teardown analyses allowed DOE to identify the technologies that manufacturers typically incorporate into their equipment. The end result of each teardown is a structured BOM, which DOE developed for each of the physical and virtual teardowns. DOE then used the BOM from the teardown analyses as input to the cost model to calculate the manufacturer production cost (MPC) for the product that was torn down. The MPCs derived from the physical and virtual teardowns were then used to develop an industry average MPC for each product class analyzed. See chapter 5 of the TSD for more details on the teardown analysis.

For display doors and non-display freight doors, limited information was publicly available, particularly as to the assembly process and shipping. To compensate for this situation, DOE conducted physical teardowns for two representative units, one within each of these equipment classes. DOE supplemented the cost data it derived from these teardowns with information from manufacturer interviews. The cost models for panels and for non-display structural doors were created by using public catalog and brochure information posted on manufacturer Web sites and information gathered during manufacturer interviews.

For the refrigeration system, DOE conducted physical teardowns of unit cooler and condensing unit samples to construct a BOM. The selected systems were considered representative of baseline, medium-capacity systems, and used to determine the base components and accurately estimate the materials, processes, and labor required to manufacture each individual component. From these teardowns, DOE gleaned important information and data not typically found in catalogs and brochures, such as heat exchanger and fan motor details, assembly parts and processes, and shipment packaging.

b. Cost Model

The cost model is one of the analytical tools DOE used in constructing cost-efficiency curves. DOE derived the cost model curves from the teardown BOMs and the raw material and purchased parts databases. Cost model results are based on material prices, conversion processes used by manufacturers, labor rates, and overhead factors such as depreciation and utilities. For purchased parts, the cost model considers the purchasing volumes and adjusts prices accordingly. Original equipment manufacturers (OEMs), i.e., the manufacturers of WICF components, convert raw materials into parts for assembly, and also purchase parts that arrive as finished goods, ready-to-assemble. DOE bases most raw material prices on past manufacturer quotes that have been inflated to present day prices using Bureau of Labor Statistics (BLS) and American Metal Market (AMM) inflators. DOE inflates the costs of purchased parts similarly and also considers the purchasing volume—the higher the volume, the lower the price. Prices of all purchased parts and non-metal raw materials are based on the most current prices available, while raw metals are priced on the basis of a 5-year average to smooth out spikes. Chapter 5 of the TSD describes DOE's cost model and definitions, assumptions, data sources, and estimates.

c. Manufacturing Production Cost

Once it finalized the cost estimates for all the components in each teardown unit, DOE totaled the cost of the materials, labor, and direct overhead used to manufacture the unit to calculate the manufacturer production cost of such equipment. The total cost of the equipment was broken down into two main costs: (1) The full manufacturer production cost, referred to as MPC; and (2) the non-production cost, which includes selling, general, and administration (SG&A) costs; the cost of research and development; and interest from borrowing for operations or capital expenditures. DOE estimated the MPC at each design level considered for each product class, from the baseline through max-tech. After incorporating all of the data into the cost model, DOE calculated the percentages attributable to each element of total production cost (i.e., materials, labor, depreciation, and overhead). These percentages were used to validate the data by comparing them to manufacturers' actual financial data published in annual reports, along with feedback obtained from manufacturers during interviews. DOE uses these production cost percentages in the MIA (see section IV.K).

In discussing earlier comments received from interested parties, the NOPR's preamble erred in characterizing comments from American Panel as stating that panel costs were around $0.25 per square foot. As a result, US Cooler and American Panel stated that $0.25 per square foot was too low a cost for panels. (US Cooler, Public Meeting Transcrip, No. 88, at p. 19; American Panel, Public Meeting Transcript, No. 88 at p. 20) However, in the NOPR's actual analysis, the Department estimated that the manufacturer production cost of walk-in panels was considerably higher than $0.25 per square foot. The panel costs used in the analysis are listed in Table IV.7.

TABLE IV.7—NOPR INSULATION THICKNESS MATERIAL AND LABOR COST

| Insulation thickness *in* | Material | Material/labor cost for non-floor panels *$/ft²* | Material/labor cost for floor panels *$/ft²* |
|---|---|---|---|
| 3.5 | Polyurethane | $5.06 | $5.50 |
| 4 | Polyurethane | 5.22 | 5.64 |
| 5 | Polyurethane | 5.58 | 5.99 |
| 6 | Polyurethane | 5.92 | 6.33 |

Based on manufacturer feedback, the Department further revised its cost model, which resulted in increased insulation prices. The material and labor prices used to characterize the cost of walk-in panels used in the analysis for this final rule are listed in Table IV.8.

TABLE IV.8—FINAL RULE INSULATION THICKNESS MATERIAL AND LABOR COST

| Insulation thickness *in* | Material | Material/labor cost for non-floor panels *$/ft²* | Material/labor cost for floor panels *$/ft²* |
|---|---|---|---|
| 3.5 | Polyurethane | $6.62 | $7.14 |
| 4 | Polyurethane | 6.83 | 7.34 |
| 5 | Polyurethane | 7.248 | 7.81 |
| 6 | Polyurethane | 7.652 | 8.21 |

In the NOPR, in an effort to capture the anticipated cost reduction in LED fixtures in the analyses, DOE incorporated price projections from its Solid State Lighting program into its MPC values for the primary equipment classes. The price projections for LED case lighting were developed from projections developed for the DOE's Solid State Lighting Program's 2012 report, Energy Savings Potential of Solid-State Lighting in General Illumination Applications 2010 to 2030 (''the energy savings report''). ASAP, et al. supported the use of price projections in DOE's analysis because LED prices are likely to drop in the future as market penetration increases. (ASAP et al., No. 113 at p. 4) More details about DOE price projections for LEDs are described in Chapter 5 of the TSD.

d. Manufacturing Markup

DOE uses MSPs to conduct its downstream economic analyses. DOE calculated the MSPs by multiplying the manufacturer production cost by a markup and adding the equipment's shipping cost. The production price of the equipment is marked up to ensure that manufacturers can make a profit on the sale of the equipment. DOE gathered

information from manufacturer interviews to determine the markup used by different equipment manufacturers. Using this information, DOE calculated an average markup for each component of a walk-in, listed in Table IV.9.

TABLE IV.9—MANUFACTURER MARKUPS

| Walk-in component | Markup (percent) |
|---|---|
| Panels | 32 |
| Display Doors | 50 |
| Non-Display Doors | 62 |
| Refrigeration Equipment | 35 |

e. Shipping Costs

The shipping rates in the NOPR, were developed by conducting market research on shipping rates and by interviewing manufacturers of the covered equipment. For example, DOE found through its research that most panel, display door, and non-display door manufacturers use less than truck load freight to ship their respective components and revised its estimated shipping rates accordingly. DOE also found that most manufacturers, when ordering component equipment for installation in their particular manufactured product, do not pay separately for shipping costs; rather, it is included in the selling price of the equipment. However, when manufacturers include the shipping costs in the equipment selling price, they typically do not mark up the shipping costs for profit, but instead include the full cost of shipping as part of the price quote. DOE has revised its methodology accordingly. Please refer to chapter 5 of the TSD for details.

American Panel commented that the estimated shipping costs for 5-inch panels could be significantly higher than shipping costs for 4-inch panels and could range for a 67 percent to 140 percent increase. (American Panel, No. 99 at p. 6) Artic Industries commented that shipping has generally increased over the years and thicker panels will cause additional increases in the shipping price. (Artic Industries, No. 88 at pp. 301–304) US Cooler commented that DOE should not estimate shipping just by weight and volume because less than truck load shipment limit the amount of square footage a manufacturer can use per shipment. (US Cooler, No. 88 at p. 305) DOE appreciates American Panel's and Artic Industries comment on shipping. The Department found that while insulation thickness was a factor in increased shipping costs, so was the size of the walk-in being shipped. DOE modeled six different sized walk-ins each with 3.5-inch, 4-inch, 5-inch and 6-inch thick insulation. DOE used a weighted average based on using each walk-in's estimated market share to develop a shipping price for square foot of panel. DOE appreciates US Coolers comment and accounted for a square footage limit in the shipping costs.

5. Energy Consumption Model

In the NOPR, DOE proposed using an energy consumption model to estimate separately the energy consumption of panels, display doors, non-display doors and entire refrigeration systems at various performance levels using a design-option approach. DOE developed the model as a Microsoft Excel spreadsheet. The models estimate the performance of the baseline equipment and levels of performance above the baseline associated with specific design options that are added cumulatively to the baseline equipment. The model did not account for interactions between refrigeration systems and envelope components, nor did it address how a design option for one component may affect the energy consumption of other components.

At the public meeting, Heatcraft requested that DOE share modeling tool and baseline assumptions used for the engineering analysis. (Heatcraft, Public Meeting Transcript, No. 88 at p. 123) DOE posted the spreadsheets used to model the energy consumption of walk-in panels, doors, and refrigeration systems to the WICF energy conservation standards rulemaking docket Web page, located at: *http://www.regulations.gov/#!docketDetail;D=EERE-2008-BT-STD-0015*

In comments on the NOPR, Lennox stated that the results of the DOE model were not validated with actual laboratory results. (Lennox, No. 109 at p. 2) KeepRite noted that the DOE model was not verified through testing or prototyping, and was therefore overestimating the efficiency gain achievable by manufacturers. (KeepRite, No. 105 at p. 1) Since the publication of the NOPR, DOE has conducted additional testing to support its analysis. See chapter 5 for details.

a. Panels and Doors

In the NOPR performance model for walk-in panels, doors, and display doors, DOE used various assumptions to estimate the performance of each WICF component. In the NOPR, DOE used polyurethane insulation with a thermal resistance of 6.82 ft-h-°F/Btu-in for panels and non-display doors. This thermal resistance accounted for the aging of insulation when measuring walk-in panel performance. See 76 FR at 21612. DOE proposed in a separate rulemaking to eliminate the long term thermal aging test procedure. In this final rule, DOE's analysis used as its industry representative baseline panel a panel comprised of polyurethane insulation, which has as a thermal resistance value, without accounting for long term thermal aging, of 8 ft-h-°F/Btu-in. DOE also received a comment on the thermal resistance used in the non-display door model. IB commented that the insulation's age had no significant impact on door performance. (IB, No. 98 at p. 2) DOE agrees with IB's comment. The aging of insulation in non-display doors is not measured by the DOE test procedure and therefore does not have an impact on the door's performance. In the final rule analysis, DOE modeled its non-display doors assuming they would use polyurethane insulation with a thermal resistance of 8 ft-h-°F/Btu-in.

In the NOPR, DOE requested comment on the performance data of panels, non-display doors, and display doors which was calculated by the Department's energy consumption models and found in appendix 5A of the NOPR TSD. DOE requested that interested parties produce additional data regarding about the thermal resistance performance of panels, display doors, or non-display doors and their design options. Bally commented that DOE's evaluation of non-display doors was inappropriate because it did not account for the impact of the door frame. Bally recommended DOE evaluate the door frame along with the door cap. (Bally, No. 102 at p. 4) Bally added that the majority of heat through non-display doors was at the periphery rather than the center of the door. (Bally, Public Meeting Transcript, No. 88 at p. 122) Bally expanded on this comment by explaining that doors are not sealed tightly and it recommended that DOE account for the heat gain caused by these gaps. (Bally, No. 102 at p. 4) DOE appreciates Bally's comment, but notes that it did not account for gaps around the perimeter of doors. The Department did not adopt a test procedure that measured heat gain via infiltration and therefore did not consider gaps in the doors to have an impact on the performance of the door as measured by the DOE test procedure.

In the NOPR, DOE evaluated the energy consumption associated with individual panels and doors at various sizes. As a result of this methodology, DOE associated design options such as occupancy sensors with one door. DOE recognizes that in the marketplace, one

occupancy sensor may serve multiple doors, and received a comment from NEEA, et al. confirming this practice. (NEEA, et al., No. 101 at p. 5) However, DOE is regulating display doors as single component and therefore assumed that all the costs and benefits of an occupancy sensor would be associated with the individual door. Although occupancy sensors may be applied over multiple doors, it is possible that a single display door could be installed in a walk-in with a single occupancy sensor. The Department chose this more conservative path and assumed one occupancy sensor per door.

b. Refrigeration Systems

The CA IOUs made several recommendations for changing the refrigeration system model, particularly for the condensing unit. First, they noted that published condensing unit capacity ratings are overestimated by approximately 35 percent because they rely on compressor capacity information based on a 65 °F return gas temperature, whereas return gas temperature is more likely to be around 41 °F for coolers and 5 °F for freezers. Furthermore, they stated that the productive capacity of a walk-in system is more closely represented by the enthalpy difference between the liquid line enthalpy and the enthalpy of the refrigerant at approximately 10 °F superheat. (CA IOUs, No. 110 at pp. 3–4)

DOE agrees with the assessment by the CA IOUs that current published capacity ratings for WICF components are not necessarily indicative of the capacity of a system made up of those components when that system is tested under AHRI 1250, because AHRI 1250 has different rating conditions than the test procedures currently used to rate the components individually. DOE has adjusted its engineering model to more closely replicate unit performance under the test procedure based on additional test data developed during the NOPR phase. In the energy consumption model, return gas temperature is calculated based on an assumed evaporator superheat (i.e., heating of the refrigerant gas above its saturation temperature, measured at the evaporator exit) and compressor superheat (i.e., heating of the refrigerant gas above its saturation temperature, measured at the suction line entrance to the condensing unit), which are in turn based on test results. The evaporator superheat can be manually set by adjusting the expansion valve; manufacturers typically include recommended evaporator superheat ranges in their installation literature (for instance, one manufacturer recommends an evaporator superheat of 4 to 6 °F for low temperature applications). The compressor superheat is equal to the evaporator superheat plus additional refrigerant temperature rise in the suction line plus the dew point temperature reduction associated with the suction line pressure drop. The energy model calculates the capacity of the system based on the refrigerant enthalpy difference between the unit cooler entrance (liquid line) and exit (suction line), accounting for evaporator superheat, as recommended by CA IOUs. Additional warming of the refrigerant in the suction line is not considered to represent additional capacity, but it reduces refrigerant density and, by extension, condensing unit capacity. The model assumes that the unit does not use a suction line heat exchanger. Similarly, pressure drop in the suction line is also accounted for in the model.

With respect to modeling systems with electric defrost in the NOPR, DOE's analysis applied a temperature-terminated defrost approach for all defrost control schemes (baseline or higher)—that is, once a defrost is initiated, the defrost mechanism continues to heat the evaporator coil until the coil temperature reaches 45 °F, which ensures that the coil is fully defrosted. In the engineering model for electric defrost, DOE calculated the defrost time based on the amount of heat applied by the defrost mechanism and the amount of heat energy it would take to heat the coil and melt the ice, with a ''bypass factor'' accounting for heat lost into the coil's surroundings and not used to heat the coil.

Lennox commented that DOE's calculations for defrost time were too short, and that a typical defrost duration would be in the 20 to 30 minute range, and upwards of 45 to 60 minutes for larger electric defrost units. (Lennox, No. 109 at p. 7)

After further evaluation, DOE agrees with Lennox's assessment. DOE conducted testing of low temperature refrigeration systems and found defrost times of approximately 30 minutes. DOE updated its assumptions in the engineering analysis to assume a 30-minute defrost duration for electric defrost systems smaller than 50,000 Btu/h. In the absence of test data for very large systems, DOE believes Lennox's estimates are reasonable and has increased the assumed defrost time to 45 minutes for electric defrost systems between 50,000 and 75,000 Btu/h and 1 hour for electric defrost systems larger than 75,000 Btu/h for larger electric defrost units it analyzed.

DOE also included drain line heater wattage in the NOPR analysis for low-temperature units. Lennox noted that drain-line heaters are not typically supplied by the manufacturer of the main component (i.e. the unit cooler). (Lennox, No. 109 at p. 7) Accordingly, DOE has removed this from the energy model.

For more details on the energy model, see chapter 5 of the TSD.

6. Design Options

a. Panels and Doors

DOE evaluated the following design options in the NOPR analysis for panels, display doors, and non-display doors:

Panels
- Increased insulation thickness up to 6 inches
- Improved insulation material
- Improved framing material

Display Doors
- Electronic lighting ballasts and high-efficiency lighting
- Occupancy sensors
- Display and window glass system insulation performance
- Anti-sweat heater controls
- No anti-sweat systems

Non-Display Doors
- Increased insulation thickness up to 6 inches
- Improved insulation material
- Improved panel framing material
- Display and window glass system insulation performance
- Anti-sweat heater controls
- No anti-sweat systems

DOE received a number of comments on increased panel thickness. In the NOPR, DOE increased the thickness of walk-in panels from the market representative baseline of 3.5 inches of polyurethane for walk-in cooler structural panels and freezer floor panels to 4 inches, 5 inches, and 6 inches. For walk-in freezer structural panels DOE increased the panel thickness from the baseline of 4 inches to 5 inches and 6 inches. Nor-Lake and American Panel commented that increased insulation thickness resulted in longer cure times. These manufacturers commented that it takes 25 or 30 minutes to cure 4 inch thick panels, 45 minutes to cure 5 inch thick panels, and 60 minutes to cure 6 inch thick panels. (Nor-Lake, No. 115 at p. 1; American Panel, No. 99 at pp. 5 and 6) In response to these comments, DOE accounted for increased cure time in the panel cost model.

Nor-Lake and Manitowoc also stated that increasing the thickness of insulation provided only a minimal amount of R-value improvement. (Nor-lake, No. 115 at p. 1; Manitowoc, No.

108 at p. 3) DOE notes that it found that increasing the thickness of a panel directly improves the panel's efficiency. Accordingly, in preparing the analysis for this final rule, DOE continued to use increased panel thickness as a design option.

To improve the insulation material, DOE evaluated hybrid panels, which are a sandwich of polyurethane and vacuum-insulated panels (VIPs). Nor-Lake commented that vacuum-insulated panels were cost prohibitive and technologically infeasible. (Nor-Lake, No. 115 at p. 2) Bally also commented that VIPs were not economically practical and therefore should be excluded as a design option. (Bally, No. 102 at p. 2) Thermo-Kool remarked that VIPs were too fragile and too expensive to be used in walk-ins. (Thermo-Kool, No. 97 at p. 2)

DOE considered vacuum-insulated panels as a design option in its engineering analysis because they have the potential to improve equipment efficiency, are available on the market today, are currently used in refrigeration products. 10 CFR part 430, subpart C, appendix A, sections (4)(a)(4) and (5)(b). DOE agrees with Thermo-Kool that VIPs may be too fragile for walk-in applications and therefore incorporated VIPs as part of a hybrid panel, which sandwiches the VIPs in 2-inch polyurethane layers. However, DOE understands that there is a high level of cost required in implementing this design option, including redesign costs, and sought to reflect that through appropriate cost values obtained from manufacturer interviews and other sources and included in its analyses. As a result, vacuum-insulated panels appear only in max-tech designs for each equipment class, and are not included in any of the modeled configurations selected in setting the standard levels put forth in this rule.

Bally commented that DOE should consider pocket connectors as a design option for panels (Bally, Public Meeting Transcript, No. 88 at p. 148) DOE appreciates Bally's suggestion, but as previously described in this final rule notice the Department's test procedure for walk-in panels only measures the insulation's thermal resistance. Therefore, this technology would not result in energy savings as measured by the test procedure.

DOE received a few comments on the design options evaluated for display doors. NEEA, et al. and the CA IOUs suggested that DOE consider low-e, gas filled glazing for medium temperature display doors. (NEEA et al., No. 101 at p.5; CA IOUs, No. 110 at p. 4) DOE clarifies that it evaluated 3 improved glass packs above the baseline, which included more efficient gas fills low-emissivity glazed panes, and additional glass panes. Chapter 5 of the TSD explains the design options for display doors in more detail.

NEEA, et al. also recommended that DOE exclude lighting from the door frame assembly because it is not physically part of the door and because LEDs are already common in the WICF market. NEEA, et al. stated that the inclusion of lighting into the standards for doors would cause difficulty in enforcing compliance because no doors are shipped with lighting. (NEEA, et al., No. 101 at p. 5). In its market assessment, DOE found that lighting is typically installed and sold as part of the door assembly. Therefore, DOE continued to account for lighting used with display doors. DOE does not expect that including lighting will complicate enforcement of DOE standards because it is sold with the display door as integrated componentry. DOE agrees that LEDs are common in the WICF market and has accounted for the market share of LEDs as part of the efficiency distribution in the shipments analysis, detailed in chapter 9 of the TSD.

Bally remarked that it was unclear as to what technology DOE was referring to by ''automatic door opener/closer.'' Bally asked for clarification as to how the power draw of opening and closing devices was to be evaluated. (Bally, No. 102 at p.5) DOE notes that because the test procedure does not measure heat gain from infiltration, it did not account for door openings and closings as part of its list of potential design options. See section III.B, infra.

IB commented that edging material had no significant impact on door performance. (IB, No. 98 at p. 2) IB may be correct in that the edging material does not have a significant impact on door performance in real world applications. However, the DOE test procedure for doors measures the thermal performance for the entire door, including any materials in the edge of the door. Additionally, DOE notes that the edge materials, which could act like a thermal bridge, would have an impact on the performance of the door. For this reason, DOE continued to evaluate the possibility of using improved framing materials for non-display doors.

b. Refrigeration

DOE included the following design options in the NOPR analysis:

- Higher efficiency compressors
- Improved condenser coil
- Higher efficiency condenser fan motors
- Improved condenser and evaporator fan blades
- Ambient sub-cooling
- Evaporator and condenser fan control
- Defrost control
- Hot gas defrost
- Head pressure control

DOE described the design options in detail in chapter 5 of the NOPR TSD. In the notice, DOE requested comment on the design options, particularly improved condenser coil, fan motor efficiency, fan motor controls, and floating head pressure. In response, DOE received comments on these and other options.

Larger Condenser Coil

In the NOPR, DOE considered a larger condenser coil as a design option, which would reduce the condenser TD, increasing system capacity and resulting in a higher AWEF. DOE increased the fan power proportionally to coil size, but requested comment on whether increasing the condenser coil size would require an increase in evaporator coil size. 78 FR at 55816. Hussmann commented that a larger condenser coil would not require a larger evaporator coil. (Hussmann, No. 93 at p. 5) Furthermore, DOE's analysis did not indicate that a larger evaporator coil would be required. Accordingly, DOE is not implementing a larger evaporator coil along with the larger condenser coil design option in the final rule analysis.

Defrost Controls

In the preliminary analysis, DOE assumed that a demand defrost control would be tested using the optional demand defrost test in AHRI 1250, section C11.2 and would have the equivalent effect of reducing the number of defrosts per day by 50 percent. However, stakeholder comments on the preliminary analysis stated that a 50 percent reduction was too difficult to achieve using current technologies. Therefore, in the NOPR, for the defrost controls design option, DOE applied a generic defrost control that would have the effect of reducing the number of defrosts per day by 40 percent. 78 FR at 55818. In comments on the NOPR assumption, Manitowoc noted that demand-defrost systems had been shown to reduce the number of defrost cycles as much as 80 percent compared to ''timed defrost'' systems. (Manitowoc, No. 108 at p. 3) DOE acknowledges that the energy savings due to demand-defrost systems may vary widely depending on the control mechanism; however, given the range of stakeholder comments it has received on the issue, believes an 80 percent reduction is too aggressive. DOE notes that its recently

adopted approach with respect to the measurement of refrigeration system performance [79 FR 27387], provides a default value for the reduction in defrosts from 4 to 2.5 defrosts per day due to demand-defrost controls. DOE has applied this default value in the engineering analysis for the final rule. For more details, see chapter 5.

Hot Gas Defrost

In the NOPR, DOE included hot gas defrost as a design option for multiplex condensing systems because it assumed the unit cooler could use hot gas generated by the compressor rack. DOE did not include hot gas defrost as a design option for dedicated condensing systems because DOE did not believe it was effective at saving energy. 78 FR at 55804. In response, Heat Transfer commented that it manufactured many dedicated systems with hot gas defrost, which increased the efficiency of the unit. (Heat Transfer, Public Meeting Transcript, No. 88 at p. 140) After further review, DOE agrees with Heat Transfer that hot gas defrost is a valid design option for dedicated condensing systems as well as unit coolers connected to multiplex systems, and has implemented this option in the analysis. Heat Transfer's literature claims that hot gas defrost causes systems to defrost four times faster, but did not have specific details on the energy savings. See chapter 5 for further details on the hot gas defrost design option.

Fan and Motor Efficiency

In the NOPR, DOE assumed that baseline evaporator fan motors would be electronically commutated motors (ECMs), while baseline condenser fan motors would be permanent split capacitor (PSC) motors. One design option was to replace PSC motors in condenser fans with more-efficient ECMs. This approach was consistent with EPCA, which specified that evaporator fan motors of under 1 horsepower and less than 460 volts must use electronically commutated motors or 3-phase motors and condenser fan motors of under 1 horsepower must use electronically commutated motors, permanent split capacitor-type motors, or 3-phase motors. (42 U.S.C. 6313(f)(1)(E)-(F)) In the NOPR, DOE screened out 3-phase motors from its design options because not all customers have 3-phase power, although it noted that this would in no way prohibit manufacturers from using them to improve rated energy use. 78 FR at 55805.

In comments on the NOPR, Regal-Beloit noted that three-phase motors and multi-horsepower ECMs could greatly improve unit efficiency. ebm-papst also commented that evaporator fans for WICFs did not necessarily have to be axial fans and that other types of air-moving devices, such as backward curved motorized impellers, may be a more efficient choice for certain refrigeration systems due to their aerodynamic characteristics. (ebm-papst, No. 92 at p. 5) Hussmann stated that the only way to accurately obtain fan motor power is to test the fan motors in-unit, or reference the fan, motor, and coil operating curves to determine power consumption at the desired CFM and pressure differential. (Hussmann, No. 93 at p. 5)

DOE agrees with Regal-Beloit and ebm-papst that other, more efficient types of fans and motors may exist and may be used by manufacturers to improve the efficiency of their WICF equipment. DOE is continuing to screen out 3-phase motors based on utility to the consumer, because not all customers would have 3-phase power. In response to Hussmann's comment, DOE notes that Hussmann did not provide any detailed fan information for WICFs that DOE could use in the analysis. Furthermore, DOE does not believe that the consideration of such detailed information would significantly improve the analysis, as DOE believes it has made reasonable, conservative estimates for fan efficiency based on stakeholder comments and market research.

Evaporator Fan Controls

In the NOPR, DOE applied both modulated evaporator fan controls and variable speed evaporator fan controls design options for all classes analyzed. A modulated fan control cycles the fans at a 50 percent duty cycle when the compressor cycles off, while variable speed fan control reduces fan speed during the off-cycle. To account for these types of controls, DOE's analysis reduced the fan speed to 50 percent. Lennox commented that the model takes into account variable speed during refrigeration, which would incorrectly reflect a greater AWEF value. (Lennox, No. 109 at p. 7) Hussmann mentioned that fan modulation always requires an electronic expansion valve (EEV) to function properly, which is not always accounted for in TSL 4. (Hussmann, No. 93 at p. 5) DOE notes that it has applied variable speed evaporator fans to those refrigeration applications where unit coolers are connected to a multiplex condensing unit in order to determine the fan speed during high and low load periods as specified in AHRI 1250, section 7.9. (That section requires that for unit coolers with variable speed evaporator fans that modulate fan speed in response to load, the fan shall be operated under its minimum, maximum and intermediate speed that equals to the average of the maximum and minimum speeds, respectively during the unit cooler test, and quadratic fit equations relating evaporator net capacities, fan operating speed, and fan power consumption be developed.) To address Hussmann's comment, DOE notes that the analysis is conservative regarding the fan speed reduction, with a maximum fan speed reduction of 50 percent. DOE does not expect that the system would need an EEV for this control approach.

Refrigeration Summary

After considering all the comments it received on the design options, DOE applied the following design options in the final rule analysis:

- Higher efficiency compressors
- Improved condenser coil
- Higher efficiency condenser fan motors
- Improved condenser and evaporator fan blades
- Ambient sub-cooling
- Evaporator and condenser fan control
- Defrost control
- Hot gas defrost
- Head pressure control

*E. Markups Analysis*

DOE applies multipliers called ''markups'' to the MSP to calculate the customer purchase price of the analyzed equipment. These markups are in addition to the manufacturer markup (discussed in section IV.D.3.d) and are intended to reflect the cost and profit margins associated with the distribution and sales of the equipment. DOE identified two major distribution channels for walk-ins, and markup values were calculated for each distribution channel based on industry financial data. The overall markup values were then calculated by weighted-averaging the individual markups with market share values of the distribution channels.

In estimating markups for walk-ins and other equipment, DOE developed separate markups for the cost of baseline equipment and the incremental cost of higher-efficiency equipment. Incremental markups are applied as multipliers only to the MSP increments of higher-efficiency equipment compared to baseline, and not to the entire MSP.

See chapter 6 of the final rule TSD for more details on DOE's markups analysis.

*F. Energy Use Analysis*

The energy use analysis estimates the annual energy consumption of refrigeration systems serving walk-ins and the energy consumption that can be directly ascribed to the selected components of the WICF envelopes. These estimates are used in the subsequent LCC and PBP analyses and NIA.

The estimates for the annual energy consumption of each analyzed representative refrigeration system (see section IV.C.2) were derived assuming that (1) the refrigeration system is sized such that it follows a specific daily duty cycle for a given number of hours per day at full rated capacity, and (2) the refrigeration system produces no additional refrigeration effect for the remaining period of the 24-hour cycle. These assumptions are consistent with the present industry practice for sizing refrigeration systems. This methodology assumes that the refrigeration system is paired with an envelope that generates a load profile such that the rated hourly capacity of the paired refrigeration system, operated for the given number of run hours per day, produces adequate refrigeration effect to meet the daily refrigeration load of the envelope with a safety margin to meet contingency situations. Thus, the annual energy consumption estimates for the refrigeration system depend on the methodology adopted for sizing, the implied assumptions and the extent of oversizing. The sizing methodology is further discussed later in this section.

For the envelopes, the estimates of equipment and infiltration loads are no longer used in estimating energy consumption in the analysis because these factors are not intended to be mitigated by any of the component standards. DOE calculated only the transmission loads across the envelope components under test procedure conditions and combined that with the annual energy efficiency ratio (AEER) to arrive at the annual refrigeration energy consumption associated with the specific component. AEER is a ratio of the net amount of heat removed from the envelope in Btu by the refrigeration system and the annual energy consumed in watt-hours using bin temperature data specified in AHRI 1250–2009 to calculate AWEF. The annual electricity consumption attributable to any envelope component is the sum of the direct electrical energy consumed by electrically-powered sub-components (e.g., lights and anti-sweat heaters) and the refrigeration energy, which is computed by dividing the transmission heat load traceable to the envelope component by the AEER metric, where the AEER metric represents the efficiency of the refrigeration system with which the envelope is paired.

DOE estimated the annual energy consumption per unit of the specific envelope components by calculating the transmission load of the component over 24 hours under the test procedure conditions, and then calculating the annual refrigeration energy consumption attributed to that component by applying an appropriate AEER value. DOE used the same approach for the final rule's analysis.

1. Sizing Methodology for the Refrigeration System

The load profile of WICF equipment that DOE used broadly follow the load profile assumptions of the industry test procedure for refrigeration systems—AHRI 1250–2009. As noted earlier, that protocol was incorporated into DOE's test procedure. 76 FR 33631 (June 9, 2011).

As a result, the DOE test procedure incorporates an assumption that, during a 24-hour period, a WICF refrigeration system experiences a high-load period of 8 hours corresponding to frequent door openings, equipment loading events, and other design load factors, and a low-load period for the remaining 16 hours, corresponding to a minimum load resulting from conduction, internal heat gains from non-refrigeration equipment, and steady-state infiltration across the envelope surfaces. During the high-load period, the ratio of the envelope load to the net refrigeration system capacity is 70 percent for coolers and 80 percent for freezers. During the low-load period, the ratio of the envelope load to the net refrigeration system capacity is 10 percent for coolers and 40 percent for freezers. The relevant load equations correspond to a duty cycle for refrigeration systems, where the system runs at full design point refrigeration capacity for 7.2 hours per day for coolers and 12.8 hours per day for freezers. Specific equations to vary load based on the outdoor ambient temperature are also specified.

For this final rule, DOE concluded that the duty cycle assumptions of AHRI 1250–2009 should not be used for the sizing purposes because they may not represent the average conditions for WICF refrigeration systems for all applications under all conditions. DOE recognizes that test conditions are often designed to effectively compare the performance of equipment with different features under the same conditions.

As it did for the NOPR, DOE used a nominal run time of 16 hours per day for coolers and 18 hours per day for freezers over a 24-hour period to calculate the capacity of a ''perfectly'' sized refrigeration system. A fixed oversize factor of 10 percent was then applied to this size to calculate the actual runtime. With the oversize factor applied, DOE assumes that the runtime of the refrigeration system is 13.3 hours per day for coolers and 15 hours per day for freezers at full design point capacity. The reference outside ambient temperatures for the design point capacity conform to the AHRI 1250–2009 conditions incorporated into the DOE test procedure and are 95 °F and 90 °F for refrigeration systems with outdoor and indoor condensers, respectively.

2. Oversize Factors

As stated previously, DOE observed that the typical and widespread industry practice for sizing the refrigeration system is to calculate the daily heat load on the basis of a 24-hour cycle and divide by 16 hours of runtime for coolers and 18 hours of runtime for freezers. Based on discussions with purchasers of walk-ins, DOE found that it is customary in the industry to add a 10 percent safety margin to the aggregate 24-hour load, resulting in 10 percent oversizing of the refrigeration system.

Further, DOE recognized that an exact match for the calculated refrigeration capacity may not be available for the refrigeration systems available in the market because most refrigeration systems are mass-produced in discrete capacities. The capacity of the best matched refrigeration system is likely to be the nearest higher capacity refrigeration system available. This consideration led DOE to develop a scaled mismatch factor that could be as high as 33 percent for the smaller refrigeration system sizes, and was scaled down for the larger sized units. DOE applied this mismatch oversizing factor to the required refrigeration capacity at the high-load condition to determine the required capacity of the refrigeration system to be paired with a given envelope.

In preparing the NOPR analysis, DOE considered comments from interested parties and recalculated the mismatch factor because compressors for the lower capacity units are available at smaller size increments than what DOE had initially assumed in the preliminary analysis. For larger sizes, the size increments of available capacities are higher than size increments available for the lower capacities. DOE further noted as part of the revised analysis that under current industry practice, if the exact calculated size of the refrigeration

system with a 10 percent safety margin is not available in the market, the user may choose the closest matching size even if it has a lower capacity, allowing the daily runtimes to be somewhat higher than their intended values. The designer would recalculate the revised runtime with the available lower capacity and compare it with the target runtime of 16 hours for coolers and 18 hours for freezers and, if this value falls within acceptable limits, then the chosen size of the refrigeration system is accepted and there is no mismatch oversizing.

DOE further examined the data of available capacities in published catalogs of several manufacturers and noted that the range of available capacities depends on compressor type and manufacturer. Furthermore, because smaller capacity increments are available for units in the lower capacity range and larger capacity increments are available for units in the higher capacity range, the mismatch factor is generally uniform over the range of equipment sizes. For the NOPR, DOE tentatively concluded from these data that a scaled mismatch factor linked to the target capacity of the unit may not be applicable, but that the basic need to account for discrete capacities available in the market is still valid. To this end, for the final rule DOE applied a uniform average mismatch factor of 10 percent over the entire capacity range of refrigeration systems.

To estimate the runtimes for the NOPR, DOE started with nominal runtimes of 16 hours for coolers, and 18 hours for freezers. However, these runtimes are appropriate for perfectly sized refrigeration systems, and do not account for equipment oversizing. DOE estimated runtimes as a function of this oversizing in accordance with industry practice (see chapter 7 of the final rule TSD).

Several stakeholders commented that the runtime assumptions were too short, and should be increased to 18 hours for larger walk-ins used by convenience and grocery stores (ACCA, No. 119, at p. 3), or 16 hours for walk-in coolers and 20 hours for walk-in freezers (NorLake, No. 115, at p. 2), or 16 hours for walk-in coolers and 18 hours for walk-in freezers (Manitowoc, No. 108; at p. 3).

It is not clear whether the values cited in the comments refer to nominal runtimes. If so, DOE's assumptions are roughly similar to the values cited in the comments. Because the comments regarding runtimes do not provide enough evidence for DOE to revise its assumptions, DOE maintained the same approach for estimating runtimes as it used in the NOPR.

*G. Life-Cycle Cost and Payback Period Analysis*

DOE conducts LCC and PBP analyses to evaluate the economic impacts of potential energy conservation standards for walk-ins on individual customers—that is, buyers of the equipment. As stated previously, DOE adopted a component-based approach for developing performance standards for walk-in coolers and freezers. Consequently, the LCC and PBP analyses were conducted separately for the refrigeration system and the envelope components: panels, non-display doors, and display doors.

The LCC is defined as the total consumer expense over the life of a piece of equipment, consisting of purchase, installation, and operating costs (expenses for energy use, maintenance, and repair). To calculate the operating costs, DOE discounts future operating costs to the time of purchase and sums them over the lifetime of the equipment. The PBP is defined as the estimated number of years it takes customers to recover the increased purchase cost (including installation) of more efficient equipment. The increased purchase cost is derived from the higher first cost of complying with the higher energy conservation standard. DOE calculates the PBP by dividing the increase in purchase cost (normally higher) by the change in the average annual operating cost (normally lower) that results from the standard.

For any given efficiency level, DOE measures the PBP and the change in LCC relative to the base-case equipment efficiency levels. The base-case estimate reflects the market without new or amended energy conservation standards. For walk-ins, the base-case estimate assumes that newly manufactured walk-in equipment complies with the existing EPCA requirements and either equals or exceeds the efficiency levels achievable by EPCA-compliant equipment. Inputs to the economic analyses include the total installed operating, maintenance, and repair costs.

Inputs to the calculation of total installed cost include the cost of equipment—which consists of manufacturer costs, manufacturer markups, distribution channel markups, and sales taxes—and installation costs. Inputs to the calculation of operating expenses include annual energy consumption, energy prices and price projections, repair and maintenance costs, equipment lifetimes, discount rates, and the year that compliance with standards is required. DOE created probability distributions for equipment lifetime inputs to account for their uncertainty and variability.

DOE developed refrigeration and envelope component spreadsheet models to calculate the LCC and PBP. Chapter 8 of the final rule TSD and its appendices provide details on the refrigeration and envelope subcomponent spreadsheet models and on all the inputs to the LCC and PBP analyses.

Table IV.12 summarizes DOE's approach and data used to derive inputs to the LCC and PBP calculations for the NOPR and the changes made for this final rule.

TABLE IV.12—SUMMARY OF INPUTS AND METHODS IN THE LCC AND PBP ANALYSIS*

| Inputs | NOPR analysis | Changes for final rule |
|---|---|---|
| **Installed Costs** | | |
| Equipment Cost | • Derived by multiplying manufacturer cost by manufacturer and retailer markups and sales tax, as appropriate.<br>• Includes a factor for estimating equipment price trends due to manufacturer experience. | • No change for systems, and display doors, DOE maintain its use of a declining price trend.<br>• For non-display doors and panels the manufacture experience curve was revised to use constant real prices. |
| Installation Costs | Based on RS Means Mechanical Cost Data 2012. Assumed no change with efficiency level. | No change. |

TABLE IV.12—SUMMARY OF INPUTS AND METHODS IN THE LCC AND PBP ANALYSIS*—Continued

| Inputs | NOPR analysis | Changes for final rule |
|---|---|---|
| **Operating Costs** | | |
| Annual Energy Use | DOE calculated daily load profile of the refrigeration system revised to 13.3 hours runtime per day for coolers and 15 hours for freezers, at full rated capacity and at outside air temperatures corresponding to the reference rating temperatures. | No change. |
| Energy Prices | Commercial and industrial prices of electricity based on Form EIA–826 Database Monthly Electric Utility Sales and Revenue Data. | No change. |
| Energy Price Trends | Forecasted using *AEO2013* price forecasts | No change. |
| Repair and Maintenance Costs. | • Annualized repair and maintenance costs of the combined system were derived from RS Means 2012 walk-in cooler and freezer maintenance data. Doors and refrigeration systems were replaced during the lifetime.<br>• Refrigerant recharge cost set at $0. | Increased refrigerant recharge cost to $500, to reflect industry practice, |
| **Present Value of Operating Cost Savings** | | |
| Equipment Lifetime | Based on manufacturer interviews. Variability: characterized using Weibull probability distributions. | Revised to reflect stakeholder comments, see section IV.G.7 for details. |
| Discount Rates | Based on Damodaran Online, October 2012 | No change. |
| Compliance Date | 2017 | No change. |

* References for the data sources mentioned in this table are provided in the sections following the table or in chapter 8 of the TSD.

1. Equipment Cost

To calculate customer equipment costs, DOE multiplied the MSPs developed in the engineering analysis by the distribution channel markups, described in section IV.E. DOE applied baseline markups to baseline MSPs, and incremental markups to the MSP increments associated with higher efficiency levels.

For the NOPR, DOE developed an equipment price trend for WICFs based on the inflation-adjusted index of the producer price index (PPI) for air conditioning, refrigeration, and forced air heating from 1978 to 2012.[17] A linear regression of the inflation-adjusted PPI shows a downward trend. To project a future trend, DOE extrapolated the historic trend using the regression results. For the LCC and PBP analysis, this default trend was applied between the present and the first year of compliance with amended standards, 2017.

Several commenters stated that, since prices for metal and urethane chemicals have increased about 3 percent annually over the last 20 years, there is no justification for DOE's assumed decrease in prices. (APC, No. 99, at p. 8; ThermoKool, No. 97 at p. 4) Hussmann noted that a large portion of WICF manufacturer cost comes from copper coil and sheet metal; since the prices of these commodities have more than doubled in the last 10 years, Hussmann expects materials costs to increase in the future. (Hussmann, No.93, at p. 6) US Cooler pointed out that WICF prices have not decreased since 1986. (US Cooler, No. PMeeting, at pp. 310–311) US Cooler also argued that the WICF industry is dependent on the price of metals. (US Cooler, No. 99 at p. 8)

DOE believes that the comments on past prices likely refer to nominal prices, since that is what manufacturers see. The PPI index that DOE used shows a slight increasing trend from 1980 to 2012. DOE uses real (inflation-adjusted) prices throughout its analysis, however, and the inflation-adjusted PPI shows a slight declining trend. For the final rule, DOE used a more disaggregated PPI: for commercial refrigerators and related equipment. The exponential fit that was derived exhibits a very slight declining trend, which DOE generally applied for WICFs.

However, DOE determined that this trend was inappropriate for panels and non-display doors, where the majority of the manufacturer cost is polyurethane foam insulation. For these equipment classes DOE used constant real prices when estimating future equipment price. For details on the estimation of future equipment price, see appendix 8D of the final rule TSD.

2. Installation Costs

Installation cost includes labor, overhead, and any miscellaneous materials and parts needed to install the equipment. For the NOPR analysis, DOE included refrigeration system component installation costs based on *RS Means Mechanical Cost Data 2012*.[18] Refrigeration system installation costs included separate installation costs for the condensing unit and unit cooler. DOE continued with this approach for refrigeration systems in preparing this final rule.

For the NOPR, DOE estimated installation costs separately for panels, non-display doors, and display doors. Installation costs for panels were calculated per square foot of area while installation costs for non-display doors were calculated per door. Display door installation costs were omitted and assumed to be included in the panel installation costs for display walk-ins. DOE assumed that display doors are either installed along with the other walk-in components and that and the installation costs for the display doors are included in the ''mark-up'' amounts for the OEM channel.

DOE received several comments regarding panel installation costs as a result of increased foam insulation thickness. ICS stated that panels requiring more than 4 inches of foam insulation will require thermal barriers and automatic fire suppression, which are expensive and will place a burden on manufacturers and add unnecessary costs on end users. (ICS, No. 100, at p. 7) Similarly, Nor-Lake asserted that building codes may require a thermal barrier, sprinkler system, or other tests

[17] Bureau of Labor Statistics, *Producer Price Index Industry Data, Series: PCU3334153334153.*

[18] Reed Construction Data, *RSMeans Mechanical Cost Data 2012 Book,* 2012.

if panel foam thickness increases above 4 inches. (Nor-Lake, No. 115 at p. 4)

For cooler and freezer walls greater than 400 ft$^2$, the International Building Code [19] (IBC) requires sprinkler systems and other fire safety criteria regardless of panel thickness.[20] Therefore, there would be no additional installation costs for walk-ins of this size that would be dependent on foam thickness.

