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DEPARTMENT OF ENERGY

10 CFR Parts 433, 435 and 436

[Docket No. EE–RM/STD–02–112]

RIN 1904–AC13

Green Building Certification Systems for Federal Buildings

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

ACTION: Final rule.

SUMMARY: The U.S. Department of Energy (DOE) issues a final rule that implements a provision in the Energy Conservation and Production Act, as amended by the Energy Independence and Security Act of 2007, which requires DOE to identify a green building certification system and level that DOE determines to be the most likely to encourage a comprehensive and environmentally-sound approach to certification of green buildings. DOE's green building certification system review must be based on the General Services Administration's review of third-party green building certification systems and levels and criteria outlined in the Energy Independence and Security Act of 2007. Under the regulations established today, if a Federal agency chooses to use a green building certification system for a new building or major renovation covered by today's rule, the green building certification system for Federal buildings must meet the certification standards established in today's rule.

DATES: This rule is effective November 13, 2014. The incorporation by reference of certain publications listed in this rule was approved by the Director of the Federal Register on November 13, 2014.

ADDRESSES: This rulemaking can be identified by docket number EE–RM/STD–02–112 and or RIN number 1904–AC13.

Docket: The docket is available for review at *http://www.regulations.gov* including **Federal Register** Notices, public meeting attendee lists, transcripts, comments and other supporting documents/materials. All documents in the docket are listed in the *http://www.regulations.gov* index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

For further information on how to review materials in the docket, contact Ms. Brenda Edwards at (202) 586–2945 or email *Brenda.Edwards@ee.doe.gov.*

FOR FURTHER INFORMATION CONTACT: For technical issues, contact Sarah Jensen, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Federal Energy Management Program, EE–5F, 1000 Independence Avenue SW., Washington, DC 20585–0121, (202) 287–6033, email: *sarah.jensen@ee.doe.gov.* For legal issues, contact Ami Grace-Tardy, U.S. Department of Energy, Office of the General Counsel, Forrestal Building, GC–71, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–5709, email: *ami.grace-tardy@hq.doe.gov.*

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I. Introduction

A. Background

Section 305 of the Energy Conservation and Production Act (ECPA; Pub. L. 94–385) established energy conservation requirements for Federal buildings. (42 U.S.C. 6834) Section 433(a) of the Energy Independence and Security Act of 2007 (EISA 2007; Pub. L. 110–140) amended section 305 of ECPA to require, among other things, DOE to identify a green certification system and level for rating Federal buildings that DOE determines to be the most likely to encourage a comprehensive and environmentally sound approach to such certification and rating. (42 U.S.C. 6834(a)(3)(D)(i)(III)) Section 433 of EISA 2007 also revised the definition of ''Federal building'' applicable to the regulations for Federal buildings. (42 U.S.C. 6832(6)).

DOE's green building certification system review must be based on the General Services Administration's (GSA) review of third-party green building certification systems and other criteria outlined in EISA 2007, including: The ability and availability of assessors and auditors to independently verify the criteria and metrics; the ability of the applicable certification organization to collect and reflect public comment; the ability of the standard to be developed and revised through a consensus-based process; and an evaluation of the robustness of the criteria for a high-performance green building; national recognition within the building industry (42 U.S.C. 6834(a)(3)(D)(iii)).

As required under EISA 2007, at least once every five years, GSA must conduct a study to evaluate third-party green building certification systems and levels taking into consideration these same criteria. (42 U.S.C. 6834(a)(3)(D)(iv)) After completion of each study, DOE must review and update its recommended certification systems and levels, taking into account GSA's evaluation. (42 U.S.C. 6834(a)(3)(D)(i)(III)) By rule, DOE also may allow Federal agencies to develop their own internal certification processes. (42 U.S.C. 6834(a)(3)(D)(v)).

As required by Section 436(h) of EISA 2007, in 2008 GSA identified the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) Silver as a green building certification system and level that meets the criteria expressly identified in the statute. In the 2011 sustainable design notice of proposed rulemaking (''sustainable design NOPR'') DOE requested comment on other green rating systems and associated levels/points that also would meet the statutory criteria. *See* 75 FR 29933, 29938–39 (May 28, 2010).

On October 25, 2013, the GSA Administrator sent his latest green building certification system evaluation to DOE.[1] The Administrator

[1] Letter from Daniel Tangherlini, GSA Administrator, to Ernest Moniz, Secretary of Energy, dated October 25, 2013. Letter and all supporting material may be found on GSA's Web site at *http://www.gsa.gov/portal/content/131983.*

recommended that Federal agencies utilize the 2009 LEED [2] or the Green Building Initiative's Green Globes 2010 [3] certification system. For new construction and major renovations, GSA recommended that Federal agencies obtain at least a LEED Silver rating, or, if using Green Globes, at least 2 Green Globes.

Today's rule updates the Federal energy efficiency standards by adding criteria that green building rating systems must meet. Federal agencies are not required to use a green building rating system, but if they choose to do so, the systems must meet these criteria. The Federal commercial and multi-family high-rise residential energy efficiency standards are contained in 10 CFR part 433. The Federal low-rise residential energy efficiency standards are contained in 10 CFR part 435. Today's rule adds the green building certification criteria for both 10 CFR part 433 and 10 CFR part 435. Today's rule also reorganizes and renumbers existing text in these parts to accommodate the addition of the provisions regarding green building certification systems for Federal buildings.

B. Summary of the Final Rule

In May 2010, DOE published a notice of proposed rulemaking (NOPR) that addressed the use of sustainable design principles for the siting, design, and construction of Federal buildings, and the use of water conservation technologies to achieve energy efficiency. This proposed rulemaking also provides criteria for identifying a certification system and level for green buildings that encourages a comprehensive and environmentally-sound approach to certification of green buildings. 75 FR 29933. Today's rule finalizes only the provisions of the NOPR that pertained to green building certification systems. DOE is continuing to assess the sustainable design principles in the NOPR in light of an ongoing process to revise the 2008 Guiding Principles for High Performance and Sustainable Buildings: New Construction and Major Renovations (Guiding Principles), which served as a basis for those provisions of the NOPR.

DOE recognizes the degree to which EISA 2007 requirements for Federal agencies to incorporate sustainable design principles into new construction and major renovations overlap with standing Executive Order requirements that agencies maintain specific sustainable building standards. Executive Orders 13423 and 13514 require that all new Federal construction and major renovations comply with the Guiding Principles. Although using a green building certification system is optional, DOE recognizes that many agencies use green building certification systems to assist them in supporting efforts to comply with the Guiding Principles.

Under today's rule, if an agency chooses to use a green building certification system, agencies must choose a green building certification system that meets certain criteria as discussed below and agencies are encouraged to take into consideration GSA's set of recommendations. DOE made one change to the ''green building certification system'' criteria from the NOPR by requiring a verification system for post-occupancy assessment of the rated buildings to demonstrate continued energy and water savings at least every four years after initial occupancy.

This rule applies to certain new Federal buildings, and major renovations to Federal buildings, for which design for construction began on or after October 14, 2015. The new Federal buildings, and major renovations to Federal buildings covered by today's rule are covered by EISA 2007 and include new Federal buildings, or major renovations to Federal buildings, that are also: (1) Public buildings, as defined in 40 U.S.C. 3301 for which a transmittal of a prospectus to Congress is required under 40 U.S.C. 3307; or (2) Federal buildings for which the construction cost or major renovation cost is at least $2,500,000 (2007 dollars, adjusted for inflation). The term ''Federal building'' means any building to be constructed by, or for the use of, any Federal agency. The term includes buildings built for the purpose of being leased by a Federal agency, and privatized military housing. (42 U.S.C. 6832)

II. Discussion of Comments and Changes to the Final Rule

DOE received a wide variety of comments from 62 different entities in response to the sustainable design NOPR. All of the 62 comments supported the general premise of this rule to improve sustainability in Federal buildings. All public comments are available for review on the regulations.gov Web site under Docket Number DOE–EERE–OT–2010–0007. Comments that are directly pertinent to the green building certification system portion of the rule are discussed and addressed in greater detail below.

A. Scope

Leased Buildings

EISA 2007 modified the ECPA definition of ''Federal building'' to apply to ''any building to be constructed by, or for the use of, any Federal agency. Such term shall include buildings built for the purpose of being leased by a Federal agency, and privatized military housing.'' (42 U.S.C. 6832(6)) In the NOPR, DOE requested comments on the proposed definition of ''new Federal building'' (based on the statutory ''Federal building'' definition) and on limiting the inclusion of leased buildings in the definition of ''Federal building'' to new leased buildings in which a Federal agency has significant control over the design of the building (e.g., ''lease-constructs''). 75 FR 29934.

Several commenters, including Indian Health Services (IHS) and the U.S. Green Building Council (USGBC), agreed with DOE's proposal to limit the coverage of leased buildings to those in which a Federal agency has ''significant control'' over building design. (IHS, No. 45 at p. 1 [4]; Green Mechanical Council (GMC), No. 60 at p. 5) Several comments suggested that the rule should apply to all buildings that the government leases, including buildings that the Federal agency does not have ''significant control'' over building design. (Kaplow, No. 6 at p. 1; U.S. Fuel Cell Council, No. 13 at p. 2; National Electrical Manufacturers Association (NEMA), No. 36 at p. 3; Solar Energy Industries Association (SEIA), No. 58 at pp. 2–3, Natural Resources Defense Council (NRDC), No. 64 at pp. 3–4; Earthjustice, No. 71 at p. 9) DOE has not expressly added the ''significant control'' restriction to the rule for leased buildings because the ECPA definition of ''Federal building'' includes the limitation of buildings that are built specifically for the Federal government. Construction design for a building built specifically for use of the Federal government, including under lease to a Federal agency, is, presumably, under the significant control of the Federal owner or Federal lessee. U.S. General Services Administration (GSA) recommended adding rule language stating that leased buildings include

[2] LEED information is available at *http://www.usgbc.org/leed.*

[3] Green Globes information is available at *http://www.thegbi.org/green-globes/.*

[4] Notations of this form appear throughout this document and identify statements made in written comments or at public hearings that DOE has received and has included in the docket for this rulemaking. For example, ''IHS, No. 45 at p. 1'' refers to a comment: (1) From Indian Health Services; (2) in document number 45 in the docket of this rulemaking; and (3) appearing on page 1 of the submission.

projects ''in which the government initiates the solicitation of bids expressly for the construction of a building or facility to meet a Federal agency need.'' (GSA, No. 72 at p. 5) DOE agrees that GSA's proposed clarification reflects ECPA, but DOE does not believe that GSA's language need be included in today's rule as the rule specifies that it applies to buildings built for the purposes of being leased by a Federal agency.

Covered Buildings

NRDC and Earthjustice commented that DOE's interpretation of the scope of buildings covered under statutory requirements at 42 U.S.C. 6834(a)(3)(D)(i) is incorrect. (NRDC, No. 64 at p. 3; Earthjustice, No. 71 at pp. 7–9) These commenters believe that the limiting criteria in 42 U.S.C. 6834(a)(3)(D)(i) [5] apply only to ''major renovations'' and not to new buildings. DOE believes that this is an incorrect interpretation of the statute for several reasons. The first phrase set-off in commas (starting with ''with respect to which'') reasonably modifies the previous phrase referring to both new Federal buildings and those undergoing major renovations. The second phrase set-off in commas (starting with ''in the case of public buildings'') reasonably characterizes the first phrase. The third phrase (starting with ''or of at least $2,500,000'') and the ''or'' that begins the phrase indicate that the first and second phrases are one factor to apply to the subset of buildings at issue and the third phrase is another factor to apply to this subset of buildings. Moreover, if the commenters' interpretation that the limiting factors only apply to major renovations was correct, then other sections of ECPA would be without meaning. Specifically, Congress amended ECPA and set sustainable design requirements for new Federal buildings, if life-cycle cost-effective, under EPACT 2005. (See 42 U.S.C. 6834(a)(3)(A))(i)(II)). Then, in EISA 2007, Congress amended ECPA again, to apply sustainable design requirements to a subset of new Federal buildings or major renovations, without regard to life-cycle-cost-effectiveness. (See 42 U.S.C. 6834(a)(3)(D)(i)). If the EISA 2007 amendments applied to all new Federal buildings, as commenters suggest, then the EPACT 2005 provisions would be meaningless. While Congress could have rescinded the earlier EPACT 2005 sustainable design provisions, it chose not to and, therefore, DOE's interpretation that 42 U.S.C. 6834(D)(i) only applies to a subset of Federal buildings is reasonable.

In the final rule, DOE removed the second EISA 2007 condition, ''public buildings'' (as defined at 40 U.S.C. 3301) for which a prospectus is required from Congress, from the scope of coverage for low-rise residential buildings. The definition of ''public building'' at 40 U.S.C. 3301 exempts buildings and construction projects that are on or used in connection with housing and residential projects. (See 40 U.S.C. 3301(a)(5)(C)(vi)) Therefore, EISA-covered low-rise residential buildings only include those buildings with construction costs of at least $2.5 million.

Compliance Date of Rule

DOE received a number of comments on the compliance date proposed in the NOPR. This compliance date is consistent with the compliance date that DOE has used for baseline Federal building energy efficiency standards at 10 CFR parts 433 and 435 for several years. Under 10 CFR parts 433 and 435, ''design for construction'' means the stage when the energy efficiency and sustainability details (such as insulation levels, HVAC systems, water-using systems, etc.) are either explicitly determined or implicitly included in a project cost specification. Agencies that have already programmed or budgeted for building construction before the publication of today's rule likely have not included the costs of complying with the requirements of this rule. To apply the rule to these buildings would likely impose unanticipated costs that could compromise important functional aspects of the building or agency mission. Applying the rule to buildings for which design for construction begins one year after publication of the final rule helps ensure that agencies can anticipate and incorporate the cost of meeting this rule in the construction budget or make other necessary adjustments.

Overseas Facilities

Comments received on the Fossil Fuel Reduction Notice of Proposed Rulemaking (''fossil fuel reduction NOPR'') (75 FR 63404) (October 15, 2010) asked about application of the rule to overseas facilities where the agency does not have complete control over building design, and these comments are equally applicable to today's final rule. DOE recognizes that several agencies have buildings overseas and these buildings may be subject to a variety of legal authorities specific to that agency. For example, DOD commented that an agency may not have complete control over the design of a new or renovated building or may face technical challenges in meeting the proposed rule in overseas locations.[6] Today's final rule does not expressly address the extent to which it may be applicable to buildings overseas as each individual agency is best positioned to understand the various and sometimes unique authorities that may be applicable to overseas buildings of that agency. However, today's rule applies to overseas facilities to the extent the requirements are consistent with applicable law.

Privatized Military Housing

A public comment on a related DOE rulemaking that also proposed to amend 10 CFR Parts 433 and 435, ''Fossil Fuel-Generated Energy Consumption Reduction for New Federal Buildings and Major Renovations of Federal Buildings'' (75 FR 63404) (October 15, 2010), stated that DOE needed to clarify whether the rule applies to privatized military housing. EISA 2007 modified the ECPA definition of ''Federal building'' to apply to ''any building to be constructed by, or for the use of, any Federal agency. Such term shall include buildings built for the purpose of being leased by a Federal agency, and privatized military housing.'' (42 U.S.C. 6832(5)) In addition, Congress again mentioned privatized military housing in EISA 2007 when it specified that, ''with respect to privatized military housing, the Secretary of Defense, after consultation with the Secretary [of Energy] may, through rulemaking, develop alternative criteria to those established in subclauses (I) [fossil fuel reduction requirements] and (III) [sustainable design requirements] of clause (i).'' (42 U.S.C. 6834(a)(3)(D)(vi)) With respect to EISA-covered buildings, privatized military housing may not meet the definition of ''public building'' at 40 U.S.C. 3301(a)(5), but privatized military housing with construction costs of at least $2.5 million would be EISA-covered buildings.

Application of $2.5 Million Threshold on a Per Building Basis

Sunnovation encouraged DOE to clarify that multi-unit residential projects under a single contract should

[5] Under ECPA, as amended, today's rule applies to the following EISA-covered buildings: ''New Federal buildings and Federal buildings undergoing major renovations, with respect to which the Administrator of General Services is required to transmit a prospectus to Congress under section 3307 of Title 40, in the case of public buildings (as defined in section 3301 of Title 40), or of at least $2,500,000 in costs adjusted annually for inflation for other buildings,'' (42 U.S.C. 6834(a)(3)(D)(i)).

[6] DOD–N, No. 25B at p. 8, Docket No. EERE–2010–BT–STD–0031.

be considered jointly when determining whether the $2.5 million threshold is met, as opposed to applying the $2.5 million threshold per building. (Sunnovation, No. 28 at p. 2) The cost threshold applies on a per building basis. EISA 2007 sets requirements for ''new Federal buildings and Federal buildings undergoing major renovations.'' (See 42 U.S.C. 6834(a)(3)(D)(i)(I)) Nothing in the statute states that this threshold applies across multiple buildings that are part of one project.

B. Green Building Certification

Compliance With Other Requirements

DOE requested comments as to whether the minimum allowable level for green building rating systems should comply with the Guiding Principles and all applicable executive orders. 75 FR 29939. The DOI stated that ''If federal buildings, however, are designed, built, and perform in accordance with legislative mandates, the Guiding Principles, and all applicable executive orders, they are inherently green buildings . . . Seeking an additional green building rating is redundant.'' (DOI, No. 44 at p. 7) GSA commented that it should not be necessary to mandate minimum rating levels. (GSA, No. 72 at p. 12) As today's rule explicitly states, DOE is not requiring Federal agencies to use a green building certification system. Federal agencies may wish to use a green building rating system as a tool to help them meet the Guiding Principles or their own internal sustainability goals, although agencies are not required to use such a system. DOE encourages Federal agencies to consider GSA's 2013 recommendations when choosing a green building certification system.[7] DOE notes that under Executive Orders 13423 and 13514, Federal agencies are already required to ensure that new construction and major renovations of agency buildings comply with the Guiding Principles. In today's rule, DOE requires that agencies should select a green building certification system that meets the prescribed criteria and a level of certification that promotes attainment of the Guiding Principles.

Independent Third-Party Verification

GSA said that DOE needs to clarify the concept of third-party verification of green building rating systems. (GSA, No. 72 at p. 12) DOE notes that the rule, based on the statutory requirement at 42 U.S.C. 6834(a)(3)(D)(iii), requires that the system under which the building is certified must allow assessors and auditors to independently verify the criteria and measurement metrics of the system. To independently verify the criteria and measurement metrics, assessors and auditors must be free from bias (financial or otherwise) when they evaluate a building for compliance with a green rating system. Federal agencies seeking certification from a green building rating system cannot assert that assessors and auditors employed by the agency are independent. DOE notes that Federal agencies that use a green building rating system do not have to use assessors and auditors, but must ensure that the green building rating system that it chooses allows for independent verification from assessors and auditors.

Choosing a Green Building Certification System

As required by Section 436(h) of EISA 2007, in 2008 GSA identified LEED Silver as a green rating system and level that meets the criteria expressly identified in the statute. DOE requested comment on other green rating systems and associated levels/points that also would meet the statutory criteria. 75 FR 29939. Subsequently, on October 25, 2013, GSA recommended that Federal agencies achieve at least a Silver rating from LEED or 2 Green Globes from the Green Building Initiative for new construction and/or major renovations in order to meet the statutory criteria.[8]

GBI asked that DOE recognize GBI's Green Globes as a certification system that meets all of the criteria called for in the NOPR, noting that Federal agencies should achieve Two Green Globes for compliance with the rule. (GBI, No, 25 at p. 7) There were many comments expressing support for the Green Globes rating system. (Duro-Last Roofing, No. 3 at p. 1; Arch Wood Protection, No. 7 at p. 1; Plastic Pipe and Fitting Association, No. 9 at p. 2; Iowa Department of Public Safety, No. 18 at p. 2; the FVA, No. 21 at p. 1; the NACGB, No. 24 at p. 3; the Sustainable Forest Initiative, No. 26 at pp. 1–2, the Hardwood Foundation, No. 27 at p. 4, The Sika Corporation, No. 42 at p. 1; Greenguard Environmental Institute, No. 46 at p. 5; the Sustainable Forestry Initiative, No. 52 at p. 2; AF&PA/AWC, No. 59 at p. 6; the American Forest Foundation, No. 61 at p. 3; and the RFCI, No. 63 at p. 7) Many of the supporters of Green Globes stressed that the system was ANSI-certified and considered ANSI certification to be important. DOE is aware that neither Green Globes nor LEED is an ANSI-certified system. Also, as GSA noted in its review of the main commercial green building rating systems, neither system fully aligned with Federal sustainable building requirements.

Others recommended that the LEED system be approved for use in Federal buildings. (USGBC, No. 60 at p. 8; Stuart D. Kaplow, No. 6 at p. 2; GSA Region 8, No. 33 at p. 4; Iowa Department of Public Safety, No. 18 at p. 1; NEMA, No. 36 at p. 6; IHS, No. 45 at p. 3; Greenguard Environmental Institute, No. 46 at p. 5; SEIU, No. 67 at p. 2; GSA, No. 72 at p. 14) Weyerhaeuser opposed the endorsement of LEED, mentioning LEED is not ANSI-certified. (Weyerhaeuser, No. 62 at p. 4) A substantial number of comments addressing forestry and wood certification considerations expressed opposition to how the USGBC LEED rating system addresses certified wood products and questioned whether LEED is developed via a consensus-based process. (AWC No. 22 at p. 4; SFI, No. 26 at p. 2; Hardwood Federation No. 51 at p. 2; AF&PA/AWC, No. 59 at p. 8; the American Forest Foundation, No. 61 at p. 3; Weyerhaeuser, No. 62 at pp. 3–4) LEED is not developed by the Federal government and, therefore, DOE cannot comment on the content of their rating system. The National Park Service recommended allowing other rating systems to be used, not just the USGBC LEED system. (NPS, No. 20 at p. 1)

NEMA advocated that a separate energy specific rating system such as ENERGY STAR Buildings be mandated. (NEMA, No. 36 at p. 6) The Sustainable Forestry Initiative expressed support for Built Green Canada. (SFI, No. 52 at p. 2) ASHRAE suggested that ASHRAE's Building Energy Quotient (Building EQ) labeling program may meet DOE's green building certification needs. (ASHRAE, No. 30 at p. 6) AGA expressed support for Green Globes, LEED, and Building EQ, the International Green Construction Code, and ASHRAE Standard 189.1–2009. (AGA, No. 50 at. p. 2)

For residential buildings, a number of commenters expressed support for the NAHB and ICC's National Green Building Standard ICC–700–2008. (Plastic Pipe and Fittings Association, No. 9 at p. 2; ICC, No. 31 at p. 2; IHS, No. 45 at p. 3, Sustainable Forest Initiative, No. 52 at p. 2; NAHB, No. 55 at p. 2, and the RFCI, No. 63 at p. 5)

DOE received numerous comments opposing and numerous comments supporting DOE choosing one or several green building certification systems that

[7] Letter and all supporting material may be found on GSA's Web site at *http://www.gsa.gov/portal/content/131983.*

[8] Letter from Daniel Tangherlini, GSA Administrator, to Ernest Moniz, Secretary of Energy, dated October 25, 2013.

meet the requirements in the sustainable design NOPR. The Society of the Plastics Industry and several other commenters expressed support for allowing flexibility for agencies in choosing a green building rating system. (SPI, No. 38 at p. 1) Many public comments from supporters of Green Globes commended this approach because it allows agencies options for using systems tailored to their needs. (AWC, No. 22 at p. 3; The Vinyl Institute, No. 23 at p. 1; NACGB, No. 24 at p. 2; Sustainable Forest Initiative, No. 26 at p. 2) . Several commenters, including the RFCI and the NACGB, recommended that DOE determine which green rating systems are acceptable for use for Federal buildings. (RFCI, No. 63 at p. 10; NACGB, No. 65 at p. 6)

DOE is not approving by this rule any specific green building rating systems for use in new Federal buildings and major renovations. Instead, DOE is specifying in regulation criteria for determining acceptable green building rating systems to allow agencies flexibility in choosing a rating system, including the possibility of using new or improved rating systems that are not currently available or known. In this way, DOE is allowing Federal agencies to use the system most appropriate for their buildings. Any rating system complying with the criteria outlined in today's rule shall be permitted. DOE also encourages Federal agencies to consider GSA's 2013 green building certification system recommendations. In addition, after the GSA Office of High Performance Green Federal Buildings completes its next analysis of green rating systems as required by EISA 2007 Section 436(h), DOE will review GSA's results and may seek to amend the criteria established in today's rule.

One commenter asked what is meant by the phrase ''consensus process'' in the rule. (Myers, No. 53 at p 2) For purposes of today's rule, DOE clarifies that a ''consensus-based'' process is a group decision-making process that seeks not only the agreement of most participants, but also the resolution or mitigation of minority objections.

NEMA recommended that DOE consider the use of existing certification systems that address occupied buildings and make any additional criteria of importance known to the certification bodies. (NEMA, No. 36 at p. 6) NAVFAC stated DOE should provide additional alternatives for verifying post-occupancy the continued energy and environmental performance of new and renovated buildings. (NAVFAC, No. 47 at p. 8) The final rule requires that the certification system include a verification system to demonstrate continued energy and water savings at least every four years after initial occupancy. Requiring the demonstration every four years will make the frequency consistent with other Federal building audit cycles such as the energy and water evaluations required under EISA Section 432.

Internal Certification Process

ECPA gives DOE the option of including a section in the rulemaking that would permit Federal agencies to develop internal green building certification processes to rate their buildings. (42 U.S.C. 6834(a)(3)(D)(v)) The NOPR proposed allowing agencies to request DOE approval of internal green building certification processes. GSA commented that agencies should not be allowed to self-certify buildings through an internal green building certification process. (GSA, No. 72 at p. 12) DOI asked for clarification regarding whether the DOI Sustainable Building Assessment and Compliance Tool or the ENERGY STAR Portfolio Manager are considered internal green building rating systems. (DOI, No. 44 at p. 6) In the final rule, DOE has not included provisions on internal green building rating systems as contained in the proposed rule because DOE's decision to allow agencies to use any green building rating system that meets the criteria in today's rule makes this provision unnecessary. In addition, regardless of any regulatory text, under today's rule, Federal agencies that choose not to use green building rating system, such as LEED or Green Globes, can use any appropriate, internal system to ensure that any new Federal buildings or major renovations of Federal buildings meet the requirements in today's rule.

Effect on State and Local Governments

NAHB expressed concern that ''today's mandates for federal buildings will morph into requirements for private development'' because many state and local governments shadow Federal rulemakings. (NAHB, no. 55 at p. 5) DOE notes NAHB's concern, but the Federal government has a statutory obligation to lead by example. (See 42 U.S.C. 6831) State and local governments and private entities have no obligation to adopt any elements of today's rule.

Codifying EISA Life-Cycle Limit

Additionally, today's final rule amends the life-cycle analysis provisions established in 10 CFR part 436 subpart A. Section 544 of the National Energy Conservation Policy Act (NECPA) directed DOE to establish practical and effective present value methods for estimating and comparing life-cycle costs for Federal buildings, based on capital and operating costs during a period of the expected life of the building's energy system or 25 years, whichever is shorter. DOE established life-cycle cost analyses methodologies and procedures in 10 CFR part 436 subpart A. Section 441 of EISA 2007 amended section 544 of NECPA by replacing the 25 year limit with a 40 year limit. (See, 42 U.S.C. 8254(a)(1)) Today's final rule amends the life-cycle costs analyses regulations to reflect the statutory change. Because the amendment to part 436 involves a nondiscretionary changes, the Department finds that public notice and comment are unnecessary pursuant to 5 U.S.C. 553(b)(B).

III. Regulatory Analyses

A. Review Under Executive Order 12866 and 13563

Today's final rule is a ''significant regulatory action'' under Executive Order 12866, ''Regulatory Planning and Review.'' 58 FR 51735 (October 4, 1993). Accordingly, today's action was subject to review by the Office of Information and Regulatory Affairs in the Office of Management and Budget (OMB). OMB has completed its review. DOE has also reviewed this regulation pursuant to Executive Order 13563, issued on January 18, 2011. 76 FR 3281 (January 21, 2011). EO 13563 is supplemental to and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866.

DOE expects that Federal building construction costs will increase as a result of this rule and the cost increase will vary from project to project. A 2004 study commissioned by GSA entitled *GSA LEED Cost Study* estimates that a Gold certification under the LEED rating system will increase the cost of a mid-rise Federal courthouse or office building by 1.4% to 8.1%.[9]

Given that green building certification for Federal buildings is voluntary, DOE can only make assumptions about the amount of Federal agency participation and costs that such a certification might entail. The cost impact for any building will vary depending upon the level of green building certification being pursued, the square footage of the building and the degree of service the agency expects from a certification body such as LEED or Green Globes in order to review the design of the building.

[9] See *https://www.wbdg.org/ccb/GSAMAN/gsaleed.pdf.*

Existing Federal requirements mandate that construction of new Federal buildings be at a level of performance that meets the current ASHRAE or IECC specification, or 30% beyond the current ASHRAE or IECC specification, if life-cycle cost effective. Any added costs incurred associated with this rulemaking due to the agency voluntarily certifying that building as meeting a green building rating system will likely be as a result of the process of seeking and obtaining that certification.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires the preparation of an initial regulatory flexibility analysis 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). The Department has made its procedures and policies available on the Office of General Counsel's Web site: *http://www.gc.doe.gov*.

DOE has reviewed today's rule under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003. Today's rulemaking applies only to the design and construction of new Federal buildings and major renovation to Federal buildings. As such, the only entities directly regulated by this rulemaking would be Federal agencies. DOE does not believe that there will be any impacts on small entities such as small businesses, small organizations, or small governmental jurisdictions.

On the basis of the foregoing, DOE certified that the proposed rule would not have a significant economic impact on a substantial number of small entities. DOE received no comments on the impact of the proposed rule on small entities. As a result, DOE has adopted the prior certification without change.

C. Review Under the Paperwork Reduction Act of 1995

This rulemaking will impose no new information or record keeping requirements. Accordingly, Office of Management and Budget (OMB) clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*)

D. Review Under the National Environmental Policy Act of 1969

DOE prepared an Environmental Assessment (EA) entitled, 10 CFR 433, ''Energy Efficiency Standards for the Design and Construction of New Federal Commercial and Multi-Family High-Rise Residential Buildings'' and 10 CFR 435, ''Energy Efficiency Standards for the Design and Construction of New Federal Residential Low-Rise Residential Buildings'' pursuant to the Council on Environmental Quality's (CEQ) Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (40 CFR parts 1500–1508), the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 et seq.), and DOE's NEPA Implementing Procedures (10 CFR part 1021).

The EA addresses the possible environmental effects attributable to the implementation of the final rule. Under today's rule, if an agency chooses to use a green building certification system to certify its buildings for any purpose, the chosen green building certification system must meet certain criteria established by the rule. The rule is not expected to cause any adverse health effects, and thus would have no environmental justice impacts affecting low-income or minority populations. The rule would not have an adverse effect on historic or archaeological sites, and would not be affected by a terrorist act. The rule will have no significant impact on sensitive environmental resources, including wetlands/floodplains, prime agricultural lands, endangered species, and sensitive ecosystems. Therefore, DOE has issued a Finding of No Significant Impact (FONSI), pursuant to NEPA, the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and DOE's regulations for compliance with NEPA (10 CFR part 1021).

E. Review Under Executive Order 13132, ''Federalism''

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 examined this rule and determined that it does not preempt State law and does 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. No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988, ''Civil Justice Reform''

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (February 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; and (3) provide a clear legal standard for affected conduct, rather than a general standard and 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 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 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) (Pub. L. 104–4) requires each Federal agency to assess the effects of Federal regulatory

actions on State, local, and tribal governments and the private sector. 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) and (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://www.gc.doe.gov*). This final rule contains neither an intergovernmental mandate nor a mandate that may result in the expenditure of $100 million or more in any year by State, local, and tribal governments, in the aggregate, or by the private sector so these requirements under the Unfunded Mandates Reform Act do not apply.

H. Review Under the Treasury and General Government Appropriations Act of 1999

Section 654 of the Treasury and General Government Appropriations Act of 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This final 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, ''Governmental Actions and Interference With Constitutionally Protected Property Rights''

The Department has determined, under Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights,'' 53 FR 8859 (March 18, 1988), that this rule would not result in any takings which might require compensation under the Fifth Amendment to the United States 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 agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). DOE has reviewed today's final rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use''

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 the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget, 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 final rule would not have a significant adverse effect on the supply, distribution, or use of energy and, therefore, is not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

IV. 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 not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects

10 CFR Parts 433 and 435

Buildings and facilities, Energy conservation, Engineers, Federal buildings and facilities, Housing, Incorporation by reference, Sustainable design.

10 CFR Part 436

Energy conservation, Federal buildings and facilities, Reporting and recordkeeping, Requirements, Solar energy.

Issued in Washington, DC, on October 3, 2014.

David T. Danielson,

Assistant Secretary, Energy Efficiency and Renewable Energy.

For the reasons set out in the preamble, the Department of Energy amends chapter II of title 10 of the Code of Federal Regulations as set forth below:

PART 433—ENERGY EFFICIENCY STANDARDS FOR THE DESIGN AND CONSTRUCTION OF NEW FEDERAL COMMERCIAL AND MULTI–FAMILY HIGH–RISE RESIDENTIAL BUILDINGS

■ 1. The authority citation for part 433 continues to read as follows:

Authority: 42 U.S.C. 6831–6832, 6834–6835; 42 U.S.C. 7101 *et seq.*

■ 2. Revise the part heading for part 433 as set forth above.

■ 3. In § 433.1:

■ a. Redesignate the existing text as paragraph (a);

■ b. Add and reserve paragraph (b); and

■ c. Add paragraph (c) to read as follows:

§ 433.1 Purpose and scope.

* * * * *

(c) This part also establishes green building certification requirements for new Federal buildings that are commercial and multi-family high-rise residential buildings and major renovations to Federal buildings that are commercial and multi-family high-rise residential buildings, for which design for construction began on or after October 14, 2015.

§ 433.3 [Amended]

■ 4. In § 433.3 in paragraphs (b)(1), (b)(2) and (b)(3) remove ''433.4, 433.5'' and add in their place ''433.100, and 433.101.''

§§ 433.4 through 433.7 [Removed and Reserved]

■ 5. Remove and reserve §§ 433.4 through 433.7.

■ 6. Add subpart A to part 433 to read as follows:

Subpart A—Energy Efficiency Performance

Sec.
433.100 Energy efficiency performance standard.
433.101 Performance level determination.

Subpart A—Energy Efficiency Performance

§ 433.100 Energy efficiency performance standard.

(a) (1) All Federal agencies shall design new Federal buildings that are commercial and multi-family high-rise residential buildings, for which design for construction began on or after January 3, 2007, but before August 10, 2012, to:

(i) Meet ASHRAE 90.1–2004, (incorporated by reference, see § 433.3); and

(ii) If life-cycle cost-effective, achieve energy consumption levels, calculated consistent with paragraph (b) of this section, that are at least 30 percent below the levels of the ASHRAE Baseline Building 2004.

(2) All Federal agencies shall design new Federal buildings that are commercial and multi-family high-rise residential buildings, for which design for construction began on or after August 10, 2012, to:

(i) Meet ASHRAE 90.1–2007, (incorporated by reference, see § 433.3); and

(ii) If life-cycle cost-effective, achieve energy consumption levels, calculated consistent with paragraph (b) of this section, that are at least 30 percent below the levels of the ASHRAE Baseline Building 2007.

(3) All Federal agencies shall design new Federal buildings that are commercial and multi-family high-rise residential buildings, for which design for construction began on or after July 9, 2014, to:

(i) Meet ASHRAE 90.1–2010, (incorporated by reference, see § 433.3); and

(ii) If life-cycle cost-effective, achieve energy consumption levels, calculated consistent with paragraph (b) of this section, that are at least 30 percent below the levels of the ASHRAE Baseline Building 2010.

(b) Energy consumption for the purposes of calculating the 30 percent savings shall include space heating, space cooling, ventilation, service water heating, lighting and all other energy consuming systems normally specified as part of the building design except for receptacle and process loads.

(c) If a 30 percent reduction is not life-cycle cost-effective, the design of the proposed building shall be modified so as to achieve an energy consumption level at or better than the maximum level of energy efficiency that is life-cycle cost-effective, but at a minimum complies with paragraph (a) of this section.

§ 433.101 Performance level determination.

(a)(1) For Federal buildings for which design for construction began on or after January 3, 2007, but before August 10, 2012, each Federal agency shall determine energy consumption levels for both the ASHRAE Baseline Building 2004 and proposed building by using the Performance Rating Method found in Appendix G of ASHRAE 90.1–2004 (incorporated by reference, see § 433.3), except the formula for calculating the Performance Rating in paragraph G1.2 shall read as follows:

(i) Percentage improvement = 100 × ((Baseline building consumption—Receptacle and process loads)—(Proposed building consumption—Receptacle and process loads))/(Baseline building consumption—Receptacle and process loads) (which simplifies as follows):

(ii) Percentage improvement = 100 × (Baseline building consumption—Proposed building consumption)/(Baseline building consumption—Receptacle and process loads).

(2) For Federal buildings for which design for construction began on or after August 10, 2012, each Federal agency shall determine energy consumption levels for both the ASHRAE Baseline Building 2007 and proposed building by using the Performance Rating Method found in Appendix G of ASHRAE 90.1–2007 (incorporated by reference, see § 433.3), except the formula for calculating the Performance Rating in paragraph G1.2 shall read as follows:

(i) Percentage improvement = 100 × ((Baseline building consumption—Receptacle and process loads)—(Proposed building consumption—Receptacle and process loads))/(Baseline building consumption—Receptacle and process loads) (which simplifies as follows):

(ii) Percentage improvement = 100 × (Baseline building consumption—Proposed building consumption)/(Baseline building consumption—Receptacle and process loads).

(3) For Federal buildings for which design for construction began on or after July 9, 2014, each Federal agency shall determine energy consumption levels for both the ASHRAE Baseline Building 2007 and proposed building by using the Performance Rating Method found in Appendix G of ASHRAE 90.1–2010 (incorporated by reference, see § 433.3), except the formula for calculating the Performance Rating in paragraph G1.2 shall read as follows:

(i) Percentage improvement = 100 × ((Baseline building consumption—Receptacle and process loads)—(Proposed building consumption—Receptacle and process loads))/(Baseline building consumption—Receptacle and process loads) (which simplifies as follows):

(ii) Percentage improvement = 100 × (Baseline building consumption—Proposed building consumption)/(Baseline building consumption—Receptacle and process loads).

(b) Each Federal agency shall consider laboratory fume hoods and kitchen ventilation systems as part of the ASHRAE-covered HVAC loads subject to the 30 percent savings requirements, rather than as process loads.

■ 7. Add and reserve subpart B to part 433 to read as follows:

Subpart B—Reduction in Fossil Fuel-Generated Energy Consumption [Reserved]

■ 8. Add subpart C to part 433 to read as follows:

Subpart C—Green Building Certification for Federal Buildings

§ 433.300 Green building certification.

(a) If a Federal agency chooses to use a green building certification system to certify a new Federal building or a Federal building undergoing a major renovation and such building is also either a public building (as defined in 40 U.S.C. 3301) for which transmittal of a prospectus to Congress is required under 40 U.S.C. 3307, or a Federal building for which estimated new building or major renovation design and construction costs are at least $2,500,000 (in 2007 dollars, adjusted for inflation), and design for construction began on or after October 14, 2015.

(b) The system under which the building is certified must:

(1) Allow assessors and auditors to independently verify the criteria and measurement metrics of the system;

(2) Be developed by a certification organization that:

(i) Provides an opportunity for public comment on the system; and

(ii) Provides an opportunity for development and revision of the system through a consensus-based process;

(3) Be nationally recognized within the building industry;

(4) Be subject to periodic evaluation and assessment of the environmental and energy benefits that result under the rating system; and

(5) Include a verification system for post-occupancy assessment of the rated

buildings to demonstrate continued energy and water savings at least every four years after initial occupancy.

(c) *Certification level.* The building must be certified to a level that promotes the high performance sustainable building guidelines referenced in Executive Order 13423 ''Strengthening Federal Environmental, Energy, and Transportation Management'' and Executive Order 13514 ''Federal Leadership in Environmental, Energy and Economic Performance.''

PART 435—ENERGY EFFICIENCY STANDARDS FOR THE DESIGN AND CONSTRUCTION OF NEW FEDERAL LOW-RISE RESIDENTIAL BUILDINGS

■ 9. The authority citation for part 435 continues to read as follows:

Authority: 42 U.S.C. 6831–6832, 6834–6835; 42 U.S.C. 7101 *et seq.*

■ 10. The heading for part 435 is revised to read as set forth above.

■ 11. In § 435.1:

■ a. Redesignate the existing text as paragraph (a);

■ b. Add and reserve paragraph (b); and

■ c. Add paragraph (c) to read as follows:

§ 435.1 Purpose and scope.

* * * * *

(c) This part also establishes green building certification requirements for new Federal buildings that are low-rise residential buildings and major renovations to Federal buildings that are low-rise residential buildings, for which design for construction began on or after October 14, 2015.

§§ 435.6 and 435.7 [Removed]

■ 12. Remove §§ 435.6 and 435.7.

§ 435.8 [Redesignated as § 435.6]

■ 13. Section 435.8 is redesignated as § 435.6.

Subparts B and C of Part 435 [Redesignated]

■ 14. Redesignate subparts B and C of part 435 as subparts D and E of part 435.

■ 15. Redesignate §§ 435.300 through 435.306 as §§ 435.500 through 435.506 respectively.

■ 16. Add and reserve a new subpart B to read as follows:

Subpart B—Reduction in Fossil Fuel-Generated Energy Consumption [Reserved]

■ 17. Add a new subpart C to read as follows:

Subpart C—Green Building Certification for Federal Buildings

§ 435.300 Green building certification.

(a) If a Federal agency chooses to use a green building certification system to certify a new Federal building or a Federal building undergoing a major renovation and construction costs for such new building or major renovation are at least $2,500,000 (in 2007 dollars, adjusted for inflation), and design for construction began on or after October 14, 2015:

(b) The system under which the building is certified must:

(1) Allow assessors and auditors to independently verify the criteria and measurement metrics of the system;

(2) Be developed by a certification organization that

(i) Provides an opportunity for public comment on the system; and

(ii) Provides an opportunity for development and revision of the system through a consensus-based process;

(3) Be nationally recognized within the building industry;

(4) Be subject to periodic evaluation and assessment of the environmental and energy benefits that result under the rating system; and

(5) Include a verification system for post occupancy assessment of the rated buildings to demonstrate continued energy and water savings at least every four years after initial occupancy.

(c) *Certification level.* The building must be certified to a level that promotes the high performance sustainable building guidelines referenced in Executive Order 13423 ''Strengthening Federal Environmental, Energy, and Transportation Management'' and Executive Order 13514 ''Federal Leadership in Environmental, Energy and Economic Performance.''

PART 436—FEDERAL ENERGY MANAGEMENT AND PLANNING PROGRAMS

■ 18. The authority citation for part 436 is revised to read as follows:

Authority: 42 U.S.C. 7101 et seq.; 42 U.S.C. 8254; 42 U.S.C. 8258; 42 U.S.C. 8259b.

Subpart A—Methodology and Procedures for Life Cycle Cost Analyses

■ 19. Revise § 436.14(d) to read as follows:

§ 436.14 Methodological assumptions.

* * * * *

(d) Each Federal agency shall assume that the appropriate study period is as follows:

(1) For evaluating and ranking alternative retrofits for an existing Federal building, the study period is the expected life of the retrofit, or 40 years from the beginning of beneficial use, whichever is shorter.

(2) For determining the life cycle costs or net savings of mutually exclusive alternatives for a given building energy system or building water system (e.g., alternative designs for a particular system or size of a new or retrofit building energy system or building water system), a uniform study period for all alternatives shall be assumed which is equal to—

(i) The estimated life of the mutually exclusive alternative having the longest life, not to exceed 40 years from the beginning of beneficial use with appropriate replacement and salvage values for each of the other alternatives; or

(ii) The lowest common multiple of the expected lives of the alternative, not to exceed 40 from the beginning of beneficial use with appropriate replacement and salvage values for each alternative.

(3) For evaluating alternative designs for a new Federal building, the study period extends from the base year through the expected life of the building or 40 years from the beginning of beneficial use, whichever is shorter.

* * * * *

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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 774

[Docket No. 140131087–4087–01]

RIN 0694–AG08

Revisions to the Commerce Control List: Imposition of Controls on Integrated Circuits, Helicopter Landing System Radars, Seismic Detection Systems, and Technology for IR Up-Conversion Devices

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Interim final rule with request for comments.

SUMMARY: In this rule, the Bureau of Industry and Security (BIS) amends the Export Administration Regulations (EAR) to impose foreign policy controls on read-out integrated circuits and related ''software'' and ''technology,'' radar for helicopter autonomous landing systems, seismic intrusion detection

systems and related ''software'' and ''technology'', and ''technology'' ''required'' for the ''development'' or ''production'' of specified infrared up-conversion devices. The read-out integrated circuits and related ''technology'' are controlled under new Export Control Classification Numbers (ECCNs) on the Commerce Control List. An existing ECCN has been amended to control the related ''software'' for those items. New paragraphs have been added to certain existing ECCNs to control radar for helicopter autonomous landing systems, seismic intrusion detection systems, and the ''technology,'' as mentioned, for specified infrared up-conversion devices. Specified existing ''software'' and ''technology'' ECCNs have been amended to apply to helicopter autonomous landing systems and seismic intrusion detection systems. The items are controlled for regional stability reasons Column 1 (RS Column 1) and Column 2 (RS Column 2), and antiterrorism reasons Column 1 (AT Column 1). The Departments of Commerce, State and Defense have determined that imposition of these license requirements protects U.S. national security and foreign policy interests. Specifically, those agencies have determined that the items described in this rule have civilian applications but also warrant immediate controls under the EAR because of their potential military applications.

DATES: This rule is effective October 14, 2014. Comments must be received by December 15, 2014.

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

- *Federal eRulemaking Portal: http://www.regulations.gov.* The identification number for this rulemaking is BIS–2014–0033.
- By email directly to: *publiccomments@bis.doc.gov.* Include RIN 0694–AG08 in the subject line.
- By mail or delivery to Regulatory Policy Division, Bureau of Industry and Security, U.S. Department of Commerce, Room 2099B, 14th Street and Pennsylvania Avenue NW., Washington, DC 20230. Refer to RIN 0694–AG08.

FOR FURTHER INFORMATION CONTACT: Chris Costanzo, Senior Engineer, Sensors and Aviation Division, Office of National Security and Technology Transfer Controls by phone at (202) 482–0718 or by email at *Christopher.Costanzo@bis.doc.gov.*

SUPPLEMENTARY INFORMATION: In this rule, BIS amends the EAR to impose license requirements on read-out integrated circuits, and ''technology'' ''required'' for the ''development'' or ''production'' of specified infrared up-conversion devices to all destinations, except Canada, as well as radar for helicopter autonomous landing systems and seismic intrusion detection systems to destinations as identified. The Departments of Commerce, State and Defense have determined that imposition of these license requirements protects national security and foreign policy interests of the United States because of the items' potential military applications, which are described in greater detail below.

The items are controlled under new or amended Export Control Classification Numbers (ECCNs) on the Commerce Control List for RS Column 1, RS Column 2, and AT Column 1 reasons. Destinations to which RS Column 1 or RS Column 2 controls apply are indicated by an ''X'' in the RS Column 1 or RS Column 2, respectively, for each applicable destination in the Commerce Country Chart, Supplement No. 1 to part 738 of the EAR. An explanation of RS license requirements appears in Section 742.6(a) of the EAR. Exporters also should consult the Commerce Country Chart to determine to which destinations the AT Column 1 license requirement applies.

New License Requirements

New ECCN 6A990—Read-Out Integrated Circuits

Under this rule, a license is required for the export and reexport of items classified under new ECCN 6A990 for read-out integrated circuits (ROICs) to all destinations, except Canada, for RS Column 1 reasons, and AT Column 1 reasons. The ROICs subject to 6A990 are used only in cameras to provide images for collision avoidance and navigation support for civilian vehicles at distances up to 150 m, and have potential military application because of the infrared detectors, which can be used to enable military personnel to detect images in the dark, enhancing nighttime warfighting capability. Given that potential military application, BIS is implementing a worldwide licensing requirement, except for Canada, and the items will be controlled for RS Column 1 and AT Column 1 reasons with License Exception LVS not available.

The heading of existing ECCN 6D991 is revised to indicate that ''software'' for ROICs under new 6A990 is covered by 6D991. The previous heading read ''6D991 ''Software'' specially designed for the ''development'', ''production'', or ''use'' of equipment controlled by 6A002.a.1.d, 6A991, 6A996, 6A997, or 6A998.'' BIS revised the heading to include commodities controlled by ECCN 6A990. ECCN 6D991, ''software'' for commodities controlled by ECCN 6A990, is controlled for RS Column 1 reasons.

Also, ''technology'' for ROICs is controlled under new ECCN 6E990—''Technology'' ''required'' for the ''development'' or ''production'' of commodities controlled by ECCN 6A990. ECCN 6E990 ''Technology'' for ROICs is controlled for RS Column 1 and AT Column 1 reasons.

New Paragraph in ECCN 6A998—Radar for Helicopter Autonomous Landing Systems

In this rule, BIS also adds paragraph .c to ECCN 6A998. ECCN 6A998, which controls radar systems, equipment and ''major components,'' and ''specially designed'' ''components,'' is expanded through new paragraph .c to impose a license requirement for export and reexport of millimeter wave enhanced vision radar imaging systems ''specially designed'' for rotary wing aircraft and having all of the characteristics identified in subparagraphs .c.1, .c.2, .c.3, and .c.4. Radar for helicopter autonomous landing systems provides visual awareness and obstacle avoidance in degraded visual conditions. While important in its civilian applications, this radar poses concern with regard to its potential military applications by adversaries of the United States and its allies, and BIS is implementing licensing requirements through this new RS Column 2 control on ECCN 6A998 and an AT Column 1 control.

A license is required for items classified in paragraph .c of ECCN 6A998 for RS Column 2 reasons when going to any destination, except Australia, Japan, New Zealand, and countries in the North Atlantic Treaty Organization, as indicated in the Commerce Country Chart in Supplement No. 1 to part 738 of the EAR and in Section 742.6(a)(4) of the EAR. The existing AT Column 1 reason for control for ECCN 6A998 continues to apply to the entire entry, including new paragraph .c items.

The existing related ''software'' and ''technology'' for ECCN 6A998—controlled under ECCNs 6D991 and 6E991, respectively—also are related to items in subparagraphs .c.1 through .c.4, as specified in the respective entries.

New Paragraph in ECCN 6A999—Seismic Intrusion Detection Systems

By adding paragraph .c to ECCN 6A999, which controls specific processing equipment, BIS expands that ECCN by imposing a license requirement for export and reexport of seismic intrusion detection systems,

which detect, classify and determine the bearing on the source of a detected signal. While the systems can be used for monitoring earthquakes, they also have the capability for military use in detecting the movement or motion of people, vehicles, and equipment. Given the potential military uses, BIS is imposing a license requirement to all destinations but close military allies through the RS Column 2 controls.

In addition, AT continues to apply to all items in the entry, including those items in new paragraph .c, to North Korea. In addition, BIS revises existing paragraph .a of ECCN 6A999 to distinguish the items controlled by paragraph .a from those controlled by new paragraph .c.

Further, to ensure appropriate controls for operation ''software'' for seismic intrusion detection devices controlled under ECCN 6A999.c, BIS revises ECCN 6D993 to add two new paragraphs. New paragraph .b controls ''software'' ''specially designed'' for seismic intrusion detection systems in 6A999.c, and new paragraph .c controls ''source code'' for seismic intrusion detection systems in 6A999.c. ''Software'' under new paragraph .b is controlled for RS Column 2 reasons and ''source code'' under new paragraph .c. is controlled for RS Column 1 reasons. Both paragraphs, like all of ECCN 6D993, are also controlled for AT Column 1 reasons.

Lastly, BIS revises ECCN 6E991, ''technology' for the ''development,'' ''production'' or ''use'' of equipment controlled by 6A991, 6A996, 6A997 or 6A998,'' by adding new paragraph .c to include equipment controlled by ECCN 6A999.c.

Revision of Scope of ECCN 6E001—''Technology'' According to the General Technology Note for the ''Development'' of Equipment, Materials or ''Software'' Controlled by Certain Category 6 ECCNs

BIS revised the heading of ECCN 6E001 to indicate that ''development'' ''technology'' for new ECCN 6A990 (read-out integrated circuits) and ''development'' ''technology'' for new paragraph .c. (seismic intrusion detection systems) of ECCN 6A999 are not controlled by ECCN 6E001. ECCN 6A990 ''technology'' (for ''development'' or ''production'') and ECCN 6A999.c ''technology'' (for ''development,'' ''production'' or ''use'') are controlled under ECCN 6E990 and ECCN 6E991, respectively.

Revision of Scope of ECCN 6E002—''Technology'' According to the General Technology Note for the ''Production'' of Equipment or Materials Controlled by Certain Category 6 ECCNs

As with the heading of ECCN 6E001, BIS also revises the heading of ECCN 6E002 to indicate that ''production'' ''technology'' for new ECCN 6A990 (read-out integrated circuits) and ''production'' ''technology'' for new paragraph .c. (seismic intrusion detection systems) of ECCN 6A999 are not controlled by ECCN 6E002. As previously described for ECCN 6E001, ECCN 6A990 ''technology'' (for ''development'' or ''production'') and ECCN 6A999.c ''technology'' (for ''development,'' ''production'' or ''use'') are controlled under ECCN 6E990 and ECCN 6E991, respectively.

New Paragraph In ECCN 6E993—''Technology'' for Specified Infrared Up-Conversion Devices

This rule adds paragraph .e in ECCN 6E993 to control ''technology'' ''required'' for the ''development'' or ''production'' of infrared up-conversion devices used to convert near-infrared light into visible light using an organic light emitting diode, which can be used in conventional night vision devices used for home energy inspection or night photography. The item also has important military and law enforcement applications, which is why BIS is imposing a worldwide licensing requirement, except for Canada. New ECCN 6E993.e requires a license to all destinations, except Canada, for RS Column 1 reasons. The existing AT Column 1 reason for control that applies to paragraphs .a through .d also applies to new paragraph .e and to its subparagraphs .e.1 and .e.2.

License Exceptions

License exceptions are described in Part 740 of the EAR. License exceptions may be available for these items if there are no applicable restrictions in section 740.2(a) and all conditions of the respective license exceptions are met for the particular proposed transaction.

Foreign Policy Report

The application of regional stability controls to the items covered by this rule imposes a foreign policy control. Section 6(f) of the Export Administration Act requires that a report be delivered to Congress before imposing such controls. The report was delivered to Congress on September 24, 2014.

Export Administration Act

Since August 21, 2001, the Export Administration Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp., 783 (2002)), as amended by Executive Order 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013), and extended most recently by the Notice of August 7, 2014, 79 FR 46959 (August 11, 2014), has continued the EAR in effect under the International Emergency Economic Powers Act. BIS continues to carry out the provisions of the Export Administration Act, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222 as amended by Executive Order 13637.

Saving Clause

Shipments of items removed from eligibility for export or reexport under a license exception or without a license (i.e., under the designator ''NLR'') as a result of this regulatory action that were on dock for loading, on lighter, laden aboard an exporting carrier, or en route aboard a carrier to a port of export, on November 13, 2014, pursuant to actual orders for export or reexport to a foreign destination, may proceed to that destination under the previously applicable license exception or without a license (NLR) so long as they are exported or reexported before November 28, 2014. Any such items not actually exported or reexported before midnight, on November 28, 2014, require a license in accordance with this regulation.

''Deemed'' exports of ''technology'' and ''source code'' removed from eligibility for export under a license exception or without a license (under the designator ''NLR'') as a result of this regulatory action may continue to be made under the previously available license exception or without a license (NLR) before January 12, 2015. Beginning at midnight on January 12, 2015, such ''technology'' and ''source code'' may no longer be released, without a license, to a foreign national subject to the ''deemed'' export controls in the EAR when a license would be required to the home country of the foreign national in accordance with this regulation.

Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety

effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This rule has been determined to be a significant regulatory action, although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget (OMB).

2. This rule involves collections previously approved by the Office of Management and Budget (OMB) under Control Number 0694–0088, ''Multi-Purpose Application,'' which carries a burden hour estimate of 43.8 minutes to prepare and submit form BIS–748. Total burden hours associated with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA) and OMB Control Number 0694–0088 are not expected to increase significantly as a result of this rule. Notwithstanding any other provisions of law, no person is required to respond to, nor be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

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

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public comment and a delay in effective date are inapplicable because this regulation involves a military or foreign affairs function of the United States (*See* 5 U.S.C. 553(a)(1)). BIS is implementing this rule to protect U.S. national security and foreign policy interests by imposing an export and reexport license requirement on Read-Out Integrated Circuits, Radar for Helicopter Landing Systems, Seismic Intrusion Detection Systems, and Technology for Specified Infrared Up-Conversion Devices that are used in important sensor applications. The Departments of Commerce, State and Defense determined that immediate imposition of license requirements for these items is warranted to protect U.S. national security and foreign policy interests. Specifically, those agencies have determined that the items described in this rule warrant controls because of their potential military applications, which are noted above.

Further, BIS finds good cause to waive the 30-day delay in effectiveness under 5 U.S.C. 553(d)(3). Immediate implementation will allow BIS to prevent exports of these items to users and for uses that pose a national security threat to the United States or its allies. If BIS delayed this rule to allow for a 30-day delay in effectiveness, the resulting delay in implementation would afford an opportunity for the export of these items to users and uses that pose such a national security threat, thereby undermining the purpose of the rule.

Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* are not applicable. Although notice and opportunity for comment are not required, BIS is issuing this rule as an interim final rule with a request for comments. All comments must be in writing and submitted via one or more of the methods listed under the **ADDRESSES** caption to this notice. All comments (including any personal identifiable information) will be available for public inspection and copying. Those wishing to comment anonymously may do so by submitting their comment via regulations.gov and leaving the fields for identifying information blank.

List of Subjects in 15 CFR Part 774

Exports, Reporting and recordkeeping requirements.

Accordingly, part 774 of the Export Administration Regulations (15 CFR parts 730–774) is amended as follows:

PART 774—[AMENDED]

■ 1. The authority citation for part 774 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.;* 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 15 U.S.C. 1824a; 50 U.S.C. app. 5; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2014, 79 FR 46959 (August 11, 2014).

■ 2. Supplement No. 1 to Part 774—The Commerce Control List, Category 6, is amended by adding a new ECCN 6A990 entry, immediately following the entry for Export Control Classification Number (ECCN) 6A226 and immediately preceding the entry for ECCN 6A991, to read as follows:

Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

6A990 Read-out integrated circuits (ROICs) that enable 3D automotive imaging and ranging in the wavelength range exceeding 1,200 nm, but not exceeding 3,000 nm, at distances up to 150 m.

License Requirements

Reason for Control: RS, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
RS applies to entire entry.	RS Column 1
AT applies to entire entry.	AT Column 1

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

■ 3. Supplement No. 1 to Part 774—The Commerce Control List, Category 6, ECCN 6A998 is amended by revising the ''License Requirements'' section and adding paragraph c. to the ''Items'' paragraph of the ''List of Items Controlled'' section to read as follows:

6A998 Radar systems, equipment and ''major components,'' n.e.s., and ''specially designed'' ''components'' therefor, as follows (see List of Items Controlled).

License Requirements

Reason for Control: RS, AT

Control(s)	*Country chart (See Supp. No. 1 to part 738)*
RS applies to 6A998.b.	RS Column 1
RS applies to 6A998.c.	RS Column 2
AT applies to entire entry.	AT Column 1

* * * * *

List of Items Controlled

Related Controls: * * *
Related Definitions: * * *
Items: * * *

c. Millimeter wave enhanced vision radar imaging systems ''specially designed'' for rotary wing aircraft and having all of the following:

c.1. Operates at a frequency of 94 GHz;

c.2. An average output power of less than 20 mW;

c.3. Radar beam width of 1 degree; and

c.4. Operating range equal to or greater than 1500 m.

■ 4. Supplement No. 1 to Part 774—The Commerce Control List, Category 6, ECCN 6A999 is amended by:

■ a. Revising the ''License Requirements'' section;

■ b. Revising paragraph a. to the ''Items'' paragraph of the ''List of Items Controlled'' section; and

■ c. Adding paragraph c. to the ''Items'' paragraph of the ''List of Items Controlled'' section to read as follows:

6A999 Specific processing equipment, as follows (see List of Items Controlled).

License Requirements

Reason for Control: RS, AT

Control(s)	*Country chart (See Supp. No. 1 to part 738)*
RS applies to 6A999.c.	RS Column 2

AT applies to entire entry. A license is required for items controlled by this entry to North Korea for anti-terrorism reasons. The Commerce Country Chart is not designed to determine AT licensing requirements for this entry. See § 742.19 of the EAR for additional information.

* * * * *

List of Items Controlled

Related Controls: * * *
Related Definitions: * * *
Items:

a. Seismic detection equipment not controlled in paragraph c.

b. * * *

c. Seismic intrusion detection systems that detect, classify and determine the bearing on the source of a detected signal.

■ 5. Supplement No. 1 to Part 774—The Commerce Control List, Category 6, ECCN 6D991 is amended by revising the heading and ''License Requirements'' section to read as follows:

6D991 ''Software,'' n.e.s., ''specially designed'' for the ''development'', ''production'', or ''use'' of commodities controlled by 6A002.a.1.d, 6A990, 6A991, 6A996, 6A997, or 6A998.

License Requirements

Reason for Control: RS, AT

Control(s)	*Country chart (See Supp. No. 1 to part 738)*
RS applies to ''software'' for commodities controlled by 6A002.a.1.d, 6A990, or 6A998.b.	RS Column 1
RS applies to ''software'' for 6A998.c.	RS Column 2
AT applies to entire entry, except ''software'' for commodities controlled by 6A991.	AT Column 1
AT applies to ''software'' for commodities controlled by 6A991.	AT Column 2

* * * * *

■ 6. Supplement No. 1 to Part 744—The Commerce Control List, Category 6, ECCN 6D993 is amended by:

■ a. Revising the ''License Requirements'' section; and

■ b. adding paragraphs b. and c. to the ''Items'' paragraph of the ''List of Items Controlled'' section to read as follows:

6D993 Other ''software,'' not controlled by 6D003, as follows (see List of Items Controlled).

License Requirements

Reason for Control: RS, AT

Control(s)	*Country chart (See Supp. No. 1 to part 738)*
RS applies to 6D993.c.	RS Column 1
RS applies to 6D993.b.	RS Column 2
AT applies to entire entry.	AT Column 1

* * * * *

List of Items Controlled

Related Controls: * * *
Related Definitions: * * *
Items: * * *

b. ''Software'' ''specially designed'' for seismic intrusion detection systems in 6A999.c.

c. ''Source Code'' ''specially designed'' for seismic intrusion detection systems in 6A999.c.

■ 7. Supplement No. 1 to Part 774—The Commerce Control List, Category 6 ECCN 6E001 is amended by revising the heading to read as follows:

6E001 ''Technology'' according to the General Technology Note for the ''development'' of equipment, materials or ''software'' controlled by 6A (except 6A990, 6A991, 6A992, 6A994, 6A995, 6A996, 6A997 6A998, or 6A999.c), 6B (except 6B995), 6C (except 6C992 or 6C994), or 6D (except 6D991, 6D992, or 6D993).

* * * * *

■ 8. Supplement No. 1 to Part 774—The Commerce Control List, Category 6, ECCN 6E002 is amended by revising the heading to read as follows:

6E002 ''Technology'' according to the General Technology Note for the ''production'' of equipment or materials controlled by 6A (except 6A990, 6A991, 6A992, 6A994, 6A995, 6A996, 6A997, 6A998 or 6A999.c), 6B (except 6B995) or 6C (except 6C992 or 6C994).

* * * * *

■ 9. Supplement No. 1 to Part 774—The Commerce Control List, Category 6 is amended by adding ECCN 6E990 immediately following the entry for ECCN 6E202 and immediately preceding the entry for ECCN 6E991, to read as follows:

6E990 Technology ''required'' for the ''development'' or ''production'' of commodities controlled by ECCN 6A990.

License Requirements

Reason for Control: RS, AT

Control(s)	*Country chart (See Supp. No. 1 to part 738)*
RS applies to entire entry.	RS Column 1
AT applies to entire entry.	AT Column 1

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

CIV: N/A
TSR: N/A

List of Items Controlled

Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

■ 10. In Supplement No. 1 to Part 774—The Commerce Control List, Category 6, ECCN 6E991 is revised to read as follows:

6E991 ''Technology'' for the ''development'', ''production'' or ''use'' of equipment controlled by 6A991, 6A996, 6A997, 6A998 or 6A999.c.

License Requirements

Reason for Control: RS, AT

Control(s)	*Country chart (See Supp. No. 1 to part 738)*
RS applies to ''technology'' for equipment controlled by 6A998.b, 6A998.c and 6A999.c.	RS Column 1
AT applies to entire entry, except ''technology'' for equipment controlled by 6A991.	AT Column 1
AT applies to ''technology'' for equipment controlled by 6A991.	AT Column 2

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

CIV: N/A
TSR: N/A

List of Items Controlled

Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

■ 11. Supplement No. 1 to Part 774—The Commerce Control List, Category 6, ECCN 6E993 is amended by:

■ a. Revising the ''License Requirements'' section; and

■ b. Adding paragraph e. to the ''Items'' paragraph of the ''List of Items Controlled'' section to read as follows:

6E993 Other ''technology,'' not controlled by 6E003, as follows (see List of Items Controlled).

License Requirements

Reason for Control: RS, AT

Control(s)	*Country chart (See Supp. No. 1 to part 738)*
RS applies to 6E993.e.	RS Column 1
AT applies to entire entry.	AT Column 1

* * * * *

List of Items Controlled

Related Controls: * * *
Related Definition: * * *
Items: * * *

e. ''Technology'' ''required'' for the ''development'' or ''production'' of infrared up-conversion devices having all of the following:

e.1. A response in the wavelength range exceeding 700 nm but not exceeding 1500 nm; and

e.2. A combination of an infrared photodetector, light emitting diode (OLED), and nanocrystal to convert infrared light into visible light.

* * * * *

Dated: October 7, 2014.

Kevin J. Wolf,

Assistant Secretary for Export Administration.

[FR Doc. 2014–24359 Filed 10–10–14; 8:45 am]

BILLING CODE 3510–33–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 232, 240, 249, and 249b

[Release No. 34–72936A; File No. S7–18–11]

RIN 3235–AL15

Nationally Recognized Statistical Rating Organizations; Correction

AGENCY: Securities and Exchange Commission.

ACTION: Final rule; correction.

SUMMARY: The Securities and Exchange Commission (''Commission'') is correcting a final rule that appeared in the **Federal Register** of September 15, 2014 (79 FR 55078). The rule applies to credit rating agencies registered with the Commission as nationally recognized statistical rating organizations (''NRSROs''), providers of third-party due diligence services for asset-backed securities, and issuers and underwriters of asset-backed securities.[1]

DATES: Effective November 14, 2014.

FOR FURTHER INFORMATION CONTACT: Rose Russo Wells, Senior Counsel, at (202) 551–5527; Division of Trading and Markets, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–7010.

SUPPLEMENTARY INFORMATION: In FR Doc. 2014–20890, appearing on page 55078 in the **Federal Register** of Monday, September 15, 2014, the following corrections are made:

■ 1. On page 55261, in the second column, under the heading ''Text of Final Rules'' the word ''Regulation'' is corrected to read ''Regulations''

[1] *See Nationally Recognized Statistical Rating Organizations,* Exchange Act Release No. 72936 (Aug. 27, 2014), 79 FR 55078 (Sep. 15, 2014).

§ 240.15Ga–2 [Corrected]

■ 2. On page 55261, in the third column, in § 240.15Ga–2(a), the citation ''(15 U.S.C. 78c(a)(79))'' is corrected to read ''(15 U.S.C. 78c(a)(79)))''

§ 240.17g–3 [Corrected]

■ 3. On page 55263, in the second column, amendment 7.f to § 240.17g–3 is corrected to read: ''In paragraphs (a)(3) introductory text, (a)(4) introductory text, and (a)(5) introductory text, by removing the words ''An unaudited financial report'' and in their place adding the phrase ''File with the Commission an unaudited financial report, as of the end of the fiscal year,'' ''

■ 4. On page 55263, in the second column, amendment 7.g to § 240.17g–3 is corrected to read ''In paragraph (a)(6) introductory text, by removing the words ''An unaudited report'' and in their place adding the phrase ''Furnish the Commission with an unaudited report, as of the end of the fiscal year,'' ''

§ 240.17g–5 [Corrected]

■ 5. On page 55264, in the second column, amendments 8.b and 8.h to § 240.17g–5, are removed and the remaining amendments are renumbered: 8.a, 8.b, 8.c, 8.d, 8.e, 8.f, 8.g, and 8.h.

§ 249b.300 [Corrected]

■ 6. On page 55274, in Part 249b,in amendment 17, the words ''Form (referenced in § 249b.300)'' are corrected to read ''Form NRSRO (referenced in § 249b.300)''

■ 7. On pages 55309–55310, in Form NRSRO (referenced in § 249b.300), the list is corrected to read as follows:

BILLING CODE 8011–01–P

I. EXPLANATION OF TERMS.

1. COMMISSION - The U.S. Securities and Exchange Commission.

2. CREDIT RATING [Section 3(a)(60) of the Exchange Act] - An assessment of the creditworthiness of an obligor as an entity or with respect to specific securities or money market instruments.

3. CREDIT RATING AGENCY [Section 3(a)(61) of the Exchange Act] - Any person:

- engaged in the business of issuing credit ratings on the Internet or through another readily accessible means, for free or for a reasonable fee, but does not include a commercial credit reporting company;
- employing either a quantitative or qualitative model, or both to determine credit ratings; and
- receiving fees from either issuers, investors, other market participants, or a combination thereof.

4. NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATION [Section 3(a)(62) of the Exchange Act] - A credit rating agency that:

- issues credit ratings certified by qualified institutional buyers in accordance with section 15(a)(1)(B)(ix) of the Exchange Act with respect to:
  - financial institutions, brokers, or dealers;
  - insurance companies;
  - corporate issuers;
  - issuers of asset-backed securities;
  - issuers of government securities, municipal securities, or securities issued by a foreign government; or
  - a combination of one or more of the above; and
- is registered as an NRSRO.

5. PERSON - An individual, partnership, corporation, trust, company, limited liability company, or other organization (including a separately identifiable department or division).

6. PERSON WITHIN AN APPLICANT/NRSRO – The person filing or furnishing, as applicable, Form NRSRO identified in Item 1, any credit rating affiliates identified in Item 3, and any partner, officer, director, branch manager, or employee of the person or the credit rating affiliates (or any person occupying a similar status or performing similar functions).

7. SEPARATELY IDENTIFIABLE DEPARTMENT OR DIVISION - A unit of a corporation or company:

- that is under the direct supervision of an officer or officers designated by the board of directors of the corporation as responsible for the day-to-day conduct of the corporation's credit rating activities for one or more affiliates, including the supervision of all employees engaged in the performance of such activities; and
- for which all of the records relating to its credit rating activities are separately created or maintained in or extractable from such unit's own facilities or the facilities of the corporation, and such records are so maintained or otherwise accessible as to permit independent examination and enforcement by the Commission of the Exchange Act and rules and regulations promulgated thereunder.

8. QUALIFIED INSTITUTIONAL BUYER [Section 3(a)(64) of the Exchange Act] - An entity listed in 17 CFR 230.144A(a) that is not affiliated with the credit rating agency.

Dated: October 7, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–24300 Filed 10–10–14; 8:45 am]

BILLING CODE 8011–01–C

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2014–0589]

RIN 1625–AA00

Eighth Coast Guard District Annual Safety Zones; Pittsburgh Steeler/Steelers Fireworks; Allegheny River Mile 0.0 to 0.2 and Ohio River 0.0 to 0.3; Pittsburgh, PA

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a safety zone for the Pittsburgh Steeler/Steelers Fireworks on the Allegheny River from mile 0.0 to 0.2 and Ohio River from mile 0.0 to 0.3. This zone will be in effect on October 20th, November 2nd, and December 28th, 2014 from 7:30 p.m. until 8:50 p.m. This zone is needed to protect vessels transiting the area and event spectators from the hazards associated with the Pittsburgh Steeler/Steelers Barge-based Fireworks. During the enforcement period, entry into, transiting, or anchoring in the safety zone is prohibited to all vessels not registered with the sponsor as participants or official patrol vessels, unless specifically authorized by the Captain of

the Port (COTP) Pittsburgh or a designated representative.

DATES: The regulations in 33 CFR 165.801 will be enforced with actual notice on October 20, November 2, and December 28, 2014 from 7:30 p.m. until 8:50 p.m.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice of enforcement, call or email Ariana Mohnke, Marine Safety Unit Pittsburgh, U.S. Coast Guard, at telephone (412) 644–5808, email *Ariana.L.Mohnke@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the Safety Zone for the annual Pittsburgh Steeler/Steelers Fireworks listed in 33 CFR 165.801 Table 1, Entry No. 54; Sector Ohio Valley on October 20th, November 2nd, and December 28th, 2014 from 7:30 p.m. until 8:50 p.m.

Under the provisions of 33 CFR 165.801, entry into the safety zone listed in Table 1, Entry No. 54; Sector Ohio Valley, is prohibited unless authorized by the COTP or a designated representative. Persons or vessels desiring to enter into or passage through the safety zone must request permission from the COTP Pittsburgh or a designated representative. If permission is granted, all persons and vessels shall comply with the instructions of the COTP Pittsburgh or designated representative.

This notice is issued under authority of 5 U.S.C. 552(a); 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1. In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via Local Notice to Mariners and updates via Marine Information Broadcasts.

If the COTP Pittsburgh or designated representative determines that the safety zone need not be enforced for the full duration stated in this notice of enforcement, he or she may use a Broadcast Notice to Mariners to grant general permission to enter the regulated area.

Dated: September 4, 2014.

L.N. Weaver,

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

[FR Doc. 2014–24429 Filed 10–10–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulation System

48 CFR Parts 205, 206, 215, 219, 226, 232, 235, 252, and Appendix I to Chapter 2

RIN 0750–AH45

Defense Acquisition Regulation Supplement: Deletion of Text Implementing 10 U.S.C. 2323 (DFARS Case 2011–D038)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Interim rule.

SUMMARY: DoD is issuing an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to remove language based on 10 U.S.C. 2323. This action is necessary because the statute has expired.

DATES: Effective October 14, 2014.

Comment Date: Comments on the interim rule should be submitted in writing to the address shown below on or before December 15, 2014, to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by DFARS Case 2011–D038, using any of the following methods:

○ *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by entering ''DFARS Case 2011–D038'' under the heading ''Enter keyword or ID'' and selecting ''Search.'' Select the link ''Submit a Comment'' that corresponds with ''DFARS Case 2011–D038.'' Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''DFARS Case 2011–D038'' on your attached document.

○ *Email: osd.dfars@mail.mil.* Include DFARS Case 2011–D038 in the subject line of the message.

○ *Fax:* 571–372–6094.

○ *Mail:* Defense Acquisition Regulations System, Attn: Lee Renna, OUSD(AT&L)DPAP/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Ms. Lee Renna, telephone 571–372–6095.

SUPPLEMENTARY INFORMATION:

I. Background

This interim rule revises the DFARS to implement changes resulting from the expiration of 10 U.S.C. 2323 on September 30, 2009. Section 2323 of Title 10 was the underlying statutory authority for DoD's Small Disadvantaged Business (SDB) program, including the establishment of a specific goal within the overall 5 percent SDB goal for the award of prime contracts and subcontracts to historically black colleges and universities (HBCUs) and minority institutions (MIs). DoD's fundamental policy to provide the maximum practicable number of contracting opportunities for SDB concerns and, in defense-related research and development, the maximum number of opportunities for HBCUs and MIs, is unchanged by this rule, as demonstrated by the following:

—DoD's annual SDB goal is 5 percent of the total value of all prime contract and subcontract awards for each fiscal year, in keeping with 15(g) of the Small Business Act, Pub. L. 85–536, as amended, (15 U.S.C. 644(g)). DoD has met or exceeded this goal every fiscal year since 2001.

—DoD contracting officers may continue to use incentives to encourage prime contractors to increase subcontracting opportunities with all small business types, including SDBs.

—DoD contracting officers will continue to evaluate the extent of small business participation, including that of SDBs, in solicitations and contracts that require subcontracting plans, as well as the past performance of offerors' achievement of their small business subcontracting goals.

—In addition, section 252 of the National Defense Authorization Act for Fiscal Year (FY) 2010 (codified at 10 U.S.C. 2362) authorized the Secretary of Defense to establish a program to provide assistance to HBCUs and MIs in defense-related research, development, testing, and evaluation activities. This statutory authority is used in support of DoD's annual HBCU/MI Broad Agency Announcement.

II. Discussion and Analysis

The following is a summary of the revisions to the DFARS:

—Removal of DFARS 205.207(d) subparagraphs (i) and (ii), which provided guidance for synopsizing HBCU and MI set-asides, and update the PGI reference in subparagraph (iii).

—Removal of DFARS 206.203, which provided guidance pertaining to HBCU and MI set-asides under the authority of 10 U.S.C. 2323;
—Revision of DFARS 215.304 to (1) Remove the references to HBCUs and MIs and (2) add language to clarify the extent of small business participation in performance of the contract that shall be addressed during source selection for acquisitions requiring subcontracting plans.
—Removal of DFARS 219.000, which stated purpose was to implement 10 U.S.C. 2323.
—Removal of DFARS 219.001 because (1) This SDB definition was provided for the purpose of implementing 10 U.S.C. 2323, specifically as it pertained to the eligibility for the special progress payment rate for SDBs, and reporting contract actions in Federal Procurement Data System.
—Removal of DFARS 219.201(f) and 219.202–5, as these data collection and reporting requirements stemmed from 10 U.S.C 2323. A conforming change was made to DFARS 219.202.
—Removal of DFARS 219.502–3, which provided guidance for applying the SDB price evaluation adjustment to partial small business set-asides.
—Removal of DFARS 219.703(a)(2)(A) and (B), since there are no longer DoD-unique eligibility requirements for SDBs, HBCUs, and/or MIs.
—Removal of DFARS 219.704(1) since DoD prime contractors can no longer consider subcontract awards to HBCUs and MIs as a component of their SDB goal.
—Revision of DFARS 219.705–4 to remove the requirement for DoD contracting officer to consider the extent to which a prime contractor will restrict competition to HBCUs and/or MIs in fulfillment of its subcontracting plan.
—Removal of DFARS subpart 219.11 since there is no longer a statutory authority for the SDB price evaluation adjustment.
—Removal of DFARS subpart 219.12, which addressed monetary incentives to prime contractors to increase subcontracting opportunities for SDBs pursuant to 10 U.S.C. 2323. However, DoD continues to employ monetary incentives for prime contractors, pursuant to FAR 19.7, as a means of encouraging efforts of prime contractors to maximize subcontracting opportunities with all small business concerns, including SDBs.
—Removal of DFARS subpart 226.3, which implemented 10 U.S.C. 2323 for HBCU and MI set-asides.
—Revision of DFARS 232.501–1 to remove authorizing language for the 95 percent progress payment rate for SDBs. The customary progress payment rate for all small businesses, including SDBs, is 90 percent.
—Removal of DFARS 232.502–1, which permitted progress payments to SDBs if the contract involved $65,000 or more.
—Revision of DFARS 232.502–470(b) to remove the reference to SDBs in keeping with the revision to the associated DFARS clause at 252.232–7004.
—Removal of DFARS 235.016, since its stated purpose was to implement section 1207 of Public Law 99–661, which was codified at 10 U.S.C. 2323. Broad agency announcements, however, may still be used to encourage HBCUs and MIs to submit proposals in specific areas of scientific interest to DoD.
—Revision of DFARS DFARS clause 252.219–7003, Small Business Subcontracting Plan (DoD Contracts), to remove the DoD-specific definitions for SDB, HBCU, and MI, and authorities stemming from 10 U.S.C. 2323. In addition, the requirement for the Year End Supplementary Report for Small Disadvantaged Businesses and the Small Disadvantaged Business Participation report have been removed, since both requirements stemmed from 10 U.S.C. 2323.
—Revision of DFARS clause 252.219–7004, Small Business Subcontracting Plan (Test Program), to remove the reporting requirement stemming from 10 U.S.C. 2323 for (1) DoD prime contractors regarding HBCUs and MIs, and (2) the Year End Supplementary Report for Small Disadvantaged Businesses.
—Removal of DFARS clause 252.226–7000, Notice of Historically Black College or University and Minority Institution Set-Aside, since 10 U.S.C. 2323 was the authority for the HBCU and MI set-aside program.
—Revision of DFARS clause 252.232–7004, Small Business Subcontracting Plan (Test Program),to remove language pertaining to the 95 percent SDB progress payment rate. The customary progress payment rate/liquidation rate that is applicable to all small businesses, including SDBs, is 90 percent.
—Revision of DFARS Appendix I–101–5 to remove the DoD-unique definition for an SDB concern.
—Removal of DFARS Appendix I–112.1(c), which references FAR 52.219–26, Small Disadvantaged Business Program—Incentive Subcontracting. The clause and the subcontracting incentives connected with the clause no longer exist, since both were based on the authority of 10 U.S.C. 2323.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

DoD does not expect this interim rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., because it does not change the fundamental procurement policies that DoD has used to achieve strong small disadvantaged business (SDB) participation or to encourage the involvement of historically black colleges and universities (HBCUs) and minority institutions (MIs) in defense-related research, development, testing, and evaluation activities. However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

The purpose of this rule is to remove language based on 10 U.S.C. 2323. Section 2323 of Title 10 expired on September 30, 2009. This interim rule amends the DFARS to remove or revise clauses, provisions, and guidance conditioned solely on section 1207 of the National Defense Authorization Act of 1987, Public Law 99–661, as codified at 10 U.S.C. 2323.

Under the authority of 10 U.S.C. 2323, DoD established an SDB participation program. This statute served as the basis for certain solicitation techniques used by DoD to further its SDB participation rate, such as the price evaluation adjustment for SDB concerns and the set-aside program for HBCUs and MIs.

In FY 2008, the last complete fiscal year for which the DoD SDB program was in effect, DoD awarded approximately 29,292 contracts to small

disadvantaged businesses, inclusive of approximately 329 DoD awards made to HBCUs and MIs. These figures represent the population of small entities that may be affected by the expiration of 10 U.S.C. 2323. Several factors, however, mitigate the impact of this change, such as the following:

—Section 15(g) of the Small Business Act (Pub. L. 85–536, as amended), (15 U.S.C. 644(g)), requires all Federal agencies to make every attempt to achieve the annual Governmentwide goal for participation by SDBs. The statutory SDB goal is not less than 5 percent of the total value of all prime contract and subcontract awards for each fiscal year. DoD has met or exceeded the 5 percent SDB goal since FY 2001.

—DoD contracting officers may continue to employ incentives in solicitations and contracts, when inclusion of such incentives is, in the judgment of the contracting officer, necessary to increase subcontracting opportunities for small businesses, service-disabled veteran-owned small businesses, HUBZone small businesses, women-owned small businesses, as well as small disadvantaged businesses. Additionally, in keeping with SBA's regulations at 13 CFR 125.3(g), the extent of participation of all small businesses, including small disadvantaged businesses, in performance of the contract shall be addressed as part of the source selection for negotiated DoD acquisitions that have subcontracting opportunities. The past performance of offerors in complying with subcontracting goals with all small businesses, including SDBs, shall also be evaluated in DoD acquisitions.

—The effect of the permanent elimination of the price evaluation adjustment for SDB concerns is negligible. The authority for this adjustment had not been used by DoD since 2001 because, under 10 U.S.C. 2323, DoD was prohibited from using the price evaluation adjustment if, during the previous fiscal year, it had achieved a 5 percent or greater SDB achievement. DoD has achieved the 5 percent SDB goal had been met or exceeded each year.

—In FY 2009, Congress passed, and on September 30, 2009, the President signed into law, the National Defense Authorization Act for FY 2010 (Pub. L. 111–84). Section 252 of the law, codified at 10 U.S.C 2362, gave the Secretary of Defense, and the Secretary of each military department, the authority to carry out a program to enhance participation of HBCUs and MIs in defense research programs. DoD has annually issued broad agency announcements in support of this program since FY 2010.

This rule does not impose new reporting, recordkeeping or other compliance requirements. There are no rules that duplicate, overlap, or conflict with this rule.

The desired outcome to remove language in the DFARS that is based solely on 10 U.S.C. 2323 is best achieved by implementation of the interim rule as stated herein. There are no known alternatives since the DFARS language that implemented this law must be removed since the underlying statute, 10 U.S.C. 2323 has expired.

DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2011–D038), in correspondence.

V. Paperwork Reduction Act

This rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35). The associated information collection requirements are covered by the FAR under OMB Control numbers 9000–0150, 9000–0006, and 9000–007, which are being addressed accordingly under FAR Case 2009–016.

VI. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary because the statutory authority provided under 10 U.S.C. 2323 has expired; necessitating the removal of the law's implementing regulations in the DFARS. So long as this implementing language remains in the DFARS, there is a high risk that a DoD contracting officer will inadvertently attempt to execute a contractual action based on an expired legal authority. So as to avoid this situation, the DFARS changes described herein must be made as soon as possible. However, pursuant to 41 U.S.C. 1707 and FAR 1.501–3(b), DoD will consider public comments received in response to this interim rule in the formation of the final rule.

List of Subjects in 48 CFR Parts 205, 206, 215, 219, 226, 232, 235, 252, and Appendix I to Chapter 2

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 205, 206, 215, 219, 226, 232, 235, 252, and Appendix I to Chapter 2 are amended as follows:

■ 1. The authority citation for 48 CFR parts 205, 206, 215, 219, 226, 232, 235, 252, and Appendix I to chapter 2 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 205—PUBLICIZING CONTRACT ACTIONS

■ 2. Amend section 205.207 by revising paragraph (d) to read as follows:

205.207 Preparation and transmittal of synopses.

* * * * *

(d) For special notices for small business events, follow the procedures at PGI 205.207(d).

PART 206—COMPETITION REQUIREMENTS

206.203 [Removed]

■ 3. Remove section 206.203.

PART 215—CONTRACTING BY NEGOTIATION

■ 4. Amend section 215.304 by revising paragraph (c)(i) to read as follows:

215.304 Evaluation factors and significant subfactors.

(c)(i) In acquisitions that require use of the clause at FAR 52.219–9, Small Business Subcontracting Plan, other than those based on the lowest price technically acceptable source selection process (see FAR 15.101–2), the extent of participation of small businesses (to include service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns) in performance of the contract shall be addressed in source selection. The contracting officer shall evaluate the extent to which offerors identify and commit to small business performance of the contract, whether as a joint venture, teaming arrangement, or subcontractor.

(A) See PGI 215.304(c)(i)(A) for examples of evaluation factors.

(B) Proposals addressing the extent of small business performance shall be separate from subcontracting plans

submitted pursuant to the clause at FAR 52.219–9 and shall be structured to allow for consideration of offers from small businesses.

(C) When an evaluation assesses the extent that small businesses are specifically identified in proposals, the small businesses considered in the evaluation shall be listed in any subcontracting plan submitted pursuant to FAR 52.219–9 to facilitate compliance with 252.219–7003(e).

* * * * *

PART 219—SMALL BUSINESS PROGRAMS

219.000 [Removed]

■ 5. Remove section 219.000.

219.001 [Removed]

■ 6. Remove section 219.001.

219.201 [Amended]

■ 7. Amend section 219.201 by removing paragraph (f).

219.202–1 [Amended]

■ 8. Amend section 219.202–1 by removing ''PGI 205.207(d)(ii)'' and adding ''PGI 205.207(d)'' in its place.

219.202–5 [Removed]

■ 9. Remove section 219.202–5.

219.502–3 [Removed]

■ 10. Remove section 219.502–3.

219.703 [Amended]

■ 11. Amend section 219.703 by removing paragraphs (a)(2)(A) and (B).

219.704 [Amended]

■ 12. Amend section 219.704 by—

■ a. Removing paragraph (1); and

■ b. Redsignating paragraph (2) as paragraph (1), and paragraph (3) as paragraph (2), respectively.

■ 13. Revise section 219.705–4 to read as follows:

219.705–4 Reviewing the subcontracting plan.

(d) Challenge any subcontracting plan that does not contain positive goals. A small disadvantaged business goal of less than five percent must be approved one level above the contracting officer.

Subpart 219.11 [Removed]

■ 14. Remove subpart 219.11, consisting of sections 219.1101 and 219.1102.

Subpart 219.12 [Removed]

■ 15. Remove subpart 219.12, consisting of sections 219.1203 and 219.1204.

PART 226—OTHER SOCIOECONOMIC PROGRAMS

Subpart 226.3 [Removed]

■ 16. Remove subpart 226.3, consisting of sections 226.370 and 226.370–1 through 226.370–9.

PART 232—CONTRACT FINANCING

■ 17. Revise section 232.501–1 to read as follows:

232.501–1 Customary progress payment rates.

(a) The customary progress payment rates for DoD contracts, including contracts that contain foreign military sales (FMS) requirements, are 80 percent for large business concerns and 90 percent for small business concerns.

232.502–1 [Removed]

■ 18. Remove section 232.502–1.

232.502–4–70(b) [Amended]

■ 19. Amend section 232.502–4–70(b) to remove the phrase ''or small disadvantaged business''.

PART 235—RESEARCH AND DEVELOPMENT CONTRACTING

235.016 [Removed]

■ 20. Remove section 235.016.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 21. Amend section 252.219–7003 by—

■ a. Removing the clause date ''(AUG 2012)'' and adding ''(OCT 2014)'' in its place;

■ b. Revising paragraph (a);

■ c. Removing paragraphs (b) and (c);

■ d. Redesignating paragraph (d) as paragraph (b);

■ e. Redesignating paragraphs (e) through (h) as (c) through (f), respectively;

■ f. In the newly redesignated paragraph (c) removing ''subcontracts awarded'' and adding ''subcontracts awarded to'' in its place;

■ g. In the newly redesignated paragraph (f)—

■ i. In paragraph (f)(2)(i), removing ''(h)(1)(i)'' and adding ''(f)(1)(i)'' in its place;

■ ii. In paragraph (f)(2)(ii), removing ''(h)(2)(iii)'' and adding ''(f)(2)(iii)'' in its place; and

■ iii. Removing paragraphs (f)(2)(iv) and (v).

■ h. Revising the Alternate I clause.

The revisions read as follows:

252.219–7003 Small Business Subcontracting Plan (DoD Contracts).

* * * * *

(a) Definition. Summary Subcontract Report (SSR) Coordinator, as used in this clause, means the individual at the department or agency level who is registered in eSRS and is responsible for acknowledging receipt or rejecting SSRs in eSRS for the department or agency.

* * * * *

Alternate I (OCT 2014)

As prescribed in 219.708(b)(1)(A)(2), substitute the following paragraph (f)(1)(i) for (f)(1)(i) in the basic clause:

(f)(1)(i) The Standard Form 294 Subcontracting Report for Individual Contracts shall be submitted in accordance with the instructions on that form; paragraph (f)(2)(i) is inapplicable.

■ 22. Section 252.219–7004 is amended by—

■ a. Removing the clause date ''(JAN 2011)'' and adding ''(OCT 2014)'' in its place;

■ b. Revising paragraph (d) introductory text;

■ c. Removing paragraph (e); and

■ d. Redesignating paragraphs (f) and (g) as paragraphs (e) and (f), respectively.

The revision reads as follows:

252.219–7004 Small Business Subcontracting Plan (Test Program).

* * * * *

(d) The Contractor shall submit SSRs using eSRS at *http://www.esrs.gov.* The reports shall provide information on subcontract awards to small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns. Purchases from a corporation, company, or subdivision that is an affiliate of the prime Contractor or subcontractor are not included in these reports. Subcontract award data reported by prime contractors and subcontractors shall be limited to awards made to their immediate next-tier subcontractors. Credit cannot be taken for awards made to lower-tier subcontractors unless the Contractor or subcontractor has been designated to receive a small business or small disadvantaged business credit from a member firm of the Alaska Native—Corporations or an Indian tribe. Only subcontracts involving performance in the U.S. or its outlying areas should be included in these reports.

* * * * *

252.226–7000 [Removed]

■ 23. Remove section 252.226–7000.

■ 24. Revise section 252.232–7004 to read as follows:

252.232–7004 DoD Progress Payment Rates.

As prescribed in 232.502–4–70(b), use the following clause:

DOD PROGRESS PAYMENT RATES (OCT 2014)

If the Contractor is a small business concern, the Progress Payments clause of this contract is modified to change each mention of the progress payment rate and liquidations rate (excepting paragraph (k), Limitations on Undefinitized Contract Actions) to 90 percent.

(End of clause)

■ 25. Amend Appendix I to Chapter 2 by:

■ a. Revising section I–101.5(a.)

■ b. Amending section I–112.1 by removing paragraph (c).

The revision reads as follows:

Appendix I to Chapter 2—Policy and Procedures for the DoD Pilot Mentor-Protege Program

* * * * *

I–101.5 * * *

(a) An SDB concern as defined in 13 CFR 124.1002;

* * * * *

[FR Doc. 2014–24225 Filed 10–10–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulation System

48 CFR Part 247

RIN 0750–AI38

Defense Federal Acquisition Regulation: Ocean Transportation by U.S.-Flag Vessels (DFARS Case 2014–D012)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to remove text regarding contracting officer responsibilities, when purchasing ocean transportation services, that are procedural in nature.

DATES: *Effective* October 14, 2014.

FOR FURTHER INFORMATION CONTACT: Ms. Veronica Fallon, telephone 571–372–6098.

SUPPLEMENTARY INFORMATION:

I. Discussion

DoD is revising DFARS 247.572 and 247.573 to include a statement of delegated authority and to remove guidance that is internal to DoD concerning procedures contracting officers must follow when purchasing ocean transportation services. The internal DoD guidance removed from DFARS will be addressed in revised DFARS Procedures, Guidance and Information (PGI) 247.573.

II. Publication of This Final Rule for Public Comment Is Not Required by Statute

''Publication of proposed regulations,'' 41 U.S.C. 1707, is the statute which applies to the publication of the Federal Acquisition Regulation. Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because the change is not substantive and only modifies the internal operating procedures of DoD.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives, and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). EO 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, or harmonizing rules, and of promoting flexibility. This is not a significant regulatory action, and therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant DFARS revision within the meaning of FAR 1.501–1, and 41 U.S.C. 1707 does not require publication for public comment.

V. Paperwork Reduction Act

This rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Part 247

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR part 247 is amended as follows:

PART 247—TRANSPORTATION

■ 1. The authority citation for 48 CFR part 247 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

■ 2. Section 247.572 paragraph (a) is revised to read as follows:

247.572 Policy.

(a) In accordance with 10 U.S.C. 2631(a), DoD contractors shall transport supplies, as defined in the clause at 252.247–7023, Transportation of Supplies by Sea, exclusively on U.S.-flag vessels unless—

(1) Those vessels are not available;

(2) The proposed charges to the Government are higher than charges to private persons for the transportation of like goods; or

(3) The proposed freight charges are excessive or unreasonable.

* * * * *

■ 3. Section 247.573 heading is revised and new text added to read as follows:

247.573 General.

(a) *Delegated authority.* Pursuant to 10 U.S.C. 2631(a) and Secretary of Defense Memorandum dated February 7, 2012, (see PGI 245.573) the authority to make determinations of excessive ocean liner rates and excessive charter rates is delegated to—

(1) The Commander, United States Transportation Command, for excessive ocean liner rate determinations; and

(2) The Secretary of the Navy for excessive charter rate determinations.

(b) *Procedures.* (1) Contracting officers shall follow the procedures at PGI 247.573(b)(1) when purchase of ocean transportation services is incidental to a contract for supplies, services, or construction.

(2) Contracting officers shall follow the procedures at PGI 247.573(b)(2) when direct purchase of ocean transportation services is the principal purpose of the contract.

(3) Agency and department procedures relating to annual reporting requirements of information received

from offerors in response to solicitation provision 252.247–7026, Evaluation Preference for Use of Domestic Shipyards—Applicable to Acquisition of Carriage by Vessel for DoD Cargo in the Coastwise of Noncontiguous Trade, are found at PGI 247.573(b)(3).

(4) Procedures are provided at PGI 247.573(b)(4) to accomplish security background checks pursuant to clause 252.247–7027, Riding Gang Member Requirements.

247.573–1, 247.573–2 and 247.573–3 [Removed]

■ 4. Remove sections 247.573–1, 247.573–2, and 247.573–3.

247.574 [Amended]

■ 5. Section 247.574 is amended by—

■ a. In paragraph (e), removing the last two sentences; and

■ b. In paragraph (f), removing the last sentence.

[FR Doc. 2014–24401 Filed 10–10–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 252

RIN 0750–AI30

Defense Federal Acquisition Regulation Supplement: Flowdown of Specialty Metals Restrictions (DFARS Case 2014–D011)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to clarify the flowdown requirements for the DFARS clause entitled ''Restriction on Acquisition of Certain Articles Containing Specialty Metals.''

DATES: *Effective* October 14, 2014.

FOR FURTHER INFORMATION CONTACT: Ms. Amy G. Williams, telephone 571–372–6106.

SUPPLEMENTARY INFORMATION:

I. Background

DoD published a proposed rule in the **Federal Register** at 79 FR 35507 on June 23, 2014, to clarify the flowdown requirements for the DFARS clause entitled ''Restriction on Acquisition of Certain Articles Containing Specialty Metals.'' In order to prevent misinterpretation of the current flowdown requirement to insert the ''substance of the clause'' in subcontracts, the flowdown requirement has been rewritten to specify that the only modifications allowed when flowing down the clause are as follows:

- Exclude and reserve paragraph (d) of the clause.
- Modify paragraph (c)(6) of the clause only as necessary to facilitate management of the allowance for up to 2 percent otherwise noncompliant specialty metal content in the end product, while recognizing that the minimal content exception does not apply to specialty metals contained in high-performance magnets.
- Not further alter the clause, other than to identify the appropriate parties.

One respondent submitted public comments in response to the proposed rule.

II. Discussion and Analysis

DoD reviewed the public comments in the development of the final rule. No changes were made to the rule as a result of those comments.

Comment: The respondent noted that the proposed clarification may well be necessary and welcomed DoD's willingness to minimize misinterpretations of laws and regulations.

Response: Noted.

Comment: The respondent expressed concern about the number of national security waivers issued to accept noncompliant specialty metals from China and other noncompliant sources.

Response: The granting of national security waivers is outside the scope of this case.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

A final regulatory flexibility analysis has been prepared consistent with the Regulatory Flexibility Act, 5 U.S.C. 604, and is summarized as follows:

The reason for issuance of this rule is to clarify the flowdown requirements for DFARS clause 252.225–7009, Restriction on Acquisition of Certain Articles Containing Specialty Metals. The objective of the rule is to more fully implement the requirements of 10 U.S.C. 2533b, which restricts the acquisition of specialty metals not melted in the United States, its outlying areas, or a qualifying country, in order to strengthen the United States industrial base.

There were no significant issues raised by the public comments in response to the initial regulatory flexibility analysis.

This rule applies to DoD contractors and subcontractors that are providing aircraft, missile or space systems, ships, tank or automotive items, weapon systems, ammunition, or components thereof that contain specialty metals.

Based on Fiscal Year 2013 data in the Federal Procurement Data System (FPDS), DoD awarded 1,566 contracts that exceeded the simplified acquisition threshold for aircraft, missile or space systems, ships, tank or automotive items, weapon systems, ammunition, or components thereof. Of those awards, 642 were to 533 unique small business entities (83%). FPDS does not contain data on subcontracts. If we estimate an average of 20 subcontracts per contract for items containing specialty metals, and that 35 percent of those subcontracts are awarded to small businesses, 2 second-tier subcontracts with small business entities per subcontract with a small business entity, then this rule may apply to approximately 27,828 small business entities subject to DFARS 52.225–7009.

(1,566 contracts × 2031,320 subcontracts × .3510,962 1st tier subcontracts with small entities × 2 = 21,924 second-tier subcontracts with small entities. Total small business entities = .83(642 + 10,962 + 21,924) = 27,828)

There are no reporting or recordkeeping requirements associated with this rule. With some exceptions, the rule requires contractors to provide certain end products containing specialty metals melted or produced in the United States, its outlying areas, or a qualifying country. However, end items may contain a minimal amount of otherwise noncompliant specialty metals, if the total weight of such noncompliant metals does not exceed 2 percent of the total of all specialty

metals in the end item. Therefore, the contractor has some discretion in flowing down the requirement to subcontractors to the extent necessary to ensure compliance of the end products the contractor will deliver to the Government.

This rule does not impose any significant new burdens on small entities, because it only clarifies what was intended by the conventional statement to insert ''the substance of the clause'' in subcontracts for items containing specialty metals.

V. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Part 252

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR part 252 is amended as follows:

PART 252—SOLICITATION PROVISIONS AND CONTACT CLAUSES

■ 1. The authority citation for 48 CFR part 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

■ 2. Amend section 252.225–7009 by—

■ a. Removing the clause date ''(JUN 2013)'' and adding ''(OCT 2014)'' in its place; and

■ b. Revising paragraph (e) to read as follows:

252.225–7009 Restriction on Acquisition of Certain Articles Containing Specialty Metals.

* * * * *

(e) *Subcontracts.* (1) The Contractor shall exclude and reserve paragraph (d) and this paragraph (e)(1) when flowing down this clause to subcontracts.

(2) The Contractor shall insert paragraphs (a) through (c) and this paragraph (e)(2) of this clause in subcontracts, including subcontracts for commercial items, that are for items containing specialty metals to ensure compliance of the end products that the Contractor will deliver to the Government. When inserting this clause in subcontracts, the Contractor shall—

(i) Modify paragraph (c)(6) of this clause only as necessary to facilitate management of the minimal content exception at the prime contract level. The minimal content exception does not apply to specialty metals contained in high-performance magnets; and

(ii) Not further alter the clause other than to identify the appropriate parties.

[FR Doc. 2014–24402 Filed 10–10–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 101206604–1758–02]

RIN 0648–X100714b

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Trip Limit Reduction

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

ACTION: Temporary rule; trip limit reduction.

SUMMARY: NMFS reduces the trip limit for the commercial sector of king mackerel in the eastern zone of the Gulf of Mexico (Gulf) in the Florida west coast northern subzone to 500 lb (227 kg) of king mackerel per day in or from the exclusive economic zone (EEZ). This trip limit reduction is necessary to protect the Gulf king mackerel resource.

DATES: This rule is effective 12:01 a.m., local time, October 13, 2014, through June 30, 2015, unless changed by further notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Susan Gerhart, telephone: 727–824–5305, email: *susan.gerhart@noaa.gov.*

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, and cobia) is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The Gulf migratory group king mackerel is divided into western and eastern zones. On April 27, 2000, NMFS implemented the final rule (65 FR 16336, March 28, 2000) that further divided the Gulf eastern zone's Florida west coast subzone into northern and southern subzones, and established their separate quotas. The December 29, 2011 (76 FR 82058), final rule specified the quota for the Florida west coast northern subzone at 178,848 lb (81,124 kg) (50 CFR 622.384(b)(1)(i)(B)(*2*)).

The regulations at 50 CFR 622.385(a)(2)(ii)(B)(*2*), provide that when 75 percent of the Florida west coast northern subzone's quota has been harvested until a closure of the subzone has been effected or the fishing year ends, king mackerel in or from the EEZ may be possessed on board or landed from a permitted vessel in amounts not exceeding 500 lb (227 kg) per day.

NMFS has projected that 75 percent of the quota for Gulf migratory group king mackerel from the Florida west coast northern subzone has been reached. Accordingly, a 500-lb (227-kg) trip limit applies to vessels with a commercial permit for king mackerel that possess or land king mackerel in or from the EEZ in the Florida west coast northern subzone effective 12:01 a.m., local time, October 13, 2014. The 500-lb (227-kg) trip limit will remain in effect until the subzone closes or until the end of the current fishing year (June 30, 2015), whichever occurs first.

The Florida west coast northern subzone is that part of the EEZ between 26°19.8' N. latitude (a line directly west from the boundary between Lee and Collier Counties, FL) and 87°31.1' W. longitude (a line directly south from the state boundary of Alabama and Florida).

Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of Gulf migratory group king mackerel and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.385(a)(2)(ii)(B) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available. The Assistant Administrator for Fisheries, NOAA, (AA), finds good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such prior notice and opportunity for public comment is unnecessary and contrary to the public

interest. Such procedures would be unnecessary because the rule implementing the trip limit reductions when 75 percent of the quota has been or projected to be reached has already been subject to notice and comment, and all that remains is to notify the public of the trip limit reduction. Additionally, allowing prior notice and opportunity for public comment is contrary to the public interest because of the need to immediately implement this action to protect the king mackerel stock because the capacity of the fishing fleet allows for rapid harvest of the quota. Prior notice and opportunity for public comment would require time and would potentially result in a harvest well in excess of the established quota.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in effectiveness of this action under 5 U.S.C. 553(d)(3).

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

Dated: October 8, 2014.

James P. Burgess,

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

[FR Doc. 2014–24358 Filed 10–8–14; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 79, No. 198
Tuesday, October 14, 2014

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

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

[NPS–CUVA–13806; PXXCUVA0012]

RIN 1024–AE18

Special Regulations; Areas of the National Park System, Cuyahoga Valley National Park, Bicycling

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: Through the preparation of a Final Trail Management Plan, the National Park Service proposed to expand recreational bicycling opportunities in Cuyahoga Valley National Park. The Final Trail Management Plan evaluated approximately 10 miles of new, single-track, off-road bicycle trails in undeveloped regions of the park; 3.1 miles of new cross-country trails; and 1.35 miles of new connector, multi-use trails for bicycle use. The National Park Service general regulation pertaining to bicycles requires promulgation of a special regulation to authorize bicycle use on new trails constructed outside of developed areas.

DATES: Comments must be received by December 15, 2014.

ADDRESSES: You may submit comments, identified by the Regulation Identifier Number (RIN) 1024–AE18, by any of the following methods:

- *Electronically:* Follow the instructions for submitting comments online at the Federal rulemaking portal: *http://www.regulations.gov.*
- *Hard copy:* Mail or hand deliver to: Superintendent, Cuyahoga Valley National Park, 15610 Vaughn Road, Brecksville, OH 44141.