For walk-in coolers up to 400 ft$^2$, Section 2603.4.1.3 of the IBC states that these coolers do not require special consideration for foam thickness up to 4 inches if the metal facing is of greater thickness than 0.032-inch or 0.016-inch for aluminum or steel, respectively. For foam thicknesses greater than 4 inches and up to 10 inches, a thermal barrier is required. DOE added the cost of installing a 0.5-inch gypsum thermal barrier when the panel foam thickness exceeds 4 inches.[21] The cost of materials and labor was estimated at $1.53 ft$^2$ (this includes the installation cost for taped, and finished (level 4 finish) fire resistant 0.5-inch gypsum) based on *RSMeans Facilities Construction Cost Data, 2013* [22]. This cost was applied to all installations of walk-ins up to 400 ft$^2$ where foam thickness is greater than 4 inches and up to 10 inches.

3. Maintenance and Repair Costs

Maintenance costs are associated with maintaining the equipment's operation, whereas repair costs are associated with repairing or replacing components that have failed in the refrigeration system and the envelope (i.e. panels and doors). In preparing the final rule's analysis, DOE followed the same approach that it applied for the NOPR analysis with regard to maintenance for display doors with lights. 78 FR 55781, 55828. The remaining data on general maintenance for an entire walk-in were apportioned between the refrigeration system and the envelope doors. Based on the descriptions of maintenance activities in the *RS Means Facilities Maintenance and Repair Cost Data, 2013,*[23] and manufacturer interviews, DOE assumed that the general maintenance associated with the panels is minimal and did not include any maintenance costs for panels in its analysis. RS Means 2013 data provided general maintenance costs for display and storage walk-ins.

For this final rule, the total annual maintenance costs for a walk-in unit range from $172 to $265; of this DOE assumed $152 would be spent on the refrigeration system and the rest would be spent on the display and passage doors of the envelope. Maintenance costs were assumed to be the same across small, medium, and large door sizes in the case of both non-display doors and display doors. As stated previously, annual maintenance costs for the envelope wall and floor panels were assumed to be negligible and were not considered.

Several parties stated that DOE had underestimated the maintenance costs associated with refrigerant leakage and refrigerant charge. (ACCA, No. 119, at p. 3; Nor-Lake, No. 115, at p. 2; ICS, et al., No. 100 at p. 5; NRA No. 112, at p.3). ICS, et al. recommended an annual cost of $500 to $700, while Nor-Lake suggested $600.

Based on the comments received, DOE used an annual cost of $500 to account for system refrigerant recharging.

4. Annual Energy Consumption

Typical annual energy consumption of walk-ins at each considered efficiency level is obtained from the energy use analysis results (see section IV.F of this notice).

5. Energy Prices

DOE calculated average State commercial electricity prices using the U.S. Energy Information Administration's (EIA's) ''Database of Monthly Electric Utility Sales and Revenue Data.'' [24] DOE calculated an average State commercial price by (1) estimating an average commercial price for each utility company by dividing the commercial revenues by commercial sales; and (2) weighting each utility by the number of commercial customers it served by state.

6. Energy Price Projections

To estimate energy prices in future years, DOE extrapolated the average State electricity prices described above using the forecast of annual average commercial electricity prices developed in the Reference Case from *AEO2013*.[25] AEO2013 forecasted prices through 2040. To estimate the price trends after 2040, DOE assumed the same average annual rate of change in prices as from 2031 to 2040.

7. Equipment Lifetime

For the NOPR, DOE estimated lifetimes for the individual components analyzed instead of the entire unit. It used an average lifetime of 15 years for panels, 14 years for display and non-display doors, and 12 years for refrigeration systems. DOE reflects the uncertainty of equipment lifetimes in the LCC analysis for equipment components by using probability distributions.

A number of stakeholders asserted that DOE had overestimated the equipment lifetimes, and that in general the average lifetime for WICFs is 10 years. (NAFEM, No. 118, at p. 3; Bally, No. 102, at p. 2; APC, No. PMeeting, at p. 246; Louisville Cooler, No. PMeeting, at p. 249; Hillphoenix, No. 107 at p. 5) Louisville Cooler stated that WICFs have a wide range of lifetimes, and that a typical fast food or convenience store walk-in unit will have a 10-year life, but institutional walk-ins would have a life up to 20 years. (Louisville Cooler, No. 81 at p. 1)

For refrigeration systems, ThermoKool agreed with the assumed lifetime of 12 years (ThermoKool, No. 97 at p. 3), while Bally and Manitowoc suggested that average system lifetimes are between 6 and 10 years. (Bally, No. 102 at p. 2; Manitowoc, No. 108, at p. 4)

Nor-Lake commented that typical panel lifetime is 10 to 15 years (Nor-Lake, No. 115, at p. 3), while Manitowoc commented that 10 years is more typical. (Manitowoc, No. 108, at p. 4) Several comments stated that panel lifetimes from 7 to 10 years are representative. (IB, No. 98, at p. 3; ThermoKool, No. 97, at p. 3; Hillphoenix, No. 107, at p. 7) Further, IB stated that panel lifetimes should not be less than the minimum lifetime of the door. (IB, No. 98, at p. 3) APC asserted that customers will likely replace the entire WICF when the panels fail if the remaining components are close to end-of-life. (APC, No. PMeeting at p. 244)

ThermoKool and Bally commented that doors have lifetimes of 3 to 5 years and 4 to 6 years, respectively. (ThermoKool, No. 97, at p. 3; Bally, No.

[19] International Code Council, Inc., *International Building Code,* 2012, ISBN: 978–1–60983–040–3.

[20] Section 2603.4.1.2 states that foam plastics used in cooler and freezer walls up to a maximum thickness of 10 inches shall be protected by an automatic sprinkler system. Where the cooler or freezer is within a building, both the cooler or freezer and the part of building in which it is located shall be sprinklered.

[21] Section 2603.4 defines a thermal barrier material where the average temperature of the exposed surface does not rise more than 250 °F after 15 minutes of fire exposure. One can meet this criterion using 0.5 inch gypsum which is rated at.

[22] Reed Construction Data, *RSMeans Facilities Maintenance & Repair 2013 Cost Data Book,* 2013.

[23] Reed Construction Data, *RSMeans Facilities Maintenance & Repair 2013 Cost Data Book.* 2013.

[24] U.S. Energy Information Administration. *EIA–826 Sales and Revenue Spreadsheets.* (Last accessed May 16, 2012). *www.eia.doe.gov/cneaf/electricity/page/eia826.html.*

[25] The spreadsheet tool that DOE used to conduct the LCC and PBP analyses allows users to select price forecasts from either *AEO*'s High Economic Growth or Low Economic Growth Cases. Users can thereby estimate the sensitivity of the LCC and PBP results to different energy price forecasts.

102, at p. 2) Danfoss, Hillphoenix, APC, and IB asserted that doors are replaced every 3 years. (Danfoss, No. PMeeting at p. 239; Hillphoenix, No. 107, at p. 5; APC, No. PMeeting, at p. 246; IB, No. 98, at p. 3) The CA IOUs, after contacting end-users of walk-in doors, stated that their lifetime is approximately 15 years. (CA IOUS, No. 110, at p. 6) CA IOUs further stated that while there is a wide range of lifetimes for freight and panel doors, 8 to 9 years is typical. (CA IOUs, No. 110, at p. 6) Nor-Lake stated that the typical lifetime of a passage door is 8 to 10 years, and the typical lifetime of a freight door is 5 to 7 years. (Nor-Lake, No. 115, at p. 3)

Based on the stakeholder comments, DOE revised its lifetime estimates for this final rule. In all cases, DOE reduced the average equipment lifetime, as shown in Table IV.13. Equipment lifetimes are described in detail in chapter 8 of the final rule TSD.

TABLE IV.13—AVERAGE EQUIPMENT LIFETIMES FOR WALK-IN COOLERS AND FREEZERS (IN YEARS)

| Component | NOPR | Final Rule | |
|---|---|---|---|
| | | Small | All other sizes |
| Display Door | 14 | 12 | 12 |
| Freight Door | 14 | 12 | 6 |
| Passage Door | 14 | 12 | 6 |
| Panel Wall/Floor | 15 | 12 | 12 |
| Refrigeration System | 12 | 10 | 10 |

8. Discount Rates

In calculating the LCC, DOE applies discount rates to estimate the present value of future operating costs to the customers of walk-ins.[26] DOE derived the discount rates for the walk-in analysis by estimating the average cost of capital for a large number of companies similar to those that could purchase walk-ins. This approach resulted in a distribution of potential customer discount rates from which DOE sampled in the LCC analysis. Most companies use both debt and equity capital to fund investments, so their cost of capital is the weighted average of the cost to the company of equity and debt financing.

DOE estimated the cost of equity financing by using the Capital Asset Pricing Model (CAPM).[27] The CAPM assumes that the cost of equity is proportional to the amount of systematic risk associated with a company.

9. Compliance Date of Standards

Amended standards for WICFs apply to equipment manufactured beginning on the date 3 years after the final rule is published unless DOE determines, by rule, that a 3-year period is inadequate, in which case DOE may extend the compliance date for that standard by an additional 2 years. (42 U.S.C. 6313(f)(4)(B)) In the absence of any information indicating that 3 years is inadequate, DOE projects a compliance date for the standards of 2017. Therefore, DOE calculated the LCC and PBP for walk-in coolers and freezers under the assumption that compliant equipment would be purchased in the year when compliance with the new standard is required—2017.

10. Base-Case Efficiency Distributions

To accurately estimate the share of consumers who would likely be impacted by a standard at a particular efficiency level, DOE's LCC analysis considers the projected distribution of equipment efficiencies that consumers purchase under the base case (*i.e.,* the case without new energy efficiency standards). DOE refers to this distribution of equipment efficiencies as a base-case efficiency distribution.

For the NOPR, DOE examined the range of standard and optional equipment features offered by manufacturers. For refrigeration systems, DOE estimated that 75 percent of the equipment sold under the base case would be at DOE's assumed baseline level—that is, the equipment would comply with the existing standards in EPCA, but have no additional features that improve efficiency. The remaining 25 percent of equipment would have features that would increase its efficiency. While manufacturers could have many options, DOE assumed that the average efficiency level of this equipment would correspond to the efficiency level achieved by the baseline equipment with the first design option in the sequence of design options in the engineering analysis ordered by their relative cost-effectiveness.

For panels and non-display doors, DOE estimated that 100 percent of the equipment sold under the base case would consist of equipment at the baseline level—that is, minimally compliant with EPCA. For cooler display doors, DOE assumed that 25 percent of the current shipments are minimally compliant with EISA and the remaining 75 percent are higher-efficiency (45 percent are assumed to have LED lighting, corresponding to the first efficiency level above the baseline in the engineering analysis, and 30 percent are assumed to have LED lighting plus anti-sweat heater wire controls, corresponding to the second efficiency level above the baseline). For freezer display doors, DOE assumed that 80 percent of the shipments would be minimally compliant with EPCA and the remaining 20 percent would have LED lighting, corresponding to the first efficiency level above the baseline. (See section IV.C for a discussion of the efficiency levels and design options in the engineering analysis). For further information on DOE's estimate of base-case efficiency distributions, see chapter 8 of the final rule TSD.

11. Inputs to Payback Period Analysis

Payback period is the amount of time it takes the customer to recover the higher purchase cost of more energy efficient equipment as a result of lower operating costs. Numerically, the PBP is the ratio of the increase in purchase cost to the decrease in annual operating expenditures. This type of calculation is known as a ''simple'' PBP because it does not take into account changes in operating cost over time or the time value of money; that is, the calculation is done at an effective discount rate of zero percent. PBPs are expressed in years. PBPs greater than the life of the equipment mean that the increased total

[26] The LCC analysis estimates the economic impact on the individual customer from that customer's own economic perspective in the year of purchase and therefore needs to reflect that individual's own perceived cost of capital. By way of contrast DOE's analysis of national impact requires a societal discount rate. These rates used in that analysis are 7 percent and 3 percent, as required by OMB Circular A–4, September 17, 2003.

[27] Harris, R.S. *Applying the Capital Asset Pricing Model.* UVA–F–1456. Available at SSRN: *http://ssrn.com/abstract=909893.*

installed cost of the more-efficient equipment is not recovered in reduced operating costs over the life of the equipment.

The inputs to the PBP calculation are the total installed cost to the customer of the equipment for each efficiency level and the average annual operating expenditures for each efficiency level in the first year. The PBP calculation uses the same inputs as the LCC analysis, except that electricity price trends and discount rates are not used.

12. Rebuttable-Presumption Payback Period

Sections 325(o)(2)(B)(iii) and 345(e)(1)(A) of EPCA (42 U.S.C. 6295(o)(2)(B)(iii) and 42 U.S.C. 6316(a)(A)) establish a rebuttable presumption applicable to walk-ins. The rebuttable presumption states that a new or amended 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. This rebuttable presumption test is an alternative way of establishing economic justification.

To evaluate the rebuttable presumption, DOE estimated the additional cost of purchasing more-efficient, standards-compliant equipment, and compared this cost to the value of the energy saved during the first year of operation of the equipment. DOE views the increased cost of purchasing standards-compliant equipment as including the cost of installing the equipment for use by the purchaser. DOE calculated the rebuttable presumption payback period (RPBP), or the ratio of the value of the increased installed price above the baseline efficiency level to the first year's energy cost savings. When the RPBP is less than 3 years, the rebuttable presumption is satisfied; when the RPBP is equal to or more than 3 years, the rebuttable presumption is not satisfied. Note that this PBP calculation does not include other components of the annual operating cost of the equipment (*i.e.,* maintenance costs and repair costs).

While DOE examined the rebuttable presumption, it also considered whether the standard levels considered are economically justified through a more detailed analysis of the economic impacts of these levels pursuant to 42 U.S.C. 6295(o)(2)(B)(i). Consistent with its usual practice, DOE conducted this more thorough analysis to help ensure the completeness of its analysis of the standards under consideration. The results of this analysis served as the basis for DOE to evaluate the economic justification for a potential standard level definitively (thereby supporting or rebutting the results of any preliminary determination of economic justification).

*H. Shipments*

Forecasts of equipment shipments are used to calculate the national impacts of standards on energy use, NPV, and future manufacturer cash flows. The envelope component model and refrigeration system shipments model take an accounting approach, tracking market shares of each equipment class and the vintage of units in the existing stock. Stock accounting uses equipment shipments as inputs to estimate the age distribution of in-service equipment stocks for all years. The age distribution of in-service equipment stocks is a key input to calculations of both the NES and NPV because operating costs for any year depend on the age distribution of the stock. Detailed description of the procedure to calculate future shipments is presented in chapter 9 of the final rule TSD.

In DOE's shipments model, shipments of walk-in units and their components are driven by new purchases and stock replacements due to failures. Equipment failure rates are related to equipment lifetimes, which were revised for the final rule, as described in section IV.G.7. DOE modeled its growth rate projections for new equipment using the commercial building floor space growth rates from the *AEO 2013* NEMS–BT model.

Complete historical shipments data for walk-ins could not be obtained from any one single source. Therefore, for the NOPR DOE used data from multiple sources to estimate historical shipments.

NEEA suggested that DOE use industry data such as those collected by NAEFEM to forecast shipments, even if it does not cover all manufacturers. (NEEA, No. 101, at p. 6) DOE contacted NAFEM, which provided DOE with recent copies of their ''Size and Shape of the Industry'' reports.[28] These reports contain data on the annual sales of walk-in units in the food service sector for 2002–2012. DOE analyzed the data received from NAFEM and also obtained other data from manufacturer interviews and other sources. For the final rule, DOE included these new data into its shipments analysis.

a. Share of Shipments and Stock by Equipment Class

For the NOPR, DOE estimated that dedicated condensing units account for approximately 70 percent of the refrigeration market and the remaining 30 percent consists of unit coolers connected to multiplex condensing systems. For dedicated condensing refrigeration systems, DOE estimated that approximately 66 percent and 3 percent of the shipments and stock of the refrigeration market is accounted for by outdoor and indoor dedicated condensing refrigeration systems, respectively. For unit coolers connected to multiplex systems, DOE estimated that medium temperature units account for about 25 percent of the shipments and stock.

Regarding the relative shares of stock or shipments between walk-in coolers and freezers, for the NOPR, DOE estimated 71 percent share for coolers and 29 percent for freezers. DOE estimated that shares by size of walk-in units are 52 percent, 40 percent, and 8 percent for small, medium, and large units, respectively.

DOE received no comments on the above estimates, and for this final rule DOE maintained the same values that were used in the NOPR.

2. Impact of Standards on Shipments

For various equipment, price increases due to standards could lead to more refurbishing of equipment (or purchase of used equipment), which would have the effect of deferring the shipment of new equipment for a period of time. For the NOPR, DOE did not have enough information on customer behavior to explicitly model the extent of refurbishing at each TSL.

ACCA and Hussmann stated that additional panel insulation will encourage businesses to extend the life of old units or purchase a used unit rather than a new unit. (ACCA, No. 93, at p.7; Hussmann, No. 93, at p. 7) However, Manitowoc noted that there is a very limited market for used equipment because the panel design does not lend itself to multiple cycles. (Manitowoc, No. 108, at p. 4) ACCA pointed out that while there is a large market for used small WICFs typically used in restaurants, larger WICFs found in grocery stores are less likely to be resold. (ACCA, No 119, at p. 3)

DOE acknowledges that price increases from amended standards could lead to increases in equipment refurbishing or the purchase of used equipment. DOE did not have enough

[28] North American Association of Food Equipment Manufacturers. *2012 Size and Shape of Industry.* Chicago, IL.

information on WICF customer behavior to explicitly model the extent of refurbishing at each TSL. However, DOE believes that the degree of refurbishing would not be significant enough to change the ranking of the TSLs considered for this rule.

Manitowoc argued that if the price of a WICF is too high, customers will use other appliances to keep their food cold, such as reach-ins and under-counter coolers, which would cause higher energy consumption. (Manitowoc, No. 108, at p. 4) Thermo-Kool agreed that higher prices would encourage customers to buy alternative means to keep products cold or frozen (Thermo-Kool, No. 97 at p. 3).

DOE is releasing a concurrent standard for commercial refrigeration equipment, which includes the alternative equipment mentioned by Manitowoc and Thermo-Kool. The equipment covered under that rule will be subject to similar price increases as WICFs. Therefore, DOE believes that there will be limited incentive for customers to purchase alternatives to WICFs that meet the standards in this final rule.

*I. National Impact Analysis—National Energy Savings and Net Present Value*

The NIA assesses the NES and the NPV of total customer costs and savings that would be expected as a result of amended energy conservation standards. The NES and NPV are analyzed at specific efficiency levels for each walk-in equipment class. DOE calculates the NES and NPV based on projections of annual equipment shipments, along with the annual energy consumption and total installed cost data from the LCC analysis. For the final rule analysis, DOE forecasted the energy savings, operating cost savings, equipment costs, and NPV of customer benefits over the lifetime of equipment sold from 2017 through 2046.

DOE evaluated the impacts of the amended standards 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 any amended energy conservation standards. DOE compares these projections with projections characterizing the market for each equipment class if DOE were to adopt an amended standard at specific energy efficiency levels for that equipment class.

DOE uses a Microsoft Excel spreadsheet model to calculate the energy savings and the national customer costs and savings from each TSL. The final rule 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 interacting with these spreadsheets. The NIA spreadsheet model uses average values as inputs (as opposed to probability distributions of key input parameters from a set of possible values).

For the final rule analysis, the NIA used projections of energy prices and commercial building starts from the *AEO2013* Reference Case. In addition, DOE analyzed scenarios that used inputs from the *AEO2013* Low Economic Growth and High Economic Growth Cases. These cases have lower and higher energy price trends, respectively, compared to the Reference Case. NIA results based on these cases are presented in appendixes 10A and 10B of the final rule TSD.

A detailed description of the procedure to calculate NES and NPV, and inputs for this analysis are provided in chapter 10 of the final rule TSD.

1. Forecasted Efficiency in the Base Case and Standards Cases

A key component of the NIA is the trend in energy efficiency forecasted for the base and standards cases. As discussed in section IV.G, DOE used data collected from manufacturers and an analysis of market information to develop a base-case energy efficiency distribution (which yields a shipment-weighted average efficiency) for each of the considered equipment classes for the first year of the forecast period. For both refrigeration systems and envelope components, DOE assumed no improvement of energy efficiency in the base case and held the base-case energy efficiency distribution constant throughout the forecast period.

To estimate market behavior in the standards cases, DOE uses a ''roll-up'' scenario. Under the roll-up scenario, DOE assumes that equipment efficiencies in the base case that do not meet the standard level under consideration would ''roll up'' to meet the new standard level, and equipment efficiencies above the standard level under consideration would be unaffected.

The estimated efficiency trends in the base case and standards cases are further described in chapter 8 of the final rule TSD.

2. National Energy Savings

For each year in the forecast period, DOE calculates the NES for each potential standard level by multiplying the stock of equipment affected by the energy conservation standards by the estimated per-unit annual energy savings. DOE typically considers the impact of a rebound effect in its calculation of NES for a given piece of equipment. A rebound effect occurs when users operate higher efficiency equipment more frequently and/or for longer durations, thus offsetting estimated energy savings. DOE did not incorporate a rebound factor for walk-ins because they are operated 24 hours a day, and therefore there is no potential for a rebound effect.

Major inputs to the NES calculation are annual unit energy consumption, shipments, equipment stock, a site-to-primary energy conversion factor, and a full fuel cycle factor.

The annual unit energy consumption is the site energy consumed by a walk-in component in a given year. Because the equipment classes analyzed in this rule represent a range of different equipment that is sold across a range of sizes, DOE adopted different ''unit'' definitions for panels, and all other walk-in equipment. For panels, NES is expressed as a square footage of equipment, while for all other components NES is expressed per unit. DOE determined annual forecasted shipment-weighted average equipment efficiencies that, in turn, enabled determination of shipment-weighted annual energy consumption values.

The NES spreadsheet model keeps track of the total square feet of walk-in cooler and freezer panels, and component units shipped each year. The walk-in stock in a given year is the total number of walk-ins shipped from earlier years that is still in use in that year, based on the equipment lifetime.

DOE did not include any rebound effect for WICFs in its NOPR analysis. Several commenters agreed that there would be no rebound effect for WICFs. (ThermoKool, No. 97, at p. 4; APC, No. 99, at p.8; NEEA et al., No. 101, at p. 6; Hillphoenix, No. 107, at p. 5) DOE maintained the same approach in preparing the final rule.

To estimate the national energy savings expected from energy conservation standards, DOE uses a multiplicative factor to convert site energy consumption (energy use at the location where the appliance is operated) into primary or source energy consumption (the energy required to deliver the site energy). For this final rule, DOE used conversion factors based on *AEO 2013.* For electricity, the conversion factors vary over time because of projected changes in generation sources (*i.e.,* the types of power plants projected to provide electricity to the country). Because the *AEO* does not provide energy forecasts

beyond 2040, DOE used conversion factors that remain constant at the 2040 values throughout the rest of the forecast.

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 this final rule, and the FFC multipliers that were applied, are described in appendix 10E of the final rule TSD. NES results are presented in both primary energy and FFC savings in section V.B.3.a.

3. Net Present Value of Customer Benefit

The inputs for determining the NPV of the total costs and benefits experienced by walk-in customers are: (1) Total annual installed cost; (2) total annual savings in operating costs; and (3) a discount factor. DOE calculated net national customer savings for each year as the difference between the base-case scenario and standards-case scenarios in terms of installation and operating costs. DOE calculated operating cost savings over the life of each piece of equipment shipped in the forecast period.

DOE multiplied monetary values in future years by the discount factor to determine the present value of costs and savings. DOE estimated national impacts using both a 3-percent and a 7-percent real discount rate as the average real rate of return on private investment in the U.S. economy. These discount rates are used in accordance with the Office of Management and Budget (OMB) guidance to Federal agencies on the development of regulatory analysis (OMB Circular A–4, September 17, 2003), and section E, ''Identifying and Measuring Benefits and Costs,'' therein. The 7-percent rate is an estimate of the average before-tax rate of return on private capital in the U.S. economy, and reflects the returns on real estate and small business capital, including corporate capital. DOE used the 3-percent rate to capture the potential effects of amended standards on private consumption. This rate represents the rate at which society discounts future consumption flows to their present value. DOE defined the present year as 2014 for the analysis.

*J. Customer Subgroup Analysis*

In analyzing the potential impact of new or amended standards on commercial customers, DOE evaluates the impact on identifiable groups (*i.e.,* subgroups) of customers, such as different types of businesses that may be disproportionately affected. Small businesses typically face a higher cost of capital. In general, the higher the cost of capital, the more likely it is that an entity would be disadvantaged by a requirement to purchase higher efficiency equipment. Based on data from the 2007 U.S. Economic Census and size standards set by the U.S. Small Business Administration (SBA), DOE determined that a majority of small restaurants fall under the definition of small businesses. It believes that this subgroup is broadly representative of small businesses that use walk-in coolers and walk-in freezers.

DOE estimated the impacts on the identified customer subgroup using the LCC spreadsheet model. The inputs for small restaurants were fixed to ensure that the discount rates, electricity prices, and equipment lifetime associated with that subgroup were selected. The discount rate was further increased by applying the small firm premium to the WACC. Apart from these changes, all other inputs for the subgroup analysis are the same as those in the LCC analysis. Details of the data used for the subgroup analysis and results are presented in chapter 11 of the final rule TSD.

*K. Manufacturer Impact Analysis*

1. Overview

DOE performed an MIA to estimate the financial impact of new energy conservation standards on manufacturers of walk-in equipment and to determine the impact of such standards on employment and manufacturing capacity. The MIA has both quantitative and qualitative aspects. The quantitative part of the MIA primarily relies on the Government Regulatory Impact Model (GRIM), an industry cash-flow model with inputs specific to this rulemaking. The key GRIM inputs are data on the industry cost structure, product costs, shipments, and assumptions about markups and conversion expenditures. The key output is the industry net present value (INPV). Different sets of markup scenarios will produce different results. The qualitative part of the MIA addresses factors such as equipment characteristics, impacts on particular subgroups of manufacturers, and important market and product trends. The complete MIA is outlined in chapter 12 of the final rule TSD.

DOE conducted the MIA for this rulemaking in three phases. In Phase 1 of the MIA, DOE prepared a profile of the walk-in industry that includes a top-down cost analysis of manufacturers used to derive preliminary financial inputs for the GRIM (*e.g.,* sales general and administration (SG&A) expenses; research and development (R&D) expenses; and tax rates). DOE used public sources of information, including company Securities and Exchange Commission (SEC) 10–K filings, Moody's company data reports, corporate annual reports, the U.S. Census Bureau's Economic Census, and Dun and Bradstreet reports.

In Phase 2 of the MIA, DOE prepared an industry cash-flow analysis to quantify the impacts of an energy conservation standard. In general, more-stringent energy conservation standards can affect manufacturer cash flow in three distinct ways: (1) By creating a need for increased investment; (2) by raising production costs per unit; and (3) by altering revenue due to higher per-unit prices and possible changes in sales volumes.

In Phase 3 of the MIA, DOE conducted structured, detailed interviews with a representative cross-section of manufacturers. During these interviews, DOE discussed engineering, manufacturing, procurement, and financial topics to validate assumptions used in the GRIM and to identify key issues or concerns.

Also in Phase 3, DOE evaluated subgroups of manufacturers that may be disproportionately impacted by amended standards, or that may not be accurately represented by the average cost assumptions used to develop the industry cash-flow analysis. For example, small manufacturers, niche players, or manufacturers exhibiting a cost structure that largely differs from the industry average could be more negatively affected.

DOE identified one subgroup, small manufacturers, for separate impact analyses. DOE applied the small business size standards published by the SBA to determine whether a company is considered a small business. 65 FR 30836, 30848 (May 15, 2000), as amended at 65 FR 53533, 53544 (Sept. 5, 2000) and codified at 13 CFR part

121. The Small Business Administration (SBA) defines a small business for North American Industry Classification System (NAICS) 333415 ''Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing'' as having 750 or fewer employees. The 750-employee threshold includes all employees in a business's parent company and any other subsidiaries. The small businesses were further sub-divided into small manufacturers of panels, doors, and refrigeration equipment to better understand the impacts of the rulemaking on those entities. The small business subgroup is discussed in sections V.B.2.d and VI.B of this notice and in Chapter 12 of the final rule TSD.

2. Government Regulatory Impact Model

DOE uses the GRIM to quantify the changes in the walk-in industry cash flow due to amended standards that result in a higher or lower industry value. The GRIM analysis uses a standard, annual cash-flow analysis that incorporates manufacturer costs, markups, shipments, and industry financial information as inputs, and models changes in costs, investments, and manufacturer margins that would result from new energy conservation standards. The GRIM spreadsheet uses the inputs to arrive at a series of annual cash flows, beginning with the base year of the analysis, 2013 in this case, and continuing to 2046. DOE calculated INPVs by summing the stream of annual discounted cash flows during this period. DOE applied discount rates derived from industry financials and then modified them according to feedback during manufacturer interviews. Discount rates ranging from 9.4 to 10.5 percent were used depending on the component being manufactured.

The GRIM calculates cash flows using standard accounting principles and compares changes in INPV between the base case and each TSL (the standards case). Essentially, the difference in INPV between the base case and a standards case represents the financial impact of the energy conservation standard on manufacturers. Additional details about the GRIM, the discount rate, and other financial parameters can be found in chapter 12 of the TSD.

DOE presents its estimates of industry impacts by grouping the major equipment classes served by the same manufacturers. For the WICF industry, DOE groups results by panels, doors, and refrigeration systems.

a. Government Regulatory Impact Model Key Inputs

(1) Manufacturer Production Costs

Manufacturing higher efficiency equipment is typically more expensive than manufacturing baseline equipment due to the use of more complex components, which are more costly than baseline components. The changes in the MPCs of the analyzed WICF components can affect the revenues, gross margins, and cash flow of the industry, making these production cost data key GRIM inputs for DOE's analysis.

In the MIA, DOE used the MPCs for each considered efficiency level calculated in the engineering analysis, as described in section IV.D and further detailed in chapter 5 of the NOPR TSD. In addition, DOE used information from its teardown analysis, described in section IV.D.3, to disaggregate the MPCs into material, labor, and overhead costs. To calculate the MPCs for equipment above the baseline, DOE added incremental material, labor, overhead costs from the engineering cost-efficiency curves to the baseline MPCs. These cost breakdowns and equipment markups were validated with manufacturers during manufacturer interviews.

(2) Shipments Forecast

The GRIM estimates manufacturer revenues based on total unit shipment forecasts and the distribution of shipments by equipment class. For the base-case analysis, the GRIM uses the NIA base-case shipment forecasts from 2013, the base year for the MIA analysis, to 2046, the last year of the analysis period.

For the standards case shipment forecast, the GRIM uses the NIA standards case shipment forecasts. The NIA assumes zero elasticity in demand as explained in section 9.3.1 in chapter 9 of the TSD. Therefore, the total number of shipments per year in the standards case is equal to the total shipments per year in the base case. DOE assumes a new efficiency distribution in the standards case, however, based on the energy conservation standard. DOE assumed that product efficiencies in the base case that did not meet the standard under consideration would ''roll up'' to meet the new standard in the standard year.

(3) Product and Capital Conversion Costs

New energy conservation standards will cause manufacturers to incur conversion costs to bring their production facilities and product designs into compliance. For the MIA, DOE classified these conversion costs into two major groups: (1) Product conversion costs and (2) capital conversion costs. Product conversion costs are investments in research, development, testing, marketing, and other non-capitalized costs necessary to make product designs comply with a new or amended energy conservation standard. Capital conversion costs are investments in property, plant, and equipment necessary to adapt or change existing production facilities such that new product designs can be fabricated and assembled.

To evaluate the level of capital conversion expenditures manufacturers would likely incur to comply with energy conservation standards, DOE used the manufacturer interviews to gather data on the level of capital investment required at each efficiency level. DOE validated manufacturer comments through estimates of capital expenditure requirements derived from the product teardown analysis and engineering model described in section IV.D.3. For the final rule, adjustments were made to the capital conversion costs based on feedback in the NOPR written comments and changes in the test procedure for panels and refrigeration components. DOE assessed the product conversion costs at each level by integrating data from quantitative and qualitative sources. DOE considered feedback from multiple manufacturers at each efficiency level to determine conversion costs such as R&D expenditures and certification costs. Industry certification costs included fire safety testing by Underwriter Laboratories (UL) and food safety certifications by the NSF International (NSF). Manufacturers' data was aggregated to better reflect the industry as a whole and to protect confidential information. For the final rule, adjustments were made to product conversion costs based on feedback in the NOPR written comments and changes in the test procedure for panels and refrigeration components.

In general, DOE assumes that all conversion-related investments occur between the year of publication of the final rule and the year by which manufacturers must comply with an amended standard. The investment figures used in the GRIM can be found in section V.B.2.a of this notice. For additional information on the estimated product conversion and capital conversion costs, see chapter 12 of the final rule TSD.

b. Government Regulatory Impact Model Scenarios

Markup Scenarios

As discussed above, MSPs include direct manufacturing production costs (*i.e.,* labor, material, and overhead estimated in DOE's MPCs) and all non-production costs (*i.e.,* SG&A, R&D, and interest), along with profit. To calculate the MSPs in the GRIM, DOE applied markups to the MPCs estimated in the engineering analysis and then added in the cost of shipping. Modifying these markups in the standards case yields different sets of impacts on manufacturers. For the MIA, DOE modeled two standards-case markup scenarios to represent the uncertainty regarding the potential impacts on prices and profitability for manufacturers following the implementation of amended energy conservation standards: (1) A preservation of gross margin percentage markup scenario; and (2) a preservation of operating profit markup scenario. These scenarios lead to different markups values that, when applied to the inputted MPCs, result in varying revenue and cash flow impacts.

Under the preservation of gross margin percentage scenario, DOE applied a single uniform ''gross margin percentage'' markup across all efficiency levels. As production costs increase with efficiency, this scenario implies that the absolute dollar markup will increase as well. Based on publicly available financial information for walk-in manufacturers, submitted comments, and information obtained during manufacturer interviews, DOE assumed the non-production cost markup—which includes SG&A expenses, R&D expenses, interest, and profit—to be 1.32 for panels, 1.50 for solid doors, 1.62 for display doors, and 1.35 for refrigeration. These markups are consistent with the ones DOE assumed in the engineering analysis. Manufacturers have indicated that it is optimistic to assume that, as manufacturer production costs increase in response to an energy conservation standard, manufacturers would be able to maintain the same gross margin percentage markup. Therefore, DOE assumes that this scenario represents a high bound to industry profitability under an energy conservation standard.

In the preservation of operating profit scenario, manufacturer markups are set so that operating profit 1 year after the compliance date of the amended energy conservation standard is the same as in the base case. Under this scenario, as the cost of production and the cost of sales rise, manufacturers generally must reduce their markups to a level that maintains base-case operating profit. The implicit assumption behind this markup scenario is that the industry can maintain only its operating profit in absolute dollars after the standard. Operating margin in percentage terms is reduced between the base case and standards case.

3. Discussion of Comments

During the October 2013 NOPR public meeting, interested parties commented on the assumptions and results of the analyses as described in the TSD. Oral and written comments addressed several topics, including refrigerants, installation contractors, impacts on small manufacturers, the base case markup, and the number of small panel manufacturers in the industry.

a. Refrigerants

NAFEM and ICS requested that DOE incorporate the phase out of HFCs in its analysis. NAFEM stated that alternative refrigerants could add to overall engineering costs and reduce energy savings. (NAFEM, No. 118 at p. 4) (ICS, et al., No. 100 at p. 7) (IB, No. 98 at p. 2). The use of alternative refrigerants is not a direct result of this rule and is not included in this analysis. Furthermore, there is no regulatory requirement to use alternative refrigerants at this time. DOE does not include the impacts of pending legislation or regulatory proposals in its analysis, as any impact would be speculative. For this final rule, DOE does not include the impact of alternative refrigerants in its analysis.

b. Installation Contractors

ACCA noted that the MIA did not assess the impact on installation contractors. (ACCA, No. 88 at p. 338) Consistent with EPCA, and in keeping with industry's requests submitted at the Preliminary Analysis and summarized in the proposal, DOE has taken a component-based approach in setting standards for WICF. (42 U.S.C. 6311(20)) As such, the MIA focuses on manufacturers of WICF panels, WICF refrigeration, and WICF doors. DOE does not consider the installation contractors to be manufacturers for the purpose for the Manufacturer Impact Analysis as they do not produce the panels, refrigeration components, or doors being tested, labeled, and certified.

c. Small Manufacturers

In written comments, manufacturers stated that new energy efficiency standards would impose severe economic hardship on small business manufacturers. (Manitowoc, No. 108 at p. 4) (Hillphoenix, No. 107 at p. 6) (APC, No.99 at p. 20) NAFEM stated that small businesses do not have the R&D resources to create and implement the design options necessary to meet the standards. (NAFEM, No. 118 at p. 4) A large number of comments focused on the economic hardship of small business manufacturers that DOE considered to be primarily manufacturers of WICF panels. These comments focused on capital conversion costs, product conversion costs, and production capacity impacts.

Hillphoenix and ICS commented that increased panel thickness would result in excessive capital conversion costs, especially for small manufacturers. (Hillphoenix, No. 107 at p. 6) (ICS, et al., No. 100 at p. 7) US Cooler stated that small manufacturers using foamed-in-place polyurethane that do not currently have the capability to manufacture 5'' insulation would be faced with costs of $800,000 for two foamed-in-place fixtures. Arctic stated that in order to manufacture 5'' foamed-in-place polyurethane panels, small manufacturers would be required to invest at least $1M. (Arctic, No. 117 at p. 2) Thermo-Kool estimated that the equipment cost required to manufacture thicker insulation panels would likely be in excess of $1 million for each manufacturer. (ThermoKool, No. 97 at p. 2) Arctic and US Cooler added that moving from a 4-inch to a 5-inch insulation panel would result in prohibitive retooling and labor costs for small manufacturers currently making 4-inch panels. (Arctic, No. 117 at p. 1) (US Cooler, No. 104 at p. 1) ICS further noted that requiring more than 4 inches of foam insulation will require thermal barriers and automatic fire suppression, which are expensive and will add to manufacturer burdens and place unnecessary costs on end users. (ICS, et al., No. 100 at p. 7) US Cooler and Arctic asserted that small manufacturers using extruded polystyrene (EPS) would need to make extensive and costly changes to their manufacturing process and materials to meet a standard above baseline since EPS is only sold in 4'' thick sheets. (US Cooler, No. 104 at p. 2) (Arctic, No. 117 at p. 1).

Manufacturers were also concerned about the product conversion costs related to the standard proposed in the NOPR. Specifically, commenters cited high testing costs and limited availability of test labs accredited to perform ASTM C1363 as prohibitive barriers to small manufacturers complying with the standard. (Hillphoenix, No. 107 at p. 6) (Hussmann, No. 93 at p. 6) (Arctic, No. 117 at p. 1) (US Cooler, No. 100 at p.

6) APC commented that the ASTM C1363 test had an excessive cost-burden of around $4,000 for each test. (APC, No. 99 at p. 1) IB estimated the total cost of testing to be in the range of $2.5 million for a manufacturer and stated that such a cost would be prohibitive for small businesses. (IB, No. 98 at p. 4)

Aside from capital conversion costs and product conversion costs, panel manufacturers noted other concerns related to a standard that would require an increase in panel thickness. Nor-Lake noted that increased panel thickness would raise production costs. These higher production costs stem in part from the additional curing time needed for thicker panels—Nor-Lake pointed out that a 4'' panel took approximately 25 minutes to cure, while 5'' and 6'' panels took 45 minutes and one hour, respectively, to cure. (Nor-Lake, No. 115 at p. 1) APC agreed with Nor-Lake's cure time estimates and further noted that a 5'' panel would force manufacturers to lose 1/3rd of their production capacity. (APC, No. 99 at p. 4) Manitowoc stated that thicker panels would be heavier, necessitating longer curing times and raising safety concerns during the manufacturing process. (Manitowoc, No. 108 at p. 3)

DOE has taken the industry's feedback on capital conversion costs, product conversion costs, production capacity implications into account in its final rule analysis. As a result, DOE selected a standard level that is equivalent to the current baseline for WICF panels. Consequently, DOE expects that no new investment in capital equipment or outside testing would be necessary to meet the standard, thereby minimizing impacts on small manufacturers.

d. Mark Up Scenarios

Manufacturers submitted several comments with regard to manufacturer markups. Hussmann stated that the market does not use a simple markup and that markups vary based on customer payback periods and each manufacturer's ability to maximize profits. (Hussmann, No.93 and p.3) Thermokool submitted a comment that DOE's markups are extremely undervalued. (ThermoKool, No 97 at p.3) APC noted that panel markups are closer to 1.46 (rather than DOE's value of 1.32) and refrigeration markups are closed to 1.45 (rather than DOEs markup of 1.35). (APC, No 99 at p.6)

While applying a simple markup on manufacturer production cost may not be a common practice to arrive at a selling price for walk-in panel manufacturers, DOE believes applying a simple industry-average markup is a useful tool for modeling the industry as a whole. DOE validated its markup values with eight different panel manufacturers during manufacturer interviews. While the industry-average markup values may be low for specific companies, especially for small manufacturers, DOE notes that using low markup assumptions provides a more conservative analysis, which ensures that DOE does not understate the potential negative impacts on industry.

e. Number of Small Businesses

American Panel commented on the number of manufacturers in the WICF panel industry. It estimates that there are only 5 large manufacturers of walk-in panels. Therefore, American Panel suggested that 42 of 47 walk-in panel manufacturers (89%) are small businesses, not 42 of 52 (81%) as estimated by DOE in the NOPR.

DOE identified 5 parent companies with 10 subsidiaries that produce walk-in panels. This is consistent with American Panel's written comment that there are only 5 large manufacturers of walk-in panels. DOE has revised its regulatory flexibility analysis to more accurately reflect the number of large and small manufacturers identified in the industry.

*L. Emissions Analysis*

In the emissions analysis, DOE estimated the reduction in power sector emissions of $CO_2$, $NO_X$, sulfur dioxide ($SO_2$) and Hg from amended energy conservation standards for walk-in coolers and walk-in freezers. 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 (Aug. 18, 2011)) 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 conducted the emissions analysis using emissions factors for $CO_2$ and most of the 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 final rule TSD.

EIA prepares the *Annual Energy Outlook* using NEMS. Each annual version of NEMS incorporates the projected impacts of existing air quality regulations on emissions. *AEO 2013* generally represents current legislation and environmental regulations, including recent government actions, for which implementing regulations were available as of December 31, 2012.

$SO_2$ 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 but it remained in effect.[29] In 2011, EPA issued a replacement for CAIR, the Cross-State Air Pollution Rule (CSAPR). 76 FR 48208 (Aug. 8, 2011). On August 21, 2012, the D.C. Circuit issued a decision to vacate CSAPR.[30] The court ordered EPA to continue administering CAIR. The *AEO 2013* emissions factors used for this final rule assume that CAIR remains a binding regulation through 2040.

The attainment of emissions caps is typically flexible among EGUs and is enforced through the use of emissions allowances and tradable permits. Under existing EPA regulations, any excess $SO_2$ emissions allowances resulting from the lower electricity demand caused by the adoption of a new or amended efficiency standard could be used to permit offsetting increases in $SO_2$ emissions by any regulated EGU. In past rulemakings, DOE recognized that there was uncertainty about the effects of efficiency standards on $SO_2$ emissions covered by the existing cap-and-trade system, but it concluded that negligible reductions in power sector $SO_2$ emissions would occur as a result of standards.

Beginning around 2015, however, $SO_2$ emissions will fall as a result of the Mercury and Air Toxics Standards (MATS) for power plants. 77 FR 9304 (Feb. 16, 2012). In the final MATS rule, EPA established a standard for hydrogen chloride as a surrogate for acid gas hazardous air pollutants (HAP), and also established a standard for $SO_2$ (a non-HAP acid gas) as an alternative

[29] 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).

[30] See *EME Homer City Generation, LP* v. *EPA,* 696 F.3d 7, 38 (D.C. Cir. 2012).

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. *AEO2013* 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 permit offsetting increases in $SO_2$ emissions by any regulated EGU. Therefore, DOE believes that energy efficiency standards will reduce $SO_2$ emissions in 2015 and beyond.

CAIR established a cap on $NO_X$ emissions in 28 eastern States and the District of Columbia. Energy conservation standards are expected to have little effect on $NO_X$ emissions in those States covered by CAIR because excess $NO_X$ emissions allowances resulting from the lower electricity demand could be used to permit offsetting increases in $NO_X$ emissions. However, standards would be expected to reduce $NO_X$ emissions in the States not affected by the caps, so DOE estimated $NO_X$ emissions reductions from the standards considered in this 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 factors based on *AEO2013,* which incorporates the MATS.

### *M. Monetizing Carbon Dioxide and Other Emissions Impacts*

As part of the development of the standards in this final 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 customer 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 this 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 [31] 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 value appropriate for that year. The net present value of the benefits can then be calculated by multiplying each of these future benefits by an appropriate discount factor and summing across all affected years.

It is important to emphasize that the interagency process is committed to updating these estimates as the science and economic understanding of climate change and its impacts on society improves over time. In the meantime, the interagency group will continue to explore the issues raised by this analysis and consider public comments as part of the ongoing interagency process.

##### b. 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

[31] National Research Council. *Hidden Costs of Energy: Unpriced Consequences of Energy Production and Use.* 2009. National Academies Press: Washington, DC.

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 (IAMs) commonly used to estimate the SCC: The FUND, DICE, and PAGE models. These models are frequently cited in the peer-reviewed literature and were used in the last assessment of the Intergovernmental Panel on Climate Change. Each model was given equal weight in the SCC values that were developed.

Each model takes a slightly different approach to model how changes in emissions result in changes in economic damages. A key objective of the interagency process was to enable a consistent exploration of the three models, while respecting the different approaches to quantifying damages taken by the key modelers in the field. An extensive review of the literature was conducted to select three sets of input parameters for these models: Climate sensitivity, socio-economic and emissions trajectories, and discount rates. A probability distribution for climate sensitivity was specified as an input into all three models. In addition, the interagency group used a range of scenarios for the socio-economic parameters and a range of values for the discount rate. All other model features were left unchanged, relying on the model developers' best estimates and judgments.

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,[32] although preference is given to consideration of the global benefits of reducing $CO_2$ emissions.

Table IV.14 presents the values in the 2010 interagency group report,[33] which is reproduced in appendix 14A of the final rule TSD.

TABLE IV.14—ANNUAL SCC VALUES FROM 2010 INTERAGENCY REPORT, 2010–2050

[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 this rule were generated using the most recent versions of the three integrated assessment models that have been published in the peer-reviewed literature.[34] Table IV.15 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 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.15 Annual SCC Values from 2013 Interagency Report, 2010–2050 (2007 dollars per metric ton)

[32] 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.

[33] *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.*

[34] *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.*

TABLE IV.15—ANNUAL SCC VALUES FROM 2010 INTERAGENCY REPORT, 2010–2050

[2007 Dollars per metric ton]

| 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 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 2013$ using the GDP price deflator. For each of the four sets of SCC values, the values for emissions in 2015 were $12.0, $40.5, $62.4, and $119 per metric ton avoided (values expressed in 2013$). 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.

In responding to the walk-in coolers and walk-in freezers NOPR, many commenters questioned the scientific and economic basis of the SCC values. These commenters made extensive comments about: the alleged lack of economic theory underlying the models; the sufficiency of the models for policy-making; potential flaws in the models' inputs and assumptions (including the discount rates and climate sensitivity chosen); whether there was adequate peer review of the three models; whether there was adequate peer review of the TSD supporting the 2013 SCC values;[35] whether the SCC estimates comply with OMB's ''Final Information Quality Bulletin for Peer Review''[36] and DOE's own guidelines for ensuring and maximizing the quality, objectivity, utility and integrity of information disseminated by DOE; and why DOE is considering global benefits of carbon dioxide emission reductions rather than solely domestic benefits. (*See* AHRI, No. 83; ANGA, *et al.*/Chamber of Commerce, No.95; Cato, No. 106; Mercatus, No. 91). Several other parties expressed support for the derivation and application of the SCC values. (EDF, *et al.,* No. 94; ASAP, No. 113; Kopp, No. 80)

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. Regarding discount rates, there is not consensus in the scientific or economics literature regarding the appropriate discount rate to use for intergenerational time horizons. The SCC estimates thus use a reasonable range of discount rates, from 2.5% to 5%, in order to show the effects that different discount rate assumptions have on the estimated values. More information about the choice of discount rates can be found in the 2010 interagency group report starting on page 17.

Regarding peer review of the models, 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 16B of the DOE final rule TSD for discussion).

DOE believes that the SCC estimates comply with OMB's Final Information Quality Bulletin for Peer Review and DOE's own guidelines for ensuring and maximizing the quality, objectivity, utility and integrity of information disseminated by DOE.

As to why DOE is considering global benefits of carbon dioxide emission reductions rather than solely domestic benefits, a global measure of SCC because of the distinctive nature of the climate change problem, which is highly unusual in at least two respects. First, it involves a global externality: emissions of most greenhouse gases contribute to damages around the world even when they are emitted in the United States. Second, climate change presents a problem that the United States alone cannot solve. The issue of global versus domestic measures of the SCC is further discussed in appendix 16A of the DOE final rule TSD.

In November 2013, OMB announced minor technical corrections to the 2013 SCC values and a new opportunity for

[35] Available at: *http://www.whitehouse.gov/sites/default/files/omb/inforeg/social_cost_of_carbon_for_ria_2013_update.pdf.*

[36] Available at: *http://www.cio.noaa.gov/services_programs/pdfs/OMB_Peer_Review_Bulletin_m05-03.pdf.*

public comment on the interagency technical support document underlying the 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 to the underlying science and economic basis of the SCC estimates resulting from the interagency process. 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.

AHRI stated that DOE calculates the present value of the costs of standards to consumers and manufacturers over a 30-year period, but the SCC values reflect the present value of future climate related impacts well beyond 2100. AHRI stated that DOE's comparison of 30 years of cost to hundreds of years of presumed future benefits is inconsistent and improper. (AHRI, No. 114 at p. 6)

For the analysis of national impacts of the proposed standards, DOE considered the lifetime impacts of products shipped in a 30-year period. With respect to energy and energy cost savings, impacts continue past 30 years until all of the products shipped in the 30-year period are retired. With respect to the valuation of $CO_2$ emissions reductions, DOE considers the avoided emissions over the same period as the energy savings. $CO_2$ emissions have on average a very long residence time in the atmosphere. Thus, emissions in the period considered by DOE would contribute to global climate change over a very long time period, with associated social costs. The SCC for any given year represents the discounted present value, in that year and expressed in constant dollars, of a lengthy stream of future costs estimated to result from the emission of one ton of $CO_2$. It is worth pointing out that because of discounting, the present value of costs in the distant future is very small. DOE's accounting of energy cost savings and the value of avoided $CO_2$ emissions reductions is consistent—both consider the complete impacts associated with products shipped in the 30-year period.

2. Valuation of Other Emissions Reductions

DOE investigated the potential monetary benefit of reduced $NO_X$ emissions from the potential standards 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 emissions caps. DOE estimated the monetized value of $NO_X$ emissions reductions resulting from each of the TSLs considered for this final 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 $4,893 per ton (2013$).[37] DOE calculated monetary benefits using a medium value for $NO_X$ emissions of $2,684 per short ton (in 2013$), and real discount rates of 3 percent and 7 percent.

DOE is evaluating how to appropriately monetize avoided $SO_2$ and Hg emissions in energy conservation standards rulemakings. It has not included monetization of these emissions in the current analysis.

*N. Utility Impact Analysis*

The utility impact analysis estimates several important effects on the utility industry of the adoption of new or amended standards. For this analysis, DOE used the NEMS–BT model to generate forecasts of electricity consumption, electricity generation by plant type, and electric generating capacity by plant type, that would result from each considered TSL. DOE obtained from the NIA the energy savings inputs associated with efficiency improvements made to the equipment under consideration. DOE conducts the utility impact analysis as a scenario that departs from the latest *AEO* Reference Case. In the analysis for this rule, the estimated impacts of standards are the differences between values forecasted by NEMS–BT and the values in the *AEO2013* Reference Case. For more details on the utility impact analysis, see chapter 15 of the final rule TSD.

*O. Employment Impact Analysis*

Employment impacts are one of the factors that DOE considers in selecting an efficiency standard. Employment impacts include direct and indirect impacts. Direct employment impacts are any changes that affect the ability of walk-in equipment manufacturers, their suppliers, and related service firms to employ workers. Indirect impacts are changes in employment in the larger economy that occur because of the shift in expenditures and capital investment caused by the purchase and operation of more-efficient walk-ins. Direct employment impacts are analyzed as part of the MIA. Indirect impacts are assessed as part of the employment impact analysis.

Indirect employment impacts from amended standards consist of the net jobs created or eliminated in the national economy, other than in the manufacturing sector being regulated, as a consequence of (1) reduced spending by end users on electricity; (2) reduced spending on new energy supplies by the utility industry; (3) increased spending on the purchase price of new covered equipment; and (4) the effects of those three factors throughout the Nation's economy. DOE expects the net monetary savings from amended standards to stimulate other forms of economic activity. DOE also expects these shifts in spending and economic activity to affect the demand for labor.

In developing this analysis for these standard, DOE estimated indirect national employment impacts using an input/output model of the U.S. economy called Impact of Sector Energy Technologies, Version 3.1.1 (ImSET). ImSET is a special-purpose version of the ''U.S. Benchmark National Input-Output'' (I–O) model, which was designed to estimate the national employment and income effects of energy-saving technologies. The ImSET software includes a computer-based I–O model having structural coefficients that characterize economic flows among the 187 sectors. ImSET's national economic I–O structure is based on a 2002 U.S. benchmark table, specially aggregated to the 187 sectors most relevant to industrial, commercial, and residential building energy use. DOE notes that ImSET is not a general equilibrium forecasting model, and understands the uncertainties involved in projecting employment impacts, especially changes in the later years of the analysis. Because ImSET does not incorporate price changes, the employment effects predicted by ImSET may over-estimate actual job impacts over the long run. For the NOPR, DOE used ImSET only to estimate short-term employment impacts.

For more details on the employment impact analysis and its results, see chapter 16 of the final rule TSD.

## V. Analytical Results

*A. Trial Standard Levels*

As discussed in section III.B, DOE is setting separate performance standards for the refrigeration system and for the envelope's doors and panels. The

[37] The values for $NO_X$ emissions originally came from: 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. In 2001$, the $NO_X$ values range from $370 to $3,800 per short ton. DOE converted the 2001$ values to 2013$ using gross domestic product (GDP) price deflators from the Bureau of Economic Analysis (BEA) (see *http://research.stlouisfed.org/fred2/series/GDPDEF/*).

manufacturers of these components would be required to comply with the applicable performance standards. For a fully assembled WICF unit in service, the aggregate energy consumption would depend on the individual efficiency levels of both the refrigeration system and the components of the envelope.

The refrigeration system removes heat from the interior of the envelope and accounts for most of the walk-in's energy consumption. However, the refrigeration system and envelope interact with each other and affect each other's energy performance. On the one hand, because the envelope components reduce the transmission of heat from the exterior to the interior of the walk-in, the energy savings benefit for any efficiency improvement for these envelope components depends on the efficiency level of the refrigeration system. Thus, any potential standard level for the refrigeration system would affect the energy that could be saved through standards for the envelope components. On the other hand, the economics of higher-efficiency refrigeration systems depend on the refrigeration load profile of the WICF unit as a whole, which is partially impacted by the envelope components.

To accurately characterize the total benefits and burdens for each of its proposed standard levels, DOE developed TSLs that each consist of a combination of standard levels for both the refrigeration system and the set of envelope components that comprise a walk-in. Each TSL consists of a standard for refrigeration systems, a standard for panels, a standard for non-display doors, and a standard for display doors.

1. Trial Standard Level Selection Process

This section describes how DOE selected the TSLs. First, DOE selected several potential efficiency levels for refrigeration systems by performing LCC and NIA analyses for refrigeration systems. Second, DOE selected levels for the envelope components by performing LCC and NIA analyses for the envelope components paired with each of the selected refrigeration system levels alone. Third, DOE chose three composite TSLs from the combinations of the potential levels for the refrigeration systems and the potential levels for the envelope components. This process accounts for the fact that, as described above, the choice of refrigeration efficiency level affects the energy savings and NPV of the envelope component levels.

DOE enumerated up to ten potential efficiency levels for each of the refrigeration system classes and capacity points. Each analyzed capacity point in any refrigeration system had efficiency levels corresponding to an added applicable design option (described in section IV.D). DOE also analyzed three competing compressor technologies for each dedicated condensing refrigeration system class. These compressor technologies are: Hermetic reciprocating, semi-hermetic, and scroll. (For a detailed description regarding each of these compressor technologies, see chapter 5 of the final rule TSD.)

At a given efficiency level, the compressor with the lowest life-cycle cost result was selected to represent the equipment at that efficiency level. From the set of possible efficiency levels for a given class, DOE selected three for further analysis. The first refrigeration system levels were based on the maximum technology from the engineering analysis, the second their relative energy saving potential while maintaining positive national net present values for each equipment class. The last was based on maximizing the national net present value (''Max NPV'').

After the three potential efficiency levels for each refrigeration system class were selected as described above, DOE proceeded with the LCC and NIA analysis of the envelope components (panels and doors). DOE conducted the LCC and NIA analyses on the envelope components by pairing them with each refrigeration system efficiency levels. Each panel and door class has between four and nine potential efficiency levels, each corresponding to an engineering design option applicable to that class (described in section IV.C). These LCC and NPV results represent the entire range of the economic benefits to the consumer at various combinations of efficiency levels of the refrigeration systems and the envelope components. The pairing of refrigeration system efficiency levels with the efficiency levels of envelope component classes is discussed in detail in chapter 10 of the final rule TSD.

DOE selected envelope component levels for further analysis based on the following criteria: maximum NPV, maximum NES with positive NPV, and maximum NES (Max Tech).

Finally, DOE chose three composite TSLs by selecting from the combinations of the three potential levels for the refrigeration systems and the three potential levels for the envelope components. The composite TSLs and criteria for each one are shown in Table V.1. The composite TSLs are numbered from 1 to 3 in order of least to most energy savings.

TABLE V.1—CRITERIA DESCRIPTION FOR THE COMPOSITE TSLS

| TSL | Component requirement | System requirement |
|---|---|---|
| 1 | Max NPV @7% discount rate | Max NPV @7% discount rate. |
| 2 | Max NES with NPV >$0 | Max NES with NPV >$0. |
| 3 | Max Tech | Max Tech. |

* NPV is evaluated discounted at 7%.

TSL 3 is the max-tech level for each equipment class for all components. TSL 2 represents the maximum efficiency level of the refrigeration system equipment classes with a positive NPV at a 7-percent discount rate, combined with the maximum efficiency level with a positive NPV at a 7-percent discount rate for each envelope component (panel, non-display door, or display door). TSL 1 corresponds to the efficiency level with the maximum NPV at a 7-percent discount rate for refrigeration system classes and components. Table V.2 shows the mapping of TSLs to analysis point ELs and capacity. For more details on the criteria for the TSLs, see chapter 10 of the final rule TSD.

TABLE V.2—MAPPING BETWEEN TSLS AND ANALYTICAL POINT ELS

| Equipment class | Nominal size (Btu/h) | Baseline | | TSL 1 | | TSL 2 | | TSL 3 | |
|---|---|---|---|---|---|---|---|---|---|
| | | Compressor technology | EL | Compressor technology | EL | Compressor technology | EL | Compressor technology | EL |
| DC.M.I. | 6,000 | HER | 0 | SEM | 6 | SEM | 6 | SEM | 6 |
| DC.M.I. | 18,000 | HER | 0 | HER | 6 | HER | 6 | HER | 6 |
| DC.M.I. | 54,000 | SEM | 0 | SEM | 6 | SEM | 6 | SEM | 6 |
| DC.M.I. | 96,000 | SEM | 0 | SEM | 6 | SEM | 6 | SEM | 6 |
| DC.M.O. | 6,000 | HER | 0 | SEM | 4 | SEM | 7 | SEM | 7 |
| DC.M.O. | 18,000 | HER | 0 | HER | 7 | SCR | 8 | SCR | 8 |
| DC.M.O. | 54,000 | SEM | 0 | SCR | 6 | SCR | 10 | SCR | 10 |
| DC.M.O. | 96,000 | SEM | 0 | SCR | 8 | SCR | 9 | SCR | 9 |
| DC.L.I. | 6,000 | HER | 0 | HER | 7 | SCR | 7 | SCR | 7 |
| DC.L.I. | 9,000 | HER | 0 | HER | 7 | SCR | 7 | SCR | 7 |
| DC.L.I. | 54,000 | SEM | 0 | SEM | 7 | SEM | 8 | SEM | 8 |
| DC.L.O. | 6,000 | HER | 0 | HER | 4 | SCR | 10 | SCR | 10 |
| DC.L.O. | 9,000 | HER | 0 | HER | 6 | SCR | 11 | SCR | 11 |
| DC.L.O. | 54,000 | SEM | 0 | SCR | 9 | SCR | 10 | SCR | 10 |
| DC.L.O. | 72,000 | SEM | 0 | SEM | 8 | SEM | 12 | SEM | 12 |
| MC.M.N. | 4,000 | 6FIN | 0 | 6FIN | 3 | 6FIN | 3 | 6FIN | 3 |
| MC.M.N. | 9,000 | 6FIN | 0 | 6FIN | 3 | 6FIN | 3 | 6FIN | 3 |
| MC.M.N. | 24,000 | 6FIN | 0 | 6FIN | 3 | 6FIN | 3 | 6FIN | 3 |
| MC.L.N. | 4,000 | 4FIN | 0 | 4FIN | 4 | 4FIN | 4 | 4FIN | 4 |
| MC.L.N. | 9,000 | 6FIN | 0 | 6FIN | 4 | 6FIN | 4 | 6FIN | 4 |
| MC.L.N. | 18,000 | 4FIN | 0 | 4FIN | 3 | 4FIN | 5 | 4FIN | 5 |
| MC.L.N. | 40,000 | 4FIN | 0 | 4FIN | 3 | 4FIN | 5 | 4FIN | 5 |

While DOE maintained the same methodology in the final rule as it did in the NOPR for mapping ELs to TSLs, the number of TSLs has changed for this final rule. In the NOPR DOE established six TSLs to specifically examine the impacts of a standard where (a) all compressor technologies could meet a minimum efficiency as a system requirement, and (b) only display doors had an NPV > $0 as a component requirement. These criteria were created in addition to the three TSL criteria used in this final rule, for to a total of six NOPR TSLs. The criteria for selecting TSL in the NOPR and this final rule are shown in Table V.3, as shown in this table, the NOPR TSLs 4 through 6 are equivalent to the final rule TSLs 1 through 3.

TABLE V.3—COMPARISON OF NOPR TO FINAL RULE TSL CRITERIA

| NOPR TSL criteria | | | Final rule TSL criteria | | |
|---|---|---|---|---|---|
| TSL | System requirement | Component requirement | TSL | System requirement | Component requirement |
| 1 | All Compressors Max NPV | Max NPV (all components). | | | |
| 2 | Max NPV | Display Doors, NPV > $0. | | | |
| 3 | All Compressors NPV > $0 | Max NES, NPV > $0. | | | |
| 4 | Max NPV | Max NPV | 1 | Max NPV | Max NPV. |
| 5 | Max NES, NPV > $0 | Max NES, NPV > $0 | 2 | Max NES, NPV > $0 | Max NES, NPV > $0. |
| 6 | Max Tech | Max Tech | 3 | Max Tech | Max Tech. |

The ''All Compressors'' NOPR refrigeration systems TSLs (TSLs 1, and 3) were added to the NOPR in response to stakeholder comments during the initial phase of the rule-making. For this final rule, the three TSLs considered by DOE are inclusive of all compressor types. Subsequently, the ''All Compressors'' TSLs are redundant in this final rule; and were therefore dropped from the analysis.

The ''Display Doors, NPV > $0'' NOPR component TSL (TSL 2) was dropped from the final rule because Max NPV, and Max NES where NPV is greater than $0 only occur in this final rule under conditions where all components are held at the baseline except for the equipment classes covering display doors. Hence, for this final rule TSLs 1 and 2 effectively use the ''Display Doors'' criterion.

2. Trial Standard Level Equations

For panels, DOE expresses the TSLs in terms of R-value. As discussed in section III.B.1, DOE is no longer requiring the performance-based procedures to calculate a U-value of a walk-in panel. The Department reverted to thermal resistance, or R-value, as measured by ASTM C518, as the metric for establishing performance standards for walk-in cooler and freezer panels.

For display and non-display doors, respectively, the normalization metric is the surface area of the door. The TSLs are expressed in terms of linear equations that establish maximum daily energy consumption (MEC) limits in the form of:

$$MEC = D \times (\text{Surface Area}) + E$$

Coefficients D and E were uniquely derived for each equipment class by plotting the energy consumption at a given performance level versus the surface area of the door and determining the slope of the relationship, D, and the offset, E, where the offset represents the theoretical energy consumption of a door with no surface area. (The offset is necessary because not all energy-consuming components of the door scale directly with surface area.) The

surface area is defined in the walk-in cooler and freezer test procedure final rule.

For refrigeration systems, the TSLs are expressed as a minimum efficiency level (AWEF) that the system must meet. For low temperature, dedicated condensing systems (DC.L classes), DOE calculated the AWEF differently for small and large classes based on DOE's expectation that small-sized equipment may have difficulty meeting the same efficiency standard as large equipment. Specifically, DOE observed that for low temperature systems, higher-capacity equipment tended to be more efficient than lower-capacity equipment (DOE did not observe strong trends of this form for medium temperature equipment). DOE expressed the AWEF for the small capacity dedicated condensing systems as a linear equation normalized to the system's gross capacity, where the equation was based on the AWEFs for the smallest two capacities analyzed. DOE expressed the AWEF for large capacity dedicated condensing systems as a single number corresponding to a value continuous with the standard level for the small capacity class at the boundary capacity point between the classes (i.e., 9,000 Btu/h). DOE calculated a single minimum efficiency for each multiplex condensing system class because DOE found that equipment capacity did not have a significant effect on equipment efficiency. See chapter 10 of the final rule TSD for details regarding the AWEF calculations.

Table V.4, Table V.5, Table V.6, Table V.7, Table V.8, Table V.9, and Table V.10 show the R-values or equations analyzed for structural cooler panels, structural freezer panels, freezer floor panels, display doors, non-display passage doors, non-display freight doors, and refrigeration systems, respectively. For walk-in cooler structural panels, DOE evaluated a market baseline R-value that is higher than the current energy conservation levels in TSLs 1 and 2. As explained further in section IV.D.3, DOE established an industry representative baseline for walk-in components, but this baseline assumed a specific insulation material and thickness while EISA established R-value standards irrespective of such features.

Additionally, DOE notes that the equations and AWEFs for a particular class of equipment may be the same across more than one TSL. This occurs when the criteria for two different TSLs are satisfied by the same efficiency level for a particular component. For example, for all refrigeration classes the max-tech level has a positive NPV; thus, the efficiency level with the maximum energy savings with positive NPV (TSL 2) is the same as the efficiency level corresponding to max-tech (TSL 3).

TABLE V.4—R-VALUES FOR ALL STRUCTURAL COOLER PANEL TSLS

| TSL | Equations for R-value (h-ft$^2$-°F/Btu) |
|---|---|
| Baseline | 28 |
| TSL 1 | 28 |
| TSL 2 | 28 |
| TSL 3 | 90 |

TABLE V.5—R-VALUES FOR ALL STRUCTURAL FREEZER PANEL TSLS

| TSL | Equations for R-value (h-ft$^2$-°F/Btu) |
|---|---|
| Baseline | 32 |
| TSL 1 | 32 |
| TSL 2 | 32 |
| TSL 3 | 90 |

TABLE V.6—R-VALUES FOR ALL FREEZER FLOOR PANEL TSLS

| TSL | Equations for maximum R-value (h-ft$^2$-°F/Btu) |
|---|---|
| Baseline | 28 |
| TSL 1 | 28 |
| TSL 2 | 28 |
| TSL 3 | 90 |

TABLE V.7—EQUATIONS FOR ALL DISPLAY DOOR TSLS

| TSL | Equations for maximum energy consumption (kWh/day) | |
|---|---|---|
| | DD.M | DD.L |
| Baseline | $0.14 \times A_{dd} + 0.82$ | $0.04 \times A_{dd} + 0.88$ |
| TSL 1 | $0.05 \times A_{dd} + 0.39$ | $0.09 \times A_{dd} + 1.9$ |
| TSL 2 | $0.04 \times A_{dd} + 0.41$ | $0.15 \times A_{dd} + 0.29$ |
| TSL 3 | $0.008 \times A_{dd} + 0.29$ | $0.11 \times A_{dd} + 0.32$ |

*$A_{dd}$ represents the surface area of the display door.

TABLE V.8—EQUATIONS FOR ALL PASSAGE DOOR TSLS

| TSL | Equations for maximum energy consumption (kWh/day) | |
|---|---|---|
| | PD.M | PD.L |
| Baseline | $0.05 \times A_{nd} + 1.7$ | $0.14 \times A_{nd} + 4.8$ |
| TSL 1 | $0.05 \times A_{nd} + 1.7$ | $0.14 \times A_{nd} + 4.8$ |
| TSL 2 | $0.05 \times A_{nd} + 1.7$ | $0.14 \times A_{nd} + 4.8$ |
| TSL 3 | $0.04 \times A_{nd} + 1.6$ | $0.13 \times A_{nd} + 3.9$ |

*$A_{nd}$ represents the surface area of the non-display door.

TABLE V.9—EQUATIONS FOR ALL FREIGHT DOOR TSLS

| TSL | Equations for maximum energy consumption (kWh/day) | |
|---|---|---|
| | FD.M | FD.L |
| Baseline | $0.04 \times A_{nd} + 1.9$ | $0.12 \times A_{nd} + 5.6$ |
| TSL 1 | $0.04 \times A_{nd} + 1.9$ | $0.12 \times A_{nd} + 5.6$ |
| TSL 2 | $0.04 \times A_{nd} + 1.9$ | $0.12 \times A_{nd} + 5.6$ |
| TSL 3 | $0.03 \times A_{nd} + 1.9$ | $0.09 \times A_{nd} + 5.2$ |

*$A_{nd}$ represents the surface area of the non-display door.

TABLE V.10—AWEFS FOR ALL REFRIGERATION SYSTEM TSLS

| Equipment class | Equations for minimum AWEF (Btu/W-h)* | | | |
|---|---|---|---|---|
| | Baseline | TSL 1 | TSL 2 | TSL 3 |
| DC.M.I, <9,000 | 3.51 | 5.61 | 5.61 | 5.61 |
| DC.M.I, ≥9,000 | 3.51 | 5.61 | 5.61 | 5.61 |
| DC.M.O, <9,000 | 3.14 | 6.99 | 7.60 | 7.60 |
| DC.M.O, ≥9,000 | 3.14 | 6.99 | 7.60 | 7.60 |
| DC.L.I, <9,000 | $1.39 \times 10^{-4} \times Q + 0.98$ | $8.67 \times 10^{-5} \times Q + 2.00$ | $5.93 \times 10^{-5} \times Q + 2.33$ | $5.93 \times 10^{-5} \times Q + 2.33$ |
| DC.L.I, ≥9,000 | 2.23 | 2.78 | 3.10 | 3.10 |
| DC.L.O, <9,000 | $1.96 \times 10^{-4} \times Q + 0.82$ | $3.21 \times 10^{-4} \times Q + 1.29$ | $2.30 \times 10^{-4} \times Q + 2.73$ | $2.30 \times 10^{-4} \times Q + 2.73$ |
| DC.L.O, ≥9,000 | 2.57 | 4.17 | 4.79 | 4.79 |
| MC.M | 6.11 | 10.89 | 10.89 | 10.89 |
| MC.L | 3.29 | 5.58 | 6.57 | 6.57 |

*Q represents the system gross capacity as calculated in AHRI 1250.

*B. Economic Justification and Energy Savings*

1. Economic Impacts on Commercial Customers

a. Life-Cycle Cost and Payback Period

Customers affected by new or amended standards usually incur higher purchase prices and experience lower operating costs. DOE evaluates these impacts on individual consumers by calculating changes in LCC and the PBP associated with the TSLs. Using the approach described in section IV.F, DOE calculated the LCC impacts and PBPs for the efficiency levels considered in this final rule. Inputs used for calculating the LCC include total installed costs (*i.e.,* equipment price plus installation costs), annual energy savings, and average electricity costs by consumer, energy price trends, repair costs, maintenance costs, equipment lifetime, and consumer discount rates. DOE based the LCC and PBP analyses on energy consumption under conditions of actual equipment use. DOE created distributions of values for some inputs, with probabilities attached to each value, to account for their uncertainty and variability. DOE used probability distributions to characterize equipment lifetime, discount rates, sales taxes and several other inputs to the LCC model.

Table V.11 through Table V.19 show key results of the LCC and PBP analysis for each equipment class. Each table presents the mean LCC, mean LCC savings, median PBP, and distribution of customer impacts in the form of percentages of customers who experience net cost, no impact, or net benefit. Generally, customers who currently buy equipment in the base case scenario at or above the level of performance specified by the TSL under consideration would be unaffected if the amended standard were to be set at that TSL. Customers who buy equipment below the level of the TSL under consideration would be affected if the amended standard were to be set at that TSL. Among these affected customers, some may benefit (lower LCC) and some may incur net cost (higher LCC).

TABLE V.11—SUMMARY LCC AND PBP RESULTS FOR MEDIUM TEMPERATURE DEDICATED CONDENSING REFRIGERATION SYSTEMS—OUTDOOR CONDENSER

| TSL | Energy consumption kWh/yr | Mean values 2013$ | | | Life-cycle cost savings | | | | Median payback period years |
|---|---|---|---|---|---|---|---|---|---|
| | | Installed cost | Annual operating cost | LCC | Average savings 2013$ | Customers that experience | | | |
| | | | | | | Net cost % | No impact % | Net benefit % | |
| 1 | 13484 | 11153 | 2172 | 28825 | 6382 | 0 | 0 | 100 | 1.1 |
| 2 | 12414 | 12060 | 2087 | 29036 | 6533 | 0 | 0 | 100 | 2.2 |
| 3 | 12414 | 12060 | 2087 | 29036 | 6533 | 0 | 0 | 100 | 2.2 |

TABLE V.12—SUMMARY LCC AND PBP RESULTS FOR MEDIUM-TEMPERATURE DEDICATED CONDENSING REFRIGERATION SYSTEMS—INDOOR CONDENSER

| TSL | Energy consumption kWh/yr | Mean values 2013$ | | | Life-cycle cost savings | | | | Median payback period years |
|---|---|---|---|---|---|---|---|---|---|
| | | Installed cost | Annual operating cost | LCC | Average savings 2013$ | Customer that experience | | | |
| | | | | | | Net cost % | No impact % | Net benefit % | |
| 1 ..... | 7550 | 5997 | 1512 | 18320 | 1485 | 0 | 0 | 100 | 2.8 |
| 2 ..... | 16396 | 11484 | 2560 | 32218 | 5942 | 2 | 0 | 98 | 3.5 |
| 3 ..... | 16396 | 11484 | 2560 | 32218 | 5942 | 2 | 0 | 98 | 3.5 |

TABLE V.13—SUMMARY OF LCC AND PBP RESULTS FOR LOW-TEMPERATURE DEDICATED-CONDENSING REFRIGERATION SYSTEMS—OUTDOOR CONDENSER

| TSL | Energy consumption kWh/yr | Mean values 2013$ | | | Life-cycle cost savings | | | | Median payback period years |
|---|---|---|---|---|---|---|---|---|---|
| | | Installed cost | Annual operating cost | LCC | Average savings 2013$ | Customer that experience | | | |
| | | | | | | Net cost % | No impact % | Net benefit % | |
| 1 ..... | 18598 | 9408 | 2712 | 31375 | 6463 | 0 | 0 | 100 | 1.0 |
| 2 ..... | 16396 | 11484 | 2560 | 32218 | 5942 | 2 | 0 | 98 | 3.5 |
| 3 ..... | 16396 | 11484 | 2560 | 32218 | 5942 | 2 | 0 | 98 | 3.5 |

TABLE V.14—SUMMARY OF LCC AND PBP RESULTS FOR LOW-TEMPERATURE DEDICATED-CONDENSING REFRIGERATION SYSTEMS—INDOOR CONDENSER

| TSL | Energy consumption kWh/yr | Mean values 2013$ | | | Life-cycle cost savings | | | | Median payback period years |
|---|---|---|---|---|---|---|---|---|---|
| | | Installed cost | Annual operating cost | LCC | Average savings 2013$ | Customer that experience | | | |
| | | | | | | Net cost % | No impact % | Net benefit % | |
| 1 ..... | 11958 | 5452 | 1974 | 21483 | 2157 | 0 | 0 | 100 | 1.7 |
| 2 ..... | 11497 | 5882 | 1948 | 21697 | 2078 | 0 | 0 | 100 | 1.6 |
| 3 ..... | 11497 | 5882 | 1948 | 21697 | 2078 | 0 | 0 | 100 | 1.6 |

TABLE V.15—SUMMARY LCC AND PBP RESULTS FOR MEDIUM-TEMPERATURE MULTIPLEX REFRIGERATION SYSTEMS

[Unit coolers only]

| TSL | Energy consumption kWh/yr | Mean values 2013$ | | | Life-cycle cost savings | | | | Median payback period years |
|---|---|---|---|---|---|---|---|---|---|
| | | Installed cost | Annual operating cost | LCC | Average savings 2013$ | Customer that experience | | | |
| | | | | | | Net cost % | No impact % | Net benefit % | |
| 1 ..... | 5634 | 2288 | 1214 | 12931 | 362 | 0 | 0 | 100 | 3.1 |
| 2 ..... | 5634 | 2288 | 1214 | 12931 | 362 | 0 | 0 | 100 | 3.1 |
| 3 ..... | 5634 | 2288 | 1214 | 12931 | 362 | 0 | 0 | 100 | 3.1 |

TABLE V.16—SUMMARY LCC AND PBP RESULTS FOR LOW-TEMPERATURE MULTIPLEX REFRIGERATION SYSTEMS

[Unit coolers only]

| TSL | Energy consumption kWh/yr | Mean values 2013$ | | | Life-cycle cost savings | | | | Median payback period years |
|---|---|---|---|---|---|---|---|---|---|
| | | Installed cost | Annual operating cost | LCC | Average savings 2013$ | Customer that experience | | | |
| | | | | | | Net cost % | No impact % | Net benefit % | |
| 1 ..... | 9264 | 2381 | 1577 | 16143 | 598 | 0 | 0 | 100 | 2.7 |
| 2 ..... | 9240 | 2453 | 1575 | 16195 | 547 | 0 | 0 | 100 | 3.1 |
| 3 ..... | 9240 | 2453 | 1575 | 16195 | 547 | 0 | 0 | 100 | 3.1 |

TABLE V.17—SUMMARY LCC AND PBP RESULTS FOR STRUCTURAL AND FLOOR PANELS

[per ft²]

| TSL | Energy consumption kWh/yr | Life-cycle cost 2013$ | | | Life-cycle cost savings 2013$ | | | | Median payback period years |
|---|---|---|---|---|---|---|---|---|---|
| | | Installed cost | Discounted operating cost | LCC | Average savings | Consumers that experience | | | |
| | | | | | | Net cost % | No impact % | Net benefit % | |
| **Medium Temperature Structural Panel** | | | | | | | | | |
| 1 | 0 | 15.0 | 0.2 | 16.4 | — | 0 | 100 | 0 | — |
| 2 | 0 | 15.0 | 0.1 | 16.3 | — | 0 | 100 | 0 | — |
| 3 | 0.5 | 36.5 | 0.0 | 36.9 | −20.7 | 100 | 0 | 0 | 238.6 |
| **Low Temperature Structural Panel** | | | | | | | | | |
| 1 | 0 | 15.5 | 0.6 | 21.2 | — | 0 | 100 | 0 | — |
| 2 | 0 | 15.5 | 0.6 | 20.7 | — | 0 | 100 | 0 | — |
| 3 | 2 | 36.6 | 0.2 | 38.4 | −17.7 | 100 | 0 | 0 | 58.8 |
| **Low Temperature Floor Panel** | | | | | | | | | |
| 1 | 0 | 15.9 | 0.6 | 20.9 | — | 0 | 100 | 0 | — |
| 2 | 0 | 15.9 | 0.5 | 20.5 | — | 0 | 100 | 0 | — |
| 3 | 2 | 37.6 | 0.2 | 39.0 | −18.6 | 100 | 0 | 0 | 64.7 |

**Note:** "—" indicates no impact because all purchases are at or above the given TSL in the base case.

TABLE V.18—SUMMARY LCC AND PBP RESULTS FOR DISPLAY DOORS

[Per unit, weighted across all sizes]

| TSL | Energy consumption kWh/yr | Life-cycle cost 2013$ | | | Life-cycle cost savings 2013$ | | | | Median payback period years |
|---|---|---|---|---|---|---|---|---|---|
| | | Installed cost | Discounted operating cost | LCC | Average savings | Consumers that experience | | | |
| | | | | | | Net cost % | No impact % | Net benefit % | |
| **Medium Temperature Display Door** | | | | | | | | | |
| 1 | 572 | 1,228 | 62.8 | 1,782 | 460 | 0 | 30 | 69 | 2.4 |
| 2 | 466 | 1,480 | 51.8 | 1,936 | 143 | 41 | 0 | 59 | 7.3 |
| 3 | 193 | 4,270 | 23.3 | 4,476 | −2,396 | 100 | 0 | 0 | 39.5 |
| **Low Temperature Display Door** | | | | | | | | | |
| 1 | 2142 | 2,626 | 235 | 4,698 | 976 | 4 | 0.00 | 96 | 4.2 |
| 2 | 1578 | 3,071 | 177 | 4,629 | 902 | 10 | 0.00 | 90 | 5.4 |
| 3 | 1277 | 4,331 | 145 | 5,611 | −79 | 59 | 0.00 | 41 | 9.6 |

TABLE V.19—SUMMARY LCC AND PBP RESULTS FOR NON-DISPLAY DOORS

[Per unit, weighted across all sizes]

| TSL | Energy consumption kWh/yr | Life-cycle cost 2013$ | | | Life-cycle cost savings 2013$ | | | | Median payback period years |
|---|---|---|---|---|---|---|---|---|---|
| | | Installed cost | Discounted operating cost | LCC | Average savings | Consumers that experience | | | |
| | | | | | | Net cost % | No impact % | Net benefit % | |
| **Medium Temperature Passage Door** | | | | | | | | | |
| 1 | 0 | 868 | 156 | 1,827 | — | 0 | 100 | 0 | — |
| 2 | 0 | 868 | 152 | 1,803 | — | 0 | 100 | 0 | — |
| 3 | 1193 | 2,299 | 531 | 5,315 | −2000 | 100 | 0 | 0 | 30.8 |
| **Low Temperature Passage Door** | | | | | | | | | |
| 1 | 0 | 2,053 | 552 | 5,449 | — | 0 | 100 | 0 | — |

TABLE V.19—SUMMARY LCC AND PBP RESULTS FOR NON-DISPLAY DOORS—Continued

[Per unit, weighted across all sizes]

| TSL | Energy consumption kWh/yr | Life-cycle cost 2013$ | | | Life-cycle cost savings 2013$ | | | | Median payback period years |
|---|---|---|---|---|---|---|---|---|---|
| | | Installed cost | Discounted operating cost | LCC | Average savings | Consumers that experience | | | |
| | | | | | | Net cost % | No impact % | Net benefit % | |
| 2 | 0 | 2,053 | 531 | 5,315 | — | 0 | 100 | 0 | — |
| 3 | 4099 | 4,590 | 443 | 7,313 | −1,998 | 100 | 0 | 0 | 30.7 |
| **Medium Temperature Freight Door** | | | | | | | | | |
| 1 | 0 | 1,750 | 230 | 3,164 | — | 0 | 100 | 0 | — |
| 2 | 0 | 1,750 | 224 | 3,126 | — | 0 | 100 | 0 | — |
| 3 | 175 | 4,577 | 198 | 5,795 | −2,668 | 100 | 0 | 0 | 115.5 |
| **Low Temperature Freight Door** | | | | | | | | | |
| 1 | 0 | 1,945 | 861 | 7,239 | — | 0 | 100 | 0 | — |
| 2 | 0 | 1,945 | 826 | 7,023 | — | 0 | 100 | 0 | — |
| 3 | 6350 | 4,617 | 678 | 8,784 | −1,761 | 100 | 0 | 0 | 19.1 |

**Note:** "—" indicates no impact because all purchases are at or above the given TSL in the base case.

b. Customer Subgroup Analysis

As described in section IV.I, DOE estimated the impact of potential amended efficiency standards for walk-ins for the representative customer subgroup: Full-service restaurants.

Table V.20 and Table V.21 presents the comparison of mean LCC savings for the subgroup with the values for all WICF customers. For all TSLs in all equipment classes, the LCC savings for this subgroup are not significantly different, less than 10 percent higher than the national average values. The equipment class that shows the most substantial change is DD.L, it shows decrease in LCC savings, when compared to national average values. (Chapter 11 of the final rule TSD presents the percentage change in LCC savings compared to national average values.)

TABLE V.20—SUBGROUP MEAN LIFE-CYCLE COST SAVINGS FOR WICF REFRIGERATION SYSTEMS (2013$)

| Equipment class | Group | TSL 1 | TSL 2 | TSL 3 |
|---|---|---|---|---|
| DC.L.I | Full-service Restaurants | 2157 | 2157 | 2078 |
| | All Business Types | 2096 | 2096 | 2020 |
| DC.L.O | Full-service Restaurants | 6463 | 6463 | 5942 |
| | All Business Types | 2096 | 2096 | 2020 |
| DC.M.I | Full-service Restaurants | 1485 | 1485 | 5942 |
| | All Business Types | 1445 | 1445 | 5793 |
| DC.M.O | Full-service Restaurants | 6382 | 6382 | 6533 |
| | All Business Types | 6244 | 6244 | 6386 |

*Multiplex refrigeration systems are not typically used in small restaurants.

TABLE V.21—SUBGROUP MEDIAN LIFE-CYCLE COST SAVINGS FOR WICF ENVELOPE COMPONENTS (PANELS AND DOORS) (2223$)

| Equipment Class | Group | TSL1 | TSL2 | TSL3 |
|---|---|---|---|---|
| SP.M | Full-service Restaurants | — | — | −23 |
| | All Business Types | — | — | −21 |
| SP.L | Full-service Restaurants | — | — | −20 |
| | All Business Types | — | — | −18 |
| FP.L | Full-service Restaurants | — | — | −21 |
| | All Business Types | — | — | −19 |
| DD.M | Full-service Restaurants | 434 | 107 | −2612 |
| | All Business Types | 460 | 143 | −2396 |
| DD.L | Full-service Restaurants | 873 | 761 | −306 |
| | All Business Types | 976 | 902 | −79 |
| PD.M | Full-service Restaurants | — | — | — |
| | All Business Types | — | — | — |
| PD.L | Full-service Restaurants | — | — | −2157 |
| | All Business Types | — | — | −1998 |
| FD.M | Full-service Restaurants | — | — | −2844 |
| | All Business Types | — | — | −2668 |
| FD.L | Full-service Restaurants | — | — | −1930 |

TABLE V.21—SUBGROUP MEDIAN LIFE-CYCLE COST SAVINGS FOR WICF ENVELOPE COMPONENTS (PANELS AND DOORS) (2223$)—Continued

| Equipment Class | Group | TSL1 | TSL2 | TSL3 |
|---|---|---|---|---|
| | All Business Types | — | — | −1761 |

**Note:** Dashes represent components at baseline efficiency and therefore do not have a payback period. Numbers in parentheses indicate negative values.

TABLE V.22—SUBGROUP MEDIAN PAYBACK PERIOD FOR WICF REFRIGERATION SYSTEMS (YEARS)

| Equipment class | Group | TSL1 | TSL2 | TSL3 |
|---|---|---|---|---|
| DC.L.I | Full-service Restaurants | 1.7 | 1.7 | 1.6 |
| | All Business Types | 1.6 | 1.6 | 1.6 |
| DC.L.O | Full-service Restaurants | 1.0 | 1.0 | 3.5 |
| | All Business Types | 1.0 | 1.0 | 1.0 |
| DC.M.I | Full-service Restaurants | 2.8 | 2.8 | 3.5 |
| | All Business Types | 2.7 | 2.7 | 2.7 |
| DC.M.O | Full-service Restaurants | 1.1 | 1.1 | 2.2 |
| | All Business Types | 1.1 | 1.1 | 1.1 |

* Multiplex refrigeration systems are not typically used in small restaurants.