We will only accept comments as noted above. We will not accept comments via email, fax, or any other methods.

FOR FURTHER INFORMATION CONTACT: Chris Ryan, Chief Ranger, Cuyahoga Valley National Park, 440–546–5940.

SUPPLEMENTARY INFORMATION:

Background

Legislation and Purposes of Cuyahoga Valley National Park

On December 27, 1974, President Gerald Ford signed Public Law 93–555 creating Cuyahoga Valley National Recreation Area for the purpose of ''preserving and protecting for public use and enjoyment, the historic, scenic, natural, and recreational values of the Cuyahoga River and the adjacent lands of the Cuyahoga Valley and for the purpose of providing for the maintenance of needed recreational open space necessary to the urban environment.'' In 2000, Congress redesignated Cuyahoga Valley National Recreation Area as Cuyahoga Valley National Park (CVNP or Park) with the passage of the Department of the Interior and Related Agencies Appropriations Act (Pub. L. 106–291).

Cuyahoga Valley National Park is an important national resource within a predominantly metropolitan region, where the Park is visited by approximately 2,500,000 people annually. Located in Cuyahoga and Summit Counties, Ohio, and situated between the cities of Cleveland and Akron, CVNP includes approximately 30,000 acres of land, with 18,000 acres under the ownership of the National Park Service (NPS). The Park contains significant resources, including the Cuyahoga River Valley and its associated ecological functions, rich cultural resources and landscapes, and a variety of recreational and outdoor use opportunities.

In the 1930's the Cuyahoga Valley provided a respite for urban dwellers from Cleveland and Akron. During this time period, private estates in the Cuyahoga Valley had established trails and carriage roads for their private recreational enjoyment, including places like the Old Carriage trail area and the Wetmore trails. Over the years, these lands and other park lands were incorporated into the Cleveland Metroparks and Summit Metro Parks that are now part of what is designated as CVNP. Two significant trail corridors accelerated the recreational connections to the Valley: the conversion of an abandoned railroad bed to the Bike and Hike Trail in 1970 and the construction of the Towpath Trail in the late 1980's and early 1990's. Many of the trails from the earliest days of Cuyahoga Valley as a recreation destination remain today for visitors to enjoy and share the experience that has remained for over a century.

The Park's General Management Plan/Environmental Impact Statement (GMP) confirms the purpose, significance, and special mandates of the Park. According to the Park's GMP, one of the significant purposes of CVNP is to ''[preserve] a landscape reminiscent of simpler times, a place where recreation can be a gradual process of perceiving and appreciating the roots of our contemporary existence.'' The GMP also provides direction for park management during land acquisition and provides a framework for NPS managers to use when making decisions about how to conserve the Park's resources and manage visitor uses in the Park. Resource preservation for compatible recreational use is the overall concept for management and development of the Park.

Current Status of Trails and Associated Facilities

Regional recreational trail networks have blossomed across Northeastern Ohio, increasing demands for additional trail connections, new trail uses, and expanded recreational opportunities. Today, the Park contains approximately 175 miles of trails, approximately 97 miles of which are managed by the NPS. The NPS trail system consists of three long-distance trails—the Towpath Trail, Buckeye Trail and Valley Bridle Trail—and eleven smaller localized trail systems with separate access points. The park currently has one limited community connector through the Old Carriage Trail connector trail in the northern portion of the park and has some portions of the primary roadways improved for bike use. Metropark partners provide five additional trail systems within their units inside CVNP, and another trail, the Buckeye Trail, is managed by the Buckeye Trail Association. Currently, the Park provides access to all its trails through 25 trailheads and from the four primary Visitor Contact Centers.

These trails provide for various uses, including 34 miles for hiking and trail running only, 22 miles for multipurpose biking and hiking, 17 miles for cross-country skiing, and 35 miles for equestrian riding. Nonetheless, requests

for new trail uses to meet the needs of growing user groups have become more frequent in recent years. Technologies exist today (such as personal mobility devices) that provide new means to enjoy trails. Walk-in camping is a desired amenity that recently was approved for the first time in the park. Trail running is increasing in popularity, and biking has grown into a major recreational activity within the Cuyahoga Valley.

2009 Comprehensive Trails Management Plan

In 1985, the Park's first Trail Management Plan was developed as the primary document to initiate many trails in the Park. The 1985 Trail Plan identified 105 miles of existing trails and proposed and evaluated 115 miles of new trail. An additional 46 miles of trails were identified for future consideration but were not evaluated in the 1985 Trail Plan. In 2009, CVNP initiated the development of a Comprehensive Trails Management Plan/Environmental Impact Statement (2009 Plan/EIS) to guide the expansion, restoration, management, operations, and use of the trail system and its associated amenities over the next 15 years, while keeping with the purpose, mission, and significance of the Park. Some trails proposed in the 1985 Trail Plan but not yet implemented were considered as part of the 2009 Plan/EIS.

The goals of the 2009 Plan/EIS were to develop a trail network that:

- Provides experiences for a variety of trail users;
- shares the historic, scenic, natural and recreational significance of the Park;
- minimizes impacts to the park's historic, scenic, natural and recreational resources;
- can be sustained; and
- engages cooperative partnerships that contribute to the success of the Park's trail network.

The Park conducted internal scoping with Park staff, regional park district partners, and the Conservancy for Cuyahoga Valley National Park and external scoping, including the mailing and distribution of four separate newsletters, nine public meetings, and a 60-day public comment period. As a result of this process, eight alternatives, including a ''No Action Alternative,'' for the Park's Trail Management Plan were developed.

The 2009 Plan/EIS was completed in 2013. The Record of Decision (ROD), signed by the NPS Midwest Regional Director on August 8, 2013, identifies Alternative 5 as the Preferred Alternative for implementation. Under this Alternative, approximately 14.5 miles of new bicycle trails could be constructed in undeveloped regions of the park and authorized by special regulations for bicycle use. The Alternative also considers that approximately eight additional miles of existing trail or roadways could be authorized for bicycle use in the future. The construction and authorization of all trails for bicycle use will be conditional on funding and the implementation of the Sustainable Trail Guidelines, described in detail in Appendix C of the 2009 Plan/EIS.

Due to the age and conceptual nature of the 1977 GMP, a 2013 Foundation Plan was developed for the Park that identifies active recreation and implementation of the 2009 Plan/EIS as an objective to meets its goals. The 2009 Plan/EIS and ROD may be viewed online at *http://parkplanning.nps.gov/cuyahogatrailplan.*

Construction and Management of the Bicycle Trails

Many of the proposed bicycle trails have not yet been built and would not be immediately open for use. An Implementation Strategy Plan is under development to prioritize trail projects and assemble the additional planning, funding, staffing, project management, and monitoring that will be needed to accomplish them successfully. The Trails Forever Program, administered by the Park in partnership with the Conservancy for Cuyahoga Valley National Park, will be a critical component in the development, implementation, and sustainability of the trails in the Park. The Trails Forever Program will advance its role in the coming years as a primary component for Trail Plan funding and will work with Park Staff to annually prioritize trail projects. As part of the initial implementation phase of the Trail Plan, the Park will evaluate the Trails Forever program for staffing, program coordination, and program direction to ensure its future success and its alignment with the goals of the Trail Plan.

Volunteers for trail work at the Park will continue to be a vital component of trail stewardship in the Park. Management and coordination of volunteers will continue through the joint Volunteer Program office of the Park and the Conservancy for Cuyahoga Valley National Park. The use of Park staff and the existing volunteer trail groups to monitor and mitigate the environmental impacts of bicycle use on these trails will ensure that the trails are maintained in good condition and that any issues of concern are immediately brought to the attention of Park management. In addition, the Park will continue to update its Sign Plan and upgrade park and trail signs accordingly. As trail signs are updated, trail accessibility information for each trail will be made available to the public.

Proposed Rule

The proposed rule complies with the general requirement of 36 CFR 4.30, which requires a special regulation to designate new bicycle routes off park roads and outside of developed areas. To provide users with additional recreational bicycling opportunities, this proposed rule would authorize the Superintendent to designate any of the following trails as routes for bicycle use:

Trail name	Approximate length	Surface type	Usage type	Description
East Rim	10 miles	Natural surface	Off-road, single-track bicycle.	Approximately ten miles of a loop system trail of varying distances along the east central portion of the Park, north of Old Akron-Peninsula Road and south of Brandywine Falls trailhead, near the Krecjic Restoration Site.
High Meadow Trail.	3.1 miles	Natural surface	Cross-country	Located west of Blue Hen Falls, near the existing Kurowski fields and linking to the existing Buckeye Trail.
Old Carriage Connector Trail.	0.35 miles	Crushed gravel	Multi-purpose	Extension of existing Old Carriage Road connector to existing Bike and Hike Trail.

Trail name	Approximate length	Surface type	Usage type	Description
Highland Connector Trail.	1.0 miles	Crushed gravel	Multi-purpose	New connector from existing Bike and Hike Trail to existing Towpath Trail on south side of Highland Road, extending on the north side of Highland Road from Towpath to the Vaughn overflow parking area.

After trail construction is completed, but before a trail is designated for bicycle use, the Superintendent would be required to issue a written determination that the route is open for public use and that such bicycle use is consistent with the 2013 park plan for bicycle use, including implementation of the park's sustainable trail guidelines with monitoring and mitigation through adaptive management. This would ensure that bicycle use remains consistent with the protection of the park area's natural, scenic and aesthetic values, safety considerations and management objectives, and will not disturb wildlife or park resources. No additional NEPA compliance would be necessary beyond the 2013 EIS/ROD, and the written determination would be added into the park's administrative file for the trail project. The Superintendent would provide notice of such designation through one or more of the public notice procedures outlined in 36 CFR 1.7.

The proposed rule would also authorize the Superintendent to impose closures or restrictions for bicycle use on designated routes after taking into consideration public health and safety, resource protection, and other management activities and objectives, provided public notice is given under 36 CFR 1.7.

Compliance With Other Laws, Executive Orders, and Department Policy

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget 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 E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The 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. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Regulatory Flexibility Act (RFA)

This rule will not have a significant economic effect on a substantial number of small entities under the RFA (5 U.S.C. 601 *et seq.*). This certification is based on information contained in the report titled, ''Cost-Benefit and Regulatory Flexibility Analyses: Proposed Regulations to Designate Bicycle Routes in Cuyahoga Valley National Park'' that is available for review at *http://parkplanning.nps.gov/cuyahogatrailplan.*

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the SBREFA. This rule:

a. Does not have an annual effect on the economy of $100 million or more.

b. Would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

The current and anticipated users of bicycle routes in CUVA are predominantly individuals engaged in recreational activities. There are no businesses in the surrounding area that would be adversely affected by bicycle use of these trails. Although the park does not have any bicycle rental concessioners, there is a bicycle rental facility adjacent to the park that provides bike rentals that are used within CUVA.

Unfunded Mandates Reform Act (UMRA)

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector. A statement containing the information required by the UMRA (2 U.S.C. 1531 *et seq.*) is not required.

Takings (Executive Order 12630)

This rule does not affect a taking of private property or otherwise have taking implications under Executive Order 12630. A taking implications assessment is not required because this rule will not deny any private property owner of beneficial uses of their land, nor will it significantly reduce their land's value.

Federalism (Executive Order 13132)

Under the criteria in section 1 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a Federalism summary impact statement. A Federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988)

This rule complies with the requirements of Executive Order 12988. Specifically this rule:

(a) Meets the in the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Consultation With Indian Tribes (Executive Order 13175 and Department Policy)

The Department of the Interior strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian Tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175 and have determined that it has no substantial direct effects on federally recognized Indian tribes and that consultation under the Department's

tribal consultation policy is not required. Affiliated Native American tribes were contacted by letters sent in June, 2012 and May, 2013 to solicit any interests or concerns with the proposed action. No responses were received by the Park.

Paperwork Reduction Act (PRA)

This rule does not contain information collection requirements, and a submission to the Office of Management and Budget under the PRA is not required.

National Environmental Policy Act (NEPA)

We have prepared an environmental impact statement and have determined that this rule will not have a significant effect on the quality of the human environment under the NEPA of 1969. The Plan/EIS for the Park and ROD that included an evaluation of bicycling within the proposed areas may be viewed online at *http://parkplanning.nps.gov/cuyahogatrailplan.*

Effects on the Energy Supply (Executive Order 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. A statement of Energy Effects is not required.

Clarity of This Regulation

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(a) Be logically organized;

(b) Use the active voice to address readers directly;

(c) Use clear language rather than jargon;

(d) Be divided into short sections and sentences; and

(e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that you find unclear, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

Drafting Information

The primary authors of this regulation are Lynn Garrity, Outdoor Recreation Planner, Cuyahoga Valley National Park, and C. Rose Wilkinson and A.J. North, NPS Regulations Program, Washington, DC.

Public Participation

It is the policy of NPS, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested parties may submit written comments, suggestions, or objections regarding this proposed rule only as noted at the beginning of this rule. We will not accept comments by fax, email, or any other methods.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your 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.

List of Subjects in 36 CFR Part 7

National Parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, the NPS proposes to amend 36 CFR part 7 as set forth below:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

■ 1. The authority for Part 7 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 462(k); Sec. 7.96 also issued under 36 U.S.C. 501–511, D.C. Code 10–137 (2001) and D.C. Code 50–2201 (2001).

■ 2. Amend § 7.17 to revise the section heading and add paragraph (b) to read as follows:

§ 7.17 Cuyahoga Valley National Park.

(a) * * *

(b) *Bicycles.* (1) The Superintendent may designate routes or portions of routes for bicycle use on the following trails:

(i) East Rim (approximately 10 miles);

(ii) High Meadow Trail (approximately 3.1 miles);

(iii) Old Carriage Connector Trail (approximately 0.35 miles); and

(iv) Highland Connector Trail (approximately 1.0 mile).

(2) After trail construction is complete:

(i) To designate a bicycle route, the Superintendent must make a written determination that:

(A) The route is open for public use; and

(B) Bicycle use is consistent with the protection of the park area's natural, scenic and aesthetic values, safety considerations, and management objectives, and will not disturb wildlife or park resources.

(ii) The Superintendent will provide public notice of all such actions through one or more of the methods listed in § 1.7 of this chapter.

(3) The Superintendent may open or close designated routes, or portions thereof, or impose conditions or restrictions for bicycle use after taking into consideration public health and safety, natural and cultural resource protection, and other management activities and objectives.

(i) The Superintendent will provide public notice of all such actions through one or more of the methods listed in § 1.7 of this chapter.

(ii) Violating a closure, condition, or restriction is prohibited.

* * * * *

Dated: September 26, 2014.

Michael Bean,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2014–24324 Filed 10–10–14; 8:45 am]

BILLING CODE 4310–EJ–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 328

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 110, 112 116, 117, 122, 230, 232, 300, 302, and 401

[EPA–HQ–OW–2011–0880; FRL–9917–90–OW]

RIN 2040–AF30

Extension of Comment Period for the Definition of ''Waters of the United States'' Under the Clean Water Act Proposed Rule and Notice of Availability

AGENCY: U.S. Army Corps of Engineers (Corps), Department of the Army, Department of Defense; and Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of comment period.

SUMMARY: The U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (Corps) are extending the comment period for the proposed rule ''Definition of 'Waters of the United States' Under the Clean

Water Act'' published on April 21, 2014. The agencies are extending the comment period in response to stakeholder requests for an extension and to allow comments on new supporting materials.

DATES: Comments must be received on or before November 14, 2014. The comment period was scheduled to end on October 20, 2014.

ADDRESSES: Submit your comments, identified by Docket identification (ID) No. EPA–HQ–OW–2011–0880, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Email: ow-docket@epa.gov.*
- *Mail:* Water Docket, Environmental Protection Agency, Mail Code 2822T, 1200 Pennsylvania Ave. NW., Washington, DC 20460. Attention: Docket ID No. EPA–HQ–OW–2011–0880.
- *Hand Delivery:* EPA Docket Center, EPA West Room 3334, 1301 Constitution Ave. NW., Washington, DC 20004, Attention: Docket ID No. EPA–HQ–OW–2011–0880. Such deliveries are only accepted during the Docket Center's normal hours of operation. Special arrangements should be made for deliveries of boxed information by calling 202–566–2426.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OW–2011–0880. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disc you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about the EPA's public docket visit the Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available (e.g., CBI or other information whose disclosure is restricted by statute). Certain other materials, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Office of Water Docket Center, EPA/DC, EPA West, 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. The telephone number for the Public Reading Room is (202) 566–1744; the telephone number for the Office of Water Docket Center is (202) 566–2426.

FOR FURTHER INFORMATION CONTACT: Ms. Donna Downing, Office of Water (4502–T), Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number 202–566–2428; email address: *CWAwaters@epa.gov.* Ms. Stacey Jensen, Regulatory Community of Practice (CECW–CO–R), U.S. Army Corps of Engineers, 441 G Street NW., Washington, DC 20314; telephone number 202–761–5856; email address: *USACE_CWA_Rule@usace.army.mil.*

SUPPLEMENTARY INFORMATION: On April 21, 2014, EPA published the proposed rule ''Definition of 'Waters of the United States' Under the Clean Water Act'' in the **Federal Register** (79 FR 22188). The previous comment deadline was October 20, 2014. The EPA and Corps have received requests for an extension to the comment deadline for this proposed rule.

This action extends the comment period until November 14, 2014. Note that additional information is available in the public docket, EPA–HQ–OW–2011–0880, since publication of the April 21, 2014 proposed rule and a subsequent notice extending the public comment period (June 24, 2014; 79 FR 35712). The agencies also expect additional relevant materials from the Science Advisory Board before October 20, 2014, and will immediately place those materials in the docket when they become available. The agencies will publish a notice of availability at that time.

Dated: October 3, 2014.

Kenneth J. Kopocis,

Deputy Assistant Administrator, Environmental Protection Agency.

Dated: October 6, 2014.

Jo-Ellen Darcy,

Assistant Secretary of the Army (Civil Works), Department of the Army.

[FR Doc. 2014–24349 Filed 10–10–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[EPA–R02–OW–2014–0587, FRL–9917–51–Region–2]

Modification of the Designations of the Caribbean Ocean Dredged Material Disposal Sites (San Juan Harbor, PR; Yabucoa Harbor, PR; Ponce Harbor, PR; Mayaguez Harbor, PR; Arecibo Harbor, PR)

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to modify the designations for the five Ocean Dredged Material Disposal Sites (ODMDS) around Puerto Rico (San Juan Harbor, PR ODMDS; Yabucoa Harbor, PR ODMDS; Ponce Harbor, PR ODMDS; Mayaguez Harbor, PR ODMDS; Arecibo Harbor, PR ODMDS). Currently, each of the ODMDS is restricted to only allow disposal of dredged material from the specific harbor for which it is named. The proposed modification would remove the restriction that limits eligibility for disposal at each of the disposal sites based solely on the geographic origin of the dredged material. The proposed modifications to the site designations do not actually authorize the disposal of any particular dredged material at any site. All proposals to dispose of dredged material at any of the designated sites will continue to be subject to project—specific reviews and must still be demonstrated to satisfy the criteria for ocean dumping before any material is authorized for disposal. This action is necessary to provide long-term flexibility for management of any dredged material that may potentially be derived from maintenance, development, or emergency activities in areas outside those harbors currently

provided for in the designations. The proposed modifications to the site designations are for an indefinite period of time. Each ODMDS will continue to be monitored to ensure that significant unacceptable, adverse environmental impacts do not occur as a result of dredged material disposal at the site.

DATES: Comments must be received on or before November 13, 2014.

ADDRESSES: Submit your comments, identified by Docket No. EPA–R02–OW–2014–0587, by one of the following methods:

Federal e-Rulemaking Portal: http://www.regulations.gov; follow the online instruction for submitting comments.

- *Email:* Mr. Mark Reiss at *reiss.mark@epa.gov.*
- *Fax:* Mr. Mark Reiss, Dredging Sediment and Oceans Section (CWD) at fax number 212–637–3887.
- *Mail:* Mr. Mark Reiss, Dredging Sediment and Oceans Section (CWD), U.S. Environmental Protection Agency, Region 2, 290 Broadway, New York NY 10007.

Instructions: Direct your comments to Docket No. EPA–R02–OW–2014–0587. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Electronic comments must be submitted as an ASCII or Microsoft Word file avoiding the use of special characters and any form of encryption, and that are free of any defects or viruses. Comments will also be accepted on disks in Microsoft Word or ASCII file format sent or delivered to the address above. All comments and data in electronic form must be identified by the name, date and **Federal Register** citation of this notice. No confidential business information should be sent via email.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Dredging, Sediment and Oceans Section (CWD), U.S. Environmental Protection Agency, Region 2, 290 Broadway, New York NY 10007 or at the Caribbean Environmental Protection Division, U.S. Environmental Protection Agency, Region 2 City View Plaza II—Suite 7000 #48 Rd. 165 km 1.2. Guaynabo, PR 00968–8069. The file will be made available by appointment for public inspection between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below. If possible, please make the appointment at least two working days in advance of your visit.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Reiss, U.S. Environmental Protection Agency, Region, 290 Broadway, 24th Floor (CWD), New York, NY 10007–1866, telephone (212) 637–3799, electronic mail: *reiss.mark@epa.gov.*

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I. Potentially Affected Persons

Entities potentially regulated by this action are persons, organizations, or government bodies seeking to dispose of dredged material into Caribbean ocean waters, under the Marine Protection Research and Sanctuaries Act, 33 U.S.C. 1401 *et seq.* (hereinafter referred to as the MPRSA) and its implementing regulations. This proposed rule is expected to be primarily of relevance to (a) parties seeking permits from the U.S. Army Corps of Engineers to transport dredged material for the purpose of disposal into Caribbean ocean waters and (b) to the Corps itself for its own dredged material disposal projects. Potentially regulated categories and entities that may seek to use the Caribbean ODMDS may include:

Category	Examples of potentially regulated entities
Federal Government	U.S. Army Corps of Engineers Civil Works Projects, and Other Federal Agencies.
Industry and General Public	Port Authorities, Marinas and Harbors, Shipyards, and Marine Repair Facilities, Berth Owners.
State, local and tribal governments.	Governments owning and/or responsible for ports, harbors, and/or berths, Government agencies requiring disposal of dredged material associated with public works projects.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding the types of entities that could potentially be affected should the proposed rule become a final rule. To determine whether your organization is affected by this action, you should carefully consider whether your organization is subject to the requirement to obtain a MPRSA permit in accordance with the Purpose and Scope of 40 CFR 220.1, and you wish to use the sites subject to today's proposal. EPA notes that

nothing in this proposed rule alters the jurisdiction or authority of EPA or the types of entities regulated under the MPRSA. Questions regarding the applicability of this proposed rule to a particular entity should be directed to the contact person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

II. Background

Section 102(c) of the Marine Protection, Research, and Sanctuaries Act (MPRSA) of 1972, as amended, 33 U.S.C. 1401 *et seq.,* gives the Administrator of EPA the authority to designate sites where ocean disposal may be permitted. On October 1, 1986, the Administrator delegated the authority to designate ocean disposal sites to the Regional Administrator of the Region in which the sites are located. These proposed modifications are being made pursuant to that authority.

The ODMDS herein specified are located within Region 2; therefore, this action is being taken pursuant to the Regional Administrator's delegated authority. EPA's ocean dumping regulations (40 CFR 228.4(e)(1)) promulgated under the MPRSA require, among other things, that EPA designate ocean dumping sites (ODMDS) by promulgation of a site designation in 40 CFR Part 228. Designated ocean dumping sites are codified at 40 CFR 228.15. This rule proposes to modify the site designations for the five open water dredged material disposal sites around the Caribbean. These sites are located in ocean waters off Puerto Rico. Arecibo Harbor, PR ODMDS and San Juan Harbor, PR ODMDS are closest to shore, lying 1.5 nautical miles and 1.4 nautical miles north of the respective harbors for which they are named; all of the others are at least 4 nautical miles from the respective harbors for which they are named.

The site modifications are being proposed in this action to provide the Corps, Commonwealth of Puerto Rico, municipal, and private entities with greater long term flexibility in managing dredged materials outside the specific harbors currently provided for in the designations. The modifications would also allow for management of dredged materials associated with any eventual development, re-development or emergency (i.e., post-hurricane) needs in those areas. Each ODMDS will be subject to continuing site management and monitoring to ensure that unacceptable, adverse environmental impacts do not occur. The management of each ODMDS is further described in the Site Monitoring and Management Plans (SMMPs) for the sites (to date, SMMPs have been prepared for the Arecibo Harbor, PR, Yabucoa Harbor, PR, Ponce Harbor, PR, and San Juan Harbor, PR ODMDS; a SMMP will be prepared for the Mayaguez Harbor, PR ODMDS before it is used for dredged material disposal). This proposed rule is the only document being made available for public comment by EPA at this time. The modification of the designations is being proposed in accordance with 40 CFR 228.3(b) of the Ocean Dumping Regulations, which allows EPA to modify the use and designation of ocean dredged material disposal sites.

III. Proposed Action

EPA is publishing this Proposed Rule to propose the removal of the geographic restrictions on the origin of the dredged material that can be disposed from the designations of the San Juan Harbor, PR Ponce Harbor, PR, Yabucoa Harbor, PR, Mayaguez Harbor, PR and Arecibo Harbor, PR ODMDSs. The monitoring and management of requirements that will apply to each site are to be described in the SMMP prepared for the site before its use. Management and monitoring will be carried out by EPA Region 2 in conjunction with the Corps' Jacksonville District.

Modification of the designation of ocean disposal sites under 40 CFR part 228 is essentially a preliminary, planning measure. The practical effect of such a designation is only to require that if future ocean disposal activity is permitted and/or authorized (in the case of Corps projects) under 40 CFR Part 227, then such disposal should normally be consolidated at the designated sites (See 33 U.S.C. 1413(b).) Designation of an ocean disposal site does not authorize any actual disposal and does not preclude EPA or the Corps from finding available and environmentally preferable alternative means of managing dredged materials, or from finding that certain dredged material is not suitable for ocean disposal under the applicable regulatory criteria.

This modification will provide flexibility for management of dredged material from areas outside the harbors currently provided for in the designations. However, it should be emphasized that modification of the designations of the ODMDS does not constitute or imply Corps' or EPA's approval of open water disposal of dredged material from any specific project. Before disposal of dredged material at any site may commence, Essential Fish Habitat and Endangered Species Act consultations must be completed, and EPA and the Corps must evaluate the proposal and authorize disposal according to the ocean dumping regulatory criteria (40 CFR Part 227). All projects proposed for disposal at the ODMDS will be subject to review and comment by the relevant resource agencies and the public to ensure that any concerns regarding potential impacts associated with transport of material from the project area to the ODMDS are addressed before they are authorized for disposal.

EPA has the right to disapprove the actual disposal, if it determines that environmental requirements under the MPRSA (including required Essential Fish Habitat and Endangered Species Act consultations) have not been met.

IV. Administrative Review

1. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(A) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities;

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

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

(D) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this proposed action is not a ''significant regulatory action'' under E.O. 12866 and is therefore not subject to OMB review.

2. Paperwork Reduction Act

This proposed rule would not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*) because it would not require persons to obtain, maintain, retain, report, or publicly disclose information to or for a Federal agency.

3. Regulatory Flexibility Act, as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. For the purposes of assessing the impacts of today's rule on small entities, a small entity is defined as: (1) A small business based on the Small Business Administration's (SBA) size standards; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. EPA has determined that this action will not have a significant adverse economic impact on small entities because the proposed ocean disposal site designation does not regulate small entities. The site designation will only have the effect of providing a long term environmentally acceptable disposal option for dredged materials in areas outside the harbors currently provided for in the designations. This action will help to facilitate the maintenance of safe navigation on a continuing basis. After considering the economic impacts of today's proposed rule on small entities, it has been determined that this action will not have a significant adverse economic impact on a substantial number of small entities.

4. The Unfunded Mandates Reform Act

This proposed rule contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995

(UMRA) of 1995 (Pub. L. 104–4) for State, local, or tribal governments or the private sector that may result in estimated costs of $100 million or more in any year. It imposes no new enforceable duty on any State, local or tribal governments or the private sector nor does it contain any regulatory requirements that might significantly or uniquely affect small government entities. Thus, the requirements of section 203 of the UMRA do not apply to this Proposed Rule.

5. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' are defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This proposed rule addresses the modification of the existing site designations of ocean disposal sites in the Caribbean for the potential disposal of dredged materials. This proposed action neither creates new obligations nor alters existing authorizations of any state, local or governmental entities. Thus, Executive Order 13132 does not apply to this rule. Although Section 6 of the Executive Order 13132 does not apply to this proposed rule, EPA did consult with representatives of State and local governments in developing this rule.

In addition, and consistent with Executive Order 13132 and EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed rule from State and local officials.

6. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by Tribal officials in the development of regulatory policies that have Tribal implications.'' ''Policies that have Tribal implications'' are defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian Tribes, on the relationship between the Federal government and the Indian Tribes, or on the distribution of power and responsibilities between the Federal government and Indian Tribes.''

The proposed action does not have Tribal implications. If finalized, the proposed action would not have substantial direct effects on Tribal governments, 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, as specified in Executive Order 13175. This proposed rule designates an ocean dredged material disposal site and does not establish any regulatory policy with tribal implications. Thus, Executive Order 13175 does not apply to this rule.

7. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that (1) is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe might have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health and safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This proposed rule is not an economically significant rule as defined under Executive Order 12866 and does not concern an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. Therefore, it is not subject to Executive Order 13045.

8. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This proposed rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

9. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer Advancement Act of 1995 (''NTTAA''), Public Law 104–113, Section 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus bodies. The NTTAA directs EPA to provide to Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This proposed rule does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

10. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low Income Populations

Executive Order 12898 requires that, to the greatest extent practicable and permitted by law, each Federal agency must make achieving environmental justice part of its mission. E.O. 12898 provides that each Federal agency must conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures that such programs, policies, and activities do not have the effect of excluding persons (including populations) from participation in, denying persons (including populations) the benefits of, or subjecting persons (including populations) to discrimination under such programs, policies, and activities because of their race, color, or national origin.

No action from this proposed rule would have a disproportionately high and adverse human health and environmental effect on any particular segment of the population. In addition, this rule does not impose substantial direct compliance costs on those communities. Accordingly, the requirements of Executive Order 12898 do not apply.

11. National Environmental Policy Act of 1969

Section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. 4332, requires that Federal agencies prepare an environmental impact statement (EIS) on proposals for major Federal actions significantly affecting the quality of the human environment. The objective of NEPA is to build into the agency decision-making process careful consideration of all environmental aspects of proposed actions, including evaluation of reasonable alternatives to the proposed action. Although EPA ocean dumping program activities have been determined to be ''functionally equivalent'' to NEPA, EPA has a voluntarily policy to follow NEPA procedures when designating ocean dumping sites. *See,* 63 FR 58045 (Oct. 29, 1998). The final EISs for the San Juan Harbor, PR ODMDS and the other Caribbean ODMDS were published before the above policy; the modification proposed in this rule is consistent with the NEPA evaluations performed at that time as it will not cause the volumes projected to be disposed to be exceeded at the sites.

In addition, the Corps will submit Coastal Zone Consistency determinations to the Commonwealth of Puerto Rico for individual projects proposing to dispose at the ODMDS. Coordination efforts with NMFS and USFWS for ESA and EFH consultation were completed on April 22, 2005 and May 16, 2005.

12. The Endangered Species Act

Under Section 7(a)(2) of the Endangered Species Act, 16 U.S.C. 1536(a)(2), federal agencies are required to ''insure that any action authorized, funded, or carried on by such agency . . . is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of habitat of such species. . . .'' Under regulations

implementing the Endangered Species Act, a federal agency is required to consult with the U.S. Fish and Wildlife Service or the National Marine Fisheries Service (depending on the species involved) if the agency's action ''may affect'' endangered or threatened species or their critical habitat. *See,* 50 CFR 402.14(a).

On April 22, 2005 and May 9, 2005, EPA sent coordination letters to USFWS and NMFS in which the modification was described and which requested the concurrence of those two Services with EPA's determination that threatened and endangered species and their critical habitat would not be adversely affected by the proposed action. NMFS concurred by undated letter in June 2005 and USFWS concurred on May 16, 2005.

13. Magnuson-Stevens Fishery Conservation and Management Act

The 1996 Sustainable Fisheries Act amendments to the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA) require the designation of essential fish habitat (EFH) for federally managed species of fish and shellfish. Pursuant to section 305(b)(2) of the MSFCMA, federal agencies are required to consult with the National Marine Fisheries Service (NMFS) regarding any action they authorize, fund, or undertake that may adversely affect EFH. An adverse effect has been defined by the Act as follows: ''Any impact which reduces the quality and/or quantity of EFH. Adverse effects may include direct (e.g., contamination or physical disruption), indirect (e.g., loss of prey, reduction in species' fecundity), site-specific or habitat-wide impacts, including individual, cumulative, or synergistic consequences of actions.'' On April 22, 2005, EPA requested NMFS concurrence with its determination that the proposed modification was not likely to result in the destruction or adverse modification of categories of essential fish habitat designated by the Caribbean Fishery Management Council. NMFS concurred with this determination in a letter dated May 13, 2005 and recommended mapping of potential shelf edge reef habitat to select transit routes for laden barges as part of the permitting process for individual projects located in areas outside the currently authorized harbors. EPA agreed to require these studies for specific projects, as necessary, as part of the permitting process.

14. Plain Language Directive

Executive Order 12866 requires each agency to write all rules in plain language. EPA has written this proposed rule in plain language in order to make it easier to understand.

15. Executive Order 13158: Marine Protected Areas

Executive Order 13158 (65 FR 34909, May 31, 2000) requires EPA to ''expeditiously propose new science-based regulations, as necessary, to ensure appropriate levels of protection for the marine environment.'' EPA may take action to enhance or expand protection of existing marine protected areas and to establish or recommend, as appropriate, new marine protected areas. The purpose of the Executive Order is to protect the significant natural and cultural resources within the marine environment, which means ''those areas of coastal and ocean waters, the Great Lakes and their connecting waters, and submerged lands thereunder, over which the United States exercises jurisdiction, consistent with international law.''

Today's proposed rule implements Section 103 of the MPRSA, which requires that permits for dredged material be subject to EPA review and concurrence. The proposed rule would amend 40 CFR 228.15 by removing the geographic restrictions on use of the ODMDS. Enabling management of the additional dredged materials at monitored designated sites restricts impacts to those areas and minimizes the potential for using other near shore discharge strategies with potentially greater impacts to the marine environment. As such, this proposed rule would afford additional protection of aquatic organisms at individual, population, community, or ecosystem levels of ecological structures. Therefore, EPA expects today's proposed rule would advance the objective of the Executive Order to protect marine areas.

List of Subjects in 40 CFR Part 228

Environmental protection, Water pollution control.

Authority: 33 U.S.C. 1412 and 1418.

Dated: September 3, 2014.

Judith A. Enck,

Regional Administrator, U.S. EPA, Region 2.

In consideration of the foregoing, EPA is proposing to amend part 228, chapter I of title 40 of the Code of Federal Regulations as follows:

PART 228—CRITERIA FOR THE MANAGEMENT OF DISPOSAL SITES FOR OCEAN DUMPING

■ 1. The authority citation for part 228 continues to read as follows:

Authority: 33 U.S.C. 1412 and 1418.

■ 2. Section 228.15 is amended by revising paragraphs (d)(10)(vi), (d)(11)(vi), (d)(12)(vi), (d)(13)(vi), and (d)(14)(vi) to read as follows:

§ 228.15 Dumping sites designated on a final basis.

* * * * *

(d) * * *

(10) * * *

(vi) *Restriction:* Disposal shall be limited to dredged material.

(11) * * *

(vi) *Restriction:* Disposal shall be limited to dredged material.

(12) * * *

(vi) *Restriction:* Disposal shall be limited to dredged material.

(13) * * *

(vi) *Restriction:* Disposal shall be limited to dredged material.

(14) * * *

(vi) *Restriction:* Disposal shall be limited to dredged material.

* * * * *

[FR Doc. 2014–24348 Filed 10–10–14; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register

Vol. 79, No. 198

Tuesday, October 14, 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.

AFRICAN DEVELOPMENT FOUNDATION

Public Quarterly Meeting of the Board of Directors

AGENCY: United States African Development Foundation.

ACTION: Notice of meeting.

SUMMARY: The US African Development Foundation (USADF) will hold its quarterly meeting of the Board of Directors to discuss the agency's programs and administration.

DATES: The meeting date is Tuesday, October 21st 2014, 8:30a.m. to 11:30a.m.

ADDRESSES: The meeting location is 1400 I Street Northwest, Suite #1000 (Main Conference Room), Washington, DC, 2005–2246.

FOR FURTHER INFORMATION CONTACT: Rabayah Akhter, 202–233–8811.

Authority: Public Law 96–533 (22 U.S.C. 290h).

Dated: October 8, 2014.

June Brown,

Associate General Counsel.

[FR Doc. 2014–24426 Filed 10–10–14; 8:45 am]

BILLING CODE 6117–01–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Opportunity for Designation in Casa Grande, AZ; Jamestown, ND; Lincoln, NE; Memphis, TN; and Sioux City, IA Areas; Request for Comments on the Official Agencies Servicing These Areas

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

ACTION: Notice.

SUMMARY: The designations of the official agencies listed below will end on March 31, 2015. We are asking persons or governmental agencies interested in providing official services in the areas presently served by these agencies to submit an application for designation. In addition, we are asking for comments on the quality of services provided by the following designated agencies: Farwell Commodity Grain Services, Inc. (Farwell Southwest); Grain Inspection, Inc. (Jamestown); Lincoln Inspection Service, Inc. (Lincoln); Midsouth Grain Inspection Service (Midsouth); and Sioux City Inspection and Weighing Service Company (Sioux City).

DATES: Applications and comments must be received by November 13, 2014.

ADDRESSES: Submit applications and comments concerning this Notice using any of the following methods:

- Applying for Designation on the Internet: Use FGISonline (*https://fgis.gipsa.usda.gov/default_home_FGIS.aspx*) and then click on the Delegations/Designations and Export Registrations (DDR) link. You will need to obtain an FGISonline customer number and USDA eAuthentication username and password prior to applying.
- Submit Comments Using the Internet: Go to Regulations.gov (*http://www.regulations.gov*). Instructions for submitting and reading comments are detailed on the site.
- Mail, Courier or Hand Delivery: Eric J. Jabs, Deputy Director, USDA, GIPSA, FGIS, QACD, 10383 North Ambassador Drive, Kansas City, MO 64153.
- Fax: Eric J. Jabs, 816–872–1257.
- Email: *Eric.J.Jabs@usda.gov.*

Read Applications and Comments: All applications and comments will be available for public inspection at the office above during regular business hours (7 CFR 1.27(c)).

FOR FURTHER INFORMATION CONTACT: Eric J. Jabs, 816–659–8408 or *Eric.J.Jabs@usda.gov.*

SUPPLEMENTARY INFORMATION: Section 79(f) of the United States Grain Standards Act (USGSA) authorizes the Secretary to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services (7 U.S.C. 79 (f)). Under section 79(g) of the USGSA, designations of official agencies are effective for three years unless terminated by the Secretary, but may be renewed according to the criteria and procedures prescribed in section 79(f) of the USGSA.

Areas Open for Designation

Farwell Southwest

Pursuant to Section 79(f)(2) of the United States Grain Standards Act, the following geographic area, in the States of Arizona and California, is assigned to this official agency.

In Arizona

Maricopa, Pinal, Santa Cruz, and Yuma Counties.

In California

Imperial, Riverside, and San Diego Counties.

Farwell Southwest's assigned geographic area does not include the export port locations inside Farwell Southwest's area, which are serviced by GIPSA.

Jamestown

Pursuant to Section 79(f)(2) of the United States Grain Standards Act, the following geographic area, in the States of Minnesota and North Dakota, is assigned to this official agency.

In Minnesota

Traverse, Grant, Douglas, Todd, Morrison, Mille Lacs, Kanabec, Pine, Big Stone, Stevens, Pope, Stearns, Benton, Isanti, Chisago, Swift, Kandiyohi, Meeker, Wright, Sherburne, Anoka, Lac Qui Parle, and Chippewa Counties.

In North Dakota

Bounded on the North by Interstate 94 east to U.S. Route 85; U.S. Route 85 north to State Route 200; State Route 200 east to U.S. Route 83; U.S. Route 83 southeast to State Route 41; State Route 41 north to State Route 200; State Route 200 east to State Route 3; State Route 3 north to the northern Wells County line, the northern Wells and Eddy County lines east; the eastern Eddy County line south to the northern Griggs County line; the northern Griggs county line east to State Route 32;

Bounded on the East by State Route 32 south to State Route 45; State Route 45 south to State Route 200; State Route 200 west to State Route 1; State Route 1 south to the Soo Railroad line; the Soo Railroad line southeast to Interstate 94; Interstate 94 west to State Route 1; State Route 1 south to the Dickey County line;

Bounded on the South by the southern Dickey County line west to U.S. Route 281; U.S. Route 281 north to the Lamoure County line; the southern Lamoure County line; the southern Logan County line west to State Route 13; State Route 13 west to U.S. Route 83; U.S. Route 83 south to the Emmons County line; the southern Emmons County line; the southern Sioux County line west State Route 49; State Route 49 north to State Route 21; State Route 21 west to the Burlington-Northern line; the Burlington-Northern line northwest to State Route 22; State Route 22 south to U.S. Route 12; U.S. Route 12 west-northwest to the North Dakota State line; and

Bounded on the West by the western North Dakota State line north to Interstate 94.

The following grain elevators are not part of this geographic area assignment and are assigned to: Minot Grain Inspection, Inc.: Benson Quinn Company, Underwood, McLean County and Falkirk Farmers Elevator, Washburn, McLean County, North Dakota.

Lincoln

Pursuant to Section 79(f)(2) of the United States Grain Standards Act, the following geographic area, in the States of Iowa, Nebraska, New Mexico, and Texas, are assigned to this official agency.

In Iowa and Nebraska

Bounded on the North (in Nebraska) by the northern York, Seward, and Lancaster County lines; the northern Cass County line east to the Missouri River; the Missouri River south to U.S. Route 34. U.S. Route 34 east to Interstate 29; Bounded on the East by Interstate 29 south to the Fremont County line; the northern Fremont and Page County lines; the eastern Page County line south to the Iowa-Missouri State line; the Iowa Missouri State line west to the Missouri River; the Missouri River south-southeast to the Nebraska Kansas State line; Bounded on the South by the Nebraska-Kansas State line west to County Road 1 mile west of U.S. Route 81; Bounded on the West by County Road 1 mile west of U.S. Route 81 north to State Highway 8; State Highway 8 east to U.S. Route 81; U.S. Route 81 north to the Thayer County line; the northern Thayer County line east; the western Saline County line; the southern and western York County lines.

In New Mexico

Bernalillo, Chaves, Curry, DeBaca, Eddy, Guadalupe, Lea, Quay, Roosevelt, San Miguel, Santa Fe, Torrance, and Union Counties.

In Texas

Bailey, Cochran, Deaf Smith (west of State Route 214), Hockley, Lamb (south of a line bounded by U.S. Route 70, FM 303, U.S. Route 84, and FM 37), and Parmer Counties.

The following grain elevators are not part of this geographic area assignment and are assigned to: Omaha Grain Inspection Service, Inc.: Goode Seed & Grain, McPaul, Fremont County, Iowa; and Haveman Grain, Murray, Cass County, Nebraska.

Midsouth

Pursuant to Section 79(f)(2) of the United States Grain Standards Act, the following geographic area, in the States of Arkansas, Mississippi, Tennessee, and Texas, is assigned to this official agency.

In Arkansas

The entire State of Arkansas.

In Mississippi

The entire State of Mississippi, except export port locations within the State, which are serviced by GIPSA.

In Tennessee

Carroll, Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Henderson, Lauderdale, Madison, McNairy, Shelby, and Tipton Counties.

In Texas

Bowie and Cass Counties.

The following grain elevator is part of this geographic area assignment. In Cairo Grain Inspection Agency, Inc.'s area: Cargill, Inc., Tiptonville, Lake County, Tennessee.

Sioux City

Pursuant to Section 79(f)(2) of the United States Grain Standards Act, the following geographic area, in the States of Iowa, Minnesota, Nebraska, and South Dakota are assigned to this official agency.

In Iowa

Bounded on the North by the northern Iowa State line from the Big Sioux River east to U.S. Route 59; U.S. Route 59 south to B24; B24 east to the eastern O'Brien County line; the O'Brien County line south; the northern Buena Vista County line east to U.S. Route 71; U.S. Route 71 north to the northern Iowa State line east to U.S. Route 169;

Bounded on the East by U.S. Route 169 south to State Route 9; State Route 9 west to U.S. Route 169; U.S. Route 169 south to the northern Humboldt County line; the Humboldt County line east to State Route 17; State Route 17 south to C54; C54 east to U.S. Route 69; U.S. Route 69 south to the northern Hamilton County line; the Hamilton County line west to R38; R38 south to U.S. Route 20; U.S. Route 20 west to the eastern and southern Webster County lines to U.S. Route 169; U.S. Route 169 south to E18; E18 west to the eastern Greene County line; the Greene County line south to U.S. Route 30;

Bounded on the South by U.S. Route 30 west to E53; E53 west to N44; N44 north to U.S. Route 30; U.S. Route 30 west to U.S. Route 71; U.S. Route 71 north to the southern Sac and Ida County lines; the eastern Monona County line south to State Route 37; State Route 37 west to State Route 175; State Route 175 west to the Missouri River;

Bounded on the West by the Missouri River north to the Big Sioux River; the Big Sioux River north to the northern Iowa State line.

In Minnesota

Yellow Medicine, Renville, Lincoln, Lyon, Redwood, Pipestone, Murray, Cottonwood, Rock, Nobles, Jackson, and Martin Counties.

In Nebraska

Cedar, Dakota, Dixon, Pierce (north of U.S. Route 20), and Thurston Counties.

In South Dakota

Bounded on the North by State Route 44 (U.S. 18) east to State Route 11; State Route 11 south to A54B; A54B east to the Big Sioux River;

Bounded on the East by the Big Sioux River;

Bounded on the South and West by the Missouri River.

The following grain elevators are part of this geographic area assignment. In Central Iowa Grain Inspection Service, Inc.'s, area: West Central Coop, Boxholm, Boone County, Iowa. In D. R. Schaal Agency's area: Maxyield Coop, Algona, Kossuth County; Stateline Coop, Burt, Kossuth County; Gold-Eagle, Goldfield, Wright County; and North Central Coop, Holmes, Wright County, Iowa.

Opportunity for Designation

Interested persons or governmental agencies may apply for designation to provide official services in the geographic areas specified above under the provisions of section 79(f) of the USGSA and 7 CFR 800.196. Designation in the specified geographic area for Farwell Southwest is for the period beginning April 1, 2015 and ending March 31, 2017. Designation in the

specified geographic area for Jamestown, Lincoln, Midsouth, and Sioux City is for the period beginning April 1, 2015 and ending March 31, 2018. To apply for designation or for more information, contact Eric J. Jabs at the address listed above or visit GIPSA's Web site at *http://www.gipsa.usda.gov.*

Request for Comments

We are publishing this Notice to provide interested persons the opportunity to comment on the quality of services provided by the Farwell Southwest, Jamestown, Lincoln, Midsouth, and Sioux City official agencies. In the designation process, we are particularly interested in receiving comments citing reasons and pertinent data supporting or objecting to the designation of the applicants. Submit all comments to Eric J. Jabs at the above address or at *http://www.regulations.gov.*

We consider applications, comments, and other available information when determining which applicants will be designated.

Authority: 7 U.S.C. 71–87k.

Larry Mitchell,

Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 2014–24338 Filed 10–10–14; 8:45 am]

BILLING CODE 3410–KD–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Advisory Committee Meeting

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

ACTION: Notice of advisory committee meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, this constitutes notice of the upcoming meeting of the Grain Inspection, Packers and Stockyards Administration (GIPSA) Grain Inspection Advisory Committee (Advisory Committee). The Advisory Committee meets annually to advise the GIPSA Administrator on the programs and services that GIPSA delivers under the U.S. Grain Standards Act. Recommendations by the Advisory Committee help GIPSA better meet the needs of its customers who operate in a dynamic and changing marketplace.

DATES: November 4, 2014, 8:00 a.m. to 4:30 p.m.; and November 5, 2010, 8:00 a.m. to Noon.

ADDRESSES: The Advisory Committee meeting will take place at GIPSA's National Grain Center, 10383 N. Ambassador Drive, Kansas City, Missouri 64153.

Requests to orally address the Advisory Committee during the meeting or written comments may be sent to: Administrator, GIPSA, U.S. Department of Agriculture, 1400 Independence Avenue SW., STOP 3601, Washington, DC 20250–3601. Requests and comments may also be faxed to (202) 690–2173.

FOR FURTHER INFORMATION CONTACT: Terri L. Henry by phone at (202) 205–8281 or by email at *Terri.L.Henry@usda.gov.*

SUPPLEMENTARY INFORMATION: The purpose of the Advisory Committee is to provide advice to the GIPSA Administrator with respect to the implementation of the U.S. Grain Standards Act (7 U.S.C. 71–87k). Information about the Advisory Committee is available on the GIPSA Web site at *http://www.gipsa.usda.gov/fgis/adcommit.html.*

The agenda will include reauthorization status, standardization of user fees paid by official agencies under cooperative agreements, commodity inspections fees, updates on international affairs, quality assurance and compliance programs, and technology and science programs.

For a copy of the agenda please contact Terri L. Henry by phone at (202) 205–8281 or by email at *Terri.L.Henry@usda.gov*.

Public participation will be limited to written statements unless permission is received from the Committee Chairperson to orally address the Advisory Committee. The meeting will be open to the public.

Persons with disabilities who require alternative means of communication of program information or related accommodations should contact Terri L. Henry at the telephone number listed above.

Larry Mitchell,

Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 2014–24335 Filed 10–10–14; 8:45 am]

BILLING CODE 3410–KD–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

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

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Processed Products Family of Forms.

OMB Control Number: 0648–0018.

Form Number(s): NOAA 88–13 and NOAA 88–13C.

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

Number of Respondents: 2,038.

Average Hours per Response: Annual report, 30 minutes; monthly report; 15 minutes; one-time add-on to the annual survey, 30 minutes.

Burden Hours: 651.

Needs and Uses: National Oceanic and Atmospheric Administration (NOAA) annually collects information from seafood and industrial fishing processing plants on the volume and value of their processed fishery products and their monthly employment figures. NOAA also collects monthly information on the production of fish meal and oil. The information gathered is used by NOAA in the economic and social analyses developed when proposing and evaluating fishery management actions. Revision: a one-time survey will be added to the annual report, also to include processors not reporting under OMB Control No. 0648–0018. The objective of the survey is to collect information on seafood plant characteristics, plant ownership, operating costs, capital costs, labor and revenue related to the processing of marine fish species. The information collected in this survey will be used to provide information on potential impacts of management decisions on the fishing industry. In general, analysis of cost and revenue information for the seafood processing plant and other activities of the plant allow analysts to estimate the economic contributions and impacts of marine fish processing to each coastal state and nationwide.

Affected Public: Business or other for-profit organizations.

Frequency: Monthly, annually and one time.

Respondent's Obligation: Annual report and add-on survey, voluntary; monthly report, mandatory.

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

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

Dated: October 7, 2014.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–24291 Filed 10–10–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARMENT OF COMMERCE

[Docket No. 140826721–4721–01]

Privacy Act of 1974, Amended System of Records

AGENCY: U.S. Department of Commerce, Office of the Secretary.

ACTION: Notice of Proposed Amendment to Privacy Act System of Records; ''COMMERCE/DEPARTMENT–10, Executive Correspondence Files.''

SUMMARY: In accordance with the Privacy Act of 1974, as amended, Title 5 United States Code (U.S.C.) 552(e)(4) and (11); and Office of Management and Budget (OMB) Circular A–130, Appendix I, Federal Agency Responsibilities for Maintaining Records About Individuals, the Department of Commerce proposes to amend the system of records entitled ''COMMERCE/DEPARTMENT–10, Executive Correspondence Files'' to update: The categories of records in the system to include databases and electronic files; the system location(s); the routine uses to include the breach notification routine use; the safeguards and storage to include electronic records; the system manager(s) and addresses; the notification procedure; and the record source categories to include interaction with correspondent/Department contact. We invite public comment on the amended system announced in this publication.

DATES: To be considered, written comments must be submitted on or before November 13, 2014.

Unless comments are received, the amended system of records will become effective as proposed on the date of publication of a subsequent notice in the **Federal Register**.

ADDRESSES: You may submit written comments by any of the following methods: Email: *BDolan1@doc.gov.* Include ''Privacy Act COMMERCE/DEPARTMENT–10, Executive Correspondence Files'' in the subtext of the message. Fax: (202) 482–0827, marked to the attention of Ms. Brenda Dolan Mail: Ms. Brenda Dolan, Office of Privacy and Open Government, U.S. Department of Commerce, 1401 Constitution Ave. NW., Suite A300, Room A326, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Ms. Brenda Dolan, Office of Privacy and Open Government, U.S. Department of Commerce, 1401 Constitution Ave. NW., Suite A300, Room A326, Washington, DC 20230, (202) 482–3258.

SUPPLEMENTARY INFORMATION: This notice announces the Department of Commerce's proposal to amend the system of records under the Privacy Act of 1974 for Executive Correspondence Files. The purpose of this amendment is to update: The categories of records in the system to include databases and electronic files; the system location(s); the routine uses to include the breach notification routine use; the safeguards and storage to include electronic records; the system manager(s) and addresses; the notification procedure; and the record source categories to include interaction with correspondent/Department contact. Specifically, we propose to modify the system of records to read as follows:

Commerce/Dept–10

SYSTEM NAME:

COMMERCE/DEPT–10, Executive Correspondence Files.

SECURITY CLASSIFICATION:

None

SYSTEM LOCATION:

a. For Office of the Secretary correspondence: Office of the Executive Secretariat, Office of the Secretary, U.S. Department of Commerce, Room 5516, 1401 Constitution Avenue NW., Washington, DC 20230.

b. For U.S. Census Bureau correspondence: Office of Congressional and Intergovernmental Affairs, U.S. Census Bureau, Room 8H166, 4600 Silver Hill Road, Washington, DC 20233–3700.

c. For Bureau of Economic Analysis/Economic and Statistics Administration correspondence: Office of the Under Secretary, Economic and Statistics Administration, Room 4836, 1401 Constitution Avenue NW., Washington, DC 20230.

d. For Economic Development Administration correspondence: Office of the Executive Secretariat, Economic Development Administration, Room 71014, 1401 Constitution Avenue NW., Washington, DC 20230.

e. For Bureau of Industry and Security correspondence: Office of the Under Secretary, Bureau of Industry and Security, Room 3898, 1401 Constitution Avenue NW., Washington, DC 20230.

f. For International Trade Administration correspondence: Office of the Executive Secretariat, International Trade Administration, Room 3842, 1401 Constitution Avenue NW., Washington, DC 20230.

g. For Minority Business Development Agency correspondence: Office of the Executive Secretariat, Minority Business Development Agency, Room 5612, 1401 Constitution Avenue NW., Washington, DC 20230.

h. For National Institute of Standards and Technology correspondence: Office of the Chief of Staff, National Institute of Standards and Technology, Room A1105, 100 Bureau Drive, Gaithersburg, MD 20899.

i. For National Technical Information Service correspondence: Office of the Director, National Technical Information Service, 5301 Shawnee Road, Alexandria, VA 22312.

j. For National Telecommunications and Information Administration: Office of the Assistant Secretary, National Telecommunications and Information Administration, Room 4898, 1401 Constitution Avenue NW., Washington, DC 20230.

k. For National Oceanic and Atmospheric Administration correspondence: Office of the Executive Secretariat, National Oceanic and Atmospheric Administration, Room 6052, 1401 Constitution Avenue NW., Washington, DC 20230.

l. For U.S. Patent and Trademark Office correspondence: Office of the Under Secretary, U.S. Patent and Trademark Office, 600 Dulany Street, Madison Building, West, 10th Floor, Alexandria, Virginia 22313.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

a. Department Contacts and/or individuals who correspond (in person, via telephone, mail, or electronically) with the Secretary of Commerce, and the Deputy Secretary, and individuals whose correspondence has been referred by the White House, other Executive agencies or Members of Congress to the Secretary or Deputy Secretary for response.

b. Individuals who correspond with top level officials in the Department's Bureaus. In these categories the individuals include only those who express views or seek information or assistance. Freedom of Information Act or Privacy Act requests are not indexed in this system (See Freedom of Information and Privacy Request Records—COMMERCE/DEPT–5).

CATAGORIES OF RECORDS IN THE SYSTEM:

The system may include the name and addresses of correspondent, summary of subject matter, original correspondence, official response,

referral letters, memoranda or notes concerning the subject of the correspondence, or copies of any enclosures. For hard copy correspondence, the records in the system are arranged numerically by control number assigned to each item of correspondence. A separate electronic database of all Department Contacts may also be maintained. This database may include the information listed above, as well as any other information relevant to the maintenance of the Department's contacts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 44 U.S.C. 3101.

PURPOSES:

The purpose of this system is to assure that each request receives an appropriate and timely reply and to prepare statistical reports for management on correspondence volume or topics of public interest, and to allow for management and optimal use of Department contacts information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

1. Used by personnel in the Office of the Secretary, Executive Secretariat, and administrative offices of each operating unit of the Department to assure that each request receives an appropriate and timely reply and to prepare statistical reports for management on correspondence volume or topics of public interest, and to allow for management and optimal use of Department contacts information. Information from or copies of the records may be provided to the original addresses of the original correspondence.

2. In the event that a system or records maintained by the Department to carry out its functions indicates a violation or potential violation of law or contract, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute or contract, or rule, regulation, or order issued pursuant thereto, or where necessary to protect an interest of the Department, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute or contract, or rule, regulation or order issued pursuant thereto, or protecting the interest of the Department.

3. A record from this system of records may be disclosed to a Federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a Department decision concerning the assignment, hiring or retention of an individual, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

4. A record from this system of records may be disclosed to a Federal, state, local, or international agency, in response to its request, in connection with the assignment, hiring or retention of an individual, the issuance of a security clearance, the reporting of an investigation of an individual, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

5. A record from this system of records may be disclosed in the course of presenting evidence to a court, magistrate or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

6. A record in this system of records may be disclosed to a Member of Congress submitting a request involving an individual when the individual has requested assistance from the Member with respect to the subject matter of the record.

7. A record in this system of records which contains medical information may be disclosed to the medical advisor of any individual submitting a request for access to the record under the Act and 15 CFR Part 4 if, in the sole judgment of the Department, disclosure could have an adverse effect upon the individual, under the provision of 5 U.S.C. 552a(f)(3) and implementing regulations at 15 CFR 4.26.

8. A record in this system of records may be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

9. A record in this system of records may be disclosed to the Department of Justice in connection with determining whether disclosure thereof is required by the Freedom of Information Act (5 U.S.C. 552).

10. A record in this system of records may be disclosed to a contractor of the Department having need for the information in the performance of the contract, but not operating a system of records within the meaning of 5 U.S.C. 552a(m).

11. A record in this system may be transferred to the Office of Personnel Management: for personnel research purposes; as a data source for management information; for the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained; or for related manpower studies.

12. A record from this system of records may be disclosed to the Administrator, General Services, or his designee, during an inspection of records conducted by the General Services Administration as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e. GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

13. A record in this system of records may be disclosed to appropriate agencies, entities and persons when (1) it is suspected or determined that the security or confidentiality of information in the system of records has been compromised; (2) the DOC has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or whether systems or programs (whether maintained by the DOC or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the DOC's efforts to respond to the suspected or confirmed compromise and to prevent, minimize, or remedy such harm.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Hard copy files may be maintained in paper form and on diskettes; additional electronic files may be kept in electronic digital media in encrypted format within a controlled environment, and accessed only by authorized personnel.

RETRIEVABILITY:

By agency responsibility, by control number, by correspondent's name, by subject, by addressee, by category of writer (e.g., Member of Congress, White House staff, Cabinet member, mayor, citizen) by category of correspondence, by Executive Secretariat analysts' identification code, by type of priority for response time, by date, or possibly by city and state of correspondent's address.

SAFEGUARDS:

Paper records and disks as stored in file cabinets on secured premises with access limited to personnel whose official duties require access. For electronic media, the system is password protected and is FIPPS 199 compliant. The electronic system adheres to a Moderate security rating.

RETENTION AND DISPOSAL:

Records are disposed of in accord with the appropriate records disposition schedule approved by the Archivist of the United States.

SYSTEM MANGER(S) AND ADDRESS:

For records at location a.: Director, Office of the Executive Secretariat, Office of the Secretary, Room 5516, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.

For records at location b.: Director, Office of the Executive Secretariat, U.S. Census Bureau, Room 8H166, 4600 Silver Hill Road, Washington, DC 20233–3700.

For records at location c.: Director, Office of the Under Secretary, Economic and Statistics Administration, Room 4836, 1401 Constitution Avenue NW., Washington, DC 20230.

For records at location d.: Director, Office of the Executive Secretariat, Economic Development Administration, Room 71014, 1401 Constitution Avenue NW., Washington, DC 20230.

For records at location e.: Director, Office of the Under Secretary, Bureau of Industry and Security, Room 3898, 1401 Constitution Avenue NW., Washington, DC 20230.

For records at location f.: Director, Office of the Executive Secretariat, International Trade Administration, Room 3842, 1401 Constitution Avenue NW., Washington, DC 20230.

For records at location g.: Director, Office of the Executive Secretariat, Minority Business Development Agency, Room 5612, 1401 Constitution Avenue NW., Washington, DC 20230.

For records at location h.: Director, Office of the Chief of Staff, National Institute of Standards and Technology, Room A1105, 100 Bureau Drive, Gaithersburg, MD 20899.

For records at location i.: Director, National Technical Information Service, 5301 Shawnee Road, Alexandria, VA 22312.

For records at location j.: Director, Office of the Assistant Secretary, National Telecommunications and Information Administration, Room 4898, 1401 Constitution Avenue NW., Washington, DC 20230.

For records at location k.: Director, Office of the Executive Secretariat, National Oceanic and Atmospheric Administration, Room 6052, 1401 Constitution Avenue NW., Washington, DC 20230.

For records at location l.: Director, Office of the Under Secretary, U.S. Patent and Trademark Office, 600 Dulany Street, Madison Building, West, 10th Floor, Alexandria, Virginia 22313.

NOTIFICATION PROCEDURE:

An individual requesting notification of existence of records on himself or herself should send a signed, written inquiry to the locations listed below. The request letter should be clearly marked, ''PRIVACY ACT REQUEST.'' The written inquiry must be signed and notarized or submitted with certification of identity under penalty of perjury. Requesters should reasonable specify the record contents being sought.

For records at location a.: Office of the Secretary, Freedom of Information and Privacy Act Officer, Room A300, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.

For records at location b.: U.S. Census Bureau, Freedom of Information and Privacy Act Officer, Room 8H027, 4600 Silver Hill Road, Washington, DC 20233–3700.

For records at locations c.: Bureau of Economic Analysis/Economic and Statistics Administration, Freedom of Information and Privacy Act Officer, Room 4836, U.S. Department of Commerce, 1401 Constitution, Avenue NW., Washington, DC 20230.

For records at location d.: Economic Development Administration, Freedom of Information and Privacy Act Officer, Room 7325, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.

For records at location e.: Bureau of Industry and Security, Freedom of Information and Privacy Act Officer, Room 6622, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.

For records at location f.: International Trade Administration, Freedom of Information and Privacy Act Officer, Room 40003, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.

For records at location g.: Minority Business Development Agency, Freedom of Information and Privacy Act Officer, Room 5093, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.

For records at location h.: National Institute of Standards and Technology, Freedom of Information and Privacy Act Officer, Room 1710, 100 Bureau Drive, Gaithersburg, MD 20899.

For records at location i.: National Technical Information Service, Freedom of Information and Privacy Act Officer, Room 227, 5301 Shawnee Road, Alexandria, VA 22312.

For records at location j.: National Telecommunications and Information Administration, Freedom of Information and Privacy Act Officer, Room 4713, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.

For records at location k.: National Oceanic and Atmospheric Administration, Freedom of Information and Privacy Act Officer, Room 9719, SSMC3, 1315 East-West Highway, Silver Spring, MD 20910.

For records at location l.: U.S. Patent and Trademark Office, Freedom of Information and Privacy Act Officer, 600 Dulany Street, Madison Building, East, Room 10B20, Alexandria, Virginia 22313.

RECORD ACCESS PROCEDURES:

An individual requesting access to records on himself or herself should send a signed, written inquiry to the same address as stated in the Notification Procedure section above. The request letter should be clearly marked, ''PRIVACY ACT REQUEST.'' The written inquiry must be signed and notarized or submitted with certification of identity under penalty of perjury. Requesters should reasonable specify the record contents being sought.

CONTESTNG RECORD PROCEDURES:

An individual requesting corrections or contesting information contained in his or her records must send a signed, written request inquiry to the same address as stated in the Notification Procedure section above. Requesters should reasonable identify the records, specify the information they are contesting and state the corrective action sought and the reasons for the correction with supporting justification showing how the record is incomplete, untimely, inaccurate, or irrelevant.

The Department's rules for access, for contesting contents, and for appealing

initial determination by the individual concerned appear in 15 CFR part 4, Appendix B.

RECORD SOURCE CATGEGORIES:

The correspondent, referral source, Department employees involved in processing the correspondence, and other individuals, as required to prepare an appropriate response and to interact with correspondent/Department contact.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: October 7, 2014.

Brenda Dolan,

Department of Commerce, Freedom of Information and Privacy Act Officer.

[FR Doc. 2014–24323 Filed 10–10–14; 8:45 am]

BILLING CODE 3510–17–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–583–852]

Non-Oriented Electrical Steel From Taiwan: Final Affirmative Countervailing Duty Determination

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

SUMMARY: The Department of Commerce (the Department) determines that countervailable subsidies are being provided to producers and exporters of non-oriented electrical steel from Taiwan. For information on the estimated subsidy rates, *see* the ''Suspension of Liquidation'' section of this notice.

DATES: *Effective Date:* October 14, 2014.

FOR FURTHER INFORMATION CONTACT: Patricia Tran or Christopher Hargett, Office III, Enforcement and Compliance, U.S. Department of Commerce, Room CC116, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: 202–482–1503 or 202–482–4161, respectively.

SUPPLEMENTARY INFORMATION:

Background

The petitioner in this investigation is AK Steel Corporation (Petitioner). This investigation covers 22 government programs. The mandatory respondents in this investigation are China Steel Corporation (CSC) and its cross-owned affiliates Dragon Steel Corporation (DSC), HiMag Magnetic Corporation (HIMAG) and China Steel Global Trading Corporation (CSGT) (collectively, CSC Companies) and Leicong Industrial Company, Ltd. (Leicong).

The events that occurred since the Department published the *Preliminary Determination* on March 25, 2014,[1] are discussed in the Memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance, ''Issues and Decision Memorandum for the Final Affirmative Countervailing Duty Determination in the Countervailing Duty Investigation of Non-Oriented Electrical Steel from Taiwan'' (Decision Memorandum), which is hereby adopted by this notice.[2]

Period of Investigation

The period of investigation for which we are measuring subsidies is January 1, 2012, through December 31, 2012.

Scope Comments

In the *AD Initiation Notice,*[3] the Department invited interested parties to ''to raise issues regarding product coverage.'' On November 22, and 26, 2013, Petitioner requested that the Department clarify the scope by lowering the minimum silicon content from 1.25 percent to 1.00 percent, removing altogether the maximum silicon content, and including language regarding surface oxide coating.[4] On January 28, 2014, POSCO/DWI,[5] a respondent in the companion less than fair value (LTFV) investigation of NOES from the Republic of Korea, filed scope comments with the Department in which it requested that the Department clarify whether laminations and cores, downstream products fabricated from NOES, and certain NOES specifications with silicon content less than the percentage identified in the scope of NOES investigations contained in the *AD Initiation Notice,* are covered by this and the companion investigations.[6] On February 4, 2014, Petitioner responded to POSCO/DWI's comments, stating (1) that laminations and cores are out of the scope of the investigations to the extent that exclusion only covers products that are suitable for use (without further processing) as a drop-in part of a core; and (2) that the Department should promptly implement the changes to the scope of the investigations relating to silicon content described in Petitioner's Proposed Scope Changes, and clarify for POSCO/DWI the data that it should report to the Department.[7]

After analyzing the scope comments regarding silicon content and surface oxide coatings, the Department decided to lower the minimum silicon content identified in the scope from 1.25 percent to 1.00 percent and to include language regarding surface oxide coating in the scope. However, the Department decided not to eliminate the maximum silicon content in the scope. For a complete discussion of these decisions *see* the memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations from Robert Bolling, Program Manager for AD/CVD Operations, Office IV, regarding ''Scope Modification Requests,'' dated April 10, 2014, and hereby incorporated by reference into this memorandum. The scope language below reflects these decisions.

With respect to the issue involving laminations and cores, POSCO/DWI described laminations as products that are cut from NOES into their finished shape by a punch and die or, when in smaller quantities, by laser or wire erosion.[8] The laminations are subsequently assembled together to form laminated transformer cores or electric motor stator and rotor parts.[9]

[1] *See Non-Oriented Electrical Steel from Taiwan: Preliminary Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Determination,* 79 FR 16290 (March 25, 2014) *(Preliminary Determination).*

[2] Public versions of all business proprietary documents and all public documents are on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). Access to IA ACCESS is available to registered users at *http://iaaccess.trade.gov* and in the Central Records Unit (CRU), Room 7046 of the main Department of Commerce building.

[3] *See Non-Oriented Electrical Steel from the People's Republic of China, Germany, Japan, the Republic of Korea, Sweden, and Taiwan: Initiation of Antidumping Duty Investigations,* 78 FR 69041 (November 18, 2013) (*AD Initiation Notice*); concurrent antidumping duty (AD) investigation.

[4] *See* Letter from Petitioner to the Department, ''Petitions for the Imposition of Antidumping and Countervailing Duties against Non-Oriented Electrical Steel from China, Germany, Japan, Korea, Sweden, Taiwan/Petition Amendment to Clarify the Proposed Scope Definition,'' dated November 22, 2013 (''Petitioner's Proposed Scope Changes''); and Letter from Petitioner, ''Non-Oriented Electrical Steel from China, Germany, Japan, Korea, Sweden, Taiwan: Petitioner's Comments on the Scope of Investigations,'' dated November 26, 2013.

[5] On January 23, 2014, POSCO and Daewoo International Corporation (DWI) filed a joint response in the concurrent LTFV investigation of NOES from Korea. The Department preliminarily found these two companies to be a single entity in the AD investigation. *See* the memorandum from Senior Advisor, Gary Taverman, to Acting Assistant Secretary, Ronald K. Lorentzen entitled ''Decision Memorandum for the Preliminary Affirmative Determination in the Less-Than-Fair-Value Investigation of Non-Oriented Electrical Steel from the Republic of Korea'' dated May 15, 2014.

[6] *See* Letter from POSCO/DWI to the Department, ''Scope Clarification Requests,'' dated January 28, 2014.

[7] *See* Letter from Petitioner to the Department, ''Re: Non-Oriented Electrical Steel from China, Germany, Japan, Korea, Sweden and Taiwan/Petitioner's Response to POSCO's Scope Clarification Requests,'' dated February 4, 2014.

[8] *See* Letter from POSCO/DWI to the Department, ''Scope Clarification Requests,'' dated January 28, 2014, at 3.

[9] *Id.,* at 3–4.

POSCO/DWI commented that it understands that laminations and cores manufactured from NOES are products not subject to these investigations because NOES is manufactured in sheet or strip form, either in coils or in straight lengths, and any subsequent processing is not simply an extension of the NOES production process, but, instead, processing performed by the end user or by a fabricator that sells to the end user.[10] POSCO/DWI commented that NOES is consumed exclusively in the production of laminated cores for transformers as well as stators and rotors for motors, and generators.[11] Depending on the design requirements of an end user, the standard lamination products are cut ''E,'' ''I,'' or ''U,'' or varying combinations thereof, while highly complex lamination products are customized with numerous sides, curved edges, or numerous punched holes.[12] POSCO/DWI commented that the process of converting NOES coil or strip into laminations or cores constitutes a substantial transformation into products with end uses and customer expectations different from those for NOES.[13]

In its reply to POSCO/DWI's scope clarification request, Petitioner stated that it agrees with POSCO/DWI that laminations and cores are outside the intended scope of the NOES investigations.[14] Petitioner commented that to the extent the term ''laminations'' is used as a substitute for the term laminated ''cores,'' Petitioner likewise agrees that laminations that are ready for assembly into cores are excluded from the intended scope of the NOES investigations.[15] Petitioner noted that it does not agree with POSCO/DWI that the production process for NOES necessarily ends with slitting; because the scope definition covers NOES ''whether or not in coils,'' simply cutting to length or cutting blanks from a coil (whether slit or not) does not take such products out of the scope.[16] Petitioner stated that it agrees nevertheless with POSCO/DWI that laminations cut from NOES to their finished shape and are otherwise suitable for use, without further processing, as a drop-in part of the core, are outside the intended scope of the NOES investigations.[17]

On the basis of Petitioner's statements that it is not seeking relief from laminations and cores made from NOES, we modified the scope to reflect this exclusion.[18]

Scope of the Investigation

The merchandise subject to this investigation consists of NOES, which includes cold-rolled, flat-rolled, alloy steel products, whether or not in coils, regardless of width, having an actual thickness of 0.20 mm or more, in which the core loss is substantially equal in any direction of magnetization in the plane of the material. The term ''substantially equal'' means that the cross grain direction of core loss is no more than 1.5 times the straight grain direction (*i.e.,* the rolling direction) of core loss. NOES has a magnetic permeability that does not exceed 1.65 Tesla when tested at a field of 800 A/m (equivalent to 10 Oersteds) along (*i.e.,* parallel to) the rolling direction of the sheet (*i.e.,* B_{800} value). NOES contains by weight more than 1.00 percent of silicon but less than 3.5 percent of silicon, not more than 0.08 percent of carbon, and not more than 1.5 percent of aluminum. NOES has a surface oxide coating, to which an insulation coating may be applied.

The subject merchandise is provided for in subheadings 7225.19.0000, 7226.19.1000, and 7226.19.9000 of the HTSUS. Subject merchandise may also be entered under subheadings 7225.50.8085, 7225.99.0090, 7226.92.5000, 7226.92.7050, 7226.92.8050, 7226.99.0180 of the HTSUS. Although HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope is dispositive.[19]

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs submitted by parties in this investigation are addressed in the Issues and Decision Memorandum, dated concurrently with this notice. A list of subsidy programs and the issues that parties raised, and to which we responded in the Decision Memorandum, is attached to this notice as Appendix I.

The Issues and Decision and Scope Memoranda are public documents and are on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at *http://iaaccess.trade.gov,* and is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, complete versions of the Issues and Decision and Scope Memoranda can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* The signed and the electronic versions of these memoranda are identical in content.

Use of Facts Otherwise Available, Including Adverse Inferences

For purposes of this final determination, we continue to apply adverse facts available (AFA) to Leicong in accordance with sections 776(a) and (b) of the Tariff Act of 1930, as amended (the Act). A full discussion of our decision to rely on AFA is presented in the Issues and Decision Memorandum under the section ''Use of Facts Otherwise Available and Adverse Inferences.''

Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i) of the Act, we calculated a rate for each respondent. Section 705(c)(5)(A)(i) of the Act states that for companies not individually investigated, we will determine an ''all others'' rate equal to the weighted average countervailable subsidy rates established for exporters and producers individually investigated, excluding any zero and *de minimis* countervailable subsidy rates, and any rates determined entirely under section 776 of the Act. If the rates established for all exporters and producers individually investigated are zero, *de minimis,* or determined entirely under facts available, the Department may use any reasonable

[10] POSCO refers to the production process for NOES described in the petitions and in the International Trade Commission's preliminary determination that POSCO understands to mean that the NOES production process ends with slitting. *Id.,* at 4.

[11] *See* Letter from POSCO/DWI to the Department, ''Scope Clarification Requests,'' dated January 28, 2014, at 3–4.

[12] *Id.,* at 4–5.

[13] *Id.,* at 5.

[14] *See* Letter from Petitioner to the Department, ''Non-Oriented Electrical Steel from China, Germany, Japan, Korea, Sweden and Taiwan/Petitioner's Response to POSCO's Scope Clarification Requests,'' dated February 4, 2014, at 2.

[15] *See id.* Referring to POSCO/DWI's Scope Comments, Petitioner interprets POSCO/DWI's statement, that POSCO/DWI uses the terms laminations and cores interchangeably in the normal course of business, to mean that laminations are a substitute for cores.

[16] *Id.*

[17] *Id.*

[18] *See* Letter from Petitioner to the Department, ''Non-Oriented Electrical Steel from The People's Republic of China, Germany, Japan, The Republic of Korea, Sweden, and Taiwan: Scope Clarification Language,'' dated May 12, 2014.

[19] For a full description of the scope of this investigation, *see* the memorandum from Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations to Paul Piquado, Assistant Secretary for Enforcement and Compliance, ''Issues and Decision Memorandum for the Final Affirmative Countervailing Duty Determination in the Countervailing Duty Investigation of Non-Oriented Electrical Steel from Taiwan'' (Issues and Decision Memorandum), dated concurrently with this notice.

method to establish an all-others rate.[20] Leicong's rate was determined entirely under facts available with an adverse inference. The CSC Companies' rate is *de minimis.* Thus, in accordance with section 705(c)(5)(A)(ii) of the Act, we are applying as the all others rate the average of the rate calculated for Leicong and the rate calculated for the CSC Companies.

We determine the total estimated net countervailable subsidy rates to be:

Producer/exporter	Subsidy rate (percent)
China Steel Corporation (CSC) and its cross-owned affiliates Dragon Steel Corporation (DSC), HiMag Magnetic Corporation (HIMAG) and China Steel Global Trading Corporation (CSGT)(collectively, CSC Companies.).	0.48 (*de minimis*).
Leicong Industrial Company, Ltd (Leicong)	17.12.
All Others	8.80.

As a result of our *Preliminary Determination* and pursuant to section 703(d) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of subject merchandise from Taiwan [21] which were entered or withdrawn from warehouse, for consumption on or after March 25, 2014, the date of the publication of the *Preliminary Determination* in the **Federal Register**. In accordance with section 703(d) of the Act, we later issued instructions to CBP to discontinue the suspension of liquidation for countervailing duty (CVD) purposes for subject merchandise entered, or withdrawn from warehouse, on or after July 23, 2014, but to continue the suspension of liquidation of all entries [22] from March 25, 2014, through July 22, 2014.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a CVD order and reinstate the suspension of liquidation under section 706(a) of the Act and will require a cash deposit of estimated CVDs for such entries of merchandise in the amounts indicated above, other than those produced and exported by the CSC Companies because the CSC Companies' rate is *de minimis.* If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation that is subject to sanction.

This determination is published pursuant to sections 705(d) and 777(i) of the Act.

Dated: October 6, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Subsidy Programs and Issues in the Decision Memorandum

A. Programs Determined To Be Countervailable
  1. Tariff Exemption for Imported Equipment
  2. Income Tax Credit for Upgraded Equipment
  3. Shareholder's Investment Tax Credit for Participation in Infrastructure Projects
  4. Shareholder's Investment Tax Credit for Investment in Newly Emerging, Important and Strategic Industries
  5. Conventional Industry Technology Development
  6. Self-Evaluation Service
  7. Building and Land Value Tax Deduction for Supplying to Major Infrastructure Projects
  8. Major Infrastructure Projects—Land Lease Program

B. Program Determined To Be Not Countervailable
  1. Income Tax Credit for Research and Development Expenses
  2. Partial Payment for Electricity Bill of Strong-Motion Observation Station

C. Programs Determined To Not Confer a Benefit During the POI
  1. Industrial Technology Development Program
  2. Strengthen the Ability of Emerging Development Program
  3. Subsidy for Certain Photovoltaic Power Stations
  4. Payment for Trade Remedy Proceedings
  5. Five-Year Income Tax Exemption Incentive for New Investments
  6. Verification of Greenhouse Gas Emission Inventory

D. Programs Determined To Be Not Used
  1. Income Tax Credits for Investment in Designated Regions
  2. Income Tax Credits for Participating in Infrastructure Projects
  3. Grants for Developing an International Image and Brand
  4. Subsidies for Companies that Invest in Industrial Parks

E. Programs for Which More Information is Necessary
  1. Sustainable Employment Program

F. Comments From Interested Parties
  Comment 1: Whether the CSC Companies Were Disproportionate Users of Certain Programs
  Comment 2: Whether the Industrial Technology Development Program and the Ability of Emerging Development Program are Separate Programs
  Comment 3: Whether Certain Programs Are *De Facto* Specific by Virtue of Limited Use
  Comment 4: Whether Benefits Under the Grants for Photovoltaic Power Stations (SCPPS) Program Are Tied to Non-Subject Subject Merchandise
  Comment 5: Whether the Department Should Apply Total AFA to Leicong
  Comment 6: Whether the Department Should not Include Certain Programs in Leicong's Total AFA Rate
  Comment 7: Whether Subsidies Under the Companies that Invest in Industrial Parks and Major Infrastructure Projects—Land Lease Programs Are Separate Programs
  Comment 8: Whether the Department Should Use Benefit and Sales Data from the TA to Calculate a Rate for Leicong

[20] *See* section 705(c)(5)(A)(ii) of the Act.

[21] Other than entries produced and/or exported by the CSC Companies for which we calculated a *de minimis* rate in the *Preliminary Determination.*

[22] *Id.*

with Regard to the Conventional Industry Technology Development Program and the Self Evaluation Service Program
Comment 9: Whether the Verification of Greenhouse Gas Emission Inventory Program is Countervailable with Regard Leicong
Comment 10: Corroboration of the AFA Rate Applied to Leicong
Comment 11: Calculation of the All-Others Rate

[FR Doc. 2014–24375 Filed 10–10–14; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–580–873]

Non-Oriented Electrical Steel From the Republic of Korea: Final Negative Countervailing Duty Determination and Final Negative Critical Circumstances Determination

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

SUMMARY: The Department of Commerce (the Department) determines that *de minimis* countervailable subsidies are being provided to producers/exporters of non-oriented electrical steel (NOES) from the Republic of Korea (Korea). The period of investigation is January 1, 2012, through December 31, 2012.

DATES: *Effective Date:* October 14, 2014.

FOR FURTHER INFORMATION CONTACT: Joshua Morris or Thomas Schauer, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1779 and (202) 482–0410, respectively.

Background

The petitioner in this investigation is AK Steel Corporation (Petitioner). This investigation covers 29 government programs. In addition to the Government of Korea (GOK), the respondents in this investigation are POSCO and Daewoo International Corporation (DWI).

Case History

The following events have occurred since the Department published the *Preliminary Determination* on March 25, 2014.[1]

On May 8, 2014, the Department issued a post-preliminary analysis memorandum.[2] The Department conducted verification of the GOK, POSCO, and DWI's questionnaire responses from May 13, through May 23, 2014, and issued verification reports on June 24, 2014. The GOK submitted a case brief on July 8, 2014. No other party submitted a case or rebuttal brief.

Scope of the Investigation

The merchandise subject to this investigation consists of NOES, which includes cold-rolled, flat-rolled, alloy steel products, whether or not in coils, regardless of width, having an actual thickness of 0.20 mm or more, in which the core loss is substantially equal in any direction of magnetization in the plane of the material. For a complete description of the scope of the investigation, *see* Appendix I to this notice.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance, ''Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Non-Oriented Electrical Steel from the Republic of Korea'' (Issues and Decision Memorandum),[3] which is hereby adopted by this notice. A list of subsidy programs and the issues that parties have raised, and to which we responded in the Issues and Decision Memorandum, is attached to this notice as Appendix II. The Issues and Decision Memorandum is a public document and is on file electronically *via* IA ACCESS. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Internet at *http://enforcement.trade.gov/frn/index.html.* The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

Critical Circumstances

On February 25, 2014, Petitioner alleged that critical circumstances exist with respect to imports of NOES from Korea. In accordance with 19 CFR 351.206(c)(2)(i), we issued a negative preliminary critical circumstances determination not later than the date of the preliminary determination. For this is final determination, since we do not find that POSCO benefitted from any subsidies inconsistent with the World Trade Organization Agreement on Subsidies and Countervailing Measures,[4] we have not analyzed whether there were massive imports of the subject merchandise over a relatively short period. Accordingly, pursuant section 705(a)(2) of the Act, we do not find that critical circumstances exist with regard to imports of NOES from Korea.

Final Determination

As discussed in the Issues and Decision Memorandum, we attributed the benefit from subsidies to DWI to the combined sales of DWI and POSCO (less inter-company sales). In accordance with section 705(c)(1)(B)(i) of the Tariff Act of 1930, as amended (the Act), we calculated a *de minimis* rate for POSCO/DWI.

We determine the total estimated net countervailable subsidy rates to be:

Company	Subsidy rate
POSCO and Daewoo International Corporation.	0.65 percent (*ad valorem*).

Consistent with section 705(c)(1)(B) of the Act, the Department has not calculated an all-others rate because it has not reached an affirmative final determination. Because the estimated subsidy margins for the examined companies are *de minimis,* we are not directing U.S. Customs and Border Protection to suspend liquidation of entries of NOES from Korea.

United States International Trade Commission (USITC) Notification

In accordance with section 735(d) of the Act, we notified the USITC of our final determination. As our final determination is negative, this proceeding is terminated.

[1] *See Non-Oriented Electrical Steel From the Republic of Korea: Preliminary Negative Countervailing Duty Determination, Preliminary Negative Critical Circumstances Determination, and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination,* 79 FR 16295 (March 25, 2014) (*Preliminary Determination*).

[2] *See* Memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance, ''Post-Preliminary Analysis in the Countervailing Duty Investigation: Non-Oriented Electrical Steel from the Republic of Korea (Korea)'' (May 8, 2014).

[3] Public versions of all business proprietary documents and all public documents are on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). Access to IA ACCESS is available to registered users at *http://iaaccess.trade.gov* and in the Department's Central Records Unit, room 7046 of the main Department of Commerce building.

[4] *See* Issues and Decision Memorandum at ''Programs Determined to be Countervailable.''

Return or Destruction of Proprietary Information

This notice serves as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation that is subject to sanction.

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act.

Dated: October 6, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise subject to this investigation consists of non-oriented electrical steel (NOES), which includes cold-rolled, flat-rolled, alloy steel products, whether or not in coils, regardless of width, having an actual thickness of 0.20 mm or more, in which the core loss is substantially equal in any direction of magnetization in the plane of the material. The term ''substantially equal'' means that the cross grain direction of core loss is no more than 1.5 times the straight grain direction (*i.e.,* the rolling direction) of core loss. NOES has a magnetic permeability that does not exceed 1.65 Tesla when tested at a field of 800 A/m (equivalent to 10 Oersteds) along (*i.e.,* parallel to) the rolling direction of the sheet (*i.e.,* B_{800} value). NOES contains by weight more than 1.00 percent of silicon but less than 3.5 percent of silicon, not more than 0.08 percent of carbon, and not more than 1.5 percent of aluminum. NOES has a surface oxide coating, to which an insulation coating may be applied.

NOES is subject to this investigation whether it is fully processed (*i.e.,* fully annealed to develop final magnetic properties) or semi-processed (*i.e.,* finished to final thickness and physical form but not fully annealed to develop final magnetic properties). Fully processed NOES is typically made to the requirements of ASTM specification A 677, Japanese Industrial Standards (JIS) specification C 2552, and/or International Electrotechnical Commission (IEC) specification 60404–8–4. Semi-processed NOES is typically made to the requirements of ASTM specification A 683. However, the scope of this investigation is not limited to merchandise meeting the ASTM, JIS, and IEC specifications noted immediately above.

NOES is sometimes referred to as cold-rolled non-oriented (CRNO), non-grain oriented (NGO), non-oriented (NO), or cold-rolled non-grain oriented (CRNGO) electrical steel. These terms are interchangeable.

Excluded from the scope of this investigation are flat-rolled products not in coils that, prior to importation into the United States, have been cut to a shape and undergone all punching, coating, or other operations necessary for classification in Chapter 85 of the Harmonized Tariff Schedule of the United States (HTSUS) as a part *(i.e.,* lamination) for use in a device such as a motor, generator, or transformer.

The subject merchandise is provided for in subheadings 7225.19.0000, 7226.19.1000, and 7226.19.9000 of the HTSUS. Subject merchandise may also be entered under subheadings 7225.50.8085, 7225.99.0090, 7226.92.5000, 7226.92.7050, 7226.92.8050, 7226.99.0180 of the HTSUS. Although HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope is dispositive.

Appendix II

List of Comments and Issues in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Investigation
IV. Subsidies Valuation Analysis of Programs
V. Analysis of Programs
VI. Analysis of Comments
- Comment 1 Minor Corrections at the Verification of the Government of Korea
- Comment 2 Regional Specificity and the Restriction of Special Taxation Act (RSTA) Article 26
- Comment 3 The Use of Corporate Tax Returns in *De Facto* Specificity Analysis for RSTA Tax Deduction Programs
- Comment 4 Analyzing the Number of Recipients of Certain RSTA Tax Programs Based on Average Life Span of Purchased Assets
- Comment 5 Analyzing RSTA Articles 10(1)(1), 10(1)(2), and 10(1)(3) as One Program
- Comment 6 The Number of RSTA Tax Incentives Recipients and ''Limited''
- Comment 7 The Korea Export-Import Bank as an ''Authority''
- Comment 8 Support for Acquisitions of Foreign Mines Program and *De Jure* Specificity
- Comment 9 Loans from the Korean Resources Corporation and the Korea National Oil Corporation and *De Jure* Specificity
- Comment 10 The Financial Contribution of DWI's Debt Workout
- Comment 11 DWI's Debt to the Korea Export Insurance Corporation

VII. Recommendation

[FR Doc. 2014–24379 Filed 10–10–14; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–882]

Refined Brown Aluminum Oxide From the People's Republic of China: Continuation of Antidumping Duty Order

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

SUMMARY: As a result of the determinations by the Department of Commerce (Department) and the International Trade Commission (ITC) that revocation of the antidumping duty (AD) order on refined brown aluminum oxide (RBAO) from the People's Republic of China (PRC) would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, the Department is publishing this notice of continuation of the AD order.

DATES: *Effective Date:* October 14, 2014.

FOR FURTHER INFORMATION CONTACT: Terre Keaton Stefanova, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1280.

SUPPLEMENTARY INFORMATION:

Background

On February 3, 2014, the Department initiated [1] and the ITC instituted [2] five-year (''sunset'') reviews of the AD order on RBAO from the PRC pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). As a result of its review, the Department determined that revocation of the AD order on RBAO from the PRC would likely lead to a continuation or recurrence of dumping and, therefore, notified the ITC of the magnitude of the margins likely to prevail should the order be revoked.[3] On October 6, 2014, the ITC published its determination, pursuant to section 751(c) of the Act, that revocation of the AD order on RBAO from the PRC would likely lead to a continuation or recurrence of material injury to an

[1] *See Initiation of Five-Year (''Sunset'') Review,* 79 FR 6163 (February 3, 2014).

[2] *See Refined Brown Aluminum Oxide From China; Institution of a Five-Year Review;* 79 FR 6225 (February 3, 2014).

[3] *See Refined Brown Aluminum Oxide from the People's Republic of China: Final Results of Expedited Second Sunset Review of the Antidumping Duty Order,* 79 FR 26207 (May 7, 2014).

industry in the United States within a reasonably foreseeable time.[4]

Scope of the Order

The merchandise covered by this order is ground, pulverized or refined brown artificial corundum, also known as brown aluminum oxide or brown fused alumina, in grit size of ⅜ inch or less. Excluded from the scope of the order is crude artificial corundum in which particles with a diameter greater than ⅜ inch constitute at least 50 percent of the total weight of the entire batch. The scope includes brown artificial corundum in which particles with a diameter greater than ⅜ inch constitute less than 50 percent of the total weight of the batch. The merchandise covered by this order is currently classifiable under subheadings 2818.10.20.00 and 2818.10.20.90 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise covered by the order is dispositive.

Continuation of the Order

As a result of the determinations by the Department and the ITC that revocation of the AD order would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the AD order on RBAO from the PRC. U.S. Customs and Border Protection will continue to collect AD cash deposits at the rates in effect at the time of entry for all imports of subject merchandise. The effective date of the continuation of the order will be the date of publication in the **Federal Register** of this notice of continuation. Pursuant to section 751(c)(2) of the Act, the Department intends to initiate the next five-year review of the order not later than 30 days prior to the fifth anniversary of the effective date of continuation.

This five-year (''sunset'') review and this notice are in accordance with section 751(c) of the Act and published pursuant to section 777(i)(1) of the Act.

Dated: October 8, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

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[4] *See Investigation No. 731–TA–1022 (Second Review): Refined Brown Aluminum Oxide From China,* 79 FR 60183 (October 6, 2014).

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–997]

Non-Oriented Electrical Steel From the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination

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

SUMMARY: The Department of Commerce (the Department) determines that countervailable subsidies are being provided to producers/exporters of non-oriented electrical steel (NOES) from the People's Republic of China (PRC). The Department also determines critical circumstances exist for imports of the subject merchandise from the PRC. The period of investigation is January 1, 2012, through December 31, 2012.

DATES: *Effective Date:* October 14, 2014.

FOR FURTHER INFORMATION CONTACT: Joshua Morris or Thomas Schauer, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1779 and (202) 482–0410, respectively.

Background

The petitioner in this investigation is AK Steel Corporation (Petitioner). This investigation covers 30 government programs. The respondents in this investigation are the Government of the PRC (the GOC) and Baoshan Iron & Steel Co., Ltd. (Baoshan). For this final determination, we continue to rely on facts available, with adverse inferences, for the GOC and for Baoshan, the only mandatory company-respondent, because they did not act to the best of their abilities and did not respond to our requests for information. Further, we continue to draw an adverse inference in selecting from among the facts otherwise available to calculate the *ad valorem* rate for Baoshan.[1]

Period of Investigation

The period for which we are measuring subsidies, or period of investigation, is January 1, 2012, through December 31, 2012.

Case History

The events that have occurred since the Department published the *Preliminary Determination* on March 25, 2014,[2] are discussed in the Issues and Decision Memorandum.[3] The Issues Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at *http://iaaccess.trade.gov,* and is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Internet at *http://enforcement.trade.gov/frn/index.html.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Scope of the Investigation

The merchandise subject to this investigation consists of NOES, which includes cold-rolled, flat-rolled, alloy steel products, whether or not in coils, regardless of width, having an actual thickness of 0.20 mm or more, in which the core loss is substantially equal in any direction of magnetization in the plane of the material. For a complete description of the scope of the investigation, *see* Appendix I to this notice.

Critical Circumstances

On February 25, 2014, Petitioner alleged that critical circumstances exist with respect to imports of NOES from the PRC. In accordance with 19 CFR 351.206(c)(2)(i), we issued an affirmative preliminary critical circumstances determination not later than the date of the preliminary determination.[4]

We received no comments on our preliminary critical circumstances determination. Thus, in accordance with section 705(a)(2) of the Act, we determine critical circumstances exist with respect to Baoshan and all other producers/exporters.

[1] *See* sections 776(a) and (b) of the Tariff Act of 1930, as amended (the Act).

[2] *See Non-Oriented Electrical Steel From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination,* 79 FR 16293 (March 25, 2014) (*Preliminary Determination*).

[3] *See* Memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance, ''Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Non-Oriented Electrical Steel from the People's Republic of China'' dated concurrently with and hereby adopted by this notice (Issues and Decision Memorandum).

[4] *See, e.g., Change in Policy Regarding Timing of Issuance of Critical Circumstances Determinations,* 63 FR 55364 (October 15, 1998).

Use of Facts Otherwise Available, Including Adverse Inferences

As stated above, for purposes of this final determination, we relied on facts available and applied an adverse inference (AFA) in accordance with sections 776(a) and (b) of the Act, with regard to each program under investigation. A full discussion of our decision to rely on AFA is presented under the section ''Use of Facts Otherwise Available and Adverse Inferences'' in the Issues and Decision Memorandum.

Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i) of the Act, we calculated a countervailing duty rate for the individually investigated producer/exporter of the subject merchandise, Baoshan. With respect to the all-others rate, section 705(c)(5)(A)(ii) of the Act provides that if the countervailable subsidy rates established for all exporters and producers individually investigated are determined entirely in accordance with section 776 of the Act, the Department may use any reasonable method to establish an all-others rate for exporters and producers not individually investigated. In this case, the rate calculated for the investigated company is based entirely on adverse facts available under section 776 of the Act. There is no other information on the record upon which to determine an all-others rate. As a result, we used the adverse facts available rate assigned for Baoshan as the all-others rate. This method is consistent with the Department's past practice.[5]

We determine the countervailable subsidy rates to be:

Company	Net subsidy rate (percent)
Baoshan Iron & Steel Co., Ltd	158.88
All Others	158.88

As a result of our affirmative preliminary critical circumstances determination, pursuant to section 703(e)(2) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of subject merchandise from the PRC which were entered or withdrawn from warehouse, for consumption on or after December 25, 2013, the date 90 days prior to the date of the publication of the *Preliminary Determination* in the **Federal Register**.

In accordance with section 703(d) of the Act, we later issued instructions to CBP to discontinue the suspension of liquidation for countervailing duty purposes for subject merchandise entered, or withdrawn from warehouse, on or after July 23, 2014, but to continue the suspension of liquidation of all entries from December 25, 2013, through July 22, 2014.

We will issue a countervailing duty order and reinstate the suspension of liquidation under section 706(a) of the Act if the United States International Trade Commission (ITC) issues a final affirmative injury determination, and we will instruct CBP to require a cash deposit of estimated countervailing duties for such entries of merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation that is subject to sanction.

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act.

Dated: October 6, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise subject to this investigation consists of non-oriented electrical steel (NOES), which includes cold-rolled, flat-rolled, alloy steel products, whether or not in coils, regardless of width, having an actual thickness of 0.20 mm or more, in which the core loss is substantially equal in any direction of magnetization in the plane of the material. The term ''substantially equal'' means that the cross grain direction of core loss is no more than 1.5 times the straight grain direction (*i.e.,* the rolling direction) of core loss. NOES has a magnetic permeability that does not exceed 1.65 Tesla when tested at a field of 800 A/m (equivalent to 10 Oersteds) along (*i.e.,* parallel to) the rolling direction of the sheet (*i.e.,* B_{800} value). NOES contains by weight more than 1.00 percent of silicon but less than 3.5 percent of silicon, not more than 0.08 percent of carbon, and not more than 1.5 percent of aluminum. NOES has a surface oxide coating, to which an insulation coating may be applied.

NOES is subject to this investigation whether it is fully processed (*i.e.,* fully annealed to develop final magnetic properties) or semi-processed (*i.e.,* finished to final thickness and physical form but not fully annealed to develop final magnetic properties). Fully processed NOES is typically made to the requirements of ASTM specification A 677, Japanese Industrial Standards (JIS) specification C 2552, and/or International Electrotechnical Commission (IEC) specification 60404–8–4. Semi-processed NOES is typically made to the requirements of ASTM specification A 683. However, the scope of this investigation is not limited to merchandise meeting the ASTM, JIS, and IEC specifications noted immediately above.

NOES is sometimes referred to as cold-rolled non-oriented (CRNO), non-grain oriented (NGO), non-oriented (NO), or cold-rolled non-grain oriented (CRNGO) electrical steel. These terms are interchangeable.

Excluded from the scope of this investigation are flat-rolled products not in coils that, prior to importation into the United States, have been cut to a shape and undergone all punching, coating, or other operations necessary for classification in Chapter 85 of the Harmonized Tariff Schedule of the United States (HTSUS) as a part *(i.e.,* lamination) for use in a device such as a motor, generator, or transformer.

The subject merchandise is provided for in subheadings 7225.19.0000, 7226.19.1000, and 7226.19.9000 of the HTSUS. Subject merchandise may also be entered under subheadings 7225.50.8085, 7225.99.0090, 7226.92.5000, 7226.92.7050, 7226.92.8050, 7226.99.0180 of the HTSUS. Although HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope is dispositive.

[5] *See, e.g., Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From Argentina,* 66 FR 37007, 37008 (July 16, 2001); *see also Final Affirmative Countervailing Duty Determination: Prestressed Concrete Steel Wire Strand From India,* 68 FR 68356 (December 8, 2003).

Appendix II

List of Comments in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Investigation
IV. Use of Facts Otherwise Available and Adverse Inferences
V. Recommendation

[FR Doc. 2014–24377 Filed 10–10–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Architecture Services Trade Mission to Qatar, November 16–19, 2014

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Amendment.

SUMMARY: The United States Department of Commerce, International Trade Administration is amending the Notice published at 79 FR 44157, July 30, 2014, for the Architecture Services Trade Mission to Qatar, with an optional mission stop in Saudi Arabia, from November 16–19, 2014 to revise the mission description from executive-led to non-executive led.

FOR FURTHER INFORMATION CONTACT:

Trade Missions Office

Arica Young, U.S. Department of Commerce, Washington, DC, Tel: 613–317–7538, Email: *Arica.Young@trade.gov.*

Industry and Analysis

Eugene Alford, U.S. Department of Commerce, Washington, DC 20230, Tel: 202–482–5071, Email: *Eugene.Alford@trade.gov.*

Frank Spector,

Acting, Trade Mission Director.

[FR Doc. 2014–24427 Filed 10–10–14; 8:45 am]

BILLING CODE 3510–FP–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–843, A–588–872, A–570–996, A–401–809]

Non-Oriented Electrical Steel from Germany, Japan, the People's Republic of China, and Sweden: Final Affirmative Determinations of Sales at Less Than Fair Value and Final Affirmative Determinations of Critical Circumstances, in Part

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

SUMMARY: The Department of Commerce (the Department) determines that non-oriented electrical steel (NOES) from Germany, Japan, the People's Republic of China (the PRC), and Sweden is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The final estimated weighted average dumping margins are shown in the ''Final Determinations'' section of this notice.

DATES: *Effective Date:* October 14, 2014.

FOR FURTHER INFORMATION CONTACT: Patrick O'Connor at (202) 482–0989 (Germany); Thomas Martin at (202) 482–3936 (Japan); Yang Jin Chun at (202) 482–5760 (the PRC); or Drew Jackson at (202) 482–4406 (Sweden); AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On May 22, 2014, the Department published its preliminary affirmative determinations of sales at LTFV and preliminary affirmative determinations of critical circumstances, in part, in the LTFV investigations of NOES from Germany, Japan, Sweden,[1] and the PRC.[2] We invited interested parties to comment on our preliminary determinations. We received no comments in the investigations of NOES from Germany, Sweden, and the PRC. We received case and rebuttal briefs in the investigation of NOES from Japan. On June 23, 2014, we received case briefs from Marubeni Itochu Steel America Inc. and Nippon Steel & Sumitomo Metal Corporation. On June 30, 2014, we received a rebuttal brief from AK Steel Corporation (Petitioner). On July 2, 2014, we postponed the final determinations of these LTFV investigations to October 6, 2014.[3]

Period of Investigations

The period of investigation for the investigations of NOES from Germany, Japan and Sweden is July 1, 2012, through June 30, 2013. The period of investigation for the investigation of NOES from the PRC is January 1, 2013, through June 30, 2013.

Scope of the Investigations

The merchandise subject to these investigations consists of non-oriented electrical steel (NOES), which includes cold-rolled, flat-rolled, alloy steel products, whether or not in coils, regardless of width, having an actual thickness of 0.20 mm or more, in which the core loss is substantially equal in any direction of magnetization in the plane of the material. The term ''substantially equal'' means that the cross grain direction of core loss is no more than 1.5 times the straight grain direction (*i.e.,* the rolling direction) of core loss. NOES has a magnetic permeability that does not exceed 1.65 Tesla when tested at a field of 800 A/m (equivalent to 10 Oersteds) along (*i.e.,* parallel to) the rolling direction of the sheet (*i.e.,* B_{800} value). NOES contains by weight more than 1.00 percent of silicon but less than 3.5 percent of silicon, not more than 0.08 percent of carbon, and not more than 1.5 percent of aluminum. NOES has a surface oxide coating, to which an insulation coating may be applied.

NOES is subject to these investigations whether it is fully processed (*i.e.,* fully annealed to develop final magnetic properties) or semi-processed (*i.e.,* finished to final thickness and physical form but not fully annealed to develop final magnetic properties). Fully processed NOES is typically made to the requirements of ASTM specification A 677, Japanese Industrial Standards (JIS) specification C 2552, and/or International Electrotechnical Commission (IEC) specification 60404–8–4. Semi-processed NOES is typically made to the requirements of ASTM specification A

[1] *See Non-Oriented Electrical Steel from Germany, Japan, and Sweden: Preliminary Determinations of Sales at Less Than Fair Value, and Preliminary Affirmative Determinations of Critical Circumstances, in Part,* 79 FR 29423 (May 22, 2014) (*Preliminary Determinations*).

[2] *See Non-Oriented Electrical Steel From the People's Republic of China: Preliminary Affirmative Determinations of Sales at Less Than Fair Value and Critical Circumstances,* 79 FR 29421 (May 22, 2014) (*Preliminary Determination PRC*).

[3] *See Non-Oriented Electrical Steel From the People's Republic of China, Germany, Japan, and Sweden: Postponement of Final Determinations of Sales at Less Than Fair Value,* 79 FR 37718 (July 2, 2014).

683. However, the scope of this investigation is not limited to merchandise meeting the ASTM, JIS and IEC specifications noted immediately above.

NOES is sometimes referred to as cold-rolled non-oriented (CRNO), non-grain oriented (NGO), non-oriented (NO), or cold-rolled non-grain oriented (CRNGO) electrical steel. These terms are interchangeable.

Excluded from the scope of these investigations are flat-rolled products not in coils that, prior to importation into the United States, have been cut to a shape and undergone all punching, coating, or other operations necessary for classification in Chapter 85 of the Harmonized Tariff Schedule of the United States (HTSUS) as a part (*i.e.,* lamination) for use in a device such as a motor, generator, or transformer.