TABLE V.23—SUBGROUP MEDIAN PAYBACK PERIOD FOR WICF ENVELOPE COMPONENTS (PANELS AND DOORS) (YEARS)

| Equipment class | Group | TSL1 | TSL2 | TSL3 |
|---|---|---|---|---|
| SP.M | Full-service Restaurants | — | — | 253.1 |
| | All Business Types | — | — | 238.6 |
| SP,L | Full-service Restaurants | — | — | 62.4 |
| | All Business Types | — | — | 58.8 |
| FP.L | Full-service Restaurants | — | — | 68.7 |
| | All Business Types | — | — | 64.7 |
| DD.M | Full-service Restaurants | 2.5 | 7.3 | 39.9 |
| | All Business Types | 2.4 | 7.3 | 39.5 |
| DD.L | Full-service Restaurants | 4.3 | 5.5 | 9.7 |
| | All Business Types | 4.2 | 5.4 | 9.6 |
| PD.M | Full-service Restaurants | — | — | — |
| | All Business Types | — | — | — |
| PD.L | Full-service Restaurants | — | — | 31.3 |
| | All Business Types | — | — | 30.7 |
| FD.M | Full-service Restaurants | — | — | 117.8 |
| | All Business Types | — | — | 115.5 |
| FD.L | Full-service Restaurants | — | — | 19.5 |
| | All Business Types | — | — | 19.1 |

**Note:** Dashes represent components at baseline efficiency and therefore do not have a payback period.

c. Rebuttable Presumption Payback

As discussed in section IV.G.12, EPCA provides a rebuttable presumption that a given standard is economically justified if the increased purchase cost of equipment that meets the standard is less than three times the value of the first-year energy savings resulting from the standard. However, DOE routinely conducts a full economic analysis that considers the full range of impacts, including those to the customer, manufacturer, Nation, and environment, as required under 42 U.S.C. 6295(o)(2)(B)(i) and 42 U.S.C. 6316(a). The results of this analysis serve as the basis for DOE to evaluate definitively the economic justification for a potential standard level (thereby supporting or rebutting the results of any preliminary determination of economic justification). Therefore, if the rebuttable presumption is not met, DOE may justify its standard on another basis. Table V.24 shows the rebuttable payback periods analysis for each equipment class at each TSL.

TABLE V.24—SUMMARY OF RESULTS FOR WALK-IN COOLERS AND FREEZERS TSLS: REBUTTABLE PAYBACK PERIOD

[years]

| Equipment class | Median payback period | | |
|---|---|---|---|
| | TSL 1 | TSL 2 | TSL 3 |
| DC.L.I | 1.7 | 1.6 | 1.6 |
| DC.L.O | 1.0 | 3.4 | 3.4 |
| DC.M.I | 2.7 | 3.4 | 3.4 |
| DC.M.O | 1.1 | 2.1 | 2.1 |
| MC.L | 2.7 | 3.1 | 3.1 |
| MC.M | 3.1 | 3.1 | 3.1 |

TABLE V.24—SUMMARY OF RESULTS FOR WALK-IN COOLERS AND FREEZERS TSLS: REBUTTABLE PAYBACK PERIOD—Continued

[years]

| Equipment class | Median payback period | | |
|---|---|---|---|
| | TSL 1 | TSL 2 | TSL 3 |
| SP.M | | | 234.6 |
| SP.L | | | 58.4 |
| FP.L | | | 63.5 |
| DD.M | 2.4 | 7.5 | 39.3 |
| DD.L | 4.7 | 5.4 | 9.4 |
| PD.M | | | |
| PD.L | | | 31.0 |
| FD.M | | | 113.4 |
| FD.L | | | 19.3 |

2. Economic Impacts on Manufacturers

DOE performed a manufacturer impact analysis (MIA) to estimate the impact of new energy conservation standards on manufacturers of walk-in cooler and freezer refrigeration, panels, and doors. The section below describes the expected impacts on manufacturers at each considered TSL. Chapter 12 of the TSD explains the analysis in further detail.

a. Industry Cash-Flow Analysis Results

Table V.25 through Table V.27 depict the financial impacts on manufacturers and the conversion costs DOE estimates manufacturers would incur at each TSL. The financial impacts on manufacturers are represented by changes in industry net present value (INPV).

The impact of energy efficiency standards were analyzed under two markup scenarios: (1) The preservation of gross margin percentage and (2) the preservation of operating profit. As discussed in section IV.K.2.b, DOE considered the preservation of gross margin percentage scenario by applying a uniform ''gross margin percentage'' markup across all efficiency levels. As production cost increases with efficiency, this scenario implies that the absolute dollar markup will increase. DOE assumed the nonproduction cost markup—which includes SG&A expenses; research and development expenses; interest; and profit to be 1.32 for panels, 1.50 for solid doors, 1.62 for display doors, and 1.35 for refrigeration. These markups are consistent with the ones DOE assumed in the engineering analysis and the base case of the GRIM. Manufacturers have indicated that it is optimistic to assume that as their production costs increase in response to an efficiency standard, they would be able to maintain the same gross margin percentage markup. Therefore, DOE assumes that this scenario represents a high bound to industry profitability under an energy-conservation standard.

The preservation of earnings before interest and taxes (EBIT) scenario reflects manufacturer concerns about their inability to maintain their margins as manufacturing production costs increase to reach more-stringent efficiency levels. In this scenario, while manufacturers make the necessary investments required to convert their facilities to produce new standards-compliant equipment, operating profit does not change in absolute dollars and decreases as a percentage of revenue.

Each of the modeled scenarios results in a unique set of cash flows and corresponding industry values at each TSL. In the following discussion, the INPV results refer to the difference in industry value between the base case and each standards case that result from the sum of discounted cash flows from the base year 2013 through 2046, the end of the analysis period. To provide perspective on the short-run cash flow impact, DOE includes in the discussion of the results a comparison of free cash flow between the base case and the standards case at each TSL in the year before new standards take effect.

Table V.25 through Table V.27 show the MIA results for each TSL using the markup scenarios described above for WICF panel, door and refrigeration manufacturers, respectively.

TABLE V.25—MANUFACTURER IMPACT ANALYSIS RESULTS FOR WICF PANELS

| | Units | Base case | Trial standard level | | |
|---|---|---|---|---|---|
| | | | 1 | 2 | 3 |
| INPV | *2012 $M* | 381.94 | 381.94 | 381.94 | 97.41 to 670.62. |
| Change in INPV | *2012 $M* | | 0 | 0 | −284.53 to 288.68. |
| | *%* | | 0 | 0 | −74.49 to 75.58. |
| Capital Conversion Costs | *2012 $M* | | 0 | 0 | 162.77. |
| Product Conversion Costs | *2012 $M* | | 0 | 0 | 35.41. |
| Total Investment Required | *2012 $M* | | 0 | 0 | 198.18. |

TABLE V.26—MANUFACTURER IMPACT ANALYSIS RESULTS FOR WICF DOORS

| | Units | Base case | Trial standard level | | |
|---|---|---|---|---|---|
| | | | 1 | 2 | 3 |
| INPV | *2012 $M* | 484.85 | 475.67 to 506.50 | 457.34 to 545.60 | 245.50 to 1233.63. |
| Change in INPV | *2012 $M* | | −9.19 to 21.64 | −27.51 to 60.74 | (239.35) to 748.48. |
| | *%* | | −1.89 to 4.46 | −5.67 to 12.53 | (49.37) to 154.43. |
| Capital Conversion Costs | *2012 $M* | | 0.04 | 0.15 | 85.99. |
| Product Conversion Costs | *2012 $M* | | 0.13 | 0.22 | 14.63. |
| Total Investment Required | *2012 $M* | | 0.18 | 0.37 | 100.62. |

TABLE V.27—MANUFACTURER IMPACT ANALYSIS RESULTS FOR WICF REFRIGERATION SYSTEMS

| | Units | Base case | Trial standard level | | |
|---|---|---|---|---|---|
| | | | 1 | 2 | 3 |
| INPV | *2012 $M* | 424.37 | 404.15 to 434.60 | 398.99 to 443.82 | 398.99 to 443.82. |
| Change in INPV | *2012 $M* | | −20.22 to 10.24 | −25.38 to 19.46 | −25.38 to 19.46. |
| | *(%)* | | −4.76 to 2.41 | −5.98 to 4.59 | −5.98 to 4.59. |
| Capital Conversion Costs | *2012 $M* | | 13.18 | 14.50 | 14.50. |
| Product Conversion Costs | *2012 $M* | | 15.55 | 18.74 | 18.74. |
| Total Investment Required | *2012 $M* | | 28.73 | 33.23 | 33.23. |

Walk-In Cooler and Freezer Panel MIA Results

At all TSLs, the evaluated efficiency levels for walk-in panel equipment classes are at the baseline level. The baseline represents the most common, least efficient products that can legally be purchased on the market today. To meet a baseline standard, walk-in panel manufacturers should not have to integrate any new technologies or design options into existing operations. As a result, capital conversion costs and product conversion costs are expected to be zero. At TSL 1 and TSL 2, INPV remains the same as in the base case. There is no change from the base case value of $381.94 million.

For TSL 3, DOE models the change in INPV for panels to range from −$284.53 million to $288.68 million, or a change in INPV of −74.49 percent to 75.58 percent. At this standard level, door industry free cash flow is estimated to decrease by as much as $74.45 million, or −226.84 percent compared to the base case value of $37.49 million in the year before the compliance date.

Walk-In Cooler and Freezer Door MIA Results

For TSL 1, DOE models the change in INPV for doors to range from −$9.19 million to $21.64 million, or a change in INPV of −1.89 percent to 4.46 percent. At this standard level, door industry free cash flow is estimated to decrease by as much as $0.06 million, or −0.15 percent compared to the base case value of $37.49 million in the year before the compliance date.

At TSL 2, DOE estimates the impacts on door INPV to range from −$27.51 million to $60.74 million, or a change in INPV of −5.67 percent to 12.53 percent. At this level, door industry free cash flow is estimated to decrease by $0.13 million in the year before the compliance year, or −0.33 percent compared to the base case value of $37.49 million in the year before the compliance date.

At TSL 3, DOE estimates the impacts on door INPV to range from −239.95 to 748.48, or a change in INPV of −49.37 percent to 154.43 percent. At this level, door industry free cash flow is estimated to decrease by as much as 38.66 million in the year before the compliance year, or −103.13 percent compared to the base case value of $37.49 million in the year before the compliance date.

Walk-in Cooler and Freezer Refrigeration MIA Results

At TSL 1, DOE estimates impacts on refrigeration INPV to range from −$20.22 million to $10.24 million, or a change in INPV of −4.76 percent to 2.41 percent. At this level, refrigeration industry free cash flow is estimated to decrease by as much as $9.53 million, or −26.47 percent compared to the base-case value of $36.02 million in 2016, the year before the compliance year.

At TSL 2 and TSL 3, DOE estimates impacts on refrigeration INPV to range from −$25.38 million to $19.46 million, or a change in INPV of −5.98 percent to 4.59 percent. At this level, refrigeration industry free cash flow is estimated to decrease by as much as $10.93 million, or −30.35 percent compared to the base-case value of $36.02 million in the year before the compliance date.

b. Impacts on Direct Employment

Methodology

To quantitatively assess the impacts of energy conservation standards on employment, DOE used the GRIM to estimate the domestic labor expenditures and number of employees in the base case and at each TSL from 2013 through 2046. DOE used statistical data from the U.S. Census Bureau's 2011 Annual Survey of Manufacturers (ASM), the results of the engineering analysis, and interviews with manufacturers to determine the inputs necessary to calculate industry-wide labor expenditures and domestic employment levels. Labor expenditures related to manufacturing of the product are a function of the labor intensity of the product, the sales volume, and an assumption that wages remain fixed in real terms over time. The total labor expenditures in each year are calculated by multiplying the MPCs by the labor percentage of MPCs.

The total labor expenditures in the GRIM were then converted to domestic production employment levels by dividing production labor expenditures by the annual payment per production worker (production worker hours multiplied by the labor rate found in the U.S. Census Bureau's 2011 ASM). The estimates of production workers in this section cover workers, including line supervisors who are directly involved in fabricating and assembling a product within the OEM facility. Workers performing services that are closely associated with production operations, such as materials handling tasks using forklifts, are also included as production labor. DOE's estimates only account for production workers who manufacture the specific products covered by this rulemaking. To further establish a lower bound to negative impacts on employment, DOE reviewed design options, conversion costs, and market share information to determine the maximum number of manufacturers that would leave the industry at each TSL.

In evaluating the impact of energy efficiency standards on employment, DOE performed separate analyses on all three walk-in component manufacturer industries: panels, doors and refrigeration systems.

Using the GRIM, DOE estimates in the absence of new energy conservation standards, there would be 2,878 domestic production workers for walk-in panels, 1,302 domestic production workers for walk-in doors, and 415 domestic production workers for walk-in refrigeration systems in 2017.

Table V.28, Table V.29, and Table V.30 show the range of the impacts of energy conservation standards on U.S. production workers in the panel, door, and refrigeration system markets, respectively. Additional detail on the analysis of direct employment can be found in chapter 12 of the TSD.

TABLE V.28—POTENTIAL CHANGES IN THE TOTAL NUMBER OF DOMESTIC PRODUCTION WORKERS IN 2017 FOR PANELS

| TSL | 1 | 2 | 3 |
|---|---|---|---|
| Potential Changes in Domestic Production Workers 2017 (from a base case employment of 2,878) | 0 to 0 | 0 to 0 | −863 to 738 |

TABLE V.29—POTENTIAL CHANGES IN THE TOTAL NUMBER OF DOMESTIC PRODUCTION WORKERS IN 2017 FOR DOORS

| TSL | 1 | 2 | 3 |
|---|---|---|---|
| Potential Changes in Domestic Production Workers 2017 (from a base case employment of 1,318) | 0 to 101 | 0 to 200 | −132 to 1,979 |

TABLE V.30—POTENTIAL CHANGES IN THE TOTAL NUMBER OF DOMESTIC PRODUCTION WORKERS IN 2017 FOR REFRIGERATION SYSTEMS

| TSL | 1 | 2 | 3 |
|---|---|---|---|
| Potential Changes in Domestic Production Workers 2017 (from a base case employment of 424) | −64 to 56. | −161 to 88. | −161 to 88 |

The employment impacts shown in Table V.28 through Table V.30 represent the potential production employment changes that could result following the compliance date of these energy conservation standards. The upper end of the results in the table estimates the maximum increase in the number of production workers after the implementation of new energy conservation standards and it assumes that manufacturers would continue to produce the same scope of covered products within the United States. The lower end of the range represents the maximum decrease to the total number of U.S. production workers in the industry due to manufacturers leaving the industry. However, in the long-run, DOE would expect the manufacturers that do not leave the industry to add employees to cover lost capacity and to meet market demand. Please note that DOE does not propose any increase in energy conservation standards for Walk-in Panels, medium and low temperature solid doors, therefore there would likely be no significant change in employment in these industries.

The employment impacts shown are independent of the employment impacts from the broader U.S. economy, which are documented in the Employment Impact Analysis, chapter 13 of the TSD.

c. Impacts on Manufacturing Capacity

Panels

Manufacturers indicated that design options that necessitate thicker panels could lead to longer production times for panels. In general, every additional inch of foam increases panel cure times by roughly 20 minutes. A standard that necessitates 6-inch thick panels for any of the panel equipment classes would require manufacturers to add equipment to maintain throughput due to longer curing times or to purchase all new tooling to enable production if the manufacturer's current equipment cannot accommodate 6-inch panels. Given that the only efficiency level considered for panels in this rule is baseline, DOE does not anticipate any changes in production techniques or new capacity constraints resulting from this rulemaking.

Doors

Display door manufacturers did not identify any design options which would lead to capacity constraints. However, manufacturers commented on differences between the two types of low-emittance coatings analyzed: hard low emittance coating (''hard-coat''), the baseline option, and soft low emittance coating (''soft-coat''), the corresponding design option. Hard-coat is applied to the glass pane at high temperatures during the formation of the pane and is extremely durable, while soft-coat is applied in a separate step after the glass pane is formed and is less durable than hard low emittance coating but has better performance characteristics. Manufacturers indicated that soft-coat is significantly more difficult to work with and may require new conveyor equipment. As manufacturers adjust to working with soft-coat, longer lead times may occur.

The production of solid doors is very similar to the production of panels. Similar to panels, DOE is only considering the baseline efficiency level for passage and freight doors. The Department does not expect capacity challenges for the production of solid doors as a result of this rule.

Refrigeration

DOE did not identify any significant capacity constraints for the design options being evaluated for this rulemaking. For most refrigeration manufacturers, the walk-in market makes up a relatively small percentage of their overall revenues. Additionally, most of the design options being evaluated are available as product options today. As a result, the industry should not experience capacity constraints directly resulting from an energy conservation standard.

d. Impacts on Small Manufacturer Sub-Group

As discussed in section IV.I.1, using average cost assumptions to develop an industry cash-flow estimate may not be adequate for assessing differential impacts among manufacturer sub-groups. Small manufacturers, niche equipment manufacturers, and manufacturers exhibiting a cost structure substantially different from the industry average could be affected disproportionately. DOE used the results of the industry characterization to group manufacturers exhibiting similar characteristics. Consequently, DOE analyzes small manufacturers as a sub-group.

DOE evaluated the impact of new energy conservation standards on small manufacturers, specifically ones defined as ''small businesses'' by the SBA. The SBA defines a ''small business'' as having 750 employees or less for NAICS 333415, ''Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing.'' Based on this definition, DOE identified two refrigeration system manufacturers, forty-two panel manufacturers, and five door manufacturers in the WICF industry that are small businesses. DOE describes the differential impacts on these small businesses in this rule at section VI.B, Review Under the Regulatory Flexibility Act.

e. Cumulative Regulatory Burden

While any one regulation may not impose a significant burden on manufacturers, the combined effects of several 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. Multiple regulations affecting

the same manufacturer can strain profits and can lead companies to abandon product lines or markets with lower expected future returns than competing products. For these reasons, DOE conducts an analysis of cumulative regulatory burden as part of its rulemakings pertaining to appliance and equipment efficiency.

For the cumulative regulatory burden analysis, DOE looks at other regulations that could affect walk in cooler and freezer manufacturers that will take effect approximately 3 years before or after the compliance date of new energy conservation standards for these products. In addition to the new energy conservation regulations on walk-ins, several other Federal regulations apply to these products and other equipment produced by the same manufacturers. While the cumulative regulatory burden focuses on the impacts on manufacturers of other Federal requirements, DOE also describes a number of other regulations in section VI.B because it recognizes that these regulations also impact the products covered by this rulemaking.

Companies that produce a wide range of regulated products may be faced with more capital and product development expenditures than competitors with a narrower scope of products. Regulatory burdens can prompt companies to exit the market or reduce their product offerings, potentially reducing competition. Smaller companies in particular can be affected by regulatory costs since these companies have lower sales volumes over which they can amortize the costs of meeting new regulations. DOE discusses below the regulatory burdens manufacturers could experience, mainly, DOE regulations for other products or equipment produced by walk-in manufacturers and other Federal requirements including the United States Clean Air Act, the Energy Independence and Security Act of 2007. While this analysis focuses on the impacts on manufacturers of other Federal requirements, in this section DOE also describes a number of other regulations that could also impact the WICF equipment covered by this rulemaking: Potential climate change and greenhouse gas legislation, State conservation standards, and food safety regulations. DOE discusses these and other requirements, and includes the full details of the cumulative regulatory burden, in chapter 12 of the final rule TSD.

DOE Regulations for Other Products Produced by Walk-In Cooler and Freezer Manufacturers

In addition to the new energy conservation standards on walk in cooler and freezer equipment, several other Federal regulations apply to other products produced by the same manufacturers. DOE recognizes that each regulation can significantly affect a manufacturer's financial operations. Multiple regulations affecting the same manufacturer can strain manufacturers' profits and possibly cause an exit from the market. DOE is conducting an energy conservation standard rulemaking for commercial refrigeration equipment and cannot include the costs of this rulemaking in its cumulative analysis because the rulemaking is not yet complete and no cost estimates are available.

Federal Clean Air Act

The Clean Air Act defines the EPA's responsibilities for protecting and improving the nation's air quality and the stratospheric ozone layer. The most significant of these additional regulations is the EPA-mandated phase-out of hydrochlorofluorocarbons (HCFCs). The Act requires that, on a quarterly basis, any person who produced, imported, or exported certain substances, including HCFC refrigerants, report the amount produced, imported and exported. Additionally—effective January 1, 2015—selling, manufacturing, and using any such substance is banned unless such substance (1) has been used, recovered, and recycled; (2) is used and entirely consumed in the production of other chemicals; or (3) is used as a refrigerant in appliances manufactured prior to January 1, 2020. Finally, production phase-outs will continue until January 1, 2030 when such production will be illegal. These bans could trigger design changes to natural or low global warming potential refrigerants and could impact the insulation used in equipment covered by this rulemaking.

State Conservation Standards

Since 2004, the State of California has had established energy standards for walk-in coolers and freezers. California's Code of Regulations (Title 20, Section 1605) prescribe requirements for insulation levels, motor types, and use of automatic door-closers used for WICF applications. These requirements have since been amended and mirror those standards that Congress prescribed as part of EISA 2007. Other States, notably, Connecticut, Maryland, and Oregon, have recently established energy efficiency standards for walk-ins that are also identical to the ones contained in EPCA. These standards would not be preempted until any Federal standards that DOE may adopt take effect. See 42 U.S.C. 6316(h)(2). Once DOE's standards are finalized, all other State standards that are in effect would be pre-empted. As a result, these State standards do not pose any regulatory burden above that which has already been established in EPCA.

Food Safety Standards

Manufacturers expressed concern regarding Federal, State, and local food safety regulations. A walk-in must perform to the standards set by NSF, state, country, and city health regulations. There is general concern among manufacturers about conflicting regulation scenarios as new energy conservation standards may potentially prevent or make it more difficult for them to comply with food safety regulations.

3. National Impact Analysis

a. Energy Savings

DOE estimated the NES by calculating the difference in annual energy consumption for the base-case scenario and standards-case scenario at each TSL for each equipment class and summing up the annual energy savings over the lifetime of all equipment purchased in 2017–2046.

Table V.31 presents the primary NES (taking into account losses in the generation and transmission of electricity) for all equipment classes and the sum total of NES for each TSL. Table V.32 presents estimated FFC energy savings for each considered TSL. The total FFC NES progressively increases from 2.506 quads at TSL 1 to 3.883 quads at TSL 3.

TABLE V.31—CUMULATIVE NATIONAL PRIMARY ENERGY SAVINGS IN QUADS

| | TSL 1 | TSL 2 | TSL 3 |
|---|---|---|---|
| DC.L.I | 0.030 | 0.035 | 0.035 |
| DC.L.O | 0.832 | 1.077 | 1.077 |
| DC.M.I | 0.069 | 0.069 | 0.069 |
| DC.M.O | 1.028 | 1.279 | 1.279 |
| MC.L.N | 0.016 | 0.016 | 0.016 |
| MC.M | 0.046 | 0.046 | 0.046 |
| SP.M | 0.000 | 0.000 | 0.044 |
| SP.L | 0.000 | 0.000 | 0.064 |
| FP.L | 0.000 | 0.000 | 0.017 |
| DD.M | 0.329 | 0.423 | 0.643 |
| DD.L | 0.116 | 0.154 | 0.174 |
| PD.M | 0.000 | 0.000 | 0.076 |
| PD.L | 0.000 | 0.000 | 0.245 |
| FD.M | 0.000 | 0.000 | 0.009 |

TABLE V.31—CUMULATIVE NATIONAL PRIMARY ENERGY SAVINGS IN QUADS—Continued

| | TSL 1 | TSL 2 | TSL 3 |
|---|---|---|---|
| FD.L | 0.000 | 0.000 | 0.027 |
| Total | 2.466 | 3.099 | 3.821 |

* For DC refrigeration systems, results include all capacity ranges.

TABLE V.32—CUMULATIVE NATIONAL FULL-FUEL CYCLE ENERGY SAVINGS IN QUADS

| | TSL 1 | TSL 2 | TSL 3 |
|---|---|---|---|
| DC.L.I | 0.031 | 0.036 | 0.036 |
| DC.L.O | 0.846 | 1.094 | 1.094 |
| DC.M.I | 0.070 | 0.070 | 0.070 |
| DC.M.O | 1.045 | 1.300 | 1.300 |
| MC.L.N | 0.016 | 0.017 | 0.017 |
| MC.M | 0.046 | 0.046 | 0.046 |
| SP.M | 0.000 | 0.000 | 0.045 |
| SP.L | 0.000 | 0.000 | 0.065 |
| FP.L | 0.000 | 0.000 | 0.018 |
| DD.M | 0.334 | 0.429 | 0.653 |
| DD.L | 0.118 | 0.157 | 0.177 |
| PD.M | 0.000 | 0.000 | 0.077 |
| PD.L | 0.000 | 0.000 | 0.249 |
| FD.M | 0.000 | 0.000 | 0.009 |
| FD.L | 0.000 | 0.000 | 0.027 |
| Total | 2.506 | 3.149 | 3.883 |

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 9-year period is a proxy for the timeline in EPCA for the review of certain energy conservation standards and potential revision of and compliance with such revised standards.[38] The review timeframe established in EPCA is generally not synchronized with the equipment lifetime, equipment manufacturing cycles or other factors specific to walk-in coolers and walk-in freezers. Thus, this information is presented for informational purposes only and is not indicative of any change in DOE's analytical methodology. The primary and full-fuel cycle NES results based on a 9-year analysis period are presented in Table V.33 and Table V.34, respectively. The impacts are counted over the lifetime of equipment purchased in 2017–2025.

TABLE V.33—CUMULATIVE NATIONAL PRIMARY ENERGY SAVINGS FOR 9-YEAR ANALYSIS PERIOD

[Equipment purchased in 2017–2025]

| | TSL 1 | TSL 2 | TSL 3 |
|---|---|---|---|
| DC.L.I | 0.0 | 0.0 | 0.0 |
| DC.L.O | 0.2 | 0.3 | 0.3 |
| DC.M.I | 0.0 | 0.0 | 0.0 |
| DC.M.O | 0.3 | 0.3 | 0.3 |
| MC.L.N | 0.0 | 0.0 | 0.0 |
| MC.M | 0.0 | 0.0 | 0.0 |
| SP.M | 0.0 | 0.0 | 0.0 |
| SP.L | 0.0 | 0.0 | 0.0 |
| FP.L | 0.0 | 0.0 | 0.0 |
| DD.M | 0.1 | 0.1 | 0.2 |
| DD.L | 0.0 | 0.0 | 0.1 |
| PD.M | 0.0 | 0.0 | 0.0 |
| PD.L | 0.0 | 0.0 | 0.1 |
| FD.M | 0.0 | 0.0 | 0.0 |
| FD.L | 0.0 | 0.0 | 0.0 |
| Total | 0.6 | 0.8 | 1.1 |

TABLE V.34—CUMULATIVE FULL FUEL CYCLE NATIONAL ENERGY SAVINGS FOR 9-YEAR ANALYSIS PERIOD

[Equipment purchased in 2017–2025]

| | TSL 1 | TSL 2 | TSL 3 |
|---|---|---|---|
| DC.L.I | 0.0 | 0.0 | 0.0 |
| DC.L.O | 0.2 | 0.3 | 0.3 |
| DC.M.I | 0.0 | 0.0 | 0.0 |
| DC.M.O | 0.3 | 0.3 | 0.3 |
| MC.L.N | 0.0 | 0.0 | 0.0 |
| MC.M | 0.0 | 0.0 | 0.0 |
| SP.M | 0.0 | 0.0 | 0.0 |
| SP.L | 0.0 | 0.0 | 0.0 |
| FP.L | 0.0 | 0.0 | 0.0 |
| DD.M | 0.1 | 0.1 | 0.2 |
| DD.L | 0.0 | 0.0 | 0.1 |
| PD.M | 0.0 | 0.0 | 0.0 |
| PD.L | 0.0 | 0.0 | 0.1 |
| FD.M | 0.0 | 0.0 | 0.0 |
| FD.L | 0.0 | 0.0 | 0.0 |
| Total | 0.7 | 0.8 | 1.1 |

b. Net Present Value of Customer Costs and Benefits

DOE estimated the cumulative NPV to the Nation of the net savings for WICF customers that would result from potential standards at each TSL. In accordance with OMB guidelines on regulatory analysis (OMB Circular A–4, section E, September 17, 2003), DOE calculated NPV using both a 7-percent and a 3-percent real discount rate.

Table V.35 and Table V.36 show the customer NPV results for each of the TSLs DOE considered for walk-in coolers and walk-in freezers at 7-percent and 3-percent discount rates, respectively. The impacts cover the expected lifetime of equipment purchased in 2017–2046.

Efficiency levels for TSL 3 were chosen to represent the maximum technology for both refrigeration equipment, and envelope components, as such the NPV results at a 7-percent discount rate are mixed, they are negative for all envelope component equipment classes, while positive for refrigeration systems. TSL 2 was chosen to correspond to the highest efficiency level with a positive NPV at a 7-percent discount rate for each equipment class. The criterion for TSL 1 was to select efficiency levels with the highest NPV at a 7-percent discount rate. Consequently, the total NPV is highest for TSL 1. TSL 2 shows the second highest total NPV at a 7-percent discount rate.

TABLE V.35—NET PRESENT VALUE IN BILLIONS (2013$) AT A 7-PERCENT DISCOUNT RATE FOR UNITS SOLD IN 2017–2046

| | TSL 1 | TSL 2 | TSL 3 |
|---|---|---|---|
| DC.L.I | 0.1 | 0.1 | 0.1 |
| DC.L.O | 2.2 | 1.0 | 1.0 |
| DC.M.I | 0.1 | 0.1 | 0.1 |
| DC.M.O | 2.8 | 2.5 | 2.5 |
| MC.L.N | 0.0 | 0.0 | 0.0 |
| MC.M | 0.1 | 0.1 | 0.1 |
| SP.M | 0.0 | 0.0 | −18.9 |
| SP.L | 0.0 | 0.0 | −6.6 |
| FP.L | 0.0 | 0.0 | −2.0 |
| DD.M | 0.7 | 0.0 | −10.0 |
| DD.L | 0.1 | 0.1 | −0.2 |
| PD.M | 0.0 | 0.0 | −5.1 |
| PD.L | 0.0 | 0.0 | −4.1 |
| FD.M | 0.0 | 0.0 | −0.6 |
| FD.L | 0.0 | 0.0 | −0.2 |
| Total | 6.24 | 3.98 | −43.92 |

* For DC refrigeration systems, results include all capacity ranges.

TABLE V.36—NET PRESENT VALUE IN BILLIONS (2013$) AT A 3-PERCENT DISCOUNT RATE FOR UNITS SOLD IN 2017–2046

| | TSL 1 | TSL 2 | TSL 3 |
|---|---|---|---|
| DC.L.I | 0.2 | 0.1 | 0.1 |
| DC.L.O | 4.8 | 2.8 | 2.8 |
| DC.M.I | 0.3 | 0.3 | 0.3 |
| DC.M.O | 5.9 | 5.5 | 5.5 |
| MC.L.N | 0.1 | 0.1 | 0.1 |
| MC.M | 0.2 | 0.2 | 0.2 |
| SP.M | 0.0 | 0.0 | −33.2 |
| SP.L | 0.0 | 0.0 | −11.6 |

[38] Section 325(m) of EPCA requires DOE to review its standards at least once every 6 years, and requires, for certain products, a 3-year period after any new standard is promulgated before compliance is required, except that in no case may any new standards be required within 6 years of the compliance date of the previous standards. While adding a 6-year review to the 3-year compliance period adds to 9 years, DOE notes that it may undertake reviews at any time within the 6-year period, and that the 3 year compliance date may yield to the 6-year backstop. A 9-year analysis period may not be appropriate given the variability that occurs in the timing of standards reviews and the fact that, for some consumer products, the compliance period is 5 years rather than 3 years.

TABLE V.36—NET PRESENT VALUE IN BILLIONS (2013$) AT A 3-PERCENT DISCOUNT RATE FOR UNITS SOLD IN 2017–2046—Continued

| | TSL 1 | TSL 2 | TSL 3 |
|---|---|---|---|
| FP.L | 0.0 | 0.0 | −3.5 |
| DD.M | 1.6 | 0.5 | −17.1 |
| DD.L | 0.3 | 0.3 | −0.2 |
| PD.M | 0.0 | 0.0 | −8.9 |
| PD.L | 0.0 | 0.0 | −7.0 |
| FD.M | 0.0 | 0.0 | −1.1 |
| FD.L | 0.0 | 0.0 | −0.4 |
| Total | 13.38 | 9.90 | −73.93 |

*For DC refrigeration systems, results include all capacity ranges.

The NPV results based on the aforementioned 9-year analysis period are presented in Table V.37 and Table V.38. The impacts are counted over the lifetime of equipment purchased in 2017–2025. As mentioned previously, this information is presented for informational purposes only and is not indicative of any change in DOE's analytical methodology or decision criteria.

TABLE V.37 —NET PRESENT VALUE IN MILLIONS (2013$) AT A 7-PERCENT DISCOUNT RATE FOR UNITS SOLD IN 2017–2025

| | TSL 1 | TSL 2 | TSL 3 |
|---|---|---|---|
| DC.L.I | 0.0 | 0.0 | 0.0 |
| DC.L.O | 1.0 | 0.4 | 0.4 |
| DC.M.I | 0.1 | 0.1 | 0.1 |
| DC.M.O | 1.3 | 1.1 | 1.1 |
| MC.L.N | 0.0 | 0.0 | 0.0 |
| MC.M | 0.0 | 0.0 | 0.0 |
| SP.M | 0.0 | 0.0 | −9.1 |
| SP.L | 0.0 | 0.0 | −3.2 |
| FP.L | 0.0 | 0.0 | −1.0 |
| DD.M | 0.2 | −0.1 | −5.1 |
| DD.L | 0.0 | 0.0 | −0.2 |
| PD.M | 0.0 | 0.0 | −2.5 |
| PD.L | 0.0 | 0.0 | −2.0 |
| FD.M | 0.0 | 0.0 | −0.3 |
| FD.L | 0.0 | 0.0 | −0.1 |
| Total | 2.7 | 1.6 | −21.7 |

TABLE V.38—NET PRESENT VALUE IN MILLIONS (2013$) AT A 3-PERCENT DISCOUNT RATE FOR UNITS SOLD IN 2017–2025

| | TSL 1 | TSL 2 | TSL 3 |
|---|---|---|---|
| DC.L.I | 0.0 | 0.0 | 0.0 |
| DC.L.O | 1.5 | 0.8 | 0.8 |
| DC.M.I | 0.1 | 0.1 | 0.1 |
| DC.M.O | 2.0 | 1.8 | 1.8 |
| MC.L.N | 0.0 | 0.0 | 0.0 |
| MC.M | 0.1 | 0.1 | 0.1 |
| SP.M | 0.0 | 0.0 | −11.7 |
| SP.L | 0.0 | 0.0 | −4.0 |
| FP.L | 0.0 | 0.0 | −1.2 |

TABLE V.38—NET PRESENT VALUE IN MILLIONS (2013$) AT A 3-PERCENT DISCOUNT RATE FOR UNITS SOLD IN 2017–2025—Continued

| | TSL 1 | TSL 2 | TSL 3 |
|---|---|---|---|
| DD.M | 0.5 | 0.1 | −6.2 |
| DD.L | 0.1 | 0.1 | −0.1 |
| PD.M | 0.0 | 0.0 | −3.1 |
| PD.L | 0.0 | 0.0 | −2.5 |
| FD.M | 0.0 | 0.0 | −0.4 |
| FD.L | 0.0 | 0.0 | −0.2 |
| Total | 4.4 | 3.0 | −26.5 |

c. Indirect Employment Impacts

In addition to the direct impacts on manufacturing employment discussed in section V.B.2, DOE develops general estimates of the indirect employment impacts of amended standards on the economy. As discussed above, DOE expects energy amended conservation standards for walk-in coolers and walk-in freezers to reduce energy bills for commercial customers, and the resulting net savings to be redirected to other forms of economic activity. DOE also realizes that these shifts in spending and economic activity by walk-in owners could affect the demand for labor. Thus, indirect employment impacts may result from expenditures shifting between goods (the substitution effect) and changes in income and overall expenditure levels (the income effect) that occur due to the imposition of amended standards. These impacts may affect a variety of businesses not directly involved in the decision to make, operate, or pay the utility bills for walk-in coolers and walk-in freezers. To estimate these indirect economic effects, DOE used an input/output model of the U.S. economy as described in section IV.K of this notice.

Customers who purchase more-efficient equipment pay lower amounts towards utility bills, which results in job losses in the electric utilities sector. However, in the input/output model, the dollars saved on utility bills are re-invested in economic sectors that create more jobs than are lost in the electric utilities sector. Thus, the amended energy conservation standards for walk-in coolers and walk-in freezers are likely to slightly increase the net demand for labor in the economy. As shown in chapter 16 of the final rule TSD, DOE estimates that net indirect employment impacts from amended walk-in standards are very small relative to the national economy. The net increase in jobs might be offset by other, unanticipated effects on employment. Neither the BLS data nor the input/output model used by DOE includes the quality of jobs.

4. Impact on Utility or Performance of Equipment

In performing the engineering analysis, DOE considers design options that would not lessen the utility or performance of the individual classes of equipment. (42 U.S.C. 6295(o)(2)(B)(i)(IV) and 6316(a)) As presented in the screening analysis (chapter 4 of the final rule TSD), DOE eliminates from consideration any design options that reduce the utility of the equipment. For this final rule, DOE concluded that none of the efficiency levels considered for walk-in coolers and walk-in freezers would reduce the utility or performance of the equipment.

5. Impact of Any Lessening of Competition

EPCA directs DOE to consider any lessening of competition that is likely to result from standards. It also directs the Attorney General of the United States (Attorney General) to determine the impact, if any, of any lessening of competition likely to result from a proposed standard and to transmit such determination to the Secretary within 60 days of the publication of a direct final rule and simultaneously published 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 WICF standards, DOE provided the Department of Justice (DOJ) with copies of the NOPR and the TSD for review. On behalf of the Attorney General, the DOJ's Antitrust Division concluded that the standard levels proposed by DOE (which are the same ones being adopted in this final rule) would not be likely to have an adverse impact on competition.

6. Need of the Nation To Conserve Energy

An improvement in the energy efficiency of the equipment subject to this final rule is likely to improve the security of the Nation's energy system by reducing overall demand for energy. Reduced electricity demand may also improve the reliability of the electricity system. Reductions in national electric generating capacity estimated for each considered TSL are reported in chapter 14 of the final rule TSD.

Energy savings from amended standards for walk-in coolers and walk-in freezers could also produce environmental benefits in the form of reduced emissions of air pollutants and GHGs associated with electricity production.

Table V.72 provides DOE's estimate of cumulative emissions reductions projected to result from the TSLs considered in this rule. The table includes both power sector emissions and upstream emissions. DOE reports annual emissions reductions for each TSL in chapter 13 of the final rule TSD.

TABLE V.39—CUMULATIVE EMISSIONS REDUCTION ESTIMATED FOR WALK-IN COOLERS AND WALK-IN FREEZERS TSLS FOR EQUIPMENT PURCHASED IN 2017–2046

| | TSL | | |
|---|---|---|---|
| | 1 | 2 | 3 |
| **Power Sector Emissions** | | | |
| $CO_2$ *(million metric tons)* | 118.9 | 149.5 | 184.0 |
| $SO_2$ (*thousand tons*) | 180.7 | 227.1 | 279.8 |
| $NO_X$ *(thousand tons)* | 95.9 | 120.5 | 149.3 |
| Hg (*tons)* | 0.2 | 0.3 | 0.3 |
| $N_2O$ (*thousand tons*) | 2.7 | 3.4 | 4.2 |
| $CH_4$ (*thousand tons*) | 16.1 | 20.3 | 25.0 |
| **Upstream Emissions** | | | |
| $CO_2$ *(million metric tons)* | 7.7 | 9.7 | 12.0 |
| $SO_2$ (*thousand tons*) | 1.7 | 2.1 | 2.6 |
| $NO_X$ *(thousand tons)* | 106.6 | 133.9 | 165.1 |
| Hg (*tons)* | 0.0 | 0.0 | 0.0 |
| $N_2O$ (*thousand tons*) | 0.1 | 0.1 | 0.1 |
| $CH_4$ (*thousand tons*) | 646.7 | 812.8 | 1001.8 |
| **Total FFC Emissions** | | | |
| $CO_2$ *(million metric tons)* | 126.7 | 159.2 | 196.0 |
| $SO_2$ (*thousand tons*) | 182.4 | 229.2 | 282.4 |
| $NO_X$ *(thousand tons)* | 202.5 | 254.4 | 314.4 |
| Hg (*tons)* | 0.2 | 0.3 | 0.3 |
| $N_2O$ (*thousand tons*) | 2.8 | 3.5 | 4.4 |
| $CH_4$ (*thousand tons*) | 662.9 | 833.0 | 1026.8 |

As part of the analysis for this final rule, DOE estimated monetary benefits likely to result from the reduced emissions of $CO_2$ and $NO_X$ that were estimated for each of the TSLs considered. As discussed in section IV.M, for $CO_2$, DOE used values for the SCC developed by a Federal interagency process. The interagency group selected four sets of SCC values for use in regulatory analyses. Three sets are based on the average SCC from three integrated assessment models, at discount rates of 2.5 percent, 3 percent, and 5 percent. The fourth set, which represents the 95th-percentile SCC estimate across all three models at a 3-percent discount rate, is included to represent higher-than-expected impacts from temperature change further out in the tails of the SCC distribution. The four SCC values for $CO_2$ emissions reductions in 2015, expressed in 2013$, are $12.0, $40.5, $62.4, and $119 per metric ton of $CO_2$. The values for later years are higher due to increasing emissions-related costs as the magnitude of projected climate change increases.

Table V.40 presents the global value of $CO_2$ emissions reductions at each TSL. DOE calculated domestic 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.40—GLOBAL PRESENT VALUE OF $CO_2$ EMISSIONS REDUCTION FOR WALK-IN COOLERS AND FREEZERS TSLS

| TSL | SCC Scenario | | | |
|---|---|---|---|---|
| | 5% discount rate, average | 3% discount rate, average | 2.5% discount rate, average | 3% discount rate, 95th percentile |
| *million 2013$* | | | | |
| **Power Sector Emissions** | | | | |
| 1 | 894 | 3965 | 6255 | 12221 |
| 2 | 1124 | 4983 | 7861 | 15358 |
| 3 | 1379 | 6119 | 9655 | 18856 |
| **Upstream Emissions** | | | | |
| 1 | 56 | 252 | 399 | 778 |
| 2 | 70 | 316 | 501 | 977 |
| 3 | 86 | 389 | 616 | 1201 |

TABLE V.40—GLOBAL PRESENT VALUE OF $CO_2$ EMISSIONS REDUCTION FOR WALK-IN COOLERS AND FREEZERS TSLS—Continued

| TSL | SCC Scenario | | | |
|---|---|---|---|---|
| | 5% discount rate, average | 3% discount rate, average | 2.5% discount rate, average | 3% discount rate, 95th percentile |
| **Total FFC Emissions** | | | | |
| 1 | 950 | 4217 | 6654 | 12999 |
| 2 | 1194 | 5299 | 8362 | 16336 |
| 3 | 1464 | 6507 | 10271 | 20057 |

DOE is well aware that scientific and economic knowledge about the contribution of $CO_2$ and other GHG emissions to changes in the future global climate and the potential resulting damages to the world economy continues to evolve rapidly. Thus, any value placed in this final rule on reducing $CO_2$ emissions is subject to change. DOE, together with other Federal agencies, will continue to review various methodologies for estimating the monetary value of reductions in $CO_2$ and other GHG emissions, including HFCs. This ongoing review will consider the comments on this subject that are part of the public record for this final rule and other rulemakings, as well as other methodological assumptions and issues. However, consistent with DOE's legal obligations, and taking into account the uncertainty involved with this particular issue, DOE has included in this final rule the most recent values and analyses resulting from the ongoing interagency review process.

DOE also estimated a range for the cumulative monetary value of the economic benefits associated with $NO_X$ emission reductions anticipated to result from amended walk-in standards. Table V.42 shows the present value of cumulative $NO_X$ emissions reductions for each TSL calculated using the average dollar-per-ton values and 7-percent and 3-percent discount rates.

TABLE V.41—CUMULATIVE PRESENT VALUE OF $NO_X$ EMISSIONS REDUCTION FOR WALK-IN COOLERS AND FREEZERS TSLS

| TSL | 3% discount rate | 7% discount rate |
|---|---|---|
| *Million 2013$* | | |
| **Power Sector Emissions** | | |
| 1 | 138.1 | 70.0 |
| 2 | 173.5 | 88.0 |
| 3 | 213.6 | 108.3 |
| **Upstream Emissions** | | |
| 1 | 153.3 | 76.0 |
| 2 | 192.6 | 95.5 |
| 3 | 236.3 | 117.2 |
| **Total FFC Emissions** | | |
| 1 | 291.3 | 146.0 |

TABLE V.41—CUMULATIVE PRESENT VALUE OF $NO_X$ EMISSIONS REDUCTION FOR WALK-IN COOLERS AND FREEZERS TSLS—Continued

| TSL | 3% discount rate | 7% discount rate |
|---|---|---|
| 2 | 366.1 | 183.5 |
| 3 | 450.0 | 225.5 |

7. Summary of National Economic Impact

The NPV of the monetized benefits associated with emission reductions can be viewed as a complement to the NPV of the customer savings calculated for each TSL considered in this final rule. Table V.42 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, at both a 7-percent and a 3-percent discount rate. The $CO_2$ values used in the table correspond to the four scenarios for the valuation of $CO_2$ emission reductions discussed above.

TABLE V.42—NET PRESENT VALUE OF CUSTOMER SAVINGS COMBINED WITH NET PRESENT VALUE OF MONETIZED BENEFITS FROM $CO_2$ AND $NO_X$ EMISSIONS REDUCTIONS

| TSL | SCC Value of $12.0/metric ton $CO_2$* and medium value for $NO_X$ | SCC Value of $40.5/metric ton $CO_2$* and medium value for $NO_X$ | SCC Value of $62.4/metric ton $CO_2$* and medium value for $NO_X$ | SCC Value of $119/metric ton $CO_2$* and medium value for $NO_X$ |
|---|---|---|---|---|
| **Customer NPV at 3% Discount Rate added with Value of Emissions Based on:** *billion 2013$* | | | | |
| 1 | 14.7 | 18.2 | 20.8 | 27.6 |
| 2 | 11.5 | 15.9 | 19.3 | 27.8 |
| 3 | −71.9 | −66.5 | −62.4 | −51.9 |
| **Customer NPV at 7% Discount Rate added with Value of Emissions Based on:** *billion 2013$* | | | | |
| 1 | 7.4 | 10.9 | 13.5 | 20.3 |
| 2 | 5.4 | 9.8 | 13.2 | 21.7 |
| 3 | −42.1 | −36.7 | −32.6 | −22.1 |

*These label values represent the global SCC in 2015, in 2013$. The present values have been calculated with scenario-consistent discount rates.

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 2017–2046. The SCC values, on the other hand, reflect the present value of future climate-related impacts resulting from the emission of one metric ton of $CO_2$ in each year. These impacts continue well beyond 2100.

8. Other Factors

EPCA allows the Secretary, in determining whether a standard is economically justified, to consider any other factors that the Secretary deems to be relevant. (42 U.S.C. 6295(o)(2)(B)(i)(VII) and 6316(a)) DOE has not considered other factors in development of the standards in this final rule.

*C. Conclusions*

Any new or amended energy conservation standard for any type (or class) of covered product must be designed to achieve the maximum improvement in energy efficiency that the Secretary determines is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A) 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 a significant conservation of energy. (42 U.S.C. 6295(o)(3)(B) and 6316(a))

For this rulemaking, DOE considered the impacts of potential standards at each TSL, beginning with the maximum technologically feasible level, to determine whether that level met the evaluation criteria. If the max-tech level was not justified, DOE then considered the next most efficient level and undertook the same evaluation until it reached the highest efficiency level that is both technologically feasible and economically justified and saves a significant amount of energy.

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 below, DOE also considers other burdens and benefits that affect economic justification. These include the impacts on identifiable subgroups of consumers who may be disproportionately affected by a national standard, and impacts on employment. Section V.B.1.b presents the estimated impacts of each TSL for the considered subgroups. DOE discusses the impacts on employment in WICF manufacturing in section V.B.2.b and discusses the indirect employment impacts in section IV.O.

1. Benefits and Burdens of Trial Standard Levels Considered for Walk-in Coolers and Walk-In Freezers

Table V.43 through Table V.46 summarize the quantitative impacts estimated for each TSL for WICFs.

TABLE V.43—SUMMARY OF RESULTS FOR WALK-IN COOLERS AND FREEZERS

| Category | TSL 1 | TSL 2 | TSL 3 |
|---|---|---|---|
| **Cumulative National Energy Savings** *quads* | | | |
| Primary | 2.466 | 3.099 | 3.821 |
| Full-fuel cycle | 2.506 | 3.149 | 3.883 |
| **Cumulative NPV of Customer Benefits** *2013$ billion* | | | |
| 3% discount rate | 13.38 | 9.90 | −73.93 |
| 7% discount rate | 6.24 | 3.98 | −43.92 |
| **Industry Impacts** | | | |
| Change in Industry NPV (2013$ million) | −29.41 to 31.88 | −52.89 to 80.20 | −549.26 to 1056.92 |
| Change in Industry NPV (%) | −2.28 to 2.47 | −4.1 to 6.21 | −42.54 to 81.86 |
| **Cumulative Emissions Reductions** ** | | | |
| $CO_2$ (Mt) | 126.7 | 159.2 | 196.0 |
| $SO_2$ (kt) | 182.4 | 229.2 | 282.4 |
| $NO_X$ (kt) | 202.5 | 254.4 | 314.4 |
| Hg (t) | 0.22 | 0.27 | 0.34 |
| $N_2O$ (kt) | 2.8 | 3.5 | 4.4 |
| $N_2O$ (kt $CO_2$eq) | 662.9 | 833.0 | 1026.8 |
| $CH_4$ (*kt*) | 126.7 | 159.2 | 196.0 |
| $CH_4$ (*kt* $CO_2$eq) | 182.4 | 229.2 | 282.4 |
| **Monetary Value of Cumulative Emissions Reductions** *2013$ million* † | | | |
| $CO_2$ | 949.7 to 12,999 | 1,193.5 to 16336 | 1,464.4 to 20,0576 |
| $NO_X$—3% discount rate | 291.3 | 366.1 | 450.0 |

TABLE V.43—SUMMARY OF RESULTS FOR WALK-IN COOLERS AND FREEZERS—Continued

| Category | TSL 1 | TSL 2 | TSL 3 |
|---|---|---|---|
| $NO_X$—7% discount rate | 146.0 | 183.5 | 225.5 |

** "Mt" stands for million metric tons; "kt" stands for kilotons; "t" stands for tons. $CO_2$eq is the quantity of $CO_2$ that would have the same global warming potential (GWP).
† Range of the economic value of $CO_2$ reductions is based on estimates of the global benefit of reduced $CO_2$ emissions.

TABLE V.44—SUMMARY OF RESULTS FOR WALK-IN COOLERS AND FREEZERS TSLS: MEAN LCC SAVINGS

| Mean LCC Savings * 2013$ | | | |
|---|---|---|---|
| Equipment class | TSL 1 | TSL 2 | TSL 3 |
| DC.L.I | 2157 | 2078 | 2078 |
| DC.L.O | 6463 | 5942 | 5942 |
| DC.M.I | 1485 | 5942 | 5942 |
| DC.M.O | 6382 | 6533 | 6533 |
| MC.L | 598 | 547 | 547 |
| MC.M | 362 | 362 | 362 |
| SP.M | — | — | −21 |
| SP.L | — | — | −18 |
| FP.L | — | — | −19 |
| DD.M | 460 | 143 | −2396 |
| DD.L | 976 | 902 | −79 |
| PD.M | — | — | −2000 |
| PD.L | — | — | −1998 |
| FD.M | — | — | −2668 |
| FD.L | — | — | −1761 |

* "—" indicates no impact because there is no change in the standards.

TABLE V.45—SUMMARY OF RESULTS FOR WALK-IN COOLERS AND FREEZERS TSLS: MEDIAN PAYBACK PERIOD

| Median payback period * (in years) | | | |
|---|---|---|---|
| Equipment class | TSL 1 | TSL 2 | TSL 3 |
| DC.L.I | 1.7 | 1.6 | 1.6 |
| DC.L.O | 1.0 | 3.5 | 3.5 |
| DC.M.I | 2.8 | 3.5 | 3.5 |
| DC.M.O | 1.1 | 2.2 | 2.2 |
| MC.L | 2.7 | 3.1 | 3.1 |
| MC.M | 3.1 | 3.1 | 3.1 |

TABLE V.45—SUMMARY OF RESULTS FOR WALK-IN COOLERS AND FREEZERS TSLS: MEDIAN PAYBACK PERIOD—Continued

| Median payback period * (in years) | | | |
|---|---|---|---|
| Equipment class | TSL 1 | TSL 2 | TSL 3 |
| SP.M | — | — | 238.6 |
| SP.L | — | — | 58.8 |
| FP.L | — | — | 64.7 |
| DD.M | 2.4 | 7.3 | 39.5 |
| DD.L | 4.2 | 5.4 | 9.6 |
| PD.M | — | — | 30.8 |

TABLE V.45—SUMMARY OF RESULTS FOR WALK-IN COOLERS AND FREEZERS TSLS: MEDIAN PAYBACK PERIOD—Continued

| Median payback period * (in years) | | | |
|---|---|---|---|
| Equipment class | TSL 1 | TSL 2 | TSL 3 |
| PD.L | — | — | 30.7 |
| FD.M | — | — | 115.5 |
| FD.L | — | — | 19.1 |

* "—" indicates no impact because there is no change in the standards.

TABLE V.46—SUMMARY OF RESULTS FOR WALK-IN COOLERS AND FREEZERS TSLS: DISTRIBUTION OF CUSTOMER LCC IMPACTS

| Equipment class | TSL 1 * | TSL 2 * | TSL 3 * |
|---|---|---|---|
| DC.L.I: | | | |
| Net Cost (%) | 0 | 0 | 0 |
| No Impact (%) | 0 | 0 | 0 |
| Net Benefit (%) | 100 | 100 | 100 |
| DC.L.O: | | | |
| Net Cost (%) | 0 | 2 | 2 |
| No Impact (%) | 0 | 0 | 0 |
| Net Benefit (%) | 100 | 98 | 98 |
| DC.M.I: | | | |
| Net Cost (%) | 0 | 2 | 2 |
| No Impact (%) | 0 | 0 | 0 |
| Net Benefit (%) | 100 | 98 | 98 |
| DC.M.O: | | | |
| Net Cost (%) | 0 | 0 | 0 |
| No Impact (%) | 0 | 0 | 0 |
| Net Benefit (%) | 100 | 100 | 100 |
| MC.L: | | | |
| Net Cost (%) | 0 | 0 | 0 |

TABLE V.46—SUMMARY OF RESULTS FOR WALK-IN COOLERS AND FREEZERS TSLS: DISTRIBUTION OF CUSTOMER LCC IMPACTS—Continued

| Equipment class | TSL 1 * | TSL 2 * | TSL 3 * |
|---|---|---|---|
| No Impact (%) | 0 | 0 | 0 |
| Net Benefit (%) | 100 | 100 | 100 |
| MC.M: | | | |
| Net Cost (%) | 0 | 0 | 0 |
| No Impact (%) | 0 | 0 | 0 |
| Net Benefit (%) | 100 | 100 | 100 |
| SP.M: | | | |
| Net Cost (%) | 0 | 0 | 100 |
| No Impact (%) | 100 | 100 | 0 |
| Net Benefit (%) | 0 | 0 | 0 |
| SP.L: | | | |
| Net Cost (%) | 0 | 0 | 100 |
| No Impact (%) | 100 | 100 | 0 |
| Net Benefit (%) | 0 | 0 | 0 |
| FP.L: | | | |
| Net Cost (%) | 0 | 0 | 100 |
| No Impact (%) | 100 | 100 | 0 |
| Net Benefit (%) | 0 | 0 | 0 |
| DD.M: | | | |
| Net Cost (%) | 0 | 41 | 100 |
| No Impact (%) | 30 | 0 | 0 |
| Net Benefit (%) | 69 | 59 | 0 |
| DD.L: | | | |
| Net Cost (%) | 4 | 10 | 59 |
| No Impact (%) | 0 | 0 | 0 |
| Net Benefit (%) | 96 | 90 | 41 |
| PD.M: | | | |
| Net Cost (%) | 0 | 0 | 100 |
| No Impact (%) | 100 | 100 | 0 |
| Net Benefit (%) | 0 | 0 | 0 |
| PD.L: | | | |
| Net Cost (%) | 0 | 0 | 100 |
| No Impact (%) | 100 | 100 | 0 |
| Net Benefit (%) | 0 | 0 | 0 |
| FD.M: | | | |
| Net Cost (%) | 0 | 0 | 100 |
| No Impact (%) | 100 | 100 | 0 |
| Net Benefit (%) | 0 | 0 | 0 |
| FD.L: | | | |
| Net Cost (%) | 0 | 0 | 100 |
| No Impact (%) | 100 | 100 | 0 |
| Net Benefit (%) | 0 | 0 | 0 |

* In some cases the percentages may not sum to 100 percent due to rounding.

TSL 3 corresponds to the max-tech level for all the equipment classes and offers the potential for the highest cumulative energy savings. The estimated energy savings from TSL 3 is 3.883 quads, an amount DOE deems significant. TSL 3 shows a net negative NPV for customers with estimated increased costs valued at $ − 43.92 billion at a 7-percent discount rate. Estimated emissions reductions are 196.0 Mt of $CO_2$, 314.4 thousand tons of $NO_X$, 282.4 thousand tons of $SO_2$, 1026.8 thousand tons of methane, and 0.34 tons of Hg. The $CO_2$ emissions have an estimated value of $1.5 billion to $20.1 billion and the $NO_X$ emissions have an estimated value of $225.5 million at a 7-percent discount rate.

For TSL 3 the mean LCC savings for all equipment classes are positive for refrigeration systems, and negative for all refrigeration components, implying an increase in LCC in all component cases. The median PBP is longer than the lifetime of the equipment for all refrigeration component equipment classes. Similarly, the mean LCC savings for panels, which require the use of vacuum insulated panels at TSL 3, are negative with median PBP as high as nearly 240 years. As a result, DOE's analysis does not project that there would be any benefits from setting a standard at TSL 3 for any of the affected components.

At TSL 3, manufacturers may expect diminished profitability due to large increases in equipment costs, capital investments in equipment and tooling, and expenditures related to engineering and testing. The projected change in INPV ranges from a decrease of $549.3 million to an increase of $1056.9 million based on DOE's manufacturer markup scenarios. The upper bound gain of $1056.9 million in INPV is considered an optimistic scenario for manufacturers because it assumes manufacturers can fully pass on substantial increases in equipment costs and upfront investments. DOE recognizes the risk of large negative impacts on industry if manufacturers' expectations concerning reduced profit margins are realized. TSL 3 could reduce walk-in INPV by up to 42.5 percent if impacts reach the lower bound of the range.

After carefully considering the analytical results and weighing the benefits and burdens of TSL 3, DOE finds that the benefits to the Nation from TSL 3, in the form of energy savings and emissions reductions, including environmental and monetary

benefits, are small compared to the burdens, in the form of a decrease in customer NPV. DOE concludes that the burdens of TSL 3 outweigh the benefits and, therefore, does not find TSL 3 to be economically justifiable.

TSL 2 corresponds to the highest efficiency level, in each equipment class, which maximized energy savings, while maintaining a positive NPV at a 7-percent discount rate for each equipment class. The estimated energy savings from TSL 2 is 3.149 quads, an amount DOE deems significant. TSL 2 shows a net positive NPV for all customers with estimated at $9.90 billion at a 7-percent discount rate. Estimated emissions reductions are 159.2 Mt of $CO_2$, 254.4 thousand tons of $NO_X$, 229.2 thousand tons of $SO_2$, 833.0 thousand tons of methane, and 0.27 tons of Hg. The $CO_2$ emissions have an estimated value of $1.2 billion to $16.3 billion and the $NO_X$ emissions have an estimated value of $183.5 million at a 7-percent discount rate.

At TSL 2, the projected change in INPV ranges from a decrease of $52.9 million to an increase of $80.2 million. At TSL 2, DOE recognizes the risk of negative impacts if manufacturers' expectations concerning reduced profit margins are realized. If the lower bound of the range of impacts is reached, as DOE expects, TSL 2 could result in a net loss of 4.10 percent in total INPV for manufacturers of walk-in refrigeration systems, panels, and doors.

For TSL 2 the mean LCC savings for all equipment classes are positive for refrigeration systems, and l refrigeration components, implying an reduction in LCC in all cases. The median PBP is shorter than the lifetime of the equipment for all equipment classes.

After careful consideration of the analytical results, weighing the benefits and burdens of TSL 3, and comparing them to those of TSL 2, the Secretary concludes that TSL 2 will offer the maximum improvement in efficiency that is technologically feasible and economically justified and will result in the significant conservation of energy. Therefore, DOE today is adopting standards at TSL 2 for walk-in coolers and walk-in freezers. The energy conservation standards for walk-in coolers and walk-in freezers are shown in Table V.47. DOE notes that instead of adopting the baseline R-value represented in TSL 2 for panels, the Agency is adopting the current Federal standard levels. DOE is not amending the standards for panels at this time but is continuing to require that these components satisfy the current panel energy conservation standards that Congress enacted. DOE has decided to retain the current panel energy conservation levels because it determined from its analysis that there is no TSL level that shows that higher panel standards are economically justified. While DOE's analysis reveals that a portion of the market has already surpassed the current Federal energy conservation standards for certain types of panels at the representative thickness and material analyzed, DOE's analysis does not provide the economic justification needed to amend the Federal standards for all types of WICF panels. Thus, DOE is retaining the current Federal standards, which establish a single R-value level that is independent of material properties or thickness and is continuing to allow manufacturers to have the flexibility to optimize both material properties and thickness at their discretion to meet the Federal standards.

TABLE V.47—ENERGY CONSERVATION STANDARDS FOR WALK-IN COOLERS AND WALK-IN FREEZERS

| Class descriptor | Class | Standard level |
|---|---|---|
| Refrigeration systems | | Minimum AWEF (Btu/W-h) * |
| Dedicated Condensing, Medium, Temperature, Indoor System, <9,000 Btu/h Capacity. | DC.M.I, <9,000 | 5.61 |
| Dedicated Condensing, Medium Temperature, Indoor System, ≥9,000 Btu/h Capacity. | DC.M.I, ≥9,000 | 5.61 |
| Dedicated Condensing, Medium Temperature, Outdoor System, <9,000 Btu/h Capacity. | DC.M.O, <9,000 | 7.60 |
| Dedicated Condensing, Medium Temperature, Outdoor System, ≥9,000 Btu/h Capacity. | DC.M.O, ≥9,000 | 7.60 |
| Dedicated Condensing, Low Temperature, Indoor System, <9,000 Btu/h Capacity. | DC.L.I, <9,000 | $5.93 \times 10^{-5} \times Q + 2.33$ |
| Dedicated Condensing, Low Temperature, Indoor System, ≥9,000 Btu/h Capacity. | DC.L.I, ≥9,000 | 3.10 |
| Dedicated Condensing, Low Temperature, Outdoor System, <9,000 Btu/h Capacity. | DC.L.O, <9,000 | $2.30 \times 10^{-4} \times Q + 2.73$ |
| Dedicated Condensing, Low Temperature, Outdoor System, ≥9,000 Btu/h Capacity. | DC.L.O, ≥9,000 | 4.79 |
| Multiplex Condensing, Medium Temperature | MC.M | 10.89 |
| Multiplex Condensing, Low Temperature | MC.L | 6.57 |
| Panels | | Minimum R-value (h-ft$^2$-°/Btu) |
| Structural Panel, Medium Temperature | SP.M | 25 |
| Structural Panel, Low Temperature | SP.L | 32 |
| Floor Panel, Low Temperature | FP.L | 28 |
| Non-Display Doors | | Maximum Energy Consumption (kWh/day) ** |
| Passage Door, Medium Temperature | PD.M | $0.05 \times A_{nd} + 1.7$ |
| Passage Door, Low Temperature | PD.L | $0.14 \times A_{nd} + 4.8$ |
| Freight Door, Medium Temperature | FD.M | $0.04 \times A_{nd} + 1.9$ |
| Freight Door, Low Temperature | FD.L | $0.12 \times A_{nd} + 5.6$ |

TABLE V.47—ENERGY CONSERVATION STANDARDS FOR WALK-IN COOLERS AND WALK-IN FREEZERS—Continued

| Class descriptor | Class | Standard level |
|---|---|---|
| Refrigeration systems | | Minimum AWEF (Btu/W-h) * |
| Display Doors | | Maximum Energy Consumption (kWh/day)† |
| Display Door, Medium Temperature | DD.M | $0.04 \times A_{dd} + 0.41$ |
| Display Door, Low Temperature | DD.L | $0.15 \times A_{dd} + 0.29$ |

** Q represents the system gross capacity as calculated in AHRI 1250.
** And represents the surface area of the non-display door.
† Add represents the surface area of the display door.

2. Summary of Benefits and Costs (Annualized) of the Standards

The benefits and costs of these standards, for equipment sold in 2017–2046, can also be expressed in terms of annualized values. The annualized monetary values are the sum of (1) the annualized national economic value of the benefits from operating the equipment (consisting primarily of operating cost savings from using less energy, minus increases in equipment purchase and installation costs, which is another way of representing consumer NPV), plus (2) the annualized monetary value of the benefits of emission reductions, including $CO_2$ emission reductions.[39]

Estimates of annualized benefits and costs of these standards are shown in Table V.48. 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 this rule is $511 million per year in increased equipment costs, while the benefits are $879 million per year in reduced equipment operating costs, $287 million in $CO_2$ reductions, and $16.93 million in reduced $NO_X$ emissions. In this case, the net benefit amounts to $671 million per year. Using a 3-percent discount rate for all benefits and costs and the average SCC series, the cost of the standards in this rule is $528 million per year in increased equipment costs, while the benefits are $1,064 million per year in reduced operating costs, $287 million in $CO_2$ reductions, and $19.82 million in reduced $NO_X$ emissions. In this case, the net benefit amounts to $842 million per year.

TABLE V.48—ANNUALIZED BENEFITS AND COSTS OF NEW AND AMENDED STANDARDS FOR WALK-IN COOLERS AND WALK-IN FREEZERS

| | Discount rate | Primary estimate * | Low net benefits estimate * | High net benefits estimate * |
|---|---|---|---|---|
| | | million 2013$/year | | |
| **Benefits:** | | | | |
| Operating Cost Savings | 7% | 879 | 854 | 1901 |
| | 3% | 1064 | 1027 | 1115 |
| $CO_2$ Reduction at ($12.0/t case)** | 5% | 86 | 86 | 86 |
| $CO_2$ Reduction at ($40.5/t case)** | 3% | 287 | 287 | 287 |
| $CO_2$ Reduction at ($62.4/t case)** | 2.5% | 420 | 420 | 420 |
| $CO_2$ Reduction at ($117/t case)** | 3% | 884 | 884 | 884 |
| $NO_X$ Reduction at ($2,684/ton)** | 7% | 16.93 | 16.93 | 16.93 |
| | 3% | 19.82 | 19.82 | 19.82 |
| Total Benefits † | 7% plus $CO_2$ range | 981 to 1,780 | 957 to 1,755 | 1,020 to 1,818 |
| | 7% | 1,183 | 1,158 | 1,221 |
| | 3% plus $CO_2$ range | 1,169 to 1,968 | 1,133 to 1,931 | 1,221 to 2,019 |
| | 3% | 1,371 | 1,334 | 1,422 |
| **Costs:** | | | | |
| Incremental Equipment Costs | 7% | 511 | 501 | 522 |
| | 3% | 528 | 515 | 541 |
| **Net Benefits:** | | | | |
| Total † | 7% plus $CO_2$ range | 470 to 1,269 | 456 to 1,255 | 498 to 1,296 |
| | 7% | 671 | 657 | 699 |
| | 3% plus $CO_2$ range | 641 to 1,440 | 617 to 1,416 | 680 to 1,478 |

[39] 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 (2017 through 2046) that yields the same present value. The fixed annual payment is the annualized value. Although DOE calculated annualized values, this does not imply that the time-series of cost and benefits from which the annualized values were determined is a steady stream of payments.

TABLE V.48—ANNUALIZED BENEFITS AND COSTS OF NEW AND AMENDED STANDARDS FOR WALK-IN COOLERS AND WALK-IN FREEZERS—Continued

| | Discount rate | Primary estimate * | Low net benefits estimate * | High net benefits estimate * |
|---|---|---|---|---|
| | 3% | 842 | 818 | 881 |

* This table presents the annualized costs and benefits associated with walk-in coolers and walk-in freezers shipped in 2017–2046. These results include benefits to customers which accrue after 2046 from the equipment purchased in 2017–2046. 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 the final rule. The primary, low, and high estimates utilize projections of energy prices from the *AEO 2013* Reference case, Low Estimate, and High Estimate, respectively. In addition, incremental equipment costs reflect a medium decline rate for projected equipment price trends in the Primary Estimate, a low decline rate for projected equipment price trends in the Low Benefits Estimate, and a high decline rate for projected equipment price trends in the High Benefits Estimate.

** 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, which is the $40.5/t $CO_2$ reduction case. 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 (Oct. 4, 1993), requires each agency to identify the problem that it intends to address, including, where applicable, the failures of private markets or public institutions that warrant new agency action, as well as to assess the significance of that problem. The problems that these standards address are as follows:

(1) There are external benefits resulting from improved energy efficiency of commercial refrigeration equipment that are not captured by the users of such equipment. These benefits include externalities related to environmental protection and energy security that are not reflected in energy prices, such as reduced emissions of greenhouse gases. DOE attempts to quantify some of the external benefits through use of Social Cost of Carbon values.

In addition, DOE has determined that this regulatory action is an ''economically significant regulatory action'' under section 3(f)(1) of Executive Order 12866. Accordingly, section 6(a)(3) of the Executive Order requires that DOE prepare a regulatory impact analysis (RIA) on this rule and that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) review this rule. DOE presented to OIRA for review the draft rule and other documents prepared for this rulemaking, including the RIA, and has included these documents in the rulemaking record. The assessments prepared pursuant to Executive Order 12866 can be found in the technical support document for this rulemaking.

DOE has also reviewed this regulation pursuant to Executive Order 13563, issued on January 18, 2011 (76 FR 3281, Jan. 21, 2011). EO 13563 is supplemental to and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, agencies are required by Executive Order 13563 to: (1) Propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

DOE emphasizes as well that Executive Order 13563 requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. In its guidance, the Office of Information and Regulatory Affairs has emphasized that such techniques may include identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes. For the reasons stated in the preamble, DOE believes that this 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 a final regulatory flexibility analysis (FRFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's Web site (*http://energy.gov/gc/office-general-counsel*).

For manufacturers of walk-in coolers and walk-in freezers, the Small Business Administration (SBA) has set a size threshold, which defines those entities classified as ''small businesses'' for the purposes of the statute. DOE used the SBA's small business size standards to determine whether any small entities would be subject to the requirements of the rule. 65 FR 30836, 30848 (May 15, 2000), as amended at 65 FR 53533, 53544 (Sept. 5, 2000) and codified at 13 CFR part 121. The size standards are listed by North American Industry Classification System (NAICS) code and industry description and are available at

*http://www.sba.gov/content/small-business-size-standards*. Walk-in manufacturing is classified under NAICS 333415, ''Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing.'' The SBA sets a threshold of 750 employees or less for an entity to be considered as a small business for this category. Based on this threshold, DOE present the following FRFA analysis:

1. Description and Estimated Number of Small Entities Regulated

During its market survey, DOE used available public information to identify potential small manufacturers. DOE's research involved industry trade association membership directories (including AHRI Directory,[40] and NAFEM [41]), public databases (*e.g.* the SBA Database,[42]) individual company Web sites, and market research tools (*e.g.*,, Dunn and Bradstreet reports [43] and Hoovers reports [44]) to create a list of companies that manufacture or sell equipment covered by this rulemaking. DOE also asked stakeholders and industry representatives if they were aware of any other small manufacturers during manufacturer interviews and at DOE public meetings. DOE reviewed publicly available data and contacted select companies on its list, as necessary, to determine whether they met the SBA's definition of a small business manufacturer of covered walk-in coolers and walk-in freezers. DOE screened out companies that do not offer equipment covered by this rulemaking, do not meet the definition of a ''small business,'' or are foreign owned.

Based on this information, DOE identified forty-seven panel manufacturers and found forty-two of the identified panel manufacturers to be small businesses. As part of the MIA interviews, the Department interviewed nine panel manufacturers, including three small business operations. During MIA interviews, multiple manufacturers claimed that there are ''hundreds of two-man garage-based operations'' that produce WICF panels in small quantities. They asserted that these small manufacturers do not typically comply with EISA 2007 standards and do not obtain UL or NSF certifications for their equipment. DOE was not able to identify these small businesses and did not consider them in its analysis. This rule sets the energy conservation standard for walk-in panels at the baseline efficiency level. Based on manufacturer comments in the NOPR public meeting, DOE expects that all manufacturers will be able to meet the baseline efficiency level without product changes, implementation of new design options, or investments in capital equipment. As a result, DOE certifies that the standard would not have a significant impact on small businesses with respect to the walk-ins panel industry.

DOE identified forty-nine walk-in door manufacturers. Forty-five of those produce solid doors and four produce display doors. Of the forty-five solid door manufacturers, forty-two produce panels as their primary business and are considered in the category of panel manufacturers above. The remaining three solid door manufacturers are all considered to be small businesses. Of the four display door manufacturers, two are considered small businesses. Therefore, of the seven manufacturers that exclusively produce WICF doors (three producing solid doors and four producing display doors), DOE determined that five are small businesses. As part of the MIA interviews, the Department interviewed six door manufacturers, including four small business operations. Based on an analysis of the anticipated conversion costs relative to the size of the small businesses in the door market, DOE certifies that the proposed standards would not have a significant impact on a large number of small businesses with respect to the door industry. The complete analysis of small door manufacturer is presented below in section VI.B.2.

DOE identified nine refrigeration system manufacturers in the WICF industry. Two of those companies are foreign-owned. Based on publicly available information, two of the remaining seven domestic manufacturers are small businesses. One small business focuses on large warehouse refrigeration systems, which are outside the scope of this rulemaking. However, at its smallest capacity, this company's units can be sold to the walk-in market. The other small business specializes in building evaporators and unit coolers for a range of refrigeration applications, including the walk-in market. As part of the MIA interviews, the Department interviewed five refrigeration manufacturers, including the two small business operations. Both small businesses expressed concern that the rulemaking would negatively impact their businesses and one small business indicated it would exit the walk-in industry as a result of any standard that would directly impact walk-in refrigeration system energy efficiency. However, due to the small number of small businesses that manufacture WICF refrigeration systems and the fact that only one of two focuses on WICF refrigeration as a key market segment and constitutes a very small share of the overall walk-in market, DOE certifies that the proposed standards would not have a significant impact on a substantial number of small businesses with respect to the refrigeration equipment industry.

2. Description and Estimate of Compliance Requirements

Given the significant role of small businesses in the walk-ins door industries, DOE provides a detailed analysis of the impacts of the standard on the industry. For the walk-in door industry, DOE identified seven small manufacturers that produce doors as their primary product, as described in section VI.B.1. Three companies produce solid doors and four companies produce display doors.

All three manufacturers of customized passage doors and freight doors are small. This rule sets the energy conservation standard for the passage and freight door equipment classes at the baseline efficiency level. DOE expects that manufacturers will not need to make capital equipment investments or product conversion investments as result of this standard. As a result, DOE certifies that the standards set for passage and freight doors would not have a significant impact on small businesses manufacturers.

In the display door market, two of the four manufacturers are small. If conversion costs for display door manufacturers were large, the small manufacturers could be at a disadvantage due to the necessary capital and product conversion costs, which do not necessarily scale with size or sales volume. However, as illustrated in Table VI.1, conversion costs for display door manufacturers are negligible for most TSLs. This is because the considered design options primarily consist of component swaps and relatively straight-forward

[40] See *www.ahridirectory.org/ahriDirectory/pages/home.aspx*.

[41] See *http://www.nafem.org/find-members/MemberDirectory.aspx*.

[42] See *http://dsbs.sba.gov/dsbs/search/dsp_dsbs.cfm*.

[43] See *www.dnb.com/*.

[44] See *www.hoovers.com/*.

component additions. Also, manufacturers will have between three and five years from the publication date of the final rule to make the necessary equipment and production line changes.

TABLE VI.1—IMPACTS OF CONVERSION COSTS ON A SMALL DISPLAY DOOR MANUFACTURER

| | Capital conversion cost as a percentage of annual capital expenditures | Product conversion cost as a percentage of annual R&D expense | Total conversion cost as a percentage of annual revenue | Total conversion cost as a percentage of annual operating income |
|---|---|---|---|---|
| TSL 1 | 4 | 10 | 0 | 2 |
| TSL 2 | 52 | 17 | 1 | 4 |
| TSL 3 | 817 | 30 | 4 | 33 |

TABLE VI.2—IMPACTS OF CONVERSION COSTS ON A LARGE DISPLAY DOOR MANUFACTURER

| | Capital conversion cost as a percentage of annual capital expenditures | Product conversion cost as a percentage of annual R&D expense | Total conversion cost as a percentage of annual revenue | Total conversion cost as a percentage of annual operating income |
|---|---|---|---|---|
| TSL 1 | 1 | 2 | 0 | 0 |
| TSL 2 | 9 | 3 | 0 | 1 |
| TSL 3 | 144 | 5 | 1 | 6 |

At the standard set in this rule (TSL 2), the engineering analysis suggests that manufacturers would need to purchase more efficient components, such as LED lights; incorporate anti-sweat heater controllers; and include lighting controls. Furthermore, for low-temperature applications, manufacturers may need to incorporate special coatings and krypton gas fills to reduce energy loss through display doors. Manufacturers noted in interviews they would likely purchase glass packs that already have the appropriate glass layers and coatings to meet the standard. Most manufacturers are able to apply gas fillings to their products today, though they may need to invest in additional stations for krypton gas. Based on DOE's analysis, the capital conversion costs and product conversion costs appear to be manageable for both small and large display door manufacturers. As a result, DOE certifies that these standards would not have a significant impact on a substantial number of small display door manufacturers.

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 adopted today.

4. Significant Alternatives to the Rule

The discussion above analyzes impacts on small businesses that would result from DOE's amended standards. In addition to the other TSLs being considered, the rulemaking TSD includes a regulatory impact analysis (RIA). For walk-in coolers and walk-in freezers, the RIA discusses the following policy alternatives: (1) No change in standard; (2) consumer rebates; (3) consumer tax credits; and (4) manufacturer tax credits; (5) voluntary energy efficiency targets; 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 adoption of the amended standard levels. (See chapter 17 of the final rule TSD for the analysis supporting this determination.) Accordingly, DOE is declining to adopt any of these alternatives and is adopting the standards set forth in this rulemaking.

*C. Review Under the Paperwork Reduction Act*

Manufacturers of walk-in coolers and walk-in freezers must certify to DOE that their equipment comply with any applicable energy conservation standards. In certifying compliance, manufacturers must test their equipment according to the DOE test procedures for walk-in coolers and walk-in freezers, including any amendments adopted for those test procedures. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and commercial equipment, including walk-in coolers and walk-in freezers. (76 FR 12422 (March 7, 2011)). The collection-of-information requirement for the certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement has been approved by OMB under OMB control number 1910–1400. Public reporting burden for the certification is estimated to average 20 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

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

*D. Review Under the National Environmental Policy Act of 1969*

Pursuant to the National Environmental Policy Act (NEPA) of 1969, DOE has determined that the rule fits within the category of actions included in Categorical Exclusion (CX) B5.1 and otherwise meets the requirements for application of a CX. See 10 CFR Part 1021, App. B, B5.1(b); 1021.410(b) and Appendix B, B(1)–(5). The 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 (Aug. 10, 1999) imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have Federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the equipment that are the subject of this final rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297) No further action is required by Executive Order 13132.

*F. Review Under Executive Order 12988*

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

*G. Review Under the Unfunded Mandates Reform Act of 1995*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For an 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/office-general-counsel*.

DOE has concluded that this final rule would likely require expenditures of $100 million or more on the private sector. Such expenditures may include: (1) Investment in research and development and in capital expenditures by walk-in coolers and walk-in freezers 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 walk-in coolers and walk-in freezers, starting at the compliance date for the applicable standard.

Section 202 of UMRA authorizes a Federal agency to respond to the content requirements of UMRA in any other statement or analysis that accompanies the final rule. 2 U.S.C. 1532(c). The content requirements of section 202(b) of UMRA relevant to a private sector mandate substantially overlap the economic analysis requirements that apply under section 325(o) of EPCA and Executive Order 12866. The **SUPPLEMENTARY INFORMATION** section of the notice of final rulemaking and the ''Regulatory Impact Analysis'' section of the TSD for this final rule respond to those requirements.

Under section 205 of UMRA, 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), 6313(e), and 6316(a), this final rule would establish energy conservation standards for walk-in coolers and walk-in freezers 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 this final rule.

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

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

*I. Review Under Executive Order 12630*

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

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

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). DOE has reviewed this 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 this regulatory action, which sets forth energy conservation standards for walk-in coolers and walk-in freezers, is not a significant energy action because the 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 (Jan. 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the bulletin is to enhance the quality and credibility of the Government's scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are ''influential scientific information,'' which the Bulletin defines as scientific information the agency reasonably can determine will have, or does have, a clear and substantial impact on important public policies or private sector decisions. 70 FR 2667.

In response to OMB's Bulletin, DOE conducted formal in-progress peer reviews of the energy conservation standards development process and analyses and has prepared a Peer Review Report pertaining to the energy conservation standards rulemaking analyses. Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. The ''Energy Conservation Standards Rulemaking Peer Review Report'' dated February 2007 has been disseminated and is available at the following Web site: *www1.eere.energy.gov/buildings/appliance_standards/peer_review.html*.

*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 this final rule.

## List of Subjects in 10 CFR Part 431

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

Issued in Washington, DC, on May 8, 2014.

**David T. Danielson,**

*Assistant Secretary, Energy Efficiency and Renewable Energy.*

For the reasons stated in the preamble, DOE amends part 431 of chapter II, subchapter D, of title 10 of the Code of Federal Regulations, to read as set forth below:

## PART 431—ENERGY EFFICIENCY 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. Section 431.302 is amended by revising the definition for ''Display door'' and adding, in alphabetical order, definitions for ''Freight door'' and ''Passage door'' to read as follows:

### § 431.302 Definitions concerning walk-in coolers and freezers.

* * * * *

*Display door* means a door that:

(1) Is designed for product display; or

(2) Has 75 percent or more of its surface area composed of glass or another transparent material.

* * * * *

*Freight door* means a door that is not a display door and is equal to or larger than 4 feet wide and 8 feet tall.

* * * * *

*Passage door* means a door that is not a freight or display door.

* * * * *

■ 3. In § 431.304, revise paragraph (a) to read as follows:

### § 431.304 Uniform test method for the measurement of energy consumption of walk-in coolers and walk-in freezers.

(a) *Scope.* This section provides test procedures for measuring, pursuant to EPCA, the energy consumption of walk-in coolers and walk-in freezers.

* * * * *

■ 4. In § 431.306, revise paragraph (a)(3), and add paragraphs (c), (d), and (e) to read as follows:

### § 431.306 Energy conservation standards and their effective dates.

(a) * * *

(3) Contain wall, ceiling, and door insulation of at least R–25 for coolers and R–32 for freezers, except that this paragraph shall not apply to:

(i) Glazed portions of doors not to structural members and

(ii) A walk-in cooler or walk-in freezer component if the component manufacturer has demonstrated to the satisfaction of the Secretary in a manner

consistent with applicable requirements that the component reduces energy consumption at least as much as if such insulation requirements of subparagraph (a)(3) were to apply.

* * * * *

(c) *Walk-in cooler and freezer display doors.* All walk-in cooler and walk-in freezer display doors manufactured starting June 5, 2017, must satisfy the following standards:

| Class descriptor | Class | Equations for maximum energy consumption (kWh/day) * |
|---|---|---|
| Display Door, Medium Temperature | DD.M | $0.04 \times A_{dd} + 0.41$. |
| Display Door, Low Temperature | DD.L | $0.15 \times A_{dd} + 0.29$. |

*$A_{dd}$ represents the surface area of the display door.

(d) *Walk-in cooler and freezer non-display doors.* All walk-in cooler and walk-in freezer non-display doors manufactured starting on June 5, 2017, must satisfy the following standards:

| Class descriptor | Class | Equations for maximum energy consumption (kWh/day) * |
|---|---|---|
| Passage door, Medium Temperature | PD.M | $0.05 \times A_{nd} + 1.7$. |
| Passage Door, Low Temperature | PD.L | $0.14 \times A_{nd} + 4.8$. |
| Freight Door, Medium Temperature | FD.M | $0.04 \times A_{nd} + 1.9$. |
| Freight Door, Low Temperature | FD.L | $0.12 \times A_{nd} + 5.6$. |

*$A_{nd}$ represents the surface area of the non-display door.

(e) *Walk-in cooler and freezer refrigeration systems.* All walk-in cooler and walk-in freezer refrigeration systems manufactured starting on June 5, 2017, must satisfy the following standards:

| Class descriptor | Class | Equations for minimum AWEF (Btu/W-h)* |
|---|---|---|
| Dedicated Condensing, Medium Temperature, Indoor System, <9,000 Btu/h Capacity. | DC.M.I, <9,000 | 5.61 |
| Dedicated Condensing, Medium Temperature, Indoor System, ≥9,000 Btu/h Capacity. | DC.M.I, ≥9,000 | 5.61 |
| Dedicated Condensing, Medium Temperature, Outdoor System, <9,000 Btu/h Capacity. | DC.M.O, <9,000 | 7.60 |
| Dedicated Condensing, Medium Temperature, Outdoor System, ≥9,000 Btu/h Capacity. | DC.M.O, ≥9,000 | 7.60 |
| Dedicated Condensing, Low Temperature, Indoor System, <9,000 Btu/h Capacity. | DC.L.I, <9,000 | $5.93 \times 10^{-5} \times Q + 2.33$ |
| Dedicated Condensing, Low Temperature, Indoor System, ≥9,000 Btu/h Capacity. | DC.L.I, ≥9,000 | 3.10 |
| Dedicated Condensing, Low Temperature, Outdoor System, <9,000 Btu/h Capacity. | DC.L.O, <9,000 | $2.30 \times 10^{-4} \times Q + 2.73$ |
| Dedicated Condensing, Low Temperature, Outdoor System, ≥9,000 Btu/h Capacity. | DC.L.O, ≥9,000 | 4.79 |
| Multiplex Condensing, Medium Temperature | MC.M | 10.89 |
| Multiplex Condensing, Low Temperature | MC.L | 6.57 |

* Q represents the system gross capacity as calculated by the procedures set forth in AHRI 1250.

[FR Doc. 2014–11489 Filed 6–2–14; 8:45 am]

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Part IV

## Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Ivesia webberi; Final Rule

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

**[Docket No. FWS–R8–ES–2013–0080; 4500030113]**

**RIN 1018–AZ57**

# Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Ivesia webberi

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), designate critical habitat for *Ivesia webberi* (Webber's ivesia) under the Endangered Species Act (Act). In total, approximately 2,170 acres (879 hectares) in Plumas, Lassen, and Sierra Counties in northeastern California, and in Washoe and Douglas Counties in northwestern Nevada, fall within the boundaries of the critical habitat designation. The effect of this regulation is to conserve *I. webberi*'s critical habitat under the Act.

**DATES:** This rule is effective on July 3, 2014.

**ADDRESSES:** This final rule is available on the Internet at *http://www.regulations.gov* and at *http://www.fws.gov/nevada/.* Comments and materials we received, as well as some supporting documentation we used in preparing this rule, are available for public inspection at *http://www.regulations.gov.* All of the comments, materials, and documentation that we considered in this rulemaking are available by appointment, during normal business hours at: U.S. Fish and Wildlife Service, Nevada Fish and Wildlife Office, 1340 Financial Boulevard, Suite 234, Reno, NV 89502; telephone 775–861–6300; facsimile 775–861–6301.