The subject merchandise is provided for in subheadings 7225.19.0000, 7226.19.1000, and 7226.19.9000 of the HTSUS. Subject merchandise may also be entered under subheadings 7225.50.8085, 7225.99.0090, 7226.92.5000, 7226.92.7050, 7226.92.8050, 7226.99.0180 of the HTSUS. Although HTSUS subheadings are provided for convenience and Customs purposes, the written description of the scope is dispositive.

Verification

Because none of the mandatory respondents in the investigations of NOES from Germany, Japan, and Sweden provided information requested by the Department and because the Department preliminarily determined that each of the mandatory respondents in these investigations had been uncooperative,[4] the Department did not conduct verifications. Additionally, the only party in the investigation of NOES from the PRC, the PRC-wide entity, did not cooperate to the best of its ability.[5] Accordingly, the Department did not conduct a verification in the PRC investigation.

Analysis of Comments Received

Because we received no comments in the investigations of NOES from Germany, Sweden, and the PRC, we made no changes to the *Preliminary Determinations* with respect to these investigations. All issues raised in the case and rebuttal briefs filed by parties in the Japan investigation are addressed in the Japan Issues and Decision Memorandum.[6] A list of the issues that parties raised and to which we responded is in the Japan Issues and Decision Memorandum and attached to this notice as an appendix. The Japan Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at *http://iaaccess.trade.gov,* and it is available to all parties in the Central Records Unit, room 7046, of the main Department of Commerce building. In addition, a complete version of the Japan Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.*

Changes Since the Preliminary Determinations

Based on a review of the record and comments received from interested parties, we made one revision to our preliminary determination in the investigation of NOES from Japan. As discussed below in the ''Final Affirmative Determinations of Critical Circumstances, in Part'' section, we do not find there to be massive imports for the non-individually examined companies receiving the ''All Others'' rate in the investigation of NOES from Japan, pursuant to section 735(a)(3)(B) of the Act and 19 CFR 351.206(h). Accordingly, we no longer find that critical circumstances exist for the non-individually examined companies receiving the ''All Others'' rate in the Japan investigation. We made no changes to our preliminary determinations in the LTFV investigations of NOES from Germany, Sweden, or the PRC.

Final Affirmative Determinations of Critical Circumstances, in Part

In accordance with section 733(e) of the Act and 19 CFR 351.206, we preliminarily found critical circumstances exist with respect to each of the mandatory respondents in the investigations of NOES from Germany, Japan and Sweden, and for all other producers and exporters subject to the investigations of NOES from Japan and Sweden.[7] With respect to all other producers and exporters subject to the investigation of NOES from Germany, including ThyssenKrupp Steel Europe AG, we preliminarily found that critical circumstances did not exist.[8] In addition, in accordance with section 733(e)(1) of the Act, we preliminarily found that critical circumstances exist with respect to the PRC-wide entity in the investigation of NOES from the PRC.[9]

As stated above, for the investigations of NOES from Sweden, Germany, and the PRC, we received no comments concerning the preliminary determinations. Thus, we continue to find that, in accordance with section 735(a)(3) of the Act and 19 CFR 351.206, critical circumstances exist for all exporters and producers, including the mandatory respondent, of NOES from Sweden, and that critical circumstances exist for each of the mandatory respondents in the investigation of NOES from Germany. With respect to all other producers and exporters subject to the investigation of NOES from Germany, including ThyssenKrupp Steel Europe AG, we find that critical circumstances do not exist. Also, for the investigation of NOES from the PRC, we continue to find that, in accordance with section 735(a)(3) of the Act and 19 CFR 351.206, critical circumstances exist with respect to the PRC-wide entity.

For Japan, we received a comment that the Department should update the U.S. import statistics used in its critical circumstances analysis if additional data up through May 2014 (the month the preliminary determination was issued and published) are available. In response to this comment, in conducting our critical circumstances analysis for the final determination, we compared relevant import data for the comparison period October 2013 to May 2014 to data for the base period February 2013 to September 2013. Based on this comparison, we did not find an increase in imports of 15 percent or more during a ''relatively short period'' of time, in accordance with 19 CFR 351.206(h) and (i). Therefore, we do not find there to be massive imports for the non-individually examined companies receiving the ''All Others'' rate in the investigation of NOES from Japan, pursuant to section 735(a)(3)(B) of the Act and 19 CFR 351.206(h).[10] Accordingly, while we continue to find that critical circumstances exist with respect to each of the mandatory respondents in the investigation of

[4] *See Preliminary Determinations,* 79 FR at 29425.

[5] *See Preliminary Determination PRC,* 79 FR at 29422.

[6] *See* the Memorandum from Deputy Assistant Secretary Christian Marsh to Assistant Secretary Paul Piquado entitled ''Issues and Decision Memorandum for the Final Determination of Sales at Less Than Fair Value for Non-Oriented Electrical Steel from Japan'' dated concurrently with and adopted by this notice (Japan Issues and Decision Memorandum).

[7] *See Preliminary Determinations,* 79 FR at 29424.

[8] *Id.*

[9] *See Preliminary Determination PRC,* 79 FR at 29422.

[10] *See* Memorandum from Thomas Martin to the File, ''Non-Oriented Electrical Steel from Japan: U.S. Import Data Considered in Critical Circumstances Analysis for the Final Determination'' dated October 6, 2014.

NOES from Japan, we find that critical circumstances do not exist for the non-individually examined companies receiving the ''All Others'' rate in the investigation of NOES from Japan under section 735(a)(3) of the Act and 19 CFR 351.206.

Use of Facts Available and Adverse Facts Available

As stated in the *Preliminary Determinations* and *Preliminary Determination PRC,* all mandatory respondents in the Germany, Japan, and Sweden proceedings and the PRC-wide entity in the PRC proceeding failed to cooperate to the best of their ability in providing requested information because they withheld requested information, failed to provide the information in a timely manner and in the form requested, and significantly impeded these proceedings.[11] Accordingly, pursuant to sections 776(a)(2)(A), (B), and (C) and section 776(b) of the Act, we find it appropriate to assign the estimated weighted-average dumping margins in the table below, which are based on total adverse facts available.[12]

Final Determinations

As stated above, we made no changes to our preliminary LTFV determinations in the Germany, Japan, Sweden, and PRC investigations. Therefore, we continue to determine that the following estimated weighted-average dumping margins exist for the following producers or exporters for Germany, Japan, and Sweden during the period July 1, 2012, through June 30, 2013; and for the PRC wide-entity during the period January 1, 2013 through June 30, 2013:

Germany

Producer or exporter	Rate
CD Walzholz	98.84%
Thyssenkrupp Electrical Steel EBG GMBH	98.84%
All Others	86.29%

Japan

Producer or exporter	Rate
JFE Steel Corporation	204.79%
Sumitomo Corporation	204.79%
All Others	135.59%

Sweden

Producer or exporter	Rate
Surahammars Bruks AB	126.72%
All Others	98.46%

The People's Republic of China

Exporter	Rate
PRC-Wide Entity	407.52%

All Others Rate

For Germany, Japan and Sweden, the ''All Others'' rate is based on a simple average of the dumping margins from the petition.[13] For a full description of the methodology underlying our final determinations, *see* All Other Rate Memoranda.[14]

Continuation and Partial Termination of Suspension of Liquidation

In accordance with section 735(c)(4)(A) of the Act, the Department will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of NOES from Germany, Japan, the PRC, and Sweden, as described in the ''Scope of the Investigations'' section, for which critical circumstances have been found to exist, which were entered, or withdrawn from warehouse, for consumption on or after February 21, 2014, 90 days prior to the date of publications of the *Preliminary Determinations* and the *Preliminary Determination PRC,* pursuant to section 733(e)(2) of the Act.

In accordance with section 735(c)(1)(B) of the Act, the Department will instruct CBP to continue to suspend liquidation of entries of NOES from Germany, as described in the ''Scope of the Investigations'' section, from companies receiving the ''All Others'' rate, which were entered, or withdrawn from warehouse, for consumption on or after May 22, 2014, the date of publication of the *Preliminary Determinations.*

Because we no longer find that critical circumstances exist for the non-individually examined companies receiving the ''All Others'' rate in the investigation of NOES from Japan, the Department, in accordance with section 735(c)(3) of the Act, will instruct CBP to terminate the suspension of liquidation of relevant entries, as described in the ''Scope of the Investigations'' section, which were entered, or withdrawn from warehouse, for consumption prior to the date of publication of the *Preliminary Determinations* (*i.e.,* on or after February 21, 2014 through May 21, 2014), and to refund any cash deposit with respect to those entries of subject merchandise the liquidation of which was suspended retroactively under section 733(e)(2) of the Act. In accordance with sections 733(d)(2) and 735(c)(1)(B) of the Act, we will direct CBP to continue the suspension of liquidation of all entries of NOES from Japan, as described in the ''Scope of the Investigations'' section, from companies receiving the ''All Others'' rate which were entered, or withdrawn from warehouse, for consumption on or after May 22, 2014, the date of publication of the *Preliminary Determinations.*

Pursuant to section 735(c)(1) of the Act and 19 CFR 351.210(d), we will instruct CBP to require a cash deposit for entries of NOES from Germany, Japan, and Sweden as follows: (1) The cash deposit rates for mandatory respondents will be equal to the estimated weighted-average dumping margins that we have determined in these final determinations for these respondents; (2) if the exporter is not a mandatory respondent identified in the investigation but the producer is, the cash deposit rate will be the estimated weighted-average dumping margin established for the producer of the subject merchandise in these final determinations; and (3) the cash deposit rate for all other producers or exporters will be equal to the country-specific estimated weighted-average dumping margin for ''All Other'' producers and exporters determined in these final determinations. The instructions suspending liquidation will remain in effect until further notice.[15]

Consistent with our practice, where the product under investigation is also subject to a concurrent countervailing duty investigation, we instruct CBP to require a cash deposit equal to the

[11] *See Preliminary Determinations,* and accompanying Preliminary Decision Memorandum at 7–10; *Preliminary Determination PRC,* and accompanying Preliminary Decision Memorandum at 6–9.

[12] *Id.*

[13] *See Preliminary Determinations,* 79 FR at 29424.

[14] *See* the Memorandum from Patrick O'Connor to the Germany Investigation File ''Non-Oriented Electrical Steel from the Federal Republic of Germany: Calculation of All Others Rate, dated May 16, 2014; the Memorandum from Thomas Martin to the Japan Investigation File, ''Non-Oriented Electrical Steel from Japan: Calculation of All Others Rate,'' dated May 15, 2014; and the Memorandum from Drew Jackson to the Sweden Investigation File, ''Non-Oriented Electrical Steel from Sweden: Calculation of All Others Rate'' dated May 16, 2014 (collectively, All Others Rate Memoranda). *See also, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Raw Flexible Magnets From Taiwan,* 73 FR 39673, 39674 (July 10, 2008) (where the Department determined the all others rate using a simple average of the alleged dumping margins from the petition).

[15] *See Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations,* 76 FR 61042 (October 3, 2011).

amount by which the normal value exceeds the export price or constructed export price, adjusted where appropriate for export subsidies and estimated domestic subsidy pass-through.[16] With regard to the PRC-wide entity, we find that an adjustment for export subsidies of 10.77 percent [17] is warranted because this is the export subsidy rate included in the countervailing duty rate to which all entries from the PRC-wide entity are currently subject. We are not adjusting the final determination rate for estimated domestic subsidy pass-through because we have no basis upon which to make such an adjustment. Thus, we will offset the estimated weighted-average dumping margin for the PRC-wide entity of 407.52 percent by the countervailing duty rate attributable to export subsidies (*i.e.,* 10.77 percent) to calculate the cash deposit *ad valorem* rate for the PRC-wide entity of 396.75 percent. The suspension of liquidation instructions will remain in effect until further notice.

Combination Rates

In the *Initiation Notice,*[18] the Department stated that it would calculate combination rates for PRC respondents that are eligible for a separate rate in this investigation. This practice is described in Policy Bulletin 05.1, available at *http://enforcement.trade.gov/policy/index.html.* Because the Department has not granted a separate rate to any PRC respondent, the Department has not calculated combination rates for any PRC respondents.

Disclosure

We described the calculations used to determine the estimated weighted-average dumping margins based on adverse facts available in the *Preliminary Determinations* and *Preliminary Determination PRC.* We made no changes to our calculations since these preliminary affirmative determinations. Thus, no additional disclosure of calculations is necessary for the final determinations.

U.S. International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of our final affirmative determinations of sales at LTFV and final affirmative determinations of critical circumstances, in part. Because the final determinations in these proceedings are affirmative, section 735(b)(2) of the Act requires that the ITC make its final determinations as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of NOES from Germany, Japan, Sweden, and the PRC no later than 45 days after our final determinations. If the ITC determines that material injury or threat of material injury does not exist for any country, the associated proceeding will be terminated and all securities posted will be refunded. If the ITC determines that such injury does exist for any country, the Department will issue an antidumping duty order for that country directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Order

This notice serves as a reminder to the parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APOs in accordance with 19 CFR 351.305. Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of APOs is a sanctionable violation.

Notification to Interested Parties

These determinations are issued and published in accordance with sections 735(d) and 777(i)(1) of the Act and 19 CFR 351.210(c).

Dated: October 6, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix: Japan Issues and Decision Memorandum

I. Summary
II. Background
III. Critical Circumstances
IV. Scope Comments
V. Scope of the Investigations
VI. Discussion of the Issues
Comment 1: Request for a Scope Clarification
Comment 2: Request to Treat October 2013 as Part of the Base Period Rather Than the Comparison Period for Purposes of Critical Circumstances
Comment 3: Request to Revise the Comparison Period for Purposes of Critical Circumstances
VII. Recommendation

[FR Doc. 2014–24372 Filed 10–10–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–872]

Non-Oriented Electrical Steel From the Republic of Korea: Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances

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

SUMMARY: The Department of Commerce (the Department) determines that imports of non-oriented electrical steel from the Republic of Korea are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The final estimated weighted-average dumping margins are listed below in the ''Final Determination'' section of this notice.

DATES: *Effective Date:* October 14, 2014.

FOR FURTHER INFORMATION CONTACT: Dmitry Vladimirov, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0665.

SUPPLEMENTARY INFORMATION:

Background

On May 22, 2014, the Department published the *Preliminary Determination* in the **Federal Register**.[1]

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[16] *See* sections 772(c)(1)(C) and 777A(f) of the Act, respectively. Unlike in administrative reviews, the Department makes an adjustment for export subsidies in an LTFV investigation not in the calculation of the weighted-average dumping margin, but in the cash deposit instructions issued to CBP. *See Notice of Final Determination of Sales at Less Than Fair Value, and Negative Determination of Critical Circumstances: Certain Lined Paper Products from India,* 71 FR 45012 (August 8, 2006), and accompanying Issues and Decision Memorandum at comment 1.

[17] The following subsidy programs countervailed in the final determination of the concurrent countervailing duty investigation are export subsidies: Preferential Export Financing from the Export-Import Bank of China (1.06 percent) and Tax Refunds for Reinvestment of FIE Profits in Export-Oriented Enterprises (9.71 percent). *See Non-Oriented Electrical Steel from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination,* and the accompanying Issues and Decision Memorandum at 8, signed concurrently with this notice.

[18] *See Non-Oriented Electrical Steel From the People's Republic of China, Germany, Japan, the Republic of Korea, Sweden, and Taiwan: Initiation of Antidumping Duty Investigations,* 78 FR 69041, 69046 (November 18, 2013).

[1] *See Non-Oriented Electrical Steel from the Republic of Korea: Preliminary Affirmative*

In the *Preliminary Determination,* we postponed the final determination until no later than 135 days after the publication of the *Preliminary Determination* in accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), and invited parties to comment on our *Preliminary Determination.* We received case and rebuttal briefs from the petitioner, AK Steel Corporation, and POSCO/Daewoo International Corporation (collectively, POSCO) in August 2014. On June 19, 2014, POSCO requested a hearing, but withdrew its request on August 19, 2014.[2]

Period of Investigation

The period of investigation is July 1, 2012, through June 30, 2013.

Scope of the Investigation

The merchandise subject to this investigation consists of non-oriented electrical steel (NOES), which includes cold-rolled, flat-rolled, alloy steel products, whether or not in coils, regardless of width, having an actual thickness of 0.20 mm or more, in which the core loss is substantially equal in any direction of magnetization in the plane of the material. The term ''substantially equal'' means that the cross grain direction of core loss is no more than 1.5 times the straight grain direction (*i.e.,* the rolling direction) of core loss. NOES has a magnetic permeability that does not exceed 1.65 Tesla when tested at a field of 800 A/m (equivalent to 10 Oersteds) along (*i.e.,* parallel to) the rolling direction of the sheet (*i.e.,* B_{800} value). NOES contains by weight more than 1.00 percent of silicon but less than 3.5 percent of silicon, not more than 0.08 percent of carbon, and not more than 1.5 percent of aluminum. NOES has a surface oxide coating, to which an insulation coating may be applied.

NOES is subject to this investigation whether it is fully processed (*i.e.,* fully annealed to develop final magnetic properties) or semi-processed (*i.e.,* finished to final thickness and physical form but not fully annealed to develop final magnetic properties). Fully processed NOES is typically made to the requirements of ASTM specification A 677, Japanese Industrial Standards (JIS) specification C 2552, and/or International Electrotechnical Commission (IEC) specification 60404–8–4. Semi-processed NOES is typically made to the requirements of ASTM specification A 683. However, the scope of this investigation is not limited to merchandise meeting the ASTM, JIS, and IEC specifications noted immediately above.

NOES is sometimes referred to as cold-rolled non-oriented (CRNO), non-grain oriented (NGO), non-oriented (NO), or cold-rolled non-grain oriented (CRNGO) electrical steel. These terms are interchangeable.

Excluded from the scope of this investigation are flat-rolled products not in coils that, prior to importation into the United States, have been cut to a shape and undergone all punching, coating, or other operations necessary for classification in Chapter 85 of the Harmonized Tariff Schedule of the United States (HTSUS) as a part (*i.e.,* lamination) for use in a device such as a motor, generator, or transformer.

The subject merchandise is provided for in subheadings 7225.19.0000, 7226.19.1000, and 7226.19.9000 of the HTSUS. Subject merchandise may also be entered under subheadings 7225.50.8085, 7225.99.0090, 7226.92.5000, 7226.92.7050, 7226.92.8050, 7226.99.0180 of the HTSUS. Although HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the Issues and Decision Memorandum.[3] A list of the issues which parties raised and to which we responded is in the Issues and Decision Memorandum and attached to this notice as an Appendix. The Issues and Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at *http://iaaccess.trade.gov* and it is available to all parties in the Central Records Unit (CRU), room 7046 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at *http://enforcement.trade.gov/frn/index.html.* The signed and the electronic versions of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Determination

Based on our analysis of the comments received, pre-verification corrections, and our findings at verifications, we made certain changes to the margin calculations for POSCO. For a discussion of these changes, *see* the ''Margin Calculations'' section of the Issues and Decision Memorandum.[4]

Verification

As provided in section 782(i) of the Act, in June and July 2014, we conducted sales and cost verifications of the questionnaire responses submitted by POSCO. We used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by POSCO.[5]

Final Determination

The estimated weighted-average dumping margins for this final determination are as follows:

Producer or exporter	Estimated weighted-average dumping margin (percent)
POSCO/Daewoo International Corporation	6.88
All Others	6.88

Disclosure

We intend to disclose the calculations performed for this final determination within five days after the date of

Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances, and Postponement of Final Determination, 79 FR 29426 (May 22, 2014) (*Preliminary Determination*).

[2] *See* POSCO letter entitled ''Non-Oriented Electrical Steel from the Republic of Korea: Withdrawal of Request for Hearing'' dated August 19, 2014.

[3] *See* the memorandum from Associate Deputy Assistant Secretary Gary Taverman to Assistant Secretary Paul Piquado entitled ''Issues and Decision Memorandum for the Final Affirmative Determination in the Less than Fair Value Investigation of Non-Oriented Electrical Steel from the Republic of Korea'' dated concurrently with this notice and hereby adopted by this notice (Issues and Decision Memorandum).

[4] *See also* Memorandum to Neal Halper entitled ''Cost of Production, Constructed Value, and Further Manufacturing Calculation Adjustments for the Final Determination—POSCO'' dated concurrently with this notice and Memorandum to the File entitled ''Final Determination of Sales at Less Than Fair Value in the Antidumping Duty Investigation of Non-Oriented Electrical Steel from the Republic of Korea—Analysis Memorandum for POSCO'' dated concurrently with this notice.

[5] *See* Memorandum to the File entitled ''Verification of the Cost Response of POSCO Corporation in the Antidumping Duty Investigation of Non-Oriented Electrical Steel from the Republic of Korea'' dated July 28, 2014; Memorandum to the File entitled ''Verification of the Sales Response of POSCO in the Less-Than-Fair-Value Investigation of Non-Oriented Electrical Steel from the Republic of Korea'' dated August 6, 2014; and Memorandum to the File entitled ''Verification of the Sales Response of POSCO's U.S. affiliate, Daewoo International America, in the Less-Than-Fair-Value Investigation of Non-Oriented Electrical Steel from the Republic of Korea'' dated August 6, 2014.

publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, the Department will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of non-oriented electrical steel from the Republic of Korea which were entered, or withdrawn from warehouse, for consumption on or after May 22, 2014, the date of publication of the *Preliminary Determination.* We also will instruct CBP to require a cash deposit equal to the weighted-average amount by which normal value exceeds U.S. price, as follows: (1) The cash deposit rate for the mandatory respondent listed above will be equal to the estimated weighted-average dumping margin determined in this final determination; (2) if the exporter is not a firm identified in this investigation but the producer is, then the cash deposit rate will be equal to the estimated weighted-average dumping margin established for the producer of the subject merchandise; (3) the cash deposit rate for all other producers or exporters will be 6.88 percent, as discussed in the ''All Others Rate'' section, below. These suspension of liquidation instructions will remain in effect until further notice.

All Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated ''all others'' rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually examined, excluding any rates that are zero, *de minimis,* or determined entirely under section 776 of the Act. Accordingly, the ''All Others'' rate is equal to the estimated weighted-average dumping margin calculated for POSCO, the only company for which the Department calculated a rate.[6]

U.S. International Trade Commission Notification

In accordance with section 735(d) of the Act, we notified the U.S. International Trade Commission (ITC) of our final determination. As our final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will determine within 45 days whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the subject merchandise. If the ITC determines that such injury exists, the Department will issue an antidumping duty order directing CBP to assess, upon further instruction by the Department, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Return or Destruction of Proprietary Information

This notice will serve as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the destruction or return of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing this determination and notice pursuant to sections 735(d) and 777(i)(l) of the Act.

Dated: October 6, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Critical Circumstances
IV. Scope of the Investigation
V. Margin Calculations
VI. Discussion of the Issues
  1. Home Market Level of Trade
  2. Home Market Sales Outside of the Ordinary Course of Trade
  3. Denial of Offsets for Non-Dumped Sales When Using the Average-to-Transaction Method as an Alternative Comparison Method
VII. Recommendation

[FR Doc. 2014–24374 Filed 10–10–14; 8:45 am]

BILLING CODE 3510–DS–P

[6] *See* section 735(c)(5)(A) of the Act.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–851]

Non-Oriented Electrical Steel From Taiwan: Final Determination of Sales at Less Than Fair Value

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

SUMMARY: The Department of Commerce (''Department'') determines that non-oriented electrical steel (''NOES'') from Taiwan is being, or is likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 735 of the Tariff Act of 1930, as amended (the ''Act''). The final weighted-average dumping margins of sales at LTFV are listed in the ''Final Determination'' section of this notice.

DATES: *Effective Date:* October 14, 2014.

FOR FURTHER INFORMATION CONTACT: Krisha Hill or Karine Gziryan, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4037 or (202) 482–4081, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published its *Preliminary Determination* on May 22, 2014.[1] We invited parties to comment on our *Preliminary Determination.* On August 11, 2014, we received case briefs from China Steel Corporation (''CSC''), and AK Steel Corporation (''Petitioner'').[2] On August 18, 2014, CSC submitted a rebuttal brief.[3] Based on an analysis of the comments received, the Department made changes from the *Preliminary Determination.*

Period of Investigation

The period of investigation (''POI'') is July 1, 2012, through June 30, 2013.

Scope of the Investigation

The merchandise subject to this investigation consists of non-oriented electrical steel (NOES), which includes cold-rolled, flat-rolled, alloy steel products, whether or not in coils, regardless of width, having an actual thickness of 0.20 mm or more, in which the core loss is substantially equal in any direction of magnetization in the plane of the material. The term ''substantially equal'' means that the cross grain direction of core loss is no

[1] *See Non-Oriented Electrical Steel from Taiwan: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 79 FR 29428 (May 22, 2014) (''*Preliminary Determination*'').

[2] *See* Letter from CSC to the Department regarding, ''Non-Oriented Electrical Steel (NOES) from Taiwan—China Steel Case Brief,'' dated August 11, 2014; *see also* Letter from Petitioner to the Department regarding, ''Non-Oriented Electrical Steel From Taiwan: Petitioner's Case Brief,'' dated August 11, 2014.

[3] *See* Letter from CSC to the Department regarding, ''Non-Oriented Electrical Steel (NOES) from Taiwan—China Steel Rebuttal Brief,'' dated August 18, 2014.

more than 1.5 times the straight grain direction (*i.e.,* the rolling direction) of core loss. NOES has a magnetic permeability that does not exceed 1.65 Tesla when tested at a field of 800 A/m (equivalent to 10 Oersteds) along (*i.e.,* parallel to) the rolling direction of the sheet (*i.e.,* B_{800} value). NOES contains by weight more than 1.00 percent of silicon but less than 3.5 percent of silicon, not more than 0.08 percent of carbon, and not more than 1.5 percent of aluminum. NOES has a surface oxide coating, to which an insulation coating may be applied.

The subject merchandise is provided for in subheadings 7225.19.0000, 7226.19.1000, and 7226.19.9000 of the HTSUS. Subject merchandise may also be entered under subheadings 7225.50.8085, 7225.99.0090, 7226.92.5000, 7226.92.7050, 7226.92.8050, 7226.99.0180 of the HTSUS. Although HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope is dispositive. For a complete description of the scope of this investigation, *see* the Issues and Decision Memorandum, dated concurrently with this notice.[4]

Use of Facts Otherwise Available and Adverse Facts Available (AFA)

In the *Preliminary Determination,* we stated that because the mandatory respondent Leicong Industrial Company, Ltd. (''Leicong'') failed to respond to the Department's questionnaire, we preliminarily determined to apply facts otherwise available with an adverse inference to this respondent pursuant to sections 776(a) and (b) of the Act. Pursuant to section 776 of the Act, the Department continues to find it appropriate to base Leicong's rate on AFA. Further, we continue to find that the margin in the Petition, which we determined during our pre-initiation analysis was based on adequate and accurate information, and which we corroborated in the *Preliminary Determination,* is the appropriate AFA rate for Leicong. In applying AFA, we are assigning Leicong a rate of 52.23 percent.

Verification

As provided in section 782(i) of the Act, the Department conducted sales and cost verifications of the questionnaire responses submitted by CSC. The Department used standard verification procedures, including examination of relevant accounting and production records and original source documents provided by the respondent.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation are addressed in the Issues and Decision Memorandum. A list of the issues raised by the parties and to which the Department responded in the Issues and Decision Memorandum is attached to this notice as an Appendix. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS''). IA ACCESS is available to registered users at *http://iaaccess.trade.gov,* and is available to all parties in the Central Records Unit, which is in room 7046 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at *http://enforcement.trade.gov/frn/index.html.* The paper copy and electronic version of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we made the following changes to the margin calculation for CSC. We relied on the COP data submitted by CSC except as follows:

- We allowed CSC's full cost allocation to secondary and salvage products.
- We increased CSC's cost of manufacturing to reflect the market value of its affiliated party purchases of scrap in accordance with the transactions disregarded rule of section 773(f)(2) of the Act.
- For difference-in-merchandise (''DIFMER'') purposes, we excluded CSC's depreciation expense for all stages of production (*i.e.,* steelmaking through the electrical steel process) from the variable cost of manufacturing (''VCOM''). This results in a decrease to the per-unit VCOM for DIFMER purposes.

For additional details on the above issues, see Memorandum to Neal M. Halper, Director of Office of Accounting, ''Cost of Production and Constructed Value Calculation Adjustments for the Final Determination—China Steel Corporation,'' dated October 6, 2014.

Final Determination

The Department determines that the following final dumping margins exist for the POI:

Producer or exporter	Weighted-average dumping margin (%)
China Steel Corporation	27.54
Leicong Industrial Company, Ltd	52.23
All Others	27.54

Disclosure

The Department intends to disclose calculations performed for this final determination to the parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of NOES from Taiwan which were entered, or withdrawn from warehouse, for consumption on or after May 22, 2014, the date of publication of the *Preliminary Determination.* We will instruct CBP to require a cash deposit equal to the weighted-average amount by which normal value exceeds U.S. price, as follows: (1) The rates for CSC and Leicong Industrial Company, Ltd. will be the rates we have determined in this final determination; (2) if the exporter is not a firm identified in this investigation but the producer is, the rate will be the rate established for the producer of the subject merchandise; (3) the rate for all other producers or exporters will be 27.54 percent, as discussed in the ''All Others Rate'' section, below. These suspension of liquidation instructions will remain in effect until further notice.

''All Others'' Rate

Section 735(c)(5)(A) of the Act provides that the estimated ''all others'' rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins and any margins determined entirely under section 776 of the Act. CSC is the only respondent in this investigation for which we calculated a company-specific rate that is not zero, *de minimis,* or

[4] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance regarding, ''Issues and Decision Memorandum for the Final Determination of Sales at Less Than Fair Value: Non-Oriented Electrical Steel from Taiwan,'' dated October 6, 2014 (''Issues and Decision Memorandum'').

determined entirely under section 776 of the Act. Therefore, for purposes of determining the ''all others'' rate and pursuant to section 735(c)(5)(A) of the Act, we are using the dumping margin calculated for CSC, 27.54 percent, for the ''all others'' rate, as referenced above.

U.S. International Trade Commission (''ITC'') Notification

In accordance with section 735(d) of the Act, we notified the International Trade Commission (ITC) of our final determination. As our final determination is affirmative, and in accordance with section 735(b)(2) of the Act, the ITC will determine, within 45 days, whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of NOES from Taiwan. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Orders (''APO'')

This notice also serves as a reminder to the parties subject to APO of their responsibility concerning the disposition of propriety information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: October 6, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix

Issues for the Final Determination

Summary
Background
Period of Investigation
Scope of the Investigation
Discussion of Issues
Comment 1: Whether the Department Should Exclude CSC's Sales Ultimately Destined to a Third Country From the Margin Calculation
Comment 2: Difference Between POI Net Cost of Manufacturing and Total Cost of Manufacturing
Comment 3: Fixed Overhead (FOH) for CONNUM 16216011
Recommendation

[FR Doc. 2014–24368 Filed 10–10–14; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Notice of Intent To Prepare an Environmental Impact Statement on the Issuance of Take Authorizations in Cook Inlet, Alaska

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

ACTION: Notice; request for comments.

SUMMARY: The National Marine Fisheries Service (NMFS) announces its intent to prepare an Environmental Impact Statement (EIS) to analyze the environmental impacts of issuing Incidental Take Authorizations (ITAs) pursuant to the Marine Mammal Protection Act (MMPA) for the taking of marine mammals incidental to anthropogenic activities in the waters of Cook Inlet, Alaska. NMFS will hold a public scoping meeting to begin the scoping process.

DATES: All comments, written statements, and questions regarding the scoping process and preparation of the EIS must be received no later than December 29, 2014.

ADDRESSES: You may submit comments and statements regarding the scoping for this EIS, identified by NOAA–NMFS–2014–0129, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal *www.regulations.gov.* To submit comments via the e-Rulemaking Portal, enter NOAA–NMFS–2014–0129 in the keyword search. Locate the document you wish to comment on from the resulting list and click on the ''Comment Now'' icon on the right of that line.
- *Mail:* Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.
- *Fax:* (301) 713–0376, Attn: Jolie Harrison.
- *Public Meeting:* Oral and written comments will be accepted during the upcoming public scoping meeting on Monday, November 3, 2014. See **SUPPLEMENTARY INFORMATION,** Public Meetings for more information.

Instructions: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. 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 *www.regulations.gov* without change. All personal identifying information (e.g., name, address, etc.) submitted voluntarily by the sender 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 or Excel or Adobe PDF file formats only. We request that you include background documents to support your comments as appropriate.

FOR FURTHER INFORMATION CONTACT: Jolie Harrison, Office of Protected Resources, NMFS, at (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

Sections 101 (a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment for a period of one year or less, a notice of proposed authorization is provided to the public for review. The term ''take'' under the MMPA means ''to harass, hunt, capture or kill, or attempt to harass, hunt, capture, or kill.'' Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as ''any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].''

Authorization for incidental takings shall be granted if NMFS finds that the

taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Geographic Area To Be Considered

For the purposes of this EIS, NMFS intends to analyze the effects on the human environment of issuing authorizations for the incidental take of marine mammals from activities occurring in both the state and Federal waters of Cook Inlet, AK, from Knik Arm in the northern part of the Inlet to the southern edge of Kachemak Bay on the southeastern part of the Inlet and to the southern edge of Cape Douglas on the southwestern part of the Inlet.

Objectives of the EIS

NMFS prepares environmental analyses under the National Environmental Policy Act (NEPA) to support the issuance of ITAs for specific activities under sections 101(a)(5)(A) and (D) of the MMPA. This programmatic EIS will analyze the potential effects on the human environment of issuing MMPA ITAs for various anthropogenic activities in Cook Inlet. An EIS that analyzes multiple activities over multiple years will provide a comprehensive decision-support tool for NMFS, allowing us to address cumulative effects over a longer time frame, consider a wider range of reasonable alternatives consistent with our statutory mandates, and analyze a wider range of practicable mitigation and monitoring measures for protecting marine mammals and the availability of marine mammals for subsistence uses.

Anthropogenic activities are prevalent in Cook Inlet, and there are indications that the level of activities may increase in the coming years. Additionally, NMFS continues to be concerned about the lack of recovery of the small resident population of Cook Inlet beluga whales, which is both depleted under the MMPA and listed as endangered under the Endangered Species Act (ESA). Preparation of an EIS, which will allow for a more comprehensive analysis of alternatives and mitigation and monitoring measures, will not only achieve greater administrative efficiency for NMFS' ITA program but will increase NMFS' options and flexibility for processing MMPA ITA requests in the region while ensuring compliance with MMPA, ESA, and NEPA mandates. NMFS has determined that the preparation of such an EIS will provide the best decision support tool for processing MMPA ITA requests in Cook Inlet.

Types of Information Requested

NMFS invites the participation of Federal agencies, State of Alaska, local, and tribal government entities, Native American and Native Alaskan organizations, environmental and fish and wildlife organizations, the oil and gas industry, non-energy industries, other interested organizations and entities, and the general public, for use in the preparation of this EIS. To help us determine the scope and the significant issues to be analyzed in depth in the EIS, NMFS is seeking a wide array of information about: (1) The ecological, social, and economic environments and values in Cook Inlet, Alaska; (2) the potential impact of various types of human activities in Cook Inlet (e.g., oil and gas exploration and development, construction, port redevelopment projects, etc.) on the marine, coastal and human environments; (3) subsistence activities and uses of marine mammals in Cook Inlet; (4) the acoustic environment in Cook Inlet; (5) proposed and upcoming projects within Cook Inlet; (6) ways to assess, mitigate, minimize, and monitor impacts of activities on marine mammals (especially beluga whales) and their habitats (including prey species); and (7) any other relevant information.

Public Meetings

We will hold a public scoping meeting in Anchorage, AK, on Monday, November 3, 2014, from 6:00 to 8:00 p.m. at the Loussac Library's Wilda Marston Theater located at 3600 Denali Street, Anchorage, AK 99503. Written and oral comments will be accepted at the public meeting.

Dated: October 7, 2014.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2014–24317 Filed 10–10–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Notice of Indirect Cost Rates for the Damage Assessment, Remediation, and Restoration Program for Fiscal Year 2013

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of Indirect Cost Rates for the Damage Assessment, Remediation, and Restoration Program for Fiscal Year 2013.

SUMMARY: The National Oceanic and Atmospheric Administration's (NOAA's) Damage Assessment, Remediation, and Restoration Program (DARRP) is announcing new indirect cost rates on the recovery of indirect costs for its component organizations involved in natural resource damage assessment and restoration activities for fiscal year (FY) 2013 . The indirect cost rates for this fiscal year and date of implementation are provided in this notice. More information on these rates and the DARRP policy can be found at the DARRP Web site at *www.darrp.noaa.gov.*

FOR FURTHER INFORMATION CONTACT: For further information, contact LaTonya Burgess at 301–713–4248, ext. 211, by fax at 301–713–4389, or email at *LaTonya.Burgess@noaa.gov*.

SUPPLEMENTARY INFORMATION: The mission of the DARRP is to restore natural resource injuries caused by releases of hazardous substances or oil under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (42 U.S.C. 9601 *et seq.*) and the Oil Pollution Act of 1990 (OPA) (33 U.S.C. 2701 *et seq.*), and to support restoration of physical injuries to National Marine Sanctuary resources under the National Marine Sanctuaries Act (NMSA) (16 U.S.C. 1431 *et seq.*). The DARRP consists of three component organizations: the Office of Response and Restoration (ORR) within the National Ocean Service; the Restoration Center within the National Marine Fisheries Service; and the Office of the General Counsel Natural Resources Section (GCNRS). The DARRP conducts Natural Resource Damage Assessments (NRDAs) as a basis for recovering damages from responsible parties, and uses the funds recovered to restore injured natural resources.

Consistent with federal accounting requirements, the DARRP is required to account for and report the full costs of

its programs and activities. Further, the DARRP is authorized by law to recover reasonable costs of damage assessment and restoration activities under CERCLA, OPA, and the NMSA. Within the constraints of these legal provisions and their regulatory applications, the DARRP has the discretion to develop indirect cost rates for its component organizations and formulate policies on the recovery of indirect cost rates subject to its requirements.

The DARRP's Indirect Cost Effort

In December 1998, the DARRP hired the public accounting firm Rubino & McGeehin, Chartered (R&M) to: evaluate the DARRP cost accounting system and allocation practices; recommend the appropriate indirect cost allocation methodology; and determine the indirect cost rates for the three organizations that comprise the DARRP. A **Federal Register** notice on R&M's effort, their assessment of the DARRP's cost accounting system and practice, and their determination regarding the most appropriate indirect cost methodology and rates for FYs 1993 through 1999 was published on December 7, 2000 (65 FR 76611). The notice and report by R&M can also be found on the DARRP Web site at *www.darrp.noaa.gov.*

R&M continued its assessment of DARRP's indirect cost rate system and structure for FYs 2000 and 2001. A second federal notice specifying the DARRP indirect rates for FYs 2000 and 2001 was published on December 2, 2002 (67 FR 71537).

In October 2002, DARRP hired the accounting firm of Cotton and Company LLP (Cotton) to review and certify DARRP costs incurred on cases for purposes of cost recovery and to develop indirect rates for FY 2002 and subsequent years. As in the prior years, Cotton concluded that the cost accounting system and allocation practices of the DARRP component organizations are consistent with federal accounting requirements. Consistent with R&M's previous analyses, Cotton also determined that the most appropriate indirect allocation method continues to be the Direct Labor Cost Base for all three DARRP component organizations. The Direct Labor Cost Base is computed by allocating total indirect cost over the sum of direct labor dollars, plus the application of NOAA's leave surcharge and benefits rates to direct labor. Direct labor costs for contractors from I.M. Systems Group (IMSG) were included in the direct labor base because Cotton determined that these costs have the same relationship to the indirect cost pool as NOAA direct labor costs. IMSG provided on-site support to the DARRP in the areas of injury assessment, natural resource economics, restoration planning and implementation, and policy analysis. IMSG continues to provide on-site support to the DARRP. Starting in FY 2010, contractors from Genwest provide on-site support for cost documentation. Subsequent federal notices have been published in the **Federal Register** as follows:

- FY 2002, published on October 6, 2003 (68 FR 57672)
- FY 2003, published on May 20, 2005 (70 FR 29280)
- FY 2004, published on March 16, 2006 (71 Fed Reg. 13356)
- FY 2005, published on February 9, 2007 (72 FR 6221)
- FY 2006, published on June 3, 2008 (73 FR 31679)
- FY 2007 and FY 2008, published on November 16, 2009 (74 FR 58948)
- FY 2009 and FY 2010, published on October 20, 2011 (76 FR 65182)
- FY 2011, published on September 17, 2012 (77 FR 57074)
- FY 2012, published on August 29, 2013 (78 FR 53425)

Cotton's reports on these indirect rates can also be found on the DARRP Web site at *www.darrp.noaa.gov.*

Cotton reaffirmed that the Direct Labor Cost Base is the most appropriate indirect allocation method for the development of the FY 2013 indirect cost rates.

The DARRP's Indirect Cost Rates and Policies

The DARRP will apply the indirect cost rates for FY 2013 as recommended by Cotton for each of the DARRP component organizations as provided in the following table:

DARRP component organization	FY 2013 indirect rate (percent)
Office of Response and Restoration (ORR)	131.43
Restoration Center (RC)	79.94
General Counsel	
Natural Resources Section (GCNRS)	29.01

These rates are based on the Direct Labor Cost Base allocation methodology.

The FY 2013 rates will be applied to all damage assessment and restoration case costs incurred between October 1, 2012 and September 30, 2013. DARRP will use the FY 2013 indirect cost rates for future fiscal years, beginning with FY 2014, until subsequent year-specific rates can be developed.

For cases that have settled and for cost claims paid prior to the effective date of the fiscal year in question, the DARRP will not re-open any resolved matters for the purpose of applying the revised rates in this policy for these fiscal years. For cases not settled and cost claims not paid prior to the effective date of the fiscal year in question, costs will be recalculated using the revised rates in this policy for these fiscal years. Where a responsible party has agreed to pay costs using previous year's indirect rates, but has not yet made the payment because the settlement documents are not finalized, the costs will not be recalculated.

Dated: September 22, 2014.

David Westerholm,

Director, Office of Response and Restoration.

[FR Doc. 2014–24112 Filed 10–10–14; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC100

Marine Mammals; File No. 17115

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

ACTION: Notice; issuance of permit amendment.

SUMMARY: Notice is hereby given that a major amendment to Permit No. 17115–02 has been issued to James Lloyd-Smith, Ph.D., Department of Ecology and Evolutionary Biology, University of California, Los Angeles, 610 Charles E. Young Dr. South, Box 723905, Los Angeles, CA 90095–7239.

ADDRESSES: The permit amendment and related documents are available for review upon written request or by appointment in the following office:

Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone: (301) 427–8401; fax: (301)713–0376.

FOR FURTHER INFORMATION CONTACT: Amy Sloan, (301) 427–8401.

SUPPLEMENTARY INFORMATION: On July 16, 2014, notice was published in the **Federal Register** (79 FR 41538) that a request for an amendment Permit No. 17115–02 to conduct research on California sea lions (*Zalophus californianus*) had been submitted by the above-named applicant. The requested permit amendment has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and

the regulations governing the taking and importing of marine mammals (50 CFR part 216).

Permit No. 17115–03 authorizes the permit holder to study the prevalence of leptospirosis in wild California sea lions in California. The amendment authorizes the permit holder to expand the sampling season to any time of year excluding peak pupping season on rookeries, change the project location from Año Nuevo Island and Monterey Bay as separate locations to a combined coastal California area including offshore islands, increase the number of sea lions sampled, add captures of pups, add water captures and use of injectable drugs, increase incidental disturbance of California sea lions and add incidental disturbance of eastern Steller sea lions (*Eumetopias jubatus*) and northern fur seals (*Callorhinus ursinus*), and take additional samples in the event of an unusual mortality event or disease outbreak. The permit expires September 30, 2017.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: October 8, 2014.

Julia Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2014–24332 Filed 10–10–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC136

Marine Mammals; File No. 17152

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

ACTION: Notice; receipt of application for permit amendment.

SUMMARY: Notice is hereby given that Point Blue Conservation Science, formerly PRBO Conservation Science, 3820 Cypress Drive, #11, Petaluma, CA 94954 (Responsible Party: Russ Bradley), has applied for an amendment to Scientific Research Permit No. 17152.

DATES: Written, telefaxed, or email comments must be received on or before November 13, 2014.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the *Features* box on the Applications and Permits for Protected Species home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 17152 from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone: (301) 427–8401; fax: (301) 713–0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301)713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Brendan Hurley or Amy Sloan, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject amendment to Permit No. 17152 is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216).

Permit No. 17152, issued on November 28, 2012 (77 FR 73988), authorizes the permit holder to monitor population trends, health, and ecology of pinnipeds in California over a 5-year period. To accomplish this, researchers are authorized to capture, sedate, sample, mark, instrument, photo-identify and incidentally harass harbor seals (*Phoca vitulina richardii*). Ten mortalities of harbor seals over the duration of the permit are authorized. Researchers are authorized to capture, mark, weigh, and sample (swabs and blood) northern elephant seals (*Mirounga angustirostris*); and incidentally harass elephant seals during captures and ground monitoring/photo-identification. Researchers are authorized to harass California sea lions (*Zalophus californianus*) and northern fur seals (*Callorhinus ursinus*) during ground surveys and photo-identification. The permit holder is requesting the permit be amended to include authorization for increased incidental disturbance takes for California sea lions at the South Farallon Islands (SFI) from the current level of 1,500 animals to 2,500 animals per year; increased incidental disturbance takes for Northern fur seals at SFI from the current level of 75 animals, with 2 takes per individual, to 250 animals, with one take per animal; add incidental disturbance takes for Steller sea lions (*Eumetopias jubatus*) at SFI of 250 takes annually; and to add a new project to assess diet of California sea lions at SFI via scat collection. The amendment would be valid for the duration of the permit, which expires on November 30, 2017.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: October 8, 2014.

Julia Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2014–24331 Filed 10–10–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD247

Marine Mammals; File No. 18691

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

ACTION: Notice; issuance of permit.

SUMMARY: Notice is hereby given that a permit has been issued to Terrie M. Williams, Ph.D., Department of Ecology and Evolutionary Biology, Center for Ocean Health, Long Marine Laboratory, University of California Santa Cruz, 100 Shaffer Road, Santa Cruz, CA 95060, to conduct research on Weddell seals (*Leptonycotes weddellii*).

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the Permits and Conservation

Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone: (301) 427–8401; fax: (301) 713–0376.

FOR FURTHER INFORMATION CONTACT: Amy Sloan or Courtney Smith, (301) 427–8401.

SUPPLEMENTARY INFORMATION: On April 18, 2014, notice was published in the **Federal Register** (79 FR 21900) that a request for a permit to conduct research on Weddell seals had been submitted by the above-named applicant. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

Permit No. 18691–00 authorizes Dr. Williams to study sub-ice navigation and orientation of Weddell seals in the area around Ross Island, McMurdo Sound, Antarctica. In each of three annual field seasons (3 months during July–December across a 5-year project), up to 12 seals may be captured, sedated, weighed, measured, flipper tagged, blood sampled, and have ultrasound and metabolic measurements taken. Eight of those 12 animals will also be instrumented and translocated within their home range. Up to 20 Weddell seals may be incidentally disturbed and up to two Weddell seals may die during research activities during each of the three annual field seasons. Samples may be imported to the U.S. from Antarctica. The permit is valid through August 31, 2019.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: October 8, 2014.

Julia Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2014–24330 Filed 10–10–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Technical Information Service

National Technical Information Service Advisory Board

AGENCY: National Technical Information Service, Commerce.

ACTION: Notice of open meeting.

SUMMARY: This notice announces the next meeting of the National Technical Information Service Advisory Board (the Advisory Board), which advises the Secretary of Commerce and the Director of the National Technical Information Service (NTIS) on policies and operations of the Service.

DATES: The Advisory Board will meet on Friday, October 31, 2014 from 9:00 a.m. to approximately 1:00 p.m.

ADDRESSES: The Advisory Board will be held in Room 116 of the NTIS Facility at 5301 Shawnee Road, Alexandria, Virginia 22312. Please note admittance instructions under the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Mr. Bruce Borzino, (703) 605–6405, *bborzino@ntis.gov.*

SUPPLEMENTARY INFORMATION: The NTIS Advisory Board is established by Section 3704b(c) of Title 15 of the United States Code. The charter has been filed in accordance with the requirements of the Federal Advisory Committee Act, as amended (5 U.S.C. App.).

The first session will review of NTIS performance and accomplishments in Fiscal Year 2014. The second session will focus on NTIS strategic direction in Fiscal Year 2015. A final agenda and summary of the proceedings will be posted at the NTIS Web site as soon as they are available (*http://www.ntis.gov/about/advisorybd.aspx*).

The NTIS Facility is a secure one. Accordingly persons wishing to attend should call the NTIS Visitors Center, (703) 605–6040, to arrange for admission. If there are sufficient expressions of interest, up to one-half hour will be reserved for public comments during the afternoon session. Questions from the public will not be considered by the Board but any person who wishes to submit a written question for the Board's consideration should mail or email it to the NTIS Visitor Center, *bookstore@ntis.gov,* not later than October 17, 2014.

Dated: October 7, 2014.

Bruce Borzino,

Director.

[FR Doc. 2014–24354 Filed 10–10–14; 8:45 am]

BILLING CODE 3510–04–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

[Docket Number: 140821696–4830–02]

RIN 0660–XC012

First Responder Network Authority Proposed Interpretations of Parts of the Middle Class Tax Relief and Job Creation Act of 2012

AGENCY: First Responder Network Authority, National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice; correction and extension of comment period.

SUMMARY: The First Responder Network Authority (FirstNet) published a notice and request for comments in the **Federal Register** on September 24, 2014, titled ''Proposed Interpretations of Parts of the Middle Class Tax Relief and Job Creation Act of 2012'' (RFC). The RFC inadvertently included an imprecise summary of the proposed definition of ''rural.'' This notice corrects that error by asking commenters to disregard that summary. FirstNet is also extending the comment period for the RFC to align with the response deadline in a related Request for Information that seeks input from interested parties on approaches to, and objectives for, establishing a nationwide interoperable public safety broadband network.

DATES: Comments must be submitted on or before October 27, 2014.

FOR FURTHER INFORMATION CONTACT: Eli Veenendaal, First Responder Network Authority, National Telecommunications and Information Administration, U.S. Department of Commerce, 12201 Sunrise Valley Drive, M/S 243, Reston, VA 20192; 703–648–4167; or *elijah.veenendaal@firstnet.gov.*

SUPPLEMENTARY INFORMATION: On September 24, 2014, FirstNet published a notice and request for comments in the **Federal Register**, titled ''Proposed Interpretations of Parts of the Middle Class Tax Relief and Job Creation Act of 2012'' (RFC).[1] The RFC contained an imprecise summary of the proposed definition of ''rural.'' To correct this mistake, FirstNet requests that commenters disregard the following incorrect statement, which appears in the RFC at page 57065 of volume 79 of the **Federal Register**:

> Taken collectively, the Rural Electrification Act defines the term ''rural area'' as a city, town, or incorporated area that has a

[1] *See* 79 FR 57058.

population of less than 20,000 inhabitants and is not adjacent and contiguous to an urbanized area that has a population of greater than 50,000 inhabitants.

This text is not necessary for commenters to respond fully to the RFC.

FirstNet is also extending the comment deadline from October 24, 2014, to October 27, 2014. This short extension will align the due date for comments on the RFC with the deadline for responses in a related Request for Information that seeks input from interested parties on approaches to, and objectives for, establishing a nationwide interoperable public safety broadband network.[2]

All other information in the original notice remains unchanged.

Dated: October 8, 2014.

Stuart Kupinsky,

Chief Counsel, First Responder Network Authority.

[FR Doc. 2014–24367 Filed 10–10–14; 8:45 am]

BILLING CODE 3510–60–P

[2] *See* FirstNet RFI, Presolicitation, *available at https://www.fbo.gov/index?s=opportunity&mode=form&tab=core&id=f5270e6a7393316378f6ebf0589b6715&_cview=0.*

DEPARTMENT OF DEFENSE

Office of the Secretary

Vietnam War Commemoration Advisory Committee; Notice of Federal Advisory Committee Meeting

AGENCY: Department of Defense (DoD).

ACTION: Meeting notice.

SUMMARY: The Department of Defense is publishing this notice to announce the following Federal advisory committee meeting of the Vietnam War Commemoration Advisory Committee. This meeting is open to the public.

DATES: The public meeting of the Vietnam War Commemoration Advisory Committee (hereafter referred to as ''the Committee'') will be held on Thursday, October 30, 2014. The meeting will begin at 1:00 p.m. and end at 4:00 p.m.

ADDRESSES: 214 McNair Rd, Spates Club & Conference Center, Bldg #407, Joint Base Myer-Henderson Hall, Ft Myer, VA 22211.

FOR FURTHER INFORMATION CONTACT: *Committee's Designated Federal Officer:* The committee's Designated Federal Officer is Mark Franklin, Vietnam War Commemoration, 1101 Wilson Blvd., Suite 810, Arlington VA 22209, *mark.r.franklin.civ@mail.mil,* 703–697–4849. For meeting information please contact Mr. Mark Franklin, *mark.r.franklin.civ@mail.mil,* 703–697–4849 or Ms Scherry Chewning, *scherry.chewning.civ@mail.mil,* 703–697–4908.

SUPPLEMENTARY INFORMATION: This meeting is being held 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, as amended), and 41 CFR 102–3.150.

Purpose of the Meeting: At this meeting, the Committee will convene and receive a series of updates on the Vietnam War Commemoration. The mission of the Committee is to provide the Secretary of Defense, through the Director of Administration and Management (DA&M), independent advice and recommendations regarding major events and priority of efforts during the commemorative program for the 50th Anniversary of the Vietnam War, in order to achieve the objectives for the Commemorative Program.

Availability of Materials for the Meeting: A copy of the agenda for the Committee may be obtained from the Commemoration's Web site at *http://vietnamwar50th.com.* Copies will also be available at the meeting.

Meeting Agenda

1:00 p.m.–1:10 p.m. Convene with Committee Chairman Remarks

1:10 p.m.–4:00 p.m. Committee Meeting/Agenda items

- Opening Remarks
- Additional Committee Members Update
- Interagency Advisory Group Update
- Pentagon Corridor Project Update
- Joint Meeting of Congress Update
- Commemorative Partner Update
- Upcoming Major Events Update
- Discussion—increasing number of Vietnam War vets at events
- Closing remarks

4:00 p.m. Adjourn

Public's Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. All members of the public who wish to attend the public meeting must contact Mark Franklin or Ms. Scherry Chewning at the number listed in the **FOR FURTHER INFORMATION CONTACT** section. Please come prepared to present one form of photo identification to gain access to Ft Myer.

Special Accommodations: Individuals requiring special accommodations to access the public meeting should contact Mr. Mark Franklin or Ms. Scherry Chewning at least five (5) business days prior to the meeting so that appropriate arrangements can be made.

Procedures for Providing Public Comments

Pursuant to 41 CFR 102–3.140, and section 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written comments to the Commemoration about its mission and topics pertaining to this public meeting.

Written comments should be received by the DFO at least five (5) business days prior to the meeting date so that the comments may be made available to the Committee for their consideration prior to the meeting. Written comments should be submitted via email to the address for the DFO given in the **FOR FURTHER INFORMATION CONTACT** section in either Adobe Acrobat or Microsoft Word format. Please note that since the Committee operates under the provisions of the Federal Advisory Committee Act, as amended, all submitted comments and public presentations will be treated as public documents and will be made available for public inspection, including, but not limited to, being posted on the Commemoration's Web site.

Dated: October 8, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–24326 Filed 10–10–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF ENERGY

International Energy Agency Meetings

AGENCY: Department of Energy.

ACTION: Notice of meetings.

SUMMARY: The Industry Advisory Board (IAB) to the International Energy Agency (IEA) will meet on October 21, 2014, at the headquarters of the IEA in Paris, France in connection with a joint meeting of the IEA's Standing Group on Emergency Questions (SEQ) and the IEA's Standing Group on the Oil Market (SOM) on the same day, and on October 22, 2014, in connection with a meeting of the SEQ on that day.

DATES: October 21–22, 2014.

ADDRESSES: 9, rue de la Fédération, Paris, France.

FOR FURTHER INFORMATION CONTACT: Diana D. Clark, Assistant General Counsel for International and National Security Programs, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, 202–586–3417.

SUPPLEMENTARY INFORMATION: In accordance with section 252(c)(1)(A)(i)

of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(i)) (EPCA), the following notice of meetings is provided:

Meetings of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held at the headquarters of the IEA, 9, rue de la Fédération, Paris, France, on October 21, 2014, commencing at 9:30 a.m. and at 9:30 a.m. on October 22. The purpose of this notice is to permit attendance by representatives of U.S. company members of the IAB at a joint meeting of the SEQ and the SOM which is scheduled to be held at IEA headquarters on October 21, commencing at 9:30 a.m., and a meeting of the SEQ which is scheduled to be held at the same location on October 22 commencing at 9:30 a.m. The IAB will also hold a preparatory meeting among company representatives at the same location at 8:30 a.m. on October 22. The agenda for this preparatory meeting is to review the agenda for the SEQ meeting. IAB representatives are also invited to participate in a meeting of the Emergency Response Exercise design group at 5:30 p.m. on October 22.

The agenda of the joint SOM and SEQ meeting on October 21 is under the control of the SEQ and the SOM. It is expected that the SEQ and SOM will adopt the following agenda:

1. Adoption of the Agenda
2. Approval of the Summary Record of the June 26, 2014, Joint Session
3. Reports on Recent Oil Market and Policy Developments in IEA Countries
4. Update on OIM Projects and Priorities
5. The Current Oil Market Situation
6. Crises in Iraq and Libya: Consequences for Supply
7. Mexico's Energy Reform
8. The Outlook for Production in Venezuela
9. Key Messages from the Medium-term Renewable Market Report
10. Update on the Ukraine-Russian Standoff and the Natural Gas Market
11. Other Business
    —Tentative schedule of upcoming SEQ and SOM meetings:
    —February 24–26, 2015 (tentative)
    —June 23–25, 2015
    —October 13–15, 2015

The agenda of the meeting of the SEQ on October 22 is under the control of the SEQ. It is expected that the SEQ will adopt the following agenda:

1. Adoption of the Agenda
2. Approval of the Summary Record of the 142nd Session
3. Status of Compliance with IEP Stockholding Commitments
4. Emergency Response Review Program
5. Australia Data Mission
6. Mid-term Emergency Response Review Update on Australia
7. Emergency Response Exercise 7 Update
8. Emergency Response Review of New Zealand
9. Gas Security
10. Saving Oil in a Hurry
11. Presentation on Tickets
12. Emergency Response Review of the Czech Republic
13. Outreach
    —ERE in China
    —APSA/Colombian ERA/ Stockholding workshop in Chile
    —Energy Community
14. Oral Reports by Administrations
15. Industry Advisory Board Update
16. Other Business
    —Tentative schedule of next meetings:
    —November 17–18, 2014 (ERE 7)
    —February 24–26, 2015 (tbc)
    —June 23–25, 2015
    —October 13–15, 2015

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(ii)), the meetings of the IAB are open to representatives of members of the IAB and their counsel; representatives of members of the IEA's Standing Group on Emergency Questions and the IEA's Standing Group on the Oil Markets; representatives of the Departments of Energy, Justice, and State, the Federal Trade Commission, the General Accounting Office, Committees of Congress, the IEA, and the European Commission; and invitees of the IAB, the SEQ, the SOM, or the IEA.

Issued in Washington, DC, October 8, 2014.

Diana D. Clark,

Assistant General Counsel for International and National Security Programs.

[FR Doc. 2014–24333 Filed 10–10–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

The U.S. Department of Energy Solar Decathlon 2017 Future Planning; Request for Information

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

ACTION: Request for Information (RFI).

SUMMARY: The U.S. Department of Energy Solar Decathlon challenges collegiate teams to design, build, and operate solar-powered houses that are cost-effective, energy-efficient, and attractive. The Solar Decathlon provides participating students with hands-on experience and unique training that prepares them to enter the clean energy workforce. Open to the public free of charge, the Solar Decathlon gives visitors the opportunity to tour solar-powered houses, gather ideas to use in their own homes, and learn how energy-saving features can help them save money today. The first Solar Decathlon was held in 2002; the competition then occurred biennially in 2005, 2007, 2009, and 2011 in Washington, DC In 2013, the Solar Decathlon moved to the Orange County Great Park in Irvine, California. The next Solar Decathlon will take place Oct. 8–18, 2015, at the Orange County Great Park. This RFI seeks information to inform designing, planning and implementing the next generation of the Solar Decathlon—2017 and beyond.

DATES: DOE will accept information on this notice, but no later than November 28, 2014.

ADDRESSES: Interested persons are encouraged to submit information electronically. However, interested persons may submit information by any of the following methods:

- *Email: SolarDecathlonRFI@EE.Doe.Gov* Include Solar Decathlon in the subject line of the message. Submit electronic comments in WordPerfect, Microsoft Word, portable document format (PDF), or American Standard Code for Information Interchange (ASCII) file format, and avoid the use of special characters or any form of encryption.
- *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–2945. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies.
- *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Office, 6th Floor, 950 L'Enfant Plaza SW., Washington, DC 20024. Telephone: (202) 586–2945. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

Instructions: All submissions received must reference the Solar Decathalon 2017 Planning RFI and include your name and/or agency name along with. No telefacsimilies (faxes) will be accepted.

FOR FURTHER INFORMATION CONTACT: Mr. Richard King, U.S. Department of Energy, Building Technologies Office,

1000 Independence Avenue SW., EE–5B, Washington, DC 20585; (202) 586–1693; *Richard.king@ee.doe.gov.*

For legal issues, please contact Kavita Vaidyanathan; U.S. Department of Energy, Office of the General Counsel, 1000 Independence Avenue SW., GC–71, Washington, DC 20585; (202) 586–0669; *Kavita.Vaidyanathan@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

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I. Authority and Background

The U.S. Department of Energy Solar Decathlon is an award-winning program that challenges collegiate teams to design, build, and operate solar-powered houses that are cost-effective, energy-efficient, and attractive. The winner of the competition is the team that best blends affordability, consumer appeal, and design excellence with optimal energy production and maximum efficiency. The winning team receives a trophy and the honor of victory. The competition is authorized under section 3165 of the Department of Energy Science Education Enhancement Act, as amended, which authorizes the Secretary of Energy to support competitive events for students under the supervision of teachers, designed to encourage student interest and knowledge in science and mathematics. (42 U.S.C. 7381b(a)(14))

The first Solar Decathlon was held in 2002; the competition then occurred biennially in 2005, 2007, 2009, and 2011 in Washington, DC. In 2013, the Solar Decathlon moved to the Orange County Great Park in Irvine, California. The next Solar Decathlon will take place Oct. 8–18, 2015, at the Orange County Great Park.

Each Solar Decathlon team builds a solar-powered house that showcases energy-efficient amenities and smart home systems that reduce carbon emissions without sacrificing the comfort of modern conveniences. The Solar Decathlon invites visitors to tour the houses, gather ideas to use in their own homes, and learn how energy-saving features can help them save money today.

The purpose of the Solar Decathlon is to accelerate the adoption of energy-efficient products and solutions by:

- Educating students and the public about the money-saving opportunities and environmental benefits presented by clean energy products and design solutions
- Demonstrating to the public the comfort and affordability of grid-connected homes that combine energy-efficient construction and appliances with off-the-shelf renewable-energy systems
- Providing participating students with unique training that prepares them for the clean energy workforce

The Solar Decathlon educates collegiate students about the opportunities presented by renewable energy and energy efficiency and challenges them to think in new ways about incorporating practical, affordable clean energy solutions into residential applications. The Solar Decathlon uses blended methods (including classroom instruction and real-world application) to teach science, technology, engineering, and mathematics (STEM) for building systems design and operation. The Solar Decathlon accelerates the development of whole-house design and Zero Energy Ready Home solutions that improve performance and reduce costs for homeowners. The Solar Decathlon fosters collaboration among students from different academic disciplines, including engineering and architecture, who otherwise might not work together until they enter the workplace.

Since 2002 and through 2015, the impacts of the Solar Decathlon have:

- Involved 130 collegiate teams, which pursued a multidisciplinary approach to study the requirements for designing and building energy-efficient, solar-powered houses
- Positively impacted nearly 20,000 collegiate participants
- Expanded to Europe, China, and Latin America to involve an additional 78 teams and nearly 12,000 participants through Solar Decathlon Europe 2010 (Madrid, Spain), Solar Decathlon Europe 2012 (Madrid, Spain), Solar Decathlon China 2013 (Datong, China), Solar Decathlon Europe 2014 (Versailles, France), and Solar Decathlon Latin America and Caribbean 2015 (Santiago de Cali, Colombia)
- Educated the public about the benefits, affordability, and availability of clean energy solutions by generating widespread media coverage and harnessing digital tools to reach millions of people

Additional information is available at *www.solardecathlon.gov.*

For each edition of the competition, up to 20 collegiate teams are selected as finalists through a competitive proposal process. Each team has approximately two years to raise the resources needed to design, build, transport, and present its competition house at the Solar Decathlon. All houses are transported to a common site to compete against one another in the Solar Decathlon's 10 contests. The competition is composed of juried evaluations (such as architecture and market appeal) and performance-based measurement (such as heating water, space conditioning, and powering an electric vehicle). Additional information about the contests and rules is available at *http://www.solardecathlon.gov/rules.html.*

In the first three editions of the Solar Decathlon, the solar-powered houses were independent of the electrical utility grid and used battery systems. Starting in 2009, the houses were grid-tied to demonstrate net metering, better represent the growing market for distributed generation solar systems across the country, and show the public that solar was achievable within existing lifestyles and households. Since 2011, the competition has incorporated an Affordability Contest that encourages teams to think not only about superior design and performance but also cost-effectiveness. Student teams must balance performance and design decisions with associated cost.

Also in 2011, Solar Decathlon organizers decided to expand the competition's audience beyond America's capitol. After a national solicitation in which cities across the country competed to host this popular event, the Energy Department selected the Orange County Great Park in Irvine, California, for the location of the Solar Decathlon 2013. In 2015, the Solar Decathlon will again be held at the Orange County Great Park. The 2015 competition incorporates a commuting contest that requires teams to drive an electric vehicle charged by their house energy system. The objective for this change is to expand the scope of the competition from a house to a household.

DOE has continuously worked to reduce the cost of implementing the Solar Decathlon while improving the program overall. For example, DOE tries to hold the event in known locations where DOE already has the materials and knowledge to more cost effectively provide the necessary power and communication infrastructure. In 2015, DOE will be reducing its financial contribution to the Solar Decathlon teams, which reduces our costs but requires greater fund raising by each participating organization. DOE even considered holding the competition where each home would remain in

place, and not need to be moved to a central location. This would reduce or eliminate some costs for travel, security, infrastructure, and other event logistics; however this would result in a different Solar Decathlon event and a departure from past events.

Throughout the history of the Solar Decathlon, the organizers have worked to leverage government funding with private support. Both the competition itself and the student teams receive significant contributions from industry to ensure the event is successful. Working with a range of partners from utilities and Fortune 50 companies to small homebuilders, the Solar Decathlon builds on government resources. Due to the collegiate team success in leveraging Energy Department funding nearly 8 to 1, the amount of government resources for the collegiate teams has been reduced to half the previous level. Further efficiencies have been implemented to produce the Solar Decathlon competition and public exhibit with reduced resources. The Solar Decathlon program costs DOE about $5M per each 2 year event cycle, which is a significant investment for this effort. DOE is continuously working to leverage resources, however further reductions risk reducing the event's educational outreach under the existing format.

One of the benefits of this program has been to educate builders and the future workforce regarding the design and construction of highly efficient homes whose energy use can be offset cost effectively with solar power. DOE has embarked on two new programs that help scale the delivery of this outcome.

Formerly called the DOE's Challenge Home, Zero Energy Ready Homes is a labeling program that highlights builders who have built new homes that are 40% to 50% more energy efficient than homes built to the IECC 2006 model energy code—a significant improvement beyond even the typical ENERGY STAR home. The Zero Energy Ready Homes Program provides an avenue for builders to promote their high performing homes through DOE recognition, and demonstrating the value of zero energy ready homes to homeowners. Over 250 Zero Energy Ready Homes have been completed to date with 8,000 additional Certified Homes committed to being built over the coming year.

The DOE ''Race to Zero'' Student Design Competition provides an annual opportunity for schools and their students to compete against each other on designing marketable energy efficient new homes. 28 college and university teams from the U.S. and Canada participated in the first event, where students and advisors competed to create zero-energy ready home designs that were market-ready, efficient, durable, and incorporated the best practices from the DOE Building America Program. The desired long-term outcome is to inform schools on the value of integrating building science into design courses in all major architecture, engineering, and construction management courses.

The Solar Decathlon program represents over a decade of work to show the U.S. public the opportunities and benefits of solar powered highly energy efficient homes, while also helping to educate our future workforce. It is now time to take a fresh look at the appropriate outcomes that DOE should deliver over the next decade, and the associated program format and implementation to optimize that outcome with the appropriate cost/benefit for the U.S.

For more information about the history of the Solar Decathlon, visit *http://www.solardecathlon.gov/history.html.*

The purpose of this RFI is to solicit feedback from past and present participants in the Solar Decathlon, broader academic circles, industry, sponsors, and other stakeholders on issues related to future Solar Decathlon competitions. The objective is to improve the outcomes aligned with the Solar Decathlon in the long-term. DOE is specifically interested in feedback about additional U.S. benefits that should be the focus of future solar powered home programs funded by DOE, the format of a competition to achieve those benefits, and whether other formats or options can deliver higher value to the U.S. In the format discussion, if the current format is proposed to continue, information is requested on how DOE should identify future locations for the Solar Decathlon.

II. Disclaimer and Important Notes

This RFI is not a Funding Opportunity Announcement (FOA); therefore, DOE is not accepting applications at this time. EERE may issue a FOA in the future based on or related to the content and responses to this RFI; however, EERE may also elect not to issue a FOA. There is no guarantee that a FOA will be issued as a result of this RFI. Responding to this RFI does not provide any advantage or disadvantage to potential applicants if EERE chooses to issue a FOA regarding the subject matter. Final details, including the anticipated award size, quantity, and timing of EERE funded awards, will be subject to Congressional appropriations and direction.

Any information obtained as a result of this RFI is intended to be used by the Government on a non-attribution basis for planning and strategy development; this RFI does not constitute a formal solicitation for proposals or abstracts. Your response to this notice will be treated as information only. EERE will review and consider all responses in its formulation of program strategies for the identified materials of interest that are the subject of this request. EERE will not provide reimbursement for costs incurred in responding to this RFI. Respondents are advised that EERE is under no obligation to acknowledge receipt of the information received or provide feedback to respondents with respect to any information submitted under this RFI. Responses to this RFI do not bind EERE to any further actions related to this topic.

III. Proprietary Information

Because information received in response to this RFI may be used to structure future programs and FOAs and/or otherwise be made available to the public, respondents are strongly advised to NOT include any information in their responses that might be considered business sensitive, proprietary, or otherwise confidential. If, however, a respondent chooses to submit business sensitive, proprietary, or otherwise confidential information, it must be clearly and conspicuously marked as such in the response.

Responses containing confidential, proprietary, or privileged information must be conspicuously marked as described below. Failure to comply with these marking requirements may result in the disclosure of the unmarked information under the Freedom of Information Act or otherwise. The U.S. Federal Government is not liable for the disclosure or use of unmarked information, and may use or disclose such information for any purpose.

If your response contains confidential, proprietary, or privileged information, you must include a cover sheet marked as follows identifying the specific pages containing confidential, proprietary, or privileged information:

Notice of Restriction on Disclosure and Use of Data

Pages [list applicable pages] of this response may contain confidential, proprietary, or privileged information that is exempt from public disclosure. Such information shall be used or disclosed only for the purposes described in this RFI. The Government may use or disclose any information

that is not appropriately marked or otherwise restricted, regardless of source.

In addition, (1) the header and footer of every page that contains confidential, proprietary, or privileged information must be marked as follows: ''Contains Confidential, Proprietary, or Privileged Information Exempt from Public Disclosure'' and (2) every line and paragraph containing proprietary, privileged, or trade secret information must be clearly marked with double brackets or highlighting.

IV. Evaluation and Administration by Federal and Non-Federal Personnel

Federal employees are subject to the non-disclosure requirements of a criminal statute, the Trade Secrets Act, 18 U.S.C. 1905. The Government may seek the advice of qualified non-Federal personnel. The Government may also use non-Federal personnel to conduct routine, nondiscretionary administrative activities. The respondents, by submitting their response, consent to EERE providing their response to non-Federal parties. Non-Federal parties given access to responses must be subject to an appropriate obligation of confidentiality prior to being given the access. Submissions may be reviewed by support contractors and private consultants.

V. Discussion

DOE seeks a variety of different types of information to help inform its decision regarding how future Solar Decathlon competitions will be organized. To this end, DOE seeks detailed information regarding the following aspects related to the Solar Decathlon competitions:

Question 1

How could the goals of the Solar Decathlon evolve to create a larger impact on the market needs of the following industry sectors?

a. Buildings
b. Solar
c. Utility
d. Transportation
e. Education

Question 2

What additional outcomes of the Solar Decathlon could increase the scale of that impact, and improve its cost effectiveness for the U.S.?

Question 3

What is the appropriate role for DOE with respect to delivering on this potential impact?

Question 4

What changes could be made to the Solar Decathlon rules, format, location and logistics to achieve those outcomes?

Question 5

How could the public and private roles and funding sources be developed to achieve those outcomes?

Question 6

What should the Solar Decathlon look like in 10 years?

VI. Public Participation

DOE invites all interested parties to submit in writing by the date specified previously in the **DATES** section of this RFI, comments and information on matters addressed in this notice and on other matters relevant to DOE's designing, planning and implementing the next generation of the Solar Decathlon 2017 and beyond.

Issued in Washington, DC, on October 6, 2014.

Kathleen B. Hogan,

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

[FR Doc. 2014–24328 Filed 10–10–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2146–169]

Alabama Power Company; Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-project use of project lands and waters.

b. *Project No:* 2146–169.

c. *Date Filed:* August 21, 2014.

d. *Applicant:* Alabama Power Company.

e. *Name of Project:* Coosa River Hydroelectric Project.

f. *Location:* Neely Henry Lake in Etowah County, Alabama.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Matthew Akin, Alabama Power Company, 600 18th Street North, Birmingham, AL 35203–8180, (205) 257–1314, *mjakin@southernco.com.*

i. *FERC Contact:* Krista Sakallaris, (202) 502–6302, *krista.sakallaris@ferc.gov.*

j. *Deadline for filing comments, motions to intervene, and protests:* November 10, 2014.

All documents may be filed electronically via the Internet. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. Please include the project number (P–2146–169) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Application:* Alabama Power Company requests Commission approval to grant the City of Gadsden, Alabama (applicant) a permit to use project lands and waters to develop a community park. The proposed park would be located on or adjacent to Neely Henry Lake in Etowah County, Alabama and total 15.43 acres, half of the proposed park will be located on Alabama Power Company land within the project boundary. The applicant proposes to build the following facilities on project land: A 20 slip floating dock, a 12 slip boat dock, a pedestrian bridge, two picnic pavilions, three octagonal observation platforms, two overlooks, approximately 3,500 feet (roughly half of which will be within the project boundary) of combined boardwalk and pedestrian paths, pedestrian lighting, and 400 feet of rip rap to prevent shoreline erosion.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room,

located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field (P–2146) to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Documents: Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–24343 Filed 10–10–14; 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: RP14–1307–000.
Applicants: Ruby Pipeline, L.L.C.
Description: Cost and Revenue Study of Ruby Pipeline, L.L.C.
Filed Date: 9/30/14.
Accession Number: 20140930–5324.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: RP15–24–000.
Applicants: Garden Banks Gas Pipeline, LLC.
Description: § 4(d) rate filing per 154.204: PAL Service and Clean-up Filing to be effective 11/1/2014.
Filed Date: 10/2/14.
Accession Number: 20141002–5000.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: RP15–25–000.
Applicants: Gulf South Pipeline Company, LP.
Description: § 4(d) rate filing per 154.204: Neg Rate Agmt Filing (ExGen Texas Power 43197, 43198) to be effective 10/1/2014.
Filed Date: 10/2/14.
Accession Number: 20141002–5029.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: RP15–26–000.
Applicants: Egan Hub Storage, LLC.
Description: § 4(d) rate filing per 154.204: Egan 2014 Cleanup Filing to be effective 11/3/2014.
Filed Date: 10/2/14.
Accession Number: 20141002–5111.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: RP15–27–000.
Applicants: Equitrans, L.P.
Description: § 4(d) rate filing per 154.204: Negotiated Rate Service Agreement—Triad Hunter to be effective 10/3/2014.
Filed Date: 10/2/14.
Accession Number: 20141002–5124.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: RP15–28–000.
Applicants: Bill Barrett Corporation,Vanguard Operating, LLC.
Description: Petition for Temporary Waiver of Capacity Release Rules and Request for Shortened Comment Period of Bill Barrett Corporation and Vanguard Operating, LLC.
Filed Date: 10/3/14.
Accession Number: 20141003–5127.
Comments Due: 5 p.m. ET 10/10/14.

Docket Numbers: RP15–29–000.
Applicants: Rockies Express Pipeline LLC.
Description: § 4(d) rate filing per 154.204: Neg Rate 2014–10–03 BP NC NRA to be effective 10/4/2014.
Filed Date: 10/3/14.
Accession Number: 20141003–5136.
Comments Due: 5 p.m. ET 10/15/14.

Docket Numbers: RP15–30–000.
Applicants: Southern Star Central Gas Pipeline, Inc.
Description: § 4(d) rate filing per 154.204: Miscellaneous Tariff Filing Correction to be effective 10/4/2014.
Filed Date: 10/3/14.
Accession Number: 20141003–5151.
Comments Due: 5 p.m. ET 10/15/14.

Docket Numbers: RP15–31–000.
Applicants: Enable Gas Transmission, LLC.
Description: § 4(d) rate filing per 154.204: Negotiated Rate Filing—October 2014—LER 1010222 Att A to be effective 10/3/2014.
Filed Date: 10/3/14.
Accession Number: 20141003–5197.
Comments Due: 5 p.m. ET 10/15/14.

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: October 6, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–24369 Filed 10–10–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC15–1–000.
Applicants: UIF GP, LLC, Neptune Power Ventures, LLC, Cianbro Development Corporation, Standard

Energy Development Inc., CTSBM Investments LLC, Charles E. Hewett.

Description: Application for Authorization for Disposition of Jurisdictional Facilities, Requests for Confidential Treatment, Waivers, and Expedited Consideration of UIF GP, LLC, et. al.

Filed Date: 10/3/14.

Accession Number: 20141003–5044.

Comments Due: 5 p.m. ET 10/24/14.

Docket Numbers: EC15–2–000.

Applicants: CER Generation II, LLC, West Valley Power Holdings, LLC.

Description: Joint Application for Authorizations under Section 203 of the Federal Power Act of CER Generation II, LLC, and West Valley Power Holdings, LLC.

Filed Date: 10/3/14.

Accession Number: 20141003–5147.

Comments Due: 5 p.m. ET 10/24/14.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER14–2580–001.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Tariff Amendment per 35.17(b): 2014–10–03_SA 2683 GRE–OTP Pelican North Tap T–L Substitute to be effective 8/5/2014.

Filed Date: 10/3/14.

Accession Number: 20141003–5026.

Comments Due: 5 p.m. ET 10/24/14.

Docket Numbers: ER15–22–000.

Applicants: Southern California Edison Company.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): True-Up SGIA and Distribution Service Agmt with SCE GBU SPVP2 Project to be effective 12/3/2014.

Filed Date: 10/3/14.

Accession Number: 20141003–5001.

Comments Due: 5 p.m. ET 10/24/14.

Docket Numbers: ER15–23–000.

Applicants: New York Independent System Operator, Inc.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): NYISO 205 tariff revision OATT Attachment L Table 1A to be effective 12/2/2014.

Filed Date: 10/3/14.

Accession Number: 20141003–5056.

Comments Due: 5 p.m. ET 10/24/14.

Docket Numbers: ER15–24–000.

Applicants: Commonwealth Edison Company, PJM Interconnection, L.L.C.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): Original Service Agreement No. 3977 to be effective 10/8/2014.

Filed Date: 10/3/14.

Accession Number: 20141003–5074.

Comments Due: 5 p.m. ET 10/24/14.

Docket Numbers: ER15–25–000.

Applicants: Pacific Gas and Electric Company.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): Amendment to BART NITS (MacArthur Parking Garage) Filing to be effective 12/3/2014.

Filed Date: 10/3/14.

Accession Number: 20141003–5108.

Comments Due: 5 p.m. ET 10/24/14.

Docket Numbers: ER15–26–000.

Applicants: Public Service Company of Colorado.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2014–10–3_WAPA–IEO–M Agrmt–367–0.0.0-Filing to be effective 12/2/2014.

Filed Date: 10/3/14.

Accession Number: 20141003–5134.

Comments Due: 5 p.m. ET 10/24/14.

Docket Numbers: ER15–27–000.

Applicants: New Athens Generating Company, LLC.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): MBR Tariff Revision Filing to be effective 10/6/2014.

Filed Date: 10/3/14.

Accession Number: 20141003–5149.

Comments Due: 5 p.m. ET 10/24/14.

Docket Numbers: ER15–28–000.

Applicants: New Harquahala Generating Company, LLC.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): Proposed Revisions to MBR Tariff to be effective 10/6/2014.

Filed Date: 10/3/14.

Accession Number: 20141003–5165.

Comments Due: 5 p.m. ET 10/24/14.

Docket Numbers: ER15–29–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): Revisions to Progress-PJM JOA re adding PEC–PJM tie line information to be effective 12/3/2014.

Filed Date: 10/3/14.

Accession Number: 20141003–5169.

Comments Due: 5 p.m. ET 10/24/14.

Docket Numbers: ER15–30–000.

Applicants: Seiling Wind Interconnection Services, LLC.

Description: Baseline eTariff Filing per 35.1: Seiling Wind Interconnection Services, LLC MBR Application to be effective 12/2/2014.

Filed Date: 10/3/14.

Accession Number: 20141003–5170.

Comments Due: 5 p.m. ET 10/24/14.

Docket Numbers: ER15–31–000.

Applicants: The Dayton Power and Light Company.

Description: Baseline eTariff Filing per 35.1: FERC Rate Schedule No. 301, Village of Arcanum to be effective 1/1/2015.

Filed Date: 10/3/14.

Accession Number: 20141003–5171.

Comments Due: 5 p.m. ET 10/24/14.

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: October 3, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–24315 Filed 10–10–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL15–3–000]

City and County of San Francisco v. Pacific Gas and Electric Company; Notice of Complaint

Take notice that on October 7, 2014, pursuant to sections 206 and 306 of the Federal Power Act, 16 U.S.C. 824(e) and 825(e) and Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206, the City and County of San Francisco (Complainant), filed a formal complaint against Pacific Gas and Electric Company (Respondent), alleging that the Respondent unreasonably denied service to Complainant under its Wholesale Distribution Tariff, as more fully explained in the complaint.

The Complainant certifies that copies of the complaint were served on the contact for the Respondent as listed in the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to

the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on November 6, 2014.

Dated: October 7, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–24342 Filed 10–10–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP14–539–000]

Ozark Gas Transmission, LLC; Notice of Intent To Prepare and Environmental Assessment for the Proposed Ozark Abandonment Project; Request for Comments on Environmental Issues

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Ozark Abandonment Project (Project) involving abandonment of facilities by Ozark Gas Transmission, LLC (Ozark). The Commission will use this EA in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the project. Your input will help the Commission staff determine what issues they need to evaluate in the EA. Please note that the scoping period will close on November 6, 2014. You may submit comments in written form. Further details on how to submit written comments are in the Public Participation section of this notice.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this proposed project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable agreement. However, if the Commission approves the project, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings where compensation would be determined in accordance with state law.

Ozark provided landowners with a fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' This fact sheet addresses a number of typically-asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is also available for viewing on the FERC Web site (*www.ferc.gov*).

Summary of the Proposed Project

Ozark proposes to abandon in place and remove from service approximately 159 miles of mainline natural gas pipeline facilities (Pipeline Facilities) between Sebastian and White Counties, Arkansas. In addition, Ozark would disconnect and abandon 29 associated metering and regulating facilities and other appurtenant facilities, as necessary. Ozark is proposing to abandon the aforementioned facilities due to underutilization and lack of market interest.

Specifically, Ozark would abandon in place the following facilities:

- 127.5 miles of 20-inch-diameter Line 1 in Franklin, Johnson, Pope, Conway, Faulkner, and White Counties from mile post (MP) 127.52 to MP 0.00;
- 26.4 miles of 10-inch-diameter Line 2 in Sebastian, Franklin, and Logan Counties From MP 0.00 to MP 26.37;
- 4.8 miles of 12-inch-diameter Line 1–A in White County from MP 0.00 to MP 4.75;
- 29 associated metering and regulating facilities, located along Line 1, 2, and 1–A, in Franklin, Logan, Johnson, Pope, Conway, Faulkner, and White Counties; and
- other appurtenant facilities, as necessary.

The general location of the facilities to be abandoned is shown in appendix 1.[1]

Land Requirements for Abandonment

The abandonment activities, including excavation and ground disturbance, would disturb about 23.6 acres of land, of which 22.7 acres would be within existing facility sites operated by Ozark. The remaining acreage of impact would be within Ozark's existing easements, pipeline right of way, or original construction corridor. Following construction, only existing sites at Noark and Searcy Compressor Stations and the existing permanent pipeline right-of-way would continue to be maintained. All land disturbed outside of existing sites or permanent pipeline right of way would be restored and return to former uses.

Future Use of the Abandoned Pipeline Facilities

Following the abandonment of the Pipeline Facilities, Ozark indicates that several parties would perform activities that are not under the jurisdiction of the FERC (non-jurisdictional). These non-jurisdictional facilities are not subject to the FERC's review procedures. In the EA, we will provide available descriptions of the non-jurisdictional facilities and include them under our analysis of cumulative impacts. After abandonment, Ozark would transfer the assets to an affiliate, which would lease the Pipeline Facilities to Magellan Pipeline Company, L.P (Magellan) for refined petroleum products transportation service. The affiliate and Magellan would undertake conversion work on the abandoned lines to prepare them for refined petroleum transportation.

Further, Magellan plans to own, construct, and operate about 14 miles of 10-inch-diameter new non-jurisdictional

[1] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary'' or from the Commission's Public Reference Room, 888 First Street NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

pipeline to connect Magellan's Fort Smith Terminal in Sebastian County, Arkansas to Ozark's abandoned Line 2 in Sebastian County at MP 0.0. Magellan also plans to own, construct, and operate 36.5 miles of 12-inch-diameter new non-jurisdictional pipeline to connect Ozark's abandoned Line 1–A in White County at MP 4.75 to Magellan's North Terminal in Pulaski County, Arkansas.

Additionally, after abandonment of the Pipeline Facilities, Ozark's existing customer, SourceGas, would construct, install, and operate about 6.3 miles of new 2-inch- and 6-inch-diameter pipeline laterals and perform a meter station upgrade in Logan County in order to transfer SoureGas' existing firm service on the Pipeline Facilities to an economically viable transportation alternative. Furthermore, Ozark Gas Gathering, LLC (OGG) would make reconnections on their system to continue service at two locations, Price and Clarksville, which would require rearrangement of piping at the existing receipt site and 1,000 feet of new piping, respectively.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us [2] to discover and address concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EA. We will consider all filed comments during the preparation of the EA.

In the EA we will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils;
- land use;
- water resources, fisheries, and wetlands;
- cultural resources;
- vegetation and wildlife;
- air quality and noise;
- endangered and threatened species; and
- public safety.

We will also evaluate reasonable alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

The EA will present our independent analysis of the issues. The EA will be available in the public record through eLibrary. Depending on the comments received during the scoping process, we may also publish and distribute the EA to the public for an allotted comment period. We will consider all comments on the EA before making our recommendations to the Commission. To ensure we have the opportunity to consider and address your comments, please carefully follow the instructions in the Public Participation section on page 5.

With this notice, we are asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this project to formally cooperate with us in the preparation of the EA.[3] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Consultations Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with the applicable State Historic Preservation Office(s) (SHPO), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[4] We will define the project-specific Area of Potential Effects (APE) in consultation with the SHPO(s) as the project develops. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include construction right-of-way, contractor/pipe storage yards, compressor stations, and access roads). Our EA for this project will document our findings on the impacts on historic properties and summarize the status of consultations under section 106.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please send your comments so that the Commission receives them in Washington, DC on or before November 6, 2014.

For your convenience, there are three methods which you can use to submit your comments to the Commission. In all instances please reference the project docket number (CP14–539–000) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov.*

(1) You can file your comments electronically using the *eComment* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* This is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You can file your comments electronically using the *eFiling* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''*eRegister.''* You must select the type of filing you are making. If you are filing a comment on a particular project, please select ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for

[2] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the Commission's Office of Energy Projects.

[3] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.6.

[4] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

abandonment purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project.

If we publish and distribute the EA, copies will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of the CD version or would like to remove your name from the mailing list, please return the attached Information Request (appendix 2).

Becoming an Intervenor

In addition to involvement in the EAs coping process, you may want to become an ''intervenor'' which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Instructions for becoming an intervenor are in the User's Guide under the ''e-filing'' link on the Commission's Web site.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site at *www.ferc.gov* using the ''eLibrary'' link. Click on the eLibrary link, click on ''General Search'' and enter the docket number, excluding the last three digits in the Docket Number field (i.e., CP14–539). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Finally, public meetings or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Dated: October 7, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–24341 Filed 10–10–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF14–19–000]

Downeast Liquefaction, LLC; Notice of Intent To Prepare an Environmental Impact Statement for the Planned Downeast LNG Import-Export Project, Request for Comments on Environmental Issues and Notice of Public Scoping Meeting

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental impact statement (EIS) that will discuss the environmental impacts of the Downeast LNG Export Project involving construction and operation of facilities by Downeast Liquefaction, LLC (Downeast Liquefaction) in Washington County, Maine. The Commission will use this EIS in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission and its cooperating agencies will use to gather input from the public and interested agencies on the project. Your input will help the Commission staff determine what issues they need to evaluate in the EIS. Please note that the scoping period will close on November 3, 2014.

You may submit comments in written form or verbally. Further details on how to submit written comments are in the Public Participation section of this notice. In lieu of or in addition to sending written comments, the Commission invites you to attend the public scoping meeting scheduled as follows: FERC Public Scoping Meeting, Downeast LNG Import-Export Project, October 22, 2014, 7:00 p.m. local time, Robbinston Grade School, 904 US Route 1, Robbinston, ME 04671.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this planned project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the planned pipeline facilities associated with the project. The company would seek to negotiate a mutually acceptable agreement. However, if the Commission approves the project, that approval conveys with it the right of eminent domain for parcels crossed by the pipeline. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings where compensation would be determined in accordance with state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' is available for viewing on the FERC Web site (*www.ferc.gov*). This fact sheet addresses a number of typically-asked questions, including the use of eminent domain and how to participate in the Commission's proceedings.

Summary of the Planned Project

Downeast Liquefaction plans to develop, construct, and operate liquefied natural gas (LNG) terminal facilities that would convert the proposed Downeast LNG Import Project (Docket Nos. CP07–52–000, CP07–53–000, and CP07–53–001) into a bidirectional import-export LNG terminal and pipeline capable of producing 3 million metric tonnes per annum (mtpa) of LNG and 100 million standard cubic feet per day (mmscfd) of regasified LNG.

The Downeast LNG Import-Export Project would consist of the following facilities:

Marine Facilities and Transfer Lines:

- The Import-Export Project would involve no changes to the marine facilities and transfer lines that were proposed and evaluated for the Import Project.

LNG Storage and Regasification:

- The Import-Export Project would include a single LNG storage tank with a nominal usable storage capacity of 160,000 cubic meters. The storage tank design and location would be the same as the southern-most LNG storage tank proposed for the Import Project. The northern-most LNG storage tank proposed for the Import Project would not be required for the Import-Export Project.

• The Import-Export Project would include two Submerged Combustion Vaporizers used for regasification of LNG during import mode, of which one would be used during operation while the second would be a backup.

LNG Liquefaction Facilities:

• feed gas pretreatment systems;
• one LNG liquefaction train with a nominal design capacity of 3 mtpa;
• refrigerant storage and handling;
• refrigerant compression systems; and
• refrigerant cooling system.

Pipeline Facilities:

• The pipeline for the Import-Export Project would be 24 inches in diameter, a change from 30 inches in diameter as proposed for the Import Project. The pipeline route and construction work areas would remain the same as proposed for the Import Project.

Ancillary Facilities:

• onsite power generation to support operation of the terminal in export mode; and
• utilities, infrastructure, and support systems within the terminal site would be revised for the Import-Export Project to accommodate addition of liquefaction capabilities.

The general location of the project facilities is shown in appendix 1.[1]

Land Requirements for Construction

The planned LNG Export Project facilities would be constructed entirely within the 80-acre site of the proposed Downeast LNG Import Project, at Mill Cove in Robbinston, Maine.

The EIS Process

The Commission intends to publish its review of the Downeast LNG Export Project as a supplement to the previous review of the Downeast LNG Import Project (Docket Nos. CP07–52–000, CP07–53–000, and CP07–53–001), to be considered together as the Downeast LNG Import-Export Project.

NEPA requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us [2] to discover and address concerns the public may have about proposals. This process is referred to as scoping. The main goal of the scoping process is to focus the analysis in the EIS on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EIS. We will consider all filed comments during the preparation of the EIS. However, comments should focus on issues specific to the Downeast LNG Export Project and not issues previously addressed for the Downeast LNG Import Project.

In the EIS, we will discuss impacts that could occur as a result of the construction and operation of the planned project under these general headings:

• Geology and soils;
• water resources, fisheries, and wetlands;
• vegetation and wildlife;
• endangered and threatened species;
• cultural resources;
• land use;
• socioeconomics;
• air quality and noise;
• reliability and safety;
• engineering and design material; and
• direct, indirect, and cumulative environmental impacts.

We will also evaluate possible alternatives to the planned project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Although no formal application has been filed, we have already initiated our NEPA review under the Commission's pre-filing process. The purpose of the pre-filing process is to encourage early involvement of interested stakeholders and to identify and resolve issues before the FERC receives an application. As part of our pre-filing review, we have begun to contact some federal and state agencies to discuss their involvement in the scoping process and the preparation of the EIS.

The Supplemental draft EIS will present our independent analysis of the issues. We will publish and distribute the Supplemental draft EIS for public comment. After the comment period, we will consider all timely comments and revise the document, as necessary, before issuing a Supplemental final EIS. To ensure we have the opportunity to consider and address your comments, please carefully follow the instructions in the Public Participation section beginning on page 6.

With this notice, we are asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues related to this project to formally cooperate with us in the preparation of the EIS.[3] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice. Currently, the U.S. Army Corps of Engineers (COE), U.S. Environmental Protection Agency, National Oceanic and Atmospheric Administration National Marine Fisheries Service, and Maine Department of Environmental Protection are participating as cooperating agencies in the preparation of the EIS to satisfy their NEPA responsibilities related to this project. Also, in accordance with the 2004 Interagency Agreement on the safety and security review of waterfront import/export LNG facilities, the U.S. Coast Guard and U.S. Department of Transportation participate as cooperating agencies. The COE will be in attendance at the public scoping meeting to gather information for their independent review process and to answer any public questions.

Consultations Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with applicable State Historic Preservation Office(s) (SHPO), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[4] We will define the project-specific Area of Potential Effects (APE) in consultation with the SHPO as the project develops. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include construction right-of-way, contractor/pipe storage yards, compressor stations, and access roads). Our EIS for this project will document our findings on the impacts on historic properties and summarize the status of consultations under section 106.

[1] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of the appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary'' or from the Commission's Public Reference Room, 888 First Street NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

[2] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the Commission's Office of Energy Projects.

[3] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.6.

[4] The Advisory Council on Historic Preservation regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on our previous review of the Downeast LNG Import Project, a preliminary review of the planned Export Project facilities, and the environmental information provided by Downeast Liquefaction. This preliminary list of issues may change based on your comments and our analysis. Issued identified include:

- Potential impacts on wetlands and other aquatic resources within the LNG terminal site;
- potential impacts from release of ballast water from LNG carriers during the loading of LNG cargo;
- potential visual effects on surrounding areas;
- potential noise and air emissions impacts from the addition of natural gas liquefaction facilities; and
- public safety and hazards associated with the liquefaction and transport of LNG.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. Since Commission staff will issue a supplement to the previous environmental documents for the Downeast LNG Import Project, we do not intend to re-evaluate issues previously addressed for the LNG Import Project; therefore, comments are requested on issues specific to the LNG Export Project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please send your comments so that the Commission receives them in Washington, DC on or before November 3, 2014. This is not your only public input opportunity; please refer to the Environmental Review Process flowchart in appendix 2.

For your convenience, there are three methods you can use to submit your comments to the Commission. In all instances, please reference the project docket number (PF14–19–000) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov.*

(1) You can file your comments electronically using the *eComment* feature located on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* This is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You can file your comments electronically using the *eFiling* feature located on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''*eRegister.''* You must select the type of filing you are making. If you are filing a comment on a particular project, please select ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the planned project.

Copies of the completed Supplemental draft EIS will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of the CD version or would like to remove your name from the mailing list, please return the attached Information Request (appendix 3).

Becoming an Intervenor

Once Downeast Liquefaction files its application with the Commission, you may want to become an ''intervenor'' which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Instructions for becoming an intervenor are in the User's Guide under the ''e-filing'' link on the Commission's Web site. Please note that the Commission will not accept requests for intervenor status at this time. You must wait until the Commission receives a formal application for the project.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site (*www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number, excluding the last three digits in the Docket Number field (i.e., PF14–19–000). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Finally, public meetings or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Dated: October 3, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–24297 Filed 10–10–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF14–17–000]

Louisiana LNG Energy, LLC; Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Mississippi River Lng Project, Request for Comments on Environmental Issues, and Notice of Public Scoping Meeting

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental impact statement (EIS) that will discuss the environmental impacts of the Mississippi River Liquefied Natural Gas (LNG) Project (Project) involving construction and operation of a LNG facility by Louisiana LNG Energy, LLC (LLNGE) in Plaquemines Parish, Louisiana. Under the proposed Project, LLNGE would construct, own, and operate a liquefaction terminal for the export of LNG. The terminal would include four liquefaction trains, each with a capacity of 74,380 cubic feet per day; two 100,000 cubic meter (m^3) full containment LNG storage tanks; 1.9 miles of 24-inch-diameter pipeline; and 1.6 miles of 12-inch-diameter pipeline.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the Project. Your input will help the Commission staff determine what issues they need to evaluate in the EIS. Please note that the scoping period will close on November 3, 2014. The Commission will use this EIS in its decision-making process to determine whether the Project is in the public interest. Details on how to submit comments are in the Public Participation section of this notice.

This notice is being sent to the Commission's current environmental mailing list for this Project. State and local government representatives should notify their constituents of this proposed Project and encourage them to comment on their areas of concern.

You may submit comments in written form or verbally. Further details on how to submit written comments are in the Public Participation section of this notice. In lieu of or in addition to sending written comments, the Commission invites you to attend the public scoping meeting scheduled as follows:

Date and time	Location
October 23, 2014, 6:00 PM (CST).	Belle Chasse Auditorium, 8398 Hwy. 23, Belle Chasse, LA 70037, (504) 208–1320.

This public meeting is designed to provide you with more detailed information and another opportunity to offer your comments on the Project. Interested groups and individuals are encouraged to attend the meeting and present comments on the issues they believe should be addressed in the EIS. A transcript of the meeting will be made so that your comments will be accurately recorded.

If you are a landowner receiving this notice, a company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed pipeline facilities. The company would seek to negotiate a mutually acceptable agreement. However, if the Commission approves the Project, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings where compensation would be determined in accordance with state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility on My Land? What Do I Need To Know?'' is available for viewing on the FERC Web site (*www.ferc.gov*). This fact sheet addresses a number of typically-asked questions, including the use of eminent domain and how to participate in the Commission's proceedings.

Summary of the Proposed Project

LLNGE plans to construct, own, and operate a liquefaction terminal in Plaquemines Parish, Louisiana to enable it to liquefy natural gas for use along the lower Mississippi River and in offshore Louisiana bunker markets, as well as for export to foreign countries. The planned facility would have an export capacity of approximately two million metric tons per year (MTPY). The Project would use the planned facilities to liquefy domestic natural gas delivered via interconnects with an existing interstate natural gas pipeline. The LNG would be stored in onsite storage tanks before being loaded onto LNG carriers at the planned marine berthing and LNG transfer facilities. Construction of the Project is planned to begin in February 2016 and operations are planned to begin in the second quarter of 2018; however, LLNGE is considering a phased construction that would allow operations to commence in the second quarter of 2017. Phased construction would allow for operations to begin before construction of the storage tanks by transferring liquefied natural gas directly into a berthed LNG vessel. The Mississippi River LNG Project would include the following facilities:

- A natural gas liquefaction terminal located along the east bank of the Mississippi River in Plaquemines Parish, Louisiana that would include:
  - four liquefaction trains, each with a capacity of 74,380 cubic feet per day;
  - two 100,000 cubic meter (m^3), full-containment LNG storage tanks;
  - marine loading facilities capable of berthing one LNG carrier up to 175,000 m^3, as well as LNG bunker barges;
  - truck loading facilities capable of concurrently loading two trucks;
  - a 180 megawatt on-site electrical power generation facility with 3 gas turbines; and
  - ancillary gas treatment and liquefaction systems;
- 1.9 miles of 24-inch-diameter pipeline, with an associated meter station, that would deliver gas from the High Point Gas Transmission (HPGT) interstate pipeline system to the proposed terminal;
- 1.6-miles of 12-inch-diameter pipeline, with an associated meter station, that would extend from the HPGT interconnection to the Gulf South Pipeline interstate pipeline system; and
- Construction of one new compressor station located within the terminal fenceline.

A map depicting the general location of the Project facilities is included in Appendix 1.[1]

Land Requirements for Construction

The planned construction would impact a 200-acre site on the east bank of the Mississippi River in Plaquemines Parish, Louisiana, which would include the liquefaction trains, LNG storage tanks, marine and truck loading facilities, the electrical power station, and ancillary facilities. The full 200-acre site would be fenced and retained for operations of the planned Project. Construction of the two pipeline segments and associated meter stations would require approximately 42 acres of land, 22 of which would be

[1] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies of appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary'' or from the Commission's Public Reference Room, 888 First Street NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

permanently impacted during operations. LLNGE is still in the planning phase for the Project and requirements for construction workspaces, access roads, and pipe storage/contractor yards would be determined during engineering and design.

The EIS Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the authorization of LNG facilities. NEPA also requires us[2] to discover and address concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EIS on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EIS. We will consider all filed comments during the preparation of the EIS.

In the EIS we will discuss impacts that could occur as a result of the construction and operation of the proposed Project under these general headings:

- Geology and soils;
- water resources;
- wetlands and vegetation;
- fish and wildlife, including migratory birds;
- threatened and endangered species;
- land use, recreation, and visual resources;
- air quality and noise;
- cultural resources;
- socioeconomics;
- reliability and safety;
- engineering and design material; and
- cumulative environmental impacts.

We will also evaluate reasonable alternatives to the planned Project or portions of the Project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Although no formal application has been filed by LLNGE, we have initiated our NEPA review under the Commission's pre-filing process. The purpose of the pre-filing process is to encourage the early involvement of interested stakeholders and to identify and resolve issues before the FERC receives an application. As part of our pre-filing review, we have begun to contact some federal and state agencies to discuss their involvement in the scoping process and the preparation of the EIS.

The EIS will present our independent analysis of the issues. We will publish and distribute the draft EIS for public comment. After the comment period, we will consider all timely comments and revise the document, as necessary, before issuing a final EIS. To ensure we have the opportunity to consider and address your comments, please carefully follow the instructions in the Public Participation section below.

With this notice, we are asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this Project to formally cooperate with us in the preparation of the EIS.[3]

Consultations Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with the Louisiana Office of Historic Preservation (State Historic Preservation Office [SHPO]), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the Project's potential effects on historic properties.[4] We will define the Project-specific Area of Potential Effects (APE) in consultation with the SHPO as the Project develops. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include the terminal plot, construction right-of-way, contractor/pipe storage yards, compressor stations, and access roads). Our EIS for this Project will document our findings on the impacts on historic properties and summarize the status of consultations with the Louisiana Office of Historic Preservation under section 106.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the Project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please send your comments so that the Commission receives them in Washington, DC on or before November 3, 2014.

For your convenience, there are three methods which you can use to submit your comments to the Commission. In all instances please reference the Project docket number (PF14–17–000) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov*.

(1) You can file your comments electronically using the eComment feature on the Commission's Web site (*www.ferc.gov*) under the link to Documents and Filings. This is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You can file your comments electronically using the eFiling feature on the Commission's Web site (*www.ferc.gov*) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' You must select the type of filing you are making. If you are filing a comment on a particular project, please select ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

Environmental Mailing List

The environmental mailing list includes Federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for Project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the Project. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed Project.

[2] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the Commission's Office of Energy Projects.

[3] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, § 1501.6.

[4] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

When we publish and distribute the EIS, copies will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of the CD version or would like to remove your name from the mailing list, please return the attached Information Request (Appendix 2).

Becoming an Intervenor

Once LLNGE files its application with the Commission, you may want to become an ''intervenor'' which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Instructions for becoming an intervenor are in the User's Guide under the ''e-filing'' link on the Commission's Web site. Please note that the Commission will not accept requests for intervenor status at this time. You must wait until the Commission receives a formal application for the project.

Additional Information

Additional information about the Project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site at *www.ferc.gov* using the ''eLibrary'' link. Click on the eLibrary link, click on ''General Search'' and enter the docket number, excluding the last three digits in the Docket Number field (i.e., PF14–17). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Finally, public meetings or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Dated: October 3, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–24296 Filed 10–10–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14498–001]

Lucid Energy, Inc. and The City of Portland Water Bureau, Conduit 3, LLC; Notice of Transfer of Exemption

1. By letter filed September 2, 2014 and supplemented on October 3, 2014, Lucid Energy, Inc. and The City of Portland Water Bureau informed the Commission that the exemption from licensing for the Conduit 3 Hydroelectric Project, FERC No. 14498, originally issued June 3, 2013,[1] has been transferred from Lucid Energy, Inc. and The City of Portland Water Bureau as co-exemptees to Conduit 3, LLC and The City of Portland Water Bureau as co-exemptees. The new co-exemptee is wholly owned by Lucid Energy, Inc. The proposed project would be located on The City of Portland Water Bureau's Conduit 3 pipeline, an existing 50-inch diameter water supply pipeline, in the City of Portland, Multnomah County, Oregon. The transfer of an exemption does not require Commission approval.

2. Conduit 3, LLC and The City of Portland Water Bureau are now the co-exemptees of the Conduit 3 Hydroelectric Project, FERC No. 14498. All correspondence should be forwarded to: Mr. Greg Semler, President and CEO, Lucid Energy, Inc. 2420 NE Sandy Blvd., Suite 203, Portland, OR 97232.

Dated: October 7, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–24344 Filed 10–10–14; 8:45 am]

BILLING CODE 6717–01–P

[1] 143 FERC ¶ 62,164, Order Granting Exemption from Licensing (Conduit).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12496–002; Rugraw, LLC]

Notice of Joint Scoping Meetings With the California State Water Resources Control Board and Environmental Site Review and Soliciting Scoping Comments

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission (FERC or Commission) and are available for public inspection:

a. *Type of Application:* Major Original License.

b. *Project No.:* 12496–002.

c. *Date filed:* April 21, 2014.

d. *Applicant:* Rugraw, LLC.

e. *Name of Project:* Lassen Lodge Hydroelectric Project.

f. *Location:* On the South Fork Battle Creek, nearby the Town of Mineral, Tehama County, California. No federal lands or Indian reservations are located within the proposed project boundary.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Charlie Kuffner, 70 Paseo Mirasol, Tiburon, CA 94920; (415) 652–8553.

i. *FERC Contact:* Adam Beeco at (202) 502–8655; email–*adam.beeco@ferc.gov.*

California State Water Board Contact: Michelle Lobo at (916) 327–3117; email—*michelle.lobo@waterboards.ca.gov.*

j. With this notice, we are soliciting comments on the Commission's staff Scoping Document 1 (SD1). Deadline for filing scoping comments: December 5, 2014 (5:00 p.m. EST; 2:00 p.m. PST).

Scoping comments should be filed separately with the Commission and the California State Water Resources Control Board (State Water Board), as noted below.

Commission

The Commission strongly encourages electronic filing. Please file scoping comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal

Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–12496–002.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

State Water Board

Written comments should be provided as noted below. When submitting your comments, provide the contact person's name and phone number. The State Water Board is seeking information regarding what type of environmental document should be prepared (i.e., negative declaration, mitigated negative declaration, or environmental impact report), as well as scoping comments.

State Water Resources Control Board, Division of Water Rights, Water Quality Certification Program, Attention: Michelle Lobo, P.O. Box 2000, Sacramento, CA 95812–2000, Phone: (916) 327–3117, Fax: (916) 341–5400, Email: *Michelle.Lobo@waterboards.ca.gov.*

k. This application is not ready for environmental analysis at this time.

l. The proposed Lassen Lodge Project consists of: (1) A 6-foot-high and 94-foot-long diversion dam; (2) an impoundment of approximately 0.5 acre; (3) a 20 by 10 foot enclosed concrete intake structure; (4) a 7,258-foot-long pipeline and a 5,230-foot-long penstock with a net head of 791 feet; (5) a 50 by 50 foot powerhouse containing one generating unit with a 5,000-kilowatt capacity; (6) a 50 by 50 foot substation area; (7) a 40 by 35 foot switchyard; (8) 100 by 100 foot multipurpose area; and (9) a new 12-mile-long, 60-kilovolt transmission line. The project is estimated to produce approximately 25,000,000 kilowatt hours annually.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item ''h.'' above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Scoping Process

The Commission intends to prepare an Environmental Assessment (EA) on the project in accordance with the National Environmental Policy Act. The EA will consider both site-specific and cumulative environmental impacts and reasonable alternatives to the proposed action.

The State Water Board has not determined what type of environmental document it will prepare at this time and is seeking input from agencies and interested parties as part of the scoping process.

Scoping Meetings

In addition to written comments solicited by this SD1, we will hold two public scoping meetings and an Environmental Site Review in the vicinity of the project. A daytime meeting will focus on concerns of the resource agencies, nongovernmental organizations (NGOs), and Indian tribes. An evening meeting will focus on receiving input from the public. We invite all interested agencies, Indian tribes, NGOs, and individuals to attend one or both of the meetings to assist us in identifying the scope of environmental issues that should be analyzed in the EA and the State Water Board's environmental document.

These scoping meetings are being coordinated with the State Water Board and are considered joint scoping meetings for the purposes of both the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA), should the State Water Board prepare an environmental impact report (EIR). (See Cal. Code Regs., tit. 14, 15083, 15223, 15226.) This notice is intended to provide notice of the State Water Board's informal consultation with responsible and trustee agencies pursuant to section 15063 of the CEQA Guidelines as to the potential for the proposed action to cause a significant impact to the environment. (Cal. Code Regs., tit. 14, 15063, subd. (g).) Recipients of this notice are invited to comment on whether an EIR, negative declaration, or mitigated negative declaration should be prepared. In addition, pursuant to CEQA Guidelines section 15083, subdivision (c), these meetings are intended to simultaneously serve the purposes identified in California Code of Regulations, title 14, section 15082, subdivision (c). Any responsible or trustee agency or other interested parties that believes an EIR should be prepared should identify the scope and content of any environmental information it believes should be required, should the State Water Board prepare an EIR.

The times and locations of the meetings are as follows:

Daytime Scoping Meeting

Date and Time: Wednesday, November 5, 2014, 9:00 a.m. (PST).

Location: Cal/EPA Building at 1001 I Street, Sacramento, California. Byron Sher Auditorium on the 2nd floor.

Phone number: Michelle Lobo—(916) 327–3117, Webcast: *http://www.calepa.ca.gov/Broadcast/.*

Paid parking is available in the parking garage across from the Cal/EPA Building. Metered parking is available on nearby and adjacent streets. Information on traveling to the Cal/EPA Building is available online at: *http://www.calepa.ca.gov/EPABldg/location.htm.*

Please enter the Cal/EPA Building through the public entrance at the corner of 10th Street and I Street. Once you enter the building, go to the Visitor's Center located on the left. You will need to sign-in at the Visitor's Center and receive a badge for the 1st and 2nd floors. The Byron Sher Auditorium is on the 2nd floor and may be accessed by using the elevator or stairs.

Evening Scoping Meeting

Date and Time: Wednesday, November 5, 2014, 7:00 p.m. (PST).

Location: Holiday Inn Express Hotel, 2810 Main St., Red Bluff, California.

Phone number: Front Desk—(530) 528–1600.

Copies of the SD1 outlining the subject areas to be addressed in the EA were distributed to the parties on the Commission's mailing list. Copies of the SD1 will be available at the scoping meeting or may be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link (see item m above).

Environmental Site Review

The Applicant and FERC staff will conduct a project Environmental Site Review beginning at 8:00 a.m. (PST) on Thursday, November 6, 2014. All interested individuals, organizations, and agencies are invited to attend. All participants should meet at the Walmart Parking Lot, 1025 S. Main St., Red Bluff, California. All participants are responsible for their own transportation to the meeting site. Anyone with

questions about the Environmental Site Review (or needing directions) should contact Charlie Kuffner of Rugraw, LLC at (415) 652–8553 or email at *charlie.kuffner@gmail.com.* Those individuals planning to participate in the Environmental Site Review should notify Mr. Kuffner of their intent, no later than Friday, October 31, 2014. For more details about the Environmental Site Review, including meeting locations, transportation options, meal options, and the itinerary, please see the information in Appendix A of the SD1.

Objectives

At the scoping meetings, the staff will: (1) Summarize the environmental issues tentatively identified for analysis in the EA and CEQA document; (2) solicit from the meeting participants all available information, especially quantifiable data, on the resources at issue; (3) encourage statements from experts and the public on issues that should be analyzed in the EA, and CEQA document, including viewpoints in opposition to, or in support of, the staffs' preliminary views; (4) determine the resource issues to be addressed in the EA and CEQA document; (5) identify those issues that require a detailed analysis, as well as those issues that do not require a detailed analysis; (6) solicit from the meeting participants, input to the State Water Board on the type of CEQA document that should be prepared, and (7) solicit from any responsible or trustee agency or other interested parties that believes an EIR should be prepared, environmental information to identify the scope and content of an EIR should the State Water Board determine an EIR should be prepared.

Procedures

The meetings will be recorded by a stenographer and become part of the formal record of the Commission and State Water Board proceedings on the project.

Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to attend the meeting(s) and to assist the staff in defining and clarifying the issues to be addressed in the EA and CEQA document.

Dated: October 3, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–24299 Filed 10–10–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL15–2–000]

UIF GP, LLC; Notice of Petition for Declaratory Order

Take notice that on October 3, 2014, pursuant to Rule 207(a)(2) of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207(a)(2), UIF GP, LLC (UIF) filed a petition for declaratory order requesting that the Commission: (1) Disclaim jurisdiction over UIF as a public utility under section 201(e) of the Federal Power Act (FPA) and (2) disclaim jurisdiction over future transfers of the Class A–1 Interests or Class B Interests in Neptune Regional Transmission System, LLC under section 203(a)(1) of the FPA., as more fully explained in the petition.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on November 3, 2014.

Dated: October 6, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–24316 Filed 10–10–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14636–000]

Glacial Energy, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On September 19, 2014, Glacial Energy, LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Talkeetna River Dam Hydroelectric Project (Talkeetna River Project or project) to be located on the Talkeetna River, near Talkeetna in Matanuska-Susitna Borough, Alaska. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) A 2,300-foot-long, 370-foot-high dam located at an elevation of 970 feet mean sea level on the Talkeetna River; (2) a 2,700-foot-long, 12-foot-diameter steel penstock; (3) a 1,500-foot-long, 50-foot-wide, 20-foot-tall concrete open channel spillway exiting downstream from the dam; (4) a 75-foot long, 125-foot-wide powerhouse with three Francis turbine units rated for 25 megawatts (MW) each or 75 MW total at 320 feet of net head; (5) a 100-foot-wide, 30-foot-deep, 35-foot-long concrete tailrace emptying into the Talkeetna River; (6) an 11-mile, 69-kilovolt transmission line; (7) a substation; ; and (8) appurtenant facilities.

The estimated annual generation of the Talkeetna River Project would be 311 gigawatt-hours.

Applicant Contact: Mr. Brent L. Smith, Manager, Northwest Power Services, Inc., P.O. Box 872316, Wasilla, AK 99687; phone: (907) 414–8223.

FERC Contact: Julia Kolberg; phone: (202) 502–8261.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of

intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–14630–000.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14636) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: October 7, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–24345 Filed 10–10–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL14–98–000]

Arizona Public Service Company; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On October 3, 2014, the Commission issued an order in Docket No. EL14–98–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e (2012), instituting an investigation to determine whether market-based rate authority for Arizona Public Service Company (APS) in the APS balancing authority area and the Phoenix Valley Load Pocket is just and reasonable. *Arizona Public Service Company,* 149 FERC ¶ 61,013 (2014).

The refund effective date in Docket No. EL14–98–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Dated: October 3, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–24298 Filed 10–10–14; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9917–54–OEI]

Agency Information Collection Activities OMB Responses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This document announces the Office of Management and Budget (OMB) responses to Agency Clearance requests, in compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

FOR FURTHER INFORMATION CONTACT: Courtney Kerwin (202) 566–1669, or email at *kerwin.courtney@epa.gov* and please refer to the appropriate EPA Information Collection Request (ICR) Number.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency Clearance Requests

OMB Approvals

EPA ICR Number 1086.10; NSPS for Onshore Natural Gas Processing Plants (40 CFR part 60, subparts KKK and LLL) (Renewal); 40 CFR part 60, subparts A, KKK, and LLL; was approved on 08/05/2014; OMB Number 2060–0120; expires on 08/31/2017; Approved with change.

EPA ICR Number 1367.11; Regulation of Fuels and Fuel Additives: Gasoline Volatility (40 CFR 80.27); 40 CFR 80.27; was approved on 08/06/2014; OMB Number 2060–0178; expires on 08/31/2017; Approved without change.

EPA ICR Number 2193.03; Energy Star Program in the Residential Sector (Renewal); was approved on 08/06/2014; OMB Number 2060–0586; expires on 08/31/2017; Approved with change.

EPA ICR Number 2472.01; Pesticide Spray Drift Reduction Technologies; 40 CFR part 152; was approved on 08/12/2014; OMB Number 2070–0191; expires on 08/31/2017; Approved with change.

EPA ICR Number 2060.06; Cooling Water Intake Structures Phase II Existing Facility (Renewal); 40 CFR parts 122 and 125; was approved on 08/13/2014; OMB Number 2040–0257; expires on 08/31/2017; Approved without change.

EPA ICR Number 0282.16; Engine Emission Defect Information Reports and Voluntary Emission Recall Reports (Renewal); 40 CFR 85, 89, 90, 91, 92, 94, 1035, 1039, 1042, 1045, 1048, 1051, 1054, 1068; was approved on 08/21/2014; OMB Number 2060–0048; expires on 08/31/2017; Approved without change.

EPA ICR Number 1246.12; Reporting and Recordkeeping for Asbestos Abatement Worker Protection; 40 CFR part 763 subpart G; was approved on 08/21/2014; OMB Number 2070–0072; expires on 08/31/2017; Approved without change.

Courtney Kerwin,

Acting Director, Collections Strategies Division.

[FR Doc. 2014–24318 Filed 10–10–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPA–2014–0445; FRL–9917–75–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Oil Pollution Act Facility Response Plans (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), ''Oil Pollution Act Facility Response Plans (Renewal)'' (EPA ICR No. 1630.12, OMB Control No. 2050–0135) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through October 31, 2014. Public comments were previously requested via the **Federal Register** (79 FR 44768) on August 1, 2014 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. 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.

DATES: Additional comments may be submitted on or before November 13, 2014.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OPA–2014–0445, to (1) EPA online using *www.regulations.gov* (our preferred method), *rcra-docket@epa.gov* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: J. Troy Swackhammer, Office of Emergency Management, Mail Code 5104A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 202–564–1966; fax number: 202–564–2625; email address: *swackhammer.j-troy@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: The authority for EPA's facility response plan (FRP) requirements is derived from section 311(j)(5) of the Clean Water Act, as amended by the Oil Pollution Act of 1990. EPA's regulation is codified at 40 CFR 112.20 and 112.21 and related appendices. All FRP reporting and recordkeeping activities are mandatory. The purpose of an FRP is to help an owner or operator identify the necessary resources to respond to an oil spill in a timely manner. If implemented effectively, the FRP will reduce the impact and severity of oil spills and may prevent spills because of the identification of risks at the facility. Although the owner or operator is the primary data user, EPA also uses the data in certain situations to ensure that facilities comply with the regulation and to help allocate response resources. State and local governments may use the data, which are not generally available elsewhere and can greatly assist local emergency preparedness planning efforts. The EPA reviews all submitted FRPs and must approve FRPs for those facilities whose discharges may cause significant and substantial harm to the environment in order to ensure that facilities believed to pose the highest risk have planned for adequate resources and procedures to respond to a spill. (See 40 CFR 112.20(f)(3) for further information about the criteria for significant and substantial harm.)

Form Numbers: None.

Respondents/affected entities: Private entities and States, local or tribal governments.

Respondent's obligation to respond: Mandatory under section 311(j)(5) of the Clean Water Act, as amended by the Oil Pollution Act of 1990.

Estimated number of respondents: 22,966 (total).

Frequency of response: Once.

Total estimated burden: 455,743 hours (per year). Burden is defined at 5 CFR 1320.03(b)

Total estimated cost: $17,630,700 (per year), includes $14,763 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is a decrease of 7,676 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This estimate is based on EPA's current inventory of facilities that have submitted and are maintaining an FRP as per 40 CFR part 112 versus the projected inventory for the prior ICR renewal.

Courtney Kerwin,

Acting Director, Collection Strategies Division.

[FR Doc. 2014–24319 Filed 10–10–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

EPA–HQ–ORD–2005–0530; FRL–9916–56–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Application for Reference and Equivalent Method Determination (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), ''Application for Reference and Equivalent Method Determination (Renewal)'' (EPA ICR No. 0559.12, OMB Control No. 2080–0005) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through October 31, 2014. Public comments were previously requested via the **Federal Register** (79 FR 37309) on July 1, 2014 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. 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.

DATES: Additional comments may be submitted on or before November 13, 2014.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–ORD–2005–0530, online using *www.regulations.gov* (our preferred method), by email to *ord-docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Robert W. Vanderpool, Environmental Protection Agency, Human Exposure and Atmospheric Sciences Division, Process Modeling Research Branch, Mail Drop D205–03, Research Triangle Park, NC 27711; telephone number: 919–541–7877; fax number: 919–541–1153; email address: *Vanderpool.Robert@epa.gov*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center,

WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: To determine compliance with the NAAQS, State air monitoring agencies are required to use, in their air quality monitoring networks, air monitoring methods that have been formally designated by the EPA as either reference or equivalent methods under EPA regulations at 40 CFR Part 53. A manufacturer or seller of an air monitoring method (e.g., an air monitoring sampler or analyzer) that seeks to obtain such EPA designation of one of its products must carry out prescribed tests of the method. The test results and other information must then be submitted to the EPA in the form of an application for a reference or equivalent method determination in accordance with 40 CFR Part 53. The EPA uses this information, under the provisions of Part 53, to determine whether the particular method should be designated as either a reference or equivalent method. After a method is designated, the applicant must also maintain records of the names and mailing addresses of all ultimate purchasers of all analyzers or samplers sold as designated methods under the method designation. If the method designated is a method for fine particulate matter ($PM_{2.5}$) and coarse particulate matter ($PM_{10-2.5}$), the applicant must also submit a checklist signed by an ISO-certified auditor to indicate that the samplers or analyzers sold as part of the designated method are manufactured in an ISO 9001-registered facility. Also, an applicant must submit a minor application to seek approval for any proposed modifications to previously designated methods.

Form numbers: None.

Respondents/affected entities: Private manufacturers, states.

Respondent's obligation to respond: Mandatory per 40 CFR 53.15.

Estimated number of respondents: 22.

Frequency of response: Annual.

Total estimated burden: 7,492 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $650,494 (per year), includes $132,668 annualized capital or operation & maintenance costs.

Changes in estimates: There is no change in the hours in the total estimated respondent burden compared with the ICR currently approved by OMB.

Courtney Kerwin,

Acting Director, Collection Strategies Division.

[FR Doc. 2014–24320 Filed 10–10–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–RCRA–2014–0295; FRL–9916–96–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Hazardous Waste Generator Standards (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), ''Hazardous Waste Generator Standards (Renewal)'' (EPA ICR No. 0820.13, OMB Control No. 2050–0035) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through October 31, 2014. Public comments were previously requested via the **Federal Register** (79 FR 33547) on June 11, 2014 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. 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.

DATES: Additional comments may be submitted on or before November 13, 2014.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–RCRA–2014–0295, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *rcra-docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including and personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Jim O'Leary, Office of Solid Waste, Mail Code 5304P, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (703) 308–8827; fax number: (703) 308–0514; email address: *oleary.jim@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: Under the Resource Conservation and Recovery Act (RCRA), as amended, Congress directed EPA to implement a comprehensive program for the safe management of hazardous waste. The core of the national waste management program is the regulation of hazardous waste from generation to transport to treatment and eventual disposal, or from ''cradle to grave.'' Section 3001(d) of RCRA requires EPA to develop standards for small quantity generators. Section 3002 of RCRA states, among other things, that EPA shall establish requirements for hazardous waste generators regarding recordkeeping practices. Section 3002 also requires EPA to establish standards on appropriate use of containers by generators. Finally, Section 3017 of RCRA specifies requirements for individuals exporting hazardous waste from the United States, including a notification of the intent to export, and an annual report summarizing the types, quantities, frequency, and ultimate destination of all exported hazardous waste.

Form Numbers: None.

Respondents/affected entities: Private business or other for-profit.

Respondent's obligation to respond: Mandatory (40 CFR Parts 262 and 265).

Estimated number of respondents: 67,288.

Frequency of response: On occasion.

Total estimated burden: 253,519 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $14,674,934 (per year), includes $40,041 annualized

capital or operation & maintenance costs.

Changes in the Estimates: There is a decrease of 22,323 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This decrease is due to a decrease in the universe from 90,675 to 67,288.

Courtney Kerwin,

Acting Director, Collection Strategies Division.

[FR Doc. 2014–24321 Filed 10–10–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

FDIC Advisory Committee on Economic Inclusion (ComE–IN); Notice of Meeting

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of Open Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, notice is hereby given of a meeting of the FDIC Advisory Committee on Economic Inclusion, which will be held in Arlington, Virginia. The Advisory Committee will provide advice and recommendations on initiatives to expand access to banking services by underserved populations.

DATES: Thursday, October 29, 2014, from 9:00 a.m. to 3:15 p.m.

ADDRESSES: The meeting will be held in Auditorium C on the Third Floor of the FDIC William Seidman Center, 3501 North Fairfax Drive (Building C), Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Committee Management Officer of the FDIC, at (202) 898–7043.

SUPPLEMENTARY INFORMATION:

Agenda: The agenda will be focused on the results of the FDIC's National Survey of Unbanked and Underbanked Households, safe banking products, and the BankOn program. The agenda may be subject to change. Any changes to the agenda will be announced at the beginning of the meeting.

Type of Meeting: The meeting will be open to the public, limited only by the space available on a first-come, first-served basis. For security reasons, members of the public will be subject to security screening procedures and must present a valid photo identification to enter the building. The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should call (703) 562–6067 (Voice or TTY) at least two days before the meeting to make necessary arrangements. Written statements may be filed with the committee before or after the meeting. This ComE–IN meeting will be Webcast live via the Internet at: *https://fdic.primetime.mediaplatform.com/#/channel/1384299229422/Advisory+Committee+on+Economic+Inclusion.* Questions or troubleshooting help can be found at the same link. For optimal viewing, a high speed internet connection is recommended. The ComE–IN meeting videos are made available on-demand approximately two weeks after the event.

Dated: October 8, 2014.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary, Federal Deposit Insurance Corporation.

[FR Doc. 2014–24322 Filed 10–10–14; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Meeting of the Presidential Commission for the Study of Bioethical Issues

AGENCY: Presidential Commission for the Study of Bioethical Issues, Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice of Meeting.

SUMMARY: The Presidential Commission for the Study of Bioethical Issues (the Commission) will conduct its nineteenth meeting on November 5–6, 2014. At this meeting, the Commission will conclude discussions related to the BRAIN Initiative and ongoing work in neuroscience, and begin discussions about the role of deliberation and education in bioethics.

DATES: The meeting will take place Wednesday, November 5, 2014, from 9 a.m. to approximately 5 p.m., and Thursday, November 6, 2014, from 9 a.m. to approximately 1p.m.

ADDRESSES: Radisson Hotel Salt Lake City Downtown, 215 W. South Temple, Salt Lake City, UT 84101.

FOR FURTHER INFORMATION CONTACT: Hillary Wicai Viers, Communications Director, Presidential Commission for the Study of Bioethical Issues, 1425 New York Avenue NW., Suite C–100, Washington, DC 20005. Telephone: 202–233–3960. Email: *Hillary.Viers@bioethics.gov.* Additional information may be obtained at *www.bioethics.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act of 1972, Public Law 92–463, 5 U.S.C. app. 2, notice is hereby given of the nineteenth meeting of the Commission. The meeting will be open to the public with attendance limited to space available. The meeting will also be webcast at *www.bioethics.gov.*

Under Executive Order 13521, dated November 24, 2009, the President gave authority for the establishment of the Commission. The Commission is an expert panel of not more than 13 members who are drawn from the fields of bioethics, science, medicine, technology, engineering, law, philosophy, theology, or other areas of the humanities or social sciences. The Commission advises the President on bioethical issues arising from advances in biomedicine and related areas of science and technology. The Commission seeks to identify and promote policies and practices that ensure scientific research, health care delivery, and technological innovation are conducted in a socially and ethically responsible manner.

The main agenda items for the Commission's nineteenth meeting are to discuss the BRAIN Initiative and ongoing work in neuroscience, and the role of deliberation and education in bioethics.

The draft meeting agenda and other information about the Commission, including information about access to the webcast, will be available at *www.bioethics.gov.*

The Commission welcomes input from anyone wishing to provide public comment on any issue before it. Respectful debate of opposing views and active participation by citizens in public exchange of ideas enhances overall public understanding of the issues at hand and conclusions reached by the Commission. The Commission is particularly interested in receiving comments and questions during the meeting that are responsive to specific sessions. Written comments will be accepted at the registration desk and comment forms will be provided to members of the public in order to write down questions and comments for the Commission as they arise. To accommodate as many individuals as possible, the time for each question or comment may be limited. If the number of individuals wishing to pose a question or make a comment is greater than can reasonably be accommodated during the scheduled meeting, the Commission may make a random selection.

Written comments will also be accepted in advance of the meeting and are especially welcome. Please address written comments by email to *info@bioethics.gov,* or by mail to the following address: Public Commentary, Presidential Commission for the Study of Bioethical Issues, 1425 New York Avenue NW., Suite C–100, Washington, DC 20005. Comments will be publicly available, including any personally identifiable or confidential business information that they contain. Trade secrets should not be submitted.

Anyone planning to attend the meeting who needs special assistance, such as sign language interpretation or other reasonable accommodations, should notify Esther Yoo by telephone at (202) 233–3960, or email at *Esther.Yoo@bioethics.gov* in advance of the meeting. The Commission will make every effort to accommodate persons who need special assistance.

Dated: October 1, 2014.

Lisa M. Lee,

Executive Director, Presidential Commission for the Study of Bioethical Issues.

[FR Doc. 2014–24334 Filed 10–10–14; 8:45 am]

BILLING CODE 4154–06–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects:

Title: Tribal TANF Data Report, TANF Annual Report, and Reasonable Cause/Corrective Action Documentation Process—Final.

OMB No.: 0970–0215.

Description: 42 U.S.C. 612 (Section 412 of the Social Security Act as amended by Public Law 104–193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), mandates that federally recognized Indian Tribes with an approved Tribal TANF program collect and submit to the Secretary of the Department of Health and Human Services data on the recipients served by the Tribes' programs. This information includes both aggregated and disaggregated data on case characteristics and individual characteristics. In addition, Tribes that are subject to a penalty are allowed to provide reasonable cause justifications as to why a penalty should not be imposed or may develop and implement corrective compliance procedures to eliminate the source of the penalty. Finally, there is an annual report, which requires the Tribes to describe program characteristics. All of the above requirements are currently approved by OMB and the Administration for Children and Families is simply proposing to extend them without any changes.

Respondents: Indian Tribes.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Final Tribal TANF Data Report	69	4	451	124,476
Tribal TANF Annual Report	69	1	40	2,760
Tribal TANF Reasonable Cause/Corrective	69	1	60	4,140

Estimated Total Annual Burden Hours: 131,376.

In compliance with the requirements of Section 506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. Email address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2014–24339 Filed 10–10–14; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: State Plan for the Temporary Assistance for Needy Families (TANF).

OMB No.: 0970–0145.

Description

The State plan is a mandatory statement submitted to the Secretary of the Department of Health and Human Services by the State. It consists of an outline specifying how the state's TANF program will be administered and operated and certain required certifications by the State's Chief Executive Officer. It is used to provide the public with information about the program.

Authority to require States to submit a State TANF plan is contained in section 402 of the Social Security Act, as amended by Public Law 104–193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. States are required to submit new plans periodically (i.e., within a 27-month period).

We are proposing to continue the information collection without change.

Respondents

The 50 States of the United States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Title Amendments	18	1	3	54
State TANF plan	18	1	30	540
Estimated Total Annual Burden Hours				594

Additional Information

Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *infocollection@acf.hhs.gov.*

OMB Comment

OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Fax: 202–395–7285, Email: *OIRA_SUBMISSION@OMB.EOP.GOV.*

Attn: Desk Officer for the Administration for Children and Families.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2014–24329 Filed 10–10–14; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0801]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Exports: Notification and Recordkeeping Requirements

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by November 13, 2014.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0482. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Exports: Notification and Recordkeeping Requirements—21 CFR 1.101 (OMB Control Number 0910–0482)—Extension

Section 801 of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 381) charges the Secretary of Health and Human Services, through FDA, with the responsibility of assuring exports (Exports: Notification and Recordkeeping Requirements—§ 1.101 (21 CFR 1.101)) which pertain to the exportation of unapproved new drugs, biologics, devices, animal drugs, food, cosmetics, and tobacco products that are not to be sold in the United States.

The respondents to this information collection are exporters who have notified FDA of their intent to export unapproved products that may not be sold or marketed in the United States as allowed under section 801(e) of the FD&C Act. In general, the notification identifies the product being exported (e.g. name, description, and in some cases, country of destination) and specifies where the notifications were sent. These notifications are sent only for an initial export. Subsequent exports of the same product to the same destination or in the case of certain countries identified in section 802(b) of the FD&C Act (21 U.S.C. 382) would not result in a notification to FDA.

The recordkeepers to this information collection are exporters who export human drugs, biologics, devices, animal drugs, foods, cosmetics, and tobacco products that may not be sold in the United States and maintain records demonstrating their compliance with the requirements in section 801(e)(1) of the FD&C Act.

On March 30, 2012, OMB approved ''Further Amendments to General Regulations of the Food and Drug Administration to Incorporate Tobacco Products,'' OMB control number 0910–0690, which amended, among other sections, § 1.101 to incorporate tobacco products. This amendment reflects the Agency's authority over tobacco products under the Family Smoking Prevention and Tobacco Control Act (Pub. L. 111–31) and added tobacco products to the list of products covered under § 1.101(a) and (b).

In the **Federal Register** of July 3, 2014 (79 FR 38036), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
1.101(d) (Non-Tobacco products)	73	503	36,719	15	550,785

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

21 CFR section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
1.101(b), (c), and (e) (Non-Tobacco Products)	320	3	960	22	21,120
1.101(b) (Non-Tobacco Products for Office of International Programs only)	1	189	189	22	4,158
1.101(b) (Tobacco Products Only)	158	3	474	22	10,428
Total					35,706

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: October 7, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–24293 Filed 10–10–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–D–1351]

Flow Cytometric Devices; Draft Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled ''Flow Cytometric Devices.'' This draft guidance addresses the current major review concerns regarding submissions for flow cytometric devices used as in vitro diagnostic devices for leukocyte immunophenotyping and provides suggestions on the content of submissions for these types of devices. This draft guidance is not final nor is it in effect at this time.

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 of this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by January 12, 2015.

ADDRESSES: An electronic copy of the guidance document is available for download from the Internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the draft guidance document entitled ''Flow Cytometric Devices'' to the Office of the Center Director, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002, or Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

Submit electronic comments on the draft guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Kevin Maher, Office of In Vitro Diagnostics and Radiological Health, Center for Devices and Radiological Health (CDRH), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 4246, Silver Spring, MD 20993–0002, 301–796–6879, or Stephen Ripley, Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

This draft guidance addresses certain issues that arise in premarket submissions for flow cytometric devices used as in vitro diagnostic devices for leukocyte immunophenotyping and provides suggestions on the content of submissions for these types of devices. It is intended to be used in conjunction with the other cited guidance documents referenced therein. In preparing your submission to FDA, we recommend that you contact FDA's Office of In Vitro Diagnostics and Radiological Health (see **FOR FURTHER INFORMATION CONTACT**) for additional information regarding your submission. This draft guidance focuses on issues relevant to flow cytometric devices with an expanded scope of review topics that reflect the recognition of a flow cytometric device as an analytical system, which includes processing reagents, processing instrumentation, flow cytometers, and analytical software, in addition to the monoclonal antibody (mAb) component. The information presented in this draft guidance is based on the following: (1) Current basic science, (2) clinical experience, and (3) previous submissions by manufacturers to FDA. As advances are made in science and medicine, the content of this guidance will be re-evaluated and revised as necessary to accommodate new knowledge.

This draft guidance is directed toward immunophenotyping of leukocytes using mAbs. However, the concepts may be applicable to related devices that utilize fluorochromes or fluorogenic substrates to measure ligand binding on solid particles in suspension, with or without mAbs. This draft guidance does not cover microscopy devices utilizing

fluorescent or chromogenic enzyme-substrate detection methods (e.g., immunohistochemical stains) nor does it cover the use of flow cytometry for cell enrichment and cell sorting/purification when used in cell therapy product manufacturing.

II. Significance of Guidance

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the Agency's current thinking on flow cytometric devices. 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 statute and regulations.

III. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by downloading an electronic copy from the Internet. A search capability for all CDRH guidance documents is available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm.* Guidance documents are also available at *http://www.regulations.gov* or from CBER at *http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/default.htm.* Persons unable to download an electronic copy of ''Flow Cytometric Devices'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 1787 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 807, subpart E, have been approved under OMB control number 0910–0120, and the collections of information in 21 CFR part 801 and 21 CFR 809.10 have been approved under OMB control number 0910–0485.

V. 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.*

Dated: October 7, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–24308 Filed 10–10–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0001]

Society of Clinical Research Associates—Food and Drug Administration: Food and Drug Administration Clinical Trial Requirements, Regulations, Compliance, and Good Clinical Practice; Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop.

The Food and Drug Administration (FDA) is announcing an educational conference co-sponsored with the Society of Clinical Research Associates (SoCRA). The public workshop regarding FDA's clinical trial requirements is designed to aid the clinical research professional's understanding of the mission, responsibilities, and authority of FDA and to facilitate interaction with FDA representatives. The program will focus on the relationships among FDA and clinical trial staff, investigators, and institutional review boards (IRB). Individual FDA representatives will discuss the informed consent process and informed consent documents; regulations relating to drugs, devices, and biologics; as well as inspections of clinical investigators, IRB, and research sponsors.

Date and Time: The public workshop will be held on November 5 and 6, 2014, from 8 a.m. to 5 p.m.

Location: The public workshop will be held at the Wyndham Lake Buena Vista Hotel, 1850 Hotel Plaza Blvd., Lake Buena Vista, FL 32830, 407–828–4444.

Attendees are responsible for their own accommodations. Please mention SoCRA to receive the hotel room rate of $95.00 plus applicable taxes (available until October 6, 2014, or until the SoCRA room block is filled).

Contact: C. Stewart Watson, Food and Drug Administration, 555 Winderley Pl., Suite 200, Maitland, FL 32751, 407–475–4756, FAX: 407–475–4768, or Society of Clinical Research Associates (SoCRA), 530 West Butler Ave., Suite 109, Chalfont, PA 18914, 800–762–7292 or 215–822–8644, FAX: 215–822–8633, email *SoCRAmail@aol.com,* Web site: *www.socra.org.*

Registration: The registration fee will cover actual expenses including refreshments, lunch, materials and speaker expenses. Seats are limited; please submit your registration as soon as possible. Workshop space will be filled in order of receipt of registration. Those accepted into the workshop will receive confirmation. The cost of the registration is as follows: SoCRA member—$575; SoCRA nonmember (includes membership)—$650; Federal Government member—$450.00; Federal Government SoCRA nonmember—$525.00; FDA Employee—Fee Waived.

If you need special accommodations due to a disability, please contact SoCRA (see *Contact*) at least 21 days in advance.

Extended periods of question and answer and discussion have been included in the program schedule. SoCRA designates this education activity for a maximum of 13.3 continuing education (CE) credits for SoCRA CE and continuing nursing education (CNE). SoCRA designates this live activity for a maximum of 13.3 American Medical Association Physicians Recognition Award Category 1 Credit(s).™ Physicians should claim only the credit commensurate with the extent of their participation. *Continuing Medical Education for physicians:* SoCRA is accredited by the Accreditation Council for Continuing Medical Education to provide continuing medical education for physicians. *CNE for nurses:* SoCRA is an approved provider of continuing nursing education by the Pennsylvania State Nurses Association (PSNA), an accredited approver by the American Nurses Credentialing Center's Commission on Accreditation (ANCC). ANCC/PSNA Provider Reference Number: 205–3–A–09.

Registration Instructions: To register, please submit a registration form with your name, affiliation, mailing address, telephone, fax number, and email, along with a check or money order payable to ''SoCRA''. Mail to: SoCRA (see *Contact* for address). To register via the Internet, go to *http://www.socra.org/html/FDA_Conference.htm.* (FDA has verified the Web site addresses throughout this document, but we are not responsible for any subsequent changes to the Web

sites after this document is published in the **Federal Register**.) Payment by major credit card is accepted (Visa/MasterCard/AMEX only). For more information on the meeting registration, or for questions on the workshop, contact SoCRA (see *Contact*).

SUPPLEMENTARY INFORMATION: The public workshop helps fulfill the Department of Health and Human Services' and FDA's important mission to protect the public health. The public workshop will provide those engaged in FDA-regulated (human) clinical trials with information on a number of topics concerning FDA requirements related informed consent, clinical investigation requirements, institutional review board inspections, electronic record requirements, and investigator initiated research Topics for discussion include the following: (1) The Role of the FDA District Office Relative to the Bioresearch Monitoring Program (BIMO); (2) Modernizing FDA's Clinical Trials/BIMO Programs; (3) What FDA Expects in a Pharmaceutical Clinical Trial; (4) Medical Device Aspects of Clinical Research; (5) Adverse Event Reporting—Science, Regulation, Error, and Safety; (6) Working with FDA's Center for Biologics Evaluation and Research; (7) Ethical Issues in Subject Enrollment; (8) Keeping Informed and Working Together; (9) FDA Conduct of Clinical Investigator Inspections; (10) Investigator Initiated Research; (11) Meetings with FDA—Why, When, and How; (12) Part 11 Compliance—Electronic Signatures; (13) IRB Regulations and FDA Inspections; (14) Informed Consent Regulations; (15) The Inspection is Over—What Happens Next? Possible FDA Compliance Actions; (16) Question and Answer Session/Panel Discussion.

FDA has made education of the drug and device manufacturing community a high priority to help ensure the quality of FDA-regulated drugs and devices. The public workshop helps to achieve objectives set forth in section 406 of the FDA Modernization Act of 1997 (21 U.S.C. 393), which includes working closely with stakeholders and maximizing the availability and clarity of information to stakeholders and the public. The workshop also is consistent with the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), as outreach activities by Government agencies to small businesses.

Dated: October 7, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–24307 Filed 10–10–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request; Evaluation of National Institutes of Health International Bilateral Programs (FIC, NCI, NIAAA, NIAID, NICHD, NIDA, NINDS, NIMH, OAR)

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH), has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on March 13, 2014 (Vol. 79, P. 14256) and allowed 60-days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Cancer Institute (NCI), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: NIH Desk Officer.

DATES: *Comment Due Date:* Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments or request more information on the proposed project contact: Margaret Mary Bertram, Center for Global Health, National Cancer Institute, 9609 Medical Center Dr., Rm 3W264, Rockville MD, 20850 or call non-toll-free number 240–276–5656 or Email your request, including your address to: *margaret.bertram@nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

Proposed Collection: Evaluation of National Institutes of Health International Bilateral Programs (FIC, NCI, NIAAA, NIAID, NICHD, NIDA, NINDS, NIMH, OAR), 0925–NEW, National Cancer Institute (NCI), National Institutes of Health (NIH).

Need and Use of Information Collection: This submission is a request for OMB to approve the Evaluation of National Institutes of Health (NIH) International Bilateral Programs for three years. The bilateral awards are made through the Funding Opportunity Announcement mechanism and administrative supplements, meaning they are funded by set-aside funds that are separate from the general pool of research program grant funds used to support investigator initiated research at NIH. The bilateral programs to be evaluated are the U.S.-China Program for Biomedical Research Cooperation, U.S.-India Bilateral Collaborative Research Partnerships on the Prevention of HIV/AIDS and Co-morbidities, U.S.-Russia Bilateral Collaborative Research Partnerships on the Prevention and Treatment of HIV/AIDS and Co-morbidities, and U.S.-South Africa Program for Collaborative Biomedical Research. These programs are funded and administered by various combinations of the following institutes: Fogarty International Center (FIC), the Eunice Kennedy Shriver National Institute of Child Health and Human Development (NICHD), National Cancer Institute (NCI), National Institute on Alcohol Abuse and Alcoholism (NIAAA), National Institute for Allergy and Infectious Diseases (NIAID), National Institute on Drug Abuse (NIDA), National Institute of Mental Health (NIMH), National Institute of Neurological Disorders and Stroke (NINDS), and the Office of AIDS Research (OAR). While these programs differ, their underlying concept is the same; they require U.S. scientists to collaborate with scientists from other countries in order to conduct scientifically meritorious investigations of mutual interest to both countries. The proposed evaluation requests information about (1) accomplishments of the awards, (2) unique findings or opportunities due to the international collaborations, and (3) successes and challenges of these collaborations. The information will be collected one year into the award and at the end of the award, when possible. This information is needed to evaluate the effectiveness of these programs across NIH.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 129.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Forms	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hours
Principal Investigators	Administrative Supplements	24	1	1	24
	Year 1 Survey	52	1	1	52
	Final Year Survey	52	1	1	52
	Telephone Script for Non-Responders	16	1	3/60	1

Dated: October 6, 2014.

Karla Bailey,

NCI Project Clearance Liaison, National Institutes of Health.

[FR Doc. 2014–24437 Filed 10–10–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR:392: New Computational Methods for Understanding the Functional Role of DNA Variants that are Associated with Mental Disorder.

Date: October 29, 2014.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Alexander Gubin, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6046B, MSC 7892, Bethesda, MD 20892, 301–408–9655, *gubina@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Vascular Biology and Hematology AREA.

Date: November 6, 2014.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Larry Pinkus, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4132, MSC 7802, Bethesda, MD 20892, (301) 435–1214, *pinkusl@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Child Psychopathology and Developmental Disabilities.

Date: November 10–11, 2014.

Time: 8:00 a.m. to 11:59 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Mark Lindner, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7770, Bethesda, MD 20892, 301–435–0913, *mark.lindner@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Mechanisms of Emotion, Stress and Health.

Date: November 10–11, 2014.

Time: 8:00 a.m. to 11:59 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Mark Lindner, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7770, Bethesda, MD 20892, 301–435–0913, *mark.lindner@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Bacterial Biochemistry, Genetics, and Evolution.

Date: November 10, 2014.

Time: 2:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Barbara J. Thomas, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2218, MSC 7890, Bethesda, MD 20892, 301–435–0603, *bthomas@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Non-HIV Anti-Infective Therapeutics.

Date: November 12, 2014.

Time: 8:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Alexandria Old Town, 1456 Duke Street, Alexandria, VA 22314.

Contact Person: Kenneth M. Izumi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge, Rm 3204, MSC 7808, Bethesda, MD 20892, 301–496–6980, *izumikm@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; AREA Application Review.

Date: November 12, 2014.

Time: 9:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Liangbiao Zheng, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3202, MSC 7808, Bethesda, MD 20892, 301–996–5819, *zhengli@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cell Biology.

Date: November 12, 2014.

Time: 10:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Wallace Ip, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5128, MSC 7840, Bethesda, MD 20892, 301–435–1191, *ipws@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Imaging and Biomarkers for Early Cancer Detection: PAR13–189.

Date: November 12, 2014.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Chiayeng Wang, Ph.D., Scientific Review Officer, Center for Scientific Review, 6701 Rockledge Drive, Room 5213, MSC 7852, Bethesda, MD 20892, 301–435–2397, *chiayeng.wang@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: October 7, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–24381 Filed 10–10–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5752–N–85]

30-Day Notice of Proposed Information Collection: Evaluation of the Rental Assistance Demonstration Program, Phase I

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* November 13, 2014.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email at *Colette Pollard@hud.gov* or telephone 202–402–3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on June 28, 2014.

A. Overview of Information Collection

Title of Information Collection: Evaluation of the Rental Assistance Demonstration Program, Phase I.

OMB Approval Number: 2528—New.

Type of Request: New collection.

Description of the need for the information and proposed use: The Rental Assistance Demonstration program (RAD) was established in 2012 to stem the loss of public housing units and other subsidized housing arising from a backlog of capital needs. The program helps to convert at-risk public housing properties to two different forms of project-based Section 8 Housing Assistance Payments (HAP) contracts—either project-based voucher (PBV) or project-based rental assistance (PBRA)—giving public housing authorities (PHAs) more flexibility to access private and public funding sources, easing their reliance on unpredictable appropriations. The RAD authorizing statute requires HUD to assess the impact of the program on: (1) The preservation and improvement of former public housing units, (2) the amount of private capital leveraged as a result of such conversions, and (3) the effect of conversion on residents.

The evaluation is designed to examine the resources available to improve the physical conditions of a public housing property, what new opportunities RAD creates for PHAs to improve public housing physical conditions, and how it helps PHAs preserve those units over the long term. To examine whether the stated HUD and PHA objectives are achieved, HUD will be collecting quantitative and qualitative data from primary and secondary sources and analyzing data related to the following: (1) The physical and financial conditions of 24 RAD properties selected for the study and 48 non-RAD properties selected for comparison; (2) the implementation of the program, including the capital needs and amount of private funding leveraged; and (3) the experience with, and effect on, residents.

At this time, funding is available to fund only the first two components of the evaluation, thus, this request for OMB clearance only covers the ''first phase'' of the evaluation—(1) an assessment of the baseline conditions of RAD properties chosen for study and the baseline conditions of the comparison non-RAD properties, and (2) an assessment of the initial RAD financing, and the implementation phase of the RAD program. The request also includes a tracking form for the resident study that will be completed as a second phase of the evaluation, should funding be made available.

Respondents: PHAs and PHA tenants.

Form	Respondent sample	Number of respondents	Average time to complete (minimum, maximum) in minutes	Frequency	Total burden (hours)
Physical and Financial Conditions Survey.	PHAs (n = 72 PHAs; 24 PHAs implementing RAD, 48 PHAs not implementing RAD.	72	60 (50–70)	1	72
Implementation Survey	PHAs, stakeholder, implementation consultants, project managers (n = 100).	100	60 (50–70)	1	100
Resident Intake Study Correspondence and Intake Form.	Tenants of RAD PHAs (n = 400)	400	10 (8–12)	1	67
Total Burden Hours					239

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: October 7, 2014.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2014–24433 Filed 10–10–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5820–FA–01]

Announcement of Funding Awards Capital Fund Emergency Safety and Security Grants Fiscal Year 2014

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with Section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department. The public was notified of the availability of the Emergency Safety and Security funds with PIH Notice 2014–09 (Notice), which was issued May 12, 2014. Additionally, Public Housing Authorities (PHAs) were notified of funds availability via electronic mail and a posting to the HUD Web site. PHAs were funded in accordance with the terms of the Notice. This announcement contains the consolidated names and addresses of this year's award recipients under the Capital Fund Emergency Safety and Security grant program.

FOR FURTHER INFORMATION CONTACT: For questions concerning the Emergency Safety and Security awards, contact Jeffrey Riddel, Director, Office of Capital Improvements, Office of Public Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4130, Washington, DC 20410, telephone (202) 708–1640. Hearing or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: The Capital Fund Emergency Safety and Security program provides grants to PHAs for physical safety and security measures necessary to address crime and drug-related emergencies. More specifically, in accordance with Section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g) (1937 Act), and Public Law 113–76 (Department of Housing and Urban Development Appropriations Act, 2014) (FY 2014 appropriations), Congress appropriated funding to provide assistance to ''public housing agencies for emergency capital needs including safety and security measures necessary to address crime and drug-related activity as well as needs resulting from unforeseen or unpreventable emergencies and natural disasters excluding Presidentially declared disasters occurring in fiscal year [2014].''

The FY 2014 awards in this Announcement were evaluated for funding based on the criteria in the Notice. These awards are funded from the set-aside in the FY 2014 appropriations.

In accordance with Section 102 (a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat.1987, 42 U.S.C. 3545), the Department is publishing the names, addresses, and amounts of the 13 awards made under the set aside in Appendix A to this document.

Dated: September 30, 2014.

Jemine A. Bryon,

Acting Assistant Secretary for Public and Indian Housing.

Appendix A

Capital Fund Emergency Safety and Security Program FY 2014 Awards

Name/address of applicant	Amount funded	Project description
Housing Authority of the City of Decatur, 100 Wilson Street NE., Decatur, AL 35602.	$250,000	Security Cameras and Lighting.
Housing Authority of Evergreen, 203 Rabb Drive, Evergreen, AL 36401–3342	250,000	Security Cameras, Lighting, and Fencing.
East Hartford Housing Authority, 546 Burnside Avenue, East Hartford, CT 06108–3511.	250,000	Security Cameras and Lighting.
Housing Authority of the City of Miami Beach, 200 Alton Road, Miami Beach, FL 33139–6742.	250,000	Security Cameras, Lighting, and Fencing.
LaGrange Housing Authority, 201 Chatham Street, LaGrange, GA 30240–5313.	187,000	Security Cameras.
Fort Wayne Housing Authority, 7315 South Hanna St., P.O. Box 13489, Fort Wayne, IN 46869–3489.	248,718	Security Cameras and Access Control Systems.
Housing Authority of Flemingsburg, 142 Circle Drive, Flemingsburg, KY 41041–1442.	175,519	Security Cameras and Security Window Screens.
Housing Authority of Floyd County, 402 John M. Stumbo Drive, Langley, KY 41645.	241,573	Security Cameras, Fencing, and Security Entry Doors.
Yazoo City Housing Authority, 121 Lindsey Dawn Dr., Yazoo City, MS 39194–2912.	250,000	Security Cameras and Fencing.
Greensboro Housing Authority, 450 North Church St, Greensboro, NC 27401–2001.	247,874	Security Cameras and Lighting.

Name/address of applicant	Amount funded	Project description
Chillicothe Metropolitan Housing Authority, 178 West 4th St., Chillicothe, OH 45601–3219.	250,000	Security Cameras and Lighting.
Richmond Redevelopment and Housing Authority, 901 Chamberlayne Parkway, Richmond, VA 23220–2309.	250,000	Lighting.
Newport News Redevelopment and Housing Authority, P.O. 797, Newport News, VA 23607–0077.	245,000	Security Cameras and Lighting.

[FR Doc. 2014–24436 Filed 10–10–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–16747; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before September 13, 2014. Pursuant to section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation. Comments may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by October 29, 2014. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: September 23, 2014.

J. Paul Loether,

Chief, National Register of Historic Places/National Historic Landmarks Program.

MISSOURI

Crawford County

Cuba City Jail, (Cuba, Missouri MPS), Jct. of Prairie St. & 300 blk. of S. Main St., Cuba, 14000880

Cuba Lodge No. 312 A.F. and A.M., (Cuba, Missouri MPS), 201 N. Smith St., Cuba, 14000881

Hamilton, George B., House, (Cuba, Missouri MPS), 401 E. Washington St., Cuba, 14000882

Hotel Cuba, (Cuba, Missouri MPS), 600 E. Main St., Cuba, 14000883

Munro, John Manson, House, (Cuba, Missouri MPS), 305 W. Washington Ave., Cuba, 14000884

St. Charles County

Midtown Neighborhood Historic District, Roughly bounded by Clark, Madison, Jefferson, Kingshighway, 2nd & 3rd Sts., St. Charles, 14000885

NORTH CAROLINA

Guilford County

United States Post Office and Court House, 324 W. Market St., Greensboro, 14000886

WISCONSIN

Ozaukee County

Kendall Cabinet Shop, W4128 Mill St., Fredonia, 14000887

[FR Doc. 2014–24294 Filed 10–10–14; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[RR04084000, XXXR4081X1, RN.20350010.REG0000]

Colorado River Basin Salinity Control Advisory Council Notice of Public Meeting

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of public meeting.

SUMMARY: The Colorado River Basin Salinity Control Advisory Council (Council) was established by the Colorado River Basin Salinity Control Act of 1974 (Pub. L. 93–320) (Act) to receive reports and advise Federal agencies on implementing the Act. In accordance with the Federal Advisory Committee Act, the Bureau of Reclamation announces that the Council will meet as detailed below. The meeting of the Council is open to the public.

DATES: The Council will convene the meeting on Wednesday, October 29, 2014, at 1:00 p.m. and adjourn at approximately 5:00 p.m. The Council will reconvene the meeting on Thursday, October 30, 2014, at 8:30 a.m. and adjourn the meeting at approximately 11:00 a.m.

ADDRESSES: The meeting will be held in the State Capital Building, 490 Old Santa Fe Trail, Santa Fe, New Mexico. Send written comments to Mr. Kib Jacobson, Bureau of Reclamation, Upper Colorado Regional Office, 125 South State Street, Room 8100, Salt Lake City, Utah 84138–1147; telephone (801) 524–3753; facsimile (801) 524–3847; email at: *kjacobson@usbr.gov.*

FOR FURTHER INFORMATION CONTACT: Kib Jacobson, telephone (801) 524–3753; facsimile (801) 524–3847; email at: *kjacobson@usbr.gov.*

SUPPLEMENTARY INFORMATION: Any member of the public may file written statements with the Council before, during, or up to 30 days after the meeting either in person or by mail. To the extent that time permits, the Council chairman will allow public presentation of oral comments at the meeting. To allow full consideration of information by Council members, written notice must be provided at least 5 days prior to the meeting. Any written comments received prior to the meeting will be provided to Council members at the meeting.

The purpose of the meeting is to discuss the accomplishments of Federal agencies and make recommendations on future activities to control salinity. Council members will be briefed on the status of salinity control activities and receive input for drafting the Council's annual report. The Bureau of Reclamation, Bureau of Land Management, U.S. Fish and Wildlife Service, and United States Geological Survey of the Department of the Interior; the Natural Resources Conservation Service of the Department of Agriculture; and the Environmental Protection Agency will each present a progress report and a schedule of activities on salinity control in the Colorado River Basin. The Council will discuss salinity control activities, the contents of the reports, and the Basin

States Program created by Public Law 110–246, which amended the Act.

Public Disclosure

Before including your address, phone number, email address, or other personal identifying information in your comment, please be advised that your entire comment—including your personal identifying information—may be made publicly available at anytime. 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: September 19, 2014.

Brent Rhees,

Acting Regional Director, Upper Colorado Region.

[FR Doc. 2014–23595 Filed 10–10–14; 8:45 am]

BILLING CODE 4332–90–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act

On October 7, 2014, the Department of Justice lodged a proposed consent decree with the United States District Court for the District of Massachusetts in *United States* v. *Boston and Maine Corporation and Massachusetts Bay Transportation Authority,* Civil Action No. 1:14–cv–13804.

The proposed consent decree would resolve the claims of the United States for injunctive relief and recovery of response costs against the defendants under section 106 and 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA'') relating to Operable Unit 4 of the Iron Horse Park Superfund Site in North Billerica, Massachusetts.

The consent decree requires the defendants to pay $1,560,570 to the United States. The consent decree also requires the defendants to perform the remedial action described in the Environmental Protection Agency's Record of Decision for Operable Unit 4, dated July 25, 2011, and further described in EPA's Explanation of Significant Differences, dated July 22, 2014. In return, the United States agrees to resolve the defendants' liability under Sections 106 and 107(a) of CERCLA for defined matters related to Operable Unit 4.

The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Boston and Maine Corporation and Massachusetts Bay Transportation Authority,* D.J. Ref. No. 90–11–3–90/4. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By e-mail	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $98.25 (25 cents per page reproduction cost) payable to the United States Treasury. For a copy without the exhibits, the cost is $13.75.

Maureen Katz,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2014–24306 Filed 10–10–14; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 14–3]

Fiaz Afzal, M.D.; Decision And Order

On November 4, 2013, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Fiaz Afzal, M.D. (Respondent), of Kenner, Louisiana. ALJ Ex. 1. The Show Cause Order proposed the revocation of Respondent's DEA Certificate of Registration BA5142308, which authorizes him to dispense controlled substances as a practitioner, as well as the denial of any pending application to renew or modify the registration, on the ground that his ''registration is inconsistent with the public interest.'' *Id.* at 1 (citing 21 U.S.C. 823(f) & 824(a)(4)).

As the basis for the proceeding, the Show Cause Order specifically alleged that ''[f]rom in or about 2006 through in or about March of 2012, [Respondent] issued prescriptions for controlled substances to fifteen patients outside the usual course of professional practice and for other than a legitimate medical purpose in violation of 21 CFR 1306.04(a).'' *Id.* The Order also alleged that the prescriptions Respondent ''issued to these patients also violated Louisiana . . . law pertaining to controlled substances.'' *Id.* at 1–2 (citing La. Rev. Sta. § 37:1285A(6) & (14); La. Rev. Stat. § 46:6921).

The Show Cause Order further alleged that a medical expert had reviewed the medical records of the fifteen patients and found that Respondent ''did not take a sufficient, or, in some cases, any objective medical history about the patient, that there was often a lack of diagnosis to support the continu[ed] prescribing of controlled substances, and that there was often no individual treatment plan.'' *Id.* at 2. The Order also alleged that the expert had found that Respondent ''failed to commence treatment with alternative treatments . . . rather than commenc[e] immediately with controlled substance prescriptions.'' *Id.*

On November 14, 2013, Respondent requested a hearing on the allegations. ALJ Ex. 2. The matter was placed on the docket of the Office of Administrative Law Judges, and assigned to ALJ Christopher McNeil, who conducted an evidentiary hearing on February 25, 2014 in New Orleans, Louisiana.

At the hearing, the Government submitted various exhibits including patient files for the record; it also presented the testimony of an expert. Respondent submitted no exhibits and presented no testimony. Both parties submitted post-hearing briefs.

Thereafter, the ALJ issued his Recommended Decision (R.D.). Therein, the ALJ found, *inter alia,* that the Government had proved that Respondent had issued controlled-substance prescriptions to fifteen patients ''in a manner that was not in the ordinary course of professional medical practice and was not based upon a legitimate medical justification.'' R.D. at 66–67. Based on this finding, the ALJ further concluded that the Government had demonstrated ''that Respondent's continued . . . registration would be inconsistent with the public interest.'' *Id.* at 67. The ALJ further found that Respondent ''ha[d] not provided substantial evidence that he has acknowledged any noncompliance with controlled substance laws, nor that he has

undertaken efforts to avoid such noncompliance in the future,'' and had thus ''failed to rebut the Government's *prima facie* case.'' *Id.* at 69. The ALJ thus recommended that I revoke Respondent's registration and deny any pending application to renew or modify his registration. *Id.*

Both parties filed exceptions to the ALJ's decision. Thereafter, the record was forwarded to this Office for Final Agency Action.

While the matter was under review, the Government notified this Office that on August 18, 2014, the Louisiana State Board of Medical Examiners had issued a Decision and Order in the case it had brought against Respondent. Govt's Notification of, and Request to Add to the Record, the Decision and Order of the Louisiana State Board of Medical Examiners, at 1. Therein, the Government requested that the Board's Decision and Order be added to the record and provided a copy of the Decision and Order. *Id.* The Government further served a copy of its filing on Respondent, care of the South Louisiana Correction Center in Basile, Louisiana. *Id.* at 2.

Thereafter, Respondent submitted a letter to this Office opposing the Government's request to add the Louisiana Board's Decision to the record. *See* Opposition to Addition of Record, at 1. Therein, Respondent argues that he has requested both rehearing by the Board and judicial review of the Board's action and that the Decision and Order ''is NOT final yet so it is too early to add this to'' the record. *Id.* He further maintains that ''[s]everal issues regarding [the Government Expert's] testimony at [the] DEA hearing are unanswered and were excluded from [the] Louisiana State Board hearing which is UNFAIR for [his] cause.'' *Id.*

Having considered Respondent's contentions, I reject them. The Board's Decision and Order is clearly final as it sets forth findings of fact, conclusions of law, and orders the imposition of various sanctions. La. Rev. Stat. § 49:958 (''A final decision shall include findings of fact and conclusions of law.''). Also, the decision is dated and signed by the President of the Board, in the name of the Board, and has since been posted on the Board's disciplinary actions Web page. *See* La. Admin. Code 46:XLV.9927 (''The final decision of the board in an adjudication proceeding shall, if adverse to the respondent . . . be, in writing, shall include findings of fact and conclusions of law, and shall be signed by the presiding officer of the hearing panel on behalf and in the name of the board.''). In short, the Decision and Order bears all of the hallmarks of a final decision and order.

As for his suggestion that the Decision and Order is not yet final because he has sought rehearing before the Board, Respondent has provided no evidence that the Board has stayed its decision. Nor does he cite to any provision of either Louisiana law or the Board's regulations which provides that the filing of a petition for rehearing renders the Board's decision non-final. As for his further suggestion that the Board's Decision and Order is not final because he has sought judicial review, under the Louisiana Administrative Procedure Act, ''[t]he filing of the petition does not itself stay enforcement of the agency decision.'' La. Rev. Stat. § 49:964.

Accordingly, I conclude that the Board's Decision and Order is final and will consider it as evidence in this matter. I make the following findings.

Findings

On some date not specified in its Decision, the Louisiana Board issued an Administrative Complaint to Respondent charging him with six different violations of Louisiana law and the Board's rules. *See In re Afzal,* No. 13–A–006 (La. Bd. Med. Exam'rs., Aug. 18, 2014). Of consequence here, the charges included the following:

> 3. Pursuant to La. Rev. Stat. § 37:1285(6), Prescribing, dispensing, or administering legally controlled substances or any dependency-inducing medication without legitimate medical justification therefore or in other than a legal or legitimate manner;
>
> * * * * *
>
> 6. Board's Pain and Obesity Rules, Section 6921 of the Board's rules identify the provisions to which physicians should adhere in treating non-malignant chronic or intractable pain with controlled substances on a protracted basis (in excess of 12 weeks during any 12 month period). Among the items required by the rules, with which Respondent failed to satisfy with respect to this patient are the need to: perform an evaluation of the patient; arrive at a medical diagnosis; formulate a treatment plan; document the medical necessity for the use of more than one type or schedule of controlled substance in the patient's chart; and document and maintain accurate and complete records of history, physical and other examinations and evaluations as required by Section 6921 of the Board's rules.

Id. at 2 (citing La. Admin. Code 46:XLV.6921).

On June 16, 2014, the Board held a hearing at which Respondent was present. *Id.* at 1. After noting that the violations arose ''out of Respondent's treatment of ten patients as a physician licensed by the Board,'' the Board explained that the evidence ''in support of the complaint'' included the ''medical records pertaining to each patient'' and the expert testimony of two physicians. *Id.* at 2. Regarding the testimony of the experts, the Board made the following findings:

> Dr. Aultman,[1] Board Certified in Internal Medicine, testified as to [R]espondent's treatment of the ten patients listed in the complaint. She reviewed the medical records of each patient. She was of the opinion that Respondent, in each case, failed to perform a complete physical exam, received no medical history, did not formulate or document a medical diagnosis, failed to consider other remedies other than treatment with drugs, did not develop an individualized treatment plan and performed no periodic assessments of the patients, all in violation of the Board's Rules on Treatment of Chronic Pain. In addition, she was of the opinion that Respondent's treatment of these patients failed to satisfy the physicians' standard of care.
>
> Dr. Kathy Willis, an internist, testified that she reviewed all of these patients' charts and was of the same opinion as Dr. Aultman. . . . She also testified that a number of prescriptions were given by Respondent with no visit shown on the chart. She was of the opinion that Respondent distributed controlled substances with no medical basis for administering these drugs. She was also of the opinion that Respondent was in violation of the Board's Rules on Treatment of Chronic Pain and that his treatment of these patients did not meet the standard of care.

Id. at 2–3.

The Board thus found ''that Respondent failed to perform a complete physical exam or formulate or document a medical diagnosis and failed to formulate an individualized treatment plan for any of these patients.'' *Id.* at 3. The Board also found that Respondent ''received no medical history on these patients,'' ''did not consider other remedies . . . than treatment with drugs,'' and that he ''performed no periodic assessments of these patient's [sic] progress.'' *Id.*[2] The Board then found Respondent guilty of each of the charges, including that he violated the Board's Pain Rules, *see* La. Admin. Code 46:XLV.6921 & 6923, and the provision of the Louisiana Medical Practice Act prohibiting the ''[p]rescribing, dispensing, or administering [of] legally controlled substances or any dependency-inducing medication without legitimate medical justification therefor or in other than a legal or legitimate manner.'' La. Rev. Stat. § 37:1285(6).

Based on its findings, the Board suspended Respondent's medical

[1] Dr. Aultman also testified for the Government in the DEA proceeding. *See* Tr. 79–317.

[2] The Board also found that Respondent had been convicted in state court of thirty-five counts of Medicaid Fraud. *In re Afzal,* at 3.

license until the probation imposed by the state court in the criminal proceeding ''is terminated or for two years, whichever is longer.'' *In re Afzal,* at 4. The Board further ordered that upon his reinstatement, Respondent will be placed on probation subject to conditions which include that ''[f]or as long as he holds a license to practice medicine in Louisiana, [Respondent] shall not prescribe . . . any substance which may be classified, defined, enumerated or included in 21 CFR 1308.11–15 . . . as a Controlled Substance.'' *Id.* at 5. Respondent may, however, ''apply for the ability to prescribe controlled substances [in schedules] III–IV after a period of five (5) years from date of his reinstatement.'' *Id.*[3]

Discussion

The Public Interest Analysis

Section 304(a) of the Controlled Substances Act (CSA) provides that a registration to ''dispense a controlled substance . . . may be suspended or revoked by the Attorney General upon a finding that the registrant . . . has committed such acts as would render his registration under section 823 of this title inconsistent with the public interest as determined under such section.'' 21 U.S.C. § 824(a)(4). With respect to a practitioner, the Act requires the consideration of the following factors in making the public interest determination:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.
(2) The applicant's experience in dispensing . . . controlled substances.
(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.
(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.
(5) Such other conduct which may threaten the public health and safety.
Id. § 823(f).

''These factors are . . . considered in the disjunctive.'' *Robert A. Leslie, M.D.,* 68 FR 15227, 15230 (2003). I ''may rely on *any one* or a combination of factors, and may give each factor the weight [I] deem[] appropriate in determining whether a registration should be revoked.'' *Id.* (emphasis added); *see also Volkman* v. *DEA,* 567 F.3d 215, 222 (6th Cir. 2009). While I must consider each factor, I am ''not required to make findings as to all of the factors.'' *Volkman,* 567 F.3d at 222; *see also Hoxie* v. *DEA,* 419 F.3d 477, 482 (6th Cir. 2005); *Morall* v. *DEA,* 412 F.3d 165, 173–74 (D.C. Cir. 2005).

Here, I have considered all of the factors. For reasons explained below, I conclude that the Board's findings that Respondent violated Louisiana law, *see* La. Rev. Stat. § 37:1285(6), and the Board's pain rules, *see* La. Admin. Code 46:XLV.6921 & 6923, establish that Registrant has also violated the prescription requirement of the Controlled Substances Act. *See* 21 CFR 1306.04(a). I further conclude that Respondent ''has committed such acts'' as to render his registration ''inconsistent with the public interest.''[4] 21 U.S.C. 824(a)(4).

Factors Two and Four—Respondent's Experience in Dispensing Controlled Substances and Compliance With Applicable Laws Related to Controlled Substances

To effectuate the dual goals of conquering drug abuse and controlling both the legitimate and illegitimate traffic in controlled substances, ''Congress devised a closed regulatory system making it unlawful to manufacture, distribute, dispense, or possess any controlled substance except in a manner authorized by the CSA.'' *Gonzales v. Raich,* 545 U.S. 1, 13 (2005). Consistent with the maintenance of the closed regulatory system, a controlled substance may only be dispensed upon a lawful prescription issued by a practitioner. *Carlos Gonzalez, M.D.,* 76 FR 63118, 63141 (2011).

Fundamental to the CSA's scheme is the Agency's longstanding regulation which states that ''[a] prescription for a controlled substance [is not] effective [unless it is] issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice.'' 21 CFR 1306.04(a). This regulation further provides that ''an order purporting to be a prescription issued not in the usual course of professional treatment . . . is not a prescription within the meaning and intent of [21 U.S.C. 829] and . . . the person issuing it, shall be subject to the penalties provided for violations of the provisions of law relating to controlled substances.'' *Id.*

As the Supreme Court has explained, ''the prescription requirement . . . ensures patients use controlled substances under the supervision of a doctor so as to prevent addiction and recreational abuse. As a corollary, [it] also bars doctors from peddling to patients who crave the drugs for those prohibited uses.'' *Gonzales v. Oregon,* 546 U.S. 243, 274 (2006) (citing *United States* v. *Moore,* 423 U.S. 122, 135, 143 (1975)); *United States* v. *Alerre,* 430 F.3d 681, 691 (4th Cir. 2005), *cert. denied,* 574 U.S. 1113 (2006) (the prescription requirement stands as a proscription against doctors acting not ''as a healer[,] but as a seller of wares.'').

Under the CSA, it is fundamental that a practitioner must establish and maintain a legitimate doctor-patient relationship in order to act ''in the usual course of . . . professional practice'' and to issue a prescription for a ''legitimate medical purpose.'' *Paul H. Volkman,* 73 FR 30629, 30642 (2008), *pet. for rev. denied,* 567 F.3d 215, 223–24 (6th Cir. 2009); *see also Moore,* 423 U.S. at 142–43 (noting that evidence established that the physician exceeded the bounds of professional practice, when ''he gave inadequate physical examinations or none at all,'' ''ignored the results of the tests he did make,'' and ''took no precautions against . . . misuse and diversion''). The CSA, however, generally looks to state law to determine whether a doctor and patient have established a legitimate doctor-patient relationship. *Volkman,* 73 FR at 30642.

As found above, subsequent to the DEA hearing, the Louisiana Board also conducted a hearing after which the Board found ''that Respondent failed to perform a complete physical exam or formulate or document a medical diagnosis and failed to formulate an individualized treatment plan for any of these [ten] patients.'' *In re Afzahl,* at 3. The Board also found that Respondent ''received no medical history on these patients,'' ''did not consider other remedies . . . than treatment with drugs,'' and that he ''performed no periodic assessments of these patient's [sic] progress.'' *Id.*

The Board thus found Respondent guilty of having violated the Board's Pain Rules. *See* La. Admin. Code

[3] Based on the findings of the Louisiana Board's Decision and Order, I deem it unnecessary to make any findings based on this Agency's proceeding, or to address either party's Exceptions to the ALJ's Recommended Decision.

[4] As for factor one, while the Board has not made a formal recommendation to DEA as to whether Respondent should retain his registration, the State Board has suspended Respondent's medical license for at least two years and also provided that even upon his reinstatement, he is prohibited from prescribing controlled substances for at least five years thereafter. The consequence of the State's Order is discussed more fully below.

Regarding factor three, there is no evidence that Respondent has been convicted of an offense related to the manufacture, distribution or dispensing of controlled substances. However, as there are a number of reasons why a person may never be convicted of an offense falling under this factor, let alone be prosecuted for one, ''the absence of such a conviction is of considerably less consequence in the public interest inquiry'' and thus, it is not dispositive. *David A. Ruben,* 78 FR 38363, 38379 n. 35 (2013) (citing *Dewey C. MacKay,* 75 FR 49956, 49973 (2010), *pet. for rev. denied, MacKay* v. *DEA,* 664 F.3d 808 (10th Cir. 2011)).

46:XLV.6921 & 6923. Most importantly, the Board found that Respondent violated the provision of the Louisiana Medical Practice Act which prohibits ''[p]rescribing, dispensing, or administering legally controlled substances or any dependency-inducing medication without legitimate medical justification therefor or in other than a legal or legitimate manner.'' La. Rev. Stat. § 37:1285(6).

Under the doctrine of collateral estoppel, the Board's findings of fact and conclusions of law are entitled to preclusive effect in this proceeding if Respondent had an adequate opportunity to litigate the issues in the state proceeding. *See Thomas Neuschatz,* 78 FR 76322, 76325 (2013) (citing *Robert L. Dougherty, M.D.,* 76 FR 16823, 16830 (2011)); *Univ. of Tenn.* v. *Elliot,* 478 U.S. 788, 797–98 (1986) (''When an administrative agency is acting in a judicial capacity and resolves disputed issues of fact properly before it which the parties have had an adequate opportunity to litigate, the courts have not hesitated to apply res judicata[.]'') (internal quotations and citations omitted).

Here, having reviewed the Board's Decision and applicable Louisiana law, I conclude that Respondent had an adequate opportunity to litigate (and did litigate) the issues raised in that proceeding. Under the Board's Rules of Procedure, Respondent was entitled to notice of the complaint, which was required to set forth ''the material facts and matters alleged and to be proven,'' including ''the facts constituting legal cause under law for administrative action against'' him. La. Admin. Code tit.46:XLV.§ 9903.B; *see also id.* § 9905. Moreover, while Respondent represented himself, he was entitled to ''be represented . . . by an attorney at law duly admitted to practice in any state.'' *Id.* § 9907.B. He was entitled to request subpoenas for both the testimony of witnesses and the production of documentary evidence. *Id.* § 9917.A. Also, at the hearing, he was entitled ''to present evidence on all issues of law and argument on all issues of law and policy involved, to call, examine, and cross-examine witnesses, and to offer and introduce documentary evidence and exhibits as may be required for a full and true disclosure of the facts and disposition of the complaint.'' *Id.* § 9921.B. Finally, he was entitled to a written decision, which included factual findings and legal conclusions. *Id.* § 9927.A. I therefore find that Respondent had an adequate opportunity to litigate the issues raised in the Board proceeding and give preclusive effect to the Board's findings of fact and conclusions of law. *See Neuschatz,* 78 FR at 76325; *Dougherty,* 76 FR at 16830.

I further hold that Board's findings and legal conclusions support the conclusion that Respondent lacked a legitimate medical purpose and acted outside the usual course of professional practice in prescribing controlled substances to the ten patients who were the subject of the Board proceeding. *See* 21 CFR 1306.04(a). This conclusion is supported by both the Board's factual findings and its legal conclusion that Respondent violated La. Rev. Stat. § 37:1285(6).

As for its factual findings, the Board found ''that Respondent failed to perform a complete physical exam or formulate or document a medical diagnosis and failed to formulate an individualized treatment plan for any of these patients.'' *In re Afzahl,* at 3. It also found that Respondent ''received no medical history on these patients,'' ''did not consider other remedies . . . than treatment with drugs,'' and that he ''performed no periodic assessments of these patient's [sic] progress.'' *Id.*

Numerous decisions of the courts (including the Supreme Court in *Moore*) and this Agency have recognized that the prescribing of a controlled substance (and the continued prescribing of a controlled substance) under the following circumstances establishes that a physician lacked a legitimate medical purpose and acted outside of the usual course of professional practice and therefore violated the CSA:

- Without performing an appropriate physical examination,
- without utilizing appropriate diagnostic testing,
- failing to devise and document a written treatment plan,
- failing to periodically reassess the effectiveness of the treatment,
- continuing to prescribe controlled substances without pursuing alternative therapies,
- repeatedly and continually prescribing without referring the patient to appropriate specialists, and
- failing to keep and maintain records which contain adequate findings to support a diagnosis and the need to prescribe one or more medications.

See, e.g.; Paul H. Volkman, 73 FR 30630 (2008), *pet. for rev. denied,* 567 F.3d. 215 (6th Cir. 2009); *see also David A. Ruben,* 78 FR 38363 (2013); *Henri Wetselaar,*77 FR 57126 (2012); *Jack A. Danton,* 76 FR 60900 (2011); *George C. Aycock,* 74 FR 17529, 17544 (2009).

Accordingly, the Board's factual findings alone support the conclusion that Respondent lacked a legitimate medical purpose and acted outside of the usual course of professional practice when he prescribed to the ten patients who were at issue in the Board proceeding. *See* 21 CFR 1306.04(a).

Moreover, the Board specifically found that in his treatment of the ten patients, Respondent violated Section 37:1285(6) of the Louisiana Medical Practice Act. As discussed above, this provision prohibits ''[p]rescribing, dispensing, or administering legally controlled substances or any dependency-inducing medication without legitimate medical justification therefore or in other than a legal or legitimate manner.'' La. Rev. Stat. § 37:1285(6). This is not simply a malpractice standard. Rather, this standard is equivalent to the CSA's requirement that a controlled substance prescription ''must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice.'' 21 CFR 1306.04(a).

Accordingly, I hold that the Board's findings of fact and conclusions of law establish that Respondent knowingly diverted controlled substances to the ten patients at issue in the State proceeding. I further conclude that the Board's Order establishes that Respondent has committed such acts as would render his registration ''inconsistent with the public interest.'' 21 CFR 1306.04(a). I further hold that Respondent's misconduct is egregious and warrants the revocation of his registration.

Loss of State Authority Grounds

Not only does the State Board's Order provide ground to revoke Respondent's registration under the public interest standard, it also supports revocation under the separate and independent ground that he lacks state authority. Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to revoke or suspend a registration ''upon a finding that the registrant . . . has had his State license or registration suspended, revoked, or denied by competent State authority and is no longer authorized by State law to engage in the . . . distribution or dispensing of controlled substances.'' With respect to a practitioner, DEA has repeatedly held that the possession of authority to dispense controlled substances under the laws of the State in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *See James L. Hooper,* 76 FR 71371, 71372 (2011) (citing *Leonard F. Faymore,* 48 FR 32886, 32887 (1983)), *pet. for rev. denied, Hooper* v. *Holder,* 481 Fed.

Appx. 826, 828 (4th Cir. June 6, 2012) (unpublished).

This rule derives from the text of two provisions of the CSA. First, Congress defined ''the term 'practitioner' [to] mean[] a physician . . . or other person licensed, registered or otherwise permitted, by . . . the jurisdiction in which he practices . . . to distribute, dispense, [or] administer . . . a controlled substance in the course of professional practice.'' 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that ''[t]he Attorney General shall register practitioners . . . *if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.''* 21 U.S.C. 823(f) (emphasis added).

Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the Act, DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction if the practitioner is no longer authorized to dispense controlled substances under the laws of the State in which he practices medicine.[5] *See, e.g., Calvin Ramsey,* 76 FR 20034, 20036 (2011); *Sheran Arden Yeates, M.D.,* 71 FR 39130, 39131 (2006); *Dominick A. Ricci,* 58 FR 51104, 51105 (1993); *Bobby Watts,* 53 FR 11919, 11920 (1988). It is of no consequence that Respondent has sought judicial review of the Board's decision. *See Ramsey,* 76 FR at 20036 (citing *Michael G. Dolin,* 65 FR 5661, 5662 (2000)). Under the CSA, all that matters is that Respondent is no longer currently authorized to dispense controlled substances in Louisiana. *Id.*

Here, the Louisiana Board has suspended Respondent's medical license for at least two years, and even in the event the Board reinstates his license, he will be prohibited from prescribing controlled substances for at least five years from the date of reinstatement. Accordingly, I conclude that Registrant is without authority under Louisiana law to handle controlled substances in the State in which he holds his DEA registration. Because Respondent no longer meets the CSA's requirement that he be currently authorized to dispense controlled substances in the State in which he holds his registration, I will order that his registration be revoked. *See Craig Bammer,* 73 FR 34327, 34329 (2008); *Richard Carino,* M.D., 72 FR 71955, 71956 (2007) (citing cases).

Order

Pursuant to the authority vested in me by 21 U.S.C. 823(f) and 824(a)(3) & (4), as well as 28 CFR 0.100(b) and 0.104, I order that DEA Certificate of Registration BA5142308, issued to Fiaz Afzal, M.D., be, and it hereby is, revoked. I further order that any application of Fiaz Afzal, M.D., to renew or modify his registration, be, and it hereby is, denied. This Order is effectively immediately.[6]

Dated: October 2, 2014.

Thomas M. Harrigan,

Deputy Administrator.

[FR Doc. 2014–24373 Filed 10–10–14; 8:45 am]

BILLING CODE 4410–09–P

[5] It is unclear from the Board's order whether Respondent offered any evidence in the State proceeding that he acknowledges his misconduct and has undertaken remedial measures to prevent its recurrence, and given the outcome of the proceeding and the absence of any discussion in the Order, it seems unlikely that he did. Indeed, while in the DEA proceeding, Respondent faced similar allegations of unlawful prescribing, he declined to testify and offered no evidence at all. *See* R.D. at 61–62.

While under this Agency's precedents, evidence that a practitioner acknowledges his misconduct and has undertaken remedial measures may refute the Government's *prima facie* case when it seeks the revocation of a practitioner's registration on public interest grounds, it is unnecessary to determine whether Respondent offered such evidence in the board proceeding. This is so because Respondent's loss of his state authority provides a separate and independent ground for revoking his registration. And because under the CSA, possessing authority under state law to dispense controlled substances is a mandatory requirement for obtaining and maintaining a DEA practitioner's registration, it does not matter whether Respondent offered such evidence in the state board proceeding.

[6] Based on the extensive and egregious nature of the misconduct proved by the Government, I conclude that the public interest necessitates that this Order be effectively immediately. 21 CFR 1316.67.

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Representative Payee Report, Representative Payee Report Short Form, and Physician's/Medical Officer's Statement

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Office of Workers' Compensation Programs (OWCP) sponsored information collection request (ICR) revision titled, ''Representative Payee Report, Representative Payee Report Short Form, and Physician's/Medical Officer's Statement,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 et seq.). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before November 13, 2014.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201405-1240-004* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OWCP, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks approval under the PRA for revisions to the Representative Payee Report, Representative Payee Report Short Form, and Physician's/Medical Officer's Statement information collection. Benefits due a DOL black lung beneficiary may be paid to a representative payee on behalf of the beneficiary when he or she is unable to manage the benefits due to incapability or incompetence or because the beneficiary is a minor. The

Representative Payee Report (Form CM–623) and Representative Payee Report Short Form (Form CM–623S) are used to ensure that benefits paid to a representative payee are used for the beneficiary's well-being. The Physician's/Medical Officer's Statement (Form CM–787) is used to determine the beneficiary's capability to manage monthly black lung benefits. While not expected to affect respondent burden, this ICR has been classified as a revision because of minor clarifications that should help claimants better understand what information to provide on the forms. The Black Lung Benefits Act authorizes this information collection. *See* 30 U.S.C. 921, 922.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1240–0020. The current approval is scheduled to expire on October 31, 2014; however, the DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on May 21, 2014 (79 FR 29219).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1240–0020. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–OWCP

Title of Collection: Representative Payee Report, Representative Payee Report Short Form, and Physician's/Medical Officer's Statement.

OMB Control Number: 1240–0020.

Affected Public: Individuals or households and private sector—businesses or other for-profits and not-for profit institutions.

Total Estimated Number of Respondents: 2,100.

Total Estimated Number of Responses: 2,100.

Total Estimated Annual Time Burden: 1,642 hours.

Total Estimated Annual Other Costs Burden: $0

Dated: October 6, 2014.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2014–24278 Filed 10–10–14; 8:45 am]

BILLING CODE 4510–CK–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 24, 2014.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 24, 2014.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC this 25th day of September 2014.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

Appendix

9 TAA PETITIONS INSTITUTED BETWEEN 9/15/14 AND 9/19/14

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
85536	Motorola Solutions, Inc. (Company)	San Jose, CA	09/16/14	09/02/14
85537	Cargill Inc. (State/One-Stop)	Milwaukee, WI	09/16/14	09/15/14
85538	Centurylink (State/One-Stop)	Seattle, WA	09/16/14	09/15/14
85539	American Express (Workers)	Salt Lake City, UT	09/17/14	09/16/14
85540	Quantum Spatial (formerly Aero-Metric Inc.) (Workers)	Sheboygan, WI	09/17/14	09/15/14
85541	TSI Evolve (formerly known as TSI Graphics) (State/One-Stop)	Effingham, IL	09/19/14	09/18/14
85542	Benchmark Electronics (Company)	Londonderry, NH	09/19/14	09/18/14
85543	Momentive Performance Materials (Workers)	Hebron, OH	09/19/14	09/12/14
85544	Reach Road Manufacturing Corp. (Company)	Williamsport, PA	09/19/14	09/17/14

[FR Doc. 2014–24273 Filed 10–10–14; 8:45 am]
BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) number and alternative trade adjustment assistance (ATAA) by (TA–W) number issued during the period of September 15, 2014 through September 19, 2014.

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Section (a)(2)(A) all of the following must be satisfied:

A. a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. the sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

A. a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. there has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

2. the country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. there has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Also, in order for an affirmative determination to be made for secondarily affected workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) either—

(A) the workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) a loss or business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for the Division of Trade Adjustment Assistance to issue a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of Section 246(a)(3)(A)(ii) of the Trade Act must be met.

1. Whether a significant number of workers in the workers' firm are 50 years of age or older.

2. Whether the workers in the workers' firm possess skills that are not easily transferable.

3. The competitive conditions within the workers' industry (i.e., conditions within the industry are adverse).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

None.

Affirmative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

85,423, Abbott Vascular, Redwood City, California. July 14, 2013.
85,502, The ESAB Group, Inc., Florence, South Carolina. August 22, 2013.
85,504, National Instruments Corporation, Austin, Texas. August 25, 2013.
85,512, Alsip Acquisition LLC., D.B.A. Future Mark Alsip, Alsip, Illinois. August 28, 2013.
85,519, New England Paper Tube Co., Inc., Pawtucket, Rhode Island, September 2, 2013.

Negative Determinations for Alternative Trade Adjustment Assistance

In the following cases, it has been determined that the requirements of 246(a)(3)(A)(ii) have not been met for the reasons specified.

None.

Negative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

Because the workers of the firm are not eligible to apply for TAA, the workers cannot be certified eligible for ATAA.

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

85,427, MoneyGram Payment Systems, Inc., Lakewood, Colorado.
85,436, PST, Inc., D/B/A Business Performance Services, Cypress, California.
85,451, Fifth Third Mortgage Company, Cincinnati, Ohio.

Determinations Terminating Investigations of Petitions for Worker Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioner has requested that the petition be withdrawn.

85,531, Regal Beloit, Springfield, Missouri.
85,532, Pacific Interpreters, Portland, Oregon.

The following determinations terminating investigations were issued because the petitioning groups of workers are covered by active certifications. Consequently, further investigation in these cases would serve no purpose since the petitioning group of workers cannot be covered by more than one certification at a time.

85,457, LSI Corporation, Fort Collins, Colorado.
85,520, Swisher International, Inc., Jacksonville, Florida.

I hereby certify that the aforementioned determinations were issued during the period of September 15, 2014 through September 19, 2014. These determinations are available on the Department's Web site *www.tradeact/taa/taa_search_form.cfm* under the searchable listing of determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Signed at Washington, DC, this 25th day of September 2014.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2014–24274 Filed 10–10–14; 8:45 am]

BILLING CODE 4510–FN–P

NUCLEAR REGULATORY COMMISSION

[NRC–2014–0224]

Biweekly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

AGENCY: Nuclear Regulatory Commission.

ACTION: Biweekly notice.

SUMMARY: Pursuant to Section 189a. (2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular biweekly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from September 18, 2014 to October 1, 2014. The last biweekly notice was published on September 30, 2014.

DATES: Comments must be filed by November 13, 2014. A request for a hearing must be filed by December 15, 2014.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0224. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.*
- *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop: 3WFN–06–A44M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Janet C Burkhardt, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1384, email: *Janet.Burkhardt@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2014–0224 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0224.
- NRC's Agencywide Documents Access and Management System (ADAMS): You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in the **SUPPLEMENTARY INFORMATION** section.

• NRC's PDR: You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2014–0224 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at *http://www.regulations.gov* as well as entering the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Proposed No Significant Hazards Consideration Determination

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in § 50.92 of Title 10 of the *Code of Federal Regulations* (10 CFR), this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license or combined license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it

immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of any amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* System requirements for accessing the E-Submittal server are detailed in the NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with the NRC's guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. However, a request to intervene will require including information on local residence in order to demonstrate a proximity assertion of interest in the proceeding. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Requests for hearing, petitions for leave

to intervene, and motions for leave to file new or amended contentions that are filed after the 60-day deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i)–(iii).

For further details with respect to these license amendment applications see the application for amendment which is available for public inspection in ADAMS and at the NRC's PDR. For additional direction on accessing information related to this document, see the ''Obtaining Information and Submitting Comments'' section of this document.

Florida Power and Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Nuclear Generating Units 3 and 4, Miami-Dade County, Florida

Date of amendment request: July 8, 2014. A publicly-available version is in ADAMS under Accession No. ML14205A278.

Description of amendment request: The amendments would modify the Technical Specifications by revising or adding surveillance requirements (SRs) to verify that the system locations susceptible to gas accumulation are sufficiently filled with water and to provide allowances that permit performance of the verification. The licensee proposed the changes to address NRC Generic Letter 2008–01, ''Managing Gas Accumulation in Emergency Core Cooling, Decay Heat Removal, and Containment Spray Systems'' (ADAMS Accession No. ML072910759), as described in Revision 2 of Technical Specification Task Force-523, ''Generic Letter 2008–01, Managing Gas Accumulation'' (ADAMS Accession No. ML13053A075).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee provided its analysis of the issue of no significant hazards consideration, which is presented as follows:

1. Does the Proposed Change Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated?

Response: No.

The proposed change revises or adds SRs that require verification that the Emergency Core Cooling Systems (ECCS), the Residual Heat Removal (RHR) System, and the Containment Spray (CS) System are not rendered inoperable due to accumulated gas and to provide allowances which permit performance of the revised verification. Gas accumulation in the subject systems is not an initiator of any accident previously evaluated. As a result, the probability of any accident previously evaluated is not significantly increased. The proposed SRs ensure that the subject systems continue to be capable to perform their assumed safety function and are not rendered inoperable due to gas accumulation. Thus, the consequences of any accident previously evaluated are not significantly increased.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Does the Proposed Change Create the Possibility of a New or Different Kind of Accident from any Accident Previously Evaluated?

Response: No.

The proposed change revises or adds SRs that require verification that the ECCS, the RHR System, and the CS System are not rendered inoperable due to accumulated gas and to provide allowances which permit performance of the revised verification. The proposed change does not involve a physical alteration of the plant (i.e., no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. In addition, the proposed change does not impose any new or different requirements that could initiate an accident. The proposed change does not alter assumptions made in the safety analysis and is consistent with the safety analysis assumptions.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the Proposed Change Involve a Significant Reduction in the Margin of Safety?

Response: No.

The proposed change revises or adds SRs that require verification that the ECCS, RHR System, and CS System are not rendered inoperable due to accumulated gas and to provide allowances which permit performance of the revised verification. The proposed change adds new requirements to manage gas accumulation in order to ensure that the subject systems are capable of performing their assumed safety functions. The proposed SRs are more comprehensive than the current SRs and will ensure that the assumptions of the safety analysis are protected. The proposed change does not adversely affect any current plant safety margins or the reliability of the equipment assumed in the safety analysis. Therefore, there are no changes being made to any safety analysis assumptions, safety limits, or limiting safety system settings that would adversely affect plant safety as a result of the proposed change.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: William S. Blair, Managing Attorney—Nuclear, Florida Power & Light Company, 700 Universe Blvd. MS LAW/JB, Juno Beach, Florida 33408–0420.

Acting NRC Branch Chief: Lisa M. Regner.

South Carolina Electric and Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station (VCSNS), Unit 1, Fairfield County, South Carolina

Date of amendment request: August 27, 2014. A publicly-available version is in ADAMS under Accession No. ML14245A408.

Description of amendment request: The proposed amendment requests approval for a change to the VCSNS licensing basis to incorporate a supplemental analysis to the steam generator tube rupture (SGTR) accident.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change, to adopt a new analytical method to evaluate the effects of a SGTR, does not affect any accident initiators or precursors since there is no physical change to plant systems, structures and components [SSCs] or manner in which they are operated during normal operation. As such, the proposed change does not increase the probability of an accident.

The ability of operators to mitigate the consequences of an accident is also not diminished as there is no impact on the design of mitigating plant systems that would reduce their design capability or increase their failure probability during normal operation or accident conditions.

The present methodology for calculating mass transfer (i.e., from the reactor coolant system to the secondary side via the failed SG [steam generator] tube) for input to the radiological consequences of a postulated SGTR is conservative when compared with results from the new methodology. As such, the existing licensing basis methodology for calculating mass transfer will be retained. The calculated doses for the SGTR event for use in the FSAR [final safety analysis report] will be updated to reflect the results of the updated calculations with the reported doses to include 5 percent margin. Although slightly higher than the current analyses of record, the updated doses are well within regulatory limits and the increases are not more than minimal. Consistent with VCSNS's current licensing basis, the dose calculations conform to the guidance presented in 10 CFR 50.67, RG 1.183, and Standard Review Plan [(SRP)] Section 15.0.1.

The use of this previously approved methodology (WCAP–10698–P–A) more accurately calculates the plant response to an SGTR event. The improved accuracy of the new methodology provides valuable information related to operator actions and associated timing. Such accurate transient response information enables enhancements to be made to the emergency operating procedures (EOPs) and allows future changes to be more effectively assessed for impact.

Therefore, the proposed change does not involve a significant increase in the consequences or probability of occurrence of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not impact the design of affected plant systems, involve a physical alteration to the systems, or change to the way in which systems are currently operated, such that previously unanalyzed SGTRs would now occur. Since the design function and mode of operation of SSCs in the facility prior to a postulated accident are unchanged, the change to adopt a new analytical method to evaluate the effects of a tube rupture does not introduce any new malfunctions. Its use is beneficial in that it allows for a more accurate prediction of the plant response following a postulated SGTR to determine the time available for operator actions to prevent overfilling the affected SG. Thus, the proposed change does not affect or create new accident initiators or precursors or create the possibility of a new or different kind of accident.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The approval of the proposed change will not result in any modifications to affected plant systems that would reduce their design capabilities during normal operating and accident conditions. By using the WCAP–10698–P–A methodology, a more accurate SGTR response is calculated. The improved understanding of the transient response enables enhancements to the EOPs, which provide further assurance the SSCs required for accident mitigation are available and that required actions can be accomplished in a time frame to prevent overfill of a ruptured SG.

The SGTR dose consequences to be reported in the FSAR are well within the acceptance criteria presented in 10 CFR 50.67, RG 1.183, and SRP 15.0.1. Given this, there is no significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: J. Hagood Hamilton, Jr., South Carolina Electric & Gas Company, Post Office Box 764, Columbia, South Carolina 29218.

NRC Branch Chief: Robert J. Pascarelli.

Southern Nuclear Operating Company Docket Nos.: 52–025 and 52–026, Vogtle Electric Generating Plant (VEGP) Units 3 and 4, Burke County, Georgia

Date of amendment request: August 22, 2014, and revised by the letter dated September 23, 2014. Publicly-available versions are available in ADAMS under Accession Nos. ML14234A423 and ML14266A656, respectively.

Description of amendment request: The license amendment request consists of changes to the Updated Final Safety Analysis Report (UFSAR) in the form of departures from the incorporated plant-specific Design Control Document (DCD) Tier 2 information and involves changes to Tier 2* and Tier 1 information, with corresponding changes associated with combined license (COL) Appendix C information.

The proposed changes include:

(a) Installation of an additional non-safety-related battery;

(b) Revision to the annex building internal configuration by converting a shift turnover room to a battery room, adding an additional battery equipment room, and moving a fire area wall;

(c) Increase in the height of a room in the annex building; and

(d) Increase in thicknesses of certain floor of the annex building.

In addition, the proposed changes also include reconfiguring existing rooms and related room, wall, and access path changes.

Because this proposed change requires a departure from Tier 1 information in the Westinghouse Advanced Passive 1000 DCD, the licensee also requested an exemption from the requirements of the Generic DCD Tier 1 in accordance with 10 CFR 52.63(b)(1).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed additions of a new nonsafety-related battery, battery room and battery equipment room, the room height increase, the floor thickness changes, the relocation of a non-structural internal wall, and the associated wall, room and corridor changes within the annex building do not adversely affect the fire loading analysis durations of the affected fire zones and areas (i.e., the calculated fire durations remain less than their design values). Thus, the fire loads analysis is not adversely affected (i.e., analysis results remain acceptable). The safe shutdown fire analysis is not affected. The proposed changes to the structural configuration, including anticipated equipment loading, room height, and floor thickness are accounted for in the updated structural configuration model that was used to analyze the Annex Building for safe shutdown earthquake (SSE) and other design loads and load combinations, thus the structural analysis is not adversely affected. The structural analysis description and results in the UFSAR are unchanged. The relocated internal Annex Building wall is non-structural, thus this change does not affect the structural analyses for the Annex Building. The proposed changes do not involve any accident initiating event or component failure, thus the probabilities of the accidents previously evaluated are not affected. The rooms affected by the proposed changes do not contain or interface with safety-related equipment, thus the proposed changes would not affect any safety-related equipment or accident mitigating function. The radioactive material source terms and release paths used in the safety analyses are unchanged, thus the radiological releases in the accident analyses are not affected.

With the conversion of an annex building room to a battery room, the building volume serviced by nuclear island nonradioactive ventilation system decreases by approximate five percent. This reduced volume is used in the post-accident main control room dose portion of the UFSAR LOCA [loss-of-coolant accident] radiological analysis. However, the volume decrease is not sufficient to change the calculated main control room dose reported in the UFSAR, and control room habitability is not affected.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed additions of a new nonsafety-related battery, battery room and battery equipment room, the room height increase, the floor thickness changes, the relocation of a non-structural internal wall, and their associated wall, room and corridor changes do not change fire barrier performance, and the fire loading analyses results remain acceptable. The room height and floor thickness changes are consistent with the annex building configuration used in the building's structural analysis. The relocated internal wall is non-structural, thus the structural analyses for the annex building are not affected. The affected rooms and associated equipment do not interface with components that contain radioactive material. The affected rooms do not contain equipment whose failure could initiate an accident. The proposed changes do not create a new fault or sequence of events that could result in a radioactive material release.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed additions of a new nonsafety-related battery, battery room and battery equipment room, the room height increase, the floor thickness changes, the relocation of a non-structural internal wall, and their associated wall, room and corridor changes do not change the fire barrier performance of the affected fire areas. The affected rooms do not contain safety-related equipment, and the safe shutdown fire analysis is not affected. Because the proposed change does not alter compliance with the construction codes to which the annex building is designed and constructed, the proposed changes to the structural configuration, including anticipated equipment loading, room height, and floor thickness do not adversely affect the safety margins associated with the seismic Category II structural capability of the annex building.

The floor areas and amounts of combustible material loads in affected fire zones and areas do not significantly change, such that their fire duration times remain within their two-hour design value, thus the safety margins associated with the fire loads analysis are not affected.

No safety analysis or design basis acceptance limit/criterion is challenged or exceeded by the proposed changes, thus no margin of safety is reduced.

Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. M. Stanford Blanton, Blach & Bingham LLP, 1710 Sixth Avenue North, Birmingham, AL 35203–2015.

NRC Branch Chief: Lawrence Burkhart.

Virginia Electric and Power Company, Docket Nos. 50–338 and 50–339, North Anna Power Station, Units 1 and 2, Louisa County, Virginia

Date of amendment request: August 27, 2014. A publicly-available version is in ADAMS under Accession No. ML14246A190.

Description of amendment request: The proposed license amendment requests changes to the Technical Specification (TS) to revise TS Figures 3.4.3–1 and 3.4.3–2, for the North Anna Units 1 and 2 Reactor Coolant System (RCS) Heatup Limitations and RCS Cooldown Limitations, respectively, for clarification and to be fully representative of the allowable operating conditions during RCS startup and cooldown evolutions.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed clarification of TS Figures 3.4.3–1 and 3.4.3–2 does not involve a physical change to the plant and does not change the manner in which plant systems or components are operated or controlled. The proposed change does not alter or prevent the ability of structures, system, and components (SSCs) to perform their intended function to mitigate the consequences of an initiating event within the assumed acceptance limits. The P/T [pressure/temperature] curves on TS Figures 3.4.3–1 and 3.4.3–2 are not being modified and remain valid.

Therefore, the probability of occurrence of an accident previously evaluated is not significantly increased by the proposed amendment.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed clarification of TS Figures 3.4.3–1 and 3.4.3–2 does not involve any physical alteration of plant equipment; consequently, no new or different types of equipment will be installed. The proposed change does not adversely affect accident initiators or precursors nor alter the design assumptions, conditions, or configuration of the facility. The P/T curves on TS Figures 3.4.3–1 and 3.4.3–2 are not being modified, and the basic operation of installed plant systems and components is unchanged.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The existing RCS P/T curves on TS Figures 3.4.3–1 and 3.4.3–2 are not being modified. The proposed clarification of TS Figures 3.4.3–1 and 3.4.3–2 does not alter any plant equipment, does not change the manner in which the plant is operated or controlled, and has no impact on any safety analysis assumptions. The proposed change does not alter the manner in which safety limits, limiting safety system settings, or limiting conditions for operation are determined. The proposed change does not result in plant operation in a configuration outside the analyses or design basis and does not adversely affect systems that respond to safely shut down the plant and to maintain the plant in a safe shutdown condition.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Lillian M. Cuoco, Senior Counsel, Dominion Resources Services, Inc., 120 Tredegar Street, RS–2, Richmond, VA 23219.

NRC Branch Chief: Robert J. Pascarelli.

III. Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Entergy Nuclear Operations, Inc., Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of amendment request: September 11, 2014. A publicly-available version is in ADAMS under Accession No. ML14258A179.

Description of amendment request: The amendment would revise Technical Specification 4.3.4.b to reflect the removal of the energy absorbing pad from the spent fuel pool and the installation of a leveling platform.

*Date of publication of individual notice in **Federal Register**:* September 22, 2014 (79 FR 56608).

Expiration date of individual notice: October 26, 2014 (public comments); November 22, 2014 (hearing requests).

IV. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and

requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items can be accessed as described in the ''Obtaining Information and Submitting Comments'' section of this document.

Duke Energy Carolinas, LLC, Docket Nos. 50–269, 50–270 and 50–287, Oconee Nuclear Station (ONS), Units 1, 2 and 3, Oconee County, South Carolina

Date of application for amendments: October 24, 2013, as supplemented by letter dated June 30, 2014.

Brief description of amendments: The amendments revised the ONS Updated Final Safety Analysis Report (UFSAR) to clarify the Quality Assurance (QA) requirements for Standby Shutdown Facility (SSF) equipment. The proposed change revises ONS UFSAR Section 3.1.1.1 to clarify that the QA requirements applied to certain equipment relied upon to perform the SSF function that existed prior to the construction of the SSF, will be consistent with the original QA requirements for that equipment.

Date of Issuance: September 25, 2014.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: 387, 389, and 388. A publicly-available version is in ADAMS under Accession No. ML14254A246. Documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. DPR–38, DPR–47, and DPR–55: Amendments revised the licenses.

*Date of initial notice in **Federal Register**:* February 19, 2014 (79 FR 9493). The supplemental letter dated June 30, 2014, provided additional information that clarified the application, did not expand the scope of the application as noticed, and did not change the staff's proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 25, 2014.

No significant hazards consideration comments received: No.

Entergy Nuclear Operations, Inc., Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of amendment request: May 1, 2014, as supplemented by letter dated August 21, 2014.

Brief description of amendment: The amendment revised Technical Specification 2.0, ''Safety Limits (SLs),'' by changing the safety limit minimum critical power ratio for both single and dual recirculation loop operation.

Date of issuance: September 30, 2014.

Effective date: As of the date of issuance, and shall be implemented within 30 days.

Amendment No.: 307. A publicly-available version is in ADAMS under Accession No. ML14258B189; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. DPR–59: The amendment revised the License and the Technical Specifications.

*Date of initial notice in **Federal Register**:* August 5, 2014 (79 FR 45487). The supplemental letter dated August 21, 2014, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination (NSHC) as published in the **Federal Register**.

The Commission's related evaluation of the amendment and final NSHC determination is contained in a Safety Evaluation dated September 30, 2014.

No significant hazards consideration comments received: No.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Entergy Mississippi, Inc., Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of application for amendment: October 26, 2012, as supplemented by letters dated May 28 and August 28, 2013.

Brief description of amendment: The amendment deleted Paragraph 2.C.(32) of the Grand Gulf Nuclear Station, Unit 1, Facility Operating License, which currently prohibits operating with partial feedwater heating for the purpose of extending the fuel cycle at rated power conditions.

Date of issuance: September 25, 2014.

Effective date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment No: 199. A publicly-available version is in ADAMS under Accession No. ML14162A378; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Facility Operating License No. NPF–29: The amendment revised the Facility Operating License.

*Date of initial notice in **Federal Register**:* February 12, 2013 (78 FR 9948). The supplemental letters dated May 28 and August 28, 2013, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 25, 2014.

No significant hazards consideration comments received: No.

FirstEnergy Nuclear Operating Company, et al., Docket Nos. 50–334 and 50–412, Beaver Valley Power Station, Units 1 and 2, Beaver County, Pennsylvania

Date of amendment requests: July 25, 2012, as supplemented by letters dated June 1, October 21, and November 14, 2013.

Brief description of amendments: The amendments modified Technical Specification 3.1.3 to allow the normally required near end-of-life Moderator Temperature Coefficient (MTC) measurement to not be

performed under certain conditions. If these conditions are met, the MTC measurement would be replaced by a calculated value.

Date of issuance: September 17, 2014.

Effective date: As of the date of issuance and shall be implemented with 60 days of issuance.

Amendment Nos.: 291 and 178. A publicly-available version is in ADAMS under Accession No. ML14245A151; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. DPR–66 and NPF–73: Amendments revised the Facility Operating License and Technical Specifications.

*Date of initial notice in **Federal Register**:* September 4, 2012 (77 FR 53929). The supplements dated June 1, October 21, and November 14, 2013, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 17, 2014.

No significant hazards consideration comments received: No.

NextEra Energy Duane Arnold, LLC, Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: August 29, 2013, as supplemented by letters dated May 28, 2014, July 24, 2014, and August 21, 2014.

Brief description of amendment: The amendment revised the Duane Arnold Energy Center Technical Specifications Surveillance Requirements (SRs) 3.8.4.1 and 3.8.4.6 by changing the battery terminal voltage, the battery charger voltage, and amperage provided in these SRs to account for the replacement of the existing 58-cell 125 volts direct current (VDC) batteries with new 60-cell 125 VDC batteries.

Date of issuance: September 26, 2014.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment No.: 289. A publicly-available version is in ADAMS under Accession No. ML14259A292; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. DPR–49: The amendment revised the Technical Specifications.

*Date of initial notice in **Federal Register**:* December 24, 2013 (78 FR 77732). The supplemental letters dated May 28, 2014, July 24, 2014, and August 21, 2014, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 26, 2014.

No significant hazards consideration comments received: No.

Southern California Edison Company, et al., Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station (SONGS), Units 2 and 3, San Diego County, California

Date of amendment request: October 21, 2013, as supplemented by letters dated June 5, 2014, August 11, 2014, and September 15, 2014.