The coordinates or plot points or both from which the maps are generated are included in the administrative record for this critical habitat designation and are available at *http://www.regulations.gov* at Docket No. FWS–R8–ES–2013–0080, and at the Nevada Fish and Wildlife Office (*http://www.fws.gov/nevada*) (see **FOR FURTHER INFORMATION CONTACT**). Any additional tools or supporting information that we developed for this critical habitat designation will also be available at the Fish and Wildlife Service Web site and Field Office set out above, and may also be included in the preamble and at *http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Edward D. Koch, State Supervisor, U.S. Fish and Wildlife Service, Nevada Fish and Wildlife Office, 1340 Financial Boulevard, Suite 234, Reno, NV 89502; telephone 775–861–6300; facsimile 775–861–6301. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

**SUPPLEMENTARY INFORMATION:**

## Executive Summary

*Why we need to publish a rule.* Under the Endangered Species Act of 1973, as amended (Act), any species that is determined to be an endangered or threatened species requires critical habitat to be designated, to the maximum extent prudent and determinable. Designations and revisions of critical habitat can only be completed by issuing a rule. Section 4(b)(2) of the Act states that the Secretary shall designate critical habitat on the basis of the best available scientific data after taking into consideration the economic impact, national security impact, and any other relevant impact of specifying any particular area as critical habitat.

Elsewhere in today's **Federal Register**, we published a final rule to list *Ivesia webberi* as a threatened species. This is a final rule to designate critical habitat for *I. webberi.* The critical habitat areas we are designating in this rule constitute our current best assessment of the areas that meet the definition of critical habitat for *I. webberi.* In total, we are designating as critical habitat approximately 2,170 acres (ac) (879 hectares (ha)) of land in 16 units for the species.

*We have prepared an economic analysis of the designation of critical habitat.* In order to consider economic impacts, we have prepared an analysis of the economic impacts of the critical habitat designations and related factors. We announced the availability of the DEA in the **Federal Register** on February 13, 2014 (79 FR 8668), allowing the public to provide comments on our analysis. We have incorporated the comments and have completed the final economic analysis (FEA) concurrently with this final determination.

*Peer review and public comment.* We sought comments from independent specialists to ensure that our designation is based on scientifically sound data and analyses. We requested opinions from three knowledgeable individuals with scientific expertise to review our technical assumptions and analysis, and whether or not we had used the best available information. We received no comments or information from these peer reviewers. We also considered all comments and information we received from the public during the comment period.

## Previous Federal Actions

The proposed listing rule for *Ivesia webberi* (78 FR 46889; August 2, 2013) contains a detailed description of previous Federal actions concerning this species.

On August 2, 2013, we published in the **Federal Register** a proposed critical habitat designation for *I. webberi* (78 FR 46862). On February 13, 2014, we revised the proposed critical habitat designation and announced the availability of our draft economic analysis (DEA) (79 FR 8668). Elsewhere in today's **Federal Register**, we published a final rule to list *Ivesia webberi* as a threatened species under the Act (16 U.S.C. 1531 *et seq.*).

## Summary of Changes From August 2, 2013, Proposed Rule

In this final critical habitat designation, we make final the minor changes that we proposed in the document that published in the **Federal Register** on February 13, 2014 (79 FR 8668). At that time, we increased the designation (from that proposed on August 2, 2013 (78 FR 46862)) by approximately 159 ac (65 ha), to a total of approximately 2,170 ac (879 ha). This increase occurred in four units as a result of the following: (1) Unit 9 included newly discovered, occupied *Ivesia webberi* habitat (C. Schnurrenberger, unpubl. survey 2013); and (2) the boundaries of Units 12, 13, and 14 were simplified to reduce the number of irregularly shaped lobes and align the boundaries with discernible features such as ridgelines, roads, topographic contours, and vegetation communities. Overall, this increase in proposed critical habitat (as announced on February 13, 2014 (79 FR 8668)) was based on new information received from the U.S. Forest Service (Forest Service) that better defined the physical or biological features along the boundaries of five proposed units, resulting in changes to the acreages for those units.

## Critical Habitat

### *Background*

Critical habitat is defined in section 3 of the Act as:

(1) The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the Act, on which are found those physical or biological features

(a) Essential to the conservation of the species, and

(b) Which may require special management considerations or protection; and

(2) Specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Conservation, as defined under section 3 of the Act, means to use and the use of all methods and procedures that are necessary to bring an endangered or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

Critical habitat receives protection under section 7 of the Act through the requirement that Federal agencies ensure, in consultation with the Service, that any action they authorize, fund, or carry out is not likely to result in the destruction or adverse modification of critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Such designation does not allow the government or public to access private lands. Such designation does not require implementation of restoration, recovery, or enhancement measures by non-Federal landowners. Where a landowner requests Federal agency funding or authorization for an action that may affect a listed species or critical habitat, the consultation requirements of section 7(a)(2) of the Act would apply, but even in the event of a destruction or adverse modification finding, the obligation of the Federal action agency and the landowner is not to restore or recover the species, but to implement reasonable and prudent alternatives to avoid destruction or adverse modification of critical habitat.

Under the first prong of the Act's definition of critical habitat, areas within the geographical area occupied by the species at the time it was listed are included in a critical habitat designation if they contain physical or biological features (1) which are essential to the conservation of the species and (2) which may require special management considerations or protection. For these areas, critical habitat designations identify, to the extent known using the best scientific and commercial data available, those physical or biological features that are essential to the conservation of the species (such as space, food, cover, and protected habitat). In identifying those physical or biological features within an area, we focus on the principal biological or physical constituent elements (primary constituent elements such as roost sites, nesting grounds, seasonal wetlands, water quality, tide, soil type) that are essential to the conservation of the species. Primary constituent elements are those specific elements of the physical or biological features that provide for a species' life-history processes and are essential to the conservation of the species.

Under the second prong of the Act's definition of critical habitat, we can designate critical habitat in areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. For example, an area currently occupied by the species but that was not occupied at the time of listing may be essential to the conservation of the species and may be included in the critical habitat designation. We designate critical habitat in areas outside the geographical area presently occupied by a species only when a designation limited to its present range would be inadequate to ensure the conservation of the species.

Section 4 of the Act requires that we designate critical habitat on the basis of the best scientific and commercial data available. Further, our Policy on Information Standards Under the Endangered Species Act (published in the **Federal Register** on July 1, 1994 (59 FR 34271)), the Information Quality Act (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658)), and our associated Information Quality Guidelines provide criteria, establish procedures, and provide guidance to ensure that our decisions are based on the best scientific data available. They require our biologists, to the extent consistent with the Act and with the use of the best scientific data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat.

When we are determining which areas should be designated as critical habitat, our primary source of information is generally the information developed during the listing process for the species. Additional information sources may include articles in peer-reviewed journals, conservation plans developed by States and counties, scientific status surveys and studies, biological assessments, other unpublished materials, or experts' opinions or personal knowledge.

Habitat is dynamic, and species may move from one area to another over time. We recognize that critical habitat designated at a particular point in time may not include all of the habitat areas that we may later determine are necessary for the recovery of the species. For these reasons, a critical habitat designation does not signal that habitat outside the designated area is unimportant or may not be needed for recovery of the species. Areas that are important to the conservation of the species, both inside and outside the critical habitat designation, will continue to be subject to: (1) Conservation actions implemented under section 7(a)(1) of the Act, (2) regulatory protections afforded by the requirement in section 7(a)(2) of the Act for Federal agencies to insure their actions are not likely to jeopardize the continued existence of any endangered or threatened species, and (3) section 9 of the Act's prohibitions on taking any individual of the species, including taking caused by actions that affect habitat. Federally funded or permitted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. These protections and conservation tools will continue to contribute to recovery of this species. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans (HCPs), or other species conservation planning efforts if new information available at the time of these planning efforts calls for a different outcome.

*Physical or Biological Features*

In accordance with section 3(5)(A)(i) and 4(b)(1)(A) of the Act and regulations at 50 CFR 424.12, in determining which areas within the geographical area occupied by the species at the time of listing to designate as critical habitat, we consider the physical or biological features essential to the conservation of the species and which may require special management considerations or protection. These include, but are not limited to:

(1) Space for individual and population growth and for normal behavior;

(2) Food, water, air, light, minerals, or other nutritional or physiological requirements;

(3) Cover or shelter;

(4) Sites for breeding, reproduction, or rearing (or development) of offspring; and

(5) Habitats that are protected from disturbance or are representative of the historical, geographical, and ecological distributions of a species.

We derive the specific physical or biological features essential for *Ivesia webberi* from studies of this species' habitat, ecology, and life history as described in the Critical Habitat section of the proposed rule to designate critical habitat published in the **Federal Register** on August 2, 2013 (78 FR 46862), and in the information presented below. Additional information can be found in the final listing rule published elsewhere in today's **Federal Register**, and the Species Report for this species (Service 2014, entire), which is available at *http://www.regulations.gov* under Docket No. FWS–R8–ES–2013–0080. We have determined that *I. webberi* requires the following physical or biological features:

*Space for Individual and Population Growth and for Normal Behavior*

Plant Community and Competitive Ability—*Ivesia webberi* is primarily associated with *Artemisia arbuscula* Nutt. (low sagebrush) and other perennial, rock garden-type plants such as: *Antennaria dimorpha* (low pussytoes), *Balsamorhiza hookeri* (Hooker's balsamroot), *Elymus elymoides* (squirreltail), *Erigeron bloomeri* (scabland fleabane), *Lewisia rediviva* (bitter root), *Poa secunda* (Sandburg bluegrass), and *Viola beckwithii* (Beckwith's violet) (Witham 2000, p. 17; Morefield 2004, 2005, unpubl. survey; Howle and Henault 2009, unpubl. survey; BLM 2011, 2012a, unpubl. survey; Howle and Chardon 2011a, 2011b, 2011c, unpubl. survey). Overall, this plant community is open and sparsely vegetated and relatively short-statured, with *I. webberi* often dominating or co-dominating where it occurs (Witham 2000, p. 17).

Because *Ivesia webberi* is found in an open, sparsely vegetated plant community, it is likely a poor competitor. Nonnative, invasive plant species such as *Bromus tectorum* L. (cheatgrass), *Taeniatherum caput-medusae* (medusahead), and *Poa bulbosa* (bulbous bluegrass) form dense stands of vegetation that compete with native plant species, such as *I. webberi,* for the physical space needed to establish individuals and recruit new seedlings. This competition for space is compounded as dead or dying nonnative vegetation accumulates, eventually forming a dense thatch that obscures the soil crevices used by native species as seed accumulation and seedling recruitment sites (Davies 2008, pp. 110–111; Gonzalez *et al.* 2008, entire; Mazzola *et al.* 2011, pp. 514–515; Pierson *et al.* 2011, entire). Consequently, nonnative species deter recruitment and population expansion of *I. webberi,* as well as the entire *Artemisia arbuscula* (low sagebrush)–perennial bunchgrass–forb community with which *I. webberi* is associated. Therefore, we consider open, sparsely vegetated assemblages of *A. arbuscula* and other perennial grass and forb rock garden species to be a physical or biological feature for *I. webberi.*

Elevation—Known populations of *Ivesia webberi* occur between 4,475 and 6,237 feet (ft) (1,364 and 1,901 meters (m)) in elevation (Steele and Roe 1996, unpubl. survey; Witham 2000, p.16; Howle and Henault 2009, unpubl. survey). Because plants are not currently known to occur outside of this elevation band, we have identified this elevation range as a physical or biological feature for *I. webberi.*

Topography, Slope, and Aspect—*Ivesia webberi* occurs on flats, benches, or terraces that are generally above or adjacent to large valleys. These sites vary from slightly concave to slightly convex or gently sloped (0–15°) and occur on all aspects (Witham 2000, p. 16). Because plants have not been identified outside these landscape features or on slopes greater than 15°, we have identified slightly concave, convex, and gently sloped (0–15°) landscapes to be physical and biological features for *I. webberi.*

*Food, Water, Air, Light, Minerals, or Other Nutritional or Physiological Requirements*

Soils—Populations of *Ivesia webberi* occur on a variety of soil series types, including, but not limited to: Reno—a fine, smectitic, mesic Abruptic Xeric Argidurid; Xman—a clayey, smectitic, mesic, shallow Xeric Haplargids; Aldi—a clayey, smectitic, frigid Lithic Ultic Argixerolls; and Barshaad—a fine, smectitic, mesic Aridic Palexeroll (USDA NRCS (U.S. Department of Agriculture Natural Resources Conservation Service) 2007, 2009a, 2009b, 2012a, 2012b). The majority of soils in which *I. webberi* occurs have an argillic (i.e., clay) horizon within 19.7 inches (in) (50 centimeters (cm)) of the soil surface (USDA NRCS 2007, 2009a, 2009b, 2012a, 2012b). An argillic horizon is defined as a subsurface horizon with a significantly higher percentage of clay than the overlying soil material (Soil Survey Staff 2010, p. 30). The clay content (percent by weight) of an argillic horizon must be 1.2 times the clay content of an overlying horizon (Soil Survey Staff 1999, p. 31). Agrillic horizons are illuvial, meaning they form below the soil surface, but may be exposed at the surface later due to erosion. Typically there is little or no evidence of illuvial clay movement in soils on young landscapes; therefore, soil scientists have concluded that the formation of an argillic horizon requires at least a few thousand years (Soil Survey Staff 1999, p. 29). This argillic horizon represents a time-landscape relationship that can be locally and regionally important because its presence indicates that the geomorphic surface has been relatively stable for a long period of time (Soil Survey Staff 1999, p. 31).

The shallow, clay soils that *Ivesia webberi* inhabits are very rocky on the surface and tend to be wet in the spring, but dry out as the season progresses (Zamudio 1999, p. 1). The high clay content in the soils creates a shrink-swell behavior as the soils wet and dry, which helps to ''heave'' rocks in the soil profile to the surface and creates the rocky surface ''pavement'' (Zamudio 1999, p. 1). The unique soils and hydrology of *I. webberi* sites may exclude competition from other species, including *Bromus tectorum* (Zamudio 1999, p. 1; Witham 2000, p. 16). The shrink-swell of the clay zone, which extends into the subsoil, favors perennials with deep taproots or annuals with shallow roots that can complete their life cycle before the surface soil dries out (Zamudio 1999, p. 1; Witham 2000, pp. 16, 20). The root systems of tap-rooted perennial forbs are suited to soil with clay subsoils because the roots branch profusely under the crown, spread laterally, and penetrate the clay B horizon along vertical cracks (within the horizon) (Hugie *et al.* 1964, p. 200). The roots are flattened, but unbroken by shrink-swell activity (Hugie *et al.* 1964, p. 200). Early maturing plants, such as *I. webberi,* presumably prefer soils with these heavy clay horizons because of the abundant spring moisture, which essentially saturates the surface horizons with water. Based on the information above, we consider soil with an argillic horizon characterized by shrink-swell behavior to represent a

physical or biological feature for *I. webberi.*

Water—*Ivesia webberi* is restricted to sites with soils that are vernally moist (Zamudio 1999a, p. 1; Witham 2000, p. 16). From this finding, we infer that sufficient winter and spring moisture not only contributes to the physical properties of the substrate in which *I. webberi* occurs (i.e., the shrink-swell pattern that contributes to the formation of soil crevices), but also triggers biological responses in *I. webberi,* in the form of stimulating germination, growth, flowering, and seed production. Moisture retention is influenced by site topography as well as soil properties. Therefore, we consider soils that are vernally moist as a physical or biological feature for *I. webberi.*

Light—Although little is known regarding the light requirements of *Ivesia webberi,* inferences are possible from the plant species and the plant community from which *I. webberi* is associated (described under the ''Plant Community and Competitive Ability'' section of the ''*Space for Individual and Population Growth and for Normal Behavior''* discussion, above, and the ''*Habitat''* section of the Species Report (Service 2014, pp. 6–7). Generally speaking, co-occurring plant species are short-statured; when assembled into an low sagebrush-perennial bunchgrass-forb community, plants tend to occur widely spaced with intervening patches of rocky, open ground. These factors suggest that *I. webberi* is not shade-tolerant. Therefore, we assume that *I. webberi* is able to persist, at least in part, due to a lack of light competition with taller plants.

*Sites for Breeding, Reproduction, or Rearing (or Development) of Offspring*

Reproduction—*Ivesia webberi* is a perennial plant species that is not rhizomatous or otherwise clonal. Therefore, like other *Ivesia* species, reproduction in *I. webberi* is presumed to occur primarily via sexual means (i.e., seed production and seedling recruitment). As with most plant species, *I. webberi* does not require separate sites for breeding, rearing, and reproduction other than the locations in which parent plants occur and any area necessary for pollinators and seed dispersal. Seeds of *I. webberi* are relatively large and unlikely to be dispersed by wind or animal vectors; upon maturation of the inflorescence and fruit, seeds are likely to fall to the ground in the immediate vicinity of parent plants (Witham 2000, p. 20). Depressions and crevices in soil frequently serve as seed accumulation or seedling establishment sites in arid ecosystems because they trap seeds and often have higher soil water due to trapped snow and accumulated precipitation (Reichman 1984, pp. 9–10; Eckert *et al.* 1986, pp. 417–420). The cracks of the shrink-swell clay soils that typify *I. webberi* habitat are thought to trap seeds and retain them on-site, and may serve to protect seeds from desiccation from sunlight or wind. Although the long-term viability of these seeds is unknown, *I. webberi* seeds held within these crevices may accumulate and function as a seedbank for *I. webberi* reproduction. Thus, the physical and biological feature of soil with an argillic horizon and shrink-swell behavior identified above under the ''*Food, Water, Air, Light, Minerals, or Other Nutritional or Physiological Requirements''* section also has an important reproduction function for *I. webberi.*

Pollination—Pollinators specific to *Ivesia webberi* have not been identified. However, most *Ivesia* species reproduce from seed with insect-mediated pollination occurring between flowers of the same or different plants (Witham 2000, p. 20). Floral visitors have been observed frequenting the flowers of *I. aperta* var. *canina,* which co-occurs with *I. webberi* at one population (USFWS 5; J. Johnson, unpubl. photos 2007). Although these floral visitors can only represent presumed pollinators because they were not observed to be carrying pollen, they represent the best available information regarding possible pollinators of *I. webberi.* Since no single pollinator or group of pollinators is known for *I. webberi,* we are not able to define habitat requirements for *I. webberi* in terms of the distances that particular orders, genera, or species of insect pollinators are known to travel.

Successful transfer of pollen among *Ivesia webberi* populations, therefore, may be inhibited if populations are separated by distances greater than pollinators can travel, or if a pollinator's nesting habitat or behavior is negatively affected (BLM 2012b, p. 2). Some bees such as bumblebees and other social species are able to fly extremely long distances. However, evidence suggests that their habitat does not need to remain contiguous, but it is more important that the protected habitat is large enough to maintain floral diversity to attract these pollinators (BLM 2012b, p. 18). By contrast, most solitary bees remain close to their nest; thus foraging distance tends to be 1,640 ft (500 m) or less (BLM 2012b, p. 19). Conservation strategies that strive to maintain not just *I. webberi,* but the range of associated native plant species (many of which are also insect-pollinated) would therefore serve to attract a wide array of insect pollinators, both social and solitary, that may also serve as pollinators of *I. webberi* (BLM 2012b, pp. 5–6, 19). Because annual, nonnative, invasive grasses (such as *Bromus tectorum*) are wind-pollinated, they offer no reward for pollinators; as such nonnative species become established, pollinators are likely to become deterred from visiting areas occupied by *I. webberi.* Therefore, we consider an area of sufficient size with an intact assemblage of native plant species to provide for pollinator foraging and nesting habitat to be a physical or biological feature for *I. webberi.*

*Habitats Protected From Disturbance or Representative of the Historical, Geographical, and Ecological Distributions of the Species*

The long-term conservation of *Ivesia webberi* is dependent on several factors, including, but not limited to: Maintenance of areas necessary to sustain natural ecosystem components, functions, and processes (such as light and intact soil hydrology); and sufficient adjacent suitable habitat for vegetative reproduction, population expansion, and pollination.

Disturbance—Soils with a high content of shrink-swell clays, such as those where *Ivesia webberi* is found, often create an unstable soil environment to which this species is presumably adapted (Belnap 2001, p. 183). These micro-scale disturbances are of light to moderate intensity; we are unaware of information to indicate that *I. webberi* has evolved with or is tolerant of moderate to heavy, landscape-scale disturbances. Moderate to heavy soil disturbances such as off-highway vehicle (OHV) use, road corridors, residential or commercial development, and livestock grazing can impact the species and its seedbank through habitat loss, fragmentation, and degradation due to soil compaction and altered soil hydrology (Witham 2000, Appendix 1, p. 1; Bergstrom 2009, pp. 25–26).

Climate change projections in the Great Basin, where *Ivesia webberi* occurs, include increasing temperatures (Chambers and Pellant 2008, p. 29; Finch 2012, p. 4), earlier spring snow runoff (Stewart *et al.* 2005, p. 1152), declines in snowpack (Knowles *et al.* 2006, p. 4557; Mote *et al.* 2005, entire), and increased frequencies of drought and fire (Seager *et al.* 2007, pp. 1181–1184; Littell *et al.* 2009, pp. 1014–1019; Abatzoglou and Kolden 2011, pp. 474–475). Nonnative, invasive plant species and modified fire regimes are already impacting the quality and composition of the low sagebrush–perennial

bunchgrass–forb plant community where *I. webberi* occurs (BLM 2012c). We anticipate that climate-related changes expected across the Great Basin, such as altered precipitation and temperature patterns, will accelerate the pace and spatial extent of nonnative plant infestations and altered fire regimes. These patterns of climate change may also decrease survivorship of *I. webberi* by causing physiological stress, altering phenology, and reducing recruitment events and seedling establishment.

Managing for appropriate disturbance regimes (in terms of the type or intensity of disturbance) is difficult, because sources of disturbance are numerous and our ability to predict the effects of multiple, interacting disturbance regimes upon species and their habitats is limited. For the reasons discussed above, we identify areas not subject to moderate to heavy, landscape-scale disturbances, such as impacts from vehicles driven off established roads or trails, development, livestock grazing, and frequent wildfire, to be a physical or biological feature for *I. webberi.*

*Primary Constituent Elements for Ivesia webberi*

Under the Act and its implementing regulations, we are required to identify the physical or biological features essential to the conservation of *Ivesia webberi* in areas occupied at the time of listing, focusing on the features' primary constituent elements. Primary constituent elements are those specific elements of the physical or biological features that provide for a species' life-history processes and are essential to the conservation of the species.

Based on our current knowledge of the physical or biological features and habitat characteristics required to sustain the species' life-history processes, we determine that the primary constituent elements specific to *Ivesia webberi* are:

(i) *Plant community.*

(A) Open to sparsely vegetated areas composed of generally short-statured associated plant species.

(B) Presence of appropriate associated species that can include (but are not limited to): *Antennaria dimorpha, Artemisia arbuscula, Balsamorhiza hookeri, Elymus elymoides, Erigeron bloomeri, Lewisia rediviva, Poa secunda,* and *Viola beckwithii.*

(C) An intact assemblage of appropriate associated species to attract the floral visitors that may be acting as pollinators of *Ivesia webberi.*

(ii) *Topography.* Flats, benches, or terraces that are generally above or adjacent to large valleys. Occupied sites vary from slightly concave to slightly convex or gently sloped (0–15°) and occur on all aspects.

(iii) *Elevation.* Elevations between 4,475 and 6,237 ft (1,364 and 1,901 m).

(iv) *Suitable soils and hydrology.*

(A) Vernally moist soils with an argillic horizon that shrink and swell upon drying and wetting; these soil conditions are characteristic of known *Ivesia webberi* populations and are likely important in the maintenance of the seedbank and population recruitment.

(B) Suitable soils that can include (but are not limited to): Reno—a fine, smectitic, mesic Abruptic Xeric Argidurid; Xman—a clayey, smectitic, mesic, shallow Xeric Haplargids; Aldi—a clayey, smectitic, frigid Lithic Ultic Argixerolls; and Barshaad—a fine, smectitic, mesic Aridic Palexeroll.

*Special Management Considerations or Protections*

When designating critical habitat, we assess whether the specific areas within the geographical area occupied by the species at the time of listing contain features that are essential to the conservation of the species and which may require special management considerations or protection. All areas designated as critical habitat contain features that will require some level of management to address the current and future threats. In all units, special management will be required to ensure that the habitat is able to provide for the growth and reproduction of the species.

A detailed discussion of threats to *Ivesia webberi* and its habitat can be found in the *Ivesia webberi* Species Report (Service 2014, pp. 22–32). The features essential to the conservation of *I. webberi* (plant community and competitive ability, and suitable topography, elevation, soils, and hydrology required for the persistence of adults as well as successful reproduction of such individuals and the formation of a seedbank) may require special management considerations or protection to reduce threats. The current range of *I. webberi* is subject to human-caused modifications from the introduction and spread of nonnative invasive species including *Bromus tectorum, Poa bulbosa,* and *Taeniatherum caput-medusae;* modified wildfire regime; increased access and fragmentation of habitat by new roads and OHVs; agricultural, residential, and commercial development; and soil and seedbank disturbance by livestock (Service 2014, pp. 22–32).

Special management considerations or protection are required within critical habitat areas to address these threats. Management activities that could ameliorate these threats include (but are not limited to): Treatment of nonnative, invasive plant species; minimization of OHV access and placement of new roads away from the species and its habitat; regulations or agreements to minimize the effects of development in areas where the species resides; minimization of livestock use or other disturbances that disturb the soil or seeds; and minimization of habitat fragmentation. Where the species occurs on private lands, protection and management could be enhanced by various forms of land acquisition from willing sellers, ranging from the purchase of conservation easements to fee title acquisition. These activities would protect the primary constituent elements for the species by preventing the loss of habitats and individuals, protecting the habitat and soils from undesirable patterns or levels of disturbance, and facilitating the management for desirable conditions, including disturbance regimes.

*Criteria Used To Identify Critical Habitat*

As required by section 4(b)(2) of the Act, we use the best scientific data available to designate critical habitat. In accordance with the Act and our implementing regulations at 50 CFR 424.12(b) we review available information pertaining to the habitat requirements of the species and identify specific areas within the geographical area occupied by the species at the time of listing that contain the features essential to the conservation of the species. If, after identifying these specific areas, we determine the areas are inadequate to ensure conservation of the species, in accordance with the Act and our implementing regulations at 50 CFR 424.12(e), we then consider whether designating additional areas outside of the geographic area occupied by the species are essential for the conservation of the species. We are not designating any areas outside the geographical area presently occupied by the species because its present range is sufficient to ensure the conservation of *Ivesia webberi.*

We delineated the critical habitat unit boundaries for *Ivesia webberi* using the following steps:

(1) In determining what areas were occupied by *Ivesia webberi,* we used polygon data collected by the Bureau of Land Management (BLM) (BLM 2011, 2012a, unpubl. survey), California Natural Diversity Database (Schoolcraft 1992, 1998, unpubl. survey; Krumm and Clifton 1996, unpubl. survey; Steele and

Roe 1996, unpubl. survey), California Department of Fish and Wildlife (Sustain Environmental Inc. 2009, p. III–19), Nevada Natural Heritage Program (Witham 1991, entire; Witham 2000, entire; Morefield 2004, 2005, 2010a, 2010b, unpubl. survey; Picciani 2006, unpubl. survey), Forest Service (Duron 1990, entire; Howle and Henault 2009, unpubl. survey; Howle and Chardon 2011a, 2011b, 2011c, unpubl. survey), and consulting firms (Wood Rogers 2007, Tables 2 and 3, pp. 5–6) to map specific locations of *I. webberi* using ArcMap 10.1. These locations were classified into discrete populations based on mapping standards devised by NatureServe and its network of Natural Heritage Programs (NatureServe 2004, entire).

(2) We extended the boundaries of the polygon defining each population or subpopulation by 1,640 ft (500 m) to provide for sufficient pollinator habitat. This creates an area that is large enough to maintain flora diversity that would protect nesting areas of solitary pollinator species, while creating a large enough patch of flora diversity to attract social, wide-ranging pollinator species (as described above under the ''*Sites for Breeding, Reproduction, or Rearing (or Development) of Offspring''* section; BLM 2012b, p. 19).

(3) We then removed areas not containing the physical or biological features essential to the conservation of *I. webberi* within the 1,640-ft-wide (500-m-wide) area surrounding each population. We used a habitat model to identify areas lacking physical or biological features. The habitat model was developed by comparing occupied areas and the known environmental variables of these areas, such as elevation, slope, and soil type that we determined to be physical and biological features for this species. The environmental variables with the highest predictive ability influenced the habitat the model identified. Finally, we used ESRI ArcGIS (Geographic Information Systems) Imagery Basemap satellite imagery to exclude forested areas within the areas the model selected because this is not the vegetation type that is a physical and biological feature for *I. webberi.*

When determining critical habitat boundaries within this final rule, we made every effort to avoid including developed areas such as lands covered by buildings, pavement, and other structures because such lands lack physical or biological features for *Ivesia webberi.* The scale of the maps we prepared under the parameters for publication within the Code of Federal Regulations may not reflect the exclusion of such developed lands. Any such lands inadvertently left inside critical habitat boundaries shown on the maps of this final rule have been excluded by text in the final rule and are not designated as critical habitat. Therefore, a Federal action involving these lands will not trigger section 7 consultation with respect to critical habitat and the requirement of no adverse modification unless the specific action would affect the physical or biological features in the adjacent critical habitat.

The critical habitat designation is defined by the map or maps, as modified by any accompanying regulatory text, presented at the end of this document in the Regulation Promulgation section. We include more detailed information on the boundaries of the critical habitat designation in the preamble of this document. We will make the coordinates or plot points or both on which each map is based available to the public on *http://www.regulations.gov* at Docket No. FWS–R8–ES–2013–0080, on our Internet site at *http://www.fws.gov/nevada/,* and at the field office responsible for the designation (see **FOR FURTHER INFORMATION CONTACT**, above).

We are designating lands that we have determined are the specific areas within the geographical area presently occupied by the species, that contain the physical or biological features to support life-history processes essential for the conservation of *Ivesia webberi* as critical habitat.

Sixteen units (two of which contain subunits) are designated based on the physical or biological features being present to support *Ivesia webberi's* life processes. Some units contain all of the physical or biological features and support multiple life processes. Some segments contain only some of the physical or biological features necessary to support *Ivesia webberi's* particular use of that habitat.

**Final Critical Habitat Designation**

We are designating 16 units as critical habitat for *Ivesia webberi,* all of which are occupied. The critical habitat areas described below constitute our best assessment at this time of areas that meet the definition of critical habitat. Those 16 units are: (1) Sierra Valley, (2) Constantia, (3) East of Hallelujah Junction Wildlife Area (HJWA), Evans Canyon, (4) Hallelujah Junction Wildife Area (WA), (5) subunit 5a–Dog Valley Meadow and subunit 5b–Upper Dog Valley, (6) White Lake Overlook, (7) subunit 7a–Mules Ear Flat and subunit 7b–Three Pine Flat and Jeffrey Pine Saddle, (8) Ivesia Flat, (9) Stateline Road 1, (10) Stateline Road 2, (11) Hungry Valley, (12) Black Springs, (13) Raleigh Heights, (14) Dutch Louie Flat, (15) The Pines Powerline, and (16) Dante Mine Road. Table 1 lists the critical habitat units and subunits and the area of each.

TABLE 1—DESIGNATED CRITICAL HABITAT UNITS FOR *Ivesia webberi.*

[Area estimates reflect all land within the critical habitat boundary]

| CH unit and subunit | Population (USFWS) | Unit or subunit name | Federally owned land acres (hectares) | State or local government owned land acres (hectares) | Privately owned land acres (hectares) | Total area acres (hectares) |
|---|---|---|---|---|---|---|
| 1 | 1 | Sierra Valley | 51 (21) | 44 (18) | 179 (73) | 274 (111) |
| 2 | 2 | Constantia | 155 (63) | | | 155 (63) |
| 3 | 3 | East of HJWA, Evans Canyon | 22 (9) | 100 (41) | | 122 (49) |
| 4 | 4 | Hallelujah Junction WA | | 69 (28) | | 69 (28) |
| 5: | | | | | | |
| 5a | 5 | Dog Valley Meadow | 386 (156) | | | 386 (156) |

TABLE 1—DESIGNATED CRITICAL HABITAT UNITS FOR *Ivesia webberi.*—Continued

[Area estimates reflect all land within the critical habitat boundary]

| CH unit and subunit | Population (USFWS) | Unit or subunit name | Federally owned land acres (hectares) | State or local government owned land acres (hectares) | Privately owned land acres (hectares) | Total area acres (hectares) |
|---|---|---|---|---|---|---|
| 5b | 5 | Upper Dog Valley | 12 (5) | | 17 (7) | 29 (12) |
| 6 | 6 | White Lake Overlook | 98 (40) | | 11 (4) | 109 (44) |
| 7: | | | | | | |
| 7a | 7 | Mules Ear Flat | 31 (13) | | 34 (14) | 65 (27) |
| 7b | 7 | Three Pine Flat; Jeffrey Pine Saddle. | 3 (1) | | 65 (26) | 68 (27) |
| 8 | 8 | Ivesia Flat | 62 (25) | | | 62 (25) |
| 9 | 9 | Stateline Road 1 | 186 (75) | | 7 (3) | 193 (78) |
| 10 | 10 | Stateline Road 2 | 66 (27) | | | 66 (27) |
| 11 | 11 | Hungry Valley | 56 (23) | | | 56 (23) |
| 12 | 12 | Black Springs | 133 (54) | | 30 (12) | 163 (66) |
| 13 | 13 | Raleigh Heights | 229 (93) | | 24 (10) | 253 (103) |
| 14 | 14 | Dutch Louie Flat | 13 (5) | | 41 (17) | 54 (22) |
| 15 | 15 | The Pines Powerline | | | 32 (13) | 32 (13) |
| 16 | 16 | Dante Mine Road | 10 (4) | | 4 (2) | 14 (6) |
| Total | | | 1,513 (612) | 214 (86) | 444 (180) | 2,170 (879) |

**Note:** Area sizes may not sum due to rounding.

We present brief descriptions of all units, and reasons why they meet the definition of critical habitat for *Ivesia webberi,* below.

*Unit 1: Sierra Valley*

Unit 1 consists of 274 ac (111 ha) of Federal, State, and private lands. This unit is located near the junction of State Highway 49 and County Highway A24 in Plumas County, California. Nineteen percent of this unit is on Federal lands managed by the BLM, 16 percent is on California State land, and 65 percent is on private lands. This unit is currently occupied and is the most western occupied unit within the range of *Ivesia webberi.* The Sierra Valley Unit is important to the recovery of *I. webberi* because it supports 44.8 ac (18.1 ha), or nearly one-third (27.2 percent), of all habitat (165 ac (66.8 ha)) that is occupied by *I. webberi* across the species' range. Threats to *I. webberi* in this unit include nonnative, invasive species; wildfire; OHV use; roads; livestock grazing; and any other forms of vegetation or ground-disturbing activities. While these lands currently have the physical and biological features essential to the conservation of *I. webberi,* because of a lack of cohesive management and protections, special management will be required to maintain these features in this unit. These threats should be addressed as detailed above in the ''*Special Management Considerations or Protection''* section.

*Unit 2: Constantia*

Unit 2 consists of 155 ac (63 ha) of Federal land. This unit is located east of U.S. Highway 395, southeast of the historic town of Constantia, in Lassen County, California. One hundred percent of this unit is on Federal lands managed by the BLM. This unit is currently occupied and is the most northern occupied unit within the range of *Ivesia webberi.* The Constantia Unit is important to the recovery of *I. webberi* primarily because it represents one of relatively few locations within the Great Basin where the species is known to exist. Given the increasing prevalence of both site-specific and landscape-scale threats operating throughout this region and specifically within areas occupied by *I. webberi* (Service 2014, entire), this location and most others where the species occurs confer redundancy within the species' distribution, thereby buffering the species against the risk of extirpation likely to result from these threats or other less-predicable stochastic events. Not a lot is known about the current condition of *I. webberi* and its habitat at this site; however, wildfire and any other forms of vegetation or ground-disturbing activities are threats to *I. webberi* in this unit. While these lands currently have the physical and biological features essential to the conservation of *I. webberi,* because of a lack of cohesive management and protections, special management will be required to maintain these features in this unit. These threats should be addressed as detailed above in the ''*Special Management Considerations or Protection''* section.

*Unit 3: East of Hallelujah Junction Wildlife Area (HJWA)–Evans Canyon*

Unit 3 consists of 122 ac (49 ha) of Federal and State lands. This unit is located east of U.S. Highway 395 on the border of HJWA in Lassen County, California. Eighty-two percent of this unit is on California State land managed as the HJWA, and 18 percent is on Federal land managed by the BLM. This unit is currently occupied and is approximately 1.6 mi (2.6 km) away from Unit 4, which may allow for social pollinator dispersal between these two units. Additionally, this is the only place where *Ivesia webberi* is found as a co-dominant in an *Artemisia tridentata* Nutt. (big sagebrush) community instead of an *Artemisia arbuscula* (low sagebrush) community. The perennial bunchgrass and forb components of the *Artemisia tridentata* community found within this unit are the same as those occurring in locations where *A. arbuscula* is co-dominant with *I. webberi.* The East of HJWA–Evans Canyon Unit is important to the recovery of *I. webberi* primarily because it represents one of relatively few locations within the Great Basin where the species is known to exist. Given the increasing prevalence of both site-specific and landscape-scale threats operating throughout this region and specifically within areas occupied by *I. webberi* (Service 2014, entire), this location and most others where the species occurs confer redundancy within the species' distribution, thereby buffering the species against the risk of extirpation likely to result from these threats or other less-predicable stochastic events. Wildfire and any other forms of vegetation or ground-disturbing activities are threats to *I. webberi* in this unit. While these lands currently have the physical and biological features essential to the conservation of *I. webberi,* because of a lack of cohesive management and protections, special management will be required to maintain these features in this unit. These threats should be addressed as detailed above in the ''*Special Management Considerations or Protection''* section.

*Unit 4: Hallelujah Junction Wildlife Area (HJWA)*

Unit 4 consists of 69 ac (28 ha) of State lands. This unit is located west of U.S. Highway 395 within HJWA in Sierra County, California. One hundred percent of this unit is on California State land managed as the HJWA. It is currently occupied and is approximately 1.6 mi (2.6 km) away from Unit 3, which may allow for social pollinator dispersal between these two units. The HJWA Unit is important to the recovery of *I. webberi* primarily because it represents one of relatively few locations within the Great Basin where the species is known to exist. Given the increasing prevalence of both site-specific and landscape-scale threats operating throughout this region and specifically within areas occupied by *I. webberi* (Service 2014, entire), this location and most others where the species occurs confer redundancy within the species' distribution, thereby buffering the species against the risk of extirpation likely to result from these threats or other less-predicable stochastic events. Wildfire and any other forms of vegetation or ground-disturbing activities are threats to *I. webberi* in this unit. While these lands currently have the physical and biological features essential to the conservation of *I. webberi,* because of a lack of cohesive management and protections, special management will be required to maintain these features in this unit. These threats should be addressed as detailed above in the ''*Special Management Considerations or Protection''* section.

*Unit 5: Subunit 5a–Dog Valley Meadow and Subunit 5b–Upper Dog Valley*

Subunit 5a–Dog Valley Meadow

Subunit 5a consists of 386 ac (156 ha) of Federal lands. This subunit is located east of Long Valley Road in Dog Valley in Sierra County, California. One hundred percent of this subunit is on Federal lands managed by the Forest Service. It is currently occupied and is 0.5 mi (0.8 km) away from Subunit 5b, which may allow for social pollinator dispersal between these two subunits. The Dog Valley Meadow Subunit is important to the recovery of *Ivesia webberi* because it supports 71.58 ac (28.97 ha), or nearly half (43.5 percent), of all habitat (165 ac (66.8 ha)) that is occupied by *I. webberi* across the species' range and 100,000 plants, or approximately 2 to 10 percent (i.e., dependent on which population estimate range is used for the calculation) of individuals known to exist across the species' range (Service 2014, pp. 15–16). Threats to *I. webberi* in this subunit include nonnative, invasive plant species; wildfire; OHV and other recreational use; and any other forms of vegetation or ground-disturbing activities. Additionally, this subunit historically was grazed, but the grazing allotment currently is vacant (Service 2014, p. 16). While these lands currently have the physical and biological features essential to the conservation of *I. webberi,* because of a lack of cohesive management and protections, special management will be required to maintain these features in this subunit. These threats should be addressed as detailed above in the ''*Special Management Considerations or Protection''* section.

Subunit 5b—Upper Dog Valley

Subunit 5b consists of 29 ac (12 ha) of Federal and private lands. This subunit is located west of Long Valley Road and south of the Dog Valley campground in Dog Valley in Sierra County, California. Forty-one percent of this subunit is on Federal lands managed by the Forest Service, and 59 percent is on private lands. It is currently occupied and is 0.5 mi (0.8 km) away from Subunit 5a, which may allow for social pollinator dispersal between these two subunits. The Upper Dog Valley Subunit is important to the recovery of *I. webberi* primarily because it represents one of relatively few locations within the Great Basin where the species is known to exist. Given the increasing prevalence of both site-specific and landscape-scale threats operating throughout this region and specifically within areas occupied by *I. webberi* (Service 2014, entire), this location and most others where the species occurs confer redundancy within the species' distribution, thereby buffering the species against the risk of extirpation likely to result from these threats or other less-predicable stochastic events. Threats to *I. webberi* in this subunit include nonnative, invasive plant species; wildfire; OHV use; and any other forms of vegetation or ground-disturbing activities. Additionally, this subunit historically was grazed, but the grazing allotment is currently vacant (Service 2014, p. 16). While these lands currently have the physical and biological features essential to the conservation of *I. webberi,* because of a lack of cohesive management and protections, special management will be required to maintain these features in this subunit. These threats should be addressed as detailed above in the ''*Special Management Considerations or Protection''* section.

*Unit 6: White Lake Overlook*

Unit 6 consists of 109 ac (44 ha) of Federal and private lands. This unit is located north of Long Valley Road in Sierra County, California. Ninety percent of this unit is on Federal lands managed by the Forest Service and 10 percent is on private lands. This unit is currently occupied and is 1 mi (1.6 km) or less away from Units 7 and 9, which

may allow for social pollinator dispersal between these units. The White Lake Overlook Unit is important to the recovery of *Ivesia webberi* because it supports 13.56 ac (5.49 ha), or 8.2 percent, of all habitat (165 ac (66.8 ha)) that is occupied by *I. webberi* across the species' range. Threats to *I. webberi* in this unit include wildfire and any other forms of vegetation or ground-disturbing activities. While these lands currently have the physical and biological features essential to the conservation of *I. webberi,* because of a lack of cohesive management and protections, special management will be required to maintain these features in this unit. These threats should be addressed as detailed above in the ''*Special Management Considerations or Protection''* section.

*Unit 7: Subunit 7a—Mules Ear Flat and Subunit 7b—Three Pine Flat and Jeffrey Pine Saddle*

Subunit 7a—Mules Ear Flat

Subunit 7a consists of 65 ac (27 ha) of Federal and private lands. This subunit is located west of the California-Nevada border and southeast of Long Valley Road in Sierra County, California. Forty-eight percent of this subunit is on Federal land managed by the Forest Service, and 52 percent is on private lands. This subunit is currently occupied and is 1 mi (1.6 km) or less away from Units 6 and 9, which may allow for social pollinator dispersal between these units. The Mules Ear Flat Subunit is important to the recovery of *I. webberi* primarily because it represents one of relatively few locations within the Great Basin where the species is known to exist. Given the increasing prevalence of both site-specific and landscape-scale threats operating throughout this region and specifically within areas occupied by *I. webberi* (Service 2014, entire), this location and most others where the species occurs confer redundancy within the species' distribution, thereby buffering the species against the risk of extirpation likely to result from these threats or other less-predicable stochastic events. Threats to *I. webberi* in this subunit include nonnative, invasive plant species; wildfire; OHV use; roads; and any other forms of vegetation or ground-disturbing activities. Additionally, this subunit historically was grazed, but the grazing allotment currently is vacant (Service 2014, p. 17). While these lands currently have the physical and biological features essential to the conservation of *I. webberi,* because of a lack of cohesive management and protections, special management will be required to maintain these features in this subunit. These threats should be addressed as detailed above in the ''*Special Management Considerations or Protection''* section.

Subunit 7b—Three Pine Flat and Jeffrey Pine Saddle

Subunit 7b consists of 68 ac (27 ha) of Federal and private lands. This subunit is located east of the California-Nevada border in Washoe County, Nevada. Four percent of this subunit is on Federal lands managed by the Forest Service, and 96 percent is on private lands. It is currently occupied and is 1 mi (1.6 km) or less away from Units 6, 8, and 9, which may allow for social pollinator dispersal between these units. The Three Pine Flat and Jeffery Pine Saddle Subunit is important to the recovery of *I. webberi* primarily because it represents one of relatively few locations within the Great Basin where the species is known to exist. Given the increasing prevalence of both site-specific and landscape-scale threats operating throughout this region and specifically within areas occupied by *I. webberi* (Service 2014, entire), this location and most others where the species occurs confer redundancy within the species' distribution, thereby buffering the species against the risk of extirpation likely to result from these threats or other less-predicable stochastic events. Threats to *I. webberi* in this subunit include nonnative, invasive plant species; wildfire; OHV use; roads; and any other forms of vegetation or ground-disturbing activities. Additionally, this subunit historically was grazed, but the grazing allotment currently is vacant (Service 2014, p. 17). While these lands currently have the physical and biological features essential to the conservation of *I. webberi,* because of a lack of cohesive management and protections, special management will be required to maintain these features in this subunit. These threats should be addressed as detailed above in the ''*Special Management Considerations or Protection''* section.