Brief description of amendments: The amendments revised and removed certain requirements from the Section 5, ''Administrative Controls,'' portions of the SONGS Units 2 and 3 Technical Specifications (TSs) that are no longer applicable to the units in a permanently defueled condition. Specifically, the amendments revised TS Sections 5.1, ''Responsibility,'' 5.2, ''Organization,'' and 5.3, ''Facility Staff Qualifications,'' to reflect new staffing and training requirements for operating staff.

Date of issuance: September 30, 2014.

Effective date: Upon issuance, to be implemented within 60 days of issuance.

Amendment Nos.: Unit 2–227; Unit 3–220. A publicly-available version is in ADAMS under Accession No. ML14183B240; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Facility Operating License Nos. NPF–10 and NPF–15: The amendments revised the Facility Operating Licenses and TSs.

*Date of initial notice in **Federal Register**:* December 24, 2013 (78 FR 77733). The supplemental letters dated June 5, 2014, August 11, 2014, and September 15, 2014, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 30, 2014.

No significant hazards consideration comments received: No.

Southern Nuclear Operating Company, Inc., Docket Nos. 50–424 and 50–425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of application for amendments: August 20, 2013, as supplemented by letters dated February 24 and June 12, 2014.

Brief description of amendments: The amendments revised the Vogtle Electric Generating Plant Emergency Plan by revising certain Emergency Action Level thresholds by removing Main Steam Line radiation monitors RE–13119, RE–13120, RE–13121, and RE–13122 to address limitations of these monitors.

Date of issuance: September 30, 2014.

Effective date: As of the date of issuance and shall be implemented within 90 days from the date of issuance.

Amendment Nos.: 172 and 154. A publicly-available version is in ADAMS under Accession No. ML14170A911; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Facility Operating License Nos. NPF–68 and NPF–81: Amendments revised the Emergency Plan.

*Date of initial notice in **Federal Register**:* September 17, 2013 (78 FR 57184). The supplemental letters dated on February 24, and June 12, 2014, provided additional information clarifying the LAR, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 30, 2014.

No significant hazards consideration comments received: No.

V. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Final Determination of No Significant Hazards Consideration and Opportunity for a Hearing (Exigent Public Announcement or Emergency Circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the

Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual notice of consideration of issuance of amendment, proposed no significant hazards consideration determination, and opportunity for a hearing.

For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards consideration determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License or Combined License, as applicable, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items can be accessed as described in the ''Obtaining Information and Submitting Comments'' section of this document.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license or combined license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR Part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852, and electronically on the Internet at the NRC's Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* If there are problems in accessing the document, contact the PDR's Reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing. Since the Commission has made a final determination that the

amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the Internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* System requirements for accessing the E-Submittal server are detailed in the NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. However, a request to intervene will require including information on local residence in order to demonstrate a proximity assertion of interest in the proceeding. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Entergy Nuclear Operations, Inc., Docket No. 50–247, Indian Point Nuclear Generating Unit 2, Westchester County, New York

Date of amendment request: September 15, 2014, as supplemented by letter dated September 18, 2014.

Description of amendment request: The amendment inserts a temporary change to Surveillance Requirement

3.8.6.6 by reducing the required Battery 22 capacity from 85 percent to 80 percent through March 6, 2015. The change is necessary because questions have been raised about the continued operability of the battery until the next scheduled surveillance test that is due by March 7, 2015. The questions are based on a concern that the Battery 22 will degrade and no longer meet Surveillance Requirement 3.8.6.6 before the next scheduled test and therefore must be demonstrated to meet the criteria to ensure strict technical specification compliance.

Date of issuance: September 24, 2014.

Effective date: As of its issuance date and shall be implemented upon approval.

Amendment No.: 278. A publicly-available version is in ADAMS under Accession No. ML14265A329; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Facility Operating License No. DPR–26: The Amendment revised the technical specifications and the license.

Public comments requested as to proposed no significant hazards consideration (NSHC): Yes. A notice was published in the *Journal News* located in White Plains, New York, on September 19, 20, and 21, 2014. The notice provided an opportunity to submit comments on the Commission's proposed NSHC determination. No comments have been received.

The Commission's related evaluation of the amendment, finding of exigent circumstances, state consultation, and final NSHC determination are contained in a safety evaluation dated September 24, 2014.

Attorney for licensee: Ms. Jeanne Cho, Assistant General Counsel, Entergy Nuclear Operations, Inc., 440 Hamilton Avenue, White Plains, NY 10601.

NRC Branch Chief: Benjamin G. Beasley.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: September 10, 2014.

Brief description of amendment: The amendment revised the Technical Specifications (TSs) to incorporate a one-time Completion Time extension in TS 3.4.15, ''RCS [reactor coolant system] Leakage Detection Instrumentation.'' The amendment added a Note to the 30-day Completion Time of Required Action A.2 to extend the Completion Time to allow the continued operation for Cycle 20 with the containment sump level and flow monitoring system inoperable until startup from a plant shutdown or startup from Refueling Outage 20 (spring 2015).

Date of issuance: September 29, 2014.

Effective date: As of its date of issuance and shall be implemented within 30 days of the date of issuance.

Amendment No.: 211. A publicly-available version is in ADAMS under Accession No. ML14259A339; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. NPF–42. The amendment revised the Operating License and Technical Specifications.

Public comments requested as to proposed no significant hazards consideration (NSHC): Yes. The *Topeka Capital-Journal* newspaper on September 18–20, 2014, and the *Wichita Eagle* newspaper on September 22–24, 2014. The notice provided an opportunity to submit comments on the Commission's proposed NSHC determination. No comments have been received.

The Commission's related evaluation of the amendment, finding of exigent circumstances, state consultation, and final NSHC determination are contained in a safety evaluation dated September 29, 2014.

Attorney for licensee: Jay Silberg, Esq., Pillsbury Winthrop Shaw Pittman LLP, 2300 N Street NW., Washington, DC 20037.

NRC Acting Branch Chief: Eric R. Oesterle.

Dated at Rockville, Maryland, this 3rd day of October 2014.

For the Nuclear Regulatory Commission.

A. Louise Lund,

Acting Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2014–24355 Filed 10–10–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–361 and 50–362; NRC–2014–0223]

Southern California Edison Company San Onofre Nuclear Generating Station, Units 2 and 3

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of receipt; availability; public meeting; and request for comment.

SUMMARY: On September 23, 2014, the U.S. Nuclear Regulatory Commission (NRC) received the Post-Shutdown Decommissioning Activities Report (PSDAR) and the Site Specific Decommissioning Cost Estimate (DCE), dated September 23, 2014, for the San Onofre Nuclear Generating Station (SONGS), Units 2 and 3. The PSDAR, which includes the DCE, provides an overview of Southern California Edison Company's (SCE's, or the licensee's) planned decommissioning activities, schedule, projected costs, and environmental impacts for SONGS Units 2 and 3. The NRC will hold a public meeting to discuss the PSDAR and DCE and receive comments.

DATES: Submit comments by December 22, 2014. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received before this date.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0223. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop: 3WFN–06–A44M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Thomas Wengert, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001, telephone: 301–415–4037, email: *Thomas.Wengert@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2014–0223 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0223.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select "*ADAMS Public Documents*" and then select "*Begin Web-based ADAMS Search.*" For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in the **SUPPLEMENTARY INFORMATION** section

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2014–0223 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at *http://www.regulations.gov* as well as entering the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Discussion

Southern California Edison Company (SCE), San Diego Gas & Electric Company, City of Riverside Utilities Department, and the City of Anaheim, California, (the licensees), are the holders of Facility Operating License Nos. NPF–10 and NPF–15, for SONGS, Units 2 and 3, respectively. Southern California Edison Company is authorized to act as the agent of the other owners. By letter dated June 12, 2013 (ADAMS Accession No. ML131640201), SCE submitted a certification to the NRC indicating it permanently ceased power operations at the SONGS Units 2 and 3 on June 7, 2013. By letters dated July 22, 2013 (ADAMS Accession No. ML13204A304), and June 28, 2013 (ADAMS Accession No. ML13183A391), respectively, SCE certified that it had permanently defueled the SONGS Units 2 and 3 reactor vessels.

The facility consists of two permanently shutdown and defueled pressurized-water reactors located in San Diego County, California.

On September 23, 2014, SCE submitted the PSDAR and DCE for SONGS Units 2 and 3 in accordance with § 50.82(a)(4)(i) of Title 10 of the *Code of Federal Regulations* (ADAMS Accession No. ML14272A121). The PSDAR includes a description of the planned decommissioning activities, a proposed schedule for their accomplishment, the site-specific DCE (submitted concurrently), and a discussion that provides the basis for concluding that the environmental impacts associated with the site-specific decommissioning activities will be bounded by appropriate, previously issued generic and plant-specific environmental impact statements.

III. Request for Comment and Public Meeting

The NRC is requesting public comments on the PSDAR and DCE for SONGS Units 2 and 3. The NRC will conduct a public meeting to discuss the PSDAR and DCE and receive comments on Monday, October 27, 2014, from 6 p.m. until 9 p.m., PDT, at the Omni La Costa, 2100 Costa Del Mar Road, Carlsbad, CA 92009. The NRC requests that comments that are not provided during the meeting be submitted in writing by December 22, 2014.

Dated at Rockville, Maryland, this 2nd day of October, 2014.

For The U.S. Nuclear Regulatory Commission.

Douglas A. Broaddus,

Chief, Plant Licensing IV–2 and Decommissioning Transition Branch, Division of Operator Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2014–24356 Filed 10–10–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2014–0001]

Sunshine Act Meeting Notice

DATE: Weeks of October 6, 13, 20, 27, November 3, 10, 17, 2014.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of October 6, 2014

Friday, October 10, 2014

9:45 a.m. Discussion of Security Matters (Closed—Ex. 9)

Week of October 13, 2014

There are no meetings scheduled for the week of October 13, 2014.

Week of October 20, 2014—Tentative

There are no meetings scheduled for the week of October 20, 2014.

Week of October 27, 2014—Tentative

Wednesday, October 29, 2014

9:00 a.m. Briefing on Security Issues (Closed—Ex. 1)

1:30 p.m. Briefing on Security Issues (Closed—Ex. 1)

Thursday, October 30, 2014

9:00 a.m. Briefing on Watts Bar Unit 2 License Application Review (Public Meeting) (Contact: Justin Poole, 301–415–2048)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Week of November 3, 2014—Tentative

Tuesday, November 5, 2014

1:00 p.m. Briefing on Small Modular Reactors (Public Meeting) (Contact: Rollie D. Berry, III, 301–415–8162)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Week of November 10, 2014—Tentative

Thursday, November 13, 2014

9:00 a.m. Strategic Programmatic Overview of the Nuclear Material Users and the Fuel Facilities Business Lines (Public Meeting) (Contact: Cinthya Roman, 301–287–9091)

This meeting will be Webcast live at the Web address—*http://www.nrc.gov/.*

1:30 p.m. Discussion of Management and Personnel Issues (Closed—Ex. 2 and 6)

Week of November 17, 2014—Tentative

Thursday, November 20, 2014

9:30 a.m. Briefing on Project Aim 2020 (Closed—Ex. 2)

* * * * *

The schedule for Commission meetings is subject to change on short notice. For more information or to verify the status of meetings, contact Rochelle Bavol at (301) 415–1651 or via email at *Rochelle.Bavol@nrc.gov.*

* * * * *

ADDITIONAL INFORMATION: By a vote of 3–0 on October 8 and 9, 2014, the Commission determined pursuant to U.S. C. 552b(e) and § 9.107(a) of the Commission's rules that the October 10, 2014, Discussion of Security Matters be held with less than one week notice to the public.

The Discussion of Management and Personnel Issues (Closed—Ex. 2 and 6)

previously scheduled for October 15 at 11:00 a.m. has been rescheduled to November 13 at 1:30 p.m.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g. braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0727, by videophone at 240–428–3217, or by email at *Kimberly.Meyer-Chambers@nrc.gov* . Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969), or send an email to *Patricia.Jimenez@nrc.gov* or *Brenda.Akstulewicz@nrc.gov*

Dated: October 9, 2014.

Rochelle C. Bavol,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2014–24475 Filed 10–9–14; 4:15 pm]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 52–026; NRC–2008–0252]

Vogtle Unit 4 Combined License

AGENCY: Nuclear Regulatory Commission.

ACTION: Determination of inspections, tests, analyses, and acceptance criteria completion.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) staff has determined that the inspections, tests, and analyses (ITAAC) have been successfully completed, and that the specified acceptance criteria are met for ITAAC 2.1.03.11, for the Vogtle Unit 4 Combined License.

ADDRESSES: Please refer to Docket ID NRC–2008–0252 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2008–0252. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''*Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: David Jaffe, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1439, email: *David.Jaffe@nrc.gov.*

SUPPLEMENTARY INFORMATION:

Licensee Notification of Completion of ITAAC

On August 7, 2014, Southern Nuclear Operating Company, Inc., (the licensee) submitted an ITAAC closure notification (ICN) under § 52.99(c)(1) of Title 10 of the *Code of Federal Regulations* (10 CFR) informing the NRC that the licensee has successfully performed the required inspections, tests, and analyses for ITAAC 2.1.03.11, and that the specified acceptance criteria are met for Vogtle Unit 4 Combined License (ADAMS Accession No. ML14219A725). This ITAAC was approved as part of the issuance of the combined license, NPF–92, for this facility. This ITAAC is in Appendix C of the combined license under ADAMS Accession No ML14100A135.

NRC Staff Determination of Completion of ITAAC

The NRC staff has determined that the inspections, tests, and analyses have been successfully completed, and that the specified acceptance criteria are met for Vogtle Unit 4 Combined License, ITAAC 2.1.03.11. This notice fulfills the staff's obligations under 10 CFR 52.99(e)(1) to publish a notice in the **Federal Register** of the NRC staff's determination of the successful completion of inspections, tests and analyses.

The documentation of the NRC staff's determination is in the ITAAC Closure Verification Evaluation Form (VEF), dated September 25, 2014 (ADAMS Accession No. ML14268A455). The VEF is a form that represents the NRC staff's structured process for reviewing ICNs. The ICN presents a narrative description of how the ITAAC was completed, and the NRC's ICN review process involves a determination on whether, among other things, (1) the ICN provides sufficient information, including a summary of the methodology used to perform the ITAAC, to demonstrate that the inspections, tests, and analyses have been successfully completed; (2) the ICN provides sufficient information to demonstrate that the acceptance criteria are met; and (3) any inspections for the ITAAC have been completed and any ITAAC findings associated with the ITAAC have been closed.

The NRC staff's determination of the successful completion of this ITAAC is based on information available at this time and is subject to the licensee's ability to maintain the condition that the acceptance criteria are met. If the staff receives new information that suggests the staff's determination on this ITAAC is incorrect, then the staff will determine whether to reopen this

ITAAC (including withdrawing the staff's determination on this ITAAC). The NRC staff's determination will be used to support a subsequent finding, pursuant to 10 CFR 52.103(g), at the end of construction that all acceptance criteria in the combined license are met. The ITAAC closure process is not finalized for this ITAAC until the NRC makes an affirmative finding under 10 CFR 52.103(g). Any future updates to the status of this ITAAC will be reflected on the NRC's Web site at *http://www.nrc.gov/reactors/new-reactors/oversight/itaac.html.*

Dated at Rockville, Maryland, this 6th day of October 2014.

For the Nuclear Regulatory Commission.

David Jaffe,

Senior Project Manager, Licensing Branch 4, Division of New Reactor Licensing. Office of New Reactors.

[FR Doc. 2014–24357 Filed 10–10–14; 8:45 am]

BILLING CODE 7590–01–P

PEACE CORPS

Information Collection Request; Submission for OMB Review

AGENCY: Peace Corps.

ACTION: 30-Day notice and request for comments.

SUMMARY: The Peace Corps will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval. The purpose of this notice is to allow 30 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

DATES: Submit comments on or before November 13, 2014.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name/or OMB approval number and should be sent via email to: *oira_submission@omb.eop.gov* or fax to: 202–395–3086. Attention: Desk Officer for Peace Corps.

FOR FURTHER INFORMATION CONTACT: Denora Miller, FOIA/Privacy Act Officer, Peace Corps, 1111 20th Street NW., Washington, DC 20526, (202) 692–1236, or email at *pcfr@peacecorps.gov.*

SUPPLEMENTARY INFORMATION: Peace Corps uses the confidential reference form in order to learn from someone, who knows a volunteer applicant and his or her background, whether the applicant possesses the necessary characteristics and skills to serve as a Volunteer.

OMB Control Number: 0420–0546.

Title: Report of Dental Examination.

Type of Review: Regular submission (Reinstatement, without change, of a previously approved collection for which approval has expired).

Affected Public: Individuals.

Respondents' Obligation to Reply: Voluntary.

Burden to the Public:

a. Estimated number of respondents: 5,000.

b. Estimated average burden per response: 45 minutes.

c. Frequency of response: One time.

d. Annual reporting burden: 3,750 hours.

General Description of Collection: The Peace Corps Act requires that Volunteers receive health examinations prior to their service. The information collected is required for consideration for Peace Corps Volunteer service. The Report of Dental Exam is used by the examining physician and dentist both for applicants and currently serving Volunteers. The results of the examinations are used to ensure that applicants for Volunteer service will, with reasonable accommodation, be able to serve in the Peace Corps without jeopardizing their health.

Request for Comment: Peace Corps invites comments on whether the proposed collections of information are necessary for proper performance of the functions of the Peace Corps, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the information to be collected; and, ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

This notice issued in Washington, DC, on October 7, 2014.

Dated: October 7, 2014.

Denora Miller,

FOIA/Privacy Act Officer, Management.

[FR Doc. 2014–24310 Filed 10–10–14; 8:45 am]

BILLING CODE 6051–01–P

PEACE CORPS

Information Collection Request; Submission for OMB Review

AGENCY: Peace Corps.

ACTION: 60-Day notice and request for comments.

SUMMARY: The Peace Corps will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

DATES: Submit comments on or before December 15, 2014.

ADDRESSES: Comments should be addressed to Denora Miller, FOIA/Privacy Act Officer. Denora Miller can be contacted by telephone at 202–692–1236 or email at *pcfr@peacecorps.gov.* Email comments must be made in text and not in attachments.

FOR FURTHER INFORMATION CONTACT: Denora Miller at Peace Corps address above.

SUPPLEMENTARY INFORMATION: Peace Corps uses the confidential reference form in order to learn from someone, who knows a volunteer applicant and his or her background, whether the applicant possesses the necessary characteristics and skills to serve as a Volunteer.

OMB Control Number: 0420–0006.

Title: Peace Corps Confidential Reference Form.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals.

Respondents' Obligation To Reply: Voluntary.

Burden to the Public:

a. Average Number of Annual Applicants (complete the application process): 20,000.

b. Number of reference required per applicant: 2.

c. Estimated Number of reference forms received: 40,000.

d. Frequency of response: One time.

e. Completion time: 10 minutes.

f. Annual burden hours: 6,667.

General Description of Collection: The Peace Corps Confidential Reference Form provides information concerning an applicant's skills and character from people who are familiar with the applicant, such information exist nowhere else. The Placement team, in the Office of Volunteer Recruitment and Selection, uses the Peace Corps Confidential Reference Form as an integral part of the selection process to determine whether an applicant is likely to succeed as a Peace Corps volunteer.

Request For Comment: Peace Corps invites comments on whether the proposed collection of information is necessary for proper performance of the functions of the Peace Corps, including

whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the information to be collected; and, ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

This notice issued in Washington, DC, on October 7, 2014.

Dated: October 7, 2014.

Denora Miller,

FOIA/Privacy Act Officer, Management.

[FR Doc. 2014–24312 Filed 10–10–14; 8:45 am]

BILLING CODE 6051–01–P

PEACE CORPS

Information Collection Request; Submission for OMB Review

AGENCY: Peace Corps.

ACTION: 30-Day notice and request for comments.

SUMMARY: The Peace Corps will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval. The purpose of this notice is to allow 30 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

DATES: Submit comments on or before November 13, 2014.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name/or OMB approval number and should be sent via email to: *oira_submission@omb.eop.gov* or fax to: 202–395–3086. Attention: Desk Officer for Peace Corps.

FOR FURTHER INFORMATION CONTACT: Denora Miller, FOIA/Privacy Act Officer, Peace Corps, 1111 20th Street NW., Washington, DC 20526, (202) 692–1236, or email at *pcfr@peacecorps.gov.*

SUPPLEMENTARY INFORMATION: Peace Corps uses the confidential reference form in order to learn from someone, who knows a volunteer applicant and his or her background, whether the applicant possesses the necessary characteristics and skills to serve as a Volunteer.

OMB Control Number: 0420–0547.

Title: Peace Corps Response Volunteer Application Form.

Type of Review: Extension without change of a currently approved information collection.

Affected Public: Individuals.

Respondents' Obligation to Reply: Voluntary.

Burden to the Public:

a. Number of Respondents: 1,700.

b. Frequency of response: One time.

c. Completion time: 60 minutes.

d. Annual burden hours: 1,700.

General Description Of Collection: The information collected in the Peace Corps Response Volunteer Application is used by Peace Corps Response staff to perform initial screening for potential candidates for Peace Corps Response assignments. Applications contain basic information concerning technical skills and eligibility for Peace Corps Response assignments.

Request For Comment: Peace Corps invites comments on whether the proposed collections of information are necessary for proper performance of the functions of the Peace Corps, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the information to be collected; and, ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

This notice issued in Washington, DC on October 7, 2014.

Dated: October 7, 2014.

Denora Miller,

FOIA/Privacy Act Officer, Management.

[FR Doc. 2014–24311 Filed 10–10–14; 8:45 am]

BILLING CODE 6051–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73315; File No. SR–NASDAQ–2014–097]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Algo Test Facility

October 7, 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 October 2, 2014, The NASDAQ Stock Market LLC (''NASDAQ'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by NASDAQ. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASDAQ proposes to offer a new testing environment, The NASDAQ OMX Algo Test Facility (''Algo Test Facility'').

The text of the proposed rule change is available on the Exchange's Web site at *http://www.nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NASDAQ is proposing to amend NASDAQ Rule 7030 entitled ''Other Services'' to offer NASDAQ Testing Facility (NTF)[3] subscribers (''Subscriber'') a new complement to the existing NTF. The Algo Test Facility is a sophisticated equity market simulation environment based on a detailed historical database which includes NASDAQ display orders and trades. During a simulation, Algo Test Facility customers are able to use their existing trading infrastructure to interact and trade against this virtualized Nasdaq historical market. By providing a historically accurate market

[3] The NASDAQ Testing Facilities provides firms with the ability to test their automated systems that integrate with Nasdaq services in a virtual trading environment. This service supplies firms with multiple venues to test upcoming Nasdaq releases and product enhancements. In addition, firms may use the NTF to test their new software development prior to implementation.

simulation, the Algo Test Facility helps increase the safety and security of the market by mitigating aberrant trading behavior.

The Algo Test Facility provides electronic trading customers with: (i) A safe environment to rigorously test and calibrate their algorithmic strategies by replaying and interacting with real historical market data; (ii) significantly higher accuracy and determinism on the outcomes of individual orders versus conventional paper-trading systems, which are forced to make simple probabilistic assumptions about fill rates because they do not replicate and replay the market microstructure; (iii) a re-creation of the actual market's microstructure and real-world trading conditions, providing accurate views of adverse selection, time priority and fills versus misses; (iv) support for order entry allowing customers to interact via OUCH [4] protocols; and (v) interaction of customer activity with the actual historic orders of other market participants at the microstructure level.

The Algo Test Facility allows customers to prototype, backtest, and calibrate their strategies against a variety of different kinds of real-world market conditions and against real-world market participants and competition. The Algo Test Facility allows customers to observe, correct, and test a large range of potential unintended behaviors of their algorithmic strategies before committing real capital or impacting the Exchange and other market participants. Also, customers will be able to mitigate the risk of aberrant or potentially destabilizing behaviors, such as inadvertent spamming or other repetitive behaviors, or excessive risk in open orders.

Customers would connect via their existing trading infrastructure, including risk systems, OMS, and feed handlers currently housed in the NASDAQ OMX Data Center in Carteret, New Jersey. The Algo Testing Facility will allow up to a certain number of simulations to be run for all users to the Algo Test Facility per day. While the Algo Test Facility will be available to all NTF subscribers, the capacity of simulations is limited to a certain number of simulations per day, which is subject to change. The Algo Test Facility will be available on a first-come first-serve basis. This limitation will apply equally to all users and may increase depending on customer interest. The Exchange intends to evaluate the capacity as the product is utilized.

Customers consume market data in a format that is similar to ITCH from the Algo Test Facility and send their orders to the Algo Test Facility in response. Delays on the customer side are based uniquely on the customers' actual production trading infrastructure and its ability to keep up with the Algo Test Facility. Customer orders interact with the actual historical order books. Both queue priority and time priority are preserved to the microsecond. For example, if a customer lifts an offer in the order book 100 microseconds before a competitor tried to lift that offer, the customer will get a fill and the competitor will either consume the additional liquidity on the book or form a new bid. Automated reports will allow customers to observe, correct, and test a large range of potential unintended behaviors of their algorithmic strategies before committing real capital or impacting the Exchange and other market participants. Through new NTF hand-offs in Carteret, customers will receive market data in a format similar to NASDAQ ITCH market data and have the ability to execute trades via the OUCH protocols.[5]

Customers desiring to utilize the Algo Test Facility would be required to be NTF Subscribers to access this environment through NTF hand-offs in Carteret. Currently, NTF Subscribers with connectivity to Carteret are assessed a fee of $1,000 per hand-off, per month for connection to the NTF.[6] The fees related to the NTF in Rule 7030 will continue to be assessed to current NTF Subscribers. The Exchange intends to not assess any other fees to NTF Subscribers for use of the Algo Test Facility at this time. The Exchange will file a proposed rule change with the Commission prior to commencing any additional pricing specifically for this product at a later time.

Currently, the NTF allows users to test connectivity to the Exchange. As discussed, the Algo Test Facility is a complement to the NTF, and will be available for testing algorithms, but not for purposes of rule compliance or validation.

2. Statutory Basis

NASDAQ believes that its proposal is consistent with Section 6(b) of the Act [7] in general, and furthers the objectives of Section 6(b)(5) of the Act [8] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The Exchange believes that by offering this product without charge at this time, NTF subscribers will have the opportunity to test the product and utilize the benefits the product offers. The product will assist NTF subscribers to protect investors and the public interest by utilizing the simulations to increase the safety and security of the market by mitigating aberrant trading behavior. Customers will be able to mitigate the risk of aberrant or potentially destabilizing behaviors, such as inadvertent spamming or other repetitive behaviors, or excessive risk in open orders. The Algo Test Facility allows customers to observe, correct, and test a large range of potential unintended behaviors of their algorithmic strategies before committing real capital.

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[9] in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,[10] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which NASDAQ operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. This proposal is consistent with an equitable allocation of fees and is not unfairly discriminatory because it offers NTF Subscribers a sophisticated equity market simulation environment based on a detailed historical database of NASDAQ market data. Customers are offered a safe environment to rigorously test and calibrate their algorithmic strategies by replaying and interacting with real historical market data. Also, the proposal is consistent with an equitable allocation of fees and is not unfairly discriminatory because the Exchange operates in a highly competitive market in which exchanges offer various connectivity services as a means to facilitate the trading activities of customers.

The Exchange intends to offer this product free of charge at this time to NTF Subscribers at this time, so that NTF Subscribers have the opportunity

[4] The Exchange plans to expand to other order entry protocols and order types and include latencies and intercolo latencies in future enhancements.

[5] Nasdaq historical data will be available on a rolling T+1 through six months basis. Only OUCH order entry will be available in the initial launch.

[6] The hand-off fee includes either a 1Gb or 10Gb switch port and a cross connect to the NTF. NTF Subscribers also pay a one-time installation fee of $1,000 per handoff.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78f.

[10] 15 U.S.C. 78f(b)(4) and (5).

to utilize the Algo Test Facility at no cost in addition to the current NTF Subscription fees set forth in Rule 7030(d)(1)(C). Moreover, the Exchange's fees for this service are equitably allocated and non-discriminatory in that all NTF Subscribers will receive the service free of cost. Non-NTF Subscribers would be required to become NTF Subscribers and incur the fees borne by these customers today in order to receive the Algo Test Facility services at no additional cost.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.[11] The Exchange does not intend to assess fees to NTF Subscribers at this time to utilize the Algo Test Facility. While non-NTF Subscribers would be required to become NTF Subscribers in order to receive this service, the Exchange does not believe this requirement imposes an undue burden on competition because NTF Subscribers today pay costs for the service they receive and the hand-offs are necessary for use of the Algo Test Facility. All customers are being treated in the same manner and the Exchange is offering the Algo Test Facility for free to those NTF Subscribers incurring costs today. Also, while there is a limit on the number simulations per day for this product, this limitation on the number of simulations applies equally to all users per day. Therefore, the Exchange believes that the proposed rule change enhances, rather than burdens, competition by providing customers an opportunity to utilize the product for free.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[12] and subparagraph (f)(6) of Rule 19b–4 thereunder.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved. The Exchange has provided the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2014–097 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2014–097. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml.*) Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2014–097 and should be submitted on or before November 4, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–24304 Filed 10–10–14; 8:45 am]

BILLING CODE 8011–01–P

[11] 15 U.S.C. 78f(b)(8).

[12] 15 U.S.C. 78s(b)(3)(a)(ii).

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73311; File No. SR–Phlx–2014–65]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Rule 705 (Fidelity Bonds)

October 7, 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 September 25, 2014, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to delete certain extraneous language from Exchange Rule 705 to amend an inadvertent error in the rule text.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxphlx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to correct the text of Exchange Rule 705, entitled ''Fidelity Bonds,'' by deleting certain text which was not deleted when the Exchange filed to replace Rule 705 [3] with a rule in substantially the same form as that of the Financial Industry Regulatory Authority, Inc. (''FINRA'').[4] Exchange Rule 705 was replaced by a new Rule 705 as of April 2, 2012, in order to harmonize the Phlx Rules with FINRA rules. The title of Exchange Rule 705 was changed from ''Members Must Carry'' to ''Fidelity Bonds.'' The Exchange intended to delete Rule 705 in its entirety and rename the rule and replace the text with new text similar to that in FINRA Rule 4360. The Exchange inadvertently did not include all of the Supplementary Material section of the Rule in the original filing so that it could be deleted. The Exchange proposes to delete the current Supplementary Material .03 to Exchange Rule 705 in accordance with the intent of the original rule proposal.

The purpose of a fidelity bond is to protect a member organization against certain types of losses, including, but not limited to, those caused by the malfeasance of its officers and employees, and the effect of such losses on the member organization's capital. At this time the Exchange is seeking to delete rule text which covers Employee Blanket Bond Coverage in Supplementary Material .03. The rule text that the Exchange proposes to delete states that member organizations subject to minimum net capital under Rule 15c3–1 are required to have Brokers Blanket Bond Coverage with respect to employees (including officers, regardless of their duties) in amounts not less than the minimums prescribed above which apply both to partner coverage and employee blanket bond coverage. In addition to this basic Brokers Blanket Bond Coverage, ''member organizations are required to include the following minimum specific coverages with respect to: MISPLACEMENT, FRAUDULENT TRADING, CHECK FORGERY and SECURITIES FORGERY, ON PREMISES AND IN TRANSIT.'' Further, all employee Fidelity coverage shall be on the Standard Form 14 Stock Brokers' Bond, Federal Insurance Company's Form B Bond or Lloyd's form if it is the full equivalent. With respect to Misplacement, Check Forgery, On Premises and In Transit, at least the amount of the basic bond minimum requirement shall be carried. With respect to Fraudulent Trading, at least $50,000 or 50% of the basic bond minimum requirement, whichever is greater, with a top minimum of $500,000 shall be carried. With respect to Securities Forgery, at least $50,000 or 25% of the basic bond minimum requirement, whichever is greater, with a top minimum of $250,000 shall be carried.

The rule text the Exchange is proposing to delete further goes on to note that a ''review for adequacy of coverage shall be made at least annually as of the anniversary date of the issuance of the bond and minimum requirements for the next twelve months shall be established by reference to the highest net capital requirement in the preceding twelve months. Each member organization will be expected to review carefully any need for coverage greater than that provided by the required minimums. Where experience or the nature of the business warrants additional coverage the Exchange expects the member organization to acquire it.''

Each member and member organization, according to the rule text the Exchange is proposing to delete, is required to carry certain forms of insurance and advise the Exchange if such insurance is entirely or partially cancelled. Members and member organizations are required to provide details in writing within 10 days of cancellation. ''A member organization which becomes eligible to elect and does elect to compute its minimum required net capital under the alternative net capital requirement set forth in paragraph (f) of Rule 15c3–1, instead of under the requirements set forth in paragraph (a) in the deleted rule text, shall determine its minimum required coverage in the same manner as specified in sections .02(b) and .03 hereof.''

Finally, the rule states that each member organization ''may self-insure to the extent of $5,000 or 10% of its minimum insurance requirement as fixed by the Exchange, whichever is greater, for each type of coverage required by the rule. The excess of any such amount self-insured over the maximum permissible self-insurance must be deducted from the member organization's net worth in the calculation of net capital for purposes of Rule 15c3–1.''

The Exchange notes that at the time of the filing it sought to replace the current rule in its entirety and adopt the FINRA rule as noted in the original filing.[5] FINRA Rule 4360 requires a member (including a firm that signs a multi-year insurance policy), annually as of the yearly anniversary date of the issuance of the fidelity bond, to review the adequacy of its fidelity bond coverage and make any required adjustments to its coverage, as set forth in the rule. Under FINRA Rule 4360(d), a member's highest net capital requirement during the preceding 12-month period, based on the applicable method of computing net capital (dollar minimum, aggregate indebtedness or alternative standard), is used as the basis for determining the member's minimum required fidelity bond coverage for the succeeding 12-month period. The ''preceding 12-month period'' includes the 12-month period that ends 60 days before the yearly anniversary date of a member's fidelity bond. This would give a firm time to determine its required fidelity bond coverage by the anniversary date of the bond.

[3] *See* Securities Exchange Act Release No. 66362 (February 9, 2012), 77 FR 8931 (February 15, 2012) (SR–Phlx–2012–13). *See also* Securities Exchange Act Release No. 66407 (February 16, 2012), 77 FR 10787 (February 23, 2012) (SR–Phlx–2012–21). *See also* Securities Exchange Act Release No. 66411 (February 16, 2012), 77 FR 10788 (February 23, 2012) (SR–NYSE–2012–04) (an immediately effective filing which incorporated the FINRA rule by merely noting the text would be the same as the FINRA rule). *See also* Securities Exchange Act Release No. 66412 (February 16, 2012), 77 FR 10791 (February 23, 2012) (SR–NYSEAmex–2012–08) (an immediately effective filing which incorporated the FINRA rule by merely noting the text would be the same as the FINRA rule).

[4] *See* FINRA Rule 4360 ''Fidelity Bonds.''

[5] *See* Securities Exchange Act Release No. 66362 (February 9, 2012), 77 FR 8931 (February 15, 2012) (SR–Phlx–2012–13).

Further, FINRA Rule 4360 allows a member that has only been in business for one year and elected the aggregate indebtedness ratio for calculating its net capital requirement to use, solely for the purpose of determining the adequacy of its fidelity bond coverage for its second year, the 15 to 1 ratio of aggregate indebtedness to net capital in lieu of the 8 to 1 ratio (required for broker-dealers in their first year of business) to calculate its net capital requirement. Notwithstanding the above, such member would not be permitted to carry less minimum fidelity bond coverage in its second year than it carried in its first year.

FINRA Rule 4360 exempts from the fidelity bond requirements members in good standing with a national securities exchange that maintain a fidelity bond subject to the requirements of such exchange that are equal to or greater than the requirements set forth in Rule 4360. Additionally, FINRA Rule 4360 continues to exempt from the fidelity bond requirements any firm that acts solely as a Designated Market Maker, floor broker or registered floor trader and does not conduct business with the public.

The Exchange intended to adopt the FINRA rule instead.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [6] in general, and furthers the objectives of Section 6(b)(5) of the Act [7] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by correcting an error in the Exchange's rules in order that the Rule properly reflect the correct text. An accurate and up-to-date Rulebook will avoid confusion for market participants. This proposal is not substantive, rather, the proposal seeks to update the rules to reflect the current operation of the Exchange. The Exchange believes that the requirements of FINRA Rule 4360, including, but not limited to, requiring each member that is required to join the Securities Investor Protection Corporation to maintain blanket fidelity bond coverage, increasing the minimum requirement fidelity bond coverage and maintaining a fidelity bond that provides for per loss coverage without an aggregate limit of liability promotes investor protection by protecting firms from unforeseen losses. The proposed amendments will conform Phlx's rule to a corresponding FINRA rule, to promote application of consistent regulatory standards.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange is merely seeking to correct an inadvertent error in the rule text. The Exchange's original intent was to adopt the FINRA rule and the changes proposed herein further that intent and conform the Phlx rule to the FINRA rule to promote application of consistent regulatory standards.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [8] and subparagraph (f)(6) of Rule 19b–4 thereunder.[9]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of filing.[10] Rule 19b–4(f)(6)(iii), however, permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest.[11] The Exchange has requested that the Commission waive the 30-day operative delay so that the Exchange can quickly correct the inadvertent error and avoid inconsistency in its rules.

The Commission believes that the waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because accurate rules are important to the function of the Exchange. The proposed amendments reflect the Exchange's intent in a prior filing. Furthermore, the proposed rule change is not substantive but merely seeks to properly amend rules to reflect the current operation of the Exchange. Therefore, the Commission designates the proposal operative upon filing.[12]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act.[13] If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.[14]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2014–65 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number *SR–Phlx–2014–65.* 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

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[10] 17 CFR 240.19b–4(f)(6)(iii).

[11] *Id.*

[12] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[13] 15 U.S.C. 78s(b)(3)(C).

[14] *Id.*

communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–Phlx–2014–65 and should be submitted on or before November 4, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–24301 Filed 10–10–14; 8:45 am]

BILLING CODE 8011–01–P

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73313; File No. SR–FINRA–2014–030)

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change Relating to Quotation Requirements for Unlisted Equity Securities and Deletion of the Rules Related to the OTC Bulletin Board Service

October 7, 2014.

I. Introduction

On June 27, 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 (''Exchange Act '' or ''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt rules relating to quotation requirements for over-the-counter (''OTC'') equity securities and to delete the rules relating to the OTC Bulletin Board Service (''OTCBB'' or ''Service'') and thus cease its operation. The proposed rule change was published for comment in the **Federal Register** on July 15, 2014.[3] The Commission received one comment letter on the proposed rule change.[4] This order institutes proceedings under Section 19(b)(2)(B) of the Act[5] to determine whether to approve or disapprove the proposed rule change.

Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to the proposed rule change, nor does it mean that the Commission will ultimately disapprove the proposed rule change. Rather, as discussed below, the Commission seeks additional input from interested parties on the proposed rule change.

II. Description of the Proposed Rule Change

As described more fully in the Notice, FINRA proposed to adopt rules: (1) Governing the treatment of quotations in OTC equity securities[6] by member inter-dealer quotation systems,[7] and addressing fair and non-discriminatory access to such systems; (2) requiring member inter-dealer quotation systems to provide FINRA with a written description of quotation-related data products offered and related pricing information, including fees, rebates, discounts and cross-product pricing incentives; (3) expanding the reporting requirements related to quotation information in OTC equity securities; and (4) deleting the Rule 6500 Series and related rules and thereby ceasing operation of the OTCBB.

A. Current Regulatory Framework for Governing Quotations

FINRA, under the statutory mandate of Section 15A of the Act,[8] has previously adopted rules governing the form and content of quotations relating to securities sold OTC, including rules designed to: (1) Produce fair and informative quotations; (2) prevent fictitious or misleading quotations; and (3) promote orderly procedures for collecting, distributing, and publishing quotations.[9] FINRA's Rule 6400 Series (Quoting and Trading in OTC Equity Securities), among other things, provides a regulatory framework governing the form and content of quotations in OTC equity securities and, together with other FINRA rules, including rules in the Rule 5200 Series (Quotation and Trading Obligations and Practices), specifies provisions directed toward the mandate set forth in Section 15A(b)(11) of the Act (collectively referred to as the ''Quotation Governance Rules''). FINRA also operates the OTCBB and has established the Rule 6500 Series, which governs the operation and use of the OTCBB.

FINRA's Quotation Governance Rules generally prescribe limitations around the conduct of members that publish quotations in OTC equity securities, including quotations displayed on inter-dealer quotation systems. While these rules apply to member quotation activities, they generally do not include rules specifically directed to the member inter-dealer quotation systems on or through which such quotation activity may take place. For example, FINRA Rule 6432 (Compliance with the Information Requirements of Exchange Act Rule 15c2–11) generally provides that members may not initiate or resume quotations in any quotation medium unless the member files Form 211 with FINRA and complies with Exchange Act Rule 15c2–11 (Initiation or resumption of quotations without specific information).[10]

In 2010, the Commission approved four FINRA rules governing quotation activity generally by prescribing additional requirements for members entering quotations on inter-dealer quotation systems in OTC equity securities: (1) Rule 6434 (Minimum Pricing Increment for OTC Equity Securities); (2) Rule 6437 (Prohibition

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 72575 (July 9, 2014), 79 FR 41339 (''Notice''). On August 8, 2014, FINRA consented to extending the time period for the Commission to either approve or disapprove the proposed rule change, or to institute proceedings to determine whether to approve or disapprove the proposed rule change, to October 10, 2014.

[4] *See* Letter from Daniel Zinn, General Counsel, OTC Markets Group Inc., dated August 5, 2014 (''OTC Markets Letter'').

[5] 15 U.S.C. 78s(b)(2)(B).

[6] FINRA Rule 6420(f) defines ''OTC equity security'' as any equity security that is not an ''NMS stock'' as that term is defined in Rule 600(b)(47) of SEC Regulation NMS; provided, however, that the term ''OTC equity security'' shall not include any Restricted Equity Security.

[7] FINRA Rule 6420(c) defines ''inter-dealer quotation system'' as any system of general circulation to brokers or dealers which regularly disseminates quotations of identified brokers or dealers.

[8] *See* 15 U.S.C. 78*o*–3.

[9] Section 15A(b)(11) of the Act provides: ''The rules of the association include provisions governing the form and content of quotations relating to securities sold otherwise than on a national securities exchange which may be distributed or published by any member or person associated with a member, and the persons to whom such quotations may be supplied. Such rules relating to quotations shall be designed to produce fair and informative quotations, to prevent fictitious or misleading quotations, and to promote orderly procedures for collecting, distributing, and publishing quotations.'' *See* 15 U.S.C. 78*o*–3(b)(11).

[10] *See* 17 CFR 240.15c2–11.

from Locking or Crossing Quotations in OTC Equity Securities); (3) Rule 6450 (Restrictions on Access Fees); and (4) Rule 6460 (Display of Customer Limit Orders) (''2010 OTC Regulatory Enhancement Rules'') [11] These rules extended to the OTC equity market certain protections previously applicable only to exchange-listed securities, and were adopted to enhance quality and investor protection in the OTC equity market.[12]

In addition, FINRA's current Quotation Governance Rules also prescribe the minimum share size applicable to members' quotations in OTC equity securities displayed on an inter-dealer quotation system.[13] The FINRA Rule 5200 Series also includes rules that govern members' quotation activity in OTC equity securities.[14]

B. Proposed Requirements for Member Inter-Dealer Quotation Systems

Although FINRA's existing Quotation Governance Rules explicitly regulate the activities of OTC market makers [15] and other members that display quotations on inter-dealer quotation systems, FINRA's rules generally do not directly provide quotation governance standards for the member inter-dealer quotation systems itself on or through which such quotations are displayed. FINRA is proposing to complement the existing framework governing the form and content of quotations by amending FINRA Rule 6431 to require that a member inter-dealer quotation system: (1) Adopt and provide to FINRA written policies and procedures relating to the collection and dissemination of quotation information in OTC equity securities, (2) establish and provide to FINRA fair and non-discriminatory written standards for granting access to quoting and trading on its system, and (3) provide to FINRA for regulatory purposes a written description of each quotation-related data product offered by such member inter-dealer quotation system and related pricing information, including fees, rebates, discounts and cross-product pricing incentives.[16] FINRA believes that the foregoing proposal is consistent with the goals and objectives of Section 17B of the Act [17] regarding the facilitation of widespread dissemination of reliable and accurate quotation information in penny stocks.[18]

a. Proposed Quotation Collection and Dissemination Policies and Procedures Requirement

Under the proposed revisions to FINRA Rule 6431, FINRA would require that a member inter-dealer quotation system (whether or not also an alternative trading system or ''ATS'' as defined by Exchange Act Rule 300(a) [19] of Regulation ATS) that permits quotation updates on a real-time basis establish, maintain and enforce fair and reasonable written policies and procedures relating to the collection and dissemination of quotation information in OTC equity securities on or through its system. Such policies and procedures are intended to ensure that quotations received are treated fairly and consistently, including by establishing fair and non-discretionary methods under which quotations are prioritized and displayed and such standards must be fully disclosed to subscribers. For example, a member inter-dealer quotation system would be required to address its methodology for ranking quotations, including at a minimum, addressing factors such as price (including any applicable quote access fee), size, time, capacity and type of quotation (such as unpriced quotes and bid/offer wanted quotations).[20] FINRA also is proposing that a member inter-dealer quotation system provide FINRA with a copy of its written policies and procedures relating to the collection and dissemination of quotation information, and any material updates, modifications and revisions thereto, within five business days following the member's establishment of the written policy or procedure or implementation of the material change.[21]

b. Proposed Written Standards Governing System Access Requirement

FINRA is proposing that a member inter-dealer quotation system establish fair and non-discriminatory written standards for granting access to quoting and trading on the system that do not unreasonably prohibit or limit any person in respect to access to services offered by such inter-dealer quotation

[11] *See* Securities Exchange Act Release No. 62359 (June 22, 2010), 75 FR 37488 (June 29, 2010) (Order Approving File No. SR–FINRA–2009–054).

[12] The 2010 OTC Regulatory Enhancement Rules generally: (1) Provide that members may not display, rank, or accept a bid or offer, an order, or an indication of interest in an OTC equity security priced greater than or equal to $1.00 in an increment less than a penny and, for OTC equity securities priced under $1.00, an increment less than $0.0001; (2) require members to implement policies and procedures to reasonably avoid displaying, or engaging in a pattern or practice of displaying, locking or crossing quotations in any OTC equity security within an inter-dealer quotation system; (3) prohibit members from imposing non-subscriber access or post-transaction fees against published quotations in any OTC equity security that exceed or accumulate to more than the limits set forth in the rule; and (4) require member OTC market makers displaying priced quotations in an OTC equity security on an inter-dealer quotation system to publish immediately a customer limit order that improves the OTC market maker's priced quotation (or that is equal to the OTC market maker's priced quotation at the best bid or offer (''BBO'') but increases the OTC market maker's posted size by more than a *de minimis* amount), subject to enumerated exceptions.

[13] FINRA Rule 6433 (Minimum Pricing Increment for OTC Equity Securities) generally provides that every member entering quotations in any inter-dealer quotation system must enter and honor those quotations for at least the minimum sizes defined in the rule. The current rule, which began as a pilot in November 2012, amended the tier sizes, among other things, to simplify the tier structure and facilitate the display of customer limit orders pursuant to FINRA Rule 6460. *See, e.g.,* Securities Exchange Act Release No. 70839 (November 8, 2013), 78 FR 68893 (November 15, 2013). This pilot was recently extended until February 13, 2015. *See* Securities Exchange Act Release No. 73299 (October 3, 2014).

[14] FINRA Rule 5210 (Publication of Transactions and Quotations) provides, among other things, that members are prohibited from publishing or circulating (or causing to be published or circulated) any notice or communication of any kind which purports to quote the bid price or asked price for any security, unless such member believes that such quotation represents a bona fide bid for, or offer of, such security (*i.e.,* the ''fictitious quotation'' prohibition). FINRA Rule 5220 (Offers at Stated Prices) generally prohibits members from making an offer to buy from or sell to any person any security at a stated price unless such member is prepared to purchase or sell, as the case may be, at such price and under such conditions as are stated at the time of such offer to buy or sell (*i.e.,* the ''firm quote'' requirement).

[15] FINRA Rule 6420(g) defines ''OTC Market Maker'' as a member of FINRA that holds itself out as a market maker by entering proprietary quotations or indications of interest for a particular OTC equity security in any inter-dealer quotation system, including any system that the Commission has qualified pursuant to Section 17B of the Act. A member is an OTC market maker only in those OTC equity securities in which it displays market making interest via an inter-dealer quotation system.

[16] As further discussed below, a member also would be required to provide FINRA with any changes to these required submissions within five business days.

[17] *See* 15 U.S.C. 78q–2. Section 17B was enacted by Congress as part of the Securities Enforcement Remedies and Penny Stock Reform Act of 1990 (''Penny Stock Act''). *See* Pub. L. No. 101–429, 104 Stat. 931 (1990).

[18] *See* Notice, *supra* note 3, 79 FR at 41341.

[19] *See* 17 CFR 242.300(a).

[20] The member inter-dealer quotation system also would be required to include any other factors relevant to the ranking and display of quotations (*e.g.,* reserve sizes, quotation updates, treatment of closed quotations, and quotation information imported from other systems). FINRA believes that requiring member inter-dealer quotation systems to establish fair and reasonable written policies and procedures and provide such procedures to FINRA will, among other things, further promote orderly procedures for collecting, distributing, and publishing quotations submitted to inter-dealer quotation systems in securities traded OTC. *See* Notice, *supra* note 3, 79 FR at 41341.

[21] A member that is an inter-dealer quotation system at the time of the effective date of the proposed rule change would provide the required information upon the effective date and, thereafter, any material update, modification or revision thereto must be provided to FINRA within five business days of its implementation. *See id.* at 41341–42.

system.[22] FINRA believes that this proposed requirement is consistent with the ''fair access'' requirements of Regulation ATS under the Exchange Act[23] but would apply to quoting and trading in all OTC equity securities on the member inter-dealer quotation system, irrespective of the percentage of average daily volume that such inter-dealer quotation system had in the security.[24] Further, the proposed rule would require that a member inter-dealer quotation system provide FINRA with a copy of its written standards for granting access to quoting and trading on its system and any material updates, modifications and revisions thereto within five business days following: (a) The date of the member's establishment of the written standard; and (b) the date of the material update, modification or revision to the written standard. FINRA believes that these proposed amendments are necessary and appropriate to further the mandates of Section 15A of the Act.

c. Proposed Quotation-Related Data Product and Pricing Provision Requirement

FINRA is proposing to require a member inter-dealer quotation system to provide FINRA with a written description of each quotation-related data product offered by such member inter-dealer quotation system and related pricing information, including fees, rebates, discounts and cross-product pricing incentives, and any changes thereto, within five business days following: (a) The date of the establishment of the quotation-related data product or date of any change thereto (including discontinuance of the offering of the quotation-related data product); and (b) the date of the establishment of the quotation-related data product price, including a fee, rebate, discount and cross-product pricing incentive, or change thereto. FINRA believes that the proposed changes described above will facilitate the objectives of the Act, including Section 17B, by helping ensure that disseminated quotations are reliable and accurate and will provide FINRA with useful information to ensure compliance with FINRA rules and to monitor the widespread availability of quotation information to investors and market participants through sources that are not self-regulatory organizations (''SROs'').

d. Proposed Amendments to the Quotation Recording and Reporting Requirements

FINRA Rule 6431 (Recording of Quotation Information) was implemented in 2003 to provide FINRA with access to quotation data displayed on non-SRO sponsored and non-member systems so that FINRA could assess member compliance with applicable rules and regulations and, when necessary, to reconstruct market activity.[25] FINRA is proposing to update and expand the rule to reflect the current quoting structure of the OTC equity market.[26] In addition, FINRA is proposing minor amendments to the items of information required to be recorded and reported under the rule.[27]

When it adopted FINRA Rule 6431, FINRA determined not to apply the requirements to inter-dealer quotation systems that were FINRA members and, rather, to obtain quotation information directly from the FINRA member as needed pursuant to FINRA Rule 8210. However, since that time, the primary inter-dealer quotation system from which FINRA receives quotation information (as reporting agent on behalf of member firms) has become a FINRA member firm and, therefore, FINRA believes that the exception for quotations displayed on systems operated by a FINRA member no longer should apply.[28] The proposed rule would require member inter-dealer quotation systems to report each attributed quotation displayed on the system by a broker-dealer. In the event that a FINRA member displays a quotation on a non-member inter-dealer quotation system, the member must record and report to FINRA the required information regarding the quotations displayed by such member.

FINRA believes that these amendments to the quotation recording and reporting requirements would simplify and streamline the process of obtaining quotation information for regulatory purposes by directly requiring that member inter-dealer quotation systems report subscribing members' quotation information to FINRA.[29] Individual quoting members no will longer be required to report or arrange to have reported to FINRA the items of quotation information specified in the rule, unless such member is displaying a quotation on a non-member inter-dealer quotation system. The rule would continue to permit the use of a reporting agent by either a member inter-dealer quotation system or a member displaying a quotation on a non-member inter-dealer quotation system.[30]

C. Proposed Deletion of OTCBB-Related Rules

FINRA is proposing to delete the FINRA Rule 6500 Series, which governs the operation of the OTC Bulletin Board Service and cease operation of the OTCBB. FINRA previously proposed to delete the OTCBB rules and discontinue operation of the Service as part of a separate rule filing to establish a quotation consolidation facility, the ''QCF Proposal.''[31] In the QCF Proposal, FINRA stated that the level of transparency in OTC equity securities facilitated by the operation of the OTCBB has been declining significantly

[22] FINRA proposes that a member inter-dealer quotation system also must make and keep records of all grants of access including (for all subscribers) the reasons for granting such access and all denials or limitations of access and reasons (for each applicant) for denying or limiting access. A policy prohibiting or limiting access to services offered by the member inter-dealer quotation system due to non-payment by a subscriber would not be prohibited under the proposed rule.

[23] *See* 17 CFR 242.300 *et seq.*

[24] Regulation ATS's ''fair access'' requirements apply with respect to securities where the ATS's trading accounted for 5% or more of the reported average daily trading volume (ADTV) in the security. The proposal would apply the fair access standards with respect to all securities quoted on the inter-dealer quotation system (not just those meeting the minimum 5% (or other) threshold).

[25] *See* Securities Exchange Act Release No. 47587 (March 27, 2003), 68 FR 16328 (April 3, 2003). *See also NASD Notice to Members* 03–28 (June 2003).

[26] First, FINRA is proposing to expand the scope of the rule beyond quotations displayed by OTC market makers on an inter-dealer quotation system to include quotations displayed by any FINRA member, including ATSs. FINRA believes that quoting in OTC equity securities by ATSs and other members that are not OTC market makers has increased since the adoption of FINRA Rule 6431 and also believes that the rule's recording and reporting requirements should apply equally to all such quotes displayed on inter-dealer quotation systems. *See* Notice, *supra* note 3, 79 FR at 41342.

[27] Specifically, the new rule would require the following items of quotation information: (1) MPID of quoting member; (2) inter-dealer quotation system; (3) date of quotation; (4) time quotation displayed (expressed in hours, minutes, seconds and milliseconds if the reporting member's system captures time in milliseconds); (5) security name and symbol; (6) bid and bid quotation size (if applicable); (7) offer and offer quotation size (if applicable); (8) prevailing inside bid; and (9) prevailing inside offer.

[28] FINRA has continued to receive quotation information on a weekly basis following the inter-dealer quotation system becoming a FINRA member.

[29] Currently, the reporting obligation is imposed on the quoting member itself, although in practice quoting members have used the inter-dealer quotation system to which their quotation is submitted and displayed as reporting agent for purposes of meeting the FINRA Rule 6431 reporting obligation.

[30] A ''reporting agent'' is a third party that enters into any agreement with a member pursuant to which such third party agrees to fulfill such member's obligations under FINRA Rule 6431.

[31] *See* Securities Exchange Act Release No. 60999 (November 13, 2009), 74 FR 61183 (November 23, 2009) (Notice of Filing of File No. SR–FINRA–2009–077). FINRA stated that it intends to withdraw the currently pending QCF Proposal if the instant proposed rule change is approved by the Commission.

for years as other quotation venues have emerged. FINRA believes that, since the filing of the QCF Proposal on November 6, 2009, the amount of quotation information widely available to investors relying on OTCBB Best Bid or Offer (''BBO'') data has further declined and has become negligible. FINRA believes that the remaining OTCBB information being disseminated to investors is so incomplete as to be potentially misleading with respect to the current pricing in these securities.[32]

FINRA stated that it does not believe that the discontinuance of the OTCBB as an inter-dealer quotation system will have an appreciable impact on issuers, investors or member firms.[33] FINRA does not believe that the OTCBB, in its current form and with current levels of participation, furthers the goals and objectives of Section 17B of the Act[34] and, therefore, does not meet the characteristics of a system described in Section 17B of the Act regarding the widespread dissemination of reliable and accurate quotation information with respect to ''penny stocks.''[35] However, FINRA notes that, since the inception of the OTCBB, non-SRO entities have increased their participation in the collection and dissemination of quotation information in OTC equity securities, including for those OTC equity securities meeting the definition of ''penny stock,'' and have made such quotation information available to investors and market participants. Thus, FINRA believes that discontinuance of the OTCBB as an inter-dealer quotation system will not have an appreciable impact on the current level of quotation transparency for OTC equity securities.[36] In addition, FINRA noted that the proposed rule change is intended to facilitate the widespread availability of reliable and accurate quotation information through non-SRO sources.

FINRA stated that it will continue to centralize last sale transaction reporting through the FINRA OTC Reporting Facility (''ORF'') and, therefore, will continue to operate a system that collects and disseminates transaction information on, and provides widespread dissemination of reliable and accurate last sale information with respect to, OTC equity securities, including penny stocks.[37] Thus, FINRA believes that the objectives of Section 17B of the Act relating to the provision of price and volume information to investors and market participants will continue to be satisfied through FINRA's operation of the ORF.

FINRA stated that it will continue to assess the widespread availability of quotation transparency to investors and market participants through non-SRO sources on a regular basis. If the availability of quotation information to investors significantly declines, FINRA has committed to revisit and, if necessary, file a proposed rule change to establish an SRO-operated inter-dealer quotation system (or other measure) to facilitate the type of widespread quotation transparency described in Section 17B of the Act.[38]

FINRA noted that it will announce the effective date of the proposed rule change in a *Regulatory Notice* to be published no later than 60 days following Commission approval. The effective date will be no later than 180 days following Commission approval.

III. Comment Letter Received

The Commission received one comment letter.[39] The commenter stated that it strongly supports the proposal.[40] The commenter believed that the proposal would enable the efficient operation of inter-dealer quotation systems for OTC equity securities while ensuring fair and non-discriminatory access to those systems and would thereby strengthen the trading market for OTC equity securities.[41]

The commenter stated that the proposed rules governing conduct, fair access and data would provide the necessary equal access for FINRA member broker-dealers without creating unnecessary burden on the commenter's inter-dealer quotation system or other qualifying inter-dealer quotation systems.[42] The commenter believed that the proposal would enhance FINRA's oversight of quotes in OTC equity securities by applying targeted regulations to qualifying inter-dealer quotation systems.[43] The commenter supported FINRA's goal to ensure fair access to quoting, trading and market data for OTC equity securities.[44] The commenter agreed with the approach of extending fair access requirements to include policies and procedures relating to fair and consistent treatment of quotes received and welcomed the additional oversight to be provided by FINRA in this area, which the commenter believes would build investor confidence and market integrity.[45] The commenter also believed that the requirement to provide FINRA a written description of all data products would ensure a baseline of reliable, accurate information available to all investors and the proposal's minimal amendments to existing information recording and reporting requirements likewise would improve the data available to FINRA, while shifting the reporting responsibility to the qualifying inter-dealer quotation system handling the applicable quotes.[46]

The commenter stated that FINRA's discontinuing operation of the OTCBB, in conjunction with FINRA's expanded oversight of qualifying inter-dealer

[32] For example, FINRA states that of the approximately 10,000 OTC equity securities quoted over the counter on the largest inter-dealer quotation system, less than 10% of those issues also are eligible to be quoted on OTCBB. In addition, less than twelve securities out of the 10,000 OTC equity securities are quoted solely on OTCBB. Furthermore, based upon a sample of 20 days in 2013, the OTCBB only disseminated an average of 27 computed BBOs, which means that OTCBB BBO quotation information was available through NASDAQ Level 1 on less than 0.3% of the 10,000 OTC equity security symbols. *See* Notice, *supra* note 3, 79 FR at 41343.

[33] FINRA noted that, as part of the QCF proposal, no concerns were raised by commenters with respect to the portion of the QCF Proposal that would have deleted the OTCBB rules and discontinued operation of the Service.

[34] Section 17B of the Act provides, among other things, that the Commission shall facilitate the widespread dissemination of reliable and accurate last sale and quotation information with respect to penny stocks.

[35] Under Exchange Act Rule 3a51–1, ''penny stock'' is defined to, among other things, exclude securities that have a price of five dollars or more as determined either on a per transaction basis or, in the absence of a transaction, on the basis of the inside bid quotation for the security displayed on an automated quotation system that has the characteristics set forth in Section 17B(b)(2) of the Act or any other system that is designated by the Commission. *See* 17 CFR 240.3a51–1.

[36] In advance of the discontinuance of the OTCBB, FINRA has stated it will take steps to ensure a smooth transition for issuers and members. Specifically, FINRA will publicize announcements through the FINRA.org and OTCBB.com Web sites; directly contact active OTCBB market makers; notify and educate the few remaining OTCBB-only issuers; and email dually quoted issuers about the cessation of quoting on the OTCBB. *See* Notice, *supra* note 3, 79 FR at 41343. FINRA stated that it had discussed the concepts described in this proposed rule change with several of FINRA's industry advisory committees in developing its approach. FINRA represented that the committees supported the proposed amendments and did not believe that compliance with the proposal would be burdensome for firms. *Id.*

[37] FINRA members are required to report substantially all trades in OTC equity securities to ORF within 10 seconds of execution and FINRA widely disseminates this transaction information in real-time.

[38] Should FINRA determine that it is necessary to recommence the operation of a system to facilitate quotation transparency, FINRA also would revisit at that time the necessity of the proposals described herein requiring inter-dealer quotation systems to provide FINRA specified policies and procedures, written standards, quotation-related data product descriptions and related pricing information.

[39] *See supra* note 4.

[40] *See* OTC Markets Letter at 1.

[41] *See* OTC Markets Letter at 1.

[42] *See* OTC Markets Letter at 2.

[43] *See* OTC Markets Letter at 2.

[44] *See* OTC Markets Letter at 2.

[45] *See* OTC Markets Letter at 3.

[46] *See* OTC Markets Letter at 3.

quotation systems, would help eliminate investor and issuer confusion, while promoting the goals underlying Section 17B of the Act.[47] The commenter noted that much has changed over the past quarter century since the enactment of Section 17B of the Act.[48] The commenter agreed with FINRA that the OTCBB no longer fulfills the Section 17B mandate,[49] while the private sector has produced systems, such as the commenter's own inter-dealer quotation system, that meet the information needs of investors, regulators and other market participants, and are regulated by FINRA and the Commission.[50]

IV. Proceedings To Determine Whether To Approve or Disapprove SR–FINRA–2014–030

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act[51] to determine whether the proposed rule change should be approved or disapproved. Institution of such proceedings appears appropriate at this time in view of the legal and policy issues raised by the proposal. As noted above, institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, the Commission seeks and encourages interested persons to comment on the proposed rule change and provide the Commission with arguments to support the Commission's analysis whether to approve or disapprove the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,[52] the Commission is providing notice of the grounds for disapproval under consideration. In particular, Section 15A(b)(6) of the Act,[53] requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. In addition, Section 15A(b)(11) of the Act,[54] requires, among other that's, that FINRA rules include provisions governing the form and content of quotations relating to securities sold otherwise than on a national securities exchange which may be distributed or published by any member or person associated with a member, and the persons to whom such quotations may be supplied. Further, Section 17B of the Act[55] provides, among other things, that the Commission shall facilitate the widespread dissemination of reliable and accurate last sale and quotation information with respect to penny stocks.

The Commission believes FINRA's proposed rule change raises questions as to whether it is consistent with the requirements of Sections 15A(b)(6), 15A(b)(11), and 17B of the Act.

V. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the concerns identified above, as well as any others they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposed rule change is inconsistent with Sections 15A(b)(6), 15A(b)(11), and 17B or any other provision of the Act, or the rules and regulation thereunder.

Although there do not appear to be any issues relevant to approval or disapproval which would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[56]

Interested persons are invited to submit written data, views, and arguments regarding whether the proposed rule change should be disapproved by November 4, 2014. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by November 18, 2014.

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–2014–030 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2014–030. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2014–030 and should be submitted on or before November 4, 2014. Rebuttal comments should be submitted by November 18, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[57]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–24302 Filed 10–10–14; 8:45 am]

BILLING CODE 8011–01–P

[47] *See* OTC Markets Letter at 2.

[48] *See* OTC Markets Letter at 4.

[49] *See supra* notes 17–18, and accompanying text.

[50] *See* OTC Markets Letter at 5.

[51] 15 U.S.C. 78s(b)(2)(B).

[52] *Id.*

[53] 15 U.S.C. 78*o*–3(b)(6).

[54] 15 U.S.C. 78*o*–3(b)(11).

[55] 15 U.S.C. 78q–2.

[56] Section 19(b)(2) of the Act, as amended by the Securities Act Amendments of 1975, Public Law 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[57] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73314; File No. SR–BOX–2014–23]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Pilot Programs That Permit the Exchange To Have No Minimum Size Requirement for Orders Entered Into the PIP (''PIP Pilot Program'') and COPIP (''COPIP Pilot Program'') Until December 18, 2014

October 7, 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 October 3, 2014, BOX Options Exchange LLC (''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the pilot programs that permit the Exchange to have no minimum size requirement for orders entered into the PIP (''PIP Pilot Program'') and COPIP (''COPIP Pilot Program''). The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at *http://boxexchange.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to extend the PIP and COPIP Pilot Programs for two additional months. The PIP and COPIP Pilot Programs allow the Exchange to have no minimum size requirement for orders entered into the PIP [3] and the COPIP.[4] The Exchange has committed to provide certain data to the Commission during the PIP and COPIP Pilot Programs.[5] The proposed rule change retains the text of IM–7150–1 to Rule 7150 and IM–7245–1 to Rule 7245; and seeks to extend the operation of the PIP and COPIP Pilot Programs until December 18, 2014.

The Exchange notes that the PIP and COPIP Pilot Programs permit Participants to trade with their customer orders that are less than 50 contracts. In particular, any order entered into the PIP is guaranteed an execution at the end of the auction at a price at least equal to the national best bid or offer. Any order entered into the COPIP is guaranteed an execution at the end of the auction at a price at least equal to or better than the cNBBO,[6] cBBO [7] and BBO on the Complex Order Book for the Strategy at the time of commencement. In further support of this proposed rule change, the Exchange will submit to the Commission monthly a PIP Pilot Program Report and a COPIP Pilot Program Report, offering detailed data from, and analysis of, the PIP Pilot Program and COPIP Pilot Program.

The Exchange believes that, by extending the expiration of the PIP and COPIP Pilot Programs, the proposed rule change will allow for further analysis of the PIP and COPIP Pilot Programs and a determination of how the PIP and COPIP Pilot Programs shall be structured in the future.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,[8] in general, and Section 6(b)(5) of the Act,[9] in particular, in that it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism for a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes that the data demonstrates that there is sufficient investor interest and demand to extend the PIP and COPIP Pilot Programs for an additional two months. The Exchange represents that the PIP and COPIP Pilot Programs are designed to create tighter markets and ensure that each order receives the best possible price.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that, by extending the expiration of the PIP and COPIP Pilot Programs, the proposed rule change will allow for further analysis of the PIP and COPIP Pilot Programs and a determination of how the PIP and

[3] The PIP Pilot Program is currently set to expire on October 18, 2014. *See* Securities Exchange Act Release Nos. 66871 (April 27, 2012) 77 FR 26323 (May 3, 2012) (File No. 10–206, In the Matter of the Application of BOX Options Exchange LLC for Registration as a National Securities Exchange Findings, Opinion, and Order of the Commission), 67255 (June 26, 2012) 77 FR 39315 (July 2, 2013) (SR–BOX–2012–009) (Notice of Filing and Immediate Effectiveness of a Proposal To Extend a Pilot Program That Permits BOX to Have No Minimum Size Requirement for Orders Entered Into the Price Improvement Period), 69846 (June 25, 2013) 78 FR 39365 (July 1, 2013) (SR–BOX–2013–33) (Notice of Filing and Immediate Effectiveness of a Proposal To Extend a Pilot Program That Permits BOX to Have No Minimum Size Requirement for Orders Entered Into the Price Improvement Period), and 72545 (July 7, 2014) 79 FR 40182 (July 11, 2014) (SR–BOX–2014–19) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to amend Interpretive Material to Rule 7150 (Price Improvement Period ''PIP'') and Interpretive Material to Rule 7245 (Complex Order Price Improvement Period ''COPIP'').

[4] The COPIP Pilot Program is currently set to expire on October 18, 2014. *See* Securities Exchange Act Release Nos. 71148 (December 19, 2013) 78 FR 78437 (December 26, 2013) (Notice of Filing of Amendment Nos. 1 and 2 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment Nos. 1 and 2, to Permit Complex Orders to Participate in Price Improvement Periods) and 72545 (July 7, 2014) 79 FR 40182 (July 11, 2014) (SR–BOX–2014–19) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to amend Interpretive Material to Rule 7150 (Price Improvement Period ''PIP'') and Interpretive Material to Rule 7245 (Complex Order Price Improvement Period ''COPIP'').

[5] *See* supra note 3 at 26334 and note 4 at 78441.

[6] As defined in BOX Rule 7240(a)(3), the term ''cNBBO'' means the best net bid and offer price for a Complex Order Strategy based on the NBBO for the individual options components of such Strategy.

[7] As defined in BOX Rule 7240(a)(1), the term ''cBBO'' means the best net bid and offer price for a Complex Order Strategy based on the BBO on the BOX Book for the individual options components of such Strategy.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

COPIP Pilot Programs shall be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

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 [10] and Rule 19b–4(f)(6) [11] thereunder because the proposal does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) by its terms, become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.[12]

A proposed rule change filed under Rule 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) [13] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay period so the pilot programs can continue without interruption. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the pilot programs to continue uninterrupted, thereby avoiding any potential investor confusion that could result from a temporary interruption in the pilot programs. Further, the Commission notes that, because the filing was submitted for immediate effectiveness on October 3, 2014, the fact that the current rule provision does not expire until October 18, 2013 will afford interested parties the opportunity to comment on the proposal before the Exchange requires it to become operative. For these reasons, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, and designates the proposed rule change to be operative on October 18, 2014.[14]

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.[15]

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–BOX–2014–23 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–BOX–2014–23. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BOX–2014–23 and should be submitted on or before November 4, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–24303 Filed 10–10–14; 8:45 am]

BILLING CODE 8011–01–P

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6).

[12] In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[13] 17 CFR 240.19b–4(f)(6)(iii).

[14] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 15 U.S.C. 78s(b)(3)(C).

[16] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Surrender of License of Small Business Investment Company

Pursuant to the authority granted to the United States Small Business Administration (''SBA'') under Section 309 of the Small Business Investment Act of 1958, as amended and Section 107.1900 of the SBA Rules and Regulations, SBA by this notice declares null and void the license to function as a small business investment company under Small Business Investment Company License No. 03/03–0247 issued to Solutions Capital I, L.P. effective September 19, 2014.

Dated: October 2, 2014.

United States Small Business Administration.

Javier E. Saade,

Associate Administrator for Investment and Innovation.

[FR Doc. 2014–23951 Filed 10–10–14; 8:45 am]

BILLING CODE 8025–01–P

SUSQUEHANNA RIVER BASIN COMMISSION

Public Hearing

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: The Susquehanna River Basin Commission will hold a public hearing

on November 6, 2014, in Harrisburg, Pennsylvania. At this public hearing, the Commission will hear testimony on the projects listed in the Supplementary Information section of this notice. Such projects are intended to be scheduled for Commission action at its next business meeting, tentatively scheduled for December 5, 2014, which will be noticed separately. The public should take note that this public hearing will be the only opportunity to offer oral comment to the Commission for the listed projects. The deadline for the submission of written comments is November 17, 2014.

DATES: The public hearing will convene on November 6, 2014, at 2:30 p.m. The public hearing will end at 5:00 p.m. or at the conclusion of public testimony, whichever is sooner. The deadline for the submission of written comments is November 17, 2014.

ADDRESSES: The public hearing will be conducted at the Pennsylvania State Capitol, Room 8E–B, East Wing, Commonwealth Avenue, Harrisburg, Pa.

FOR FURTHER INFORMATION CONTACT: Jason Oyler, Regulatory Counsel, telephone: (717) 238–0423, ext. 1312; fax: (717) 238–2436.

Information concerning the applications for these projects is available at the SRBC Water Resource Portal at *www.srbc.net/wrp.* Materials and supporting documents are available to inspect and copy in accordance with the Commission's Access to Records Policy at *www.srbc.net/pubinfo/docs/2009-02%20Access%20to%20Records%20Policy%209-10-09.PDF.*

SUPPLEMENTARY INFORMATION: The public hearing will cover the following projects:

Projects Scheduled for Action:

1. Project Sponsor and Facility: Anadarko E&P Onshore LLC (Pine Creek), Watson Township, Lycoming County, Pa. Application for renewal of surface water withdrawal of up to 0.720 mgd (peak day) (Docket No. 20101201).

2. Project Sponsor and Facility: EQT Production Company (West Branch Susquehanna River), Greenwood Township, Clearfield County, Pa. Application for surface water withdrawal of up to 0.900 mgd (peak day).

3. Project Sponsor and Facility: Geary Enterprises (Buttermilk Creek), Falls Township, Wyoming County, Pa. Application for renewal of surface water withdrawal of up to 0.099 mgd (peak day) (Docket No. 20100907).

4. Project Sponsor and Facility: Heidelberg Township Municipal Authority, Heidelberg Township, Lebanon County, Pa. Application for renewal of groundwater withdrawal of up to 0.115 mgd (30-day average) from existing public water supply Well 5 (Docket No. 19820602).

5. Project Sponsor and Facility: IBM Corporation, Village of Owego, Tioga County, N.Y. Application for groundwater withdrawal of up to 0.002 mgd (30-day average) from Well 415.

6. Project Sponsor and Facility: Jay Township Water Authority, Jay Township, Elk County, Pa. Application for groundwater withdrawal of up to 0.265 mgd (30-day average) from Byrnedale Well #1.

7. Project Sponsor and Facility: Keister Miller Investments, LLC (West Branch Susquehanna River), Mahaffey Borough, Clearfield County, Pa. Application for surface water withdrawal of up to 2.000 mgd (peak day).

8. Project Sponsor and Facility: LHP Management, LLC (Muncy Creek), Muncy Creek Township, Lycoming County, Pa. Application for renewal of surface water withdrawal of up to 0.999 mgd (peak day) (Docket No. 20120607).

9. Project Sponsor and Facility: New Morgan Borough Utilities Authority, New Morgan Borough, Berks County, Pa. Application for groundwater withdrawal of up to 0.275 mgd (30-day average) from Well PW–1.

10. Project Sponsor and Facility: New Morgan Borough Utilities Authority, New Morgan Borough, Berks County, Pa. Application for groundwater withdrawal of up to 0.275 mgd (30-day average) from Well PW–3.

11. Project Sponsor and Facility: New Oxford Municipal Authority, Oxford Township, Adams County, Pa. Application for groundwater withdrawal of up to 0.144 mgd (30-day average) from Oxen Country Meadows Well 1.

12. Project Sponsor: Pennsylvania Department of Environmental Protection—South-central Regional Office, City of Harrisburg, Dauphin County, Pa. Facility Location: Leacock Township, Lancaster County, Pa. Application for groundwater withdrawal of up to 0.590 mgd (30-day average) from Stoltzfus Well.

13. Project Sponsor: Pennsylvania Department of Environmental Protection—South-central Regional Office, City of Harrisburg, Dauphin County, Pa. Facility Location: Leacock Township, Lancaster County, Pa. Application for groundwater withdrawal of up to 0.432 mgd (30-day average) from Township Well.

14. Project Sponsor and Facility: Somerset Regional Water Resources, LLC (Salt Lick Creek), New Milford Township, Susquehanna County, Pa. Application for renewal of surface water withdrawal of up to 0.720 mgd (peak day) (Docket No. 20100905).

15. Project Sponsor and Facility: Southwestern Energy Production Company (Susquehanna River), Eaton Township, Wyoming County, Pa. Application for surface water withdrawal of up to 2.000 mgd (peak day).

16. Project Sponsor and Facility: SWEPI LP (Cowanesque River), Nelson Township, Tioga County, Pa. Application for renewal of surface water withdrawal of up to 0.533 mgd (peak day) (Docket No. 20100604).

17. Project Sponsor and Facility: Talisman Energy USA Inc. (Seeley Creek), Wells Township, Bradford County, Pa. Application for renewal of surface water withdrawal of up to 0.750 mgd (peak day) (Docket No. 20100914).

18. Project Sponsor and Facility: Talisman Energy USA Inc. (Wyalusing Creek), Stevens Township, Bradford County, Pa. Application for renewal of surface water withdrawal of up to 2.000 mgd (peak day) (Docket No. 20100915).

19. Project Sponsor and Facility: Tenaska Resources, LLC (Cowanesque River), Westfield Township, Tioga County, Pa. Application for renewal of surface water withdrawal of up to 0.750 mgd (peak day) (Docket No. 20100910).

20. Project Sponsor and Facility: Upper Halfmoon Water Company, Halfmoon Township, Centre County, Pa. Application for groundwater withdrawal of up to 0.396 mgd (30-day average) from Well 6.

Project Scheduled for Action Involving a Diversion:

1. Project Sponsor: Seneca Resources Corporation. Project Facility: Impoundment 1, receiving groundwater from Seneca Resources Corporation Wells 5H and 6H and Clermont Wells 1, 3, and 4, Norwich Township, McKean County, Pa. Application for into-basin diversion from the Ohio River Basin of up to 1.473 mgd (peak day).

Opportunity to Appear and Comment:

Interested parties may appear at the hearing to offer comments to the Commission on any project listed above. The presiding officer reserves the right to limit oral statements in the interest of time and to otherwise control the course of the hearing. Ground rules will be posted on the Commission's Web site, *www.srbc.net,* prior to the hearing for review. The presiding officer reserves the right to modify or supplement such rules at the hearing. Written comments on any project listed above may also be mailed to Mr. Jason Oyler, Regulatory Counsel, Susquehanna River Basin Commission, 4423 North Front Street,

Harrisburg, Pa. 17110–1788, or submitted electronically through *http://www.srbc.net/pubinfo/publicparticipation.htm.* Comments mailed or electronically submitted must be received by the Commission on or before November 17, 2014, to be considered.

Authority: Pub. L. 91–575, 84 Stat. 1509 et seq., 18 CFR Parts 806, 807, and 808.

Dated: October 3, 2014.

Stephanie L. Richardson,

Secretary to the Commission.

[FR Doc. 2014–24280 Filed 10–10–14; 8:45 am]

BILLING CODE 7040–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. USTR–2014–0020]

2014 Special 301 Out-of-Cycle Review of India

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of Request for Public Comments.

SUMMARY: In the 2014 Special 301 Report, the Office of the United States Trade Representative (USTR) announced that, in order to assess progress on engagement with the Government of India on intellectual property rights (IPR) issues, an Out-of-Cycle Review (OCR) would be conducted for India. USTR requests written submissions from the public concerning information, views, acts, policies, or practices relevant to evaluating the Government of India's engagement on IPR issues of concern, in particular those identified in the 2014 Special 301 Report. The 2014 Special 301 Report is available at *www.ustr.gov.*

Deadlines:

Friday, October 31, 2014—Deadline for the public, except foreign governments, to submit written comments.

Friday, November 7, 2014—Deadline for foreign governments to submit written comments.

ADDRESSES: All written comments should be filed electronically via *www.regulations.gov,* Docket Number USTR–2014–0020, and be consistent with the requirements set forth below. Please specify ''2014 Special 301 Out-of-Cycle Review of India'' in the ''Type Comment'' field.

FOR FURTHER INFORMATION CONTACT: Susan Wilson, Director for Intellectual Property and Innovation, Office of the United States Trade Representative, at *Special301@ustr.eop.gov.* Information on the Special 301 Review is available at *www.ustr.gov.*

SUPPLEMENTARY INFORMATION:

1. Background

Section 182 of the Trade Act requires USTR to identify countries that deny adequate and effective protection of IPR or deny fair and equitable market access to U.S. persons who rely on intellectual property protection. The provisions of Section 182 are commonly referred to as the ''Special 301'' provisions of the Trade Act.

Those countries that have the most onerous or egregious acts, policies, or practices and whose acts, policies, or practices have the greatest adverse impact (actual or potential) on relevant U.S. products are to be identified as Priority Foreign Countries. In addition, USTR has created a ''Priority Watch List'' and a ''Watch List'' under Special 301 provisions. Placement of a trading partner on the Priority Watch List or Watch List indicates that particular problems exist in that country with respect to IPR protection, enforcement, or market access for persons relying on intellectual property.

In the 2014 Special 301 Report, USTR placed India on the Priority Watch List and noted that it would conduct an OCR of India focusing in particular on assessing progress made in establishing and building effective, meaningful, and constructive engagement with the Government of India on IPR issues of concern. An OCR is a tool that USTR uses to encourage progress on IPR issues of concern and can provide an opportunity for heightened engagement with a trading partner to address and remedy such issues.

2. Written Comments

a. Requirements for Written Comments

To facilitate the review, written comments should be as detailed as possible and provide information and views relevant to assessing the quality of the Government of India's engagement on IPR issues of concern, in particular those issues identified in the 2014 Special 301 Report, including ideas on how the U.S. and Indian governments can enhance bilateral engagement, recommendations regarding the focus of such engagement, as well as the quality of engagement interested parties have experienced with the Government of India on IPR issues. Comments should focus on the time period since issuance of the 2014 Special 301 Report in April. To the extent relevant, USTR requests that comments include specific references to laws, regulations, policy statements, or other measures that should factor in the review and describe engagement interested parties have had with the Government of India on IPR issues of concern.

b. Instructions for Submitting Comments

Comments must be in English. To ensure the timely receipt and consideration of comments, USTR strongly encourages commenters to submit comments electronically, using the *www.regulations.gov* Web site. To submit comments via *www.regulations.gov,* enter Docket Number USTR–2014–0020 on the home page and click ''Search.'' The site will provide a search-results page listing all documents associated with this docket. Find the reference to this notice and click on the link entitled ''Comment Now!.'' For further information on using the *www.regulations.gov* Web site, please consult the resources provided on the site by clicking on ''How to use Regulations.gov'' at the bottom of the home page under ''Help.''

The *www.regulations.gov* Web site allows users to provide comments by filling in a ''Type Comment'' field, or by attaching a document using an ''Upload File'' field. USTR prefers that comments be provided in an attached document. If a document is attached, please type ''2014 Out-of-Cycle Review of India'' in the ''Type Comment'' field. USTR prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf) format. If the submission is in another file format, please indicate the name of the software application in the ''Type Comment'' field. File names should reflect the name of the person or entity submitting the comments. Please do not attach separate cover letters to electronic submissions; rather, include any information that might appear in a cover letter in the comments themselves. Similarly, to the extent possible, please include any exhibits, annexes, or other attachments in the same file as the comment itself, rather than submitting them as separate files.

A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. In the document, confidential business information must clearly be designated as such; the submission must be marked ''BUSINESS CONFIDENTIAL'' on the cover page and each succeeding page, and the submission should clearly indicate, via brackets, highlighting, or other means, the specific information that is business

confidential. Additionally, the submitter should type ''Business Confidential 2014 Out-of-Cycle Review of India'' in the ''Type Comment'' field. Anyone submitting a comment containing business confidential information must also submit, as a separate submission, a non-business confidential version of the submission, indicating where the business confidential information has been redacted. The filenames of both documents should reflect their status—''BC'' for the business confidential version and ''P'' for the public version. The non-business confidential version will be placed in the docket at *www.regulations.gov* and be available for public inspection.

As noted, USTR strongly urges commenters to submit comments through *www.regulations.gov.* Any alternative arrangements must be made in advance of transmitting a comment and in advance of the relevant deadline by contacting USTR at *Special301@ustr.eop.gov.*

3. Inspection of Comments

Comments received will be placed in the docket and open to public inspection pursuant to 15 CFR 2006.13, except business confidential information exempt from public inspection in accordance with 15 CFR 2006.15. Comments may be viewed free of charge by visiting *www.regulations.gov* and entering Docket Number USTR–2014–0020 in the ''Search'' field on the home page.

Susan F. Wilson,

Director for Intellectual Property and Innovation.

[FR Doc. 2014–24309 Filed 10–10–14; 8:45 am]

BILLING CODE 3290–F5–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT–OST–2012–0087]

Advisory Committee for Aviation Consumer Protection

AGENCY: Office of the Secretary (OST), Department of Transportation (DOT).

ACTION: Notice of sixth meeting of advisory committee.

SUMMARY: This notice announces the sixth meeting of the Advisory Committee for Aviation Consumer Protection.

DATES: The sixth meeting of the advisory committee is scheduled for October 29, 2014, from 9:00 a.m. to 4:00 p.m., Eastern Time.

ADDRESSES: The meeting will be held in the Media Center (located on the lobby level of the West Building) at the U.S. Department of Transportation (DOT) headquarters, 1200 New Jersey Avenue SE., Washington, DC. Attendance is open to the public up to the room's capacity of 100 attendees. Since space is limited and access to the DOT headquarters building is controlled for security purposes, any member of the general public who plans to attend this meeting must notify the Department contact identified below no later than October 22, 2014.

FOR FURTHER INFORMATION CONTACT: To register to attend the meeting, please contact Amy Przybyla, Research Analyst, Centra Technology, Inc., *przybylaa@centratechnology.com;* 703–894–6910. For other information please contact Kathleen Blank Riether, Senior Attorney, Office of Aviation Enforcement and Proceedings, *kathleen.blankriether@dot.gov;* U.S. Department of Transportation, 1200 New Jersey Ave. SE., Washington, DC 20590; 202–366–9342 (phone), 202–366–5944 (fax).

SUPPLEMENTARY INFORMATION: On May 24, 2012, the Secretary, as mandated by Section 411 of the FAA Modernization and Reform Act of 2012 (Pub. L. 112–95, 126 Stat. 11 (2012)), established the Advisory Committee on Aviation Consumer Protection. The committee's charter, drafted in accordance with the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. App. 2, sets forth policies for the operation of the advisory committee and is available on the Department's Web site at *http://www.facadatabase.gov/committee/charters.aspx?cid=2448&aid=47.*

The sixth meeting of the committee is scheduled for Wednesday, October 29, 2014, from 9:00 a.m. to 4:00 p.m. Eastern Time in the Media Center at the DOT headquarters, 1200 New Jersey Avenue SE., Washington, DC 20590. At the meeting, the three issues that will be discussed are: (1) The impact of airline mergers and consolidations on consumers and the aviation industry; (2) regulating the use of mobile wireless devices for voice calls on aircraft by DOT; and (3) the impact of government-imposed taxes and fees on consumers and the aviation industry. Additionally, the DOT's Office of Aviation Enforcement and Proceedings (Enforcement Office) will provide an update on the implementation status of the committee's recommendations to the Secretary as well as an update regarding its rulemaking and enforcement activities.

As announced in the notices of previous meetings of the committee, the meeting will be open to the public, and, time permitting, comments by members of the public are invited. Attendance will necessarily be limited by the size of the meeting room (maximum 100 attendees). If interest exceeds capacity, DOT has the capability to stream the event live on the Internet. Since space is limited and access to the DOT headquarters building is controlled for security purposes, we ask that any member of the general public who plans to attend the sixth meeting notify the Department contact noted above no later than October 22, 2014.

Members of the public may present written comments at any time. The docket number referenced above (DOT–OST–2012–0087, available at *https://www.regulations.gov*) has been established for committee documents including any written comments that may be filed. At the discretion of the Chairperson and time permitting, after completion of the planned agenda, individual members of the public may provide oral comments. Any oral comments presented must be limited to the objectives of the committee and will be limited to five (5) minutes per person. Individual members of the public who wish to present oral comments must notify the Department contact noted above via email that they wish to attend and present oral comments at no later than October 22, 2014.

Persons with a disability who plan to attend the meeting and require special accommodations, such as an interpreter for the hearing impaired, should notify the Department contact noted above no later than October 22, 2014. Persons attending with a service animal should also advise us of that fact so that it can be taken into account in connection with space and possible allergy issues.

Notice of this meeting is being provided in accordance with the FACA and the General Services Administration regulations covering management of Federal advisory committees. (41 CFR Part 102–3.)

Issued in Washington, DC, on October 6, 2014.

Blane A. Workie,

Acting Assistant General Counsel for Aviation Enforcement & Proceedings, U.S. Department of Transportation.

[FR Doc. 2014–24361 Filed 10–10–14; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0111]

Hours of Service of Drivers: Application for Renewal of Illumination Fireworks, LLC and ACE Pyro LLC Exemptions From the 14-Hour Rule During Independence Day Celebrations

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for renewal of exemption; request for comments.

SUMMARY: FMCSA announces that it has received an application from Illumination Fireworks, LLC and ACE Pyro, LLC (applicants) for a renewal of their exemption from the requirement that drivers of commercial motor vehicles (CMVs) must not drive following the 14th hour after coming on duty. The applicants were granted an exemption previously for drivers of 50 CMVs during the Independence Day period of June 28, 2014–July 8, 2014. The exemption would apply solely to the operation of drivers of 50 CMVs employed by the applicants in conjunction with staging fireworks shows celebrating Independence Day during the period of June 28–July 8, 2015. During this period, the CMV drivers employed by the applicants would be allowed to exclude off-duty and sleeper-berth time of any length from the calculation of the 14 hours. These drivers would not be allowed to drive after accumulating a total of 14 hours of on-duty time, following 10 consecutive hours off duty, and would continue to be subject to the 11-hour driving time limit, and the 60- and 70-hour on-duty limits. The applicants maintain that the terms and conditions of the limited exemption would ensure a level of safety equivalent to or greater than the level of safety achieved without the exemption.

DATES: If granted, this exemption would be effective during the period of June 28, 2015, through July 8, 2015. The exemption would expire on July 8, 2015, at 11:59 p.m. Comments must be received on or before November 13, 2014.

DATES: Comments must be received on or before November 13, 2014.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–2014–0111 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *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 *www.regulations.gov* at any time or visit 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., ET, Monday through Friday, except Federal holidays. The online Federal document management system 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 acknowledgment 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 DOT's Privacy Act Statement for the Federal Docket Management System published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf.*

FOR FURTHER INFORMATION CONTACT: For information concerning this notice contact Ms. Pearlie Robinson, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 202–366–4325. Email: *MCPSD@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Background

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to or greater than the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption and the regulatory provision from which the exemption is granted. The notice must also specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

Application for Exemptions

The hours-of-service (HOS) rule in 49 CFR 395.3(a)(2) prohibits a property-carrying CMV driver from driving a CMV after the 14th hour after coming on duty following 10 consecutive hours off duty. The applicants represent two fireworks display companies that were granted exemptions previously during the Independence Day period of June 28–July 8, 2014. The applicants' initial exemption application for relief from the 14-hour rule was submitted in 2014; a copy of the application is in the docket identified at the beginning of this notice. That 2014 application describes fully the nature of the operations of the CMV drivers employed by the applicant during a typical Independence Day period.

As stated in the applicants' request, CMV drivers employed by the applicant hold commercial driver's licenses (CDL) with hazardous materials endorsements to transport Division 1.3G and 1.4G fireworks in conjunction with the setup of firework shows for Independence Day. The applicants state that they seek HOS exemptions for the 2015 Independence Day period because compliance with the 14-hour rule would impose economic hardship on cities, municipalities, and themselves. Complying with the existing regulation means that most shows would require two drivers, significantly increasing the cost of the fireworks display.

The applicants assert that without the extra duty-period provided by the exemption, safety would decline as firework drivers would be unable to return to their home base following each show should they have fireworks remaining after the display. They would be forced to park the CMVs carrying Division 1.3G and 1.4G products in areas less secure than the motor carrier's home base.

Method To Ensure an Equivalent or Greater Level of Safety

As a condition for maintaining the exemption, each motor carrier would be required to notify FMCSA within 5 business days of any crash (as defined in 49 CFR 390.5) involving the operation of any CMVs under this exemption. The applicants advise they have never been involved in a crash.

In the exemption request, the applicants assert that the operational demands of this unique industry minimize the risks of CMV crashes. In the last few days before the Independence Day holiday, these drivers transport fireworks over relatively short routes from distribution points to the site of the fireworks display and normally do so in the early morning when traffic is light. The applicants noted that during the 2014 Independence Day season, the farthest Illumination Fireworks traveled from its home base was 150 miles. At the site, they spend considerable time installing, wiring, and checking the safety of fireworks displays, followed by several hours of duty in the late afternoon and early evening prior to the event. Before beginning another duty day, these drivers must take 10 consecutive hours off duty, the same as other CMV drivers.

Terms and Conditions of the Exemption

Period of the Exemption

The requested exemption from the requirements of 49 CFR 395.3(a)(2) are proposed to be effective during the period of June 28 through July 8, 2015, inclusive. The exemption would expire on July 8, 2015, at 11:59 p.m. local time.

Extent of the Exemption

The exemption would be restricted to the 50 drivers employed by the applicants. The drivers would be given a limited exemption from the requirements of 49 CFR 395.3(a)(2). This regulation prohibits a driver from driving a CMV after the 14th hour after coming on duty and does not permit off-duty periods to extend the 14-hour limit. Drivers covered by the exemption may exclude off-duty and sleeper-berth time of any length from the calculation of the 14-hour limit. The exemption would be contingent on each driver driving no more than 11 hours in the 14-hour period after coming on duty as extended by any off-duty or sleeper-berth time in accordance with this exemption. The exemption would be further contingent on each driver having a minimum of 10 consecutive hours off duty prior to beginning a new duty period. The carriers and drivers must comply with all other applicable requirements of the Federal Motor Carrier Safety Regulations (49 CFR parts 350–399) and Hazardous Materials Regulations (49 CFR parts 105–180).

Other Conditions

The exemption would be contingent upon each carrier maintaining USDOT registration, a Hazardous Materials Safety Permit (if required), minimum levels of public liability insurance, and not being subject to any ''imminent hazard'' or other out-of-service (OOS) order issued by FMCSA. Each driver covered by the exemption must maintain a valid CDL with the required endorsements, not be subject to any OOS order or suspension of driving privileges, and meet all physical qualifications required by 49 CFR part 391.

Preemption

During the periods the exemption would be in effect, no State may enforce any law or regulation that conflicts with or is inconsistent with the exemption with respect to a person or entity operating under the exemption (49 U.S.C. 31315(d)).

FMCSA Accident Notification

Exempt motor carriers would be required to notify FMCSA within 5 business days of any accident (as defined by 49 CFR 390.5) involving the operation of any of its CMVs while under this exemption. The notification must include the following information:

- Date of the accident,
- City or town, and State, in which the accident occurred, or which is closest to the scene of the accident,
- Driver's name and driver's license number;
- Vehicle number and State license number;
- Number of individuals suffering physical injury;
- Number of fatalities;
- The police-reported cause of the accident;
- Whether the driver was cited for violation of any traffic laws, or motor carrier safety regulations; and
- The total driving time and the total on-duty time of the CMV driver at the time of the accident.

Accidents must be reported via email to *MCPSD@DOT.GOV.*

Termination

FMCSA does not believe the two motor carriers and 50 drivers covered by the exemption will experience any deterioration of their safety record. However, should this occur, FMCSA will take all steps necessary to protect the public interest, including revocation of the exemption. The FMCSA will immediately revoke the exemption for failure to comply with its terms and conditions.

Issued on: October 1, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–24287 Filed 10–10–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Notice of Meeting of the Transit Advisory Committee for Safety (TRACS)

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

ACTION: Notice of meeting.

SUMMARY: This notice announces a public meeting of the Transit Advisory Committee for Safety (TRACS). TRACS is a Federal Advisory Committee established by the Secretary of Transportation in accordance with the Federal Advisory Committee Act to provide information, advice, and recommendations to the Secretary of the U.S. Department of Transportation and the Federal Transit Administrator on matters relating to the safety of public transportation systems.

DATES: The TRACS meeting will be held on October 28, 2014, from 8:30 a.m. to 5 p.m., and October 29, 2014, from 8:30 a.m. to 5 p.m. Contact Esther White (see contact information below) by October 17, if you wish to be added to the visitor's list to gain access to the U.S. Department of Transportation conference center.

ADDRESSES: The meeting will be held at the U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590, Oklahoma City Room. Attendees who are on the visitor's list can access the building by presenting a current state issued driver's license or state non-driver's license, or any valid Federal identification (ID). All identification must be a picture ID. Although this meeting is open to the public, the meeting facility is in a secure building. Attendees who have not pre-

registered with FTA must be cleared by FTA personnel on site.

SUPPLEMENTARY INFORMATION: This notice is provided in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App. 2). TRACS is a Federal Advisory Committee established to provide information, advice, and recommendations to the Secretary of the U.S. Department of Transportation and the Administrator of the Federal Transit Administration on matters relating to the safety of public transportation systems. TRACS is currently composed of 28 members representing a broad base of expertise necessary to discharge its responsibilities. The first meeting of TRACS was held on September 9–10, 2010. For information on TRACS activities, please visit the TRACS Web site at: *http://www.fta.dot.gov/13099.html.*

The TRACS members are:

Samir A. Ahmed, Oklahoma State University School of Civil & Environmental Engineering
William Bates, United Transportation Union
Bernadette Bridges, Maryland Transit Administration
Jeffrey C. Carlson, VIA Mobility Services
James Dougherty, Washington Metropolitan Area Transportation Authority
David Genova, Regional Transportation District (Denver)
William Grizard, American Public Transportation Association
David Harris, New Mexico Department of Transportation
Susan Hausmann, Texas Department of Transportation
Georgina Heard-Leone, Illinois Department of Transportation
Rick Inclima, Brotherhood of Maintenance of Way Employees Division
Jackie Jeter, Amalgamated Transit Union, Local 689
Timothy H. Kelly, Metropolitan Transit Authority of Harris County
Cheryl Kennedy, New York City Transit Authority
Vijay Khatami, Los Angeles County Metropolitan Transportation Authority
Paul King, California Public Utilities Commission
Richard Krisak, Metropolitan Atlanta Rapid Transit Authority
Tamara Lesh, Southeastern Pennsylvania Transportation Authority
Rad Nichols, Cooperative Alliance for Seacoast Transportation
Ronald W. Nickle, Massachusetts Bay Transportation Authority
Alvin Pearson, Memphis Area Transit Authority
Karen Philbrick, Mineta Transportation Institute
Harry Saporta, Tri-County Metropolitan Transportation District of Oregon
Scott A. Sauer, Southeastern Pennsylvania Transportation Authority
Nagal Shashidhara, New Jersey Transit
Brian Sherlock, Amalgamated Transit Union
Ed Watt, Amalgamated Transit Union
Victor B. Wiley, Florida Department of Transportation

The agenda for the seventh meeting of TRACS is set forth below:

Agenda

(1) Welcome Remarks/Introductions
(2) Facility Use/Safety Briefing
(3) Recap of TRACS Activities
(4) Future TRACS Activities/Deliverables
(5) Public Comments
(6) Wrap Up

This meeting will be open to the public; however, the U.S. Department of Transportation is a secured facility and persons wishing to attend must contact Esther White, Office of Transit Safety and Oversight, Federal Transit Administration, (202) 366–0198; or at *TRACS@dot.gov* by close of business October 17, 2014, to have your name added to the security list. Members of the public, who wish to make an oral statement at the meeting or seek special accommodations, are also directed to make a request to Esther White, Office of Transit Safety and Oversight, Federal Transit Administration (202) 366–0198; at *TRACS@dot.gov* on or before the close of business October 17, 2014. Members of the public may submit written comments or suggestions concerning the activities of TRACS, at any time before or after the meeting, at *TRACS@dot.gov,* or to the U.S. Department of Transportation, Federal Transit Administration, Office of Transit Safety and Oversight, Room E46–107, 1200 New Jersey Avenue SE, Washington, DC 20590. Attention: Esther White. Information from the meeting will be posted on FTA's public Web site at *http://www.fta.dot.gov/13099.html* on the TRACS Meeting Minutes page. Written comments submitted to TRACS will also be posted at the above web address.

Therese W. McMillan,

Acting Administrator.

[FR Doc. 2014–24363 Filed 10–10–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Agency Information Collection Activities; Proposals, Submissions, and Approvals

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Determination of Substitute Agent for a Consolidated Group.

DATES: Written comments should be received on or before December 15, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments to Christie Preston, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this revenue procedure should be directed to Martha R. Brinson, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Martha.R.Brinson@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Determination of Substitute Agent for a Consolidated Group.

OMB Number: 1545–1793.

Revenue Procedure Number: Rev. Proc. 2002–43.

Abstract: Revenue Procedure 2002–43 provides any instructions that apply to any designation of a substitute agent, notification of the existence of a default substitute agent, a request for the designation of a substitute agent, and request for replacement of a previously designated substitute agent. The instructions also provide for the automatic approval of requests by a terminating common parent to designate its qualifying successor as a substitute agent.

Current Actions: There are no changes being made to this revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 200.

Estimated Average Time per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 400.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 6, 2014.

Christie Preston,

IRS Reports Clearance Officer.

[FR Doc. 2014–24400 Filed 10–10–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0620]

Proposed Information Collection (Payment/Reimbursement for Emergency Services for Nonservice-Connected Conditions in Non-VA Facilities); Comment Request

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Health Administration (VHA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each revised collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed for Veterans, Veteran Representatives and health care providers to request reimbursement from the federal government for emergency services at a private institution.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before December 15, 2014.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov;* or Audrey Revere, Office of Regulatory and Administrative Affairs, Veterans Health Administration (10B4), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email: *Audrey.revere@va.gov.* Please refer to ''OMB Control No. 2900–0620'' in any correspondence. During the comment period, comments may be viewed online through the FDMS.

FOR FURTHER INFORMATION CONTACT: Audrey Revere at (202) 461–5694.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA'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 respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Titles: Payment/Reimbursement for Emergency Services for Nonservice-Connected Conditions in Non-VA Facilities.

OMB Control Number: 2900–0620.

Type of Review: Revision.

Abstract: 38 U.S.C. Chapter 17 authorizes VA to provide hospital care, medical services, domiciliary care and nursing home care to eligible veterans. Public Law 106–117 ''The Veterans Millennium Health Care and Benefits Act'' amended 38 U.S.C. by adding § 1725 establishing reimbursement authority for an individual who is an active Department health-care participant who is personally liable for emergency treatment furnished in a non-Department facility provided that the veteran fit the limitations outlined in the statute.

Affected Public: Private Sector.

Estimated Annual Burden: 115,298 burden hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: Annually.

Estimated Number of Respondents: 461,188.

Dated: October 2, 2014.

By direction of the Secretary.

Crystal Rennie,

Department Clearance Officer, Department of Veterans Affairs.

[FR Doc. 2014–24276 Filed 10–10–14; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0519]

Proposed Information Collection (VA Locality Pay for Nurses and Other Health Care Personnel, VA Form 10–0132) Activity: Comment Request

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Health Administration (VHA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revised collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to obtain an accurate and comprehensive assessment of satisfaction of patients who receive mental health care services and on outcomes for Veterans who seek mental health treatment from VHA. Data will allow the program office to ensure that the target audience is being reached, effective treatments are being offered, and tangible, quantitative results are being measured and tracked for continual program improvement.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before December 15, 2014.

ADDRESSES: Submit written comments on the collection of information through the Federal Docket Management System (FDMS) at *www.Regulations.gov;* or to Audrey Revere, Office of Regulatory and Administrative Affairs, Veterans Health Administration (10B4), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email: *Audrey.revere@va.gov.* Please refer to ''OMB Control No. 2900–0519'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Audrey Revere at (202) 461–5694.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA'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 respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Locality Pay for Nurses and Other Health Care Professionals, VA Form 10–0132.

OMB Control Number: 2900–0519.

Type of Review: Revision.

Abstract: The collection of this information is necessary to comply with the provisions of Public Law 101–366 (Department of Veterans Affairs (VA) Nurse Pay Act of 1990) as amended by 106–419 (Veterans Benefits and Health Care Improvement Act of 2000), which specifically provides for a locality pay system for certain health care personnel within VA. Rates of pay are established by VA medical facility Directors based on rates of compensation for corresponding positions in the local labor market. The law requires that where available, data from the Bureau of Labor Statistics or other third party industry surveys will be used in determining the beginning rates of compensation. However, VA medical facility Directors may conduct a salary survey in an attempt to collect comparable survey data in order to implement and adjust rates for registered nurses, nurse anesthetists, and other health care personnel when other data sources are not available.

Affected Public: Individuals or Households.

Estimated Total Annual Burden: 67 hours.

Estimated Average Burden per Respondent: 1.5 minutes.

Frequency of Response: Yearly.

Estimated Number of Respondents: 90.

Dated: October 7, 2014.

By direction of the Secretary.

Crystal Rennie,

Department Clearance Officer, U.S. Department of Veterans Affairs.

[FR Doc. 2014–24279 Filed 10–10–14; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Minority Veterans, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Public Law 92–463 (Federal Advisory Committee Act) that the Advisory Committee on Minority Veterans will meet on October 28–30, 2014, at the Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC. On October 28–29, the sessions will be in room 230 from 8:00 a.m. until 5:00 p.m. and on October 30 in room 230 from 8:00 a.m. until 1:00 p.m. This meeting is open to the public.

The purposes of the Committee are to: advise the Secretary on the administration of VA benefits and services to minority Veterans; assess the needs of minority Veterans; and evaluate whether VA compensation, medical and rehabilitation services, outreach, and other programs are meeting those needs. The Committee makes recommendations to the Secretary regarding such activities.

On October 28, the Committee will receive briefings and updates from the Center for Minority Veterans, Mental Health Services, Office of Health Equity, Office of Rural Health, Office of Tribal Government Relations (OTGR), Legislative Affairs Service, and Veterans Benefits Administration. On October 29, the Committee will receive briefings and updates on the National Cemetery Administration (NCA), Veteran Employment Services Office, Office of Diversity and Inclusion, Office of Policy and Planning, Veterans Health Administration (VHA), and Homeless Programs. On October 30, the Committee will receive a briefing and update on Vet Centers, Ex-Officios Update and hold an exit briefing with VBA, VHA and NCA. The Committee will receive public comments from 10:00 a.m. to 10:15 a.m. After public comments, the Committee will continue to work on their report.

A sign-in sheet for those who want to give comments will be available at the meeting. Individuals who speak are invited to submit a 1–2 page summaries of their comments at the time of the meeting for inclusion in the official meeting record. Members of the public may also submit written statements for the Committee's review to Ms. Juanita Mullen or Mr. Guillermo Muguerza Lopez, Department of Veterans Affairs, Center for Minority Veterans (00M), 810 Vermont Avenue NW., Washington, DC 20420, or email at *Juanita.mullen@va.gov* or *Guillermo.Muguerzalopez@va.gov.* Because the meeting will be in a Government building, anyone attending must be prepared to show a valid photo ID for checking in. Please allow 15 minutes before the meeting begins for this process. Any member of the public wishing to attend or seeking additional information should contact Ms. Mullen or Mr. Muguerza Lopez at (202) 461–6191 or by fax at (202) 273–7092.

Dated: October 7, 2014.

Jelessa Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2014–24285 Filed 10–10–14; 8:45 am]

BILLING CODE P

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Part II

Department of Energy

10 CFR Parts 433 and 435

Fossil Fuel-Generated Energy Consumption Reduction for New Federal Buildings and Major Renovations of Federal Buildings; Proposed Rule

DEPARTMENT OF ENERGY

10 CFR Parts 433 and 435

[Docket No. EERE–2010–BT–STD–0031]

RIN 1904–AB96

Fossil Fuel-Generated Energy Consumption Reduction for New Federal Buildings and Major Renovations of Federal Buildings

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

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The Energy Conservation and Production Act (ECPA), as amended by the Energy Independence and Security Act of 2007, requires DOE to establish revised performance standards for the construction of new Federal buildings, including commercial buildings, multi-family high-rise residential buildings and low-rise residential buildings. On October 15, 2010, DOE issued a Notice of Proposed Rulemaking (NOPR) to establish regulations implementing the fossil fuel-generated energy provisions of the ECPA performance standards for Federal buildings. In response to the NOPR, DOE received a number of comments expressing concern and encouraging DOE to re-examine the proposed regulations. In response to these comments, DOE has identified additional areas for clarification and consideration that would benefit from further public comment. In this supplemental notice of proposed rulemaking (SNOPR), DOE responds to the comments received on the NOPR and identifies and seeks comment on additional approaches to the scope of the requirements in the context of major renovations, the potential use of renewable energy certificates for compliance, and a streamlined process for agencies to seek a downward adjustment from the required reduction levels, particularly for major renovations.

DATES: Public comments on this supplemental proposed rule will be accepted until December 15, 2014.

ADDRESSES: This rulemaking can be identified by docket number EERE–2010–BT–STD–0031 and/or RIN number 1904–AB96.

Docket: The docket is available for review at *http://www.regulations.gov* including **Federal Register** Notices, public meeting attendee lists, transcripts, comments and other supporting documents/materials. All documents in the docket are listed in the *http://www.regulations.gov* index.

You may submit comments, identified by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: FossilFuelReduct-2010-STD-0031@ee.doe.gov.* Include EERE–2010–BT–STD–0031 and/or RIN 1904–AB96 in the subject line of the message.
- *Postal Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, Fossil Fuel-Generated Energy Consumption Reduction for New Federal Buildings and Major Renovations of Federal Buildings, EERE–2010–BT–STD–0031 and/or RIN 1904–AB96, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–9138. Please submit one signed paper original. Due to the potential delays in DOE's receipt and processing of mail sent through the U.S. Postal Service, DOE encourages respondents to submit comments electronically to ensure timely receipt.
- *Hand Delivery/Courier:* Brenda Edwards, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121.

Instructions: All submissions must include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking.

Docket: For access to the docket to read background documents or comments received by DOE, go to the U.S. Department of Energy, Forrestal Building, Room 5E–080 (Resource Room of the Federal Energy Management Program), 1000 Independence Avenue SW., Washington, DC, (202) 586–9127, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Please call Brenda Edwards at (202) 586–2945 for additional information regarding visiting the Resource Room.

FOR FURTHER INFORMATION CONTACT: For technical issues, contact Sarah Jensen, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–5F, 1000 Independence Avenue SW., Washington, DC 20585–0121, (202) 287–6033, email: *Sarah.Jensen@ee.doe.gov.* For legal issues, contact Ami Grace-Tardy, U.S. Department of Energy, Office of the General Counsel, Forrestal Building, GC–71, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–5709, email: *Ami.Grace-Tardy@hq.doe.gov.*

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I. Introduction

A. Authority

Section 305 of the Energy Conservation and Production Act (ECPA) established energy conservation requirements for Federal buildings. (42 U.S.C. 6834) Section 433(a) of the Energy Independence and Security Act of 2007 (Pub. L. 110–140) (EISA 2007) amended section 305 of ECPA and directed DOE to establish regulations that require fossil fuel-generated energy

consumption reductions for certain new Federal buildings and Federal buildings undergoing major renovations. (42 U.S.C. 6834(a)(3)(D)(i)) The fossil-fuel generated energy consumption reductions only apply to Federal buildings that: (1) Are ''public buildings'' (as defined in 40 U.S.C. 3301) [1] with respect to which the Administrator of General Services is required to transmit a prospectus to Congress under 40 U.S.C. 3307;[2] or (2) those that cost at least $2,500,000 in costs adjusted annually for inflation. (42 U.S.C. 6834(a)(3)(D)(i))

For these buildings, Section 305 of ECPA, as amended by EISA 2007, mandates that the buildings be designed so that a building's fossil fuel-generated energy consumption is reduced as compared with such energy consumption by a similar building in fiscal year 2003 (as measured by Commercial Buildings Energy Consumption Survey or Residential Energy Consumption Survey data from the DOE's Energy Information Administration) by 55 percent beginning in fiscal year 2010, 65 percent beginning in fiscal year 2015, 80 percent beginning in fiscal year 2020, 90 percent beginning in fiscal year 2025, and 100 percent beginning in fiscal year 2030. (42 U.S.C. 6834(a)(3)(D)(i)(I))

In addition, upon petition by an agency subject to the statutory requirements, ECPA, as amended by EISA 2007, permits DOE to adjust the applicable numeric reduction requirement downward with respect to a specific building, if the head of the agency designing the building certifies in writing that meeting such requirement would be technically impracticable in light of the agency's specified functional needs for that building and DOE concurs with the agency's conclusion. (42 U.S.C. 6834(a)(3)(D)(i)(II)) Such an adjustment does not apply to GSA. (42 U.S.C. 6834(a)(3)(D)(i)(II)) (In the remainder of today's rulemaking, all references to ECPA refer to the statute as amended through EISA 2007.)

B. Background

This supplemental notice of proposed rulemaking amends certain portions of 10 CFR parts 433 and 435, the regulations governing energy efficiency in Federal buildings. The Notice of Proposed Rulemaking (NOPR) was published on October 15, 2010. 75 FR 63404. The public meeting was held on November 12, 2010, and public comments were accepted through December 14, 2010. DOE received a number of comments expressing concern and encouraging DOE to re-examine the proposed regulations.[3] In response to these comments, DOE has identified additional areas for clarification and consideration that would benefit from further public comment. In this SNOPR, DOE responds to the comments received on the NOPR and identifies and seeks comment on additional approaches to the scope of the requirements in the context of major renovations, the potential use of renewable energy certificates for compliance, and a more streamlined process for agencies to seek a downward adjustment from the reduction levels.

DOE is in the process of addressing other requirements for Federal buildings mandated in ECPA, as amended by section 433 of EISA. DOE published a proposed rule on sustainable design standards for new Federal buildings and major renovations on May 28, 2010 (75 FR 29933) (the ''Sustainable Design NOPR''), which also proposed to amend certain portions of 10 CFR parts 433 and 435. (Docket No. EE–RM/STD–02–112, RIN 1904–AC13) Elsewhere in this issue of the **Federal Register**, the green building certification portion of the Sustainable Design NOPR is published as a final rule.

DOE received a number of comments on the scope of the EISA 2007 amendments both in the context of this rulemaking and in response to the Sustainable Design NOPR. DOE addresses both sets of comments in today's rulemaking.

II. Summary of the Proposed Rule

This SNOPR addresses requirements for new construction and major renovations of Federal commercial and high-rise residential buildings, as well as Federal low-rise residential buildings. The following is an overview of each section of today's SNOPR, including any relevant changes from the proposal as provided in the October 15, 2010 NOPR. (75 FR 63404; ''2010 Proposed Rule'')

A. Regulatory Scheme

In this SNOPR, DOE is proposing to address the contents of Subpart B of both 10 CFR parts 433 and 435—the fossil fuel-generated energy consumption requirements.

In addition, this rule proposes to amend the term ''life-cycle cost-effective'' to tie the definition of life-cycle cost-effectiveness closer to the four life cycle cost methodologies set out in subpart A of 10 CFR part 436.

B. Overall Basis for the Rulemaking

The underlying requirements for this rulemaking are based on the requirements in Section 433 of EISA 2007. The statute requires that covered Federal buildings be designed so that the fossil fuel-generated energy consumption of the buildings is reduced, as compared with such energy consumption by a similar building in fiscal year 2003 (as measured by Commercial Buildings Energy Consumption Survey or Residential Energy Consumption Survey data from DOE's Energy Information Administration), by the percentage specified in the following table:

FISCAL YEAR PERCENTAGE REDUCTION

2010	55
2015	65
2020	80
2025	90
2030	100

As discussed later in this document, DOE believes that the current energy efficiency requirements applicable to the design of new Federal buildings, when compared to the energy efficiency of the baseline buildings, would result in a substantial level of compliance with

[1] Under 40 U.S.C. 3301(5), ''public building'' is a building, whether for single or multitenant occupancy, and its grounds, approaches, and appurtenances, which is generally suitable for use as office or storage space or both by one or more Federal agencies or mixed-ownership Government corporations.

''Public building'' includes Federal office buildings, post offices, customhouses, courthouses, appraisers stores, border inspection facilities, warehouses, record centers, relocation facilities, telecommuting centers, similar Federal facilities, and any other buildings or construction projects the inclusion of which the President considers to be justified in the public interest.

The definition does not include a building or construction project that is on the public domain (including that reserved for national forests and other purposes); that is on property of the Government in foreign countries; that is on Indian and native Eskimo property held in trust by the Government; that is on land used in connection with Federal programs for agricultural, recreational, and conservation purposes, including research in connection with the programs; that is on or used in connection with river, harbor, flood control, reclamation or power projects, for chemical manufacturing or development projects, or for nuclear production, research, or development projects; that is on or used in connection with housing and residential projects; that is on military installations (including any fort, camp, post, naval training station, airfield, proving ground, military supply depot, military school, or any similar facility of the Department of Defense); that is on installations of the Department of Veterans Affairs used for hospital or domiciliary purposes; or the exclusion of which the President considers to be justified in the public interest.

[2] 40 U.S.C. 3307 describes the minimum construction, alteration and lease costs that would trigger a prospectus to Congress.

[3] Complete contents of the docket folder may be found at *http://www.regulations.gov/#!docketDetail;D=EERE-2010-BT-STD-0031.*

the 55 percent and 65 percent reduction levels.

C. Covered Buildings

The proposed rule would apply to certain new Federal buildings, and major renovations to Federal buildings, as specified in section 433 of EISA 2007. By statute, the term ''Federal building'' means any building to be constructed by, or for the use of, any Federal agency, including buildings built for the purpose of being leased by a Federal agency, and privatized military housing. (42 U.S.C. 6832(6))

This proposed rule only would apply to new Federal buildings and major renovations to Federal buildings covered by EISA 2007. Federal buildings covered by EISA 2007 include new Federal buildings, or major renovations to Federal buildings, that are also: (1) Public buildings, as defined in 40 U.S.C. 3301 for which a transmittal of a prospectus to Congress is required under 40 U.S.C. 3307; or (2) Federal buildings for which the construction cost or major renovation cost is at least $2,500,000 (2007 dollars, adjusted for inflation). This subset of buildings and major renovations will be referred to as EISA-covered buildings in this SNOPR.

D. Definitions

This rulemaking contains definitions for ''combined heat and power (CHP) system,'' ''district energy system,'' ''fiscal year,'' ''major renovation,'' ''power purchase agreement (PPA),'' ''proposed building,'' and ''renewable energy certificate.''

This rulemaking also proposes to define 16 categories of commercial buildings and one category of multi-family high-rise residential buildings in 10 CFR part 433 and one category of low-rise residential buildings in 10 CFR part 435. The 16 categories of commercial buildings proposed are education, food sales, food service, health care (inpatient), health care (outpatient), laboratory, lodging, mercantile (enclosed and strip shopping malls), office, public assembly, public order and safety, religious worship, retail (other than mall), service, and warehouse and storage. Many of these commercial building categories are further divided into building types. The single category of low-rise residential buildings is divided into five building/activity types: manufactured homes, multi-family in 2–4 unit buildings, multi-family in 5 or more unit buildings, single-family attached, and single-family detached. These building categories and building types represent the high-level principal building activity and low-level principle building activity categories in the 2003 Commercial Building Energy Consumption Survey (CBECS).[4]

E. Fossil Fuel-Generated Energy Consumption Requirements

For buildings for which design for construction begins in the fiscal years 2013 to 2029, tables of the proposed maximum allowable fossil fuel-generated energy consumption by building type and climate zone are provided. The proposed values in the tables come from DOE's Energy Information Administration (EIA) CBECS (for commercial buildings) and RECS (for multi-family high-rise and low-rise residential buildings), both of which are converted from site energy consumption to source energy consumption. The building types in the tables in Appendix A to this proposed rule are subsets of the building categories discussed above.

The CBECS and RECS data was parsed into the 16 climate zones used in the current Federal baseline standards for commercial and multi-family high-rise residential buildings, which rely on ANSI/ASHRAE/IESNA Standard 90.1.

For buildings that combine two or more building types, area-weighted averaging by square footage for each building type would be used to calculate the maximum allowable fossil fuel-generated energy consumption of the combined building. For building types dominated by process loads, as defined in 10 CFR 433.2, and that are not listed in CBECS, the regulations would require the use of the CBECS building type that most closely matches the building without the process load and then accounting for the process load in the calculation. For these buildings, process loads would be accounted for, but are not subject to the percentage reductions in fossil fuel-generated energy consumption required for the building related loads.

For major renovations that are less than whole building renovations (system or component level retrofits) DOE is proposing that the maximum allowable fossil fuel-generated energy consumption in fiscal years 2013 through 2029 be based on a percentage of the whole building energy consumption represented by the renovated system or component.

For buildings for which design for construction begins in fiscal year 2030 or beyond, the fossil fuel-generated energy consumption of the building would be required to be zero for all building types and climate zones, based on the calculation established in the regulations.

F. Fossil Fuel-Generated Energy Consumption Determination

To determine compliance with the fossil fuel reductions, agencies would be required to estimate the fossil fuel-generated energy consumption of their proposed building design and compare that estimate to the allowable fiscal year percentage reduction target. DOE has proposed a calculation to make this estimated fossil fuel-generated energy consumption for the proposed building.

Fundamentally, the calculation would add the fossil fuel component of the electricity used by the building to the direct fossil fuels used by the building. To calculate the fossil fuel component of the electricity used by the building, agencies would be required to first estimate the amount of electricity used by the building in accordance with the Performance Rating Method in Appendix G of ASHRAE Standard 90.1–2010. Any electricity produced from a renewable energy or CHP system would not count towards the site electricity consumption in the baseline or the current calculated level. This figure would then be multiplied by the fossil fuel generation factor (calculated at 0.71 for the 2003 base year and also for 2012, the latest year of data available from EIA) to account for the percentage of electricity in the U.S. that is generated from fossil fuel.[5] FEMP will publish updates to the fossil fuel generation factor annually on the FEMP Web site[6] so that agencies can use the most recent value in their calculations. The adjusted site electricity estimate would then be converted to source electricity by dividing it by the national average electricity source energy factor of 0.316 to account for fuel conversion and transmission and distribution losses. To this would be added the direct fossil fuel consumption for fuels other than electricity, adjusted for distribution and other losses that occur between delivery to the fuel provider and final delivery to

[4] The CBECS principle building types and subcategories are described at *http://www.eia.gov/consumption/commercial/building-type-definitions.cfm*. This rulemaking is based on the subcategories shown in this link.

[5] The fossil fuel generation factor of 0.71 is derived from Table 3.2.A of the Energy Information Administration (EIA) 2012 Electric Power Annual Report (*http://www.eia.gov/electricity/annual/html/epa_03_02_a.html*). Specifically, the number is developed by summing the annual electricity produced by coal, petroleum liquids, petroleum coke, natural gas, and other gas and then dividing the sum by the total electricity produced. 0.71 is the value of this factor in 2003 and in 2012, but the value has changed over time and is expected to vary in the future as new sources of renewable energy come online.

[6] *http://energy.gov/eere/femp/federal-energy-management-program*.

the site with the other fuels source energy multiplier. The other fuels energy source multiplier would not include losses associated with the production, harvesting, refining, or transportation of bulk fuels. The result would then be divided by the floor area of the building and converted to thousands of British thermal units per square foot (kBtu/sq.ft.).

For major renovations that are less than whole building renovations (system or component level retrofits) DOE proposes to base the subject fossil fuel-generated energy consumption on the system or component as retrofitted.

Electricity produced from renewable energy would qualify as a deduction to the extent that it represents new electric generating capacity or a new renewable energy obligation on the part of the agency, and not a reassignment of existing capacity or obligations. The regulations would establish criteria for on-site renewable electricity generation and off-site renewable electricity generation (including generation represented by Renewable Energy Certificates) to help clarify these terms and the limits on how this generation may be used as a deduction from the proposed building electricity consumption. DOE has also proposed a clarification as to how electricity associated with district heating or cooling systems, district chilled water, and CHP systems would be treated.

G. Petitions for Downward Adjustment

Under the provision of Section 433 of EISA 2007 and as proposed, agencies other than GSA (but including GSA-tenant agencies with significant control over building design) would be able to petition DOE for an adjustment to the fossil fuel requirement with respect to a specific building if meeting the requirement is technically impracticable in light of the agency's functional needs for the building. This proposed rule provides a list of what information would be required to be included in a petition for a downward adjust for a new building. This includes a description of the building and associated components and equipment, an explanation of why compliance with the requirements is technically impracticable in light of the functional needs of the building, a demonstration that all cost-effective energy efficiency and on-site renewable energy measures were included in the building design, and a description of measures that were evaluated but rejected. As proposed, the Director of the Federal Energy Management Program would review the petition and make a decision on the petition within 90 days of submittal.

Additionally, this rulemaking proposes separate, streamlined downward adjustment processes for major renovations that are whole building renovations and for major renovations that are system or component level retrofits. The streamlined processes recognize the constraints on compliance inherent with major renovations, e.g., building site and orientation cannot be changed and configuration of the building shell is likely difficult, if not technically impracticable, to adjust. Under DOE's proposal, upon application, a Federal agency with a major renovation that is a whole building renovation would receive a downward adjustment equal to the energy efficiency level that would be required under the Federal building energy efficiency standards were the building a new building (i.e., the ASHRAE 90.1 and IECC requirements applicable to commercial and residential new Federal buildings, respectively). Upon application, a major renovation that is limited to a system or component level retrofit would receive a downward adjustment equal to the energy efficiency level that would be achieved through the use of products that represent a level of energy efficiency that is life-cycle cost-effective if such products are commercially available. This would be demonstrated through the use of ENERGY STAR or FEMP-designated products, or products that meet the applicable prescriptive requirements under ASHRAE 90.1 or the IECC.

H. Summary of the Differences Between the 2010 Proposed Rule and This Proposed Rule

In this proposed rule, the Department makes a number of substantial changes from the 2010 proposed rule. The changes apply to both 10 CFR part 433 and 10 CFR part 435 unless otherwise noted. Details of these changes with a discussion of each are described in Section III. This proposed rule would:

- Add definitions for combined heat and power (CHP) system, proposed building, proposed building site electricity consumption, direct fossil fuel consumption of proposed building, district energy system, electricity source energy factor, fiscal year, floor area, fossil fuel generation factor, other fuels source energy multiplier, power purchase agreement (PPA), renewable energy certificates and renewable energy and CHP electricity deduction.
- Delete definitions for fossil fuel, fossil fuel consumption for electricity generation, and primary electrical energy consumption.
- Amend definitions for direct fossil fuel consumption, district energy system, electricity source energy factor, fossil fuel generation factor, and major renovation.
- Clarify applicability of the rule to major renovations.
- Clarify applicability of the rule to leased facilities.
- Replace the proposed maximum allowable fossil fuel-generated energy consumption tables with new tables adjusted for each of DOE's 16 climate zones and covering additional commercial building types.
- Consider an approach to determine required fossil fuel-generated energy consumption levels for major renovations that are limited to system or component level retrofits.
- Delete the Performance Rating Method in Appendix G of ASHRAE Standard 90–1.2004 and the IECC Simulated Performance Alternative as the means to calculate a baseline for building types not listed in the Commercial Buildings Energy Consumption Survey (CBECS) and the Residential Energy Consumption Survey (RECS), respectively. The expansion of building types would eliminate the need to develop alternative baselines.
- Include an alternative compliance method for buildings with process loads that are not included in CBECS and RECS. Clarifies that process loads of building types not included in CBECS are not subject to the fossil fuel reductions.
- Clarify performance level determination. Modify the calculation methodology and specify the electricity source factor and the fossil fuel generation factor to be used. Add a source energy multiplier for other fuels.
- Specify what qualifies as a renewable energy and CHP deduction, including renewable energy produced off-site by the agency, renewable energy acquired pursuant to a power purchase agreement, Renewable Energy Certificates and a pro-rated share of the electricity produced from a CHP system. Specify that renewable energy production must be additive, that it must be tracked, and that the renewable energy attributes must be retained.
- Clarify how district heating and cooling systems and combined heat and power systems are to be considered in determining compliance with the fossil fuel reductions.
- Move the discussion of petitions for downward adjustment into its own subsection.
- Allow GSA-tenant agencies to submit a petition for downward adjustment.

• Add information to be included in petitions for downward adjustment for new buildings, including a demonstration that all energy efficiency measures and on-site renewable energy measures that are life-cycle cost-effective have been included in the design; a description of technologies that were evaluated and rejected, including a justification for why they were rejected; and a description of the building and building energy-related features.

• Provide an address to which petitions must be submitted and clarify that DOE would respond to petitions within 90 days.

• Provide streamlined processes for Federal agencies to petition for a downward adjustment for major renovations.

III. General Discussion and Response to Comments

A. Overview

DOE received comments from 22 different entities. In addition, 10,677 form letters were received in a campaign coordinated by Earthjustice, some of which included unique comments (hereinafter referred to collectively as ''Form Letters.'')

The comments were analyzed and categorized into six major categories: Applicability, Baseline, Methodology, Impacts, Petition for Downward Adjustment, and Guidance. Each of these major categories was subdivided into at least four subcategories, leading to the final comment categorization shown below.

Applicability: costs to determine $2.5 million threshold; the effective date of the rule; definition of major renovations; applicability to single or multiple buildings; treatment of leased buildings and mixed use buildings; Federal buildings overseas; residential building categories; privatized military housing; coordination with the DOE rulemaking on sustainable design practices; and other.

Baseline: CBECS and RECS baseline; climate adjustment; whole building simulation; buildings with energy-intensive process loads not covered in CBECS and RECS; plug and process loads; differentiation between fossil fuels; differentiation of electric power mix by region; using the marginal source of electricity; treatment of residential common areas; and other.

Methodology: additional rounds of review of the rule; off-site renewable energy; source versus site energy; on-site energy generation; fuel conversion efficiency; and other.

Impacts: cost impacts and other.

Petition for downward adjustment: bundling of petitions; costs as grounds for a petition; DOE review process; information in petitions; public availability of petitions; stringency of petition requirements; GSA-tenant agencies; and consideration of technical impracticability.

Guidance: training and verification and monitoring.

Most of the issues are the same for both commercial buildings (including multi-family residential buildings four stories or more) and residential buildings. Therefore, the discussion below applies to both building categories unless otherwise noted.

B. Scope and Applicability of the Proposed Rule

This section discusses the scope, or applicability, of the rule as proposed in response to comments received to date. This section provides preliminary responses related to: (1) What costs should be considered when calculating whether a construction project meets the $2.5 million threshold in EISA 2007; (2) when the rule goes into effect; and (3) which new construction and major renovation projects are covered by today's rule.

1. Determining the $2.5 Million Threshold for Applicability of the Rule

As noted above, the proposed rule would apply to new Federal buildings and major renovations to Federal buildings that are: (1) ''public buildings'' as defined by 40 U.S.C. 3301 for which a prospectus to Congress is required under 40 U.S.C. 3307; or (2) buildings with construction or renovation costs of at least $2.5 million in costs adjusted annually for inflation. (42 U.S.C. 6834(a)(3)(D)(i)) (These buildings are collectively referred to as ''EISA-covered buildings'' in this SNOPR.) DOE notes that the ECPA definition of ''Federal building'' was revised by EISA 2007. DOE is addresses this definition and the regulatory definition of ''new Federal building'' in this rulemaking. ECPA, as amended, defines ''Federal building'' to mean any building to be constructed by, or for the use of, any Federal agency including buildings built for the purpose of being leased by a Federal agency, and privatized military housing. (42 U.S.C. 6832(6))

DOE requested comments in the NOPR specifically on the definition of construction costs to determine which buildings meet the $2.5 million threshold and would be subject to the fossil fuel reduction requirements. DOE noted that construction costs generally include design, permitting, construction (materials and labor), and commissioning costs, but that land and legal costs generally would not be included. 75 FR 63406.

The American Gas Association (AGA) and the Department of Health & Human Services-Indian Health Service-Office of Environmental Health, Division of Engineering Services (DHHS–IHS–OEHE) agreed with the proposed definition. (AGA, No. 16 at p. 4;[7] DHHS, No. 24 at p. 1) The Edison Electric Institute (EEI) commented that the land and legal costs could be very high, and that all costs should be considered in any analysis. (EEI, No. 10 at p. 2)

DOE preliminarily has decided that land and legal costs would not be included when determining the $2.5 million threshold. Legal costs are generally part of overhead costs, not construction costs. Concerning land costs, many new Federal buildings are built on land already owned by the Federal government. Moreover, it would be very challenging for agencies to determine the value of the land in these cases where there is no recent land purchase. Not including land costs for new Federal buildings in the threshold calculation would be consistent with the threshold calculation for major renovations, for which land costs are not a concern.

In addition to comments specifically about land and legal costs, AGA and the National Propane Gas Association (NPGA) both questioned whether the cost of compliance with the fossil fuel consumption reductions would be included when determining whether the $2.5 million applicability threshold is met. (AGA, No. 17 at p. 6; NPGA, No. 23 at p. 3) NPGA also expressed concern that the threshold is too low. (NPGA, No. 23 at p. 3)

DOE believes that it could be difficult to separate the costs of complying with the requirements of this rule from other design and construction costs. Conversely, it may be difficult to calculate the cost of a project including the costs to comply with the fossil fuel reduction requirements in those instances in which an agency would be seeking a downward adjustment. DOE anticipates that design and constructions costs for most new Federal buildings, and many

[7] Notations of this form appear throughout this document and identify statements made in written comments or at public hearings that DOE has received and has included in the docket for this rulemaking. For example, ''AGA, No. 16 at p. 4'' refers to a comment: (1) From the American Gas Association; (2) in document number 16 in the docket of this rulemaking; and (3) appearing on page 4 of the submission.

renovations to Federal buildings, will exceed $2.5 million. Therefore, DOE proposes that the $2.5 million threshold does not include the cost of complying with the reductions and requests comment on this proposal.

2. Compliance Date of the Rule

The NOPR stated that the requirements would apply to all eligible buildings for which design for construction began at least one year after publication of the final rule. 75 FR 63415. The Department of Defense-Air Force (DOD–AF) asked that the rule apply to projects programmed after the date the rule is final. (DOD–AF, No. 25C at p. 3) The majority of the comments on this issue suggested not delaying the rule. The Natural Resources Defense Council (NRDC) and the Form Letters stated that the rule should be finalized and implemented immediately, and AGA commented that the target reductions should be promulgated as soon as administratively practicable. (NRDC, No. 14 at pp. 13–14; Form letter, No. 29 at p. 1; AGA, No. 16 at p. 2) NRDC commented that the rule is already late, and recommended that ''design for construction'' be interpreted to mean the initiation of the schematic design phase. (NRDC, No. 14 at pp. 13–14) NRDC also commented that DOE should interpret the fossil fuel-generated reduction tables in EISA 2007 to apply to the date of initial occupancy rather than the date that design begins. (NRDC, No. 14 at p. 15)

DOE proposes to retain the compliance date, tied to the design of the building, as proposed in the NOPR. Federal agencies are familiar with this date as it is consistent with the compliance date that DOE has used for baseline Federal building energy efficiency standards at 10 CFR parts 433 and 435 for several years. Under 10 CFR parts 433 and 435, ''design for construction'' means the stage when the energy efficiency and sustainability details (such as insulation levels, HVAC (heating, ventilating, and air-conditioning) systems, water-using systems, etc.) are either explicitly determined or implicitly included in a project cost specification. This proposed rule would add a closely related definition of ''proposed building'' to tie the ''design for construction'' definition to the fossil fuel-generated energy consumption determination equation in the rule. A proposed building would be the design for construction of a new Federal commercial, multi-family high-rise residential building, or low-rise residential building, or major renovation to such a building, proposed for construction. This definition was not proposed in the NOPR. DOE intends that the addition of this definition would help clarify terms in the fossil fuel-generated energy consumption determination equation.

3. Major Renovations

ECPA requires that fossil fuel reductions be implemented in ''major renovations'' to EISA-covered buildings. The Sustainable Design NOPR would define major renovation to include changes to a building that provide significant opportunities for substantial improvement in energy efficiency and renovations of any kind with costs that exceed 25 percent of the replacement value of the building, and requested comments on the definition. 75 FR 29942. Because DOE had assigned the definition to the Sustainable Design Rule with the expectation that it would serve for both rules, DOE did not include the definition in the NOPR for this rule. However, this supplemental proposed fossil fuel-generated reduction rule is now being published prior to a final Sustainable Design rule, so DOE has modified the major renovation definition proposed in the Sustainable Design rule to align more closely with today's fossil fuel-generated reduction supplemental proposed rule.

Nonetheless, DOE received several comments related to major renovations for this rulemaking. NRDC commented that the scope of the rule should be broadened to apply to all new Federal buildings in order to meet the requirements of EISA 2007. (NRDC, No. 14 at p. 2) The American Public Gas Association (APGA) commented that the 25 percent threshold amount is too low. (APGA, No. 17 at p. 2) Both the Department of Defense-Navy (DOD–N) and DOD–AF recommended that DOE limit the rule to major renovations that cost 50 percent or more of the building replacement value, as that is the definition they use internally for their facilities. (DOD–N, No. 25B at p. 11; DOD–AF, No. 25C at p. 5) DOE also received two comments about renovations spanning more than one year. NRDC commented that DOE must define ''construction project costs'' to be the total planned or budgeted project costs for the renovation, irrespective of whether the project spans more than one fiscal year or whether the agency has yet to receive full funding. (NRDC, No. 14 at p. 5) APGA commented that by not including renovation activities that potentially could occur in future fiscal years, that energy saving capital-expenditure renovations will be deferred to future fiscal years and could end up producing a negative net energy and greenhouse gas emissions return for renovation dollars expended. (APGA, No. 17 at p. 6)

Based on the comments received, DOE is proposing to not include the 25 percent cost limit in the definition of ''major renovation.''

Regarding the issue of renovating a Federal building in phases over more than one year, the applicability of the requirements are again tied to the design for construction. If the cost of the design for construction, although performed in different phases, would trigger application of the fossil fuel requirements and the phases are known in advance, the fossil fuel requirements would apply. The construction phases should be planned such that the fossil fuel reductions are achieved by the time the entire project is complete.

DOE proposes to clarify how the requirements would be applied to portions of a building or individual systems being renovated as part of a major renovation. DOE does not intend to require Federal agencies to meet the fossil fuel-generated reduction requirements for an entire building when an agency renovation is limited to system or component level retrofits. DOE proposes that the fossil fuel reduction requirements apply only to the fossil fuel consumption associated with the portions of the building or building systems that are being renovated and only to the extent that the scope of the renovation provides an opportunity for compliance with the applicable fossil fuel-generated energy consumption reduction requirements.

This addition to the regulatory language would direct Federal agencies to determine whether the extent of the renovation allows for compliance with the requirements. For example, a renovation that overhauls a major energy-consuming system (e.g., lighting, HVAC, envelope, etc.) is likely a major renovation subject to today's requirements because the renovation likely allows for compliance with the rule. Additionally, DOE proposes to distinguish between a major renovation that is a whole building renovation, and a major renovation that is limited to a system or component level retrofit.

As reflected in the comments received, DOE acknowledges that it would often be technically impracticable in light of an agency's specified functional needs to meet the requirements of today's rule during a major renovation. A major renovation could range from what is essentially a ''gut rehab'' or total replacement of all building systems without replacement of the building structure itself to a replacement of a single system or piece of equipment to replacement of several

systems in a building. DOE believes that given the $2.5 million or ''public building'' threshold, the fossil fuel-generated energy consumption requirement will primarily apply to Federal commercial buildings. The Department notes, however, that the rule could apply to certain multi-family housing that costs at least $2.5 million that is built by or for the use of any Federal agency, including buildings built for the purpose of being leased by a Federal agency and privatized military housing.

With a complete whole building renovation, the building is stripped down to its structural elements and all new systems (including envelope, lighting, HVAC, and water heating systems) are installed. Generally, the designer of the renovation has less flexibility in design than the designer of a new building. There are also limitations on whole building renovations that may not be present with new construction. The geometry, orientation, and location of the building structure on the building lot are likely to be fixed. As noted, a whole building renovation is one in which a building is gutted to the level of its structural elements. The structural elements of the building should not have a major impact on the fossil fuel-generated energy consumption of the building. The fossil fuel reduction baseline and requirements derived from EIA's CBECS, *www.eia.doe.gov/emeu/cbecs,* relate to entire building fossil fuel-generated energy consumption, not the fossil fuel consumption of individual systems. The level of fossil fuel consumption impacted through a whole building renovation is comparable to that consumption proposed in the appendices to this proposed rule; i.e., both the subject energy consumption and the maximum permitted amount of energy consumption are at the whole building level. Therefore DOE proposes that the requirements and methodologies applicable to new construction would be applicable to major renovations that are whole building renovations.

Major renovations that are limited to system or component level retrofits, have additional practical limitations for reducing fossil fuel-generated energy consumption. Based on the DOE Buildings Energy Databook, DOE has estimated the contribution of major energy related systems to a commercial building's energy use for primary energy.[8]

TABLE III.1—CONTRIBUTION OF ENERGY USE BY MAJOR SYSTEMS

	Percent
Lighting	20
Space Heating	16
Space Cooling	15
Ventilation	9
Refrigeration	7
Electronics	4
Water Heating	4
Computers	4
Cooking	1
Other	15
Adjust to SEDS *	5
Total	100

* SEDS (States Energy Data System) is used by the U.S. Energy Information Administration to resolve discrepancies between data sources.

There have been improvements in the efficiencies of the systems and components as compared to that which was present in the buildings reported under the 2003 CBECS and 2005 RECS databases.[9] A comparison of equipment efficiency changes for chillers and boilers (two pieces of equipment likely to be involved in a major renovation) from the original 1975 ASHRAE Standard 90–75, *Energy Conservation in New Building Design,* to the present FEMP-designated efficiency requirements for these pieces of equipment showed cooling end-use savings of up to 34 percent and heating end-use savings of up to 11 percent.[10] The same analysis report shows a similar comparison for lighting indicated a potential savings of up to 52 percent of the lighting load if lighting power density requirements from ASHRAE 90.1–2010 were compared with those found in ASHRAE 90A–1980. However, many Federal buildings have likely already undergone some lighting renovation, so it may be unlikely that a Federal building still has a lighting system based on 1980 standards. Therefore, even if the subject energy use is limited to the energy use of the retrofitted system or component, the improvements in energy efficiency as compared to the systems and components in the typical CBECS building are not sufficient to meet the required reductions. If the impact of the efficiency improvements between current systems and components and those represented in CBECS is considered in the whole building context, a typical commercial building would realize whole building fossil fuel savings of 3 percent for cooling, 2 percent for heating, and 7.5 percent for lighting.

For these reasons, for major renovations that are less than whole building renovations (system or component level retrofits) DOE is proposing establishing the maximum allowable energy use in fiscal years 2013 through 2029 based on the percentage of whole building energy consumption represented by the retrofitted system or component. The applicable value from the appendices in today's rule would be multiplied by this percentage to arrive at the maximum allowable energy use of the retrofitted system or component. DOE requests comment on whether further direction would be required on how to distinguish between a major renovation that is a whole building renovation and one that is a system or component level retrofit, and requests comment on how such a distinction could be made.

To further address issues related to major renovations, while ensuring that a fossil fuel-generated energy reduction is attained during a renovation, today's rulemaking would require both that Federal agencies achieve specified energy efficiency levels before applying off-site renewable energy generation and before petitioning for a downward adjustment. Again, the proposed rule would distinguish between whole building renovations and system and component level retrofits. These changes are described further in the ''Off-Site and On-Site Renewable Energy and Renewable Energy Certificates'' and ''Downward Adjustments for Major Renovations'' sections.

4. Multiple Buildings

DOE received one comment from DOD–AF asking whether the $2.5 million threshold for applicability of the rule would apply to individual buildings or to projects which may have two or more buildings. (DOD–AF, No. 25C at p. 2)

DOE has preliminarily determined that the $2.5 million threshold should apply to individual buildings to determine if they are covered buildings under this rule. The statute mandates that the requirements apply to ''buildings,'' not ''projects'' or ''developments.''

5. Leased Buildings

EISA 2007 modified the ECPA definition of ''Federal buildings'' to include any building to be constructed by, or for the use of, any Federal agency.

[8] Based on Table 3.1.4 of the DOE Buildings Energy Databook (*http://buildingsdatabook.eere.energy.gov/TableView.aspx?table=3.1.4*).

[9] See discussion below in Section C. Establishing and Using the Baseline.

[10] See Simulation Analyses in Support of DOE's Fossil Fuel Rule for Single Component Equipment and Lighting Replacements by M Halverson and W Wang of Pacific Northwest National Laboratory at *http://www.pnl.gov/main/publications/external/technical_reports/PNNL-22887.pdf.*

This term includes buildings built for the purpose of being leased by a Federal agency and privatized military housing. (42 U.S.C. 6832(6)) In addition, the NOPR limited application of the rule to renovations of leased buildings to only those renovations for which a Federal agency has significant control over the renovation design. 75 FR 63405.

NRDC commented that there is a disconnect between the rule scope and the ECPA definition, which NRDC believes does not permit the exclusion of buildings that have been built for the purpose of being leased by a Federal agency. (NRDC, No. 14 at pp. 4–5) The U.S. Army Corps of Engineers-North Atlantic Division (NAD) commented that it seemed more appropriate to cover Federally leased buildings via the existing EISA 2007 section 435 rules, which require new Federal agency leases to be for ENERGY STAR labeled buildings, since existing buildings will be difficult to retrofit to meet these fossil fuel reductions. (NAD, No. 19 at p. 2) Department of Defense-Office of Under Secretary of Defense (DOD–OUSOD) recommended against applying the rule to any building whose design is not completely under the control of Federal agencies, and suggested that the rule should just state this principle and allow the agencies to apply their own judgment. (DOD–OUSOD, No. 25A at p. 1) EEI asked if there would be a minimum lease period. (EEI, No. 10 at p. 2)

DOE preliminarily has decided to remove the ''significant control'' provision for leased buildings covered under today's rule because the ECPA definition of ''Federal building'' makes clear that the rule applies only to buildings built specifically for the Federal government. Significant control, therefore, is implicit in the definition.

DOE is aware that compliance with today's rule for small buildings or spaces that are leased for relatively short periods of time may not be possible. DOE also recognizes that at least two Federal agencies utilize contracts for short-term leases. Therefore, DOE requests comment on whether there should be a minimum lease period or a minimum rentable square footage threshold.

6. Federal Buildings Overseas

The DOD–N commented that including overseas facilities in the definition of Federal building may lead to circumstances where the agency does not have complete control over the design, or where other technical factors challenge the practicality of meeting the fossil energy reductions. (DOD–N, No. 25B at p. 8) DOE recognizes that several agencies have buildings overseas and these buildings may be subject to a variety of legal authorities specific to that agency. DOE intends that the proposed rule would apply to the extent that the requirements are consistent with applicable law. DOE does not intend for the rule to cause any Federal agency to violate other legal authorities. This proposed rule does not expressly address the extent to which it may be applicable to buildings overseas as each individual agency is best positioned to understand the various and sometimes unique authorities that may be applicable to overseas buildings of that agency. In applying the proposed rule to any given building, Federal agencies must also decide whether the building meets the definition of Federal building at 42 U.S.C. 6832(6) and either the requirement that the building be a ''public building'' for which a prospectus is required, or the requirement that the building or major renovation cost at least $2.5 million. (42 U.S.C. 6834(a)(3)(D)(i)) For covered overseas facilities, Federal agencies should use the U.S. climate zone most similar to the location of the proposed building.

7. Residential Buildings

DOE received four comments related to the definition of residential building categories. Lish commented that the rule definition should include housing facilities owned and managed by Federal agencies, such as the National Park Service, Forest Service, and other land management agencies. (Lish, No. 13 at p. 1) The DOD–AF requested that dormitories be removed from the proposed rule because of cost. (DOD–AF, No. 25C at p. 6) DHHS–IHS–OEHE believes there is an inconsistency between the reference to manufactured homes and mobile homes in the rule and in RECS. (DHHS, No. 24 at p. 3)

DOE does not believe any changes to the proposed language in the NOPR are needed as a result of these comments. The statute requires the inclusion of all Federal buildings that are EISA-covered buildings. Some of the building types discussed by commenters may not meet the definition of ''public building'' at 40 U.S.C. 3301(a)(5) or may not require a prospectus to Congress as described at 40 U.S.C. 3307, but may meet the $2.5 million construction cost threshold. Some of the referenced buildings may not meet either threshold. Finally, DOE does not believe there would be an inconsistency between the reference to manufactured and mobile homes in the rule and in the RECS database. For purposes of the RECS database, manufactured and mobile homes are the same product. They are both defined as a housing unit built to the Federal Manufactured Home Construction and Safety Standards (24 CFR part 3280), built on a permanent chassis and moved to a site.

8. Privatized Military Housing

DOD–AF stated that DOE should clarify that the rule does not apply to privatized military housing because, in DOD–AF's view, privatized military housing is not ''leased by a Federal agency.'' (DOD–AF, No. 25C at p. 2) In addition, DOD–AF is concerned that the proposed rule may cause many AF Privatized Housing deals that have already been closed to be canceled or renegotiated if they have to comply with the fossil fuel reduction requirements. (DOD–AF, No. 25C at p. 1)

As noted above, EISA 2007 modified the ECPA definition of ''Federal building'' to apply to any building to be constructed by, or for the use of, any Federal agency. Such term shall include buildings built for the purpose of being leased by a Federal agency, and privatized military housing. (42 U.S.C. 6832(6)) In addition, Congress again mentioned privatized military housing in ECPA when it specified that, ''with respect to privatized military housing, the Secretary of Defense, after consultation with the Secretary [of Energy] may, through rulemaking, develop alternative criteria to those established in subclauses (I) [fossil fuel reduction requirements] and (III) [sustainable design requirements] of clause (i).'' (42 U.S.C. 6834(a)(3)(D)(vi)) Although privatized military housing may not meet the definition of ''public building'' at 40 U.S.C. 3301(a)(5), the proposed rule would apply to privatized military housing with construction costs of at least $2.5 million. As described in this preamble, this cost threshold would apply on an individual building basis.

9. Other

A few miscellaneous comments were submitted regarding the scope of the rule that did not fit into one of the above subcategories. One comment was submitted by an anonymous commenter and encouraged the use of vacant buildings rather than new construction. (Anon, No. 27 at p. 1) There is nothing in ECPA that would prevent the reuse of vacant buildings.

Earthjustice requested data on the number of new buildings and renovations that are likely and projected to be covered by this rule. (EJ, Public Meeting Transcript, at p. 69) For purposes of developing this supplemental proposed rule, DOE assumed that the Federal government

constructs 42 million square feet of new construction per year and renovates 14.6 million square feet per year. This assumption is based on the analysis of three years of construction data purchased by PNNL as part of a commercial building construction dataset. The data is described in ''Weighting Factors for the Commercial Building Prototypes Used in the Development of ANSI/ASHRAE/IESNA Standard 90.1–2010'', (Jarnagin and Bandyopadhyay, 2010). Data from the years 2007, 2008, and 2009 were used.

Based on these analyses and assumptions, DOE expects that 44.6 million square feet of Federal building stock would be subject to this regulation each year. Over the next twenty years, DOE expects that this rulemaking would affect approximately 892 million square feet of Federal floor space. This represents less than 25 percent of the total Federal building stock in 2030, and about a quarter of one percent of the total residential and commercial building floor space in the U.S. in 2030.

C. Establishing and Using the Baseline

The CBECS and RECS data, which can be found at *http://www.eia.doe.gov/emeu/cbecs/contents.html* and at *http://www.eia.gov/emeu/recs/contents.html,* are based on actual reported energy use over a large sample of buildings, normalized for size to thousands of British thermal units per square foot of floor space (kBtu/ft^2). For purposes of this rulemaking, the statute directs DOE to establish a baseline based on the energy consumption in similar buildings in fiscal year 2003 as measured by CBECS and RECS.

One characteristic of buildings reported in the surveys is their age, or vintage.[11] The 2003 CBECS estimates of building vintage range from pre-1920 buildings (representing the oldest) to the 2000–2003 years, which are the newest buildings in the 2003 CBECS.[12] An analysis of the CBECS data indicates that 39 percent of the surveyed buildings were constructed prior to the publication of a standard energy code; the first widely recognized building energy codes were developed and published in 1975.[13] Furthermore, DOE estimates that an additional 17 percent of the surveyed buildings were built before the architecture and construction industry recognized and used ASHRAE 90–75 nationally; i.e., 1980. Therefore, an estimated 56 percent of the buildings surveyed were constructed prior to 1980.[14] The ''typical building'' in the 2003 CBECS was likely built between 1970 and 1979.

The ASHRAE code is revised on a three year cycle. The version of the ASHRAE code that is applicable to new Federal commercial buildings for which design for construction began on or after August 10, 2012, is ASHRAE 90.1–2007. 10 CFR 433.4(a)(2). As compared to ASHRAE 90–75, ASHRAE 90.1–2007 has an energy efficiency improvement of approximately 30 percent.[15] ASHRAE 90.1–2010 adds an additional energy efficiency improvement of approximately 18.5%.[16] Although the average building in the 2003 CBECS would have been built to ASHRAE 90–75, it is important to note that in the course of the lives of these buildings, building system components have been replaced over time so that the energy consumption as surveyed in 2003 will not be the same energy level the building used when first constructed. Even so, the energy efficiency improvements that are already required for the design of new Federal buildings would achieve a substantial portion of the fossil fuel-generated energy consumption reductions required in the interim years up to FY 2020. DOE has data that would indicate that Federal offices in Climate Zones 1a (Miami, Florida), 4c (Salem, Oregon), and 5a (Chicago, Illinois) as constructed to the requirements of the Federal baseline standard (90.1–2010) are approximately at the 65% Fossil Fuel Reduction level for government offices. Buildings constructed to be 30% better than 90.1–2007 (as required in the Federal standards if life-cycle cost-effective) will achieve more than 65% Fossil Fuel Reduction level for government offices. This is especially true considering that new Federal buildings must be designed to achieve an energy efficiency improvement 30 percent beyond the referenced ASHARE code to the extent life cycle cost effective.

The CBECS and RECS data are reported at a high level. At the highest level, the utility of the data is limited in terms of climate zones and building types. However, CBECS and RECS microdata allow additional analysis and refinement. Recognizing the importance of climate on building energy use, as well as the limitations in CBECS and RECS, in the NOPR, DOE asked several questions about refinements to the CBECS and RECS data by different categories. The questions included whether the baseline should be adjusted for climate, how to treat plug and process loads, whether the rule should differentiate between fossil fuels, and whether the rule should include a regional adjustment to the fossil fuel component of the electric power mix. These and other issues are further addressed below.

1. CBECS and RECS Baselines

As previously indicated, the statute directs DOE to establish a baseline for the fossil fuel-generated energy consumption requirements using CBECS and RECS data from fiscal year 2003. A preliminary survey of the CBECS data indicates that the average building in the 2003 CBECS was subject to the 1975 version of the ASHRAE building code for commercial buildings.[17]

The building type definitions for commercial buildings used in the NOPR were based largely on the CBECS and RECS glossaries, with minimal modifications for regulatory clarity. For a commercial building type not listed in CBECS, the NOPR proposed that agencies establish a baseline for the proposed design using the procedures in Appendix G, Performance Rating Method, of ASHRAE Standard 90.1–2004. For residential building types not listed in RECS, agencies would develop a baseline using the Simulated Performance Alternative from section 404 of the IECC, 2004 Supplement Edition.

DOE requested comments on the building type categories and definitions. Most of the comments DOE received related to how to establish a baseline for building types not listed in the tables derived from CBECS and RECS.

The American Society of Heating, Refrigeration and Air Conditioning Engineers Standard 100 Revision Committee Standard (ASHRAE Standard 100 Committee) commented that an analysis by DOE's Oak Ridge National Laboratory (ORNL) determined that there is sufficient data in CBECS to establish energy consumption targets for 48 building types, and recommended

[11] *http://www.eia.gov/emeu/cbecs/cbecs2003/detailed_tables_2003/2003set1/2003pdf/a1.pdf.*

[12] Because of the criteria for buildings subject to the requirements, DOE has initially determined the proposed requirements would apply primarily to commercial buildings. As such, DOE has focused this discussion on CBECS.

[13] ASHRAE Standard 90–75, *Energy Conservation in New Building Design,* August 1975.

[14] DOE estimates that even more than 56% of the surveyed buildings would have used 90–75, since the adoption of the 1980 standard was delayed two years.

[15] ASHRAE Journal article titled ''*35 Years of Standard 90.1''* in March 2010. *http://www.ashrae.org/File%20Library/docLib/Public/20100625_ASHRAEDAJ10Mar0220100301.pdf.*

[16] See DOE's final determination notice on Standard 90.1–2010 at 76 FR 64904 (October 19, 2011) or *http://www.gpo.gov/fdsys/pkg/FR–2011–10–19/pdf/2011–27057.pdf.*

[17] DOE has preliminarily determined that the building criteria that determine applicability of the requirements would result in primarily commercial buildings being subject. As such, DOE has focused on commercial buildings.

that the rule be modified to do so. (ASHRAE, No. 8 at p. 1) ICC and the Institute for Market Transformation (IMT) endorsed the uses of the CBECS and RECS databases. (ICC, No. 11 at p. 3; IMT, Public Meeting Transcript, No. 7 at p. 26) DHHS–IHS–OEHE supported DOE's interpretation of the CBECS and RECS baselines and commented that building type definitions are appropriate, but requested clarification of the definition of health care (outpatient) facilities with diagnostic medical equipment. (DHHS, No. 24 at pp. 1, 3)

EEI agreed with use of CBECS but commented that some buildings do not neatly fall into a building category. (EEI, No. 10 at p. 3) AGA encouraged the Department to develop more detailed procedures for building types not directly represented in the CBECS and RECS data, and believes the Department may engage stakeholders in this analysis. (AGA, No. 16 at p. 3) NAD and DOD–AF commented that the CBECS and RECS data does not cover some building types and larger buildings of a more industrial nature, such as military buildings, and requested information on how these will be included. (NAD, No. 19 at p. 1; DOE–AF, No. 25C at pp. 3–4)

Regarding the use of ASHRAE or the IECC, EEI recommended that ASHRAE 90.1–2004 should be allowed as an alternative to the IECC 2004 Supplement for residential buildings without baseline data. (EEI, No. 10.2 Cover Letter at p. 2) Several commenters noted that there would be a disparity between the baselines generated from CBECS and the baselines generated using ASHRAE 90.1–2004. (DHHS, No. 24 at p. 4; National Nuclear Security Administration, No. 9 at p. 1; EEI, No. 10 at p. 3; DOD–AF, No. 25C at p. 4) The Gas Technology Institute (GTI) proposed that DOE amend the ASHRAE Performance Rating Method to create a single reference building in order to be consistent with the CBECS database methodology, noting that DOE's Home Energy Score Tool methodology would be a superior approach. (GTI, No. 22 at p. 12) NIBS supported DOE's proposal to use Appendix G of ASHRAE Standard 90.1 and the IECC Simulated Performance Alternative, stating that these are probably the best alternatives to CBECS and RECS. However, NIBS noted there could be some issues with the quality of the baselines produced using these methods, and suggested certification of modelers and use of the COMNET protocols. (NIBS, No. 12 at p. 2)

ICC and IMT stated that the CBECS and RECS data are in need of upgrading. NIBS encouraged DOE to expand sample sizes and improve the surveys going forward. (NIBS, No. 12 at pp. 1–2) DOE regularly updates and improves upon the CBECS and RECS. The versions of these surveys that DOE chose to use in today's rule (2003 CBECS and 2005 RECS) were based on Congressional direction in EPCA. DOE chose to use 2005 RECS data because the RECS was conducted in 2001 and 2005 but not 2003.

DOE proposes to retain CBECS as the baseline for commercial buildings and RECS as the baseline for multi-family high-rise and low-rise residential buildings with one exception. In the NOPR, DOE proposed to include the category ''multi-family in 5 or more units'' in the commercial building and multi-family high-rise residential building requirements. A ''multi-family high-rise residential building'' is a residential building that contains three or more dwelling units and that is designed to be four or more stories above grade. It is possible that a building could have four or more stories above grade, but fewer than five units. DOE believes that such buildings designs would be rare and would have energy consumption patterns similar to such buildings with five or more units. To avoid a potential gap in coverage of the building types, DOE proposes to use ''multi-family high-rise residential building'' in place of ''multi-family in 5 or more units.'' In addition, regarding the definition of health care (outpatient) facilities with diagnostic medical equipment, the reference to diagnostic equipment is from the current CBECS building types under which agencies have been reporting. DOE proposes that agencies continue to apply that term consistent with CBECS reporting.

In response to comments, DOE preliminarily has decided to use the analysis from ORNL for the ASHRAE Standard 100 Revision Committee to expand the CBECS data from the twelve building categories used in the NOPR to the 48 commercial building types used in today's rule. (As noted in the NOPR, the phrases ''principal building activity'' and ''building types'' are used interchangeably in CBECS and RECS documents. For the sake of consistency, this document only uses the phrase ''building type.'') While ORNL was conducting the climate adjustment for DOE, as DOE indicated it would conduct in the NOPR, it coordinated its work with the ASHRAE Standard 100 Revision Committee, which had a need for similar work. While developing the climate adjustment method, ORNL also developed a methodology to parse the CBECS and RECS microdata into more building types. As a result, as part of its public comment on today's rulemaking, the ASHRAE Standard 100 Revision Committee requested that DOE use these building types. Although the reduction requirement for multi-family high-rise residential buildings comes from the RECS database, DOE proposes to include the requirements in the tables for 10 CFR part 433 to maintain the scope of coverage of part 433 versus part 435 building types.

2. Climate Adjustment

The maximum allowable fossil fuel-generated energy consumption values in Tables 1 and 2 of the NOPR were based on national averages not adjusted for climate. The NOPR noted that the limited number of buildings surveyed by CBECS and RECS data does not always allow for a direct estimate of building energy use by climate zone and building type because there are only a few surveyed buildings that fit into some building type/climate zone groups. 75 FR 63406. However, DOE noted that it believed a climate adjustment is necessary to provide reasonable baselines and, therefore, stated that DOE is developing fossil fuel-generated reduction requirements based on building type and then applying a climate zone as defined in the baseline energy efficiency standards at 10 CFR parts 433 and 435. 75 FR 63406. DOE requested comments on including a climate adjustment.

Most of the comments DOE received regarding the climate adjustment were favorable. The ASHRAE Standard 100 Committee recommended that the maximum allowable consumption values for each of the CBECS and RECS building types be adjusted for each of the 16 climate zones developed by DOE's Pacific Northwest National Laboratory (PNNL) based on a simulation of prototype buildings meeting ASHRAE Standard 90.1–2004 developed by DOE's National Renewable Energy Laboratory (NREL). (ASHRAE, No. 8 at p. 1) NIBS recommended utilizing the climate normalization techniques developed by EPA for the ENERGY STAR program. (NIBS, No. 12 at p. 4) ICC states that it believes that it is sensible to take into account regional climate variations, such as those recognized in the International Energy Conservation Code. (ICC, No. 11 at p. 2) DHHS–IHS–OEHE and the American Institute of Architects (AIA) urged DOE to consider regional and climatic factors, and DHHS–HIS–OEHE suggested using the climate zones identified in ASHRAE 90.1 and IECC. (DHHS, No. 24 at p. 1; AIA, No. 15 at p. 2) GTI recommended the DOE Home

Energy Score Tool used for existing home ratings. (GTI, No. 22 at p. 11) The National Park Service, Alaska Region (NPS-Alaska), recommended an alternative table of Alaskan climate zones. (NPS-Alaska, No. 6, p. 1) EEI questioned how the adjustments are going to be calculated to address the limitations of the CBECS and RECS data. (EEI, No. 10 at p. 3) AGA commented that a climate adjustment is logical for some loads, such as space conditioning, but requested more information about DOE's methodology. (AGA, No. 16 at p. 4)

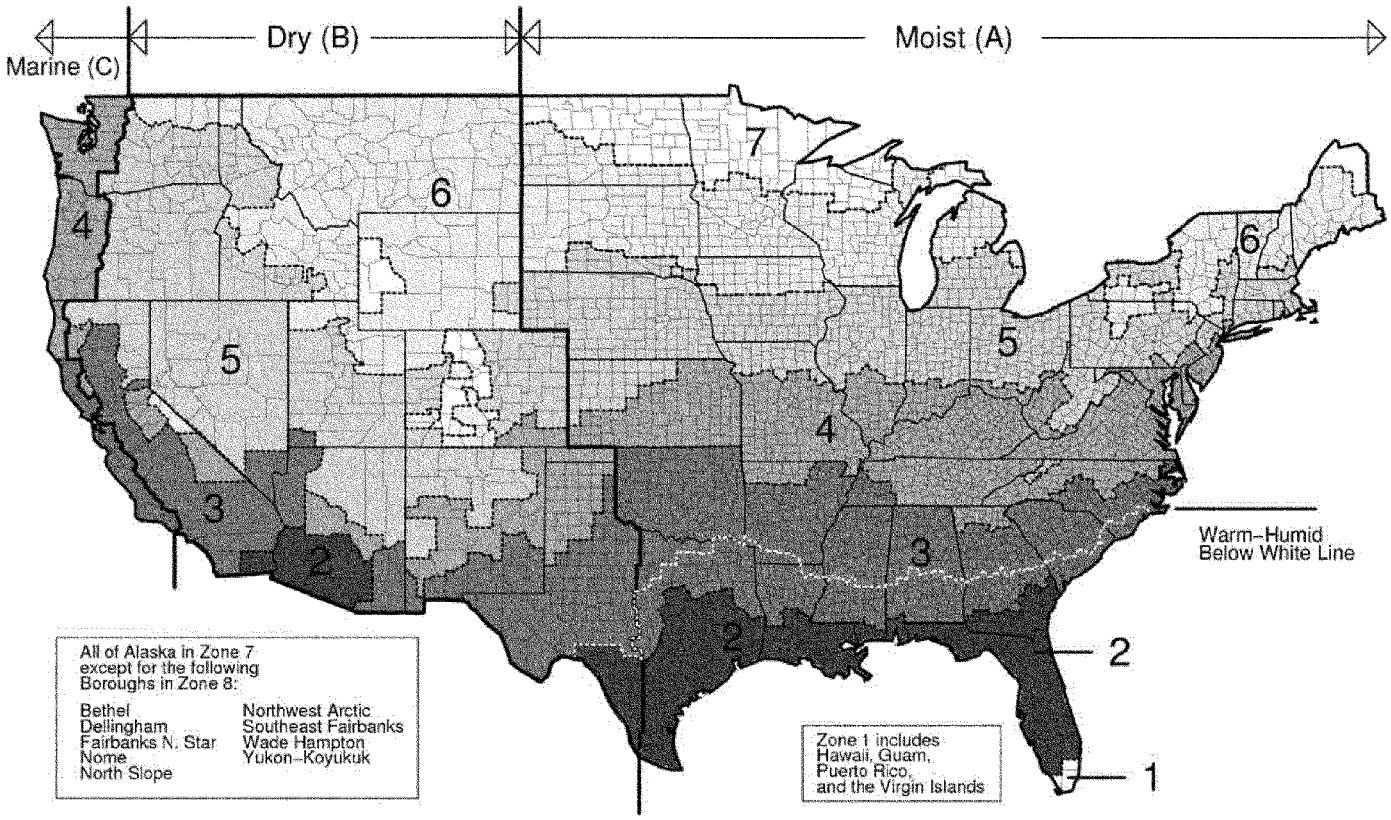
DOE proposes to include a climate adjustment. A climate adjustment places buildings in different climates on a more level-playing field. Under the proposed climate adjustments, buildings would have to achieve reductions commensurate to a baseline appropriate for their climate zone rather than a national average baseline. As a result, buildings in cold climates would have a higher target to account for the increased energy use associated with a cold climate, and buildings in warmer climates would have a lower target. This approach would ensure that buildings in both cold and warm climates achieve 55 percent reductions based on a climate-adjusted baseline, rather than the building in the cold climate having to achieve a deeper percentage reduction and a building in a warm climate having to achieve a lesser percentage reduction to meet the same absolute target based on a national average.

For example, assuming a CBECS or RECS national average baseline fossil fuel use equals 100 kBtu/sq.ft. for a given building, at a 55 percent reduction for FY 2010–14, the target fossil use becomes 45 kBtu/sq.ft. However, a building in a cold climate may actually use more than the national average, perhaps 150 kBtu/sq.ft. The same building in a warm climate may actually use less, perhaps 50 kBtu/sq.ft. To meet the 55 percent reduction for the FY 2010–14 national average target of 45 kBtus/sq.ft. without a climate adjustment, a building in a cold climate must achieve a reduction of 105 kBtus/sq.ft. (which would be an actual 70 percent reduction), while the same building in a warm climate would need to achieve a reduction of only 5 kBtus/sq.ft. (which would be an actual 10 percent reduction).

Using the above example, the climate adjustment in today's rule would set the baseline at 150 kBtu/sq.ft. for the cold climate example, so a 55 percent reduction would make the target 67.5 kBtu/sq.ft. instead of 45 kBtu/sq.ft. In the warm climate example, the baseline would be 50 kBtu/sq.ft., and a 55 percent reduction would make the target 22.5 kBtu/sq.ft. instead of 45 kBtu/sq.ft. In other words, buildings in both the warm and cold climate zones have to achieve 55 percent reductions but must meet that baseline relative to the climate adjusted baseline for the appropriate climate. The same logic applies to the 65, 80, 90, and 100 percent reductions. All covered buildings designed in FY 2030 or later would be required to meet the 100 percent reduction, regardless of climate.

The maximum allowable fossil fuel-generated energy consumption in proposed Tables 1–4 of Appendix A of both part 433 for commercial buildings and multi-family residential buildings and part 435 for low-rise residential buildings include adjustments for climate. The climate adjustments were developed by ORNL. ORNL developed national energy use intensities (EUIs) for over 50 building types from CBECS and RECS, and used zonal EUI ratios derived from building simulation modeling performed by the NREL to parse the building types into 16 different climate zones. The procedure is described in more detail in ''Derivation of Federal Building Fossil Fuel Energy Use Reduction Targets,'' (ORNL/TM–2011/84, *http://hyperion.ornl.gov/pubs/EISATargets.pdf*). DOE's climate zone map is produced below for reference. The county-by-county climate zones are defined in the baseline standard for 10 CFR part 433—ASHRAE Standard 90.1–2010.

Figure 1 – U.S. Department of Energy Climate Zone Map



Source of Image: www.resourcecenter.pnl.gov

3. Plug and Process Loads

In addition to fossil fuel-generated energy consumption used for building-related functions such as lighting, HVAC, and envelope, equipment related to the use that occurs within the building also consumes fossil fuel-generated energy. This includes plug loads such as office equipment, personal computers, cash registers, and other such equipment that are typical to buildings. However, some building types also house process loads that are very energy-intensive relative to other building-related energy use.

In the NOPR, DOE acknowledged that inclusion of plug and process loads in the methodology may make it more difficult to achieve the mandated fossil fuel-generated energy consumption reductions. DOE noted that all building energy consumption, including plug and process load consumption, is included in the baseline CBECS and RECS data and, therefore, proposed that plug and process loads would be subject to the fossil fuel reductions.

DOE requested comments on how the proposed rule could be designed such that the assumptions used in the whole building simulations would accurately reflect the final building design and operation, including plug and process loads. 75 FR 63410. In this SNOPR, DOE clarifies that CBECS does not include building types with energy use dominated by process loads.

Several comments were submitted relating to plug and process loads. Most comments received on plug and process loads expressed concerns about including process loads in the fossil fuel-generated energy consumption baselines, with particular concern about including energy-intensive process loads. EEI, DHHS–IHS–OEHE, DOD–AF, ASHRAE 100, and AGA commented that process or plug and process loads should not be included in the calculations since these loads do not directly represent the building design attributions. (EEI, No. 10 at p. 6; DHHS, No. 24 at p. 4; DOD–AF, No. 25C at p. 5; ASHRAE, No. 8 at p. 2; AGA, No. 16 at p. 4)

DOE received a number of comments from DOD suggesting that because many DOD facilities do not map to the CBECS building types, DOE should remove the process load component from the calculations or otherwise treat certain buildings with process loads differently. (DOD–AF, No. 25C at p. 4; DOD–OUSOD, No. 25A at p. 2; NAD, No. 19 at p. 1;DOD–N, No. 25B at p. 9) Otherwise, DOD–N noted, petitions for downward adjustment of the reduction requirement could consist predominantly of buildings dominated by process loads. (DOD–N, No. 25B at pp. 6, 9, 12) DOD–N recommended standardized building occupancy and use assumptions. (DOD–N, No. 25B at p. 6)

CBECS and RECS do not include building types with what are generally understood to be energy-intensive process loads. Process loads are typically metered separately and do not include energy consumed for maintaining comfort and amenities for the occupants of the building (including space conditioning and lighting for human comfort or convenience),

commercial equipment and office-related plug loads, and other loads whose energy use is included in the building categories in CBECS and RECS (such as medical equipment and commercial refrigeration). Energy-intensive process loads would include, but not be limited to, activities such as manufacturing, painting, welding, metal work, fabricating, assembly, and data centers.

In the proposed rule, the baseline for building types not in CBECS or RECS would have been determined by a whole building simulation, and the process loads would have been subject to the fossil fuel-generated energy consumption reduction requirements. DOE understands that it could be much more difficult for agencies designing buildings with energy-intensive process loads to comply with the requirements of today's rule than agencies designing buildings without process loads. It is more difficult to reduce process energy consumption, and the process activity is critical to the agency's purpose for the building. In addition, for buildings with energy-intensive process loads, the process loads tend to dominate the energy consumption of the building. As a result, DOE acknowledges that agencies with buildings with such process loads may be the agencies most likely to petition DOE for a downward adjustment of the standard if the process loads were subject to the fossil fuel reduction requirements. DOE also notes that plug and process loads are excluded from the baseline energy efficiency requirements for Federal commercial and multi-family high-rise residential buildings. (*See* 10 CFR 433.101)

Based on these considerations, DOE proposes that for building categories and types not listed in CBECS with energy-intensive process loads, the process loads should not be subject to the fossil fuel-generated energy consumption reduction requirements of this rule. These building types would remain subject to today's requirements by separating the process loads from the building and building-related loads as follows:

1. Federal agencies with buildings with energy-intensive process loads would choose the CBECS building type (from Tables 1–4 of Appendix A) that most resembles the building as if it had no process loads. For example, industrial facilities and airplane hangars for painting/plating would generally map to warehouses, and data centers would generally map to laboratories.

2. Agencies would then find the appropriate target from Tables 1–4 based on climate zone and fiscal year in which design for construction began for the underlying building type selected in Step 1. Because Tables 1–4 do not include these process loads, agencies would add to the target the estimated fossil fuel-generated energy use of the process loads to determine the maximum allowable fossil fuel-generated energy consumption for the proposed building. When estimating the process load, the agency would use the electricity fossil fuel generation factor and the electricity source energy factor defined in this rule to convert electricity into kBtu/sq.ft.

3. To determine compliance, agencies would estimate the energy use and fossil fuel-generated energy consumption of the proposed building using the equation in section 433.201(a) (for CBECS) or 435.201(a) (for RECS), add the estimated process load from Step 2, and compare the result to the maximum allowable fossil fuel-generated energy consumption.

DOE believes that this calculation for buildings with process loads, along with the expanded list of building types described earlier, would make it unnecessary to develop an alternative baseline using a simulated model as was proposed in the NOPR. The expanded list of building types is comprehensive and should cover virtually all building types and categories in the Federal sector. Agencies should be able to find a building type from the expanded list that closely resembles the building as if there were no process loads. Thus, DOE has deleted provisions in the proposed rule to develop alternative baselines using Appendix G of the Performance Rating Method in ASHRAE Standard 90.1–2004 or the IECC Simulated Performance Alternative. DOE believes this approach is simpler and clearer than the method proposed in the NOPR, and addresses the concerns and comments that were submitted.

DOE seeks comment on three specific issues related to process loads:

1. DOE recognizes that not all building categories or building types are equally represented in CBECS data. Additionally, energy use can vary widely within the same building category or type. Therefore, DOE requests additional comment on the treatment of process loads for building categories that are under-represented in CBECS, or where energy use varies widely. DOE also seeks comment on what parameters to use when determining that a building is under-represented in CBECS.

2. In addition, DOE recognizes that buildings with high process loads must increase the capability of their HVAC systems beyond what the building would require absent the building's process-related mission. Therefore, DOE seeks further comment on whether and how to account for the increment of supplemental HVAC required to condition buildings with high process loads.

3. DOE understands that agencies may not be uniformly equipped to submeter their process loads for the purposes of calculating their required fossil fuel reduction. Therefore, DOE requests comment on the degree to which agencies presently submeter process loads.

Concerning plug loads, GTI suggested that the additional variability in plug loads is a legitimate issue, but suggested that it is an issue that can be addressed by a good engineering analysis during the design phase. (GTI, No. 22 at p. 12) EEI stated that the methodology must treat plug loads the same for purposes of both the baseline and the proposed design. (EEI, No. 7 Public Meeting Transcript, at p. 33–35)

Plug loads are included in the building types reported by the CBECS and RECS databases. In addition, they generally do not dominate the building energy profiles like some process loads, and it is easier to achieve plug load reductions through the use of ENERGY STAR and other energy efficient products than it is to reduce process loads. As a result, DOE preliminarily has decided that plug loads would continue to be included in the baseline and would be subject to the fossil fuel reduction requirements.

4. Differentiate Between Fossil Fuels

Some fossil fuels produce higher CO_2 emissions than other fossil fuels, with coal being the highest and natural gas being the lowest. The NOPR noted that ECPA makes no distinction between fossil fuels for purposes of the required fossil fuel-generated energy consumption reductions addressed by this rule. 75 FR 63406 While the statute does not specifically direct DOE to consider variation in fossil fuels for purposes of this rulemaking, DOE stated that the statute does not prohibit DOE from taking the variation into account. With that in mind, DOE requested comments on whether all fossil fuels should be treated equally or whether each should be treated differently based on CO_2 emissions or some other factor.

DOE received several comments about differentiating between fossil fuels. The comments varied, although most favored differentiating between fossil fuels. DHHS–IHS–OEHE supported taking into consideration the actual CO_2 emission factors of fossil fuel types and whether or not a fuel comes from

domestic or imported sources. (DHHS, No. 24 at p. 2) DOD–N, National Rural Electric Cooperative (NREC) and the General Services Administration—Office of Federal High Performance Green Buildings (GSA) also supported weighting fossil fuels based on their respective carbon footprints. (DOD–N, No. 25B at p. 4; NREC, No. 28 at p. 2; GSA, No. 26 at p. 2) The Office of the Deputy Under Secretary of Defense, Installations and Environment, Facilities Energy Directorate (ODUSD) believes such an approach would help, but recommended a thorough study of the potential cost impact prior to implementing such a policy. (DOD–OUSOD, No. 25A at p. 3) GTI recommended that fossil fuel types be distinguished by their cost, efficiency and CO_2 content. (GTI, No. 22 at p. 13) The AGA commented that the DOE should restrict its consideration only to fuel cycle issues, not carbon contributions of fuel cycles, because greenhouse gas emissions are not the dominant issue in this rulemaking. (AGA, No. 16 at pp. 4–5)

DOE notes that ECPA establishes building design requirements based on ''fossil fuel-generated energy consumption'' of a building, not greenhouse gas emissions of a building or other factors that may differentiate fossil fuels. Upon reconsideration of the issue as it was proposed in the NOPR, DOE believes that applying the reduction requirements equally to all fossil fuel types is the best interpretation of the statute. As a result, DOE is not differentiating between fossil fuels in today's rulemaking.

5. Regional Fossil Fuel Factors

To determine the fossil fuel-generated energy consumption of the buildings reported in CBECS and RECS, the fossil fuel component of the electricity used by the building was added to the building's direct fossil fuel consumption. To calculate the fossil fuel component of site electricity use, site electricity was multiplied by the percentage of electricity nationally that is produced from fossil fuels, referred to as the electricity fossil fuel generation factor for purposes of this rule. The factor was obtained by summing the electricity generated from fossil fuels (coal, oil, natural gas, and other gases) from Table 3.2.A of the Energy Information Administration (EIA) 2012 Electric Power Annual Report (*http://www.eia.gov/electricity/annual/html/epa_03_02_a.html*) and dividing it by the total electricity produced in the U.S. 75 FR 63407. According to Table 3.2.A, for 2003, the fossil fuel generation factor was 0.71, meaning that about 71 percent of all electricity in the U.S. is generated from fossil fuels. DOE chose to use the 2003 value in accordance with the statutory mandate that buildings be designed so that the fossil fuel-generated energy consumption of the buildings is reduced as compared with such energy consumption by a similar building in fiscal year 2003 (as measured by CBECS or RECS.) In addition, DOE notes that the fossil fuel generation factor has varied from 0.71 in 2003 to a peak of 0.74 in 2007 and back to 0.71 in 2012. DOE indicated in the NOPR that it was considering a regional approach to establishing the fossil fuel fraction associated with electricity, and asked for comments.

Public comments were mixed, some supporting and some opposing the use of a regional fossil fuel factor. EEI questioned whether adjustments for regional electricity use would be made by census region, sub-census region, power pool region, by state, or by some other form of disaggregation. (EEI, No. 10 at p. 3) GSA also supported a regional approach. (GSA, No. 26 at p. 1) AGA supports use of a regional fossil fuel mix for electric generation based on eGRID subregional level data. (AGA, No. 16 at p. 4) The ICC supported the current proposed approach of using the national average, stating that it would be more efficient to simplify the requirements and smooth the differentials between buildings by using a national average fossil fuel generation factor. (ICC, No. 11 at pp. 2–3) GTI stated that for the purposes of national rulemaking, national average factors would be consistent with some of DOE's prior methodology and protocols. (GTI, No. 22 at p. 7) DHHS–IHS–OEHE and NIBS also support the national average fuel mix. (DHHS, No. 24 at p. 2; NIBS, No. 12 at p. 2) NAD stated that the electricity source energy factor and electricity fossil fuel-generation factor should be based on a regional approach. (NAD, No. 19 at p. 1)

The difference in regional fossil fuel factors would not increase overall fossil fuel reductions, but would simply shift where reductions come from. Buildings in regions with high fossil fuel content in their electric power mix would require deeper reductions in electricity use than buildings in regions with lower fossil fuel content in their electric power mix. For agencies with buildings across the nation, the fossil fuel content of their buildings, in the aggregate, would tend toward the national average. Introducing regional differences adds complexity to the rule with little additional benefit.

Finally, the source of electricity used in a region may be different than the source of electricity generated in that region. Power may be generated in one place, but shipped via the grid to another area for use. Utilities may purchase power from another utility or a merchant plant at a distant location. While data on power generation is readily available, data on where the electricity in an area comes from and how it was produced is more difficult to trace. This leads to the question of what the appropriate breakdown of region would be—utility district, state, power pool area, or interconnection grid.

Based on these preliminary conclusions, DOE proposes to use the national electric power mix in determining the fossil fuel portion of electricity consumption in the rule. Using the national average fossil fuel factor is simpler for Federal agencies and DOE believes it would yield equivalent results. In addition, DOE proposes to calculate and post the value of the fossil fuel generation factor to be used each year on the FEMP Web site and as an update to this regulation[1] rather than requiring agencies to refer to the Buildings Energy Data Book on an annual basis as was proposed in the NOPR.

6. Marginal Source of Electricity

The NOPR stated that reductions in future electricity demand are likely to cause electric utilities to reduce the power supplied by those electricity generation units or sources that have the highest marginal costs. DOE believes that over the short and long-run, fossil fuel-powered units would have higher marginal costs than units powered by nuclear, hydropower, or renewable energy sources. DOE invited comments on whether marginal factors to estimate the fossil fuel consumption associated with electricity consumption should be considered, on grounds that marginal factors might better reflect the fossil fuel portion of new generating capacity that is being built. 75 FR 63407. For example, if almost all new electricity generation capacity built for new demand in the coming years is from non-fossil sources of energy, then it might be reasonable for new Federal buildings to reduce only their locally consumed fossil fuel consumption and not focus on reducing electricity demand to meet the requirements of the rule.

AGA commented that the rule should not use marginal electricity generation, noting that the most equitable means of including new ''marginal'' generation into the electric grid is as additional

[1] *http://energy.gov/eere/femp/federal-energy-management-program.*

supply to the average mix. (AGA, No. 16 at p. 4) DOD–N recommended using marginal fossil fuel reduction factors, averaged nationally. (DOD–N, No. 25B at p. 4) NIBS commented that it would be appropriate to consider the time of such electricity use and its likely impact on the fossil fuel mix. (NIBS, No. 12 at p. 2) EEI was concerned that the electric grid is changing and the tools used by DOE in the rule are already out of date. (EEI, Public Meeting Transcript, No. 7 at p. 45) EEI commented that the source energy methodology looks backwards and does not account for the dynamic changes to electric generation that will be occurring over the next 20–30 years, and that DOE's 71 percent electric source factor nationwide is outdated and does not account for the states that have renewable portfolio standards. (EEI, No. 10 at p. 3)

DOE has considered the issue and is proposing not to use marginal electric source factors. The mix of new electric generating capacity added to the grid varies year-to-year. However, the amount of electricity generated from fossil fuels on an annual basis has varied from 68 percent to 72 percent over the past fifteen years, with no discernible trend. If new, marginal generating capacity were steadily becoming more fossil fuel-dependent or less fossil fuel-dependent, there would be a trend in how much electricity is produced from fossil fuel on an annual basis, but such a trend is not discernible in the current data. In addition, the load growth represented by buildings covered by this rule is likely too small relative to overall electric utility load growth to change utility decisions on investment in new generating resources. Furthermore, as the fossil fuel reduction requirement increases toward 100 percent for buildings for which design for construction begins in FY2030, the marginal factors will be less relevant because all fossil fuel use will be eliminated in any event. For these reasons DOE believes it would be best to continue to use average generating capacity for the fossil fuel generation factor rather than marginal generating capacity.

7. Residential Common Areas

The NOPR stated that the RECS baseline for multi-family residential buildings only includes the energy use for individual dwelling units, not any associated conditioned common areas. DOE proposed applying the RECS-derived fossil fuel requirements to all applicable floor space, including both common and non-common areas. 75 FR 63408. Because common areas often have a lower energy intensity than individual dwelling units, using only non-common areas in the calculation for the proposed design's fossil fuel consumption is likely to result in a slightly higher maximum allowable fossil fuel-generated energy requirement than using both common areas and non-common areas in the calculation. This approach will make it easier for building designers to demonstrate compliance for a residential building overall. Because common areas account for only a small fraction of the floor space in multi-family residential buildings, however, the actual effect on fossil fuel reductions would be minimal.

AGA and DHHS–IHS–OEHE supported application of the energy use values for non-common areas to all applicable floor space, common and non-common. (AGA, No. 16 at p. 4; DHHS, No. 24 at p. 4) Based on the rationale provided in the NOPR and the supporting public comments, this proposed rule continues the approach proposed in the NOPR.

8. Major Renovations

As noted previously in this document, the CBECS and RECS data that provide the baseline for today's requirement are building level data. For major renovations that are whole building renovations, the maximum fossil fuel-generated energy consumption values generated from CBECS and RECS provide requirements that are comparable to the energy consumption of the whole building renovation. However, DOE believes that the maximum consumption levels presented in the proposed tables may not be appropriate for major renovations that are system or component level retrofits. As such, DOE is proposing that the requirements for system and component level retrofits would be based on percentage of whole building fossil fuel consumption represented by the retrofitted system or component. The applicable table value would be multiplied by this percentage to arrive at the maximum allowable energy use of the retrofitted system or component. DOE requests comment on this approach, as well as comment on other approaches that could be used to determine the requirement for system and component level retrofits.

9. Other

Two additional comments were submitted that do not fit into one of the scope subcategories. EEI asked how mixed-use buildings would be treated. (EEI, Public Meeting Transcript, No. 7 at p. 19) The proposed rule required agencies to perform a building area-weighted average in order to determine the appropriate baseline for mixed-use buildings. 75 FR 63407. The specific method to do this is found in section 433.200(d)(3) of the proposed rule.

NPGA thought a paradox existed in that the required reductions identified for years preceding FY 2030 may change and yet fossil fuel energy consumption reductions may not apply to Federal agencies until the regulations are finalized. (NPGA, No. 23 at p. 4) DOE notes that the specific percentage reduction requirements by fiscal year are defined by statute and cannot be changed by DOE. In the NOPR, DOE stated that DOE intends to revise the maximum allowable fossil fuel-generated energy consumption tables, which are based on the required percentage reductions in the statute, to adjust for climate. 75 FR 63408. DOE has done this in today's rulemaking. DOE acknowledges that the specific means to obtain the FY 2030 goal are not known today, but believes that advances in design practices and technology over the next 20 years will make the requirement increasingly attainable.

D. Methodology To Determine Compliance

Once the appropriate baseline fossil fuel-generated energy consumption has been determined for commercial buildings and multi-family high-rise residential buildings and low-rise residential buildings, this rule provides the statutorily-mandated reduction requirements to those baseline consumption values. As noted in the NOPR, rather than setting standards by only listing the percentage reductions required, DOE has decided to deduct the statutorily-required percent reductions from the CBECS and RECS baselines to establish the maximum allowable fossil fuel-generated energy consumption for each building type and climate zone. 75 FR 63408. Establishing today's standard as an absolute value should simplify agency use and interpretation of this proposed rule.

1. Whole Building Simulation

To determine energy use in the proposed design, DOE proposed in the NOPR that the fossil fuel-generated energy consumption of a proposed new Federal building or major renovation of a Federal building be estimated using the Performance Rating Method found in Appendix G of ANSI/ASHRAE/IESNA Standard 90.1–2004 for commercial and multi-family high-rise residential buildings, and the IECC 2004 Supplement for low-rise buildings. 75 FR 63409. Because of the complexity involved in estimating fossil fuel-

generated energy consumption, this requirement would effectively require the use of a whole building simulation tool, which can be difficult and increase cost. As a result, DOE invited comments on alternatives to a whole building simulation.

The ICC endorsed the use of the Simulated Performance Alternative found in IECC 2004, but suggested that the rule reference more recent versions. (ICC, No. 11 at p. 3) NRDC and NIBS commented that DOE should work with the energy modeling industry to standardize modeling assumptions and results provided by the simulation programs, and eventually certify modeling programs and users. (NRDC, No. 14 at p. 16; NIBS, No. 12 at p. 2) The International District Energy Association (IDEA) was concerned that the Performance Rating Method in Appendix G of ASHRAE Standard 90.1–2004 is based on energy costs, as it modifies the Energy Cost Budgeting Method in Chapter 11 of ASHRAE Standard 90.1. (IDEA, No. 21 at p. 2) DOE proposes that the estimated fossil fuel use of the proposed building be calculated in accordance with the provisions relating to ''the proposed design'' in the Performance Rating Method in Appendix G of ASHRAE 90.1–2007. Provisions in Appendix G relating to the generation of a baseline or the Energy Cost Budgeting Approach are irrelevant to today's rule.

As stated in the NOPR, the Performance Rating Method in Appendix G of ASHRAE 90.1 and the IECC Simulated Performance Alternative are already prescribed at 10 CFR parts 433 and 435 for determining whether covered new Federal buildings meet the required energy efficiency standards in those sections. In addition, whole building simulations are already performed today for most medium- and large-sized buildings to accurately estimate loads for purposes of sizing HVAC equipment and to evaluate buildings under voluntary advanced building programs. Based on this and the comments received, DOE is not changing this approach in today's rule.

On August 10, 2011, DOE published a final rule updating Federal energy efficiency baseline standards in 10 CFR part 435 for low-rise residential buildings to the 2009 IECC. 76 FR 49279. On July 19, 2013, DOE published a final rule updating the Federal energy efficiency baseline standard in 10 CFR part 433 for commercial and multi-family high-rise buildings to ASHRAE Standard 90.1–2010. 78 FR 40945. DOE also acknowledges the need to improve work with the energy modeling industry to standardize assumptions and certify programs and users, but such collaboration is outside the scope of this rule. DOE and ENERGY STAR, drawing upon their experience with EnergyPlus Software and Target Finder, respectively, are participating with the Commercial Energy Services Network (COMNET, *www.comnet.org*) to develop energy performance modeling guidelines and procedures.

DOE recognizes that the whole building approach likely is not appropriate for major renovations that are limited to system or component level retrofits. As noted previously, for major renovations that are less than whole building renovations (i.e., system or component level retrofits) DOE is proposing establishing the maximum allowable fossil fuel consumption in fiscal years 2013 through 2029 based on the percentage of whole building consumption represented by retrofitted system or component. The applicable table value would be multiplied by this percentage value to arrive at the maximum allowable fossil fuel consumption of the retrofitted system or component. For determining compliance, DOE is proposing basing the subject fossil fuel-generated energy consumption on the system or component as retrofitted. This would require the design engineer to estimate the energy consumption of the systems or components as renovated.

2. Off-Site and On-Site Renewable Energy and Renewable Energy Certificates

The NOPR stated that in order to meet the fossil fuel-generated energy consumption reduction requirements mandated by ECPA, fossil fuel-generated energy consumption could be offset with the use of renewable energy. 75 FR 63410. DOE also recognized that there may be physical limitations to the amount of on-site renewable electricity that can be produced, and it may be more affordable for an agency to purchase electricity from centralized renewable energy-generation facilities. DOE was concerned, however, that the purchase of renewable energy-generated electricity via Renewable Energy Certificates or direct Power Purchase Agreements (PPAs) may simply reduce the amount of renewable energy available for purchase by other entities within the U.S. and may not necessarily lead to an overall decrease in domestic fossil fuel-generated energy consumption. In addition, DOE was concerned that the purchase of Renewable Energy Certificates does not involve a long-term binding agreement and can readily be cancelled. DOE indicated in the NOPR that it was leaning toward allowing direct PPAs with a long-term contract to count toward meeting the fossil fuel-generated energy consumption reduction requirements, but not allowing Renewable Energy Certificates. 75 FR 63410.

Numerous comments were submitted about Renewable Energy Certificates and PPAs. The Renewable Energy Markets Association (REMA) supported the use of Renewable Energy Certificates and stated that as demand outstrips supply, more renewable energy generation will be built. (REMA, No. 20 at pp. 1–2) REMA also indicated that the purchase of Renewable Energy Certificates is allowed to meet other Federal requirements, and commented that PPAs should be allowed only if the renewable energy attributes (the associated Renewable Energy Certificates) are purchased by the agency as well. (REMA, No. 20 at pp. 1–2)

NAD and NREC encouraged the use of Renewable Energy Certificates to stimulate demand for renewable energy generation. (NAD, No. 19 at p. 2; NREC, No. 28 at p. 2) EEI recommended use of both Renewable Energy Certificates and PPAs with a minimum contract term. (EEI, No. 10 at p. 8) The National Nuclear Security Administration (NNSA) commented that Renewable Energy Certificates should be allowed if the renewable energy was generated on Federal property or, from any source, if the contract is for a period of five years or greater. (NNSA, No. 9 at p. 1) DHHS–IHS–OEHE was concerned that unless the availability of renewable energy sources from the grid is allowed and expanded, these fossil fuel reduction goals will not be met, and therefore supported the use of Renewable Energy Certificates and PPAs. (DHHS, No. 24 at pp. 5–6)

GSA expressed concern about the requirement for long-term contracts, and indicated that GSA cannot procure renewable energy under PPAs in a manner that would make them economical due to their 10 year utility contracting authority under Federal Acquisition Regulation Part 41. (GSA, No. 26 at p. 2) NIBS strongly discouraged the utilization of PPAs or Renewable Energy Certificates as a mechanism for meeting such requirements, stating that it would hamper interest in energy efficient design. (NIBS, No. 12 at p. 3)

AGA opposed the use of Renewable Energy Certificates and PPAs, stating there is no guarantee that they will contribute to fossil fuel reductions. (AGA, No. 16 at p. 5) AGA was also concerned that, because the statute does

not address efficient use of energy in Federal buildings, the rule encourages potentially wasteful use of renewables and nuclear-generated electric energy. (AGA, No. 16 at p. 1) AGA and GTI commented that, if PPAs are allowed, the rule should also allow the purchase of natural gas from renewable sources as well, such as biomethane, biopropane, biofuel oil and biomass. (AGA, No. 16 at p. 5; GTI, No. 22 at p. 14) APGA commented that DOE should not allow contracts to deliver off-site renewable energy to count towards on-site fossil fueled energy reductions because such contracts cannot insure that only non-fossil-fueled electrons are delivered to Federal facilities. (APGA, No. 17 at p. 6)

In addition to Renewable Energy Certificates and PPAs, DOE received several comments from DOD about allowing agencies to use an agency portfolio approach for renewable electricity produced off-site by the agency. These commenters stated that they encourage investment in renewable energy where it is most cost-effective, which is often across a portfolio rather than on a building-by-building basis. (DOD–OUSOD, No. 25A at p. 1; DOD–N, No. 25B at p. 1; DOD–AF, No. 25C at p. 4)

DOE proposes to permit a deduction, subject to limitation, for ''on-site renewable electricity generation'' and for ''off-site renewable electricity generation'' (e.g., Renewable Energy Certificates, agency portfolio renewable energy production and off-site PPAs).

Today's proposal specifies that ''on-site renewable electricity generation'' is the amount of electricity to be consumed by the subject building that is contributed by renewable electricity generated at the Federal site or facility on which the subject building will be located. Thermal energy produced from a renewable energy source reduces a building's load and would be treated the same as energy efficiency for purposes of this rule. Federal agencies that choose to use on-site renewable electricity generation would not be permitted to transfer the environmental attributes of the on-site generation. In other words, agencies would not be permitted to convey the REC associated with the on-site project to an off-site project.

In the proposed regulation Federal agencies are given credit for on-site renewable energy via the renewable energy and CHP electricity deduction in the calculation for the fossil fuel-generated energy consumption of a proposed design. On-site renewable energy would be subtracted from the proposed design's annual site electrical consumption. The building designer typically uses site electrical energy consumption when calculating the building's fossil fuel-generated energy consumption. Deducting renewable energy generation from the proposed design's site electricity consumption before adjusting the electricity consumption for the electricity source energy factor and the fossil fuel generation factor would ensure that renewable energy generation is given appropriate credit for reducing fossil fuel-generated energy consumption. Biomethane, biopropane, biofuel oil, and biomass used on-site, to the extent they can be identified and accounted for, would not be included in direct fossil fuel energy consumption and would qualify as a renewable energy deduction if used to generate electricity.

DOE understands agencies' interest in allowing the use of off-site renewable energy resources, including environmental attributes represented by Renewable Energy Certificates, to help meet the requirements. It may be difficult to achieve the required fossil fuel reductions without use of renewable resources, and on-site renewable resources may not be feasible or available in many cases. Thus, use of off-site renewable electricity resources and/or Renewable Energy Certificates, may be necessary. In addition, with off-site renewable resources, agencies may be better able to optimize production or reduce costs because of resource availability, economies of scale, and other factors.

While DOE acknowledges the benefits of off-site renewable energy, DOE has some concerns with allowing the use of off-site renewable energy, including Renewable Energy Certificates, without limitation. DOE is concerned that energy representing a Renewable Energy Certificate that is not under substantial control of the Federal agency claiming the REC because ECPA, as amended, requires that each Federal agency meet the reduction requirements for each of its Federal buildings. DOE is also concerned about RECs being not properly tracked and accounted for, and that a REC may not represent new or additional capacity. Additional administrative and accounting complexity could detract from agency compliance.

Therefore, under this SNOPR, agencies would be required to ensure that any renewable energy resources used to meet the rule represent new capacity and are not drawn from existing resources, and the renewable energy generation could not be used to offset the fossil fuel-generated energy consumption of more than one design. DOE believes that requiring off-site generation to represent new capacity would be consistent with the statutory goal of reducing total fossil fuel consumption.

DOE acknowledges that increased demand for Renewable Energy Certificates, whether from the Federal sector or elsewhere, will send a market signal to develop more renewable resources rather than reduce the amount of Renewable Energy Certificates available for other entities. DOE also recognizes that many commenters support the use of Renewable Energy Certificates as a compliance path for this SNOPR.

To receive credit against the reduction targets under any of the above scenarios, an agency would be required to ensure that the renewable energy environmental attributes are dedicated to meeting the fossil fuel reduction requirements of the subject new or renovated building and not used elsewhere. The renewable energy environmental attributes would need to be retained by the agency. Environmental attributes represent the general environmental benefits of renewable generation such as air pollution avoidance (e.g., sulfur dioxide, nitrogen oxide, methane, carbon dioxide). The exact quantity of the environmental benefit (e.g. pounds of emission reductions of a given pollutant) is not indicated by an environmental attribute, though it can be quantified separately through engineering estimates. The environmental attribute represents all environmental benefits provided by renewable energy generation.

DOE recognizes that the December 5, 2013 ''Presidential Memorandum—Federal Leadership on Energy Management'' (''Presidential Memorandum) prioritizes Federal agency renewable energy sources for purposes of meeting the renewable energy consumption goals in the Presidential Memorandum. Federal agencies should consider the prioritization in the Presidential Memorandum when determining how they would comply with this proposed rule.

DOE requests additional comment on the issues related to the use of off-site renewable energy generation, including Renewable Energy Certificates, in complying with the proposed rule. Specifically, DOE is also concerned about, and requests comment on, how the current state of information and markets would allow Federal agencies to reliably trace a Renewable Energy Certificate to an actual reduction in fossil fuel use.

3. Use of Source Energy

The NOPR stated that CBECS and RECS data does not provide data on total fossil fuel-generated energy consumption in buildings; however, fossil fuel-generated energy consumption can be calculated from CBECS and RECS data by using the following equation:

Fossil fuel-generated energy consumption = Direct consumption of fossil fuels in the building plus the amount of electrical energy consumption that is generated from fossil fuels. 75 FR 63407.

In order to determine the amount of electricity consumed in the building that is generated from fossil fuels, it is necessary to convert site electricity to source energy. Source energy is the total amount of energy used at the site, including the energy used to generate and deliver electricity to the site. Site electricity is converted to source energy by multiplying site electricity by the electricity source energy factor. For purposes of today's rule, source energy is further adjusted to account for the portion of electricity generated from fossil fuels by multiplying source energy times the fossil fuel generation factor and adding direct consumption of fossil fuels in the building. DOE did not ask for comment on this issue except as to whether the calculation could be effectively used for on-site combined heat and power systems (discussed later). Nonetheless, DOE received several comments concerning the use of source energy rather than site energy.

NREC commented that site energy, which can be easily measured and verified, is the only correct method that can be used. (NREC, No. 28 at pp. 1–2) EEI stated that the use of source energy contradicts the 2007 final rule on energy efficiency performance standards for new Federal buildings, and urged DOE to use site energy. (EEI, No. 10 at p. 2) EEI stated that the use of source energy contradicts the conclusion of ASHRAE's Technology Council Ad Hoc Committee on Energy Targets, where ASHRAE, the American Institute of Architects (AIA), the U.S. Green Building Council (USGBC), and the Illuminating Engineering Society of North America (IESNA) agreed to use site energy as the metric for net-zero energy buildings. (EEI, No. 10 at pp. 4–5) EEI also claimed that the use of source energy will make the reduction targets unattainable. (EEI, No. 10 at p. 7) Finally, EEI argued that site energy metrics would eliminate any game playing or distorted results from the use of on-site renewable energy or CHP systems. (EEI, No. 10 at p. 6)

AGA commented in support of DOE's proposed use of source energy. Source energy, AGA stated, is essential to calculating fossil fuel use in both direct primary energy use and electric generation, and is consistent with the recommendations of the National Research Council on energy efficiency standards and measurement approaches, EPA's ENERGY STAR for Commercial Buildings, and national consensus standards such as the Green Buildings Initiative, ANSI standard and proposed IgCC Version 2.0 model code. (AGA, No. 16 at pp. 2–3) AGA recommended, for clarity, that the regulatory definitions include ''source'' energy. (AGA, No. 16 at p. 4)

GTI supported the use of source energy. They commented that site energy incentivizes lower first cost technologies and inadvertently promotes fuel switching away from more full-fuel-cycle energy efficient and lower greenhouse gas-emitting technologies. (GTI, No. 22 at pp. 5, 14) GTI also commented that the proposed DOE definition of primary energy only considers the energy required to convert fuels to electricity at the power plant, not the fossil fuel energy consumption associated with extraction, processing, transportation, or distribution of fuels used directly in buildings. (GTI, No. 22 at p. 2) GTI, APGA, and NPGA commented that DOE's proposed source energy metrics should be replaced with full-fuel-cycle information as DOE has decided to use in certain analyses the Department conducts when setting energy conservation standards for consumer products and commercial equipment. (see Docket No. EERE–2010–BT–NOA–0028, RIN 1904–AC24, Statement of Policy for Adopting Full-Fuel-Cycle Analyses into Energy Conservation Standards Program.) (GTI, No. 22 at p. 15; APGA, No. 17 at p. 3; NPGA, No. 23 at p. 3) GTI offered DOE's Greenhouse Gases, Regulated Emissions, and Energy Use in Transportation (GREET) model as the primary energy to full-fuel-cycle conversion factor methodology, and its Source Energy and Emissions Analysis Tool (SEEAT) as its underlying methodology for consideration. (GTI, No. 22 at pp. 5–6)

DOE continues to believe that source energy is the correct metric to use for this rulemaking, for reasons cited in the NOPR and discussed at the beginning of this section. Because this rule relates to fossil fuel reductions specifically (rather than energy reductions generally) and not all electricity is produced from fossil fuels, it was necessary to go beyond site energy and look at source energy to accurately quantify fossil fuel consumption for electricity. For this reason, DOE adjusted site energy from electricity by the percentage of electricity produced from fossil fuels (fossil fuel generation factor) and the fuel conversion, transmission, and distribution losses (electricity source energy factor) to determine the fossil fuel-generated energy consumption from electricity. The use of source energy is consistent with the approach EPA uses for ENERGY STAR Portfolio Manager. EPA has determined that source energy is the most equitable unit of evaluation for fossil fuels.[1] Source energy forms the basis for the maximum allowable fossil fuel-generated consumption reductions in Tables 1–4 in Appendix A.

Regarding EEI's concern that source energy would distort the results or cause game-playing with on-site renewable energy or CHP, this SNOPR gives on-site renewable energy generation the same benefit as improved energy efficiency. Under either scenario, the non-fossil fuel generation does not count toward the proposed design site electricity consumption. Similarly, any electricity produced by a CHP does not count toward the proposed design site electricity consumption. Regarding EEI's contention that source energy will make the reductions unattainable, DOE notes that if the reductions are not attainable via energy efficiency alone, Federal agencies may choose to use a renewable energy deduction.

DOE appreciates the comments from GTI and others about using a full-fuel-cycle approach with the GREET or SEEAT models, but believes the methods used in this rule are appropriate to address the statutory requirements. The maximum allowable fossil fuel-generated energy consumption targets in today's rule incorporate losses back to the power plant and the pipeline. However, DOE does not believe it is necessary to go further upstream in its analysis for purposes of this rule. Any losses that occur further upstream than the power plant or pipeline would be very difficult to substantiate with precision.

4. Fuel Conversion Efficiency

In the NOPR, DOE proposed that the electricity source energy factor would be based on the average utility delivery ratio in Table 6.2.4 of the 2010 DOE Building Energy Data Book (See *http://buildingsdatabook.eere.energy.gov*). 75 FR 63410. The ratio accounts for fuel conversion losses to produce electricity, as well as transmission and distribution losses. DOE used the electricity source

[1] U.S. Environmental Protection Agency. ENERGY STAR Performance Ratings Methodology for Incorporating Source Energy Use. March, 2011.

energy factor of 0.316 from the most recent year data was available, 2008. Recent updates in the 2011 DOE Buildings Energy Databook (see *http://buildingsdatabook.eere.energy.gov) indicate that the current value in most current historical value in 2010 was 0.323, with a predicted gradual increase to 0.340 by 2035.*

EEI commented that assuming a 33 percent conversion efficiency of fossil fuels to electricity will guarantee miscalculations, especially in areas with more renewable forms of electric generation. (EEI, No. 10 at p. 3) For example, the conversion efficiency of natural gas generation built over the last 10–15 years, has a thermal efficiency in the 55 to 57 percent range. (EEI, No. 7 Public Meeting Transcript, at p. 29; EEI, No. 10 at p. 3) AGA commented that DOE should not impose barriers to use of end-use fuel choice as a means of achieving target reductions. (AGA, No. 16 at p. 3) APGA and GTI commented that since generation efficiency and fuel mix will not materially change between now and 2030, it will be critical to reduce purchased electricity consumption significantly to help achieve required targets. (APGA, No. 17 at p. 4; GTI, No. 22 at p. 2)

APGA commented that the proposed definition of primary energy is incomplete in that it only considers the energy required to convert fuels to electricity at the power plant, not primary energy resources necessary to obtain and transport the fuel to the power plant nor fossil fuel energy consumption associated with extraction, processing, transportation, or distribution of fuels used directly in buildings. (APGA, No. 17 at p. 3) APGA also commented that renewable generation requires fossil fueled backup, which will frustrate the 100 percent elimination of fossil fuel-generated energy consumption. (APGA, No. 17 at p. 6) DOD–N commented that the thermal efficiency factor has been omitted from the proposed calculation. (DOD–N, No. 25B at p. 3) IDEA commented that the definition of electricity source energy factor appears to be incorrect and should refer to ''primary fuel'' rather than ''primary electrical energy.'' (IDEA, No. 21 at p. 2)

First, DOE notes that thermal efficiency is embedded as part of electricity source energy factor, as well as the other fuel source energy multiplier. Further, DOE does not share the concern that the use of fossil fuels for backup power by a utility when intermittent renewable energy is not available will frustrate the 2030 goal of 100 percent reduction in the use of fossil fuel-generated energy. Compliance with the requirements leading up to 2030 (i.e., 55 percent in FY 2010–2014, 65 percent in FY 2015–2019, 80 percent in FY 2020–2024, and 90 percent in FY 2025–2029) is determined on an annual basis, and DOE believes it is reasonable to continue to apply that approach to the 100 percent reduction requirement after 2030. Even though fossil fuels may be used by a utility as backup power during certain times of the day or year when a renewable resource is not available, surplus renewable energy provided at other times will offset fossil fuel consumption for use elsewhere.

In the NOPR, ''primary electrical energy use'' was a term used only in the definitions of ''electricity source energy factor'' and ''fossil fuel consumption for electricity generation.'' The latter term is not included in the today's rule, and the definition of ''electricity source energy factor'' has been modified and no longer refers to ''primary electrical energy use,'' eliminating the need to redefine the term.

The definition of ''electricity source energy factor'' has been simplified in this proposed rule. Electricity source energy factor is defined as the multiplier used to account for fuel conversion losses and transmission and distribution losses associated with electricity generated from fossil fuels. For this proposed rule, the factor to be used is 0.316. This represents the average efficiency of fossil fuel generation in 2008 as described in the NOPR. The electricity source energy factor was used to help convert CBECS and RECS site energy data to source energy in Tables 1–4 of Appendix A as described in the preamble section on source energy.

EEI argued that it is inconsistent to use estimates for going ''upstream'' for electricity but not for direct use of fossil fuels. (EEI, No. 10 at p. 6) DOE has added an ''other fuels source energy multiplier'' to the equation for various fuels other than electricity to determine the fossil fuel-generated energy consumption of the proposed building. These multipliers were used by ORNL when converting the CBECS site energy use data to source-based fossil fuel generated energy consumption, so the multipliers also need to be included in the calculation for the proposed building. The multipliers account for distribution and other losses that occur between the time the fuel provider takes delivery and final delivery to the building site as measured at the meter, and provides consistency with the adjustment for electricity. The ''other fuels source energy multipliers'' do not include well-head, mine-mouth, or bulk fuel transportation losses.

5. On-Site Energy Generation From Natural Gas

The NOPR indicated DOE's interest in the effect of the fossil fuel-generated energy consumption reduction requirements on distributed energy technologies that provide onsite electrical generation from natural gas, such as combined heat and power (CHP) systems to generate both heat and electricity. A building with a CHP system could potentially be an all-gas building in terms of utility purchases and would, therefore, be required to reduce natural gas consumption in accordance with the fossil fuel-generated energy consumption reduction requirements. DOE indicated its interest in minimizing the penalty or not discourage the use of on-site CHP systems, within the limits of the statutory language. DOE invited comments on how appropriate credit may be given for CHP systems through the compliance determination methodology. 75 FR 63410.