*Unit 8: Ivesia Flat*

Unit 8 consists of 62 ac (25 ha) of Federal land. This unit is located south of U.S. Highway 395 in Washoe County, NV. One hundred percent of this unit is on Federal land managed by the Forest Service. It is currently occupied and is 1 mi (1.6 km) away from Subunit 7b, which may allow for social pollinator dispersal between these two units. The Ivesia Flat Unit is important to the recovery of *Ivesia webberi* because it supports 100,000 plants (Service 2014, p. 17), or approximately between 2 and 10 percent (i.e., dependent on which population estimate range is used for the calculation) of individuals known to exist across the species' range. Threats to *I. webberi* in this unit include nonnative, invasive plant species; wildfire; OHV use; roads; and any other forms of vegetation or ground-disturbing activities. Additionally, this unit historically was grazed, but the grazing allotment currently is vacant (Service 2014, pp. 17–18). While these lands currently have the physical and biological features essential to the conservation of *I. webberi,* because of a lack of cohesive management and protections, special management will be required to maintain these features in this unit. These threats should be addressed as detailed above in the ''*Special Management Considerations or Protection''* section.

*Unit 9: Stateline Road 1*

Unit 9 consists of 193 ac (78 ha) of Federal and private lands. This unit is located along the California-Nevada border in Sierra County, California, and Washoe County, Nevada. Ninety-six percent of this unit is on Federal land managed by the Forest Service, and 4 percent is on private lands. It is currently occupied and is 1 mi (1.6 km) or less away from Units 6, 7, and 10, which may allow for social pollinator dispersal between these units. The Stateline Road 1 Unit is important to the recovery of *I. webberi* primarily because it represents one of relatively few locations within the Great Basin where the species is known to exist. Given the increasing prevalence of both site-specific and landscape-scale threats operating throughout this region and specifically within areas occupied by *I. webberi* (Service 2014, entire), this location and most others where the species occurs confer redundancy within the species' distribution, thereby buffering the species against the risk of extirpation likely to result from these threats or other less-predicable stochastic events. Threats to *I. webberi* in this unit include nonnative, invasive plant species; wildfire; development; and any other forms of vegetation or ground-disturbing activities. Additionally, this unit historically was grazed, but the grazing allotment currently is vacant (Service 2014, p. 18). While these lands currently have the physical and biological features essential to the conservation of *I. webberi,* because of a lack of cohesive management and protections, special management will be required to maintain these features in this unit.

These threats should be addressed as detailed above in the ''*Special Management Considerations or Protection''* section.

*Unit 10: Stateline Road 2*

Unit 10 consists of 66 ac (27 ha) of Federal land. This unit is located along the California–Nevada border in Sierra County, California, and Washoe County, Nevada. One hundred percent of this unit is on Federal land managed by the Forest Service. It is currently occupied and is less than 1 mi (1.6 km) away from Unit 9, which may allow for social pollinator dispersal between these units. The Stateline Road 2 Unit is important to the recovery of *I. webberi* primarily because it represents one of relatively few locations within the Great Basin where the species is known to exist. Given the increasing prevalence of both site-specific and landscape-scale threats operating throughout this region and specifically within areas occupied by *I. webberi* (Service 2014, entire), this location and most others where the species occurs confer redundancy within the species' distribution, thereby buffering the species against the risk of extirpation likely to result from these threats or other less-predicable stochastic events. Threats to *I. webberi* in this unit include nonnative, invasive plant species; wildfire; development; and any other forms of vegetation or ground-disturbing activities. Additionally, this unit historically was grazed, but the grazing allotment currently is vacant (Service 2014, p. 18). While these lands currently have the physical and biological features essential to the conservation of *I. webberi,* because of a lack of cohesive management and protections, special management will be required to maintain these features in this unit. These threats should be addressed as detailed above in the ''*Special Management Considerations or Protection''* section.

*Unit 11: Hungry Valley*

Unit 11 consists of 56 ac (23 ha) of Federal land. This unit is located west of Eagle Canyon Drive in Washoe County, Nevada. One hundred percent of this unit is on Federal land managed by the BLM. It is currently occupied and is the eastern most occupied unit within the range of *Ivesia webberi.* The Hungry Valley Unit is important to the recovery of *I. webberi* primarily because it represents one of relatively few locations within the Great Basin where the species is known to exist. Given the increasing prevalence of both site-specific and landscape-scale threats operating throughout this region and specifically within areas occupied by *I. webberi* (Service 2014, entire), this location and most others where the species occurs confer redundancy within the species' distribution, thereby buffering the species against the risk of extirpation likely to result from these threats or other less-predicable stochastic events. Threats to *I. webberi* in this unit include nonnative, invasive plant species; wildfire; OHV use and other recreational use; roads; livestock grazing; and any other forms of vegetation or ground-disturbing activities. While these lands currently have the physical and biological features essential to the conservation of *I. webberi,* because of a lack of cohesive management and protections, special management will be required to maintain these features in this unit. These threats should be addressed as detailed above in the ''*Special Management Considerations or Protection''* section.

*Unit 12: Black Springs*

Unit 12 consists of 163 ac (66 ha) of Federal and private lands. This unit is located northwest of North Virginia Street and south of U.S. Highway 395 in Washoe County, Nevada. Eighty-two percent of this unit is on Federal land managed by the Forest Service, and 18 percent is on private lands. It is currently occupied and is approximately 1 mi (1.6 km) away from Unit 13, which may allow for social pollinator dispersal between these units. The Black Springs Unit is important to the recovery of *I. webberi* primarily because it represents one of relatively few locations within the Great Basin where the species is known to exist. Given the increasing prevalence of both site-specific and landscape-scale threats operating throughout this region and specifically within areas occupied by *I. webberi* (Service 2014, entire), this location and most others where the species occurs confer redundancy within the species' distribution, thereby buffering the species against the risk of extirpation likely to result from these threats or other less-predicable stochastic events. Threats to *I. webberi* in this unit include nonnative, invasive plant species; wildfire; OHV use; roads; and any other forms of vegetation or ground-disturbing activities. Additionally, this unit historically was grazed, but the grazing allotment currently is vacant (Service 2014, p. 19). While these lands currently have the physical and biological features essential to the conservation of *I. webberi,* because of a lack of cohesive management and protections, special management will be required to maintain these features in this unit. These threats should be addressed as detailed above in the ''*Special Management Considerations or Protection''* section.

*Unit 13: Raleigh Heights*

Unit 13 consists of 253 ac (103 ha) of Federal and private lands. This unit is located northwest of North Virginia Street and south of U.S. Highway 395 in Washoe County, Nevada. Ninety-one percent of this unit is on Federal land managed by the Forest Service, and 9 percent is on private lands. It is currently occupied and is approximately 1 mi (1.6 km) away from Unit 12, which may allow for social pollinator dispersal between these units. The Raleigh Heights Unit is important to the recovery of *Ivesia webberi* because it supports between 100,000 to 4,000,000 plants (Service 2014, p. 19), or approximately 10 to 79.5 percent (i.e., dependent on which population estimate range is used for the calculation) of individuals known to exist across the species' range. Threats to *I. webberi* in this unit include nonnative, invasive plant species; wildfire; OHV use; roads; and any other forms of vegetation or ground-disturbing activities. While these lands currently have the physical and biological features essential to the conservation of *I. webberi,* because of a lack of cohesive management and protections, special management will be required to maintain these features in this unit. These threats should be addressed as detailed above in the ''*Special Management Considerations or Protection''* section.

*Unit 14: Dutch Louie Flat*

Unit 14 consists of 54 ac (22 ha) of Federal and private lands. This unit is located southwest of South McCarran Boulevard in Washoe County, Nevada. Twenty-four percent of this unit is on Federal lands managed by the Forest Service, and 76 percent is on private lands. It is currently occupied and is approximately 0.5 mi (0.8 km) away from Unit 15, which may allow for social pollinator dispersal between these units. The Dutch Louie Flat Unit is important to the recovery of *Ivesia webberi* because it supports between 600,000 to 693,795 plants (Service 2014, pp. 19–20), or approximately 14 to 61 percent (i.e., dependent on which population estimate range is used for the calculation) of individuals known to exist across the species' range. Threats to *I. webberi* in this unit include nonnative, invasive plant species; wildfire; OHV and other recreational use; roads; development; and any other

forms of vegetation or ground-disturbing activities. While these lands currently have the physical and biological features essential to the conservation of *I. webberi,* because of a lack of cohesive management and protections, special management will be required to maintain these features in this unit. These threats should be addressed as detailed above in the ''*Special Management Considerations or Protection''* section.

*Unit 15: The Pines Powerline*

Unit 15 consists of 32 ac (13 ha) of private lands. This unit is located southwest of South McCarran Boulevard in Washoe County, Nevada. One hundred percent of this unit is on private lands. It is currently occupied and is approximately 0.5 mi (0.8 km) away from Unit 14, which may allow for social pollinator dispersal between these two units. The Pines Powerline Unit is important to the recovery of *I. webberi* primarily because it represents one of relatively few locations within the Great Basin where the species is known to exist. Given the increasing prevalence of both site-specific and landscape-scale threats operating throughout this region and specifically within areas occupied by *I. webberi* (Service 2014, entire), this location and most others where the species occurs confer redundancy within the species' distribution, thereby buffering the species against the risk of extirpation likely to result from these threats or other less-predicable stochastic events. Threats to *I. webberi* in this unit include nonnative, invasive plant species; wildfire; OHV and other recreational use; roads; development; and any other forms of vegetation or ground-disturbing activities. While these lands currently have the physical and biological features essential to the conservation of *I. webberi,* because of a lack of cohesive management and protections, special management will be required to maintain these features in this unit. These threats should be addressed as detailed above in the ''*Special Management Considerations or Protection''* section.

*Unit 16: Dante Mine Road*

Unit 16 consists of 14 ac (6 ha) of Federal and private lands. This unit is located east of U.S. Highway 395 in Douglas County, Nevada. Seventy-three percent of this unit is on Federal land managed by the BLM, and 27 percent is on private lands. It is currently occupied and is the southernmost unit within the range of *Ivesia webberi.* The Dante Mine Road Unit is important to the recovery of *I. webberi* primarily because it represents one of relatively few locations within the Great Basin where the species is known to exist. Given the increasing prevalence of both site-specific and landscape-scale threats operating throughout this region and specifically within areas occupied by *I. webberi* (Service 2014, entire), this location and most others where the species occurs confer redundancy within the species' distribution, thereby buffering the species against the risk of extirpation likely to result from these threats or other less-predicable stochastic events. Threats to *I. webberi* in this unit include nonnative, invasive plant species; wildfire; roads; development; and any other forms of vegetation or ground-disturbing activities. While these lands currently have the physical and biological features essential to the conservation of *I. webberi,* because of a lack of cohesive management and protections, special management will be required to maintain these features in this unit. These threats should be addressed as detailed above in the ''*Special Management Considerations or Protection''* section.

**Effects of Critical Habitat Designation**

*Section 7 Consultation*

Section 7(a)(2) of the Act requires Federal agencies, including the Service, to ensure that any action they fund, authorize, or carry out is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of designated critical habitat of such species. In addition, section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any agency action which is likely to jeopardize the continued existence of any species proposed to be listed under the Act or result in the destruction or adverse modification of proposed critical habitat.

Decisions by the 5th and 9th Circuit Courts of Appeals have invalidated our regulatory definition of ''destruction or adverse modification'' (50 CFR 402.02) (see *Gifford Pinchot Task Force* v. *U.S. Fish and Wildlife Service,* 378 F. 3d 1059 (9th Cir. 2004) and *Sierra Club* v. *U.S. Fish and Wildlife Service et al.,* 245 F.3d 434, 434 (5th Cir. 2001)), and we do not rely on this regulatory definition when analyzing whether an action is likely to destroy or adversely modify critical habitat. Under the provisions of the Act, we determine destruction or adverse modification on the basis of whether, with implementation of the proposed Federal action, the affected critical habitat would continue to serve its intended conservation role for the species.

If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with us. Examples of actions that are subject to the section 7 consultation process are actions on State, tribal, local, or private lands that require a Federal permit (such as a permit from the U.S. Army Corps of Engineers under section 404 of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or a permit from the Service under section 10 of the Act) or that involve some other Federal action (such as funding from the Federal Highway Administration, Federal Aviation Administration, or the Federal Emergency Management Agency). Federal actions not affecting listed species or critical habitat, and actions on State, tribal, local, or private lands that are not federally funded or authorized, do not require section 7 consultation.

As a result of section 7 consultation, we document compliance with the requirements of section 7(a)(2) through our issuance of:

(1) A concurrence letter for Federal actions that may affect, but are not likely to adversely affect, listed species or critical habitat; or

(2) A biological opinion for Federal actions that may affect and are likely to adversely affect, listed species or critical habitat.

When we issue a biological opinion concluding that a project is likely to jeopardize the continued existence of a listed species and/or destroy or adversely modify critical habitat, we provide reasonable and prudent alternatives to the project, if any are identifiable, that would avoid the likelihood of jeopardy and/or destruction or adverse modification of critical habitat. We define ''reasonable and prudent alternatives'' (at 50 CFR 402.02) as alternative actions identified during consultation that:

(1) Can be implemented in a manner consistent with the intended purpose of the action,

(2) Can be implemented consistent with the scope of the Federal agency's legal authority and jurisdiction,

(3) Are economically and technologically feasible, and

(4) Would, in the Director's opinion, avoid the likelihood of jeopardizing the continued existence of the listed species and/or avoid the likelihood of destroying or adversely modifying critical habitat.

Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or

relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 require Federal agencies to reinitiate consultation on previously reviewed actions in instances where we have listed a new species or subsequently designated critical habitat that may be affected and the Federal agency has retained discretionary involvement or control over the action (or the agency's discretionary involvement or control is authorized by law). Consequently, Federal agencies sometimes may need to request reinitiation of consultation with us on actions for which formal consultation has been completed, if those actions with discretionary involvement or control may affect subsequently listed species or designated critical habitat.

*Application of the ''Adverse Modification'' Standard*

The key factor related to the adverse modification determination is whether, with implementation of the proposed Federal action, the affected critical habitat would continue to serve its intended conservation role for the species. Activities that may destroy or adversely modify critical habitat are those that alter the physical or biological features to an extent that appreciably reduces the conservation value of critical habitat for *Ivesia webberi.* As discussed above, the role of critical habitat is to support life-history needs of the species and provide for the conservation of the species.

Section 4(b)(8) of the Act requires us to briefly evaluate and describe, in any proposed or final regulation that designates critical habitat, activities involving a Federal action that may destroy or adversely modify such habitat, or that may be affected by such designation.

Activities that may affect critical habitat, when carried out, funded, or authorized by a Federal agency, should result in consultation for *Ivesia webberi.* These activities include, but are not limited to:

(1) Actions that would lead to the destruction or alteration of plants, their seedbank, or their habitat; or actions that destroy or result in continual or excessive disturbance of the clay soils where *Ivesia webberi* is found. Such activities could include, but are not limited to: Activities associated with road construction and maintenance; excessive OHV use; activities associated with commercial and residential development, including roads and associated infrastructure; utility corridors or infrastructure; and excessive livestock grazing. These activities could lead to the loss of individuals; reduce plant numbers by prohibiting recruitment; remove the seedbank; fragment the habitat; introduce nonnative, invasive species; and alter the soil such that important shrink and swell processes no longer occur.

(2) Actions that would result in the loss of pollinators or their habitat, such that reproduction could be diminished. Such activities could include, but are not limited to: Destroying ground nesting habitat; habitat fragmentation that prohibits pollinator movement from one area to the next; spraying pesticides that would kill pollinators; and eliminating other plant species on which pollinators are reliant for floral resources (this could include the replacement of native forb species with nonnative, invasive annual grasses, which do not provide floral resources for pollinators). These activities could result in reduced reproduction, fruit production, and recruitment in *Ivesia webberi.*

(3) Actions that would result in excessive plant competition at *Ivesia webberi* populations. These activities could include, but are not limited to, using highly competitive species in restoration efforts or creating disturbances that allow establishment of nonnative, invasive species such as *Bromus tectorum, Poa bulbosa,* and *Taeniatherum caput-medusae.* These activities could cause *I. webberi* to be outcompeted and subsequently either lost or reduced in numbers of individuals.

**Exemptions**

*Application of Section 4(a)(3) of the Act*

Section 4(a)(3)(B)(i) of the Act (16 U.S.C. 1533(a)(3)(B)(i)) provides that: ''The Secretary shall not designate as critical habitat any lands or other geographic areas owned or controlled by the Department of Defense, or designated for its use, that are subject to an integrated natural resources management plan [INRMP] prepared under section 101 of the Sikes Act (16 U.S.C. 670a), if the Secretary determines in writing that such plan provides a benefit to the species for which critical habitat is proposed for designation.'' There are no Department of Defense lands with a completed INRMP within this final critical habitat designation.

**Consideration of Impacts Under Section 4(b)(2) of the Act**

Section 4(b)(2) of the Act states that the Secretary shall designate and make revisions to critical habitat on the basis of the best available scientific data after taking into consideration the economic impact, national security impact, and any other relevant impact of specifying any particular area as critical habitat. The Secretary may exclude an area from critical habitat if she determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless he determines, based on the best scientific data available, that the failure to designate such area as critical habitat will result in the extinction of the species. In making that determination, the statute on its face, as well as the legislative history, are clear that the Secretary has broad discretion regarding which factor(s) to use and how much weight to give to any factor.

**Consideration of Economic Impacts**

Under section 4(b)(2) of the Act, we consider the economic impacts of specifying any particular area as critical habitat. In order to consider economic impacts, we prepared a draft economic analysis (DEA) of the proposed critical habitat designation and related factors (composed of three documents, i.e., Industrial Economics, Inc. (IEc) 2013; IEc 2014; and Service 2013). The DEA was made available for public review from February 13, 2014, through March 17, 2014 (79 FR 8668); no new information was received during that comment period. Following the close of the comment period, we reviewed and evaluated all information submitted during the comment period that may pertain to our consideration of the probable incremental economic impacts of this critical habitat designation. We took into consideration one public comment we received and the revision to the proposed critical habitat designation as outlined in the February 13, 2014, publication (79 FR 8668). Although we conducted a review of the revisions to the *Ivesia webberi* proposed critical habitat (as announced on February 13, 2014, at 79 FR 8668), we do not anticipate that those revisions to proposed critical habitat changed the findings as outlined in our DEA (Lee 2014, pers. comm.). A summary of our complete evaluation is presented below.

Our economic analysis quantifies economic impacts of *Ivesia webberi* conservation efforts associated with the following categories of activity: (1) Federal lands management (Forest Service and BLM); (2) commercial or residential development; (3) livestock grazing; (4) OHV and other recreational activities; (5) wildfire; (6) vegetation management, including fuels reduction activities and management for invasive

species; and (7) vegetation or ground-disturbing activities associated with construction, maintenance or use of roads, trails, transmission lines, or other infrastructure corridors (Service 2013, pp. 3–10). We considered each industry or category individually. Additionally, we considered whether their activities have any Federal involvement.

We determined that the section 7-related costs of designating critical habitat for *Ivesia webberi* are likely to be limited to the additional administrative effort required to consider adverse modification in a small number of consultations. This finding is based on:

(1) All units are considered occupied, providing baseline protection resulting from the listing of the species as threatened under the Act.

(2) Activities occurring within designated critical habitat with a potential to affect the species' habitat are also likely to adversely affect the species, either directly or indirectly.

(3) Project modifications requested to avoid adverse modification are likely to be the same as those needed to avoid jeopardy in occupied habitat.

(4) Federal agencies operating in critical habitat areas are already aware of the presence of *Ivesia webberi* and also are experienced with consulting with us under section 7 of the Act on other federally listed species.

Thus, in the baseline, they are likely to consult even in buffer areas surrounding the species included in the designation to ensure protection of pollinator habitat.

The incremental administrative burden resulting from the designation is unlikely to reach $100 million in a given year based on the small number of anticipated consultations (i.e., less than two consultations per year) and per-consultation costs. Furthermore, it is unlikely that the designation of critical habitat will trigger additional requirements under State or local regulations. Costs resulting from public perception of the effect of critical habitat, if they occur, are unlikely to reach $100 million in a given year, based on the small number of acres possibly affected and average land values in the vicinity of those acres.

Also as announced in our February 13, 2014, publication (79 FR 8668), we added 16 ac (6 ha) of private lands to the proposed critical habitat designation within Unit 12 (Black Springs) and Unit 13 (Raleigh Heights). In our DEA, we considered the potential for public perception effects that may result from the designation on four units located close to the Reno/Sparks metropolitan area, which included Units 12 and 13. Assuming that the additional private lands are also potentially developable, this increased the total number of acres that may be subject to development pressure in the foreseeable future to 125 ac (51 ha), as compared to the 114 ac (46 ha) presented in our DEA. We do not anticipate this revised amount of private, potentially developable land changes the conclusions presented in IEc (2014) (pp. 8–11).

As a result of this reevaluation (Lee 2014, pers. comm.) of the information analyzed in our DEA (IEc 2013; IEc 2014; Service 2013), we reaffirm that we did not identify any disproportionate costs that are likely to result from the designation. Consequently, the Secretary is not exercising her discretion to exclude any areas from this designation of critical habitat for *Ivesia webberi* based on economic impacts.

*Exclusions Based on National Security Impacts or Homeland Security Impacts*

Under section 4(b)(2) of the Act, we consider whether there are lands owned or managed by the Department of Defense where a national security impact might exist. In preparing this final rule, we have determined that no lands within the designation of critical habitat for *Ivesia webberi* are owned or managed by the Department of Defense or Department of Homeland Security, and, therefore, we anticipate no impact on national security or homeland security. Consequently, the Secretary is not exercising her discretion to exclude any areas from this final designation based on impacts on national security or homeland security.

*Exclusions Based on Other Relevant Impacts*

Under section 4(b)(2) of the Act, we also consider any other relevant impacts resulting from the designation of critical habitat. We consider a number of factors, including whether the landowners have developed any HCPs or other management plans for the area, or whether there are conservation partnerships that would be encouraged by designation of, or exclusion from, critical habitat. In addition, we look at any tribal issues and consider the government-to-government relationship of the United States with tribal entities. We also consider any social impacts that might occur because of the designation.

In preparing this final rule, we have determined that there are currently no permitted HCPs or other management plans for *Ivesia webberi,* and the final designation does not include any tribal lands or tribal trust resources. We anticipate no impact on tribal lands, partnerships, or HCPs from this critical habitat designation. Accordingly, the Secretary is not exercising her discretion to exclude any areas from this final designation based on other relevant impacts.

**Summary of Comments and Recommendations**

We requested written comments from the public on the proposed designation of critical habitat for *Ivesia webberi* during two comment periods. The first comment period associated with the publication of the proposed rule (78 FR 46862) opened on August 2, 2013, and closed on October 1, 2013. We also requested comments on the proposed critical habitat designation and associated draft economic analysis during a comment period that opened February 13, 2014, and closed on March 17, 2014 (79 FR 8668). We did not receive any requests for a public hearing. We also contacted appropriate Federal, State, and local agencies; scientific organizations; and other interested parties and invited them to comment on the proposed rule and draft economic analysis during these comment periods.

During the first comment period, we received 10 comment letters directly addressing the proposed critical habitat designation. During the second comment period, we received four comment letters addressing the proposed critical habitat designation or the draft economic analysis. All substantive information provided during comment periods has either been incorporated directly into this final determination or is addressed below. Comments we received are addressed in the following summary and incorporated into the final rule as appropriate.

*Peer Review*

In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited expert opinions from three knowledgeable individuals with scientific expertise that included familiarity with the species, the geographic region in which the species occurs, and conservation biology principles. We did not receive any responses from the peer reviewers.

*Comments From States*

Section 4(i) of the Act states, ''the Secretary shall submit to the State agency a written justification for [her] failure to adopt regulations consistent with the agency's comments or petition.'' We did not receive any comments from the States of California or Nevada.

*Comments From Federal Agencies*

*(1) Comment:* The Forest Service recommends simplifying the boundaries of the critical habitat polygons to reduce the number of irregularly shaped lobes and aligning the boundaries with discernible features such as ridgelines, roads, topographic contours, and vegetation communities. They state that aligning the boundaries in this manner would be consistent with species conservation to provide more uncomplicated management under the Act. The Forest Service identified Units 12, 13, and 14 as highest priority for adjustment.

*Our Response:* We agree with this comment, and have simplified the boundaries of these critical habitat units accordingly. Additionally, per 2013 survey information provided to us from the Forest Service, we have expanded the boundary of Unit 9 to include newly discovered, occupied *Ivesia webberi* habitat (C. Schnurrenberger, unpubl. survey 2013).

*(2) Comment:* The Forest Service recommends that the final critical habitat rule identify *Ivesia webberi* populations that would be particularly vulnerable to stochastic events. The Forest Service recommends indicating such populations occur in Units 6, 7 (Subunits 7a and 7b), 9, 10, and 12, which occur on Forest Service lands.

*Our Response:* Plant species (such as *Ivesia webberi*) that have a restricted range, specialized habitat requirements, and limited recruitment and dispersal have a higher risk of extinction due to demographic uncertainty and random environmental events (Shaffer 1987, pp. 69–75; Lande 1993, pp. 911–927; Hawkins *et al.* 2008, pp. 41–42). We regard all populations of *I. webberi* to be vulnerable to stochastic events because they are generally small, relatively isolated, and (in many cases) subject to one or more threats (Service 2014, pp. 31–33).

*(3) Comment:* The Forest Service recommends we consider the possible relevance of historical and potential habitats for the full recovery of *Ivesia webberi.*

*Our Response:* We agree with this comment; these factors will receive full consideration during recovery planning and implementation.

*Public Comments*

*(4) Comment:* One commenter recognized that the law requires the Service to designate critical habitat for listed species, but expressed the view that proposing critical habitat concurrent with listing was ''pre-decisional'' and ''counterintuitive.''

*Our Response:* When prudent and determinable, the Act requires the Service to designate any habitat considered to be critical habitat concurrently with making a determination that a species is an endangered or threatened species. The Act's section 4(a)(3)(A)(i) states that the Secretary ''shall, concurrently with making a determination . . . that a species is an endangered species or a threatened species, designate any habitat of such species which is then considered to be critical habitat.''

*(5) Comment:* One commenter stated that it was a contradiction to state that critical habitat (as discussed under the Background section of the proposed rule) does not affect land ownership (or establish a similar type of refuge or conserved area) and then indicate (under the *Special Management Considerations or Protection* section of the proposed rule) that special management would be required to conserve the species' habitat. This commenter asked why the identification of special management considerations does not, in effect, create a conservation area.

*Our Response:* Section 3 of the Act defines critical habitat, in part, as those specific areas that ''may require special management considerations or protection.'' The identification of special management considerations, however, does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. As stated in the proposed rule, the designation of critical habitat, and specifically the identification of management that may be required to maintain physical and biological features for a given a species, does not impose a legally binding duty on non-Federal government entities or private parties. The designation does not require implementation of restoration, recovery, or enhancement measures by non-Federal landowners, nor is any conserved or preserved area created. Under section 7 of the Act, the only regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise 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 with the Federal agency.

*(6) Comment:* Multiple commenters asked how the critical habitat designation would affect private property and private property owners. One commenter specifically asked whether special management considerations were required to be implemented by private property owners.

*Our Response:* As stated in the proposed rule, the designation of critical habitat does not impose a legally binding duty on non-Federal government entities or private parties, or require implementation of restoration, recovery, or enhancement measures by non-Federal landowners. See additional discussion above in our response to Comment (5).

*(7) Comment:* One commenter asked whether critical habitat designation represents a taking of private property.

*Our Response:* We analyzed the potential takings implications of designating critical habitat for *Ivesia webberi* and concluded that this final designation will not have significant takings implications (see *Takings—Executive Order 12630* under the Required Determinations section). A person wishing to develop private land that has been designated as critical habitat, in accordance with State law, and with no Federal jurisdiction involved does not violate the Act. Critical habitat receives protection under section 7 of the Act through requiring Federal agencies to consult with us to ensure that action they carry out, fund, or authorize does not result in the destruction or adverse modification of critical habitat. If there is no Federal nexus, the critical habitat designation of private lands itself does not restrict any private activities. See also response to Comment 14.

*(8) Comment:* One commenter asked if property owners have been notified.

*Our Response:* The Act does not require us to notify individual property owners affected by a proposed listing or critical habitat designation. However, we conducted extensive outreach in accordance with 50 CFR 424.16, including giving notice of the proposed regulation to the public, Federal agencies, and State agencies; publishing a summary of the proposed regulation in the Reno Gazette Journal; and holding a public informational meeting.

*(9) Comment:* Several comments were received related to road closures and anticipated impacts upon recreational activities, particularly the use of OHVs (including 4-wheel drive vehicles). One commenter asked how road closures would protect *Ivesia webberi.* Another commenter stated that OHVs are used as their primary mode of transportation, and recommended that this be taken into consideration when roads or trails are considered for closure. One

commenter asked how the species would be protected or affected if hiking is still allowed.

*Our Response:* Final rules designating critical habitat do not automatically eliminate or place restrictions on any recreational activities, such as hiking or OHV use, within critical habitat. A critical habitat designation does not establish any closures of roads or trails. Rather, once critical habitat is designated on Federal lands, it becomes the responsibility of the Federal agency with jurisdiction over those lands included in the designation to review the various kinds of recreational activities allowed on its lands to determine in consultation with the Service if these activities may result in the destruction or adverse modification of designated critical habitat. The decision to close or restrict recreational activities (OHV, hiking, or other) to potentially protect or reduce impacts to a listed species or its critical habitat is made by that Federal agency.

With regard to the question of how road closures would protect *Ivesia webberi,* we first reiterate that critical habitat designation does not establish road closures. However, road closures represent a means of addressing and reducing the patterns of disturbance to *I. webberi* habitat that are associated with road corridors subject to heavy use. Road corridors experiencing heavy use, and particularly those roads that serve to provide access (via off-road travel) into habitats occupied by *I. webberi,* are likely to eliminate conditions required by the species for persistence and reproduction. As noted in the *Physical or Biological Features* section above, moderate to heavy soil disturbances such as OHV use, road corridors, residential or commercial development, and livestock grazing can impact the species and its seedbank through habitat loss, fragmentation, and degradation due to soil compaction and altered soil hydrology (Witham 2000, Appendix 1, p. 1; Bergstrom 2009, pp. 25–26). For more information, please see ''*Food, Water, Air, Light, Minerals, or Other Nutritional or Physiological Requirements''* under the *Physical or Biological Features* section, above).

*(10) Comment:* One commenter requested that any location within the proposed critical habitat designation that has an adopted route travel management system be excluded from the final critical habitat designation, with a 50-ft (15-m) from centerline corridor established to allow space for parking.

*Our Response:* Travel or route planning documents, and any accompanying evaluations of the legal status of existing or potential travel routes, are planning and management actions within the jurisdiction of land management agencies. Critical habitat designations do not establish any planning documents or management plans; rather, the designation of critical habitat identifies those physical and biological features that may be essential to the conservation of a species and may require special management considerations and protections, and the land area on which those features are found. To the extent that certain areas within our critical habitat designation contain roads and other manmade structures (e.g., fences, houses, paved areas, and other structures), these features are not included within the critical habitat designation because they do not contain the primary constituent elements and because they do not meet the definition of critical habitat under the Act.

*(11) Comment:* One commenter stated that, in 2006, a 4-wheel drive club successfully blockaded about 1,000 linear ft (305 m) on the west edge of Dutch Louie Flat meadow with used utility poles to prevent vehicles and people from going into the meadow. This commenter then states that if Service, Forest Service, and Nevada Department of Wildlife employees have been walking through the Dutch Louie Flat meadow, they have been trampling the plant.

*Our Response:* We are aware of this action having been undertaken in ''Dutch Louie Flat meadow''; however, this area (the meadow) is not located within our critical habitat designation and does not contain *Ivesia webberi.* Unit 14 (Dutch Louie Flat, as described under the Final Critical Habitat Designation section, above) is located approximately 1.4 mi (2.3 km) northwest of the ''Dutch Louie Flat meadow'' where the 4-wheel drive club conducted their activities.

*(12) Comment:* Two commenters made specific reference to the old road between Hoge Road and North Virginia Street (in apparent reference to Unit 13 of the critical habitat designation), and stated that *Ivesia webberi* does not grow on this road, is 40 or 50 yards (37 or 46 m) or more away from the road, and is in very limited places, and the road is not composed of suitable soils.

*Our Response:* Section 4(b)(2) of the Act states that the Secretary shall designate and make revisions to critical habitat on the basis of the best available scientific data after taking into consideration the economic impact, national security impact, and any other relevant impact of specifying any particular area as critical habitat. While we cannot be certain from the comment which road is being referenced here, we are aware that Unit 13 contains many roads that receive varied levels of use. The best available information indicates that *Ivesia webberi* grows sporadically within some of the road corridors in Unit 13, and along the shoulders of other road corridors within this unit (S. Kulpa, J. Johnson, E. Bergstrom, and K. O'Conner, unpublished field notes 2013). The presence of the species within or along these road corridors indicates that the physical or biological features, and thus the primary constituent elements required by the species are still currently present in these areas. Along most road corridors within this species' range, and within our critical habitat designation, frequent (historical or current) OHV use most often results in a well-established corridor in which vegetation is absent and soils have been compacted to a degree that discourages or precludes the re-establishment of vegetation (including *I. webberi*).

*(13) Comment:* A commenter asked if any scientific studies have been conducted that indicate if livestock use within the critical habitat areas has an adverse effect on *Ivesia webberi.* The commenter believes the presence of the species within grazed areas should serve as an indication that livestock have not adversely affected the plant.

*Our Response:* We are not aware of studies specifically examining the effects of livestock grazing upon *Ivesia webberi.* However, as noted elsewhere in the proposed critical habitat designation and this final rule, moderate to heavy soil disturbances such as OHV use, road corridors, residential or commercial development, and livestock grazing can impact the species and its seedbank through habitat loss, fragmentation, and degradation due to soil compaction and altered soil hydrology (Witham 2000, Appendix 1, p. 1; Bergstrom 2009, pp. 25–26). We have specifically identified vernally moist soils with an argillic horizon that shrink and swell upon wetting and drying as a physical and biological feature essential for the conservation of *I. webberi.* Excessive or inadequately managed livestock grazing has the potential to eliminate these conditions that are required by the species for persistence and reproduction. See the Summary of Biological Status and Threats section of the proposed listing rule (78 FR 46889; August 2, 2013) and the Species Report (Service 2014, pp. 29–30) for additional discussion on the potential effects of grazing to *I. webberi* habitat.

*(14) Comment:* One commenter stated that a portion of the private lands within Unit 1 has historically been used for livestock grazing, and asked who would determine whether special management considerations or protection would be required in this area, and how that special management or protections would be enforced.

*Our Response:* The designation of critical habitat does not impose a legally binding duty on non-Federal government entities or private parties. Under section 7 of the Act, the only regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action (i.e., a Federal nexus exists), may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests with the Federal agency. Therefore, there is no requirement or enforcement of special management considerations or protections on the private lands within Unit 1 or any other private lands (without a Federal nexus) within the critical habitat designation for *Ivesia webberi.*

*(15) Comment:* One commenter advocated for public education to users of motorized recreational vehicles.

*Our Response:* We agree that public education is a vital component of any conservation program and will promote outreach for *Ivesia webberi* and its critical habitat through avenues such as (but not limited to) our continued coordination with partners and future recovery planning efforts.

*(16) Comment:* One commenter recommended that we consider geothermal energy sources as a threat to Unit 16 because it occurs near an active exploration area that is on Forest Service land. The commenter believe that exploitation of geothermal energy resources in this area could have impacts on hydrological processes in Unit 16.

*Our Response:* Per our coordination with the Forest Service, we are not aware of any geothermal energy projects within the vicinity of Unit 16.

*Comments Related to the Draft Economic Analysis (DEA)*

*(17) Comment:* One commenter stated that the DEA did not assess the economic benefits that may result from the designation of 114 ac (46 ha) of private, vacant lands as critical habitat in the Reno/Sparks metropolitan area. In particular, the commenter suggested that critical habitat designation may increase the likelihood that these areas remain in an open and undeveloped condition. Further, this commenter noted that a significant body of literature suggests that proximity to conserved, open space generates economic benefits to surrounding landowners and communities through improvements in water management, increases in revenues from recreational activities, increases in revenues to local municipalities, and increases in housing prices.

*Our Response:* The primary goal of critical habitat designation for *Ivesia webberi* is to promote the conservation of the species. Critical habitat designation may also generate ancillary benefits, which are defined as favorable impacts of a rulemaking that are typically unrelated, or secondary, to the statutory purpose of the rulemaking (Office of Management and Budget (OMB) 2003). Critical habitat aids in the conservation of species specifically by protecting the physical or biological features on which the species depends. To this end, management actions undertaken to conserve a species or habitat may have coincident, positive social welfare implications, such as increased recreational opportunities in a region or improved property values on nearby parcels.

As described in our DEA (IEc 2014, p. 2), incremental changes in land management as a result of the designation of critical habitat are unlikely. This finding is based primarily on the fact that all areas designated as critical habitat are considered occupied by the species and therefore receive baseline protection from the listing of the species under the Act. Thus, in this instance, critical habitat designation will likely add a slight incremental conservation benefit to that already provided by baseline conservation efforts (e.g., efforts resulting from the listing of the species as threatened under the Act). For the same reason, it follows that the critical habitat designation will likely add slight incremental ancillary benefits above those provided in the baseline.

**Required Determinations**

*Regulatory Planning and Review (Executive Orders 12866 and 13563)*

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of Executive Order 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 executive order 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. Executive Order 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.

*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 only required to evaluate the potential incremental impacts of rulemaking on those entities directly regulated by the rulemaking itself, and therefore, 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 by the Agency is not likely to destroy or adversely modify critical habitat. Therefore, under section 7 only Federal action agencies are directly subject to the specific regulatory requirement (avoiding destruction and adverse modification) imposed by critical habitat designation. Consequently, it is our position that only Federal action agencies will be directly regulated by this designation. There is no requirement under RFA to evaluate the potential impacts to entities not directly regulated. Moreover, Federal agencies are not small entities. Therefore, because no small entities are directly regulated by this rulemaking, the Service certifies that this final critical habitat designation will not have a significant economic impact on a substantial number of small entities.

During the development of this final rule, we reviewed and evaluated all information submitted during the comment period that may pertain to our consideration of the probable incremental economic impacts of this critical habitat designation. Based on this information, we affirm our certification that this final critical habitat designation will not have a significant economic impact on a substantial number of small entities, and a regulatory flexibility analysis is not required.

*Energy Supply, Distribution, or Use—Executive Order 13211*

Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use) requires agencies to prepare Statements of Energy Effects when undertaking certain actions. OMB has provided guidance for implementing this Executive Order that outlines nine outcomes that may constitute ''a significant adverse effect'' when compared to not taking the regulatory action under consideration.

Based on information in the economic analysis, energy-related impacts associated with *Ivesia webberi* conservation activities within critical habitat are not expected. As such, the designation of critical habitat is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action, and no Statement of Energy Effects is required.

*Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)*

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), we make the following findings:

(1) This rule will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, or tribal governments, or the private sector, and includes both ''Federal intergovernmental mandates'' and ''Federal private sector mandates.'' These terms are defined in 2 U.S.C. 658(5)–(7). ''Federal intergovernmental mandate'' includes a regulation that ''would impose an enforceable duty upon State, local, or tribal governments'' with two exceptions. It excludes ''a condition of Federal assistance.'' It also excludes ''a duty arising from participation in a voluntary Federal program,'' unless the regulation ''relates to a then-existing Federal program under which $500,000,000 or more is provided annually to State, local, and tribal governments under entitlement authority,'' if the provision would ''increase the stringency of conditions of assistance'' or ''place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding,'' and the State, local, or tribal governments ''lack authority'' to adjust accordingly. At the time of enactment, these entitlement programs were: Medicaid; Aid to Families with Dependent Children work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement. ''Federal private sector mandate'' includes a regulation that ''would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance or (ii) a duty arising from participation in a voluntary Federal program.''

The designation of critical habitat does not impose a legally binding duty on non-Federal Government entities or private parties. Under the Act, the only regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat under section 7. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise 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. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply, nor would critical habitat shift the costs of the large entitlement programs listed above onto State governments.

(2) We do not believe that this rule will significantly or uniquely affect small governments because it would not produce a Federal mandate of $100 million or greater in any year; that is, it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act. Our economic analysis concludes that the economic costs of implementing the rule through section 7 of the Act will most likely be limited to the additional administrative effort required to consider adverse modification. This finding is based on the following factors:

(a) All units are considered occupied, providing baseline protection;

(b) Activities occurring within designated critical habitat with a potential to affect critical habitat are also likely to adversely affect the species, either directly or indirectly;

(c) In occupied habitat, project modifications requested to avoid adverse modification are likely to be the same as those needed to avoid jeopardy; and

(d) Federal agencies operating in designated critical habitat areas are already aware of the presence of the species and are also experienced consulting with the Service under section 7 of the Act on other federally listed species. Thus, they are likely to consult even in buffer areas applied to occupied habitat, included in the designation to ensure the protection of pollinator habitat.

Consequently, we do not believe that the critical habitat designation would significantly or uniquely affect small government entities. As such, a Small Government Agency Plan is not required.

*Takings—Executive Order 12630*

In accordance with Executive Order 12630 (''Government Actions and Interference with Constitutionally Protected Private Property Rights''), we have analyzed the potential takings implications of designating critical habitat for *Ivesia webberi* in a takings implications assessment. As discussed above, the designation of critical habitat affects only Federal actions. Although private parties that receive Federal funding, 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. Our DEA found (and our FEA reaffirms) that no significant economic impacts are likely to result from the designation of critical habitat for *Ivesia webberi.* 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 DEA 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 *I. webberi* does not pose significant takings implications.

*Federalism—Executive Order 13132*

In accordance with E.O. 13132 (Federalism), this rule does not have significant Federalism effects. A federalism summary impact statement is not required. In keeping with Department of the Interior and Department of Commerce policy, we requested information from, and coordinated development of this critical habitat designation with, appropriate State resource agencies in California and Nevada. We did not receive comments from California or Nevada in response to our request for information on the proposed rule. From a federalism perspective, the designation of critical habitat directly affects only the responsibilities of Federal agencies. The Act imposes no other duties with respect to critical habitat, either for States and local governments, or for anyone else. As a result, the rule does not have substantial direct effects either on the States, or on the relationship between the national government and the States, or on the distribution of powers and responsibilities among the various levels of government. The designation may have some benefit to these governments because the areas that contain the features essential to the conservation of the species are more clearly defined, and the physical and biological features of the habitat necessary to the conservation of the species are specifically identified. This information does not alter where and what federally sponsored activities may occur. However, it may assist these local governments in long-range planning (because these local governments no longer have to wait for case-by-case section 7 consultations to occur).

Where State and local governments require approval or authorization from a Federal agency for actions that may affect critical habitat, consultation under section 7(a)(2) would be required. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise 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.

*Civil Justice Reform—Executive Order 12988*

In accordance with Executive Order 12988 (Civil Justice Reform), the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and that it meets the applicable standards set forth in sections 3(a) and 3(b)(2) of the Order. We are designating critical habitat in accordance with the provisions of the Act. To assist the public in understanding the habitat needs of the species, the rule identifies the elements of physical or biological features essential to the conservation of *Ivesia webberi.* The designated areas of critical habitat are presented on maps, and the rule provides several options for the interested public to obtain more detailed location information, if desired.

*Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)*

This rule does not contain any new collections of information that require approval by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This rule will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

*National Environmental Policy Act (42 U.S.C. 4321 et seq.)*

It is our position that, outside the jurisdiction of the U.S. Court of Appeals for the Tenth Circuit, we do not need to prepare environmental analyses pursuant to the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) in connection with designating critical habitat under the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This position was upheld by the U.S. Court of Appeals for the Ninth Circuit (*Douglas County* v. *Babbitt,* 48 F.3d 1495 (9th Cir. 1995), cert. denied 516 U.S. 1042 (1996)).