DOE received several comments related to distributed energy technologies. IDEA commented that district heating systems may use a mix of fossil fuels and renewable fuels and may also supply electricity to the power grid using combined heat and power (CHP), and that the rule does not accurately capture the efficiency of district energy. (IDEA, No. 21 at p. 2) EEI disagreed that on-site CHP has inherent efficiencies compared to purchased electricity; CHP can be very efficient, but it is not always more efficient than combined-cycle generation. (EEI, Public Meeting Transcript, No. 7 at pp. 53–54) EEI also commented that one of the issues is the on-site production of energy, whether it is electric energy, thermal energy or fossil fuel energy. (EEI, Public Meeting Transcript, No. 7 at p. 51) On a related issue pertaining to on-site generation more broadly, EEI commented that the use of on-site renewable energy does not change the energy efficiency of the building, it only moves the source of energy closer to the building. (EEI, No. 10 at p. 5)

NIBS commented that the logic behind singling out CHP systems seems flawed because their efficiency is already accounted for. (NIBS, No. 12 at p. 3) AGA commented that the direct use of natural gas in Federal buildings should be preserved as an option where installation of natural gas applications would both reduce fossil fuel-generated energy consumption and increase energy efficiency. (AGA, No. 16 at p. 2) NAD commented that fuel cells can operate on natural gas until hydrogen

fuel storage becomes feasible, and suggested they should be addressed like CHP systems. (NAD, No. 19 at p. 3) AGA also commented that the calculation methodology correctly provides credit for the installation of on-site combined heat and power (CHP) systems, and suggested that DOE should promote these technologies within Federal buildings within the timeframes for which fossil fuel use is still permitted (i.e., before FY 2030). (AGA, No. 16 at p. 5)

DHHS–IHS–OEHE supported not penalizing or discouraging the use of on-site sources. (DHHS, No. 24 at p. 5) DOD–N commented that distributed electrical power produced on-site should be credited with fossil fuel use avoidance for electricity sold into the grid. (DOD–N, No. 25B at p. 5) IDEA recommended the addition of eight definitions and amendment of the definition of ''Proposed Design Fossil Fuel-Generated Energy Consumption'' and the definition of ''Direct Fossil Fuel Consumption.'' (IDEA, No. 21 at pp. 3–4)

Based on the comments received and a technical review of the issues raised, DOE proposes specificity on how CHP and district heating systems should be considered. DOE believes that this specificity adds clarity and addresses the comments submitted. Under DOE's proposal for district heating or cooling systems using fossil fuel as the source, the fossil fuel-generated energy consumption would be determined by adjusting the building load for the plant fuel conversion efficiency and estimated distribution losses as reflected in the ''Other Fuels Energy Source Multiplier.'' If a non-fossil fuel is used as the sole source (e.g., geothermal) of energy for the district heating system, there would be no contribution to fossil fuel-generated energy consumption.

For CHP district heating systems, the electricity attributed to the proposed building would be determined by multiplying the building's pro-rated share of the total delivered heat from the system times the total electricity produced by the CHP system. For CHP systems serving only one building, fossil fuel consumption of the CHP system would be added to the direct fossil fuel consumption in Equation 1. Because it is produced from waste heat, the amount of electricity produced by either the CHP system serving a single building or a CHP district heating system, as determined above, would be deducted from the proposed design site electricity in Equation 1 under the renewable energy and CHP deduction.

6. Additional Review

Because of the complexity of some of the issues presented in the NOPR, two comments were submitted requesting an additional opportunity to review the rule before it is finalized, especially regarding the issues of climate zones and regional considerations. (NPGA, No. 23 at p. 5; DHHS, No. 24 at p. 1) This SNOPR provides an opportunity for additional comment on the proposed rulemaking, including the issues of climate zones and regional considerations.

7. Other

DOE received a few additional comments relating to methodology that did not fit into one of the categories above. AGA and APGA asked DOE not to achieve reductions by encouraging Federal agencies to only use electricity supplied by nuclear energy rather than renewable energy. (AGA, No. 16 at p. 2; APGA, No. 17 at p. 6) The American Wood Council (AWC) commented that DOE should reference not only LEED as a tool for energy reductions, but also Green Globes and the National Association of Home Builders (NAHB) Standard. (AWC, No. 18 at p. 2) DOE notes that all nuclear power is produced by regulated utilities and there is no mechanism for utility customers to get credit for nuclear-generated electricity under today's rule. There is currently no way for a non-utility to purchase nuclear-generated electric power as there is for electricity produced from renewable energy sources under arrangements like PPAs or RECs. However, DOE does recognize that on-site deployment of small modular reactors (SMRs) may be possible in the future and that some agencies may be in a position to rely on SMRs for energy. DOE requests comment on how the potential future use of on-site SMRs could be addressed in the final rule.

DOE acknowledges that, to the extent LEED is referenced as a possible resource for fossil fuel reductions, it should have also referenced other green building rating systems (GBRS) such as Green Globes and the NAHB Green Standard. Although DOE has added these GBRS in the Reference Resources section below, DOE notes that these systems do not provide specific guidance that could help designers achieve the level of reductions called for in today's rule.

E. Petitions for Downward Adjustment

Upon petition by an agency subject to the statutory requirements, ECPA permits DOE to adjust the applicable numeric fossil fuel-generated energy consumption percentage reduction requirement downward with respect to a specific building, if the head of the agency designing the building certifies in writing that meeting the requirement would be technically impracticable in light of the agency's specified functional needs for the building and DOE concurs with the agency's conclusion. (42 U.S.C. 6834(a)(3)(D)(i)(II)) ECPA further directs that such an adjustment does not apply to GSA. In today's rulemaking, DOE proposes a downward adjustment process for new construction and separate processes for major renovations that are whole building renovations and for major renovations that are limited to system or component level renovations.

1. Technical Impracticability and Cost as a Basis for Downward Adjustment

The NOPR noted that the downward adjustment provision of ECPA does not expressly include cost considerations, but that DOE was considering incorporating cost considerations as part of a ''technically impracticable'' determination. Cost would not be the sole rationale for a determination of ''technically impracticable,'' but high costs could be part of the evaluation. 75 FR 63412. DOE invited comments on what kind of technical impracticability would constitute grounds for a petition for downward adjustment.

DOE received several comments about allowing costs (or cost-effectiveness) as grounds for a petition for downward adjustment. DOD–OUSOD and DOD–AF commented that life-cycle cost-effectiveness should be the foundation for any finding of ''technically impracticable.'' (DOD–OUSOD, No. 25A at p. 1; DOD–AF, No. 25C at p. 7) NIBS commented that any petition invoking cost as a basis for technical impracticability should be based solely on life-cycle costs, not first costs. (NIBS, No. 12 at p. 4) AGA recommended that petitions should be ''technologically feasible and economically justified'' as the term is used in ECPA. It also recommended that cost-effectiveness be based on life-cycle cost-effectiveness of the relevant energy reduction measures. (AGA, No. 16 at p. 3)

NRDC commented that DOE's proposal to use ''cost considerations'' as part of the determination of what is ''technically impracticable'' is contrary to what NRDC reads as EISA's plain language, and that DOE should not use cost impacts in any way to limit the application of the rule. (NRDC, No. 14 at p. 8) NRDC stated that by requiring these reductions in fossil fuel use regardless of costs, Congress was advancing a broader goal that goes beyond the reduction of fossil fuel use

by Federal buildings, specifically that the Federal government will lead by example. (NRDC, No. 14 at p. 9)

DOE understands the concern that achieving the reductions required by this rulemaking, especially in the out-years, could be difficult and expensive. DOE also appreciates the concern that allowing costs as the basis for a downward adjustment petition could result in many agencies requesting a petition simply based on cost. The statutory provision concerning a petition for downward adjustment states that agencies must demonstrate that meeting the reductions would be technically impracticable ''in light of the agency's specified functional needs for the building,'' and does not mention cost. As a result, DOE does not believe that cost itself could be grounds for a downward adjustment. However, DOE believes that it would be appropriate and permissible to consider a petition for downward adjustment based on the impact to an agency's functional needs for the building of achieving the fossil fuel-generated energy consumption reductions. DOE recognizes that an agency's functional needs for a building may be inextricably linked with costs, but cost should not be the primary basis for a petition for downward adjustment.

2. Bundling of Petitions

The bundling of petitions was not an issue addressed in the NOPR. However, three comments were submitted on whether an agency could submit a single petition for downward adjustment for multiple agency buildings of the same building type, rather than requiring a petition for each building separately, to minimize agency burden. (DOD–AF, No. 25C at p. 8; DOD–OUSOD, No. 25A at p. 1; DHHS, No. 24 at p. 6)

DOE agrees that ''bundling'' of petitions by an agency for buildings of the same building type and function would help streamline the petitioning process and relieve the burden on agencies and DOE by avoiding duplication of effort. Although DOE would require an individual petition containing the information required under this proposed rule for each building, if the petitions for similar buildings are submitted jointly, a petition may reference the downward adjustment justification in another petition in the bundle. DOE is considering allowing agencies to bundle petitions for new buildings or whole renovations to buildings: (1) That are of the same building type and of similar size; (2) that are being designed and constructed to the same set of targets for fossil fuel-generated energy consumption reduction; or (3) that would require similar measures to reduce fossil fuel-generated energy consumption and similar adjustment to the numeric reduction requirement. The bundled petitions should clearly state any differences between the buildings, and explain why the differences do not warrant the submission of separate evaluations. If an agency is designing a similar building for a different set of targets for fossil fuel-based energy consumption reduction that meets conditions (1) and (3) above, the agency would be required to submit a separate petition, but may include the evaluation for the previous building(s) as well as an explanation why that earlier evaluation should apply to the new building(s).

For component-level major renovations, DOE is considering allowing bundling petitions that are of the same component and building type. DOE is accepting comment on the most efficient yet effective ways to bundle petitions.

3. DOE Review Process

The NOPR stated that DOE will review petitions in a timely manner and if the petitioning agency has successfully demonstrated the need for a downward adjustment per the discussion above, DOE would concur with the agency's conclusion and notify the agency in writing. If DOE does not concur, it would forward its reasons to the petitioning agency with suggestions as to how the fossil fuel-generated energy consumption percentage reduction requirement may be achieved. 75 FR 63412.

Several comments were submitted about the DOE review process. EEI, ICC, DOD–OUSOD, and DOD–N requested information on how quickly the Secretary of Energy has to render a decision on a petition, and requested a timeline. (EEI, Public Meeting Transcript, No. 7 at p. 61; ICC, No. 11 at p. 3; DOD–OUSOD, No. 25A at p.1; DOD–N, No. 25B at p. 7) NRDC and DOD–OUSOD commented that DOE should establish procedures for reviewing and ruling on petitions for adjustments to ensure public transparency. (NRDC, No. 14 at p. 7; DOD–OUSOD, No. 25A at p. 1) DOD–N recommended that the rule should include where and how to submit petitions. (DOD–N, No. 25B at p. 7)

DOE recognizes that agencies want assurance that DOE will respond to petitions in a timely manner to avoid project delays. For petitions for new construction, DOE proposes to notify an agency in writing within 90 days of submittal whether a petition for downward adjustment is approved or rejected. If DOE rejects the petition, it would include its reasons for doing so in its response to the agency. Additionally for new construction, DOE proposes a provision under which DOE could establish an adjusted value other than the one presented in a petition if DOE finds that the petition does not support the conclusion of the submitting agency but that the statutorily required level was nonetheless technically impractical in light of the agency's specific functional needs for the building. This provision is intended to provide flexibility in the petition process and reduce the need for agencies to resubmit in the instance of a rejection. Under the statute, the Secretary of Energy is tasked with deciding whether to grant a petition for downward adjustment and DOE believes that this authority also grants DOE the ability to propose alternative adjusted values if appropriate.

For petitions for downward adjustments to the requirements applicable to major renovations, DOE proposes that the downward adjustment would be granted upon submission of specified certifications. The necessary certifications are discussed in greater detail further in this document.

4. Information Required in Petitions for New Construction

The NOPR proposed that a petition for downward adjustment of the numeric requirement should include an explanation of what measures would be required to meet the fossil fuel-generated energy consumption reduction requirement, and why those measures would be technically impracticable in light of the agency's specified functional needs for the building. DOE also proposed that the petition should demonstrate that the adjustment requested by the agency represents the largest feasible reduction in fossil fuel-generated energy consumption that can reasonably be achieved. DOE solicited comments on those issues. 75 FR 63412.

Several comments specifically asked what kind of information would be required for a petition. DOD–N recommended that DOE provide guidance regarding expected content of petitions and the minimum supporting information required for review and approval. (DOD–N, No. 25B at p. 7) NRDC recommended that DOE require that the agency provide in its petition any relevant information that is needed to understand and verify the agency's conclusion and request, including information about the building's specified functional needs. (NRDC, No. 14 at p. 12) NRDC thought the

requirement that a petition demonstrate that the requested adjustment is the largest feasible reduction in fossil fuel-generated consumption that can be achieved represents a positive step. (NRDC, No. 14 at p. 8) NIBS suggested that the petitions include a description of all reasonable technologies and practices that were examined and ultimately rejected by the design team. (NIBS, No. 12 at p. 4)

DOE agrees with these comments and is proposing provisions intended to provide more detailed petition requirements that would allow the Department to determine more comprehensively whether a downward adjustment would be allowable. DOE proposes a modified provision to require a demonstration that the requested adjustment represents the largest feasible fossil fuel reduction that can reasonably be achieved to include a demonstration that all life-cycle cost-effective energy efficiency and on-site renewable energy measures were included in the design and a description of the technologies and practices that were evaluated and rejected, including a justification why they were not included. Finally, agencies would also be permitted to provide additional information they think will help justify the request for downward adjustment.

Petitions would also be required to include the maximum allowable fossil fuel-generated energy consumption for the proposed building, the estimated fossil fuel-generated energy consumption of the proposed building, and a description of the building and the building energy systems. A description of the building would include, but would not be limited to, location, use type, floor area, stories, and functional needs of the building, and any other information the agency deems pertinent. The building energy systems to be described would include the building envelope, HVAC systems, lighting systems, service water heating system, and estimated receptacle and plug loads. This information should provide DOE the necessary information to review petitions, and help agencies ensure key questions and options are addressed in the design process.

5. Downward Adjustments for Major Renovations

As noted previously, for major renovations DOE proposes that the fossil fuel reduction requirements apply only to the energy use associated with the portions of the building or building systems that are being renovated and only to the extent that the scope of the renovation provides an opportunity for compliance with the applicable fossil fuel-generated energy consumption reduction requirements. DOE recognizes that the improved efficiencies that can be achieved through renovation may not provide sufficient reduction of fossil fuel-generated energy use for a major renovation to meet the interim requirements. Renovations are even less likely to achieve a 100 percent-reduction, even in the limited context of the energy use associated with just the renovated system or component. As such, DOE expects that to the extent that renovations would be subject to the requirements, agencies would need to apply for downward adjustments.

The SNOPR differs from the NOPR by establishing a separate section and separate requirements for downward adjustments for major renovations, and further delineates between major renovations that are whole building renovations and major renovations that are limited to system or component level retrofits (e.g., a lighting retrofit, a retrofit of a boiler or chiller). Whole building retrofits provide a greater opportunity for improved energy efficiency as compared to a system or component level retrofit, but generally neither type of retrofit would likely provide an opportunity to meet the fossil fuel reduction requirements. Recognizing the practical limitations on improving energy efficiency through retrofits, DOE proposes separate downward adjustment processes for major renovations. For major renovations that are whole building renovations, a downward adjustment would be provided at a level equal to the energy efficiency level that would be achieved were the proposed building designed to meet the energy efficiency standard applicable to new construction. As directed by ECPA, this downward adjustment would not apply to GSA, although DOE proposes that this adjustment would be available to GSA-tenant agencies with significant control over building design.

The energy efficiency standards for new construction are established in 10 CFR part 433, for commercial and multi-family high-rise residential buildings, and 10 CFR part 435, for low-rise residential buildings. The energy efficiency standards require a building be designed to achieve the energy efficiency levels of the applicable referenced voluntary consensus code: ASHRAE 90.1 for commercial buildings multi-family high-rise residential buildings, and IECC for low-rise residential buildings. The energy efficiency standards for new Federal buildings further require that buildings be designed to achieve energy efficiency levels that are at least 30 percent beyond the levels established in the referenced codes, if life-cycle cost-effective. As proposed, a building undergoing a whole building renovation would need to be designed to achieve the energy efficiency levels currently applicable only to new construction. DOE has preliminarily determined that achieving the specified level of energy efficiency for a major retrofit that is a whole building retrofit would represent the appropriate level of fossil fuel-generated energy reduction for the building efficiency that is also technically practicable.

For major renovations that are limited to system or component level retrofits, DOE proposes to provide downward adjustments at a level equal to the energy efficiency level that would be achieved through the use of commercially available systems and/or components that provide a level of energy efficiency that is life-cycle cost effective. The energy efficiency requirement for system and component level renovations could be demonstrated by using the higher efficiency of the following, (1) ENERGY STAR or FEMP designated products, or (2) products that meet the energy efficiencies specified in ASHRAE 90.1 for systems and components in commercial buildings, or IECC for systems and components in residential buildings.

In setting efficiency requirements, both FEMP and ENERGY STAR choose levels that are among the highest 25 percent of efficiency for a given product category. ENERGY STAR estimates that its program saves more than 200 billion kWh of electricity each year, and FEMP estimates that compliance with its efficiency requirements can save the government more than 30 trillion BTUs each year. Both programs have integrated life-cycle cost effectiveness into their guiding principles and, as such, Federal buyers can have confidence that required products have both good energy performance and a total cost of ownership that is equal to or less than products below set efficiencies. Prescriptive requirements of ASHRAE 90.1 and IECC demonstrate similarly high levels of efficiency. Together, these requirements cover more than 70 product types and will help ensure that the products used within Federal facilities are among the highest energy efficiencies available. Federal buildings that install and use these products will realize lower energy intensities compared to using non-compliant products.

DOE requests comment on the considered approach as well as comment on other potential methods for

processing requests related to major renovations.

6. Make Information Publicly Available

DOE received some comments that petitions for downward adjustment should be made publicly available on a DOE Web site. (NRDC, No. 14 at p. 11; Form letter, No. 29 at p. 1) This issue was not addressed in the NOPR. The Form Letter comments also stated that Federal agency compliance with today's SNOPR should be made public. (Form letter, No. 29 at p. 1)

Commenters stated that the reasons for making this information publicly available are that it would make the process transparent and hold agencies accountable and could reduce unsupported petitions. DOE appreciates the commenters concerns and supports transparency to the extent the Department can be transparent while also responding to petitions in a short timeframe so as not to delay building design and construction. As a result, DOE is proposing reporting petition summary level information in the DOE Annual Report to Congress on Federal Energy Management and Conservation Programs (*See http://www.energy.gov/about/budget.htm*).

7. Narrow the Use of Petitions

DOE received a few comments related to narrowing the use of petitions for downward adjustment. NRDC commented that in developing the test for technical impracticability and the standards for downward adjustment petitions, DOE must consider the statutory context of the EISA 2007 provision, which demonstrates that DOE should not craft a broad petition procedure that swallows the larger statutory requirement. (NRDC, No. 14 at p. 8) The Form Letter requested that DOE promulgate strict requirements that ensure that agency requests for fossil fuel reduction adjustments will be rarely granted, so that this process does not prevent the law from achieving its vital goal to cut government buildings' greenhouse gas emissions dramatically. The Form Letter also urged DOE to strengthen the rule and apply it without exceptions and without loopholes. (Form letter, No. 29 at p. 1)

DOE believes the changes it has proposed in this SNOPR would reduce the number of petitions submitted for downward adjustment and will improve the content of submitted petitions. DOE has expanded the number of building types covered in Tables 1–4 in Appendix A of part 433, and has a methodology for calculating the maximum allowable fossil fuel-generated consumption values for buildings with process loads. This is expected to greatly reduce the number of building types without baselines and fossil fuel reduction targets, eliminating a significant potential source of petitions. In addition, in response to some of the public comments received, this proposed rule is more specific about information to be provided as part of the petition process. Agencies requesting a petition would be required to: (1) Demonstrate that the requested adjustment represents the largest feasible fossil fuel reduction that can be achieved; (2) demonstrate that all cost-effective energy efficiency and on-site renewable energy has been included in the proposed design; and (3) describe all technologies and practices that were evaluated and rejected, including a justification as to why they were not included in the design. The rule would require specific information about the energy efficiency and on-site renewable energy measures included in the proposed building design to enable DOE to evaluate the request for downward adjustment.

8. GSA Tenant Agencies

The statute does not provide the General Services Administration (GSA) the option of petitioning DOE for a downward adjustment of the applicable percentage reduction requirement. (42 U.S.C. 6834(a)(3)(D)(i)(II)) In the NOPR, DOE proposed that a new Federal building or a Federal building undergoing major renovations for which a Federal agency is providing substantive and significant design criteria may be the subject of a petition. 75 FR 63412. Under this approach, DOE proposed that a GSA building that is designed to meet the specifications provided by a tenant agency may be considered for a downward adjustment if a petition is submitted by the head of the tenant agency.

DOE received one comment on this issue. NRDC commented that allowing GSA tenant agencies to petition for downward adjustments contradicts the statute. (NRDC, No. 14 at p. 10)

While the statute prohibits GSA from petitioning DOE for a downward adjustment, it makes no reference to GSA tenant agencies. DOE is continuing to propose that GSA tenant agencies that have significant control over building design may request a petition. In such cases, it would be the tenant agency, not GSA, that is making the design choices that would allow for compliance with the rule. Allowing GSA tenant agencies to submit a petition for downward adjustment would provide an option for some buildings for which the required fossil fuel reductions may be technically impracticable in light of the building's functional needs, but for which GSA may not submit a petition.

9. Other

DHHS–HIS–OEHE commented that consideration for what is technically impracticable should include remote locations that often have limited choices in available power utility companies. (DHHS, No. 24 at p. 6) DOE will consider remote locations and the availability of power utility companies in the petition process, but DOE also notes that the use of allowable, off-site renewable energy sources would help agencies meet their targets even in the case of remote buildings.

F. Impacts of the Rule

1. Cost Impacts

The NOPR provided a discussion of the expected costs of meeting the fossil fuel-generated energy consumption reduction requirements based on a study that DOE commissioned by PNNL in 2008 to look at the incremental costs of high performance buildings, and cost calculations for DOE work associated with the ASHRAE Advanced Energy Design Guides. DOE acknowledged that cost data for high performance buildings is fairly rare, and many times the costs for achieving high levels of energy efficiency are intermingled with the costs to achieve more sustainable design features. 75 FR 63410. Because of the limited data, DOE sought comment on cost impacts, especially any construction cost increases for buildings that Federal agencies are in the process of designing or have already built.

DOE did not receive any comments providing additional specific cost information. EEI noted that the PNNL 2008 report stated that the cost data was very limited. (EEI, No. 10 at p. 8) NIBS stated that the focus on first costs is misplaced and should not be considered; DOE should focus on the overall life-cycle-cost of the requirements. (NIBS, No. 12 at p. 3) NRDC also stated that when analyzing cost impacts, DOE should look at life-cycle costs rather than increased first costs. (NRDC, No. 14 at p. 7) NRDC commented that past experience has shown that the cost of efficiency improvements tends to be lower than predicted and that the magnitude of increases in energy efficiency will often exceed expectations. In another comment, NRDC stated that the statute does not mention costs as one of the criteria for application of this rule; therefore, DOE should not use cost to limit the application of the rule. (NRDC, No. 14 at p. 6).

The AGA stated that the estimates should be based on actual quotes, not PNNL analyses or the ASHRAE Advanced Energy Design Guides. (AGA, No. 16 at p. 5) APGA states that EISA 2007 Section 433 strongly discourages any use of natural gas and subsidizes the growth of non fossil-fueled electricity generation, the vast majority of which will likely be produced off-site. APGA believes that, under this interpretation, EISA 2007 may reduce initial construction costs (relative to onsite generation) and massively increase life-cycle operating costs for utility services. (APGA, No. 17 at p. 6) NAD commented that the cost analysis described in the proposed rules showed up to an 8.7 percent cost increase for a simple building, but this will increase dramatically for more complex buildings, especially for buildings built in the later years when fossil fuel reductions near 100 percent. (NAD, No. 19 at p. 3) The DOD–AF commented that given the restrictive nature of the Military Construction Program (MILCON) funding process, it is not clear how the Air Force can implement a strategy to meet this requirement within the timeline discussed and whether there is a budget to implement this requirement while meeting current and future Air Force mission needs. (DOD–AF, No. 25C at p. 6).

DOE agrees that it is prudent to consider cost-effectiveness of energy reduction measures. First costs, of course, are necessary to compute cost-effectiveness. DOE notes, however, that per the statute, high first costs/poor cost-effectiveness are not an explicit consideration for today's rulemaking. (See 42 U.S.C. 6834(a)(3)(D)). Nonetheless, DOE believes that minimizing costs to Federal agencies is a significant consideration, and DOE has designed this proposed rule to minimize costs and foster the most cost-effective approaches to meeting the statutorily mandated fossil fuel reductions.

The baseline Federal building energy efficiency standards published in the past few years require agencies to design new Federal buildings to achieve energy consumption levels at least 30 percent below the levels of the baseline building built to ASHRAE Standard 90.1–2010, or the IECC 2009 (depending on the type of building), if life-cycle cost-effective. *See* 78 FR 40945 (July 9 2013); 76 FR 49279 (August 10, 2011). If achieving this consumption level is not life-cycle cost-effective, Federal agencies must, at a minimum, meet ASHRAE Standard 90.1–2007, or the IECC 2009 (depending on the type of building). Federal agencies are already required to incur the costs associated with meeting these requirements. For new Federal buildings, it is only the additional first cost of achieving fossil fuel-generated consumption reductions beyond the energy efficiency improvements already required for new Federal buildings that would be attributable to this proposed rule. Beyond those pre-existing requirements, agencies have the option of implementing additional energy efficiency, on-site renewable energy, or acquiring off-site renewable energy in accordance with procedures described earlier. The rule provides agencies with some alternative ways to achieve the required fossil fuel reductions, and DOE expects that agencies will select the most cost-effective combination of these options.

2. Other Impacts

DOE received several comments closely associated with cost impacts. A few commenters expressed concern that the rulemaking discourages or encourages the use of certain fuel types or other forms of energy without any consideration of the comparative efficiency and environmental impacts of optional fuel choices. (See AGA, No. 16 at p. 2; APGA, No. 17 at pp. 2–3). One commenter encouraged DOE to account for indirect social costs and another expressed concern that DOE might use the ''social cost of carbon'' in its cost/benefit analysis for this rule (NRDC, No. 14 at p. 7; EEI, No. 10 at pp. 8–9).

Several comments were submitted questioning the technical and fiscal feasibility of meeting today's requirements, especially the 100 percent fossil fuel reduction requirement starting in FY 2030. (See AGA, No. 16 at p. 2; APGA, No. 17 at p. 2; NPGA, No. 23 at pp. 2, 4; GTI, No. 22 at p. 14; DOD–AF, No. 25C at p. 7; EEI, Public Meeting Transcript, No. 7 at p. 53)

DOE acknowledges that achieving the reductions, especially the 100 percent reduction in 2030, will be challenging. However, the reductions mandated today are established by statute. DOE expects design practices and technologies will improve and costs will decrease in coming years, making it easier and less costly to achieve reductions through either energy efficiency or the use of on-site renewable energy. If the reductions are technically impracticable in light of the agency's functional needs for the building after all of these provisions are implemented, as a last resort, Federal agencies (except for GSA) may petition the Secretary of Energy through the DOE's Federal Energy Management Program (FEMP) Director for a downward adjustment to the numeric reduction requirement.

Finally, DOE received several comments broadly supporting DOE's energy conservation and renewable energy efforts or other energy conservation or renewable energy efforts. Some of these comments supported or opposed the use of certain forms of renewable and fossil energy, others supported specific green building measures, and others encouraged green technology research. DOE actively supports the research and development of a wide range of forms of renewable energy and has chosen not to narrow the renewable energy deduction in this rule to only certain forms of renewable energy. Many of the suggestions made by commenters are currently being implemented by DOE. Executive Orders 13423 and 13514 require Federal agencies to implement sustainable practices, GSA has established an Office of High Performance Green Buildings, and ECPA, as amended by EISA, requires sustainable design principles be applied to all new Federal buildings and major renovations of Federal buildings (42 U.S.C. 6834(a)(3)). Elsewhere in this issue of the **Federal Register**, the green building certification portion of the Sustainable Design NOPR is published as a final rule.

G. Guidance and Other Topics

DOE requested specific comment in the NOPR on what additional training would help agencies meet the reductions called for by this statute. In addition to comments on that question, DOE received several unique comments as part of the Form Letter about alternative generation, green buildings, and transportation.

1. Training

In the NOPR, DOE provided references to various tools to help agencies design new Federal buildings and major renovations to achieve the required fossil fuel reductions, and asked for comments on additional training or tools that might be helpful. 75 FR 63413.

NIBS confirmed the importance of an experienced and well-trained design team. (NIBS, No. 12 at p. 4) AIA commented that improvement of energy modeling tools and creation of early-design phase tools is necessary. AIA mentioned the need to train architects, engineers and other building design professionals to meet these energy targets. They also mentioned the need to train building owners, facility managers and inhabitants on operations and maintenance. AIA also recommended examining tools being used for building analysis. (AIA, No. 15 at p. 2) DOD–OUSOD commented that additional

training should cover reconciliation of force protection/security requirements with sustainable design. (DOD–OUSOD, No. 25A at p. 3) ICC endorsed the listing of resources including the International Green Construction Code and ASHRAE 189.1. (ICC, No. 11 at p. 3) NRDC commented that DOE should look at real data and survey other agencies to understand what would make the reduction requirement ''technically impracticable'' and look at the technology available now and consider the technology in development, to answer this question. This would allow DOE to target resources to assist agencies in meeting the requirements for future years, when greater reductions in fossil fuel usage will be required. (NRDC, No. 14 at p. 8)

DOE agrees about the importance of training and tools to help improve the ease and effectiveness of designing high-performance buildings. DOE develops, and will continue to develop, tools and training. This will include looking at real data and surveying agencies on new technologies and experience with high performance building practices, including compliance with the fossil fuel reduction requirements. DOE agrees it is important to reconcile force protection/security requirements with energy and sustainable design considerations, and will work with agencies to do so.

As FEMP did with the existing Federal building energy efficiency standards, FEMP plans to hold webcasts on the new Federal baseline energy efficiency standards, and today's fossil fuel reduction rule. FEMP currently keeps all material related to the Federal standards at *http://www1.eere.energy.gov/femp/regulations/notices_rules.html.* FEMP also has training available on all aspects of Federal energy management and conservation at *http://apps1.eere.energy.gov/femp/training.*

In addition to the tools identified in the NOPR and the FEMP tools listed above, DOE is also referencing additional resources in the next section of this document.

2. Verification and Monitoring

NRDC recommended that a design verification and commissioning plan be part of the building design to help ensure the required reductions. They also suggested that a requirement be included for continued measurement and monitoring of Federal buildings with mandatory reporting and disclosure to the public. (NRDC, No. 14 at p. 16)

DOE agrees that both building commissioning and verification of performance are important to ensure buildings perform as designed to achieve the required fossil fuel-generation energy consumption reductions. ECPA, however, provides that new Federal buildings and major renovations of Federal buildings shall be ''designed'' so that fossil fuel-generated energy consumption is reduced. As such, the rulemaking only covers the building design, not post-occupancy. EISA section 432, however, requires that Federal agencies report and benchmark energy and water use for at least 75 percent of facility energy use. (42 U.S.C. 8253(f)) Agencies should refer to ''Building Energy Use Benchmarking Guidance,'' *http://www1.eere.energy.gov/femp/regulations/guidance.html,* for information and guidance on these requirements.

IV. Reference Resources

DOE has prepared a list of resources to help Federal agencies address the reduction of fossil fuel-generated energy consumption. The final rule on energy efficiency published in the **Federal Register** on December 4, 2006 (71 FR 70275) contains some reference resources for energy efficiency improvement in building design. These resources come in many forms such as design guidance, case studies and in a variety of media such as printed documents or on Web sites. The resources for energy efficiency improvement will also provide guidance for fossil fuel-generated energy consumption reductions.

DOE is adding to this list of resources to also include:

- U.S. Department of Energy, Federal Energy Management Program. (*www1.eere.energy.gov/femp*). FEMP provides access to numerous resources and tools that can help Federal agencies improve the energy efficiency of new and existing buildings.
- U.S. Department of Energy, Building Technologies Program. Database of high-performance buildings. (*eere.buildinggreen.com*).
- FedCenter. High Performance Buildings. (*www.fedcenter.gov/programs/greenbuildings/*).
- American Society of Heating, Refrigerating, and Air-conditioning Engineers, Inc. ''Advanced Energy Design Guides.'' (*http://www.ashrae.org/technology/page/938*) and (*http://www1.eere.energy.gov/buildings/commercial_initiative/guides.html*). The ASHRAE ''Advanced Energy Design Guides (AEDGs),'' developed in cooperation with DOE and others, are a series of publications designed to provide recommendations for achieving energy savings 30 percent better than the minimum code requirements of ANSI/ASHRAE/IESNA 90.1–2004, and cover K–12 school buildings, small retail buildings, small office buildings, small hospitals and healthcare facilities, highway lodging, and small warehouses and self-storage buildings. Additional design guides aimed at establishing 50 percent energy savings over the minimum code requirements of ANSI/ASHRAE/IESNA 90.1–2004 are being developed for small-to-medium office buildings, mid-box retail, highway lodging, K–12 schools, grocery/supermarket, and quick-serve restaurants.
- American Society of Heating, Refrigerating, and Air-conditioning Engineers, Inc. ANSI/ASHRAE/IESNA Standard 189.1 Standard for the Design of High-Performance Green Buildings. *(www.ashrae.org/publications/page/927*).
- Tangherlini, Daniel, Administrator, General Services Administration, Letter to Secretary Ernest Moniz, U.S. Department of Energy, GSA recommendations and review of green building certification systems, October 25, 2013. (*http://www.gsa.gov/portal/content/131983?utm_source=OGP&utm_medium=print-radio&utm_term=gbcertificationreview&utm_campaign=shortcuts*).
- National Institute of Building Sciences. ''Whole Building Design Guide.'' (*www.wbdg.org*).
- International Code Council. ''International Green Construction Code.'' (*www.iccsafe.org/cs/IGCC/Pages/default.aspx*).
- Northwest Energy Efficiency Alliance, Better Bricks Commercial Building Initiative, (*www.betterbricks.com*).
- Massachusetts High Performance Buildings Database. (*mtc.buildinggreen.com*).
- New Buildings Institute. Buildings Database. (*buildings.newbuildings.org*).
- Environmental Building News. BuildingGreen.com. (*www.buildinggreen.com*) (subscription required).

V. Procedural Issues and Regulatory Review

A. Review under Executive Orders 12866 and 13563

It has been determined that this regulatory action is a ''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 proposed rule and that the Office of Information and Regulatory

Affairs (OIRA) in the OMB review this proposed rule. DOE has also reviewed this regulation pursuant to Executive Order 13563, issued on January 18, 2011. 76 FR 3281 (January 21, 2011). EO 13563 is supplemental to and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866.

The RIA consists of: (1) A statement of the problem addressed by this regulation, and the mandate for government action; (2) a description and analysis of the feasible policy alternatives to this regulation; (3) a quantitative comparison of the impacts of the alternatives; and (4) the national economic impacts of the proposed standards.

The RIA calculates the effects of feasible policy alternatives to mandatory standards for new Federal buildings and major renovations subject to the requirements, and provides a quantitative comparison of the impacts of the alternatives. DOE evaluated each alternative in terms of its ability to achieve significant energy savings at reasonable costs, and compared it to the effectiveness of the proposed rule.

DOE identified the following major policy alternatives for achieving increased energy efficiency:

- No new regulatory action;
- ''Zero fossil fuel'' alternative of immediately requiring the lowest fossil fuel-generated energy consumption limits specified in the rule of zero fossil fuel usage; and
- The proposed approach.

DOE also considered certain non-regulatory policy alternatives such as tax credits, rebates, and labeling programs, and was unable to identify any non-regulatory policy alternatives that would be viable for Federal buildings. DOE evaluated the alternatives in terms of cost and energy savings.

TABLE V–1—CONSTRUCTION COST INCREASES UNDER THE FOSSIL FUEL-REDUCTION RULE AND ''ZERO FOSSIL FUEL'' ALTERNATIVE (RELATIVE TO BASELINE ''NO-ACTION'' ALTERNATIVE) CALENDAR YEARS 2015–2044

Calendar year	Fossil fuel-reduction rule—high PV [1] cost scenario (2012 $million)	Fossil fuel-reduction rule—low PV cost scenario (2012 $million)	''Zero fossil fuel'' alternative—high PV cost scenario (2012 $million)	''Zero fossil fuel'' alternative—low PV cost scenario (2012 $million)
2015	$30	$30	$1,194	$1,136
2016	30	30	1,189	1,103
2017	30	30	1,183	1,071
2018	30	30	1,178	1,040
2019	30	30	1,173	1,010
2020	536	447	1,191	1,005
2021	534	435	1,186	976
2022	532	424	1,181	949
2023	530	413	1,175	922
2024	528	402	1,170	896
2025	841	618	1,165	871
2026	837	601	1,160	847
2027	834	585	1,155	824
2028	830	569	1,150	801
2029	827	554	1,145	778
2030	1,135	736	1,140	757
2031	1,130	716	1,140	757
2032	1,125	696	1,140	757
2033	1,120	677	1,140	757
2034	1,115	658	1,140	757
2035	1,110	640	1,140	757
2036	1,110	640	1,140	757
2037	1,110	640	1,140	757
2038	1,110	640	1,140	757
2039	1,110	640	1,140	757
2040	1,110	640	1,140	757
2041	1,110	640	1,140	757
2042	1,110	640	1,140	757
2043	1,110	640	1,140	757
2044	1,110	640	1,140	757

[1] ''PV'' references solar photovoltaic technologies.

TABLE V–2—ANNUALIZED BENEFITS AND COSTS TO FEDERAL GOVERNMENT FOR NEW AND EXISTING CONSTRUCTION UNDER THE FOSSIL FUEL-REDUCTION RULE [a]

	Discount rate	Monetized (2012 $million/year)		
		Primary estimate [b]	Low estimate [b]	High estimate [b]
Benefits				
Operating (Energy) Cost Savings	7%	349.2	336.1	468.9
	3%	606.7	580.1	841.4
CO_2 Reduction at $12.9/t [c]	5%	46.0	46.0	46.0
CO_2 Reduction at $40.8/t [c]	3%	178.6	178.6	178.6
CO_2 Reduction at $62.2/t [c]	2.50%	270.6	270.6	270.6
CO_2 Reduction at $117.0/t [c]	3%	550.9	550.9	550.9

TABLE V–2—ANNUALIZED BENEFITS AND COSTS TO FEDERAL GOVERNMENT FOR NEW AND EXISTING CONSTRUCTION UNDER THE FOSSIL FUEL-REDUCTION RULE[a]—Continued

	Discount rate	Monetized (2012 $million/year)		
		Primary estimate[b]	Low estimate[b]	High estimate[b]
NO_X Reduction at $2,639/t[c]	7%	2.9	2.9	2.9
	3%	4.9	4.9	4.9
Total (Operating Cost Savings, CO_2 Reduction and NO_X Reduction)[d].	7% plus CO_2 range	398 to 903	385 to 890	518 to 1023
	7%	530.7	517.6	650.4
	3%	790.2	763.6	1024.9
	3% plus CO_2 range	658 to 1163	631 to 1136	892 to 1397
Costs				
Incremental Purchase Price Increase	7%	479.4	572.6	386.3
	3%	574.6	695.6	453.5
Net Benefits/Costs				
Total (Operating Cost Savings, CO_2 Reduction and NO_X Reduction, Minus Incremental Cost Increase to Buildings).	7% plus CO_2 range	−28 to 477	−188 to 317	132 to 636
	7%	104.6	−55.0	264.2
	3%	215.7	68.0	571.4
	3% plus CO_2 range	187 to 692	−65 to 440	439 to 944

[a] Incremental costs are calculated for buildings constructed or renovated in 2015–2044; total benefits extend through 2074.
[b] The primary, low, and high estimates utilize forecasts of energy prices from the *Annual Energy Outlook 2013* reference case. The low and high cases were based upon the percentage price deviations from the *Annual Energy Outlook 2013* reference case as provided in the Low Economic Growth case and High Economic Growth case, respectively.
[c] These values represent global values (in 2012$) of the social cost of CO_2 (SCC) emissions in 2013 under several scenarios developed by the Interagency Working Group on Social Cost of Carbon (SCC) (OMB 2013). The values of $12.9, $40.8, and $62.2 per metric ton are the averages of SCC distributions calculated using 5%, 3%, and 2.5% discount rates, respectively. The value of $117.0 per ton represents the 95th percentile of the SCC distribution calculated using a 3% discount rate. For NO_X, values were extracted from OMB guidance (OMB 2006) and updated to 2012$. An average value ($2,639) of the low ($468) and high ($4,809) values was used.
[d] Total monetary benefits for both the 3-percent and 7-percent cases utilize the central estimate of social cost of NO_X and CO_2 emissions calculated at a 3-percent discount rate (averaged across three integrated assessment models (IAMs)), which is equal to $40.8/metric ton (in 2012$).

Primary, low, and high estimates of the benefits and costs were developed to indicate the possible range of these metrics. The future energy prices used to compute operating cost savings for the primary estimate were taken from the *Annual Energy Outlook 2013* reference case. The low estimate combines slightly lower energy prices as compared to the reference case along with the construction cost developed as part of the high-cost PV case (used for incremental construction cost). Alternatively, the high estimate combines higher energy prices relative to the reference case along with the construction cost developed as part of the low-cost PV case. The average incremental construction cost based upon the high-cost PV case and the low-cost PV case was used as the primary estimate of incremental construction cost.

TABLE V–3—ANNUALIZED BENEFITS AND COSTS TO THE FEDERAL GOVERNMENT FOR NEW AND EXISTING CONSTRUCTION UNDER THE "ZERO FOSSIL FUEL" ALTERNATIVE[a]

	Discount rate	Monetized (2012 $million/year)		
		Primary estimate[b]	Low estimate[b]	High estimate[b]
Benefits				
Operating (Energy) Cost Savings	7%	601.4	583.1	781.2
	3%	1076.6	893.6	1259.6
CO_2 Reduction at $12.9/t[c]	5%	68.6	68.6	68.6
CO_2 Reduction at $40.8/t[c]	3%	257.9	257.9	257.9
CO_2 Reduction at $62.2/t[c]	2.50%	388.0	388.0	388.0
CO_2 Reduction at $117.0/t[c]	3%	793.2	793.2	793.2
NO_X Reduction at $2,639/t[c]	7%	4.8	4.8	4.8
	3%	7.1	7.1	7.1
Total (Operating Cost Savings, CO_2 Reduction and NO_X Reduction)[d].	7% plus CO_2 range	675 to 1399	657 to 1381	855 to 1579
	7%	864.1	845.8	1043.8
	3%	1341.6	1158.6	1524.7
	3% plus CO_2 range	1152 to 1877	969 to 1694	1335 to 2060

TABLE V–3—ANNUALIZED BENEFITS AND COSTS TO THE FEDERAL GOVERNMENT FOR NEW AND EXISTING CONSTRUCTION UNDER THE "ZERO FOSSIL FUEL" ALTERNATIVE [a]—Continued

	Discount rate	Monetized (2012 $million/year)		
		Primary estimate [b]	Low estimate [b]	High estimate [b]
Costs				
Incremental Purchase Price Increase	7%	1043.8	1167.0	920.6
	3%	1021.6	1161.1	882.2
Net Benefits/Costs				
Total (Operating Cost Savings, CO_2 Reduction and NO_X Reduction, Minus Incremental Cost Increase to Buildings).	7% plus CO_2 range	−288 to 436	−510 to 214	−66 to 659
	7%	−99.0	−321.2	123.2
	3%	320.0	−2.5	642.5
	3% plus CO_2 range	131 to 855	−192 to 533	453 to 1178

[a] Incremental costs are calculated for buildings constructed or renovated in 2014–2044; total benefits extend through 2074.
[b] See footnote (b) for Table 2.
[c] These values represent global values (in 2012$) of the social cost of CO_2 (SCC) emissions in 2012 under several scenarios developed by the Interagency Working Group on Social Cost of Carbon (SCC) (OMB 2013). The values of $12.9, $40.8, and $62.2 per metric ton are the averages of SCC distributions calculated using 5%, 3%, and 2.5% discount rates, respectively. The value of $117.0 per ton represents the 95th percentile of the SCC distribution calculated using a 3% discount rate. For NO_X, values were extracted from OMB guidance (OMB 2006) and updated to 2012$. An average value ($2,639) of the low ($468) and high ($4,809) values was used.
[d] Total monetary benefits for both the 3-percent and 7-percent cases utilize the central estimate of social cost of NO_X and CO_2 emissions calculated at a 3-percent discount rate (averaged across three integrated assessment models (IAMs)), which is equal to $40.8/metric ton (in 2012$).

The net benefits in 2010 dollars to the Federal government using the primary estimate for PV system costs turns out to be $104.6 million/year using the 7% discount rate, while it is $215.7 million/year using the 3% discount rate for the fossil fuel reduction rule (Table V–2), while the corresponding figures are negative $99.0 million/year using the 7% discount rate and positive $320 million/year using the 3% discount rate for the "zero fossil fuel" alternative to the rule (Table V–3).

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires the preparation of an initial regulatory flexibility analysis 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). The Department has made its procedures and policies available on the Office of General Counsel's Web site: *http://energy.gov/gc/guidance-opinions-0* .

This proposed rulemaking applies only to the fossil fuel-generated energy consumption of new Federal buildings and Federal buildings undergoing major renovation. As such, the only entities directly regulated by this rulemaking would be Federal agencies. DOE does not believe that there will be any impacts on small entities such as small businesses, small organizations, or small governmental jurisdictions.

On the basis of the foregoing, DOE certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities. Accordingly, DOE has not prepared a regulatory flexibility analysis for this rulemaking. DOE's certification and supporting statement of factual basis will be provided to the Chief Counsel for Advocacy of the Small Business Administration pursuant to 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act of 1995

This rulemaking will impose no new information or record keeping requirements. Accordingly, Office of Management and Budget (OMB) clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*)

D. Review Under the National Environmental Policy Act of 1969

DOE prepared an draft Environmental Assessment (EA) (DOE/EA–1778) entitled, "Environmental Assessment for Proposed Rulemaking, 10 CFR parts 433 and 435, 'Fossil Fuel-Generated Energy Consumption Reduction for New Federal Buildings and Major Renovations of Federal Buildings," pursuant to the Council on Environmental Quality's (CEQ) Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (40 CFR parts 1500–1508), the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 et seq.), and DOE's NEPA Implementing Procedures (10 CFR part 1021).

The draft EA addresses the possible environmental effects attributable to the implementation of the today's rule. The rule by its fundamental intent has a positive impact on the environment. The only anticipated impact of today's rulemaking would be a decrease in outdoor air pollutants resulting from reduced fossil fuel-generated energy consumption in new Federal buildings and major renovations of Federal buildings.

E. Review Under Executive Order 13132, "Federalism"

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 examined this rulemaking and determined that it would not preempt State law and 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. No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988, ''Civil Justice Reform''

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (February 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; and (3) provide a clear legal standard for affected conduct, rather than a general standard and 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 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 rulemaking 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) (Pub. L. 104–4) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and tribal governments and the private sector. 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) and (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/guidance-opinions-0).* This rulemaking contains neither an intergovernmental mandate nor a mandate that may result in the expenditure of $100 million or more in any year by State, local, and tribal governments, in the aggregate, or by the private sector so these requirements under the Unfunded Mandates Reform Act do not apply.

H. Review Under the Treasury and General Government Appropriations Act of 1999

Section 654 of the Treasury and General Government Appropriations Act of 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This supplemental proposed rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has preliminarily concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630, ''Governmental Actions and Interference With Constitutionally Protected Property Rights''

The Department has determined, under Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights,'' 53 FR 8859 (March 18, 1988), that this rule would not result in any takings which might require compensation under the Fifth Amendment to the United States 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 agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). DOE has reviewed this rulemaking under the OMB and DOE guidelines and has preliminarily concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use''

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 the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget, 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 rulemaking would not have a significant adverse effect on the supply, distribution, or use of energy. Moreover, as the rulemaking would result in increased building energy efficiency, it would not have a significant adverse effect on energy. For these reasons, the rulemaking is not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under the Information Quality Bulletin for Peer Review

In consultation with the Office of Science and Technology Policy (OSTP), OMB issued on December 16, 2004, its ''Final Information Quality Bulletin for Peer Review'' (the Bulletin). 70 FR 2664 (January 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, EIA's CBECS and RECS are ''influential scientific information,'' which the Bulletin defines as ''scientific information that 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 2664, 2667 (January 14, 2005). The Academy recommendations have been peer reviewed pursuant to section II.2 of the Bulletin. Both surveys are peer reviewed internally within EIA and other DOE offices before they are published. In addition, both surveys are subject to public comment that EIA addresses before finalizing CBECS and RECS.

List of Subjects in 10 CFR Parts 433 and 435

Buildings and facilities, Energy conservation, Engineers, Federal buildings and facilities, Fossil fuel reductions, Housing, Incorporation by reference, Multi-family residential buildings.

Issued in Washington, DC, on September 28, 2014.

David Danielson,

Assistant Secretary, Energy Efficiency and Renewable Energy.

For the reasons set forth in the preamble, DOE proposes to amend chapter II of title 10 of the Code of Federal Regulations as set forth below:

PART 433—ENERGY EFFICIENCY STANDARDS FOR THE DESIGN AND CONSTRUCTION OF NEW FEDERAL COMMERCIAL AND MULTI-FAMILY HIGH-RISE RESIDENTIAL BUILDINGS

■ 1. The authority citation for part 433 continues to read as follows:

Authority: 42 U.S.C. 6831–6832, 6834–6835; 42 U.S.C. 7101 *et seq.*

■ 2. In § 433.1, paragraph (b) is added to read as follows:

§ 433.1 Purpose and scope.

* * * * *

(b) This part also establishes a maximum allowable fossil fuel-generated energy consumption standard for new Federal buildings that are commercial and multi-family high-rise residential buildings and major renovations to Federal buildings that are commercial and multi-family high-rise residential buildings, for which design for construction began on or after October 14, 2015.

* * * * *

■ 3. In § 433.2:

■ a. Add in alphabetical order, the definitions of ''Combined heat and power (CHP) system,'' ''Construction cost,'' ''District energy system,'' ''Fiscal year (FY),'' ''Major renovation,'' ''Multi-family high-rise residential building,'' ''Power purchase agreement (PPA),'' and ''Renewable energy certificate'';

■ b. Revise the definitions of ''New Federal building'' and ''Proposed building''; and

■ c. Remove the definitions of ''Life-cycle cost'' and ''Life-cycle cost-effective''.

The additions and revisions read as follows:

§ 433.2 Definitions.

* * * * *

Combined heat and power (CHP) system means an integrated system, located at or near a building or facility that is used to generate both heat and electricity for use in the building or facility.

* * * * *

Construction cost means all costs associated with design and construction of a building. It includes the cost of design, permitting, construction (materials and labor), and building commissioning. It does not include legal or administrative fees, or the cost of acquiring the land.

* * * * *

District energy system means a central energy conversion plant and transmission and distribution system that provides thermal energy to a group of buildings (heating via hot water or steam, and/or cooling via chilled water). This definition only includes thermal energy systems; central energy supply systems that only provide electricity are excluded from this definition.

* * * * *

Fiscal year (FY) begins on October 1 of the year prior to the specified calendar year and ends on September 30 of the specified calendar year.

* * * * *

Major renovation means changes to a building that provide significant opportunities for compliance with other applicable requirements in this part. For subpart B—reduction in fossil fuel-related energy consumption, for example, replacement of the HVAC system, lighting system, building envelope, or other components of the building that have a major impact on energy usage would constitute a major renovation.

Multi-family high-rise residential building means a residential building that contains 3 or more dwelling units and that is designed to be 4 or more stories above grade.

New Federal building means any new building (including a complete replacement of an existing building from the foundation up) to be constructed by, or for the use of, any Federal agency. Such term shall include buildings built for the purpose of being leased by a Federal agency, and privatized military housing.

Power purchase agreement means an agreement with an electricity producer for all or a specified portion of the electricity produced from a particular power source, in this case a renewable energy source, for a specified period of time.

* * * * *

Proposed Building means the design for construction of a new Federal commercial or multi-family high-rise residential building, or major renovation to a Federal commercial multi-family high-rise residential building, proposed for construction.

* * * * *

Renewable energy certificate means the technology and environmental (non-energy) attributes that represent proof that 1 megawatt-hour (MWh) of electricity was generated from a renewable energy resource, and can be sold separately from the underlying generic electricity with which it is associated.

■ 4. Revise § 433.3(b)(3) to read as follows:

§ 433.3 Materials incorporated by reference.

* * * * *

(b) * * *

(3) ANSI/ASHRAE/IESNA 90.1–2010, (''ASHRAE 90.1–2010''), Energy Standard for Buildings Except Low-Rise Residential Buildings, I–P Edition, Copyright 2010, IBR approved for §§ 433.2, 433.100, 433.101, Appendix A to subpart B.

■ 5. Revise § 433.4 to read as follows:

§ 433.4 Life-cycle cost-effective.

Except as specified in subparts A, B or C of this part, Federal agencies shall determine life-cycle cost-effectiveness

by using the procedures set out in subpart A of part 436 of this chapter. A Federal agency may choose to use any of four methods, including life-cycle cost, net savings, savings-to-investment ratio, and adjusted internal rate of return using the discount rate published in the annual supplement to the Life Cycle Costing Manual for the Federal Energy Management Program (NIST 85–3273).

■ 6. Subpart B is added to part 433 to read as follows:

Subpart B—Reduction in Fossil Fuel-Generated Energy Consumption

Sec.
433.200 Fossil fuel-generated energy consumption requirement.
433.201 Fossil fuel-generated energy consumption determination.
433.202 Petition for downward adjustment.

Appendix A to Subpart B of Part 433—Maximum Allowable Fossil Fuel-Generated Energy Consumption

Subpart B—Reduction in Fossil Fuel-Generated Energy Consumption

§ 433.200 Fossil fuel-generated energy consumption requirement.

(a) *New Federal buildings.* New Federal buildings that are commercial and multi-family high rise residential buildings, for which design for construction began on or after October 14, 2015, must be designed to meet the requirements of paragraphs (c) or (d) of this section, as applicable, if:

(1) The subject building is a public building as defined in 40 U.S.C. 3301 and for which transmittal of a prospectus to Congress is required under 40 U.S.C. 3307; or

(2) The cost of the building is at least $2,500,000 (in 2007 dollars, adjusted for inflation).

(b) *Major renovations.* (1) Major renovations to Federal buildings that are commercial and multi-family high-rise residential buildings, for which design for construction began on or after October 14, 2015, must be designed to meet the requirements of paragraph (c) or (d) of this section, as applicable, if:

(i) The renovation is a major renovation to a public building as defined in 40 U.S.C. 3301 and for which transmittal of a prospectus to Congress is required under 40 U.S.C. 3307; or

(ii) The cost of the major renovation is at least $2,500,000 (in 2007 dollars, adjusted for inflation).

(2) This subpart applies only to the portions of the proposed building or proposed building systems that are being renovated and to the extent that the scope of the renovation permits compliance with the applicable requirements in this subpart. Unaltered portions of the proposed building or proposed building systems are not required to comply with this subpart.

(3) For leased buildings, this subpart applies to major renovations only if the building was originally built for the use of any Federal agency, including being leased by a Federal agency.

(c) *Federal buildings that are of the type included in Appendix A of this subpart*—(1) *Design for construction began during fiscal year 2014 through fiscal year 2029.* The fossil fuel-generated energy consumption of the proposed building, based on the building design and calculated according to § 433.201(a), must not exceed the value identified in Tables 1–4 of Appendix A of this subpart for the associated building type, climate zone, and fiscal year in which design for construction began.

(2) *Design for construction began during or after fiscal year 2030.* The fossil fuel-generated energy consumption of the proposed building, based on building design and calculated according to § 433.201(a), must be zero.

(3) *Mixed-use buildings.* (i) For buildings that combine two or more building types identified in Tables 1–4 of Appendix A of this subpart, the maximum allowable fossil fuel-generated energy consumption of the proposed building is equal to the averaged applicable building type values in Tables 1–4 weighted by floor area of the present building types.

(ii) For example, if a proposed building for which design for construction began in FY2014 that is to be built in climate zone 1 has a total of 200 square feet—100 square feet of which qualifies as College/University and 100 square feet of which qualifies as Laboratory—the maximum allowable fossil fuel-generated energy consumption is equal to:

[(100 sqft. × 89 kBtu/yr.-sqft.) + (100 sqft × 251 kBtu/yr.-sqft.)]/200 sqft. = 170 kBtu/yr.-sqft.

(d) *Federal buildings that are of the type not included in Appendix A of this subpart*—(1) *Process load buildings.* For building types that are not included in any of the building types listed in Tables 1–4 of Appendix A of this subpart, Federal agencies must select the applicable building type, climate zone, and fiscal year in which design for construction began from Tables 1–4 of Appendix A of this subpart that most closely corresponds to the proposed building without the process load. The estimated fossil fuel-generated energy consumption of the process load must be added to the maximum allowable fossil fuel-generated energy consumption of the applicable building type for the appropriate fiscal year and climate zone to calculate the maximum allowable fossil fuel-generated energy consumption for the building. The same estimated fossil fuel-generated energy consumption of the process load that is added to the maximum allowable fossil fuel-generated energy consumption of the applicable building must also be used in determining the fossil fuel-generated energy consumption of the proposed building.

(2) *Mixed-use buildings.* For buildings that combine two or more building types with process loads or, alternatively, that combine one or more building types with process loads with one or more building types in Tables 1–4 of Appendix A of this subpart, the maximum allowable fossil fuel-generated energy consumption of the proposed building is equal to the averaged process load building values determined under paragraph (d)(1) of this section and the applicable building type values in Tables 1–4 of Appendix A of this subpart, weighted by floor area.

§ 433.201 Fossil fuel-generated energy consumption determination.

(a) The fossil fuel-generated energy consumption of a proposed building is calculated as follows:

Equation 1: Fossil fuel-generated energy consumption = ((3.412 kBtu/kwh × Fossil Fuel Generation Factor × (Proposed Building Site Electricity Consumption—Renewable Energy and CHP Electricity Deduction)/Electricity Source Energy Factor) + (Direct Fossil Fuel Consumption of Proposed Building × Other Fuels Source Energy Multiplier))/Floor Area

Whereas:

(1) *Fossil Fuel-Generation Factor* is equal to $(AEP_{coal}+AEP_{pl}+AEP_{pc}+AEP_{ng}+AEP_{og})$/Total AEP

Where

AEP = annual electrical production
pl = petroleum liquids
pc = petroleum coke
ng = natural gas
og = other gas

All values are taken from Table 3.2.A of the EIA Electric Power Annual Report, which is updated on a periodic basis. DOE will on an annual basis calculate the Fossil Fuel Generation Factor and publish the result at the following Web address: *http://energy.gov/eere/femp/federal-energy-management-program.*

(2) Proposed Building Site Electricity Consumption equals the estimated site electricity consumption of the proposed

building calculated in accordance with the Performance Rating Method in Appendix G of ASHRAE 90.1–2010 (incorporated by reference; see § 433.3) measured in kilowatt hours per year (kWh/yr).

(3) Renewable Energy and CHP Electricity Deduction equals the total contribution specified in paragraph (b) of this section, measured in kilowatt hours per year (kWh/yr).

(4) Electricity Source Energy Factor. For electricity purchased from the grid, the Electricity Source Energy Factor is equal to 0.316. For on-site electrical generation, the Electricity Source Factor is the estimated efficiency of the generating equipment and any estimated distribution losses that may occur.

(5) Direct Fossil Fuel Consumption of Proposed Building equals the total site fossil fuel consumption of the proposed building calculated in accordance with the Performance Rating Method in Appendix G of ASHRAE 90.1–2010 (incorporated by reference; see § 433.3), excluding fossil fuel consumption for electricity generation, and measured in thousands of British thermal units per year (kBtu/yr). This includes any fossil fuel consumption attributable to non-electric power (e.g., heat or steam) used in a proposed building that is supplied by a district energy system or CHP system.

(6) Other Fuels Source Energy Multiplier. For purposes of Equation 1, the multipliers are as follows:

Natural gas 1.046
Fuel oil 1.00
Propane 1.00
District steam (non-CHP) 1.35
District steam (CHP) 2.30
District hot water 1.28
Chilled water 1.05
Coal 1.00

(7) Floor Area is the area enclosed by the exterior walls of a building, both finished and unfinished, including indoor parking facilities, basements, hallways, lobbies, stairways, and elevator shafts.

(b) *Renewable and CHP electricity deductions—(1) Renewable electricity.* The following renewable electricity generation qualifies as a deduction under paragraph (a) of this section to the extent that the renewable electricity generation represents new electric generating capacity or a new renewable energy obligation on the part of the agency, and not a reassignment of existing capacity or obligations:

(i) *On-site renewable electricity generation* is the amount of electricity measured in kilowatt hours per year (kWh/yr) to be consumed by the building that is contributed by renewable electricity generated at the Federal site or facility on which the building will be located. On-site renewable electricity can only be deducted if the environmental attributes are not transferred.

(ii) *Off-site renewable electricity generation* is the amount of renewable electricity measured in kilowatt hours per year (kWh/yr) generated at a site or facility, either Federal or non-federal, other than the Federal site or facility on which the building will be located and that is designated for the purpose of complying with this section, and may include renewable electricity generation purchased under Power Purchase Agreements and Renewable Energy Certificates.

(2) Limitation on the use of renewable electricity generation for new Federal buildings and major renovations. The environmental attributes of the renewable electricity generation must not be transferred. The agency must ensure that the environmental attributes of renewable electricity generation are dedicated to meeting the fossil fuel-generated energy consumption reduction requirements of the proposed building.

(3) CHP deduction. Electricity associated with non-electric power provided to a proposed building by a district energy system that is a CHP system or an on-site CHP system qualifies as a deduction under paragraph (a) of this section and is equal to the total heat delivered to the proposed building from the direct energy system divided by total heat produced by the CHP system, times the total electricity produced by the CHP system.

§ 433.202 Petition for downward adjustment.

(a) *New Federal buildings.* (1) Upon petition by a Federal agency, excluding the General Services Administration (GSA) but including GSA-tenant agencies with significant control over building design, the Director of the Federal Energy Management Program may adjust the applicable maximum allowable fossil fuel-generated energy consumption standard with respect to a specific building, upon written certification from the head of the agency designing the building, or the head of a GSA-tenant agency, that the requested adjustment is the largest feasible reduction in fossil fuel-generated consumption that can practicably be achieved in light of the specified functional needs for that building, as demonstrated by:

(i) A statement sealed by the design engineer that the proposed building was designed in accordance with the applicable energy efficiency requirement in Subpart A of this Part;

(ii) A description of the technologies and practices that were evaluated and rejected, including a justification of why they were not included in the design for construction; and

(iii) Any other information the agency determines would help explain its request;

(2) The head of the agency designing the building, or the head of a GSA-tenant agency, must also include the following information in the petition:

(i) A general description of the building, including but not limited to location, use type, floor area, stories, and functional needs;

(ii) The maximum allowable fossil fuel-generated energy consumption for the building from Tables 1–4 of Appendix A of this subpart;

(iii) The estimated fossil fuel-generated energy consumption of the proposed building;

(iv) A description of the proposed building's energy-related features, including but not limited to:

(A) Building envelope, including, but not limited to, construction materials, insulation levels, and the type, area, heat loss and solar heat gain and visible light transmission coefficients of windows and other glazing;

(B) HVAC system type and configuration;

(C) HVAC equipment sizes and efficiencies;

(D) Ventilation systems (including outdoor air volume, controls technique, heat recovery systems, and economizers, if applicable);

(E) Service water heating system configuration and equipment (including solar hot water, wastewater heat recovery, and controls for circulating hot water systems, if applicable);

(F) Lighting technology, interior lighting power, and lighting control techniques;

(G) Estimated process and plug loads; and

(H) Any other energy-related equipment; and

(3) The Director of the Federal Energy Management Program may concur in whole or in part with a petition. Upon concurring in part, the Director of the Federal Energy Management Program will establish an applicable maximum allowable fossil fuel-generated energy consumption standard with respect to a specific building other than the value put forth in the petition.

(4) Petitions for downward adjustment should be submitted to *ff-petition@ee.doe.gov,* or to:

U.S. Department of Energy, Federal Energy Management Program, Director, Fossil Fuel Reductions in New Federal Buildings, EE–2L, 1000 Independence Ave. SW., Washington, DC 20585–0121.

(5) The Director will notify the requesting agency in writing whether the petition for downward adjustment to the numeric reduction requirement is approved, in whole or in part, or rejected, within 90 days of submittal. If the Director rejects the petition or establishes a value other than that presented in the petition, the Director will forward its reasons for rejection to the petitioning agency.

(b) Major renovations to Federal buildings. (1) Major renovation of the whole building. Upon petition by a Federal agency, excluding the General Services Administration (GSA) but including GSA-tenant agencies with significant control over renovation design, the Director of the Federal Energy Management Program will adjust the applicable maximum allowable fossil fuel-generated energy consumption standard with respect to a specific major renovation of a whole building, upon written certification from the head of the agency designing the building, or the head of a GSA-tenant agency, that the requested adjustment is the largest feasible reduction in fossil fuel-generated consumption that can practicably be achieved in light of the specified functional needs for that building, as demonstrated by a statement stamped by the design engineer that the proposed building was designed consistent with the energy efficiency requirement in subpart A of this part that corresponds to the date of the proposed building.

(2) Major renovation of a building system or component. Upon petition by a Federal agency, excluding the General Services Administration (GSA) but including GSA-tenant agencies with significant control over renovation design, the Director of the Federal Energy Management Program will adjust the applicable maximum allowable fossil fuel-generated energy consumption standard with respect to a specific major renovation limited to a building system or component, upon written certification from the head of the agency designing the building, or the head of a GSA-tenant agency, that the requested adjustment is the largest feasible reduction in fossil fuel-generated consumption that can practicably be achieved in light of the specified functional needs for that building, as demonstrated by a statement stamped by the design engineer that the proposed building incorporates commercially available systems and/or components that provide a level of energy efficiency that is life-cycle cost effective.

(3) Petitions for downward adjustment should be submitted to *ff-petition@ee.doe.gov,* or to:

U.S. Department of Energy, Federal Energy Management Program, Director, Fossil Fuel Reductions in New Federal Buildings, EE–2L, 1000 Independence Ave. SW., Washington, DC 20585–0121.

(4) The downward adjustment for a major renovation will be deemed approved upon submittal of the certification required in paragraphs (b)(1) or (b)(2) of this section, as applicable.

Appendix A to Subpart B of Part 433—Maximum Allowable Fossil Fuel-Generated Energy Consumption

(a) For purposes of the tables in this Appendix, the climate zones for each county in the United States are those listed in Normative Appendix B Building Envelope Climate Criteria, Table B–1 U.S. Climate Zones, ASHRAE 90.1–2010 (incorporated by reference; see § 433.3).

(b) For purpose of Appendix A, the following definitions apply:

Education means a category of buildings used for academic or technical classroom instruction, such as elementary, middle, or high schools, and classroom buildings on college or university campuses. Buildings on education campuses for which the main use is not as a classroom are included in the category relating to their use. For example, administration buildings are part of ''Office,'' dormitories are ''Lodging,'' and libraries are ''Public Assembly.''

Food Sales means a category of buildings used for retail or wholesale of food. For example, grocery stores are ''Food Sales.''

Food Service means a category of buildings used for preparation and sale of food and beverages for consumption. For example, restaurants are ''Food Service.''

Health Care (Inpatient) means a category of buildings used as diagnostic and treatment facilities for inpatient care.

Health Care (Outpatient) means a category of buildings used as diagnostic and treatment facilities for outpatient care. Medical offices are included here if they use any type of diagnostic medical equipment (if they do not, they are categorized as an office building).

Laboratory means a category of buildings equipped for scientific experimentation or research as well as other technical, analytical and administrative activities.

Lodging means a category of buildings used to offer multiple accommodations for short-term or long-term residents, including skilled nursing and other residential care buildings.

Mercantile (Enclosed and Strip Malls) means a category of shopping malls comprised of multiple connected establishments.

Multi-Family High-Rise Residential Buildings means a category of residential buildings that contain 3 or more dwelling units and that is designed to be 4 or more stories above grade.

Office means a category of buildings used for general office space, professional office, or administrative offices. Medical offices are included here if they do not use any type of diagnostic medical equipment (if they do, they are categorized as an outpatient health care building).

Public Assembly means a category of public or private buildings, or spaces therein, in which people gather for social or recreational activities.

Public Order and Safety means a category of buildings used for the preservation of law and order or public safety.

Religious Worship means a category of buildings in which people gather for religious activities, (such as chapels, churches, mosques, synagogues, and temples).

Retail (Other Than Mall) means a category of buildings used for the sale and display of goods other than food.

Service means a category of buildings in which some type of service is provided, other than food service or retail sales of goods.

Warehouse and Storage means a category of buildings used to store goods, manufactured products, merchandise, raw materials, or personal belongings (such as self-storage).

TABLE 1—FY2013–FY2014 MAXIMUM ALLOWABLE FOSSIL FUEL-GENERATED ENERGY CONSUMPTION BY BUILDING CATEGORY, BUILDING TYPE AND CLIMATE ZONE, COMMERCIAL BUILDINGS AND MULTI-FAMILY HIGH-RISE RESIDENTIAL BUILDINGS

[Source kBtu/yr-sqft]

Building category	Climate zone	1	2A	2B	3A	3B coast	3B other	3C	4A	4B	4C	5A	5B	6A	6B	7	8
	Building type	Fossil fuel-generated energy use intensity															
Education	College/university	89	88	87	81	59	84	71	73	65	70	77	65	92	82	97	146

TABLE 1—FY2013–FY2014 MAXIMUM ALLOWABLE FOSSIL FUEL-GENERATED ENERGY CONSUMPTION BY BUILDING CATEGORY, BUILDING TYPE AND CLIMATE ZONE, COMMERCIAL BUILDINGS AND MULTI-FAMILY HIGH-RISE RESIDENTIAL BUILDINGS—Continued

[Source kBtu/yr-sqft]

Building category	Climate zone	1	2A	2B	3A	3B coast	3B other	3C	4A	4B	4C	5A	5B	6A	6B	7	8
	Building type	Fossil fuel-generated energy use intensity															
Education	Elementary/middle school.	54	54	52	49	40	50	45	41	39	39	42	37	47	43	48	71
Education	High school	65	65	63	59	43	61	52	53	48	51	56	48	67	60	71	106
Education	Other classroom education.	36	36	35	33	24	34	29	30	27	29	31	27	37	33	40	59
Education	Preschool/daycare	70	69	67	63	52	65	58	53	50	51	54	47	60	56	62	92
Food Sales	Convenience store	194	215	208	197	178	213	189	164	173	181	166	153	181	200	199	259
Food Sales	Convenience store with gas.	156	173	167	158	144	171	152	132	139	146	133	124	145	161	160	209
Food Sales	Grocery store/food market.	162	179	173	164	149	177	158	137	144	151	138	128	150	167	166	216
Food Sales	Other food sales	49	54	52	50	45	54	48	41	44	46	42	39	46	50	50	65
Food Service	Fast food	378	395	402	358	333	407	338	303	323	327	308	286	339	373	375	490
Food Service	Other food service	112	117	118	106	97	120	100	90	96	98	91	84	100	110	111	144
Food Service	Restaurant/cafeteria.	204	214	216	195	177	219	183	164	175	180	166	154	182	202	203	264
Inpatient Health Care.	Hospital/inpatient health.	205	210	215	182	188	212	174	142	149	156	129	120	133	146	137	163
Laboratory	Laboratory	251	254	247	233	197	245	217	196	190	192	203	184	229	216	238	320
Lodging	Dormitory/fraternity/sorority.	58	61	61	62	42	63	56	58	53	59	65	55	76	70	84	118
Lodging	Hotel	71	73	70	67	62	70	68	55	57	57	57	55	62	62	64	74
Lodging	Motel or inn	80	76	76	66	63	73	65	52	54	52	52	50	57	55	56	68
Lodging	Nursing home/assisted living.	118	12	117	110	93	115	103	93	90	91	96	87	108	102	112	151
Lodging	Other lodging	76	73	72	63	60	69	62	50	52	50	50	48	54	53	54	65
Mercantile	Enclosed mall	81	81	79	77	58	78	68	69	64	66	77	67	91	84	99	143
Mercantile	Strip shopping mall	85	85	83	81	61	82	72	72	67	69	81	70	96	89	104	150
Office	Administrative/profess. office.	56	58	57	54	43	56	47	46	43	44	48	42	54	50	57	80
Office	Bank/other financial.	80	82	80	77	62	79	67	65	61	62	67	59	77	71	81	114
Office	Government office	70	72	71	67	54	70	59	57	54	55	59	52	68	62	71	100
Office	Medical office (non-diagnostic).	48	49	48	46	37	48	40	39	37	37	40	36	46	42	48	68
Office	Mixed-use office	65	67	65	63	50	65	54	53	50	51	55	48	63	58	66	93
Office	Other office	54	56	55	52	42	54	45	44	42	42	46	40	52	48	55	78
Outpatient Health Care.	Clinic/other outpatient health.	72	70	70	63	60	70	56	48	50	46	45	44	47	48	45	52
Outpatient Health Care.	Medical office (diagnostic).	48	46	47	42	40	46	38	32	33	31	30	30	32	32	30	35
Public Assembly	Entertainment/culture.	33	33	32	30	26	32	28	26	25	25	26	24	30	28	31	42
Public Assembly	Library	86	87	85	80	68	84	75	68	65	66	70	63	79	74	82	110
Public Assembly	Other public assembly.	40	40	39	37	31	39	34	31	30	30	32	29	36	34	38	51
Public Assembly	Recreation	37	38	37	35	29	36	32	29	28	29	30	27	34	32	35	47
Public Assembly	Social/meeting	39	39	38	36	31	38	34	30	29	30	31	28	35	33	37	49
Public Order & Safety.	Fire station/police station.	92	93	91	86	73	90	80	72	70	71	75	68	84	80	88	118
Public Order & Safety.	Other public order and safety.	84	85	83	78	66	82	73	66	64	65	68	62	77	73	80	107
Religious Worship	Religious worship	33	33	32	31	26	32	29	26	25	25	27	24	30	28	31	42
Retail (except malls).	Other retail	70	72	70	68	50	69	59	60	56	56	66	58	79	73	85	123
Retail (except malls).	Retail store	40	41	40	39	28	39	34	34	32	32	38	33	45	42	49	71
Retail (except malls).	Vehicle dealership showroom.	71	72	70	68	50	69	59	60	56	57	67	58	79	73	85	123
Service	Other service	85	86	84	79	65	83	71	67	63	64	69	66	76	70	81	104
Service	Post office/postal center.	60	61	59	56	47	59	52	47	45	46	49	44	55	52	57	77
Service	Repair shop	40	40	39	37	31	39	34	32	30	30	33	31	36	33	38	49
Service	Vehicle service/repair shop.	46	47	46	43	36	45	39	37	34	35	38	36	42	38	44	57
Service	Vehicle storage/maintenance.	20	20	20	19	15	20	17	16	15	15	16	16	18	17	19	25
Warehouse	Distribution/shipping center.	18	23	24	26	14	26	20	27	24	23	35	32	49	41	59	108
Warehouse	Non-refrigerated warehouse.	9	11	11	13	7	12	9	13	12	11	17	15	24	20	29	52
Warehouse	Refrigerated warehouse.	97	100	102	90	81	101	80	75	78	79	74	68	82	89	90	123

TABLE 1—FY2013–FY2014 MAXIMUM ALLOWABLE FOSSIL FUEL-GENERATED ENERGY CONSUMPTION BY BUILDING CATEGORY, BUILDING TYPE AND CLIMATE ZONE, COMMERCIAL BUILDINGS AND MULTI-FAMILY HIGH-RISE RESIDENTIAL BUILDINGS—Continued

[Source kBtu/yr-sqft]

Building category	Climate zone	1	2A	2B	3A	3B coast	3B other	3C	4A	4B	4C	5A	5B	6A	6B	7	8
	Building type	Fossil fuel-generated energy use intensity															
Residential	Multi-family high-rise residential.	48	46	39	41	24	40	28	41	37	41	45	38	52	46	55	72

TABLE 2—FY2015–FY2019 MAXIMUM ALLOWABLE FOSSIL FUEL-GENERATED ENERGY CONSUMPTION BY BUILDING CATEGORY, BUILDING TYPE AND CLIMATE ZONE, COMMERCIAL BUILDINGS AND MULTI-FAMILY HIGH-RISE RESIDENTIAL BUILDINGS

[Source kBtu/yr-sqft]

Building category	Climate zone	1	2A	2B	3A	3B coast	3B other	3C	4A	4B	4C	5A	5B	6A	6B	7	8
	Building type	Fossil fuel-generated energy use intensity															
Education	College/university	69	69	67	63	46	65	55	56	51	55	60	51	71	64	76	113
Education	Elementary/middle school.	42	42	40	38	31	39	35	32	30	31	32	29	36	34	37	56
Education	High school	51	50	49	46	34	48	40	41	37	40	44	37	52	47	55	83
Education	Other classroom education.	28	28	28	26	19	27	23	23	21	22	24	21	29	26	31	46
Education	Preschool/daycare	55	54	52	49	40	50	45	41	39	39	42	37	47	43	48	72
Food Sales	Convenience store	151	167	161	153	139	165	147	128	134	141	129	119	140	156	155	202
Food Sales	Convenience store with gas.	122	135	130	123	112	133	119	103	108	113	104	96	113	125	125	163
Food Sales	Grocery store/food market.	126	139	135	127	116	138	123	106	112	117	107	99	117	130	129	168
Food Sales	Other food sales	38	42	41	39	35	42	37	32	34	36	32	30	35	39	39	51
Food Service	Fast food	294	307	313	279	259	317	263	235	251	255	239	222	264	290	292	381
Food Service	Other food service	87	91	92	83	75	93	78	70	74	76	71	66	78	86	86	112
Food Service	Restaurant/cafeteria.	159	166	168	151	138	170	143	128	136	140	129	120	142	157	158	206
Inpatient Health Care.	Hospital/inpatient health.	159	164	167	142	146	165	136	111	116	121	100	93	103	113	107	127
Laboratory	Laboratory	195	197	192	182	153	190	169	153	148	150	158	143	178	168	185	249
Lodging	Dormitory/fraternity/. sorority	45	48	47	48	32	49	44	45	41	46	50	43	59	54	65	92
Lodging	Hotel	56	57	54	52	48	55	53	43	44	44	44	43	48	48	49	58
Lodging	Motel or inn	62	59	59	52	49	57	51	41	42	41	41	39	44	43	44	53
Lodging	Nursing home/assisted living.	92	93	91	86	72	90	80	72	70	71	75	67	84	79	87	117
Lodging	Other lodging	59	56	56	49	47	54	49	39	40	39	39	37	42	41	42	51
Mercantile	Enclosed mall	63	63	62	60	45	61	53	53	50	51	60	52	71	66	77	111
Mercantile	Strip shopping mall	66	66	65	63	47	64	56	56	52	54	63	54	74	69	81	117
Office	Administrative/profess. office.	44	45	44	42	34	43	36	36	33	34	37	32	42	39	44	63
Office	Bank/other financial.	62	64	62	60	48	62	52	51	48	49	52	46	60	55	63	89
Office	Government office	55	56	55	52	42	54	46	45	42	43	46	40	53	48	55	78
Office	Medical office (non-diagnostic).	37	38	37	36	29	37	31	30	29	29	31	28	36	33	38	53
Office	Mixed-use office	51	52	51	49	39	50	42	41	39	40	43	38	49	45	51	72
Office	Other office	42	44	43	41	33	42	35	35	32	33	36	31	41	37	43	60
Outpatient Health Care.	Clinic/other outpatient health.	56	54	55	49	46	54	44	37	39	36	35	35	37	37	35	40
Outpatient Health Care.	Medical office (diagnostic).	37	36	36	32	31	36	29	25	26	24	23	23	25	25	23	27
Public Assembly	Entertainment/culture.	25	26	25	24	20	25	22	20	19	20	21	19	23	22	24	32
Public Assembly	Library	67	68	66	62	53	65	58	53	51	51	54	49	61	58	64	86
Public Assembly	Other public assembly.	31	31	30	29	24	30	27	24	23	24	25	23	28	27	29	39
Public Assembly	Recreation	29	29	29	27	23	28	25	23	22	22	23	21	26	25	27	37
Public Assembly	Social/meeting	30	31	30	28	24	29	26	24	23	23	24	22	28	26	29	38
Public Order & Safety.	Fire station/police station.	72	73	71	67	56	70	62	56	54	55	58	53	66	62	68	92
Public Order & Safety.	Other public order and safety.	65	66	65	61	51	64	57	51	50	50	53	48	60	56	62	83
Religious Worship	Religious worship	26	26	25	24	20	25	22	20	19	20	21	19	23	22	24	33
Retail (except malls).	Other retail	55	56	55	53	39	53	46	47	44	44	52	45	61	57	66	96
Retail (except malls).	Retail store	31	32	31	30	22	31	26	27	25	25	30	26	35	32	38	55

TABLE 2—FY2015–FY2019 MAXIMUM ALLOWABLE FOSSIL FUEL-GENERATED ENERGY CONSUMPTION BY BUILDING CATEGORY, BUILDING TYPE AND CLIMATE ZONE, COMMERCIAL BUILDINGS AND MULTI-FAMILY HIGH-RISE RESIDENTIAL BUILDINGS—Continued

[Source kBtu/yr-sqft]

Building category	Climate zone	1	2A	2B	3A	3B coast	3B other	3C	4A	4B	4C	5A	5B	6A	6B	7	8
	Building type	Fossil fuel-generated energy use intensity															
Retail (except malls).	Vehicle dealership showroom.	55	56	55	53	39	54	46	47	44	44	52	45	62	57	66	96
Service	Other service	66	67	65	61	51	64	55	52	49	50	54	51	59	55	63	81
Service	Post office/postal center.	47	47	46	43	37	46	40	37	35	36	38	34	43	40	44	60
Service	Repair shop	31	31	31	29	24	30	26	25	23	23	25	24	28	26	30	38
Service	Vehicle service/repair shop.	36	36	36	34	28	35	30	28	27	27	29	28	33	30	34	44
Service	Vehicle storage/maintenance.	16	16	15	15	12	15	13	12	12	12	13	12	14	13	15	19
Warehouse	Distribution/shipping center.	14	18	18	20	11	20	15	21	19	18	27	25	38	32	46	84
Warehouse	Non-refrigerated warehouse.	7	8	9	10	5	10	7	10	9	9	13	12	18	15	22	41
Warehouse	Refrigerated warehouse.	76	78	79	70	63	78	62	58	61	61	58	53	64	69	70	96
Residential	Multi-family high-rise residential.	37	36	30	32	18	31	22	32	29	32	35	30	40	36	42	56

TABLE 3—FY2020–FY2024 MAXIMUM ALLOWABLE FOSSIL FUEL-GENERATED ENERGY CONSUMPTION BY BUILDING CATEGORY, BUILDING TYPE AND CLIMATE ZONE, COMMERCIAL BUILDINGS AND MULTI-FAMILY HIGH-RISE RESIDENTIAL BUILDINGS

[Source kBtu/yr-sqft]

Building category	Climate zone	1	2A	2B	3A	3B coast	3B other	3C	4A	4B	4C	5A	5B	6A	6B	7	8
	Building type	Fossil fuel-generated energy use intensity															
Education	College/university	40	39	39	36	26	37	32	32	29	31	34	29	41	36	43	65
Education	Elementary/middle school.	24	24	23	22	18	22	20	18	17	17	19	16	21	19	21	32
Education	High school	29	29	28	26	19	27	23	24	21	23	25	21	30	27	32	47
Education	Other classroom education.	16	16	16	15	11	15	13	13	12	13	14	12	17	15	18	26
Education	Preschool/daycare	31	31	30	28	23	29	26	24	22	23	24	21	27	25	28	41
Food Sales	Convenience store	86	95	92	87	39	95	84	73	77	81	74	68	80	89	88	115
Food Sales	Convenience store with gas.	70	77	74	70	64	76	68	59	62	65	59	55	65	72	71	93
Food Sales	Grocery store/food market.	72	80	77	73	66	79	70	61	64	67	61	57	67	74	74	96
Food Sales	Other food sales	22	24	23	22	20	24	21	18	19	20	19	17	20	22	22	29
Food Service	Fast food	168	175	179	159	148	181	150	135	144	146	137	127	151	166	167	218
Food Service	Other food service	50	52	52	47	43	53	45	40	42	44	40	37	44	49	49	54
Food Service	Restaurant/cafeteria.	91	95	96	86	79	97	81	73	78	80	74	69	81	90	90	117
Inpatient Health Care.	Hospital/inpatient health.	91	94	95	81	83	94	77	63	66	69	57	53	59	65	61	73
Laboratory	Laboratory	112	113	110	104	88	109	97	87	84	86	90	82	102	96	106	142
Lodging	Dormitory/fraternity/sorority.	26	27	27	27	19	28	25	26	23	26	29	24	34	31	37	52
Lodging	Hotel	32	33	31	30	27	31	30	25	25	25	25	24	28	28	28	33
Lodging	Motel or inn	36	34	34	29	28	32	29	23	24	23	23	22	25	25	25	30
Lodging	Nursing home/assisted living.	53	53	52	49	41	51	46	41	40	40	43	39	48	45	50	67
Lodging	Other lodging	34	32	32	28	27	31	28	22	23	22	22	21	24	23	24	29
Mercantile	Enclosed mall	36	36	35	34	26	35	30	31	29	29	34	30	41	37	44	63
Mercantile	Strip shopping mall	38	38	37	36	27	36	32	32	30	31	36	31	43	39	46	67
Office	Administrative/profess. office.	25	26	25	24	19	25	21	20	19	20	21	19	24	22	25	36
Office	Bank/other financial.	35	37	36	34	27	35	30	29	27	28	30	26	34	31	36	51
Office	Government office	31	32	31	30	24	31	26	26	24	24	26	23	30	28	32	45
Office	Medical office (non-diagnostic).	21	22	21	20	16	21	18	17	16	17	18	16	21	19	21	30
Office	Mixed-use office	29	30	29	28	22	29	24	24	22	23	24	21	28	26	29	41
Office	Other office	24	25	24	23	19	24	20	20	18	19	20	18	23	21	24	35
Outpatient Health Care.	Clinic/other outpatient health.	32	31	31	28	26	31	25	21	22	20	20	20	21	21	20	23
Outpatient Health Care.	Medical office (diagnostic).	21	21	21	19	18	21	17	14	15	14	13	13	14	14	13	15

TABLE 3—FY2020–FY2024 MAXIMUM ALLOWABLE FOSSIL FUEL-GENERATED ENERGY CONSUMPTION BY BUILDING CATEGORY, BUILDING TYPE AND CLIMATE ZONE, COMMERCIAL BUILDINGS AND MULTI-FAMILY HIGH-RISE RESIDENTIAL BUILDINGS—Continued

[Source kBtu/yr-sqft]

Building category	Climate zone	1	2A	2B	3A	3B coast	3B other	3C	4A	4B	4C	5A	5B	6A	6B	7	8
	Building type	Fossil fuel-generated energy use intensity															
Public Assembly	Entertainment/culture.	15	15	14	14	11	14	13	11	11	11	12	11	13	13	14	19
Public Assembly	Library	38	39	38	36	30	37	33	30	29	29	31	28	35	33	36	49
Public Assembly	Other public assembly.	18	18	17	16	14	17	15	14	13	14	14	13	16	15	17	23
Public Assembly	Recreation	17	17	16	15	13	16	14	13	13	13	13	12	15	14	16	21
Public Assembly	Social/meeting	17	17	17	16	14	17	15	13	13	13	14	13	16	15	16	22
Public Order & Safety.	Fire station/police station.	41	41	40	38	32	40	36	32	31	32	33	30	38	35	39	52
Public Order & Safety.	Other public order and safety.	37	38	37	35	29	36	32	29	28	29	30	27	34	32	35	48
Religious Worship	Religious worship	15	15	14	14	12	14	13	11	11	11	12	11	13	13	14	19
Retail (except malls).	Other retail	31	32	31	30	22	30	26	27	25	25	30	26	35	32	38	55
Retail (except malls).	Retail store	18	18	18	17	14	17	15	15	14	14	17	15	20	19	22	31
Retail (except malls).	Vehicle dealership showroom.	31	32	31	30	22	31	26	27	25	25	30	26	35	32	38	55
Service	Other service	38	38	37	35	29	37	32	30	28	28	31	29	34	31	36	46
Service	Post office/postal center.	27	27	26	25	21	26	23	21	20	20	22	20	24	23	25	34
Service	Repair shop	18	18	18	17	14	17	15	14	13	13	14	14	16	15	17	22
Service	Vehicle service/repair shop.	21	21	20	19	16	20	17	16	15	16	17	16	19	17	20	25
Service	Vehicle storage/maintenance.	9	9	9	8	7	9	8	7	7	7	7	7	8	7	9	11
Warehouse	Distribution/shipping center.	8	10	11	12	6	11	9	12	11	10	16	14	22	18	26	48
Warehouse	Non-refrigerated warehouse.	4	5	5	6	3	6	4	6	5	5	8	7	11	9	13	23
Warehouse	Refrigerated warehouse.	43	45	45	40	36	45	36	33	35	35	33	30	36	39	40	55
Residential	Multi-family high-rise residential.	21	20	17	18	11	18	12	18	16	18	20	17	23	21	24	32

TABLE 4—FY2025–FY2029 MAXIMUM ALLOWABLE FOSSIL FUEL-GENERATED ENERGY CONSUMPTION BY BUILDING CATEGORY, BUILDING TYPE AND CLIMATE ZONE, COMMERCIAL BUILDINGS AND MULTI-FAMILY HIGH-RISE RESIDENTIAL BUILDINGS

[Source kBtu/yr-sqft]

Building category	Climate zone	1	2A	2B	3A	3B coast	3B other	3C	4A	4B	4C	5A	5B	6A	6B	7	8
	Building type	Fossil fuel-generated energy use intensity															
Education	College/university	20	20	19	18	13	19	16	16	15	16	17	14	20	18	22	32
Education	Elementary/middle school.	12	12	12	11	9	11	10	9	9	9	9	8	10	10	11	16
Education	High school	14	14	14	13	10	14	12	12	11	11	13	11	15	13	16	24
Education	Other classroom education.	8	8	8	7	5	8	6	7	6	6	7	6	8	7	9	13
Education	Preschool/daycare	16	15	15	14	12	14	13	12	11	11	12	11	13	12	14	20
Food Sales	Convenience store	43	48	46	44	40	47	42	36	38	40	37	34	40	44	44	58
Food Sales	Convenience store with gas.	35	38	37	35	32	38	34	29	31	32	30	27	32	36	36	46
Food Sales	Grocery store/food market.	36	40	38	36	33	39	35	30	32	34	31	28	33	37	37	48
Food Sales	Other food sales	11	12	12	11	10	12	11	9	10	10	9	9	10	11	11	15
Food Service	Fast food	84	88	89	80	74	90	75	67	72	73	68	63	75	83	83	109
Food Service	Other food service	25	26	26	24	21	27	22	20	21	22	20	19	22	25	25	32
Food Service	Restaurant/cafeteria.	45	48	48	43	39	49	41	36	39	40	37	34	41	45	45	59
Inpatient Health Care.	Hospital/inpatient health.	45	47	48	41	42	47	39	32	33	35	29	27	29	32	30	36
Laboratory	Laboratory	56	56	55	52	44	54	48	44	42	43	45	41	51	48	53	71
Lodging	Dormitory/fraternity/sorority.	13	14	14	14	9	14	13	13	12	13	14	12	17	16	19	26
Lodging	Hotel	16	16	15	15	14	16	15	12	13	13	13	12	14	14	14	17
Lodging	Motel or inn	18	17	17	15	14	16	15	12	12	12	12	11	13	12	12	15
Lodging	Nursing home/assisted living.	26	27	26	24	21	26	23	21	20	20	21	19	24	23	25	34
Lodging	Other lodging	17	16	16	14	13	15	14	11	12	11	11	11	12	12	12	14

TABLE 4—FY2025–FY2029 MAXIMUM ALLOWABLE FOSSIL FUEL-GENERATED ENERGY CONSUMPTION BY BUILDING CATEGORY, BUILDING TYPE AND CLIMATE ZONE, COMMERCIAL BUILDINGS AND MULTI-FAMILY HIGH-RISE RESIDENTIAL BUILDINGS—Continued

[Source kBtu/yr-sqft]

Building category	Climate zone	1	2A	2B	3A	3B coast	3B other	3C	4A	4B	4C	5A	5B	6A	6B	7	8
	Building type	Fossil fuel-generated energy use intensity															
Mercantile	Enclosed mall	18	18	18	17	13	17	15	15	14	15	17	15	20	19	22	32
Mercantile	Strip shopping mall	19	19	18	18	13	18	16	16	15	15	18	16	21	20	23	33
Office	Administrative/profess. office.	12	13	13	12	10	12	10	10	10	10	11	9	12	11	13	18
Office	Bank/other financial.	18	18	18	17	14	18	15	15	14	14	15	13	17	16	18	25
Office	Government office	16	16	16	15	12	16	13	13	12	12	13	12	15	14	16	22
Office	Medical office (non-diagnostic).	11	11	11	10	8	11	9	9	8	8	9	8	10	9	11	15
Office	Mixed-use office	14	15	15	14	11	14	12	12	11	11	12	11	14	13	15	21
Office	Other office	12	12	12	12	9	12	10	10	9	9	10	9	12	11	12	17
Outpatient Health Care.	Clinic/other outpatient health.	16	15	16	14	13	15	13	11	11	10	10	10	11	11	10	12
Outpatient Health Care.	Medical office (diagnostic).	11	10	10	9	9	10	8	7	7	7	7	7	7	7	7	8
Public Assembly	Entertainment/culture.	7	7	7	7	6	7	6	6	5	6	6	5	7	6	7	9
Public Assembly	Library	19	19	19	18	15	19	17	15	15	15	16	14	18	17	18	24
Public Assembly	Other public assembly.	9	9	9	8	7	9	8	7	7	7	7	6	8	8	8	11
Public Assembly	Recreation	8	8	8	8	6	8	7	6	6	6	7	6	8	7	8	11
Public Assembly	Social/meeting	9	9	8	8	7	8	7	7	7	7	7	6	8	7	8	11
Public Order & Safety.	Fire station/police station.	21	21	20	19	16	20	18	16	16	16	17	15	19	18	19	26
Public Order & Safety.	Other public order and safety.	19	19	18	17	15	18	16	15	14	14	15	14	17	16	18	24
Religious Worship	Religious worship	7	7	7	7	6	7	6	6	6	6	6	5	7	6	7	9
Retail (except malls).	Other retail	16	16	16	15	11	15	13	13	12	13	15	13	18	16	19	27
Retail (except malls).	Retail store	9	9	9	9	6	9	8	8	7	7	8	7	10	9	11	16
Retail (except malls).	Vehicle dealership showroom.	16	16	16	15	11	15	13	13	13	13	15	13	18	16	19	27
Service	Other service	19	19	19	18	14	18	16	15	14	14	15	15	17	16	18	23
Service	Post office/postal center.	13	13	13	12	10	13	12	10	10	10	11	10	12	12	13	17
Service	Repair shop	9	9	9	8	7	9	7	7	7	7	7	7	8	7	8	11
Service	Vehicle service/repair shop.	10	10	10	10	8	10	9	8	8	8	8	8	9	9	10	13
Service	Vehicle storage/maintenance.	4	5	4	4	3	4	4	4	3	3	4	3	4	4	4	6
Warehouse	Distribution/shipping center.	4	5	5	6	3	6	4	6	5	5	8	7	11	9	13	24
Warehouse	Non-refrigerated warehouse.	2	2	3	3	1	3	2	3	3	3	4	3	5	4	6	12
Warehouse	Refrigerated warehouse.	22	22	23	20	18	22	18	17	17	18	16	15	18	20	20	27
Residential	Multi-family high-rise residential.	11	10	9	9	5	9	6	9	8	9	10	9	11	10	12	16

PART 435—ENERGY EFFICIENCY STANDARDS FOR THE DESIGN AND CONSTRUCTION OF NEW FEDERAL LOW-RISE RESIDENTIAL BUILDINGS

■ 7. The authority citation for part 435 continues to read as follows:

Authority: 42 U.S.C. 6831–6832; 6834–6836; 42 U.S.C. 8253–54; 42 U.S.C. 7101 *et seq.*

■ 8. In § 435.1, paragraph (b) is added to read as follows:

§ 435.1 Purpose and scope.

* * * * *

(b) This part also establishes a maximum allowable fossil fuel-generated energy consumption standard for new Federal buildings that are low-rise residential buildings and major renovations to Federal buildings that are low-rise residential buildings, for which design for construction began on or after October 14, 2015.

■ 9. In § 435.2:

■ a. Add in alphabetical order, the definitions of ''Combined heat and power (CHP) system,'' ''Construction cost,'' ''District energy system,'' ''Fiscal year (FY),'' ''Major renovation,'' ''Power purchase agreement,'' and ''Renewable energy certificate'';

■ b. Revise the definitions of ''New Federal building'' and ''Proposed building''; and

■ c. Remove the definitions of ''Life-cycle cost'' and ''Life-cycle cost-effective''.

The additions and revisions read as follows:

§ 435.2 Definitions.

* * * * *

Combined heat and power (CHP) system means an integrated system, located at or near a building or facility, that is used to generate both heat and electricity for use in the building or facility.

Construction cost means all costs associated with design and construction of a building. It includes the cost of design, permitting, construction (materials and labor), and building commissioning. It does not include legal or administrative fees, or the cost of acquiring the land.

* * * * *

District energy system means a central energy conversion plant and transmission and distribution system that provides thermal energy to a group of buildings (heating via hot water or steam, and/or cooling via chilled water). This definition only includes thermal energy systems; central energy supply systems that only provide electricity are excluded from this definition.

* * * * *

Fiscal Year (FY) begins on October 1 of the year prior to the specified calendar year and ends on September 30 of the specified calendar year

* * * * *

Major renovation means changes to a building that provide significant opportunities for compliance with applicable requirements in this part. For subpart B —reduction in fossil fuel-related energy consumption, for example, replacement of the HVAC system, lighting system, building envelope, or other components of the building that have a major impact on energy usage would constitute a major renovation.

New Federal building means any new building (including a complete replacement of an existing building from the foundation up) to be constructed by, or for the use of, any Federal agency. Such term shall include buildings built for the purpose of being leased by a Federal agency, and privatized military housing.

Power purchase agreement means an agreement with an electricity producer for all or a specified portion of the electricity produced from a particular power source, in this case a renewable energy source, for a specified period of time.

Proposed building means the design for construction of a new Federal low-rise residential building, or major renovation to a Federal low-rise residential building, proposed for construction.

Renewable energy certificate means the technology and environmental (non-energy) attributes that represent proof that 1 megawatt-hour (MWh) of electricity was generated from a renewable energy resource, and can be sold separately from the underlying generic electricity with which it is associated.

§ 435.3 [Amended]

■ 10. Amend § 435.3 by adding to the end of paragraph (b)(2) ‘‘, 435.201, Appendix A to Subpart B’’.

■ 11. Revise § 435.4 to read as follows:

§ 435.4 Life-cycle cost-effective.

Except as specified in subparts A, B or C of this part, Federal agencies shall determine life-cycle cost-effectiveness by using the procedures set out in subpart A of part 436. A Federal agency may choose to use any of four methods, including life-cycle cost, net savings, savings-to-investment ratio, and adjusted internal rate of return using the discount rate published in the annual supplement to the Life Cycle Costing Manual for the Federal Energy Management Program (NIST 85–3273).

■ 12. Subpart B is added to part 435 to read as follows:

Subpart B—Reduction in Fossil Fuel-Generated Energy Consumption

Sec.
435.200 Fossil fuel-generated energy consumption requirement.
435.201 Fossil fuel-generated energy consumption determination.
435.202 Petition for downward adjustment.
Appendix A to Subpart B of Part 435—Maximum Allowable Fossil Fuel-Generated Energy Consumption

Subpart B—Reduction in Fossil Fuel-Generated Energy Consumption

§ 435.200 Fossil fuel-generated energy consumption requirement.

(a) *New Federal buildings.* New Federal buildings that are low-rise residential buildings, for which design for construction began on or after October 14, 2015, must be designed to meet the requirements of paragraph (c) of this section if the cost of the building is at least $2,500,000 (in 2007 dollars, adjusted for inflation).

(b) *Major renovations.* (1) Major renovations to Federal buildings that are low-rise residential buildings, for which design for construction began on or after October 14, 2015, must be designed to meet the requirements of paragraph (c) of this section if the cost of the major renovation is at least $2,500,000 (in 2007 dollars, adjusted for inflation).

(2) This subpart applies only to the portions of the proposed building or proposed building systems that are being renovated and to the extent that the scope of the renovation permits compliance with the applicable requirements in this subpart. Unaltered portions of the proposed building or proposed building systems are not required to comply with this subpart.

(3) For leased buildings, this subpart applies to major renovations only if the proposed building was originally built for the use of any Federal agency, including being leased by a Federal agency.

(c) *Federal buildings that are of the type included in Appendix A of this subpart*—(1) *Design for construction began during fiscal year 2014 through fiscal year 2029.* The fossil fuel-generated energy consumption of the proposed building, based on the building design and calculated according to § 435.201(a), must not exceed the value identified in Tables 1–4 of Appendix A of this subpart for the associated building type, climate zone, and fiscal year in which design for construction began.

(2) *Design for construction began during or after fiscal year 2030.* The fossil fuel-generated energy consumption of the proposed building, based on building design and calculated according to § 435.201(a), must be zero.

§ 435.201 Fossil fuel-generated energy consumption determination.

(a) The fossil fuel-generated energy consumption of a proposed design is calculated as follows:

Equation 1: Fossil Fuel-Generated Energy Consumption = ((3.412 kBtu/kwh × Fossil Fuel-Generation Factor × (Proposed Building Site Electricity Consumption − Renewable Energy and CHP Electricity Deduction)/Electricity Source Energy Factor) + (Direct Fossil Fuel Consumption of Proposed Building × Other Fuels Source Energy Multiplier))/Floor Area

Whereas:

(1) *Fossil Fuel-Generation Factor* is equal to $(AEP_{coal} + AEP_{pl} + AEP_{pc} + AEP_{ng} + AEP_{og})$/Total AEP

Where

AEP = annual electrical production
pl = petroleum liquids
pc = petroleum coke
ng = natural gas
og = other gas

All values are taken from Table 3.2.A of the EIA Electric Power Annual Report, which is updated on a periodic basis. DOE will on an annual basis calculate the Fossil Fuel Generation Factor and publish the result at the following web address: *http://energy.gov/eere/femp/federal-energy-management-program*

(2) *Proposed Building Site Electricity Consumption* equals the estimated site electricity consumption of the proposed building calculated in accordance with the Simulated Performance Alternative in Section 405 of the IECC 2009 (incorporated by reference; see § 435.3), measured in kilowatt hours per year (kWh/yr).

(3) *Renewable Energy and CHP Electricity Deduction* equals the total contribution specified in paragraph (b) of this section, measured in kilowatt hours per year (kWh/yr).

(4) *Electricity Source Energy Factor* For electricity purchased from the grid, the Electricity Source Factor is equal to 0.316. For on-site electrical generation, it is the estimated efficiency of the generating equipment and any estimated distribution losses that may occur.

(5) *Direct Fossil Fuel Consumption of Proposed Building* equals the total site fossil fuel consumption of the proposed building calculated in accordance with the Simulated Performance Alternative in Section 405 of the IECC 2009 (incorporated by reference; see § 435.3), excluding fossil fuel consumption for electricity generation, and measured in thousands of British thermal units per year per (kBtu/yr). This includes any fossil fuel consumption attributable to non-electric power (e.g., heat or steam) used in a proposed building that is supplied by a district energy system or CHP system.

(6) *Other Fuels Source Energy Multiplier* For purposes of Equation 1, the multipliers are as follows:

Natural gas 1.046
Fuel oil 1.00
Propane 1.00
District Steam (non-CHP) 1.35
District steam (CHP) 2.30
District hot water 1.28
Chilled water 1.05
Coal 1.00

(7) *Floor Area* is the floor area of the structure that is enclosed by exterior walls, including finished or unfinished basements, finished or heated space in attics, and garages if they have an uninsulated wall in common with the house. Not included are crawl spaces, and sheds and other buildings that are not attached to the house.

(b) *Renewable energy and CHP electricity deductions*—(1) *Renewable electricity.* The following renewable electricity generation qualifies as a deduction under paragraph (a) of this section to the extent that the renewable electricity generation represents new electric generating capacity or a new renewable energy obligation on the part of the agency, and not a reassignment of existing capacity or obligations:

(i) *On-site renewable electricity generation* is the amount of electricity measured in kilowatt hours per year (kWh/yr) to be consumed by the building that is contributed by renewable electricity generated at the Federal site or facility on which the building will be located. The environmental attributes of the on-site renewable electricity generation must not be transferred.

(ii) *Off-site renewable electricity generation* is the amount of renewable electricity measured in kilowatt hours per year (kWh/yr) generated at a site or facility, either Federal or non-federal, other than the Federal site or facility on which the building will be located, and may include renewable energy produced under a Power Purchase Agreement and represented by Renewable Energy Certificates.

(2) *Limitation on the use of renewable electricity generation for new Federal buildings and major renovations.* The environmental attributes of the renewable energy generation must not be transferred. The agency must ensure that the environmental attributes of onsite renewable energy generation are dedicated to meeting the fossil fuel-generated energy consumption reduction requirements of the proposed building.

(3) *CHP deduction.* Electricity associated with non-electric power provided to a proposed building by a district energy system that is a CHP system or an on-site CHP system qualifies as a deduction under paragraph (a) and is equal to the total heat delivered to the proposed building from the direct energy system divided by total heat produced by the CHP system, times the total electricity produced by the CHP system.

§ 435.202 Petition for downward adjustment.

(a) *New Federal buildings.* (1) Upon petition by a Federal agency, excluding the General Services Administration (GSA) but including GSA-tenant agencies with significant control over building design, the Director of the Federal Energy Management Program may adjust the applicable maximum allowable fossil fuel-generated energy consumption standard with respect to a specific building, upon written certification from the head of the agency designing the building, or the head of a GSA-tenant agency, that the requested adjustment is the largest feasible reduction in fossil fuel-generated consumption that can practicably be achieved in light of the specified functional needs for that building, as demonstrated by:

(i) A statement sealed by the design engineer that the proposed building was designed in accordance with the applicable energy efficiency requirement in subpart A of this Part, and that each energy consuming product included in the proposed building that is of a product category covered by the ENERGY STAR program or the Federal Energy Management Program for designated products is an ENERGY STAR product or a product meeting the FEMP designation criteria, as applicable;

(ii) A description of the technologies and practices that were evaluated and rejected, including a justification of why they were not included in the design for construction; and

(iii) Any other information the agency determines would help explain its request;

(2) The head of the agency designing the building, or the head of a GSA-tenant agency, must also include the following information in the petition:

(i) A general description of the building, including but not limited to location, use type, floor area, stories, and functional needs;

(ii) The maximum allowable fossil fuel-generated energy consumption for the building from Tables 1–4 of Appendix A of this subpart;

(iii) The estimated fossil fuel-generated energy consumption of the proposed building;

(iv) A description of the proposed building's energy-related features, including but not limited to:

(A) Building envelope, including, but not limited to, construction materials, insulation levels, and the type, area, heat loss and solar heat gain and visible light transmission coefficients of windows and other glazing;

(B) HVAC system type and configuration;

(C) HVAC equipment sizes and efficiencies;

(D) Ventilation systems (including outdoor air volume, controls technique, heat recovery systems, and economizers, if applicable);

(E) Service water heating system configuration and equipment (including solar hot water, wastewater heat recovery, and controls for circulating hot water systems, if applicable);

(F) Lighting technology, interior lighting power, and lighting control techniques;

(G) Estimated process and plug loads; and

(H) Any other energy-related equipment; and

(3) The Director of the Federal Energy Management Program may concur in whole or in part with a petition. Upon concurring in part, the Director of the Federal Energy Management Program will establish an applicable maximum allowable fossil fuel-generated energy consumption standard with respect to a specific building other than the value put forth in the petition.

(4) Petitions for downward adjustment should be submitted to *ff-petition@ee.doe.gov,* or to:

U.S. Department of Energy, Federal Energy Management Program, Director, Fossil Fuel Reductions in New Federal Buildings, EE–2L, 1000 Independence Ave. SW., Washington, DC 20585–0121.

(5) The Director will notify the requesting agency in writing whether the petition for downward adjustment to the numeric reduction requirement is approved, in whole or in part, or rejected, within 90 days of submittal. If the Director rejects -the petition or establishes a value other than that presented in the petition, the Director will forward its reasons for rejection to the petitioning agency.

(b) *Major renovations to Federal buildings*—(1) *Major renovation of the whole building.* Upon petition by a Federal agency, excluding the General Services Administration (GSA) but including GSA-tenant agencies with significant control over renovation design, the Director of the Federal Energy Management Program will adjust the applicable maximum allowable fossil fuel-generated energy consumption standard with respect to a specific major renovation of a whole building, upon written certification from the head of the agency designing the building, or the head of a GSA-tenant agency, that the requested adjustment is the largest feasible reduction in fossil fuel-generated consumption that can practicably be achieved in light of the specified functional needs for that building, as demonstrated by a statement stamped by the design engineer that the proposed building was designed consistent with the energy efficiency requirement in subpart A of this Part that corresponds to the date of the proposed building.

(2) *Major renovation of a building system or component.* Upon petition by a Federal agency, excluding the General Services Administration (GSA) but including GSA-tenant agencies with significant control over renovation design, the Director of the Federal Energy Management Program will adjust the applicable maximum allowable fossil fuel-generated energy consumption standard with respect to a specific major renovation limited to a building system or component, upon written certification from the head of the agency designing the building, or the head of a GSA-tenant agency, that the requested adjustment is the largest feasible reduction in fossil fuel-generated consumption that can practicably be achieved in light of the specified functional needs for that building, as demonstrated by a statement stamped by the design engineer that the proposed building incorporates commercially available systems and/or components that provide a level of energy efficiency that is life-cycle cost effective.

(3) Petitions for downward adjustment should be submitted to *ff-petition@ee.doe.gov,* or to:

U.S. Department of Energy, Federal Energy Management Program, Director, Fossil Fuel Reductions in New Federal Buildings, EE–2L, 1000 Independence Ave. SW., Washington, DC 20585–0121.

(4) The downward adjustment for a major renovation will be deemed approved upon submittal of the certification required in paragraphs (b)(1) or (2) of this section, as applicable.

Appendix A to Subpart B of Part 435—Maximum Allowable Fossil Fuel-Generated Energy Consumption

(a) For purposes of the tables in this Appendix, the climate zones for each county in the United States are those listed in Figure 301.1 of IECC 2009 (incorporated by reference; see § 435.3).

(b) For purpose of Appendix A, the following definitions apply:

Manufactured Home means a dwelling unit built to the Federal Manufactured Home Construction and Safety Standards in 24 CFR part 3280, that is built on a permanent chassis and moved to a site. It may be placed on a permanent or temporary foundation and may contain one or more rooms.

Multi-Family in 2–4 Unit Buildings means a category of structures that is divided into living quarters for two, three, or four families or households in which one household lives above or beside another. This category also includes houses originally intended for occupancy by one family (or for some other use) that have since been converted to separate dwellings for two to four families.

Multi-Family in 5 or More Unit Buildings means a category of structures that contain living quarters for five or more households or families and in which one household lives above or beside another.

Single-Family Attached means a building with two or more connected dwelling units, generally with a shared wall, each providing living space for one household or family. Attached houses are considered single-family houses as long as they are not divided into more than one dwelling unit and they have independent outside entrances. A single-family house is contained within walls extending from the basement (or the ground floor, if there is no basement) to the roof. Townhouses, row houses, and duplexes are considered single-family attached dwelling units, as long as there is no dwelling unit above or below another. This includes modular homes but does not include manufactured homes.

Single-Family Detached means a separate, unconnected dwelling unit, not sharing a wall with any other building or dwelling unit, which provides living space for one household or family. A single-family house is contained within walls extending from the basement (or the ground floor, if there is no basement) to the roof. This includes modular homes but does not include manufactured homes.

TABLE 1—FY2013–FY2014 MAXIMUM ALLOWABLE FOSSIL FUEL-GENERATED ENERGY CONSUMPTION BY BUILDING CATEGORY, BUILDING TYPE AND CLIMATE ZONE, RESIDENTIAL BUILDINGS

[Source kBtu/yr-sqft]

Building category	Climate zone	1	2A	2B	3A	3B coast	3B other	3C	4A	4B	4C	5A	5B	6A	6B	7	8
	Building activity/ type	Fossil fuel-generated energy use intensity															
Residential	Mobile/manufactured home.	56	54	46	48	28	47	33	48	43	49	53	45	61	54	64	84
Residential	Single-family detached.	42	40	34	36	21	35	24	36	32	36	39	33	45	40	47	62
Residential	Single-family attached.	48	46	39	41	24	40	28	41	37	41	45	38	52	46	55	72
Residential	Multi-family (in 2–4 unit building).	70	68	57	60	35	59	41	60	54	61	66	56	76	68	80	105
Residential	Multi-family (in 5+ unit building).	48	46	39	41	24	40	28	41	37	41	45	38	52	46	55	72

TABLE 2—FY2014–FY2019 MAXIMUM ALLOWABLE FOSSIL FUEL-GENERATED ENERGY CONSUMPTION BY BUILDING CATEGORY, BUILDING TYPE AND CLIMATE ZONE, RESIDENTIAL BUILDINGS

[Source kBtu/yr-sqft]

Building category	Climate zone:	1	2A	2B	3A	3B coast	3B other	3C	4A	4B	4C	5A	5B	6A	6B	7	8
	Building activity/ type	Fossil fuel-generated energy use intensity															
Residential	Mobile/manufactured home.	44	42	35	37	22	36	25	37	34	38	41	35	47	42	50	65
Residential	Single-family detached.	32	31	26	28	16	27	19	28	25	28	30	26	35	31	37	49
Residential	Single-family attached.	37	36	30	32	18	31	22	32	29	32	35	30	40	36	42	56
Residential	Multi-family (in 2–4 unit building).	55	53	44	47	27	46	32	47	42	47	51	44	59	53	62	82
Residential	Multi-family (in 5+ unit building).	37	36	30	32	18	31	22	32	29	32	35	30	40	36	42	56

TABLE 3—FY2020–FY2024 MAXIMUM ALLOWABLE FOSSIL FUEL-GENERATED ENERGY CONSUMPTION BY BUILDING CATEGORY, BUILDING TYPE AND CLIMATE ZONE, RESIDENTIAL BUILDINGS

[Source kBtu/yr-sqft]

Building category	Climate zone	1	2A	2B	3A	3B coast	3B other	3C	4A	4B	4C	5A	5B	6A	6B	7	8
	Building activity/ type	Fossil fuel-generated energy use intensity															
Residential	Mobile/manufactured home.	25	24	20	21	12	21	15	21	19	22	23	20	27	24	28	37
Residential	Single-family detached.	18	18	15	16	9	15	11	16	14	16	17	15	20	18	21	28
Residential	Single-family attached.	21	21	17	18	11	18	12	18	16	18	20	17	23	21	24	32
Residential	Multi-family (in 2–4 unit building).	31	30	25	27	15	26	18	27	24	27	29	25	34	30	36	47
Residential	Multi-family (in 5+ unit building).	21	20	17	18	11	18	12	18	16	18	20	17	23	21	24	32

TABLE 4—FY2024–FY2029 MAXIMUM ALLOWABLE FOSSIL FUEL-GENERATED ENERGY CONSUMPTION BY BUILDING CATEGORY, BUILDING TYPE AND CLIMATE ZONE, RESIDENTIAL BUILDINGS

[Source kBtu/yr-sqft]

Building category	Climate zone	1	2A	2B	3A	3B coast	3B other	3C	4A	4B	4C	5A	5B	6A	6B	7	8
	Building activity/ type	Fossil fuel-generated energy use intensity															
Residential	Mobile/manufactured home.	12	12	10	11	6	10	7	11	10	11	12	10	13	12	14	19
Residential	Single-family detached.	9	9	8	8	5	8	5	8	7	8	9	7	10	9	11	14
Residential	Single-family attached.	11	10	9	9	5	9	6	9	8	9	10	9	12	10	12	16
Residential	Multi-family (in 2–4 unit building).	16	15	13	13	8	13	9	13	12	14	15	13	17	15	18	23
Residential	Multi-family (in 5+ unit building).	11	10	9	9	5	9	6	9	8	9	10	9	11	10	12	16

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Part III

Department of Defense

General Services Administration

National Aeronautics and Space Administration

42 CFR Parts 1, 2, 4, et al.

Federal Acquisition Regulation; Final Rules

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR 2014–0051, Sequence No. 5]

Federal Acquisition Regulation; Federal Acquisition Circular 2005–77; Introduction

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Summary presentation of final rules.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rules agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) in this Federal Acquisition Circular (FAC) 2005–77. A companion document, the *Small Entity Compliance Guide* (SECG), follows this FAC. The FAC, including the SECG, is available via the Internet at *http://www.regulations.gov.*

DATES: For effective dates and comment dates see separate documents, which follow.

FOR FURTHER INFORMATION CONTACT: The analyst whose name appears in the table below in relation to the FAR case. Please cite FAC 2005–77 and the specific FAR case number. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755.

RULES LISTED IN FAC 2005–77

Item	Subject	FAR case	Analyst
I	Federal Contracting Programs for Minority-Owned and Other Small Businesses	2009–016	Uddowla
II	Irrevocable Letters of Credit	2011–023	Davis
III	Uniform Procurement Identification	2012–023	Loeb

SUPPLEMENTARY INFORMATION: Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these rules, refer to the specific item numbers and subjects set forth in the documents following these item summaries. FAC 2005–77 amends the FAR as specified below:

Item I—Federal Contracting Programs for Minority-Owned and Other Small Businesses (FAR Case 2009–016)

This final rule amends the FAR to remove certain coverage involving procurements with small disadvantaged business concerns and certain institutions of higher education that is based on authority which has expired and been found to be unconstitutional by the Court of Appeals for the Federal Circuit. These changes harmonize the FAR with current statutory authorities. The impact of this rule on small businesses should be minimal, given that the coverage applied only to prime contracting opportunities in specific North American Industry Classification System codes, and was applicable to only three Government agencies, (DoD, NASA and U.S. Coast Guard). The obligation of Federal Agencies to meet or exceed the statutory five percent small disadvantaged business goals at the prime and subcontracting levels are not affected by this rule.

Item II—Irrevocable Letters of Credit (FAR Case 2011–023)

This final rule amends the FAR to remove all references to Office of Federal Procurement Policy (OFPP) Pamphlet No. 7, Use of Irrevocable Letters of Credit (ILC). This change is necessary to update the sources of data required to verify the credit worthiness of a financial entity issuing or confirming an ILC.

This final rule has no significant impact on the Government and contractors including small business entities and imposes no new requirements. Contracting Officers are currently required to verify the credit worthiness of a financial entity issuing or confirming an ILC and will benefit from this updated information to conduct an accurate analysis.

Item III—Uniform Procurement Identification (FAR Case 2012–023)

This final rule amends the FAR to implement a uniform Procurement Instrument Identification (PIID) numbering system, which will require the use of Activity Address Codes (AACs) as the unique identifier for contracting offices and other offices, in order to standardize procurement transactions across the Federal Government. Agencies shall comply with the new PIID procedures in FAR subpart 4.16 by October 1, 2017, for new solicitations and contract awards.

Dated: September 30, 2014.

William Clark,

Acting Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Federal Acquisition Circular (FAC) 2005–77 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2005–77 is effective October 14, 2014 except for items II and III which are effective November 13, 2014.

Dated: October 1, 2014.

Richard Ginman,

Director, Defense Procurement and Acquisition Policy.

Dated: August 11, 2014.

Jeffrey A. Koses,

Senior Procurement Executive/Deputy CAO, Office of Acquisition Policy, U.S. General Services Administration.

Dated: September 29, 2014.

William P. McNally,

Assistant Administrator for Procurement, National Aeronautics and Space Administration.

[FR Doc. 2014–24233 Filed 10–10–14; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2 and 4

[FAC 2005–77; FAR Case 2012–023; Item III; Docket 2012–0023, Sequence 1]

RIN 9000–AM60

Federal Acquisition Regulation; Uniform Procurement Identification

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to implement a uniform Procurement Instrument Identification (PIID) numbering system, which will require the use of Activity Address Codes (AACs) as the unique identifier for contracting offices and other offices, in order to standardize procurement transactions across the Federal Government.

DATES: *Effective:* November 13, 2014.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Loeb, Procurement Analyst, at 202–501–0650, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAC 2005–77, FAR Case 2012–023.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 78 FR 34020 on June 6, 2013, to implement recommendation number 3 of the Government Accountability and Transparency Board (GAT Board). Recommendation number 3 was to implement a uniform award identification system among various financial transactions conducted across the Federal Government by a number of communities, *e.g.,* procurement, grants, and finance. This final FAR rule is consistent with the goals of GAT Board recommendation 3 for the procurement community. Application of the GAT Board recommendation for the other communities is not the subject of this rule. Four respondents submitted comments on the proposed rule. Three of these respondents were representatives of Federal agencies.

II. Discussion and Analysis

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the public comments in the development of the final rule. A discussion of the comments and the changes made to the rule as a result of those comments are provided as follows:

A. Summary of Significant Changes From the Proposed Rule

1. At FAR 4.1601 the implementation deadline for new unique procurement instrument identifiers has been rescheduled and will now be no later than October 1, 2017. In the proposed rule there was a FAR multistep transition process being proposed, but the Councils have delayed the implementation date and deleted what was identified at FAR 4.1601 as the ''transition'' requirement, so that all agencies will be responsible for completing the transition to the PIID procedures of this rule by October 1, 2017.

2. At FAR 4.1601 the ''End state'' requirement is modified to read ''No later than October 1, 2017, agencies shall comply with paragraph (a) of this section and use the requirements in 4.1602 and 4.1603 for all new solicitations and awards.'' This clarifies that the rule does not intend to modify the identifiers for existing solicitations or contracts.

B. Analysis of Public Comments

1. System Compatibility

Comment: One respondent expressed concern that this rule will require expensive modifications to agency contracting writing software and financial systems. The respondent also indicated that the changes required by the rule could cause problems interacting with other Government systems. The respondent also expressed concern about the requirement to convert all contract actions already in effect to the new structure by October 1, 2016, and the effects this will have across other enterprise systems as well as effects on maintaining historical and legacy information.

Response: The final rule has been changed so it only applies to new solicitations and contracts, and with a modified implementation deadline of October 1, 2017 (see FAR 4.1601(b)(2)). This does not preclude agencies from implementing the changes in advance (see FAR 4.1601(b)(2)). Agencies are being provided additional time to comply with the new requirements to be sure that all systems compatibility issues can be resolved.

2. Applicability

Comment: One respondent recommended not applying the new requirements to historical documents due to the major system changes and cross referencing issues that would result. Another respondent considered the prospect of modifying existing awards to be infeasible due to the changes that would be necessary across other systems such as SAM, FPDS–NG, FAADS Plus/USASpending.gov, FedBizOpps, and Grants.gov.

Response: The final rule only applies the new requirements to new solicitations and contracts, with an implementation deadline of October 1, 2017 (see FAR 4.1601(b)(2)).

3. Contract Modifications

Comment: One respondent raised concerns regarding how systems would be able to handle modifying current actions to the new paradigm and how this would affect historical data on these actions. The respondent was also concerned with the number of contract modifications being limited to 1,000. Another respondent noted that moving from a two character modification number to a four character modification number would not be possible due to system constraints.

Response: The prescribed numbering format for supplementary PIIDs, at FAR 4.1603(b), allows for up to 9,999 solicitation amendments and 99,999 contract modifications. In addition, the final rule has been modified to allow agencies until October 1, 2017, to comply with the new requirements, giving agencies additional time to modify existing systems.

4. Implementation

Comment: One respondent detailed a number of specific, significant, and costly changes to current systems to comply with the proposed changes. The respondent also noted that there would be costs associated with necessary training of staff to use the new system. The respondent projected the cost of this rule to their agency as $4,155,000 for labor and systems and an additional $80,000 for training. Another respondent asked what mitigation strategies are in place in the event that one or several of the integration partner's systems are not ready to support the proposed changes.

Response: It is understood that this rule may have a significant cost for implementation; however, the GAT Board, Office of Management and Budget (OMB) and the FAR Council

have determined that in order to achieve the noted accountability and transparency goals of the rule, the changes must be made. Office of Federal Procurement Policy (OFPP) will monitor agency progress in implementing this rule to ascertain if any changes are required.

5. FAR 4.1602(c), Clarification Concerning ''Additional Agency Information''

Comment: One respondent requested clarification of what is meant by the language at FAR 4.1602(c) regarding ''Additional agency specific identification information.''

Response: This language is included in the rule to make it clear that agencies will likely establish additional requirements at their FAR supplement level.

6. FAR 4.1603, Clarification Concerning ''Until It Has Been Determined''

Comment: One respondent requested clarification of what is meant by the language at FAR 4.1603(b)(2)(iii) regarding ''until it has been determined.''

Response: This language is included in the rule to make it clear that modification numbers should not be created in advance of the need for the modification.

7. Impact on Contractor Systems

Comment: One respondent noted that many contractors have structured their award numbering system to mirror the Government's, and will need to make associated revisions to their systems, which could have associated cost implications.

Response: If a contractor chose to structure their contract management system to mirror an agency's contract writing system, then they may find it necessary to modify their system capabilities to match the new contract identification requirements.

8. Impacts on Assistance Awards

Comment: One respondent stated that assistance actions are not covered by the FAR, but should this proposed rule become final, for consistency purposes, it will be critical that parallel efforts be taken to ensure that assistance actions follow a similar numbering format.

Response: Assistance actions are outside of the scope of this rule. However, this comment has been provided to OMB for consideration.

9. Address Activity Codes

Comment: One respondent noted that for Address Activity Codes (AAC), DoD agencies begin with an alpha character and non-DoD agencies begin with a two-digit number. The respondent asked if there is a consistent hierarchy for the remaining positions.

Response: The FAR does not prescribe a hierarchy for the remaining positions in an AAC, as this is left to agency procedures in accordance with the Federal supply program. Information on locating an existing AAC or obtaining a new AAC is located at FAR 4.1603(a)(1).

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

DoD, GSA, and NASA have prepared a Final Regulatory Flexibility Analysis (FRFA) consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The FRFA is summarized as follows:

This rule is needed to further the President's commitment to make the Federal Government transparent and accountable to the American people. The rule requires use of a standardized procurement instrument identification (PIID) number configuration across the federal procurement community. The numbering configuration will contain an Activity Address Code unique to each contracting office. This change will lead to increases in data traceability and transparency, thereby broadening the Government's ability to report procurement data accurately and to provide more effective oversight of reporting responsibilities.

The final rule is internal to the Government procedures and does not directly impose any requirements on the vendor community. However, the rule may affect certain entities if those entities have arranged any of their business systems to utilize, accept, or otherwise recognize the PIID of agencies they interact with, if those agencies do not currently use the PIID configuration of this rule.

In FY11 awards were made to 67,280 unique vendors, of which 48,281 were small businesses. These small businesses likely interact with agencies that do not currently use the proposed uniform procurement identification configuration.

One respondent stated that small businesses that do the majority of their business with the Government will be adversely affected by changes to the Government systems as they have structured their systems to mirror the Government. The final rule extends the implementation deadline for agencies to allow for a more efficient transition; however, contractors with system limitations may incur some cost to adapt to the changes.

Interested parties may obtain a copy of the FRFA from the Regulatory Secretariat. The Regulatory Secretariat has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

V. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 2 and 4

Government procurement.

Dated: September 30, 2014.

William Clark,

Acting Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 2 and 4 as set forth below:

■ 1. The authority citation for 48 CFR parts 2 and 4 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 2—DEFINITIONS OF WORDS AND TERMS

■ 2. Amend section 2.101 in paragraph (b)(2) by adding, in alphabetical order, the definition ''Activity Address Code (AAC)'' to read as follows:

2.101 Definitions.

* * * * *

(b) * * *

(2) * * *

Activity Address Code (AAC) means a distinct six-position code consisting of a combination of alpha and/or numeric characters assigned to identify specific agency offices, units, activities, or organizations by the General Services Administration for civilian agencies and by the Department of Defense for defense agencies.

* * * * *

PART 4—ADMINISTRATIVE MATTERS

■ 3. Amend section 4.605 by—

■ a. Removing from paragraph (a) ''4.1601,'' and adding ''4.601 to 4.1603,'' in its place; and

■ b. Adding paragraph (e).

The addition reads as follows:

4.605 Procedures.

* * * * *

(e) *Office codes.* Agencies shall by October 1, 2015—

(1) Use the Activity Address Code (AAC), as defined in 2.101, assigned to the issuing contracting office as the contracting office code, and

(2) Use the AAC assigned to the program/funding office providing the predominance of funding for the contract action as the program/funding office code.

■ 4. Revise section 4.1601 to read as follows:

4.1601 Policy.

(a) *Establishment of a Procurement Instrument Identifier (PIID).* Agencies shall have in place a process that ensures that each PIID used to identify a solicitation or contract action is unique Governmentwide, and will remain so for at least 20 years from the date of contract award. The PIID shall be used to identify all solicitation and contract actions. The PIID shall also be used to identify solicitation and contract actions in designated support and reporting systems (*e.g.,* Federal Procurement Data System, System for Award Management), in accordance with regulations, applicable authorities, and agency policies and procedures.)

(b) *Transition of PIID numbering.* No later than October 1, 2017, agencies shall comply with paragraph (a) of this section and use the requirements in 4.1602 and 4.1603 for all new solicitations and contract awards. Until an agency's transition is complete, it shall maintain its 2013 PIID format that is on record with the General Services Administration's Integrated Award Environment Program Office (which maintains a registry of the agency unique identifier scheme). The 2013 PIID format consisted of alpha characters in the first positions to indicate the agency, followed by alpha-numeric characters; the 2017 format instead has the AAC in the beginning 6 positions.

(c) *Change in the Procurement Instrument Identifier after its assignment.* (1) Agencies shall not change the PIID unless one of the following two circumstances apply:

(i) The PIID serial numbering system is exhausted. In this instance, the contracting officer may assign a new PIID by issuing a contract modification.

(ii) Continued use of a PIID is administratively burdensome (*e.g.,* for implementations of new agency contract writing systems). In this instance, the contracting officer may assign a new PIID by issuing a contract modification.

(2) The modification shall clearly identify both the original and the newly assigned PIID. Issuance of a new PIID is an administrative change (see 43.101).

■ 5. Amend section 4.1602 by revising paragraph (c) to read as follows:

4.1602 Identifying the PIID and supplementary PIID.

* * * * *

(c) *Additional agency specific identification information.* If agency procedures require additional identification information in solicitations, contracts, or other related procurement instruments for administrative purposes, separate and clearly identify the additional information from the PIID.

■ 6. Add section 4.1603 to read as follows:

4.1603 Procedures.

(a) *Elements of a PIID.* The PIID consists of a combination of thirteen to seventeen alpha and/or numeric characters sequenced to convey certain information. Do not use special characters (such as hyphens, dashes, or spaces).

(1) *Positions 1 through 6.* The first six positions identify the department/agency and office issuing the instrument. Use the AAC assigned to the issuing office for positions 1 through 6. Civilian agency points of contact for obtaining an AAC are on the AAC Contact list maintained by the General Services Administration and can be found at *http://www.gsa.gov/graphics/fas/Civilian_contacts.pdf.* For Department of Defense (DoD) inquiries, contact the service/agency Central Service Point or DoDAAC Monitor, or if unknown, email *DODAADHQ@DLA.MIL* for assistance.

(2) *Positions 7 through 8.* The seventh and eighth positions are the last two digits of the fiscal year in which the procurement instrument is issued or awarded. This is the date the action is signed, not the effective date if the effective date is different.

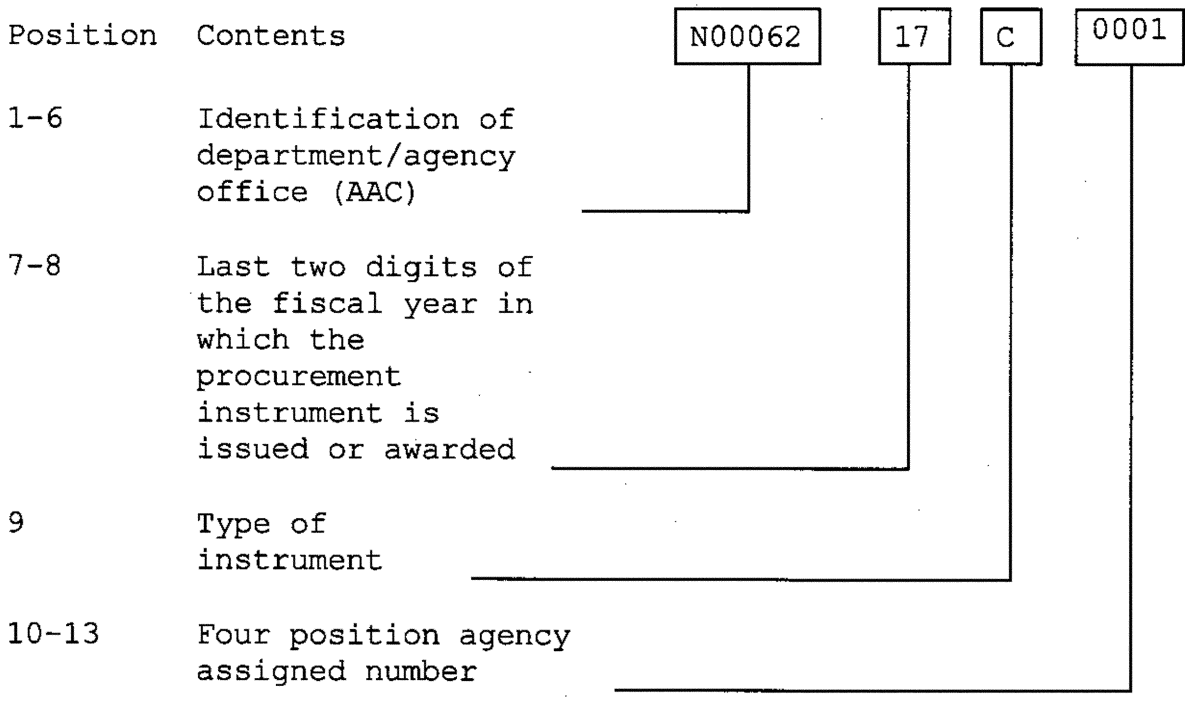
(3) *Position 9.* Indicate the type of instrument by entering one of the following upper case letters in position nine. Departments and independent agencies may assign those letters identified for department use below in accordance with their agency policy; however, any use must be applied to the entire department or agency.

Instrument	Letter designation
(i) Blanket purchase agreements	A
(ii) Invitations for bids	B
(iii) Contracts of all types except indefinite-delivery contracts (see subpart 16.5)	C
(iv) Indefinite-delivery contracts (including Federal Supply Schedules, Governmentwide acquisition contracts (GWACs), and multi-agency contracts)	D
(v) Reserved for future Federal Governmentwide use	E
(vi) Task orders, delivery orders or calls under— • Indefinite-delivery contracts (including Federal Supply Schedules, Governmentwide acquisition contracts (GWACs), and multi-agency contracts); • Blanket purchase agreements; or • Basic ordering agreements.	F
(vii) Basic ordering agreements	G
(viii) Agreements, including basic agreements and loan agreements, but excluding blanket purchase agreements, basic ordering agreements, and leases. Do not use this code for contracts or agreements with provisions for orders or calls	H
(ix) Do not use this letter	I
(x) Reserved for future Federal Governmentwide use	J
(xi) Reserved for departmental or agency use	K
(xii) Lease agreements	L
(xiii) Reserved for departmental or agency use	M
(xiv) Reserved for departmental or agency use	N
(xv) Do not use this letter	O

Instrument	Letter designation
(xvi) Purchase orders (assign V if numbering capacity of P is exhausted during a fiscal year)	P
(xvii) Requests for quotations (assign U if numbering capacity of Q is exhausted during a fiscal year)	Q
(xviii) Requests for proposals	R
(xix) Reserved for departmental or agency use	S
(xx) Reserved for departmental or agency use	T
(xxi) See Q, requests for quotations	U
(xxii) See P, purchase orders	V
(xxiii) Reserved for future Federal Governmentwide use	W
(xxiv) Reserved for future Federal Governmentwide use	X
(xxv) Imprest fund	Y
(xxvi) Reserved for future Federal Governmentwide use	Z

(4) *Positions 10 through 17.* Enter the number assigned by the issuing agency in these positions. Agencies may choose a minimum of four characters up to a maximum of eight characters to be used, but the same number of characters must be used agency-wide. If a number less than the maximum is used, do not use leading or trailing zeroes to make it equal the maximum in any system or data transmission. A separate series of numbers may be used for any type of instrument listed in paragraph (a)(3) of this section. An agency may reserve blocks of numbers or alpha-numeric numbers for use by its various components.

(5) *Illustration of PIID.* The following illustrates a properly configured PIID using four characters in the final positions:



(b) *Elements of a supplementary PIID.* Use the supplementary PIID to identify amendments to solicitations and modifications to contracts, orders, and agreements.

(1) *Amendments to solicitations.* Number amendments to solicitations sequentially using a four position numeric serial number added to the 13–17 character PIID beginning with 0001.

(2) *Modifications to contracts, orders, and agreements.* Number modifications to contracts, orders, and agreements using a six position alpha or numeric, or a combination thereof, added to the 13–17 character PIID. For example, a modification could be numbered P00001. This would be added to the end of the 13–17 character PIID illustrated in (a)(5) of this section.

(i) *Position 1.* Identify the office issuing the modification. The letter P shall be designated for modifications issued by the procuring contracting office. The letter A shall be used for modifications issued by the contract administration office (if other than the procuring contracting office).

(ii) *Positions 2 through 6.* These positions may be alpha, numeric, or a combination thereof, in accordance with agency procedures.

(iii) Each office authorized to issue modifications shall assign the supplementary identification numbers in sequence (unless provided otherwise in agency procedures). Do not assign the numbers until it has been determined that a modification is to be issued.

[FR Doc. 2014–24240 Filed 10–10–14; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR 2014–0052, Sequence No. 5]

Federal Acquisition Regulation; Federal Acquisition Circular 2005–77; Small Entity Compliance Guide

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Small Entity Compliance Guide.

SUMMARY: This document is issued under the joint authority of DOD, GSA, and NASA. This *Small Entity Compliance Guide* has been prepared in accordance with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It consists of a summary of the rules appearing in Federal Acquisition Circular (FAC) 2005–77, which amends the Federal Acquisition Regulation (FAR). An asterisk (*) next to a rule indicates that a regulatory flexibility analysis has been prepared. Interested parties may obtain further information regarding these rules by referring to FAC 2005–77, which precedes this document. These documents are also available via the Internet at *http://www.regulations.gov.*

DATES: October 14, 2014.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact the analyst whose name appears in the table below. Please cite FAC 2005–77 and the FAR case number. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755.

RULES LISTED IN FAC 2005–77

Item	Subject	FAR case	Analyst
*I	Federal Contracting Programs for Minority-Owned and Other Small Businesses	2009–016	Uddowla.
*II	Irrevocable Letters of Credit	2011–023	Davis.
*III	Uniform Procurement Identification	2012–023	Loeb.

SUPPLEMENTARY INFORMATION: Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these rules, refer to the specific item numbers and subjects set forth in the documents following these item summaries. FAC 2005–77 amends the FAR as specified below:

Item I—Federal Contracting Programs for Minority-Owned and Other Small Businesses (FAR Case 2009–016)

This final rule amends the FAR to remove certain coverage involving procurements with small disadvantaged business concerns and certain institutions of higher education that is based on authority which has expired and been found to be unconstitutional by the Court of Appeals for the Federal Circuit. These changes harmonize the FAR with current statutory authorities. The impact of this rule on small businesses should be minimal, given that the coverage applied only to prime contracting opportunities in specific North American Industry Classification System codes, and was applicable to only three Government agencies, (DoD, NASA and U.S. Coast Guard). The obligation of Federal Agencies to meet or exceed the statutory five percent small disadvantaged business goals at the prime and subcontracting levels are not affected by this rule.

Item II—Irrevocable Letters of Credit (FAR Case 2011–023)

This final rule amends the FAR to remove all references to Office of Federal Procurement Policy (OFPP) Pamphlet No. 7, Use of Irrevocable Letters of Credit (ILC). This change is necessary to update the sources of data required to verify the credit worthiness of a financial entity issuing or confirming an ILC.

This final rule has no significant impact on the Government and contractors including small business entities and imposes no new requirements. Contracting Officers are currently required to verify the credit worthiness of a financial entity issuing or confirming an ILC and will benefit from this updated information to conduct an accurate analysis.

Item III—Uniform Procurement Identification (FAR Case 2012–023)

This final rule amends the FAR to implement a uniform Procurement Instrument Identification (PIID) numbering system, which will require the use of Activity Address Codes (AACs) as the unique identifier for contracting offices and other offices, in order to standardize procurement transactions across the Federal Government. Agencies shall comply with the new PIID procedures in FAR subpart 4.16 by October 1, 2017, for new solicitations and contract awards.

Dated: September 30, 2014.

William Clark,

Acting Director, Office of Government-Wide Acquisition Policy, Office of Acquisition Policy, Office of Government-Wide Policy.

[FR Doc. 2014–24242 Filed 10–10–14; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 28, and 52

[FAC 2005–77; FAR Case 2011–023; Item II; Docket 2011–0023, Sequence 1]

RIN 9000–AM53

Federal Acquisition Regulation; Irrevocable Letters of Credit

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to remove all references to Office of Federal Procurement Policy (OFPP) Pamphlet No. 7, Use of Irrevocable Letters of Credit, and also provide updated sources of data required to verify the credit worthiness of a financial entity issuing or confirming an irrevocable letter of credit (ILC).

DATES: *Effective:* November 13, 2014.

FOR FURTHER INFORMATION CONTACT: Ms. Cecelia L. Davis, Procurement Analyst, at 202–219–0202, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–

4755. Please cite FAC 2005–77, FAR Case 2011–023.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 78 FR 26573 on May 7, 2013, to remove all references to OFPP Pamphlet No. 7, Use of Irrevocable Letters of Credit, and provide updated sources of data required to verify the credit worthiness of a financial entity issuing or confirming an ILC.

OFPP Pamphlet No. 7 provided detailed guidance for implementing policy letter 91–4, Use of Irrevocable Letters of Credit, for Government contracts. A prior FAR final rule (FAR Case 2000–605, Rescission of Office of Federal Procurement Policy Letters, 65 FR 36014) removed the FAR references to OFPP Policy Letter 91–4 along with several other policy letters that were rescinded by OFPP, effective March 30, 2000 (see 65 FR 16968). However, the reference to OFPP Pamphlet No. 7 remained in FAR part 28 because the information was considered relevant and provided, among other information, a listing of available quantitative and qualitative credit rating institutions and resources, formats for ILCs, and other useful data.

FAR 28.204–3 currently cites OFPP Pamphlet No. 7 at paragraphs (g)(1) and (h)(1) as an available resource that may be used to obtain information on credit rating services or investment grade ratings of financial entities issuing or confirming ILCs because it provides overarching policy and specific guidance on the use of ILCs, but some of the information is outdated. Therefore, instead of referencing the OFPP Pamphlet, this rule—

(1) Extracts from the OFPP Pamphlet the relevant and current information for inclusion in the FAR; and

(2) Provides additional sources of data required to verify the credit worthiness of a financial entity issuing or confirming an ILC, as summarized on the Web sites of the Federal Deposit Insurance Corporation (*http://www2.fdic.gov/idasp/index.asp*) and Securities and Exchange Commission *http://www.sec.gov/answers/nrsro.htm*).

Five respondents submitted comments on the proposed rule.

II. Discussion and Analysis

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the comments in the development of the final rule. A discussion of the comments is provided as follows:

A. Summary of Significant Changes

This final rule reflects no change to the proposed rule.

B. Analysis of Public Comments

The Regulatory Secretariat received public comments from five entities in response to the proposed rule. A discussion of these comments is provided as follows:

1. Support for the Proposed Rule

Comment: Two respondents expressed support for the rule.

Response: The Councils acknowledge the public support for this rule.

2. Standby Letters of Credit

Comment: Five respondents recommended that the proposed rule recognize and permit the use of standby letters of credit, in accordance with International Standby Practices (ISP 98), as described in International Chamber of Commerce Publication No. 590.

Response: The intent of the proposed rule, as stated in the published preamble is as follows: ''. . . to remove all references to the Office of Federal Procurement Policy (OFPP) Pamphlet No. 7, Use of Irrevocable Letters of Credit (ILC), and also provide updated sources of data required to verify the credit worthiness of a financial entity issuing or confirming an ILC.'' As a result, the inclusion of ISP 98 is considered to be a substantive change and thus beyond the scope of this case.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

DoD, GSA, and NASA have prepared a Final Regulatory Flexibility Analysis (FRFA) consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The FRFA is summarized as follows:

This action is necessary to remove all references to OFPP Pamphlet No. 7, Use of Irrevocable Letters of Credit, and provide updated sources of data required to verify credit worthiness of a financial entity issuing or confirming an ILC.

The objective of the rule is to provide up-to-date and readily available information on requirements regarding credit rating for the financial institution issuing or confirming an ILC.

This will apply to all contracts for services, supplies, or construction, when a bid guarantee or performance and payment bonds are required. 40 U.S.C. 3131 requires performance and payment bonds for any construction contract exceeding $100,000; this was raised for inflation to $150,000 (see FAR 1.109). Any person required to furnish a bond has the option to furnish a bond secured by an ILC.

For construction contracts valued at $30,000 to $150,000, alternative payment protection is required, which may involve an ILC. Generally, agencies do not require bonds for other than construction contracts. According to data from the Federal Procurement Data System, in FY 2011 there were about 58,000 new awards for construction and construction maintenance, of which 41,000 were awarded to small businesses (about 70 percent). If we estimate that 10 percent of these awards involve an ILC, then this rule applies to approximately 4,100 small businesses.

The rule only removes references to OFPP Pamphlet No. 7 and replaces these references with information relative to sources of data required to verify an ILC that generally replicates what was in the pamphlet. There are no new reporting, recordkeeping, or compliance requirements. The rule does not duplicate, overlap, or conflict with any other Federal rules.

No significant alternatives to the rule were identified that would accomplish the objectives of the rule. We do not foresee any significant economic impact of the rule on small entities. The basic requirements remain unchanged; the requirements of the pamphlet are directly stated, some of the references have been updated, and a Web site provided for access to a list of Nationally Recognized Statistical Rating Organizations.

There were no significant issues raised by the public in response to the Initial Regulatory Flexibility Analysis.

Interested parties may obtain a copy of the FRFA from the Regulatory Secretariat. The Regulatory Secretariat has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

V. Paperwork Reduction Act

The rule does not contain any new information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. Chapter 35). However, there is a pre-existing requirement at FAR 52.228–14 for offerors/contractors to provide the contacting officer a credit rating that indicates the financial institutions have the required credit rating as of the date

of issuance of the ILC. OMB Control Number 9000–0045, titled: Bid Guarantees, Performance and Payment Bonds, and Alternative Payment Protections, covers the information collection requirements associated with alternative payment protections (including ILCs) and acceptable security for bonds (including ILCs). ILCs are seldom offered as alternative payment protection or security for a bid bond, performance bond, or payment bond. The negligible burden of providing a credit rating along with the required ILC is already sufficiently covered by the approved burden hours in 9000–0045.

List of Subjects in 48 CFR Parts 1, 28, and 52

Government procurement.

Dated: September 30, 2014.

William F. Clark,

Acting Director, Office of Government-Wide Acquisition Policy, Office of Acquisition Policy, Office of Government-Wide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 1, 28, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 1, 28, and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

1.106 [Amended]

■ 2. Amend section 1.106, in the list following the introductory text, by adding in numerical sequence, FAR segment ''52.228–14'' and its corresponding OMB Control No. ''9000–0045''.

PART 28—BONDS AND INSURANCE

■ 3. Amend section 28.204–3 by revising the section heading and paragraphs (a), (g), and (h) to read as follows:

28.204–3 Irrevocable letter of credit.

(a) Any person required to furnish a bond has the option to furnish a bond secured by an irrevocable letter of credit (ILC) in an amount equal to the penal sum required to be secured (see 28.204). A separate ILC is required for each bond.

* * * * *

(g) Only federally insured financial institutions rated investment grade shall issue or confirm the ILC. Unless the financial institution issuing the ILC had letter of credit business of at least $25 million in the past year, ILCs over $5 million must be confirmed by another acceptable financial institution that had letter of credit business of at least $25 million in the past year.

(1) The offeror/contractor is required by paragraph (d) of the clause at 52.228–14, Irrevocable Letter of Credit, to provide the contracting officer a credit rating from a recognized commercial rating service that indicates the financial institution has the required rating(s) as of the date of issuance of the ILC.

(2) To support the credit rating of the financial institution(s) issuing or confirming the ILC, the contracting officer shall verify the following information:

(i) *Federal insurance:* Each financial institution is federally insured. Verification of federal insurance is available through the Federal Deposit Insurance Corporation (FDIC) institution directory at the Web site *http://www2.fdic.gov/idasp/index.asp.*

(ii) *Current credit rating.* The current credit rating for each financial institution is investment grade and that the credit rating is from a Nationally Recognized Statistical Rating Organization (NRSRO). NRSROs can be located at the Web site *http://www.sec.gov/answers/nrsro.htm* maintained by the SEC.

(3) The rating services listed in the Web site *http://www.sec.gov/answers/nrsro.htm* use different rating scales (*e.g.,* AAA, AA, A, BBB, BB, B, CCC, CC, C, and D; or Aaa, Aa, A, Baa, Ba, B, Caa, Ca, and C) to provide evaluations of institutional credit risk; however, all such systems specify the range of investment grade ratings (*e.g.,* BBB–AAA or Baa–Aaa in the examples in this section) and permit evaluation of the relative risk associated with a specific institution. If the contracting officer learns that a financial institution's rating has dropped below investment grade level, the contracting officer shall give the contractor 30 days to substitute an acceptable ILC or shall draw on the ILC using the sight draft in paragraph (g) of the clause at 52.228–14.

(h) A copy of the Uniform Customs and Practice (UCP) for Documentary Credits, 2006 Edition, International Chamber of Commerce Publication No. 600, is available from: ICC Books USA, 1212 Avenue of the Americas, 21st Floor, New York, NY 10036; Phone: 212–703–5066; Fax: 212–391–6568; E-Mail: *iccbooks@uscib.org;* Via the Internet at: *http://store.iccbooksusa.net.*

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 5. Amend section 52.228–14 by revising the date of the clause and paragraphs (d), (e)5, and (f)5 to read as follows:

52.228–14 Irrevocable Letter of Credit.

* * * * *

IRREVOCABLE LETTER OF CREDIT (Nov 2014)

* * * * *

(d)(1) Only federally insured financial institutions rated investment grade by a commercial rating service shall issue or confirm the ILC.

(2) Unless the financial institution issuing the ILC had letter of credit business of at least $25 million in the past year, ILCs over $5 million must be confirmed by another acceptable financial institution that had letter of credit business of at least $25 million in the past year.

(3) The Offeror/Contractor shall provide the Contracting Officer a credit rating that indicates the financial institutions have the required credit rating as of the date of issuance of the ILC.

(4) The current rating for a financial institution is available through any of the following rating services registered with the U.S. Securities and Exchange Commission (SEC) as a Nationally Recognized Statistical Rating Organization (NRSRO). NRSRO's can be located at the Web site *http://www.sec.gov/answers/nrsro.htm* maintained by the SEC.

(e) * * *

5. This Letter of Credit is subject to the Uniform Customs and Practice (UCP) for Documentary Credits, International Chamber of Commerce Publication No.___ (*Insert version in effect at the time of ILC issuance, e.g., ''Publication 600, 2006 edition''*) and to the extent not inconsistent therewith, to the laws of _____[*State of confirming financial institution, if any, otherwise State of issuing financial institution*].

* * * * *

(f) * * *

5. This confirmation is subject to the Uniform Customs and Practice (UCP) for Documentary Credits, International Chamber of Commerce Publication No.___ (*Insert version in effect at the time of ILC issuance, e.g., ''Publication 600, 2006 edition''*) and to the extent not inconsistent therewith, to the laws of_____[*State of confirming financial institution*].

* * * * *

[FR Doc. 2014–24239 Filed 10–10–14; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 2, 4, 12, 14, 15, 19, 22, 26, 36, 52, and 53

[FAC 2005–77; FAR Case 2009–016; Item I; Docket 2011–0090, Sequence 1]

RIN 9000–AM05

Federal Acquisition Regulation; Federal Contracting Programs for Minority-Owned and Other Small Businesses

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to remove certain coverage involving procurements with small disadvantaged business (SDB) concerns and certain institutions of higher education that is based on authority which has expired and been found to be unconstitutional by the Court of Appeals for the Federal Circuit. These changes harmonize the FAR with current statutory authorities.

DATES: *Effective:* October 14, 2014.

FOR FURTHER INFORMATION CONTACT: Ms. Mahruba Uddowla, Procurement Analyst, at 703–605–2868, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAC 2005–77, FAR Case 2009–016.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 76 FR 55849 on September 9, 2011, to remove certain procurement mechanisms authorized by section 1207 of the National Defense Authorization Act for Fiscal Year (FY) 1987, Public Law 99–661, (10 U.S.C. 2323) from the FAR. The basis for this action is the U.S. Court of Appeals for the Federal Circuit's ruling on November 4, 2008, which found the current 10 U.S.C. 2323 to be unconstitutional. *Rothe Development Corp.* v. *U.S. Department of Defense, et al,* 545 F.3d 1023 (Fed. Cir. 2008) (*Rothe*). On February 27, 2009, the United States District Court, Western District of Texas, San Antonio (the Court), pursuant to instructions from the U.S. Court of Appeals for the Federal Circuit, declared the current 10 U.S.C. 2323 unconstitutional and enjoined its further application in DoD, U.S. Coast Guard, and NASA procurements. *Rothe Development Corp.* v. *U.S. Department of Defense,* SA–98–CV–1011–XR (W.D. TX), 606 F.Supp.2d 648 (W.D.Tex., 2009).

The Court's injunction, coupled with the expiration of the law on September 30, 2009, necessitates the removal of all language in the FAR deriving its authority solely from 10 U.S.C. 2323. This includes FAR subpart 19.11, Price Evaluation Adjustment for Small Disadvantaged Business Concerns, and FAR subpart 19.12, Small Disadvantaged Business Participation Program. However, the other policies, practices, and programs that agencies have been relying on to encourage SDB participation in the Federal marketplace since the Court of Appeals decision in Rothe remain in full effect, including the Government-wide goal of awarding not less than five percent of Federal contracting dollars to SDBs for both prime and subcontract awards, as required by section 15(g) of the Small Business Act, Public Law 85–536, as amended, (15 U.S.C. 644(g)).

In addition, section 8(d)(4)(E) of the Small Business Act (15 U.S.C. 637(d)(4)(E)) authorizes Federal agencies to provide incentives for encouraging prime contractors to subcontract with any type of small business, which includes SDBs, qualified Historically Underutilized Business Zone (HUBZone) small businesses, veteran-owned small businesses, service-disabled veteran-owned small businesses (SDVOSBs), and women-owned small businesses (WOSBs). To mirror the statutory authority's coverage of all small businesses, the FAR's coverage allowing monetary incentives for businesses subcontracting with SDBs (currently in FAR 19.1203) has been incorporated into the overall incentive subcontracting program at FAR subpart 19.7. This provision, along with the accompanying FAR clause 52.219–10, Incentive Subcontracting Program (authorized to be included in Federal solicitations and contracts that require subcontracting plans), provide guidance for the use of incentives to encourage prime contractors to expand their subcontracting opportunities with all small businesses, including SDBs.

The procurement mechanism found in FAR 19.1202, which allows an SDB to receive credit as an evaluation factor or subfactor during source selection for its status as an SDB when competing for a prime contract, is deleted in its entirety as its authority derived solely from 10 U.S.C. 2323. However, there is nothing in this final rule that precludes an agency from using evaluation factors and subfactors for subcontracting. Small Business Administration's (SBA) regulations (13 CFR 125.3(g)) allow the use of small business as an evaluation factor or subfactor for an offeror's proposed approach to subcontracting with any small businesses, including SDBs, WOSBs, HUBZone small businesses, and SDVOSBs. As part of a recently opened FAR case 2014–003, Small Business Subcontracting Improvements, to implement sections 1321 and 1322 of the Small Business Jobs Act, including SBA's regulations relating to these sections, the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) are conferring with SBA to consider if it would be helpful to develop guidance in the FAR regarding the use of such source selection factors and subfactors.

To clarify the purpose and intent of this FAR change, Office of Federal Procurement Policy (OFPP) held outreach sessions with internal and external stakeholders of the small disadvantaged business community to discuss concerns, dispel misconceptions about the rule, clarify the basis of the change, and restate available programs and existing obligations under the Small Business Act.

II. Discussion and Analysis

The Councils reviewed the comments in the development of the final rule. A discussion of the comments and the changes made to the rule as a result of those comments are provided as follows:

A. Summary of Significant Changes

The changes made to the proposed rule reflected in the final rule are summarized as follows:

- The definition of a ''small disadvantaged business concern'' at FAR 2.101(b)(2), 52.219–1(a), and 52.219–8(a), has been clarified, and added to 52.212–3(a);
- The definition of ''historically black college or university'' at FAR 2.101 and 52.226–2 has been amended to delete the inclusion of nonprofit research institutions that were an integral part of such a college or university before November 14, 1986, from the definition.
- FAR 19.000(a)(8), which was inadvertently omitted in the proposed rule, has been partially reinstated;
- FAR 19.304 and 19.305 have been revised to ensure the guidance is aligned with the subject matter of these sections;

• FAR 19.1307(d) and FAR 52.219–4(b)(3) have been removed;

• The definitions included at FAR 52.219–1(c), and 52.219–8(c) were moved to 52.219–1(a) and 52.219–8(a), respectively;

• FAR 52.219–9(l)(2)(iii) and its Alternate III (l)(2)(iii) Requirement for the Year-End Supplementary Report for Small Disadvantaged Businesses, have been removed; and

• The Standard Form 294, Subcontracting Report for Individual Contracts, has been revised. Prime contractors under DoD and the U.S. Coast Guard contracts will no longer count subcontract awards to Historically Black Colleges and Universities and Minority Institutions towards their small disadvantaged business goal. Only NASA, pursuant to its unique statutory authority at 51 U.S.C. 30304, will continue to credit Historically Black Colleges and Universities and Minority Institutions subcontracting data as part of its small disadvantaged business goal.

• FAR 53.302–312, Optional Form 312, Small Disadvantaged Business (SDB) Participation Report, has been removed.

B. Analysis of Public Comments

1. General Support for the Proposed Rule

a. Fully Supports the Rule

Comment: One respondent expressed support for the rule, noting that the proposed amendments reflect policy changes Federal agencies have already put into effect pursuant to the Court's decision in Rothe. The respondent also pointed out that the proposed rule does not affect the Government-wide five percent SDB goal for prime contracts and subcontracts mandated by section 15(g) of the Small Business Act.

Response: The Councils acknowledge receipt of this comment.

b. Support for All SDBs

Comment: One respondent specifically acknowledged the impact the Federal Government has in promoting SDBs. Though it is understood that removing the SDB price adjustment has little practical effect on SDBs, the respondent urged the Government to support all SDBs as they grow their businesses. Further, the respondent reminded the Councils of the unique relationship between the United States and its indigenous people and asked that the trust responsibility for Native Americans and the government-to-government relationship continue to be honored.

Response: The Councils acknowledge receipt of this comment.

2. Removal of Barriers to SDB Participation in Federal Procurement

Comment: While recognizing that the Court's decision in Rothe may necessitate some changes to the FAR, many respondents stated that minority contracting programs that assist SDBs and women-owned businesses are entirely constitutional and should be maintained. They stated that minority contracting programs serve to remedy historical patterns of discrimination in Federal procurement and are narrowly tailored to serve this purpose. The respondents noted that despite concerted efforts to address procurement disparities for SDBs, minority, and women-owned businesses by the Federal Government, discrimination persists in Federal procurement and, therefore, they asked the Councils to take into consideration the compelling interest of contracting preferences.

Response: This rule is limited only to contracting programs that were authorized solely by 10 U.S.C. 2323. Programs created to assist businesses owned by socially and economically disadvantaged individuals that were not based solely on this legal authority are unaffected by this rule. For instance, section 8(a) of the Small Business Act (Pub. L. 85–536, as amended, (15 U.S.C. 637(a)), otherwise known as the ''8(a) Program'' is a tool used to assist socially and economically disadvantaged businesses to develop their company's ability to compete for Federal contracting opportunities. The 8(a) Program is, and continues to be, successful in assisting small businesses as well as a means for Federal agencies to achieve the statutory goal for prime contract awards to SDBs.

3. Concerns Related to Rule

a. Ability To Achieve the Five Percent Goal

Comment: Several respondents, who thought that the rule removes the five percent statutory goal for contracting with SDBs, expressed concern that the rule will likely end programs that are beneficial to disadvantaged businesses, and potentially place all small business programs in jeopardy by removing agency accountability.

Response: The final rule does not, in any way, alter the Governmentwide goal of participation by SDBs of not less than five percent of the total value of all prime contract and subcontract awards each fiscal year. In addition, the policies, practices, and programs that agencies have been relying on since the Court of Appeals decision in Rothe and the expiration of the statute to achieve SDB participation, including contracting officers' authority to continue making set-aside awards to SDBs who are participants in SBA's 8(a) business development program, remain in full effect. Agencies have successfully used these authorities to provide meaningful opportunities for SDBs.

b. Retention of Price Evaluation Adjustment Authority

Comment: A number of respondents expressed concern regarding the removal of FAR subpart 19.11, which gave DoD, the United States Coast Guard (USCG), and NASA the authority to apply the Price Evaluation Adjustment (PEA). The respondents stated that doing so will deny SDBs the maximum, practicable opportunity to be considered for Federal contract awards. Further, the respondents pointed out that because the PEA had not been used in a decade was no justification to delete it.

Response: Section 801 of the National Defense Authorization Act for FY 1999, (Pub. L. 105–261) amended 10 U.S.C. 2323 by mandating that the Secretary of Defense suspend the PEA if DoD achieved the five percent SDB goal in the previous fiscal year. DoD has met or exceeded the five percent SDB goal since FY 2001; therefore, in accordance with the mandate, DoD suspended the use of the PEA.

In addition, the Court's decision in Rothe, coupled with the subsequent expiration of 10 U.S.C. 2323 on September 30, 2009, requires the permanent removal of the statutory basis for the PEA for DoD, USCG, and NASA.

c. Retention of SDB Subcontracting Incentive

Comment: Some respondents expressed concern regarding the removal of the incentive subcontracting program for SDB concerns. One respondent remarked that the preamble of the **Federal Register** notice indicates that FAR 19.1203, ''Incentive subcontracting with small disadvantaged business concerns'' has been retained but moved to FAR subpart 19.7; however, the list of proposed amendments indicates that FAR subpart 19.12 has been deleted with no corresponding amendments to FAR subpart 19.7. Since Rothe did not nullify the basis for FAR subpart 19.12, FAR subpart 19.12 should not be removed unless, and until, an amendment to FAR subpart 19.7 implementing the suggested realignment has been executed.

Response: The authority to use monetary incentives to increase subcontracting opportunities for SDBs

remains in the FAR; however, it was relocated to FAR subpart 19.7. The clause at 52.219–10 has also been amended accordingly. By doing so, the SDB incentive provisions are now aligned with other subcontracting incentives authorized under section 8(d)(4)(E) of the Small Business Act, as amended, (15 U.S.C. 637(d)(4)(E)).

d. Removal of SDB Evaluation Factors and Subfactors

Comment: Some respondents expressed concern regarding the removal of FAR 19.1202, which established a requirement for contracting officers to use an evaluation factor or subfactor to assess the participation of SDB concerns during contract performance when formulating the contract award decision. The respondents stated that the proposed FAR changes would have a negative impact on SDBs seeking prime contract awards, foster an environment that discourages business relationships between large prime contractors and SDBs, and further weaken SDBs' ability to compete for Federal contracts.

Response: It is necessary to remove FAR subpart 19.12 to accommodate the Court's decision in Rothe and the fact that the underlying statutory authority for the specific procurement mechanisms in FAR subpart 19.12 has expired. However, there is nothing in this rulemaking that precludes an agency from using evaluation factors and subfactors during source selection to ascertain the commitment of the offeror to the small business community, to include SDBs.

4. Focus of the Rule

a. Other Socioeconomic Programs

Comment: A few respondents noted that the proposed revisions to the FAR were written to address only section 1207. Some of these respondents argued that the issues addressed in Rothe also make the SBA 8(a) and 8(d) programs indefensible. In addition, they argued that Rothe challenges the constitutionality of setting aside contracts under the AbilityOne and Randolph Sheppard programs and to concerns owned by Alaska Native Corporations. These respondents concluded that the FAR rule needs to address these issues.

Response: The Court's decision in Rothe was specifically limited to the constitutionality of section 1207 of the National Defense Authorization Act for FY 1987. The Court's decision did not address the merits of other statutorily-mandated programs. Sections 8(a) and 8(d) of the Small Business Act, as well as the AbilityOne and Randolph Sheppard programs, are not within the purview of 10 U.S.C. 2323 and, therefore, are not the subject matter of this rule.

b. Disparity Studies

Comment: One respondent suggested that the Administration should address historical and present discrimination in Federal contracting practices by conducting the disparate impact studies referenced in the court decision Adarand Constructors, Inc. v. Pena, Secretary of Transportation, et al. The respondent recommended that any remedies the Administration implements should be based on the result of those studies.

Response: The comment is addressed to constitutionality standards; however, the scope of this rule is limited to harmonizing the FAR with current statutory authority.

5. Impact of the Rule on Historically Black Colleges and Universities (HBCUs) and Minority Institutions (MIs)

Comment: A few respondents expressed concern regarding the impact of a Defense Federal Acquisition Regulations Supplement (DFARS) deviation regarding HBCUs and MIs. The respondents stated the changes will eliminate small disadvantaged business credits for prime contractors who subcontract with HBCUs and MIs. This in turn could reduce the incentives for prime contractors to award subcontracts to HBCUs and MIs. The respondents cautioned that DoD must ensure that the proposed rule does not inadvertently impede its current efforts to implement 10 U.S.C. 2362 objectives (*e.g.,* engage prime contractors and small businesses in partnership with HBCUs and MIs as a way of increasing the schools' research, development, test, and engineering involvement).

Response: This rule implements changes needed to conform the FAR to the Court's decision in Rothe and the expiration of 10 U.S.C. 2323. The issues raised by these respondents involve statutes that are external to the Rothe decision and address DFARS regulations rather than the FAR and, therefore, are outside the scope of this rule.

6. Technical Clarifications

Comment: One respondent noticed a number of technical errors in the rule: (1) The respondent questioned the requirement at FAR 12.303(b)(1), which requires the contracting officer to use a continuation sheet to provide the incentive subcontracting percentage in Block 10 of the Standard Form (SF) 1449, ''Solicitation/Contract/Order For Commercial Items.'' The respondent stated this requirement was unnecessary since the contracting officer is already required to provide the same information when using FAR 52.219–10; (2) The respondent noticed that paragraph (a)(8) was inadvertently omitted when the paragraphs in the Scope section of part 19 were renumbered; and (3) The respondent commented that the clarification at 19.1307(d) and 52.219–4(b)(3) was unnecessary and potentially confusing. The respondent recommended either deleting the paragraphs entirely, or including a clearer explanation of the mechanics of the historically underutilized business zone (HUBZone) price evaluation preference.

Response: (1) The guidance at FAR 12.303(b)(1) must remain. FAR 52.219–10 can be incorporated into solicitations and contracts by reference, in which case the contracting officer must use the SF 1449 in order to provide the subcontracting incentive percentage.

(2) FAR 19.000 Scope, paragraph (a)(8) has not been removed but instead modified to remove the reference to the PEA for small disadvantaged businesses.

(3) FAR 19.1307(d) and FAR 52.219–4(b)(3) have been deleted. FAR 19.1307(d) and the clause at 52.219–4(b)(3) were originally used to clarify that an offeror could receive both the HUBZone price evaluation preference and the SDB PEA, if eligible, under the same solicitation. However, the removal of the SDB PEA renders this guidance unnecessary.

(4) FAR 53.302–312, Optional Form 312, Small Disadvantaged Business (SDB) Participation Report, has been removed.

(5) Standard Form 294, Subcontracting Report for Individual Contracts, has been revised to remove the HBCU/MI subcontracting data collection requirement for DoD and USCG since the collection of this data resided in 10 U.S.C. 2323. However, under a separate law, 51 U.S.C. 30304, NASA is still required to collect HBCU/MI subcontracting data. The revised form reflects this distinction.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs

and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

DoD, GSA, and NASA have prepared a Final Regulatory Flexibility Analysis (FRFA) consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The FRFA is summarized as follows:

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 76 FR 55849 on September 9, 2011, to remove certain procurement mechanisms authorized by section 1207 of the National Defense Authorization Act for Fiscal Year (FY) 1987, Pub. L. 99–661, (10 U.S.C. 2323) from the Federal Acquisition Regulation (FAR). The basis for this action is the U.S. Court of Appeals for the Federal Circuit's ruling on November 4, 2008, which found the current 10 U.S.C. 2323 to be unconstitutional. On February 27, 2009, the United States District Court, Western District of Texas, San Antonio (the Court), pursuant to instructions from the U.S. Court of Appeals for the Federal Circuit, declared the current 10 U.S.C. 2323 unconstitutional and enjoined its further application in DoD, U.S. Coast Guard, and NASA procurements.

As a result of the District Court's injunction of 10 U.S.C. 2323, and the subsequent expiration of the law on September 30, 2009, there no longer is a statutory basis for a unique DoD, USCG, and NASA Small Disadvantaged Business Participation Program.

The final rule amends the FAR to remove language based on the expired statutory authority at 10 U.S.C. 2323.

This rule will apply to SDBs seeking to obtain prime contracts with the Federal Government and subcontracts with the Federal prime contractors. There are approximately 24,490 SDBs currently listed in the Central Contractor Registration that could potentially be affected.

Although there were no significant issues raised by the public regarding the Initial Regulatory Flexibility Analysis, several respondents commented that the removal of FAR subparts 19.11 and 19.12 would deny small disadvantaged businesses the maximum, practicable opportunity to be considered for Federal contract awards. The final rule reiterates that contracting programs authorized by 10 U.S.C. 2323 were found unconstitutional, and the statute expired September 30, 2009. Therefore, the FAR must be amended to reflect the current statutory environment. These amendments are expected to have negligible effect on SDBs as the price evaluation adjustment at issue has not been used for approximately a decade.

The rule imposes no new reporting or recordkeeping requirements for any small business or small entity. Pursuant with this final rule, Federal agencies will no longer be authorized to apply certain procurement mechanisms (FAR subparts 19.11 and 19.12) that had offered a benefit for SDB prime awards.

Interested parties may obtain a copy of the FRFA from the Regulatory Secretariat. The Regulatory Secretariat has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

V. Paperwork Reduction Act

The final rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35). The rule removes FAR coverage at FAR subparts 19.11 and 19.12, and the corresponding clauses at FAR 52.219–22, Small Disadvantaged Business Status, FAR 52.219–23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns, FAR 52.219–24, Small Disadvantaged Business Participation Program-Targets, FAR 52.219–25, Small Disadvantaged Business Participation Program-Disadvantaged Status and Reporting, and FAR 52.219–26, Small Disadvantaged Business Participation Program-Incentive Subcontracting. This rule also removes the Optional Form 312, Small Disadvantaged Business (SDB) Participation Report. With these changes, the information collection associated with this rule under OMB Control number 9000–0150 will be removed, reducing the information collection burden imposed by the Federal Government on the public by 15,000 burden hours.

This rule will also change the information collection methodology for subcontracting. As a result, the information collection burden imposed by the Federal Government on the public by the Federal Government associated with OMB Control numbers 9000–0006 and 9000–0007 will be reduced by approximately 741,903 and 178,402 hours respectively.

No action is required to remove any hours related to the data collection requirement for the Year End Supplementary Report for Small Disadvantaged Businesses identified at FAR 52.219–9(l)(2)(iii) and Alternate III of the same clause, since these reporting requirements are not associated with any current OMB information collection clearances.

List of Subjects in 48 CFR Parts 1, 2, 4, 12, 14, 15, 19, 22, 26, 36, 52, and 53

Government procurement.

Dated: September 30, 2014.

William Clark,

Acting Director, Office of Government-Wide Acquisition Policy, Office of Acquisition Policy, Office of Government-Wide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 1, 2, 4, 12, 14, 15, 19, 22, 26, 36, 52, and 53 as set forth below:

■ 1. The authority citation for 48 CFR parts 1, 2, 4, 12, 14, 15, 19, 22, 26, 36, 52, and 53 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

1.106 [Amended]

■ 2. Amend section 1.106 in the table following the introductory text, by removing FAR segments ''19.12'', ''52.219–22'', ''52.219–23'', and ''52.219–25'' and their corresponding OMB Control Number ''9000–0150''.

PART 2—DEFINITIONS OF WORDS AND TERMS

■ 3. Amend section 2.101 in paragraph (b)(2), in the definition ''Historically black college or university'' by removing the last sentence; and revising the definition ''Small disadvantaged business concern'' to read as follows:

2.101 Definitions.

* * * * *

(b) * * *

(2) * * *

Small disadvantaged business concern, consistent with 13 CFR 124.1002, means a small business concern under the size standard applicable to the acquisition, that

(1) Is at least 51 percent unconditionally and directly owned (as defined at 13 CFR 124.105) by—

(i) One or more socially disadvantaged (as defined at 13 CFR 124.103) and economically disadvantaged (as defined at 13 CFR 124.104) individuals who are citizens of the United States; and

(ii) Each individual claiming economic disadvantage has a net worth not exceeding $750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and

(2) The management and daily business operations of which are controlled (as defined at 13 CFR 124.106) by individuals who meet the criteria in paragraphs (1)(i) and (ii) of this definition.

* * * * *

PART 4—ADMINISTRATIVE MATTERS

4.1202 [Amended]

■ 4. Amend section 4.1202 by removing and reserving paragraph (k).

PART 12—ACQUISITION OF COMMERCIAL ITEMS

12.301 [Amended]

■ 5. Amend section 12.301 by removing the last sentence from paragraph (b)(2).

■ 6. Amend section 12.303 by revising paragraph (b)(1) to read as follows:

12.303 Contract format.

* * * * *

(b) * * *

(1) Block 10 if an incentive subcontracting clause is used (the contracting officer shall indicate the applicable percentage);

* * * * *

PART 14—SEALED BIDDING

14.502 [Amended]

■ 7. Amend section 14.502 by removing paragraph (b)(4); redesignating paragraphs (b)(5) through (8) as paragraphs (b)(4) through (7), respectively; and removing from the newly designated paragraph (b)(5) ''Subpart'' and adding ''subpart'' in its place.

PART 15—CONTRACTING BY NEGOTIATION

15.304 [Amended]

■ 8. Amend section 15.304 by removing paragraph (c)(4); and redesignating paragraphs (c)(5) and (6) as paragraphs (c)(4) and (5), respectively.

■ 9. Amend section 15.305 by revising paragraph (a)(2)(v) and removing from paragraph (a)(5) ''(c)(5)'' and adding ''(c)(4)'' in its place.

The revision reads as follows:

15.305 Proposal evaluation.

(a) * * *

(2) * * *

(v) The evaluation should include the past performance of offerors in complying with subcontracting plan goals for small disadvantaged business (SDB) concerns (see subpart 19.7).

* * * * *

■ 10. Amend section 15.503 by—

■ a. Revising the introductory text of paragraph (a)(2)(i);

■ b. Removing paragraph (a)(2)(i)(B); and

■ c. Redesignating paragraphs (a)(2)(i)(C) through (E) as paragraphs (a)(2)(i)(B) through (D), respectively.

The revision reads as follows:

15.503 Notifications to unsuccessful offerors.

(a) * * *

(2) * * *

(i) In addition to the notice in paragraph (a)(1) of this section, the contracting officer shall notify each offeror in writing prior to award and upon completion of negotiations and determinations of responsibility—

* * * * *

PART 19—SMALL BUSINESS PROGRAMS

■ 11. Amend section 19.000 by—

■ a. Revising paragraphs (a) introductory text and (a)(8);

■ b. Removing paragraphs (a)(9) and (10); and

■ c. Redesignating paragraphs (a)(11) and (12) as paragraphs (a)(9) and (10), respectively.

The revisions read as follows:

19.000 Scope of part.

(a) This part implements the acquisition-related sections of the Small Business Act (15 U.S.C. 631, *et seq.*), applicable sections of the Armed Services Procurement Act (10 U.S.C. 2302, *et seq.*), 41 U.S.C. 3104, and Executive Order 12138, May 18, 1979. It covers—

* * * * *

(8) The use of a price evaluation preference for HUBZone small business concerns;

* * * * *

19.201 [Amended]

■ 12. Amend section 19.201 by—

■ a. Removing paragraph (b);

■ b. Redesignating paragraphs (c) through (f) as paragraphs (b) through (e), respectively;

■ c. Removing from the newly designated paragraph (c)(12) ''(d)(11)'' and adding ''(c)(11)'' in its place; and

■ d. Removing newly designated paragraph (e).

19.202–6 [Amended]

■ 13. Amend section 19.202–6 by removing paragraph (a)(3) and redesignating paragraphs (a)(4) through (6) as paragraphs (a)(3) through (5), respectively.

■ 14. Revise section 19.304 to read as follows:

19.304 Small disadvantaged business status.

(a) The contracting officer may accept an offeror's representation that it is a small disadvantaged business concern (SDB) concern.

(b) The provision at 52.219–1, Small Business Program Representations, or 52.212–3(c)(4), Offeror Representations and Certifications—Commercial Items, is used to collect SDB data.

(c) A representation of SDB status on a Federal prime contract will be deemed a misrepresentation of SDB status if the firm does not meet the requirements of 13 CFR 124.1001(b).

(d) Any person or entity that misrepresents a firm's status as an SDB concern in order to obtain a contracting opportunity in accordance with section 8(d) of the Small Business Act, (15 U.S.C. 637(d)) will be subject to the penalties imposed by section 16(d) of the Small Business Act, (15 U.S.C. 645(d)), as well as any other penalty authorized by law.

■ 15. Revise section 19.305 to read as follows:

19.305 Reviews and protests of SDB status.

This section applies to reviews and protests of a small business concern's SDB status as a prime contractor or subcontractor.

(a) SBA may initiate the review of SDB status on any firm that has represented itself to be an SDB on a prime contract or subcontract to a Federal prime contract whenever it receives credible information calling into question the SDB status of the firm.

(b) Requests for an SBA review of SDB status may be forwarded to the Small Business Administration, Assistant Administrator for SDBCE, 409 Third Street SW., Washington, DC 20416.

(c) An SBA review of a subcontractor's SDB status differs from a formal protest. Protests of a small business concern's SDB status as a subcontractor are processed under 19.703(a)(2). Protests of a concern's size as a prime contractor are processed under 19.302. Protests of a concern's size as a subcontractor are processed under 19.703(b).

19.309 [Amended]

■ 16. Amend section 19.309 by removing paragraph (b) and redesignating paragraphs (c) and (d) as paragraphs (b) and (c), respectively.

■ 17. Amend section 19.703 by revising the first sentence of paragraph (a)(2) to read as follows:

19.703 Eligibility requirements for participating in the program.

(a) * * *

(2) In connection with a subcontract, the contracting officer or the SBA may protest the disadvantaged status of a proposed subcontractor. * * *

* * * * *

19.705–1 [Amended]

■ 18. Amend section 19.705–1 by removing the second sentence.

■ 19. Amend section 19.705–4 by revising the last sentence of paragraph (c) to read as follows:

19.705–4 Reviewing the subcontracting plan.

* * * * *

(c) * * * An incentive subcontracting clause (see 52.219–10, Incentive Subcontracting Program), may be used when additional and unique contract effort, such as providing technical assistance, could significantly increase subcontract awards to small business, small disadvantaged business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, or women-owned small business concerns.

* * * * *

19.708 [Amended]

■ 20. Amend section 19.708 in paragraphs (c)(1), (2), and (3) by removing ''business, HUBZone small business, and'' and adding ''business, HUBZone small business, small disadvantaged business, and'' in its place.

Subpart 19.11 [Removed and Reserved]

■ 21. Remove and reserve subpart 19.11, consisting of sections 19.1101 through 19.1104.

Subpart 19.12 [Removed and Reserved]

■ 22. Remove and reserve subpart 19.12, consisting of sections 19.1201 through 19.1204.

19.1307 [Amended]

■ 23. Amend section 19.1307 by removing paragraph (d) and redesignating paragraph (e) as paragraph (d).

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

22.1006 [Amended]

■ 24. Amend section 22.1006 by—

■ a. Removing from paragraph (a)(2)(i)(C) ''52.204–8(c)(2)(iii) or (iv)'' and adding ''52.204–8(c)(2)(ii) or (iii)'' in its place;

■ b. Removing from paragraph (e)(2)(i) ''52.204–8(c)(2)(iii)'' and adding ''52.204–8(c)(2)(ii)'' in its place; and

■ c. Removing from paragaraph (e)(4)(i) ''52.204–8(c)(2)(iv)'' and adding ''52.204–8(c)(2)(iii)'' in its place.

PART 26—OTHER SOCIOECONOMIC PROGRAMS

26.304 [Amended]

■ 25. Amend section 26.304 by removing the last sentence.

PART 36—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

36.501 [Amended]

■ 26. Amend section 36.501 by removing from paragraph (b) ''19.11,''.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 27. Amend section 52.204–5 by revising the date of the provision and by removing from paragraph (b) ''*(b)(1) of FAR 52.219–1,*'' and adding ''*(c)(1) of FAR 52.219–1,*'' in its place.

The revision reads as follows:

52.204–5 Women-Owned Business (Other Than Small Business).

* * * * *

Women-Owned Business (Other Than Small Business) (Oct 2014)

* * * * *

■ 28. Amend section 52.204–8 by—

■ a. Revising the date of the provision;

■ b. Revising paragraph (c)(1)(xxi);

■ c. Removing paragraph (c)(2)(i); and

■ d. Redesignating paragraphs (c)(2)(ii) through (vii) as (c)(2)(i) through (vi), respectively.

The revisions read as follows:

52.204–8 Annual Representations and Certifications.

* * * * *

Annual Representations and Certifications (Oct 2014)

* * * * *

(c) * * *

(1) * * *

(xxi) 52.226–2, Historically Black College or University and Minority Institution Representation. This provision applies to solicitations for research, studies, supplies, or services of the type normally acquired from higher educational institutions.

* * * * *

■ 29. Amend section 52.212–2 by—

■ a. Revising the date of the provision; and

■ b. Removing from paragraph (a) ''*(iv) small disadvantaged business participation;*''

The revision reads as follows:

52.212–2 Evaluation—Commercial Items.

* * * * *

Evaluation—Commercial Items (Oct 2014)

■ 30. Amend section 52.212–3 by—

■ a. Revising the date of the provision;

■ b. Adding in paragraph (a), in alphabetical order, the definition ''Small disadvantaged business concern'';

■ c. Removing from paragraph (c)(4) '', for general statistical purposes,'';

■ d. Removing paragraph (c)(10);

■ e. Redesignating paragraph (c)(11) as paragraph (c)(10);

■ f. Removing from the newly designated paragraph (c)(10)(ii) ''representation in paragraph (c)(11)(i)'' and adding ''representation in paragraph (c)(10)(i)'' in its place;

■ g. Revising Alternate I; and

■ h. Removing Alternate II.

The revisions and additions read as follows:

52.212–3 Offeror Representations and Certifications—Commercial Items.

* * * * *

Offeror Representations and Certifications—Commercial ITEMS (Oct 2014)

* * * * *

(a) * * *

Small disadvantaged business concern, consistent with 13 CFR 124.1002, means a small business concern under the size standard applicable to the acquisition, that—

(1) Is at least 51 percent unconditionally and directly owned (as defined at 13 CFR 124.105) by—

(i) One or more socially disadvantaged (as defined at 13 CFR 124.103) and economically disadvantaged (as defined at 13 CFR 124.104) individuals who are citizens of the United States; and

(ii) Each individual claiming economic disadvantage has a net worth not exceeding $750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and

(2) The management and daily business operations of which are controlled (as defined at 13.CFR 124.106) by individuals, who meet the criteria in paragraphs (1)(i) and (ii) of this definition.

* * * * *

Alternate I (OCT 2014)__. As prescribed in 12.301(b)(2), add the following paragraph (c)(11) to the basic provision:

(11) (Complete if the offeror has represented itself as disadvantaged in paragraph (c)(4) of this provision.)

__Black American.

__Hispanic American.

__Native American (American Indians, Eskimos, Aleuts, or Native Hawaiians).

__Asian-Pacific American (persons with origins from Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Japan, China, Taiwan, Laos, Cambodia (Kampuchea), Vietnam, Korea, The Philippines, Republic of Palau, Republic of the Marshall Islands,

Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, Guam, Samoa, Macao, Hong Kong, Fiji, Tonga, Kiribati, Tuvalu, or Nauru).

__Subcontinent Asian (Asian-Indian) American (persons with origins from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, the Maldives Islands, or Nepal).

__Individual/concern, other than one of the preceding.

■ 31. Amend 52.212–5 by—

■ a. Revising the date of the clause;

■ b. Revising paragraphs (b)(11), (b)(12), (b)(16), (b)(17)(i), and (b)(17)(iv);

■ c. Removing paragraphs (b)(21) through (23);

■ d. Redesignating paragraphs (b)(24) through (56) as paragraphs (b)(21) through (53), respectively;

■ e. Revising paragraph (e)(1)(ii); and

■ f. Revising the date and paragraph (e)(1)(ii)(C) of Alternate II.

The revisions read as follows:

52.212–5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.

* * * * *

Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items (Oct 2014)

* * * * *

(b) * * *

__(11)(i) 52.219–3, Notice of HUBZone Set-Aside or Sole-Source Award (NOV 2011) (15 U.S.C. 657a).

__(ii) Alternate I (NOV 2011) of 52.219–3.

__(12)(i) 52.219–4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (OCT 2014) (if the offeror elects to waive the preference, it shall so indicate in its offer) (15 U.S.C. 657a).

__(ii) Alternate I (JAN 2011) of 52.219–4.

* * * * *

__(16) 52.219–8, Utilization of Small Business Concerns (OCT 2014) (15 U.S.C. 637(d)(2) and (3)).

__(17)(i) 52.219–9, Small Business Subcontracting Plan (OCT 2014) (15 U.S.C. 637(d)(4)).

* * * * *

__(iv) Alternate III (OCT 2014) of 52.219–9.

* * * * *

(e)(1) * * *

(ii) 52.219–8, Utilization of Small Business Concerns (OCT 2014) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds $650,000 ($1.5 million for construction of any public facility), the subcontractor must include 52.219–8 in lower tier subcontracts that offer subcontracting opportunities.

* * * * *

Alternate II (OCT 2014) * * *

(e)(1)(ii) * * *

(C) 52.219–8, Utilization of Small Business Concerns (OCT 2014) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds $650,000 ($1.5 million for construction of any public facility), the subcontractor must include 52.219–8 in lower tier subcontracts that offer subcontracting opportunities.

* * * * *

■ 32. Amend section 52.213–4 by revising the date of the clause and paragraph (a)(2)(viii) to read as follows:

52.213–4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items).

* * * * *

Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items) (Oct 2014)

(a) * * *

(2) * * *

(viii) 52.244–6, Subcontracts for Commercial Items (OCT 2014)__

* * * * *

■ 33. Amend section 52.219–1 by revising the date of the provision and paragraphs (a) through (c) to read as follows:

52.219–1 Small Business Program Representations.

* * * * *

Small Business Program Representations (Oct 2014)

(a) *Definitions.* As used in this provision—

Economically disadvantaged women-owned small business (EDWOSB) concern means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States and who are economically disadvantaged in accordance with 13 CFR part 127. It automatically qualifies as a women-owned small business concern eligible under the WOSB Program.

Service-disabled veteran-owned small business concern—

(1) Means a small business concern—

(i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and

(ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

(2) *Service-disabled veteran* means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

Small business concern means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR Part 121 and the size standard in paragraph (b) of this provision.

Small disadvantaged business concern, consistent with 13 CFR 124.1002, means a small business concern under the size standard applicable to the acquisition, that—

(1) Is at least 51 percent unconditionally and directly owned (as defined at 13 CFR 124.105) by—

(i) One or more socially disadvantaged (as defined at 13 CFR 124.103) and economically disadvantaged (as defined at 13 CFR 124.104) individuals who are citizens of the United States, and

(ii) Each individual claiming economic disadvantage has a net worth not exceeding $750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and

(2) The management and daily business operations of which are controlled (as defined at 13 CFR 124.106) by individuals who meet the criteria in paragraphs (1)(i) and (ii) of this definition.

Veteran-owned small business concern means a small business concern—

(1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and

(2) The management and daily business operations of which are controlled by one or more veterans.

Women-owned small business concern means a small business concern—

(1) That is at least 51 percent owned by one or more women; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(2) Whose management and daily business operations are controlled by one or more women.

Women-owned small business (WOSB) concern eligible under the WOSB Program (in accordance with 13 CFR part 127), means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States.

(b)(1) The North American Industry Classification System (NAICS) code for this acquisition is—_____[*insert NAICS code*].

(2) The small business size standard is _____[*insert size standard*].

(3) The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.

(c) *Representations.* (1) The offeror represents as part of its offer that it ☐ is, ☐ is not a small business concern.

(2) [*Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.*] The

offeror represents that it □ is, □ is not, a small disadvantaged business concern as defined in 13 CFR 124.1002.

(3) [*Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.*] The offeror represents as part of its offer that it □ is, □ is not a women-owned small business concern.

(4) Women-owned small business (WOSB) concern eligible under the WOSB Program. [*Complete only if the offeror represented itself as a women-owned small business concern in paragraph (c)(3) of this provision.*] The offeror represents as part of its offer that—

(i) It □ is, □ is not a WOSB concern eligible under the WOSB Program, has provided all the required documents to the WOSB Repository, and no change in circumstances or adverse decisions have been issued that affects its eligibility; and

(ii) It □ is, □ is not a joint venture that complies with the requirements of 13 CFR part 127, and the representation in paragraph (c)(4)(i) of this provision is accurate for each WOSB concern eligible under the WOSB Program participating in the joint venture. [*The offeror shall enter the name or names of the WOSB concern eligible under the WOSB Program and other small businesses that are participating in the joint venture:* _____.] Each WOSB concern eligible under the WOSB Program participating in the joint venture shall submit a separate signed copy of the WOSB representation.

(5) Economically disadvantaged women-owned small business (EDWOSB) concern. [*Complete only if the offeror represented itself as a women-owned small business concern eligible under the WOSB Program in (c)(4) of this provision.*] The offeror represents as part of its offer that—

(i) It □ is, □ is not an EDWOSB concern eligible under the WOSB Program, has provided all the required documents to the WOSB Repository, and no change in circumstances or adverse decisions have been issued that affects its eligibility; and

(ii) It □ is, □ is not a joint venture that complies with the requirements of 13 CFR part 127, and the representation in paragraph (c)(5)(i) of this provision is accurate for each EDWOSB concern participating in the joint venture. [*The offeror shall enter the name or names of the EDWOSB concern and other small businesses that are participating in the joint venture:* _____.] Each EDWOSB concern participating in the joint venture shall submit a separate signed copy of the EDWOSB representation.

(6) [*Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.*] The offeror represents as part of its offer that it □ is, □ is not a veteran-owned small business concern.

(7) [*Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (c)(6) of this provision.*] The offeror represents as part of its offer that it □ is, □ is not a service-disabled veteran-owned small business concern.

(8) [*Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.*] The offeror represents, as part of its offer, that—

(i) It □ is, □ is not a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material changes in ownership and control, principal office, or HUBZone employee percentage have occurred since it was certified in accordance with 13 CFR Part 126; and

(ii) It □ is, □ is not a HUBZone joint venture that complies with the requirements of 13 CFR Part 126, and the representation in paragraph (c)(8)(i) of this provision is accurate for each HUBZone small business concern participating in the HUBZone joint venture. [*The offeror shall enter the names of each of the HUBZone small business concerns participating in the HUBZone joint venture:* _____.] Each HUBZone small business concern participating in the HUBZone joint venture shall submit a separate signed copy of the HUBZone representation.

* * * * *

■ 34. Amend section 52.219–2 by revising the introductory text to read as follows:

52.219–2 Equal Low Bids.

As prescribed in 19.309(b), insert the following provision:

* * * * *

■ 35. Amend section 52.219–4 by—

■ a. Revising the date of the clause;

■ b. Removing paragraph (b)(3); and

■ c. Redesignating paragraph (b)(4) as (b)(3).

The revision reads as follows:

52.219–4 Notice of Price Evaluation Preference for HUBZone Small Business Concerns.

* * * * *

Notice of Price Evaluation Preference for HUBZone Small Business Concerns (Oct 2014)

* * * * *

■ 36. Amend section 52.219–8 by revising the date of the clause and paragraphs (a) through (c) to read as follows:

52.219–8 Utilization of Small Business Concerns.

* * * * *

Utilization of Small Business Concerns (Oct 2014)

(a) *Definitions.* As used in this contract—

HUBZone small business concern means a small business concern that appears on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration.

Service-disabled veteran-owned small business concern—

(1) Means a small business concern—

(i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and

(ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

(2) Service-disabled veteran means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

Small business concern means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

Small disadvantaged business concern, consistent with 13 CFR 124.1002, means a small business concern under the size standard applicable to the acquisition, that—

(1) Is at least 51 percent unconditionally and directly owned (as defined at 13 CFR 124.105) by—

(i) One or more socially disadvantaged (as defined at 13 CFR 124.103) and economically disadvantaged (as defined at 13 CFR 124.104) individuals who are citizens of the United States; and

(ii) Each individual claiming economic disadvantage has a net worth not exceeding $750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and

(2) The management and daily business operations of which are controlled (as defined at 13.CFR 124.106) by individuals, who meet the criteria in paragraphs (1)(i) and (ii) of this definition.

Veteran-owned small business concern means a small business concern—

(1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and

(2) The management and daily business operations of which are controlled by one or more veterans.

Women-owned small business concern means a small business concern—

(1) That is at least 51 percent owned by one or more women, or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(2) Whose management and daily business operations are controlled by one or more women.

(b) It is the policy of the United States that small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns shall have the maximum practicable opportunity to participate in performing contracts let by any Federal agency, including contracts and subcontracts for subsystems, assemblies, components, and related services for major

systems. It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns.

(c) The Contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with efficient contract performance. The Contractor further agrees to cooperate in any studies or surveys as may be conducted by the United States Small Business Administration or the awarding agency of the United States as may be necessary to determine the extent of the Contractor's compliance with this clause.

* * * * *

■ 37. Amend section 52.219–9 by—

■ a. Revising the date of the clause;

■ b. Removing from paragraph (d)(10)(iii) ''Historically'' and adding ''for NASA only, Historically'' in its place; and

■ c. Removing paragraph (l)(2)(iii); and

■ d. Amend Alternate III by—

■ 1. Revising the date of the Alternate III;

■ 2. Removing from paragraph (d)(10)(iii) ''Historically'' and adding ''for NASA only, Historically'' in its place; and

■ 3. Removing paragraph (l)(2)(iii).

The revisions read as follows:

52.219–9 Small Business Subcontracting Plan.

* * * * *

Small Business Subcontracting Plan (Oct 2014)

* * * * *

Alternate III (Oct 2014). * * *

* * * * *

■ 38. Amend section 52.219–10 by revising the date of the clause and removing from paragraph (b) ''and women-owned'' and adding ''small disadvantaged business, and women-owned'' in its place.

The revision reads as follows:

52.219–10 Incentive Subcontracting Program.

* * * * *

Incentive Subcontracting Program (Oct 2014)

* * * * *

52.219–22, 52.219–23, 52.219–24, 52.219–25, and 52.219–26 [Removed and Reserved]

■ 39. Remove and reserve sections 52.219–22, 52.219–23, 52.219–24, 52.219–25, and 52.219–26.

■ 40. Amend section 52.219–28 by revising the introductory text to read as follows:

52.219–28 Post-Award Small Business Program Rerepresentation.

As prescribed in 19.309(c), insert the following clause:

* * * * *

■ 41. Amend section 52.226–2 by revising the date of the provision, and in paragraph (a) the definition ''Historically black college or university'' to read as follows:

52.226–2 Historically Black College or University and Minority Institution Representation.

* * * * *

Historically Black College or University and Minority Institution Representation (Oct 2014)

(a) * * *

Historically black college or university means an institution determined by the Secretary of Education to meet the requirements of 34 CFR 608.2.

* * * * *

■ 42. Amend section 52.244–6 by revising the date of the clause and paragraph (c)(1)(iii) to read as follows:

52.244–6 Subcontracts for Commercial Items.

* * * * *

Subcontracts for Commercial Items (Oct 2014)

* * * * *

(c)(1) * * *

(iii) 52.219–8, Utilization of Small Business Concerns (OCT 2014) (15 U.S.C. 637(d)(2) and (3)), if the subcontract offers further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds $650,000 ($1.5 million for construction of any public facility), the subcontractor must include 52.219–8 in lower tier subcontracts that offer subcontracting opportunities.

* * * * *

PART 53—FORMS

■ 43. Revise section 53.219 to read as follows:

53.219 Small business programs.

The following standard form is prescribed for use in reporting small business (including Alaska Native Corporations and Indian tribes), veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business (including Alaska Native Corporations and Indian tribes) and women-owned small business subcontracting data, as specified in part 19: SF 294, (*Rev.* OCT 2014) Subcontracting Report for Individual Contracts. SF 294 is authorized for local reproduction.

■ 44. Amend section 53.301–294 by revising the form to read as follows:

53.301–294 Subcontracting Report for Individual Contracts.

BILLING CODE 6820–EP–P

SUBCONTRACTING REPORT FOR INDIVIDUAL CONTRACTS
(See instructions on reverse)

OMB Control Number: 9000-0006
Expiration Date: 4/30/2016

Public reporting burden for this collection of information is estimated to average 55.34 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspects of this collection of information, including suggestions for reducing this burden, to U.S. General Services Administration, Regulatory Secretariat (MVCB)/IC 9000-0006, Office of Governmentwide Acquisition Policy, 1800 F Street, NW, Washington, DC 20405.

1. CORPORATION, COMPANY, OR SUBDIVISION COVERED

a. COMPANY NAME

b. STREET ADDRESS

c. CITY | d. STATE | e. ZIP CODE

2. CONTRACTOR IDENTIFICATION NUMBER

3. DATE SUBMITTED

4. REPORTING PERIOD FROM INCEPTION OF CONTRACT THRU:

☐ MAR 31 ☐ SEPT 30 YEAR

5. TYPE OF REPORT

☐ REGULAR ☐ FINAL ☐ REVISED

6. ADMINISTERING ACTIVITY *(Please check applicable box)*

☐ ARMY ☐ GSA ☐ NASA
☐ NAVY ☐ DOE ☐ OTHER FEDERAL AGENCY *(Specify)*
☐ AIR FORCE ☐ DEFENSE CONTRACT MANAGEMENT AGENCY

7. REPORT SUBMITTED AS *(Check one and provide appropriate number)*

☐ PRIME CONTRACTOR — PRIME CONTRACT NUMBER

☐ SUBCONTRACTOR — SUBCONTRACT NUMBER

8. AGENCY OR CONTRACTOR AWARDING CONTRACT

a. AGENCY'S OR CONTRACTOR'S NAME

b. STREET ADDRESS

c. CITY | d. STATE | e. ZIP CODE

9. DOLLARS AND PERCENTAGES IN THE FOLLOWING BLOCKS:

☐ DO INCLUDE INDIRECT COSTS ☐ DO NOT INCLUDE INDIRECT COSTS

SUBCONTRACT AWARDS

TYPE	CURRENT GOAL		ACTUAL CUMULATIVE	
	WHOLE DOLLARS	PERCENT	WHOLE DOLLARS	PERCENT
10a. SMALL BUSINESS CONCERNS *(Dollar Amount and Percent of 10c.)* (SEE SPECIFIC INSTRUCTIONS)				
10b. LARGE BUSINESS CONCERNS *(Dollar Amount and Percent of 10c.)* (SEE SPECIFIC INSTRUCTIONS)				
10c. TOTAL *(Sum of 10a and 10b.)*		100.0%		100.0%
11. SMALL DISADVANTAGED BUSINESS (SDB) CONCERNS *(Dollar Amount and Percent of 10c.)* (SEE SPECIFIC INSTRUCTIONS)				
12. WOMEN-OWNED SMALL BUSINESS (WOSB) CONCERNS *(Dollar Amount and Percent of 10c.)* (SEE SPECIFIC INSTRUCTIONS)				
13. HUBZone SMALL BUSINESS (HUBZone SB) CONCERNS *(Dollar Amount and Percent of 10c.)* (SEE SPECIFIC INSTRUCTIONS)				
14. VETERAN-OWNED SMALL BUSINESS CONCERNS *(Dollar Amount and Percent of 10c.)* (SEE SPECIFIC INSTRUCTIONS)				
15. SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS CONCERNS *(Dollar Amount and Percent of 10c)* (SEE SPECIFIC INSTRUCTIONS)				
16. HISTORICALLY BLACK COLLEGES AND UNIVERSITIES (HBCU) AND MINORITY INSTITUTIONS (MI) *(Dollar Amount)* (SEE SPECIFIC INSTRUCTIONS)				
17. ALASKA NATIVE CORPORATIONS (ANCs) AND INDIAN TRIBES THAT HAVE NOT BEEN CERTIFIED BY THE SMALL BUSINESS ADMINISTRATION AS SMALL DISADVANTAGED BUSINESSES *(Dollar Amount)* (SEE SPECIFIC INSTRUCTIONS)				
18. ALASKA NATIVE CORPORATIONS (ANCs) AND INDIAN TRIBES THAT ARE NOT SMALL BUSINESSES *(Dollar Amount)* (SEE SPECIFIC INSTRUCTIONS)				

Previous Edition is Not Usable

STANDARD FORM 294 (REV. 8/2014)
Prescribed by GSA-FAR (48 CFR 53.219(a))

19. REMARKS

20a. NAME OF INDIVIDUAL ADMINISTERING SUBCONTRACTING PLAN	20b. TELEPHONE NUMBER	
	AREA CODE	NUMBER

GENERAL INSTRUCTIONS

1. This report is not required for small businesses.

2. This report is not required for commercial items for which a commercial plan has been approved, nor from large businesses in the Department of Defense (DOD) Test Program for Negotiation of Comprehensive Subcontracting plans. The Summary Subcontract Report (SSR) is required for contractors operating under one of these two conditions and should be submitted to the Government in accordance with the instructions on that form.

3. This form collects subcontract award data from prime contractors/subcontractors that : (a) hold one or more contracts over $650,000 (over $1,500,000 for construction of a public facility); and (b) are required to report subcontracts awarded to Small Business (SB), Small Disadvantaged Business (SDB), Women-Owned Small Business (WOSB), HUBZone Small Business (HUBZone SB), Veteran-Owned Small Business (VOSB) and Service-Disabled Veteran-Owned Small Business concerns under a subcontracting plan. For the National Aeronautics and Space Administration (NASA), this form also collects subcontract award data for Historically Black Colleges and Universities (HBCUs) and Minority Institutions (MIs).

4. This report is required for each contract containing a subcontracting plan and must be submitted to the administrative contracting officer (ACO) or contracting officer if no ACO is assigned, semi-annually, during contract performance for the periods ended March 31st and September 30th. A separate report is required for each contract at contract completion. Reports are due 30 days after the close of each reporting period unless otherwise directed by the contracting officer. Reports are required when due, regardless of whether there has been any subcontracting activity since the inception of the contract or since the previous report.

5. Only subcontracts involving performance in the United States or its outlying areas should be included in this report with the exception of subcontracts under a contract awarded by the State Department or any other agency that has statutory or regulatory authority to require subcontracting plans for subcontracts performed outside the United States and its outlying areas.

6. Purchases from a corporation, company, or subdivision that is an affiliate of the prime/subcontractor are not included in this report.

7. Subcontract award data reported on this form by prime contractors/subcontractors shall be limited to awards made to their immediate subcontractors. Credit cannot be taken for awards made to lower tier subcontractors unless you have been designated to receive an SB and SDB credit from an Alaska Native Corporation (ANC) or Indian tribe.

8. FAR 19.703 sets forth the eligibility requirements for participating in the subcontracting program.

9. Actual achievements must be reported on the same basis as the goals set forth in the contract. For example, if goals in the plan do not include indirect and overhead items, the achievements shown on this report should not include them either.

SPECIFIC INSTRUCTIONS

BLOCK 2: For the Contractor Identification Number, enter the nine-digit Data Universal Numbering System (DUNS) number that identifies the specific contractor establishment. If there is no DUNS number available that identifies the exact name and address entered in Block 1, contact Dun and Bradstreet Information Services at 1-866-705-5711 or via the Internet at http://www.dnb.com. The contractor should be prepared to provide the following information: (i) Company legal business name. (ii) Tradestyle, doing business, or other name by which your entity is commonly recognized. (iii) Company physical street address, city, state and ZIP Code. (iv) Company mailing address, city, state and ZIP Code (if separate from physical). (v) Company telephone number. (vi) Date the company was started. (vii) Number of employees at your location. (viii) Chief executive officer/key manager. (ix) Line of business (industry). (x) Company Headquarters name and address (reporting relationship within your entity).

BLOCK 4: Check only one. Note that all subcontract award data reported on this form represents activity since the inception of the contract through the date indicated on this block.

BLOCK 5: Check whether this report is a "Regular," "Final," and/or "Revised" report. A "Final" report should be checked only if the contractor has completed the contract or subcontract reported in Block 7. A "Revised" report is a change to a report previously submitted for the same period.

BLOCK 6: Identify the department or agency administering the majority of subcontracting plans.

BLOCK 7: Indicate whether the reporting contractor is submitting this report as a prime contractor or subcontractor and the prime contract or subcontract number.

BLOCK 8: Enter the name and address of the Federal department or agency awarding the contract or the prime contractor awarding the subcontract.

BLOCK 9: Check the appropriate block to indicate whether indirect costs are included in the dollar amounts in blocks 10a through 16. To ensure comparability between the goal and actual columns, the contractor may include indirect costs in the actual column only if the subcontracting plan included indirect costs in the goal.

BLOCKS 10a through 18: Under "Current Goal," enter the dollar and percent goals in each category (SB, SDB, WOSB, VOSB, service-disabled VOSB, and HUBZone SB) from the subcontracting plan approved for this contract. (If the original goals agreed upon at contract award have been revised as a result of contract modifications, enter the original goals in Block 19. The amounts entered in Blocks 10a through 16 should reflect the revised goals.) There are no goals for Blocks 17 and 18. Under "Actual Cumulative," enter actual subcontract achievements (dollars and percent) from the inception of the contract through the date of the report shown in Block 4. In cases where indirect costs are included, the amounts should include both direct awards and an appropriate prorated portion of indirect awards. However, the dollar amounts reported under "Actual Cumulative" must be for the same period of time as the dollar amounts shown under "Current Goal." For a contract with options, the current goal should represent the aggregate goal since the inception of the contract. For example, if the contractor is submitting the report during Option 2 of a multiple year contract, the current goal would be the cumulative goal for the base period plus the goal for Option 1 and the goal for Option 2.

BLOCK 10a: Report all subcontracts awarded to SBs including subcontracts to SDBs, WOSB, VOSB, service-disabled VOSB, and HUBZone SBs. For NASA contracts only, include subcontracting awards to HBCUs and MIs. Include subcontracts awarded to ANCs and Indian tribes that are not small businesses and that are not certified by the SBA as SDBs where you have been designated to receive their SB and SDB credit. Where your company and other companies have been designated by an ANC or Indian tribe to receive SB and SDB credit for a subcontract awarded to the ANC or Indian tribe, report only the portion of the total amount of the subcontract that has been designated to your company.

BLOCK 10b: Report all subcontracts awarded to large businesses (LBs) and any other-than-small businesses. Do not include subcontracts awarded to ANCs and Indian tribes that have been reported in 10a above.

BLOCK 10c: Report on this line the total of all subcontracts awarded under this contract (the sum of lines 10a and 10b).

BLOCKS 11 - 16: Each of these items is a subcategory of Block 10a. Note that in some cases the same dollars may be reported in more than one block (e.g., SDBs owned by women or veterans).

BLOCK 11: Report all subcontracts awarded to SDBs (including WOSB, VOSB, service-disabled VOSBs, and HUBZone SB SDBs). Include subcontracts awarded to ANCs and Indian tribes that have not been certified by SBA as SDBs where you have been designated to receive their SDB credit. Where your company and other companies have been designated by an ANC or Indian tribe to receive their SDB credit for a subcontract awarded to the ANC or Indian tribe, report only the portion of the total amount of the subcontract that has been designated to your company. For NASA contracts only, include subcontracting awards to HBCUs and MIs.

BLOCK 12: Report all subcontracts awarded to WOSBs (including SDBs, VOSBs (including service-disabled VOSBs), and HUBZone SBs that are also WOSBs).

BLOCK 13: Report all subcontracts awarded to HUBZone SBs (including WOSBs, VOSBs (including service-disabled VOSBs), and SDBs that are also HUBZone SBs).

BLOCK 14: Report all subcontracts awarded to VOSBs including service-disabled VOSBs (and including SDBs, WOSBs, and HUBZone SBs that are also VOSBs).

BLOCK 15: Report all subcontracts awarded to service-disabled VOSBs (including SDBs, WOSBs, and HUBZone SBs that are also service-disabled VOSBs).

BLOCK 16: (For contracts with NASA): Report all subcontracts with HBCUs/MIs. Complete the column under "Current Goal" only when the subcontracting plan establishes a goal.

BLOCK 17: Report all subcontracts awarded to ANCs and Indian tribes that are reported in Block 11, but have not been certified by SBA as SDBs.

BLOCK 18: Report all subcontracts awarded to ANCs and Indian tribes that are reported in Block 10a, but are not small businesses.

BLOCK 19: Enter a short narrative explanation if (a) SB, SDB, WOSB, VOSB, service-disabled VOSB, or HUBZone SB accomplishments fall below that which would be expected using a straight-line projection of goals through the period of contract performance; or (b) if this is a final report, any one of the six goals were not met.

DEFINITIONS

1. Direct Subcontract Awards are those that are identified with the performance of one or more specific Government contract(s).

2. Indirect costs are those which, because of incurrence for common or joint purposes, are not identified with specific Government contracts; these awards are related to Government contract performance but remain for allocation after direct awards have been determined and identified to specific Government contracts.

DISTRIBUTION OF THIS REPORT

For the Awarding Agency or Contractor:

The original copy of this report should be provided to the contracting officer at the agency or contractor identified in Block 8. For contracts with DOD, a copy should also be provided to the Defense Contract Management Agency (DCMA) at the cognizant Defense Contract Management Area Operations (DCMAO) office.

For the Small Business Administration (SBA):

A copy of this report must be provided to the cognizant Commercial Market Representative (CMR) at the time of a compliance review. It is NOT necessary to mail the SF 294 to SBA unless specifically requested by the CMR.

53.302–312 [Removed]

■ 45. Remove section 53.302–312.

[FR Doc. 2014–24236 Filed 10–10–14; 8:45 am]

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