*Government-to-Government Relationship With Tribes*

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951), Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with tribes in developing programs for healthy ecosystems, to acknowledge that tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to tribes. We determined that there are no tribal lands occupied by *Ivesia webberi* at the time of listing that contain the physical or biological features essential to conservation of the species, and no tribal lands unoccupied by *I. webberi* that are essential for the conservation of the species. Therefore, we are not designating critical habitat for *I. webberi* on tribal lands.

**References Cited**

A complete list of all references cited is available on the Internet at *http://www.regulations.gov* and upon request from the Nevada Fish and Wildlife

Office (see **FOR FURTHER INFORMATION CONTACT**).

**Authors**

The primary authors of this rulemaking are the staff members of the Pacific Southwest Regional Office and Nevada Fish and Wildlife Office.

**List of Subjects in 50 CFR Part 17**

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

**Regulation Promulgation**

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

## PART 17—[AMENDED]

■ 1. The authority citation for part 17 continues to read as follows:

**Authority:** 16 U.S.C. 1361–1407; 1531–1544; 4201–4245, unless otherwise noted.

■ 2. In § 17.96, amend paragraph (a) by adding an entry for *Ivesia webberi* (Webber's ivesia), in alphabetical order under Family Rosaceae, to read as follows:

**§ 17.95 Critical habitat—plants.**

(a) *Flowering plants.*

* * * * *

Family Rosaceae: *Ivesia webberi* (Webber's ivesia)

(1) Critical habitat units are depicted for Plumas, Lassen, and Sierra Counties, California, and Washoe and Douglas Counties, Nevada, on the maps below.

(2) Within these areas, the primary constituent elements of the physical or biological features essential to the conservation of *Ivesia webberi* consist of four components:

(i) *Plant community.*

(A) Open to sparsely vegetated areas composed of generally short-statured associated plant species.

(B) Presence of appropriate associated species that can include (but are not limited to): *Antennaria dimorpha, Artemisia arbuscula, Balsamorhiza hookeri, Elymus elymoides, Erigeron bloomeri, Lewisia rediviva, Poa secunda,* and *Viola beckwithii.*

(C) An intact assemblage of appropriate associated species to attract the floral visitors that may be acting as pollinators of *Ivesia webberi.*

(ii) *Topography.* Flats, benches, or terraces that are generally above or adjacent to large valleys. Occupied sites vary from slightly concave to slightly convex or gently sloped (0–15°) and occur on all aspects.

(iii) *Elevation.* Elevations between 4,475 and 6,237 feet (1,364 and 1,901 meters).

(iv) *Suitable soils and hydrology.*

(A) Vernally moist soils with an argillic horizon that shrink and swell upon drying and wetting; these soil conditions are characteristic of known *Ivesia webberi* populations and are likely important in the maintenance of the seedbank and population recruitment.

(B) Suitable soils that can include (but are not limited to): Reno—a fine, smectitic, mesic Abruptic Xeric Argidurid; Xman—a clayey, smectitic, mesic, shallow Xeric Haplargids; Aldi—a clayey, smectitic, frigid Lithic Ultic Argixerolls; and Barshaad—a fine, smectitic, mesic Aridic Palexeroll.

(3) Critical habitat does not include manmade structures (such as buildings, aqueducts, runways, roads, and other paved areas) and the land on which they are located existing within the legal boundaries on July 3, 2014.

(4) *Critical habitat map units.* Data layers defining map units were created on the base of both satellite imagery (ESRI ArcGIS Imagery Basemap) as well as USGS geospatial quadrangle maps and were mapped using NAD 83 Universal Transverse Mercator (UTM), zone 11N coordinates. The maps in this entry, as modified by any accompanying regulatory text, establish the boundaries of the critical habitat designation. The coordinates or plot points or both on which each map is based are available to the public at *http://www.regulations.gov* at Docket No. FWS–R8–ES–2013–0080, and at the field office responsible for this designation (i.e., Nevada Fish and Wildlife Office (*http://www.fws.gov/nevada/*)). You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

(5) Index map follows:

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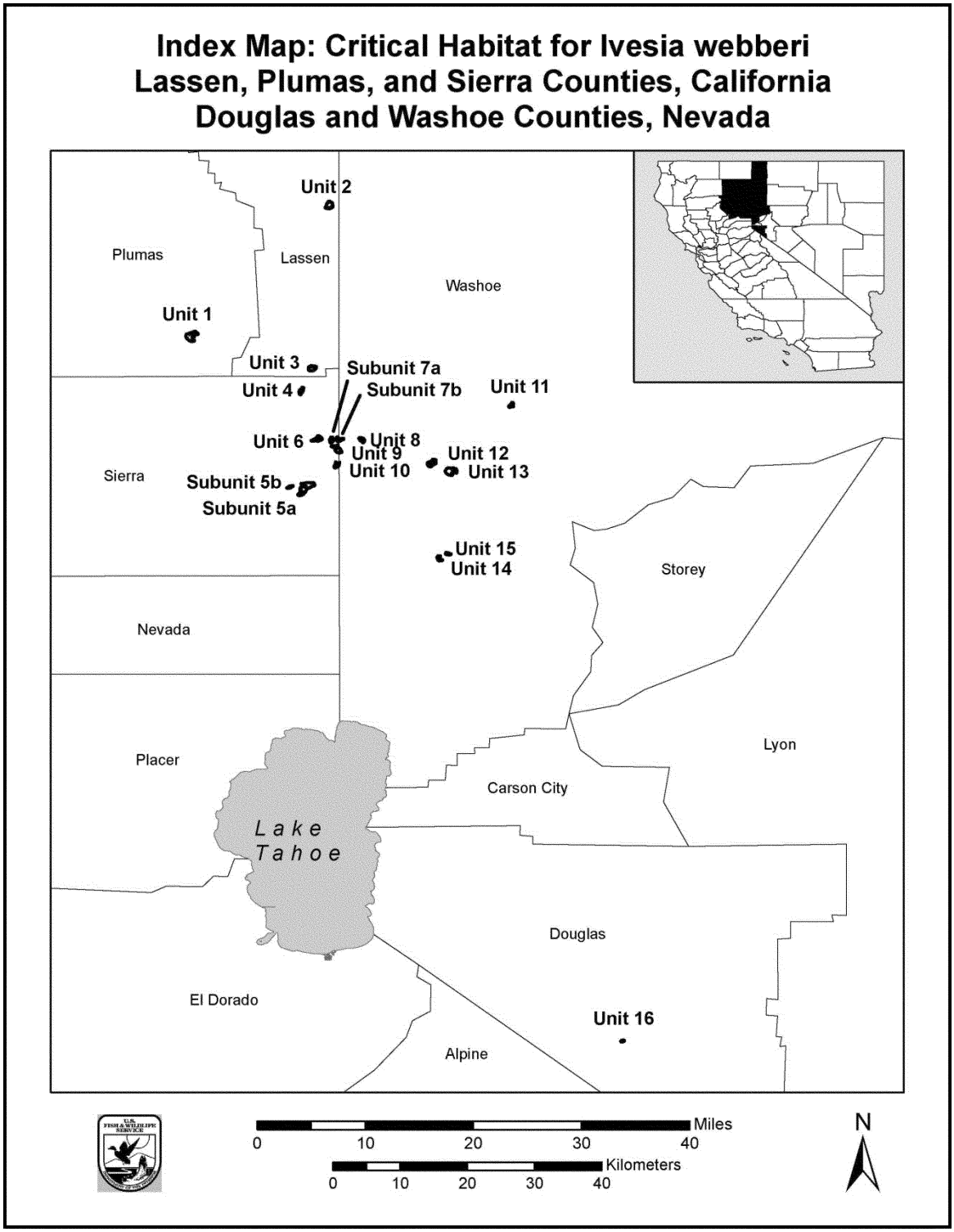
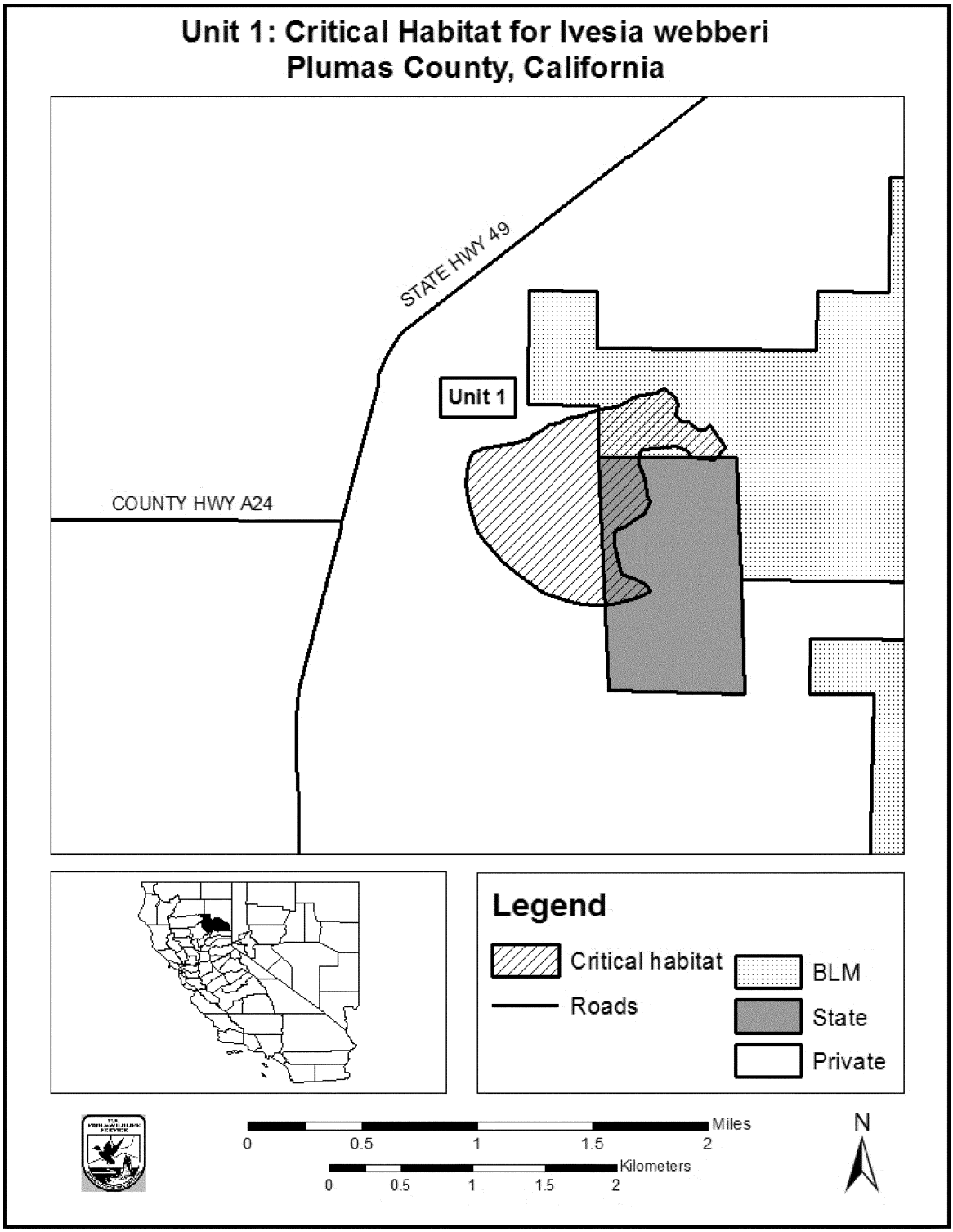


(6) Unit 1: Sierra Valley, Plumas County, California.

(i) Unit 1 includes 274 ac (111 ha).

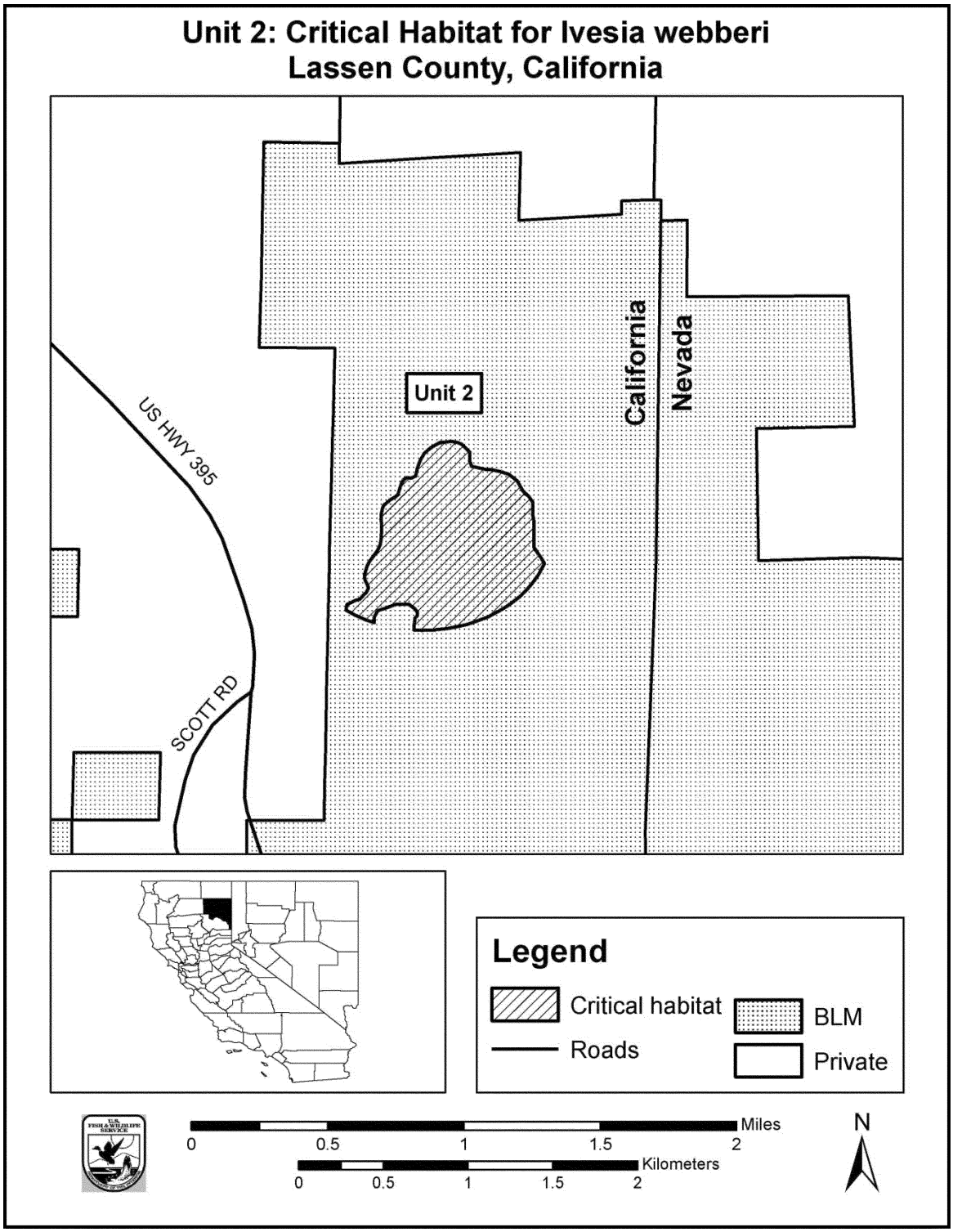
(ii) Map of Unit 1 follows:



(7) Unit 2: Constantia, Lassen County, California.

(i) Unit 2 includes 155 ac (63 ha).

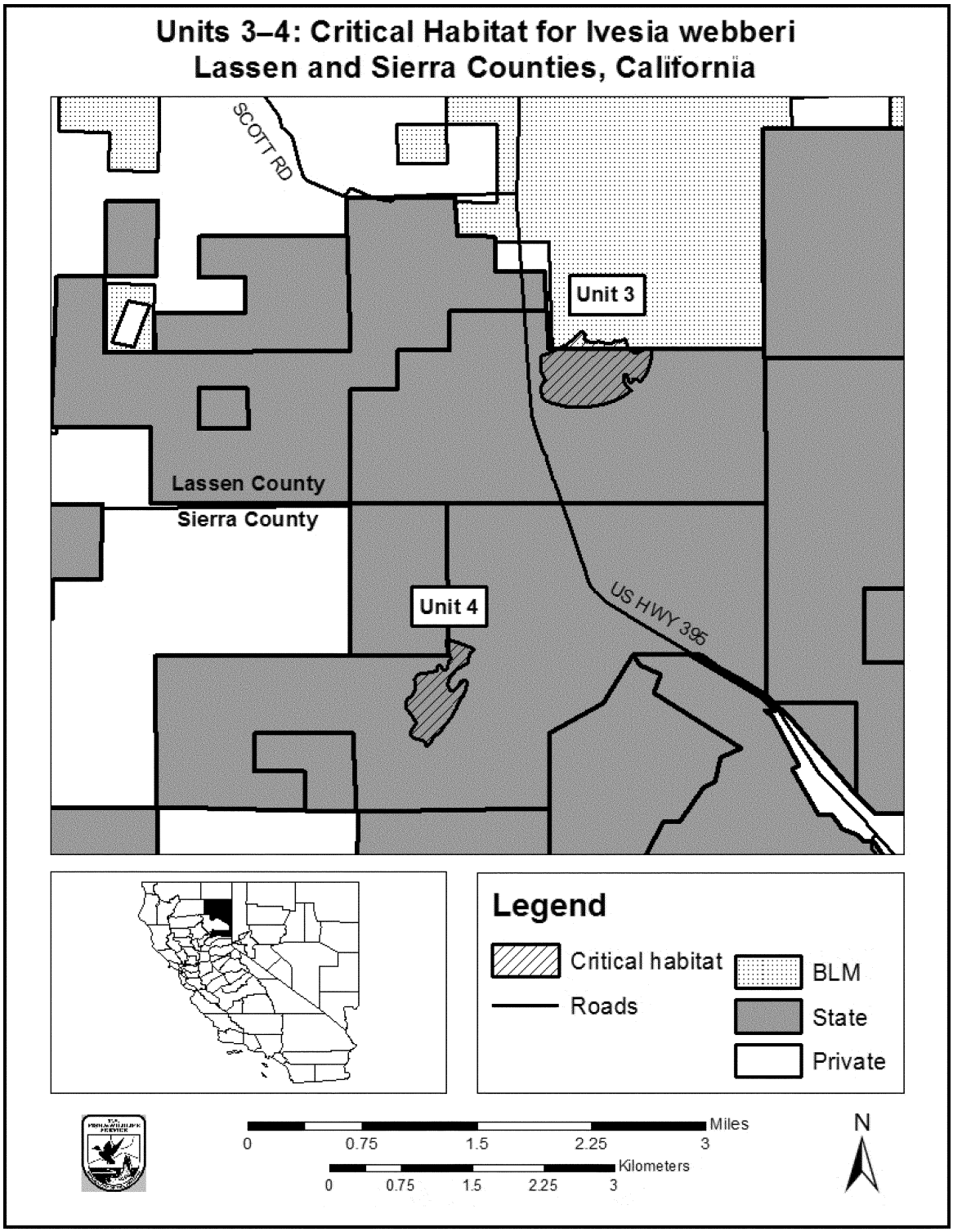
(ii) Map of Unit 2 follows:



(8) Unit 3: East of Hallelujah Junction Wildlife Area, Evans Canyon; Lassen County, California.

(i) Unit 3 includes 122 ac (49 ha).

(ii) Map of Units 3 and 4 follows:



(9) Unit 4: Hallelujah Junction Wildlife Area, Sierra County, California.

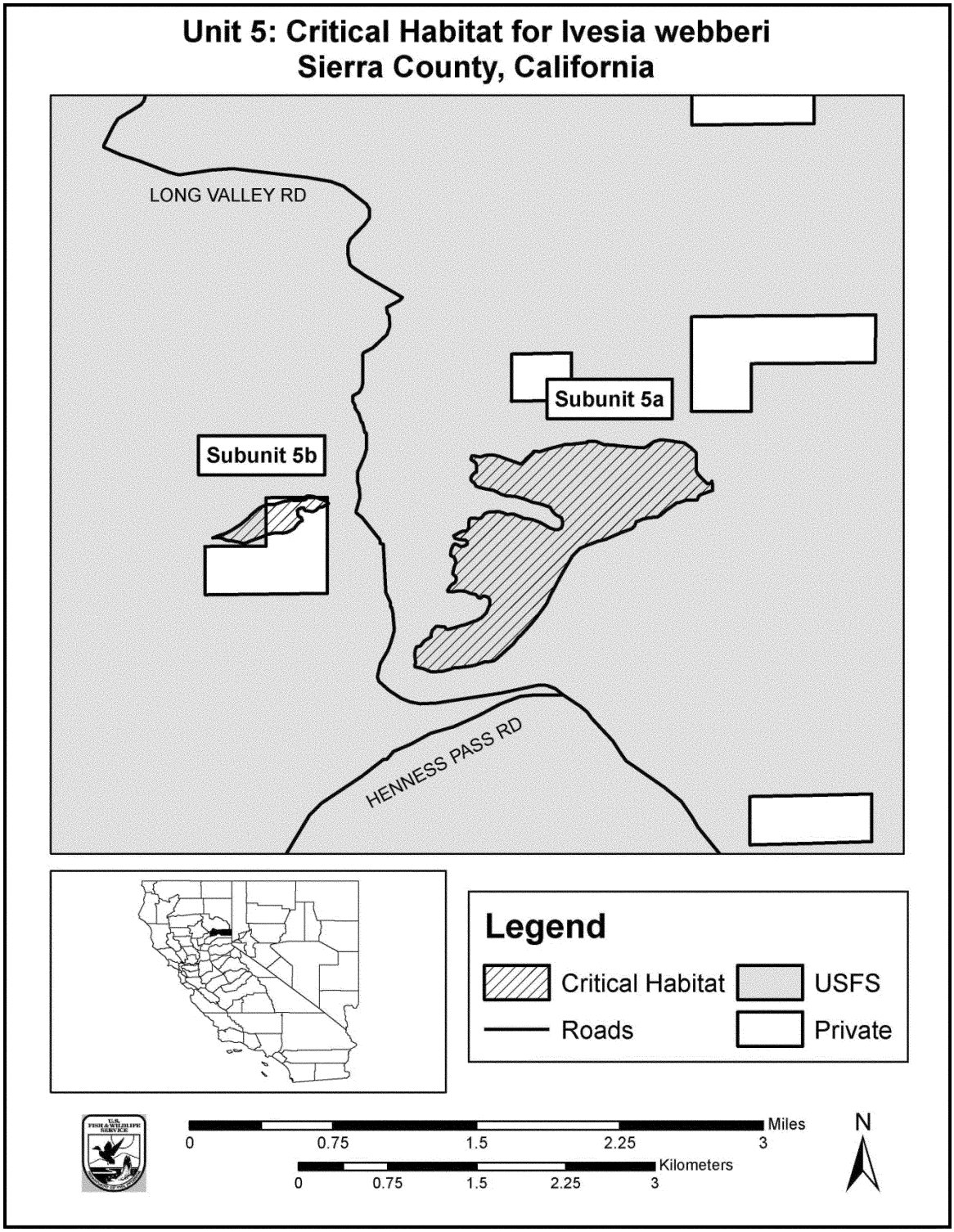
(i) Unit 4 includes 69 ac (28 ha).

(ii) Map of Unit 4 is provided at paragraph (8)(ii) of this entry.

(10) Unit 5: Subunit 5a, Dog Valley Meadow, and Subunit 5b, Upper Dog Valley; Sierra County, California.

(i) Subunit 5a includes 386 ac (156 ha), and subunit 5b includes 29 ac (12 ha). Combined, Unit 5 includes 415 ac (168 ha).

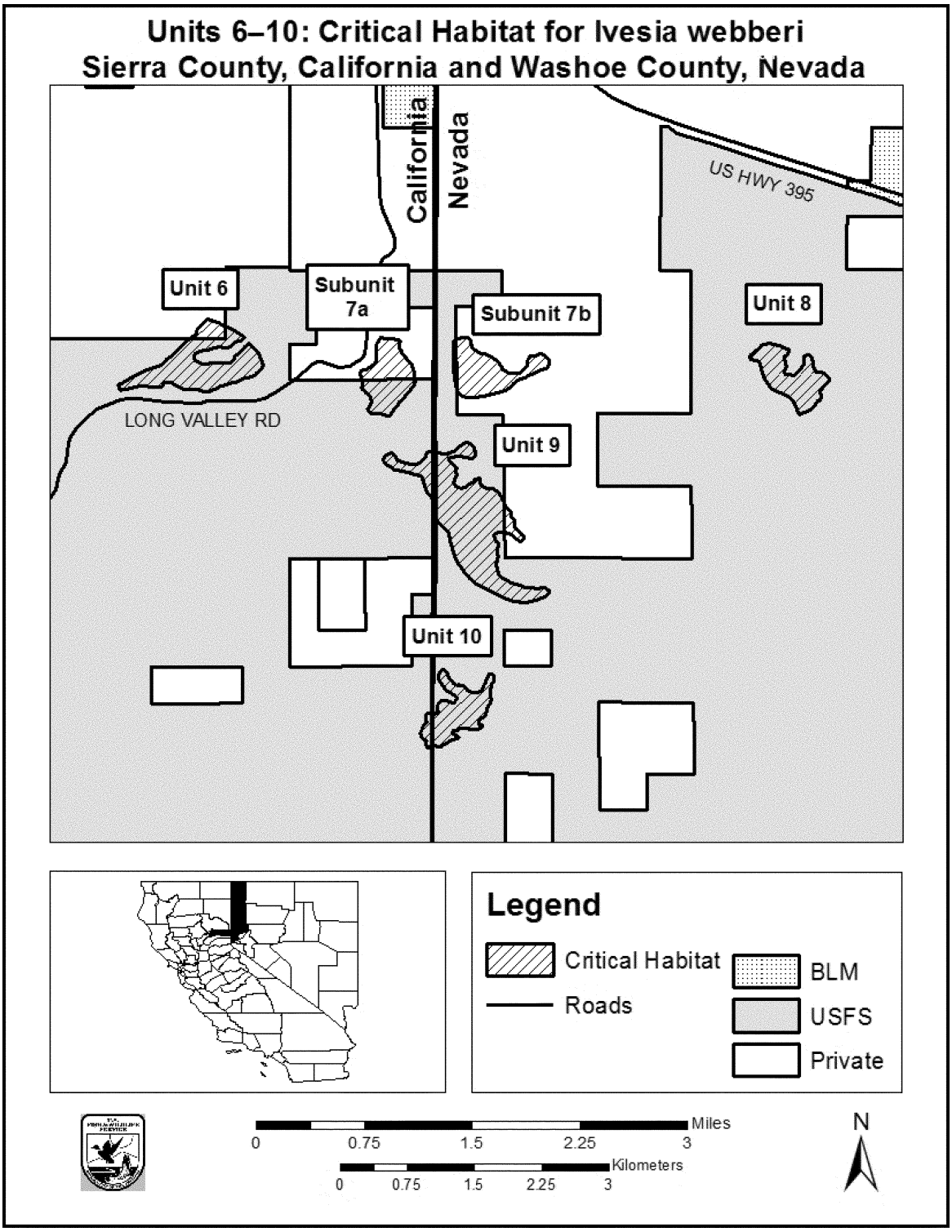
(ii) Map of Unit 5 (Subunits 5a and 5b) follows:



(11) Unit 6: White Lake Overlook, Sierra County, California.

(i) Unit 6 includes 109 ac (44 ha).

(ii) Map of Units 6, 7, 8, 9, and 10 follows:



(12) Unit 7: Subunit 7a, Mules Ear Flat, Sierra County, California; Subunit 7b, Three Pine Flat and Jeffery Pine Saddle, Washoe County, Nevada.

(i) Subunit 7a includes 65 ac (27 ha), and subunit 7b includes 68 ac (27 ha).

(ii) Map of Unit 7 is provided at paragraph (11)(ii) of this entry.

(13) Unit 8: Ivesia Flat, Washoe County, Nevada.

(i) Unit 8 includes 62 ac (25 ha).

(ii) Map of Unit 8 is provided at paragraph (11)(ii) of this entry.

(14) Unit 9: Stateline Road 1, Sierra County, California, and Washoe County, Nevada.

(i) Unit 9 includes 193 ac (78 ha).

(ii) Map of Unit 9 is provided at paragraph (11)(ii) of this entry.

(15) Unit 10: Stateline Road 2, Sierra County, California, and Washoe County, Nevada.

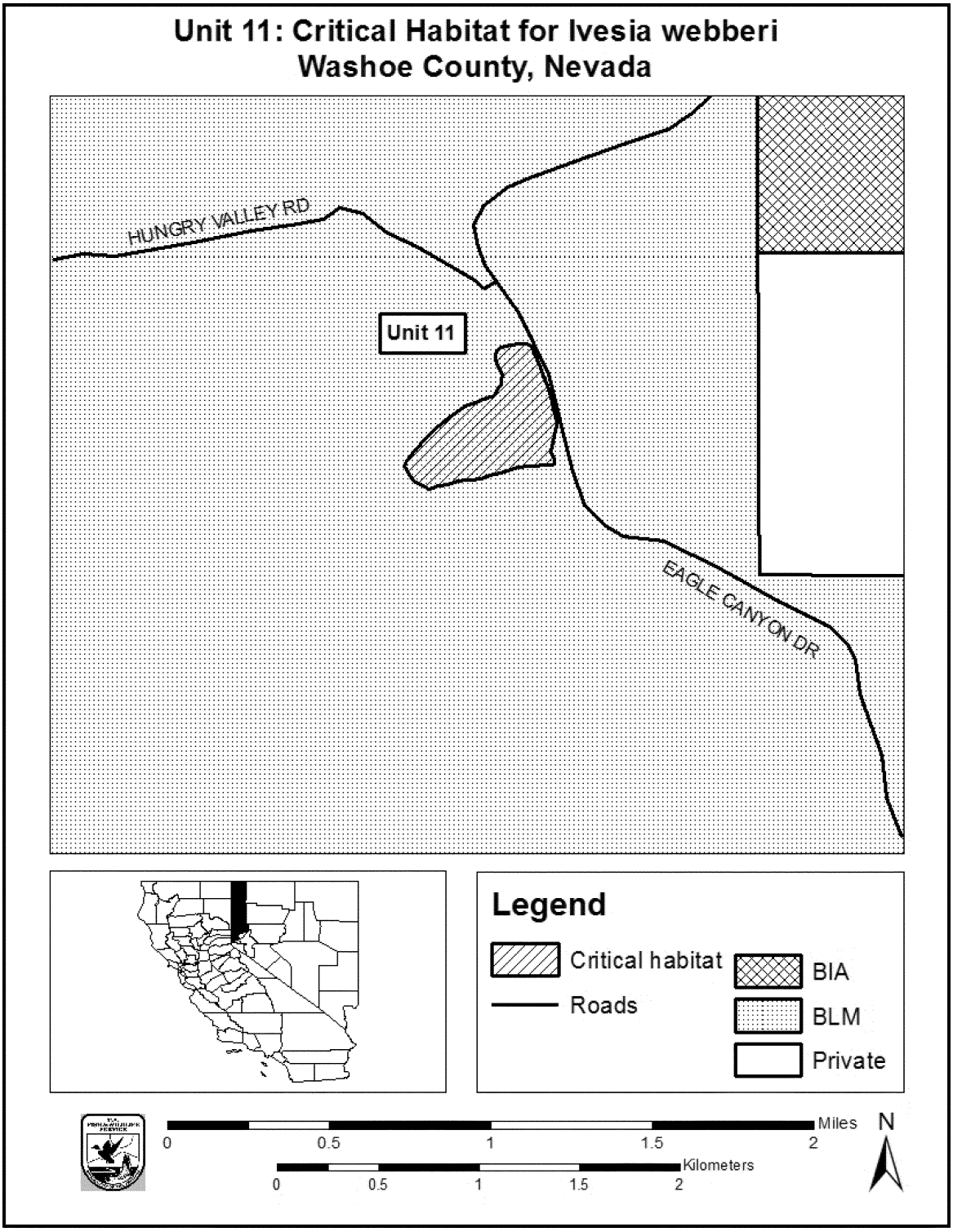
(i) Unit 10 includes 66 ac (27 ha).

(ii) Map of Unit 10 is provided at paragraph (11)(ii) of this entry.

(16) Unit 11: Hungry Valley, Washoe County, Nevada.

(i) Unit 11 includes 56 ac (23 ha).

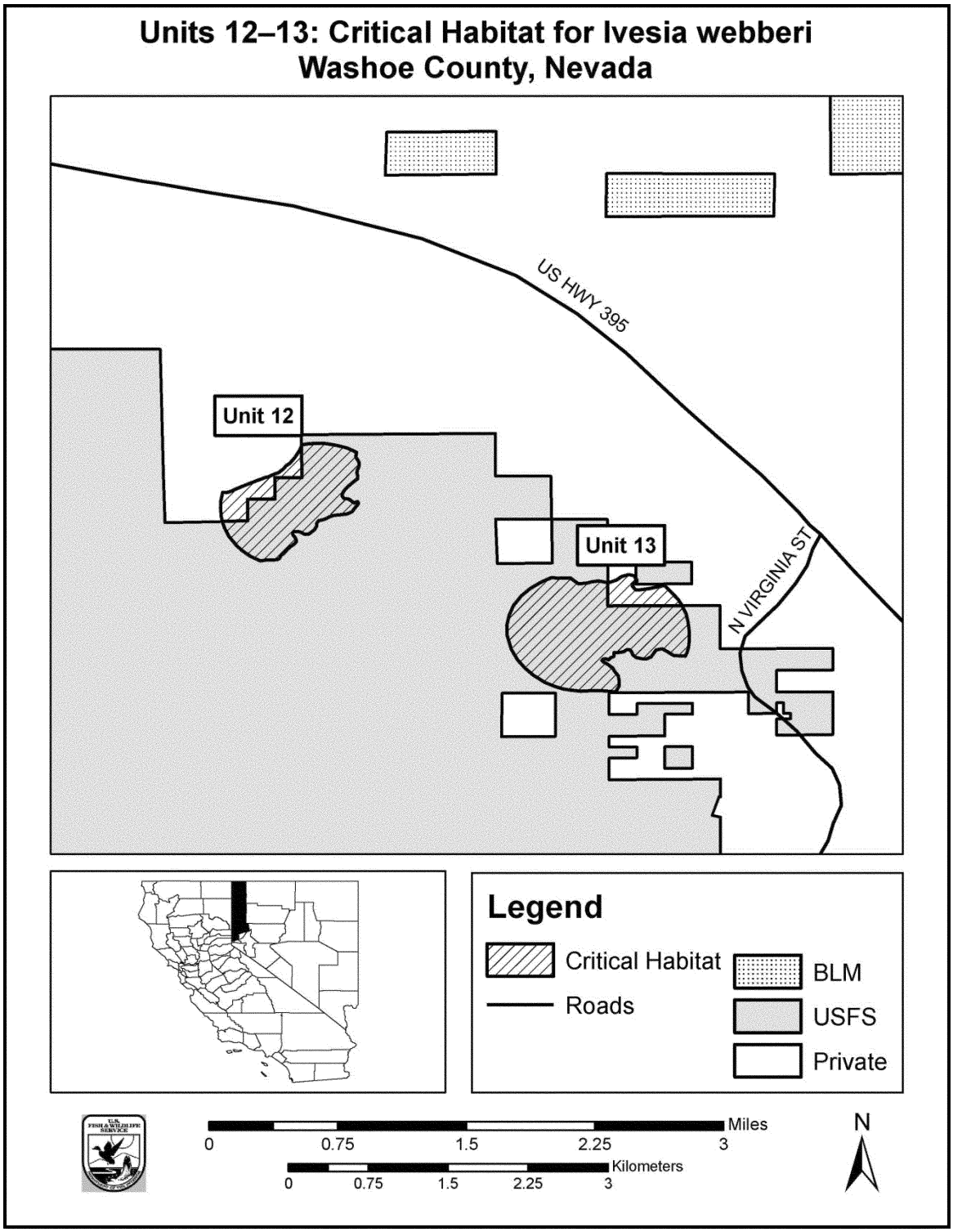
(ii) Map of Unit 11 follows:



(17) Unit 12: Black Springs, Washoe County, Nevada.

(i) Unit 12 includes 163 ac (66 ha).

(ii) Map of Units 12 and 13 follows:



(18) Unit 13: Raleigh Heights, Washoe County, Nevada.

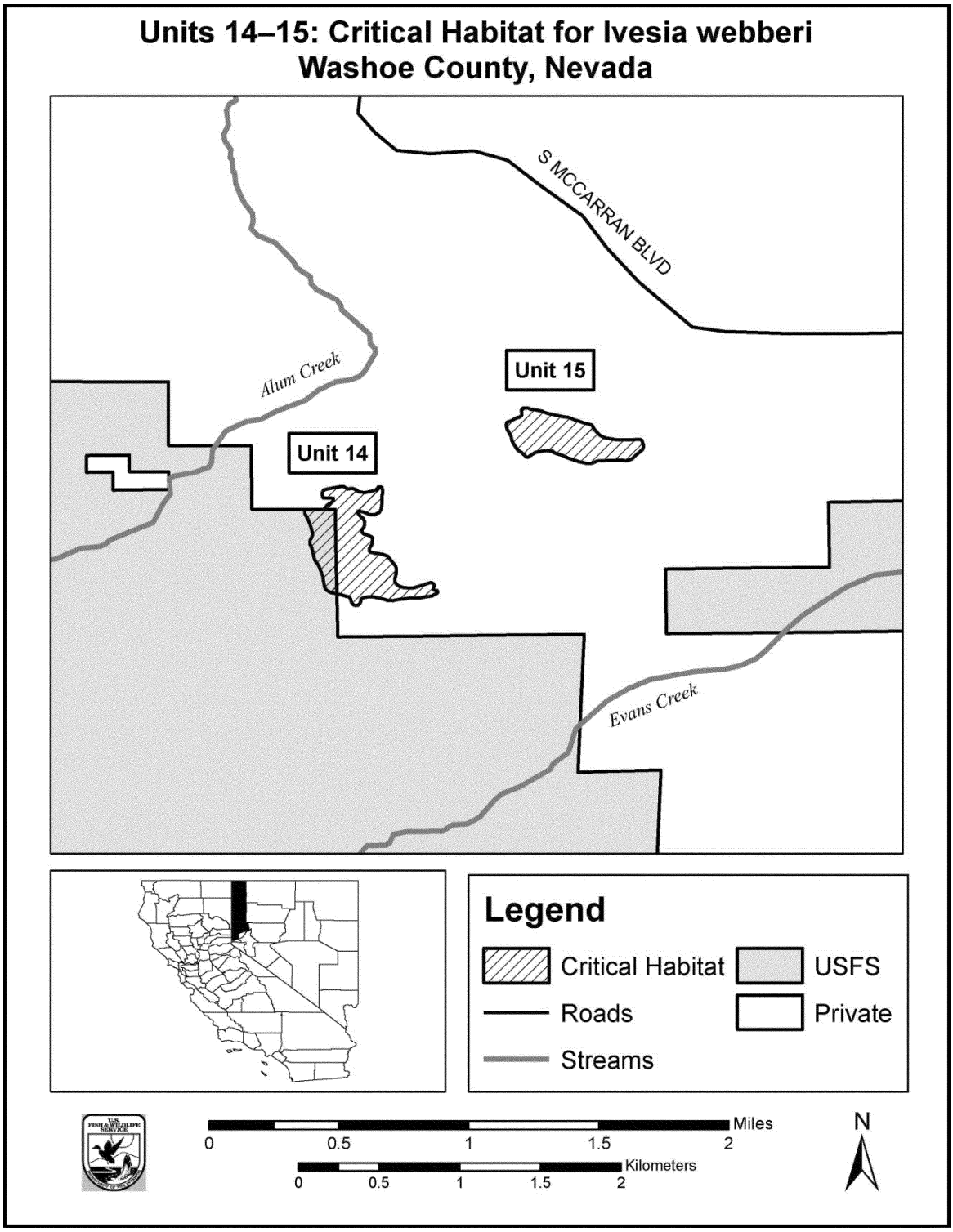
(i) Unit 13 includes 253 ac (103 ha).

(ii) Map of Unit 13 is provided at paragraph (17)(ii) of this entry.

(19) Unit 14: Dutch Louie Flat, Washoe County, Nevada.

(i) Unit 14 includes 54 ac (22 ha).

(ii) Map of Units 14 and 15 follows:



(20) Unit 15: The Pines Powerline, Washoe County, Nevada.

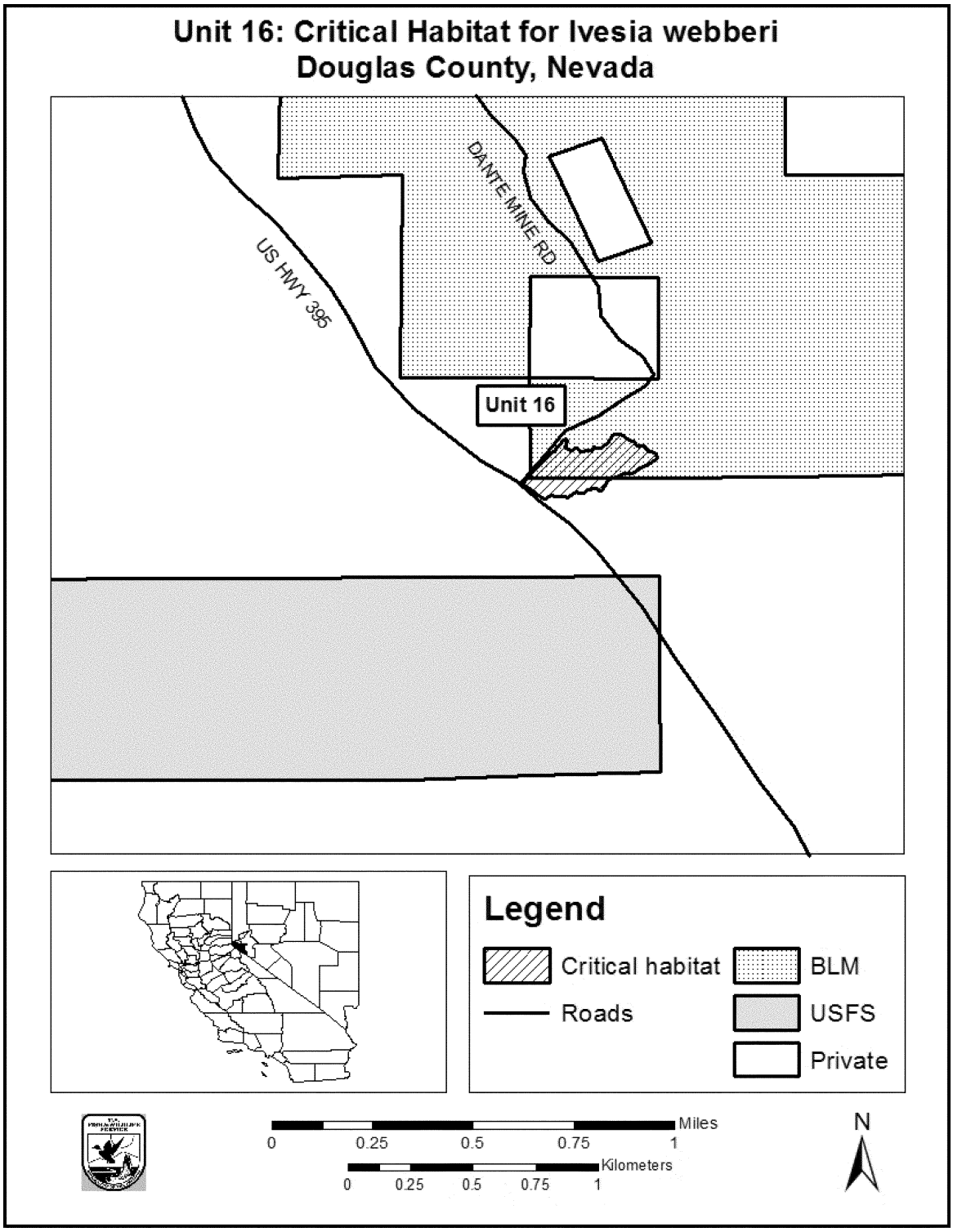
(i) Unit 15 includes 32 ac (13 ha).

(ii) Map of Unit 15 is provided at paragraph (19)(ii) of this entry.

(21) Unit 16: Dante Mine Road, Douglas County, Nevada.

(i) Unit 16 includes 14 ac (6 ha).

(ii) Map of Unit 16 follows:



* * * * *

Dated: May 21, 2014.

**Rachel Jacobson,**

*Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 2014–12629 Filed 6–2–14; 8:45 am]

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