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Presidential Documents

Title 3—

The President

Executive Order 13692 of March 8, 2015

Blocking Property and Suspending Entry of Certain Persons Contributing to the Situation in Venezuela

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 *et seq.*) (NEA), the Venezuela Defense of Human Rights and Civil Society Act of 2014 (Public Law 113–278) (the ''Venezuela Defense of Human Rights Act'') (the ''Act''), section 212(f) of the Immigration and Nationality Act of 1952 (8 U.S.C. 1182(f)) (INA), and section 301 of title 3, United States Code,

I, BARACK OBAMA, President of the United States of America, find that the situation in Venezuela, including the Government of Venezuela's erosion of human rights guarantees, persecution of political opponents, curtailment of press freedoms, use of violence and human rights violations and abuses in response to antigovernment protests, and arbitrary arrest and detention of antigovernment protestors, as well as the exacerbating presence of significant public corruption, constitutes an unusual and extraordinary threat to the national security and foreign policy of the United States, and I hereby declare a national emergency to deal with that threat. I hereby order:

Section 1. (a) All property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in:

(i) the persons listed in the Annex to this order; and

(ii) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State:

(A) to be responsible for or complicit in, or responsible for ordering, controlling, or otherwise directing, or to have participated in, directly or indirectly, any of the following in or in relation to Venezuela:

(1) actions or policies that undermine democratic processes or institutions;

(2) significant acts of violence or conduct that constitutes a serious abuse or violation of human rights, including against persons involved in antigovernment protests in Venezuela in or since February 2014;

(3) actions that prohibit, limit, or penalize the exercise of freedom of expression or peaceful assembly; or

(4) public corruption by senior officials within the Government of Venezuela;

(B) to be a current or former leader of an entity that has, or whose members have, engaged in any activity described in subsection (a)(ii)(A) of this section or of an entity whose property and interests in property are blocked pursuant to this order;

(C) to be a current or former official of the Government of Venezuela;

(D) to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of:

(1) a person whose property and interests in property are blocked pursuant to this order; or

(2) an activity described in subsection (a)(ii)(A) of this section; or

(E) to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to this order.

(b) The prohibitions in subsection (a) of this section apply except to the extent provided by statutes, or in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the effective date of this order.

Sec. 2. I hereby find that the unrestricted immigrant and nonimmigrant entry into the United States of aliens determined to meet one or more of the criteria in subsection 1(a) of this order would be detrimental to the interests of the United States, and I hereby suspend entry into the United States, as immigrants or nonimmigrants, of such persons, except where the Secretary of State determines that the person's entry is in the national interest of the United States. This section shall not apply to an alien if admitting the alien into the United States is necessary to permit the United States to comply with the Agreement Regarding the Headquarters of the United Nations, signed at Lake Success June 26, 1947, and entered into force November 21, 1947, or other applicable international obligations.

Sec. 3. I hereby determine that the making of donations of the type of articles specified in section 203(b)(2) of IEEPA (50 U.S.C. 1702(b)(2)) by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to section 1 of this order would seriously impair my ability to deal with the national emergency declared in this order, and I hereby prohibit such donations as provided by section 1 of this order.

Sec. 4. The prohibitions in section 1 of this order include but are not limited to:

(a) the making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to this order; and

(b) the receipt of any contribution or provision of funds, goods, or services from any such person.

Sec. 5. (a) Any transaction that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions set forth in this order is prohibited.

(b) Any conspiracy formed to violate any of the prohibitions set forth in this order is prohibited.

Sec. 6. For the purposes of this order:

(a) the term ''person'' means an individual or entity;

(b) the term ''entity'' means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization;

(c) the term ''United States person'' means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States;

(d) the term ''Government of Venezuela'' means the Government of Venezuela, any political subdivision, agency, or instrumentality thereof, including the Central Bank of Venezuela, and any person owned or controlled by, or acting for or on behalf of, the Government of Venezuela.

Sec. 7. For those persons whose property and interests in property are blocked pursuant to this order who might have a constitutional presence in the United States, I find that because of the ability to transfer funds or other assets instantaneously, prior notice to such persons of measures to be taken pursuant to this order would render those measures ineffectual. I therefore determine that for these measures to be effective in addressing

the national emergency declared in this order, there need be no prior notice of a listing or determination made pursuant to section 1 of this order.

Sec. 8. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA and section 5 of the Venezuela Defense of Human Rights Act, other than the authorities contained in sections 5(b)(1)(B) and 5(c) of that Act, as may be necessary to carry out the purposes of this order, with the exception of section 2 of this order, and the relevant provisions of section 5 of that Act. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government consistent with applicable law. All agencies of the United States Government are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order.

Sec. 9. The Secretary of State is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA, the INA, and section 5 of the Venezuela Defense of Human Rights Act, including the authorities set forth in sections 5(b)(1)(B), 5(c), and 5(d) of that Act, as may be necessary to carry out section 2 of this order and the relevant provisions of section 5 of that Act. The Secretary of State may redelegate any of these functions to other officers and agencies of the United States Government consistent with applicable law.

Sec. 10. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to determine that circumstances no longer warrant the blocking of the property and interests in property of a person listed in the Annex to this order, and to take necessary action to give effect to that determination.

Sec. 11. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to submit the recurring and final reports to the Congress on the national emergency declared in this order, consistent with section 401(c) of the NEA (50 U.S.C. 1641(c)) and section 204(c) of IEEPA (50 U.S.C. 1703(c)).

Sec. 12. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

Sec. 13. This order is effective at 12:01 a.m. eastern daylight time on March 9, 2015.

THE WHITE HOUSE,
March 8, 2015.

Billing Code 3295–F5–P

ANNEX

1. Antonio José Benavides Torres [Commander of the Central Integral Strategic Defense Region of the National Armed Forces, former Director of Operations for the National Guard; born June 13, 1961]

2. Gustavo Enrique González López [Director General of the National Intelligence Service and President of the Strategic Center of Security and Protection of the Homeland; born November 2, 1960]

3. Justo José Noguera Pietri [President of the Venezuelan Corporation of Guayana, former General Commander of the National Guard; born March 15, 1961]

4. Katherine Nayarith Haringhton Padron [National Level Prosecutor of the 20th District Office of the Public Ministry; born December 5, 1971]

5. Manuel Eduardo Pérez Urdaneta [Director of the National Police; born May 26, 1962]

6. Manuel Gregorio Bernal Martínez [Chief of the 31st Armored Brigade of Caracas, former Director General of the National Intelligence Service; born July 12, 1965]

7. Miguel Alcides Vivas Landino [Inspector General of the National Armed Forces, former Commander of the Andes Integral Strategic Defense Region of the National Armed Forces; born July 8, 1961]

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FEDERAL HOUSING FINANCE BOARD

12 CFR Parts 931 and 933

FEDERAL HOUSING FINANCE AGENCY

12 CFR Part 1277

RIN 2590–AA71

Federal Home Loan Bank Capital Stock and Capital Plans

AGENCY: Federal Housing Finance Board, Federal Housing Finance Agency.

ACTION: Final rule.

SUMMARY: On October 8, 2014, the Federal Housing Finance Agency (FHFA) published a notice of proposed rulemaking in the **Federal Register** to transfer existing parts of the Federal Housing Finance Board (Finance Board) regulations to the FHFA regulations. These rules address Federal Home Loan Bank (Bank) capital stock and capital plans. FHFA did not propose to make any substantive changes to these requirements, but proposed to delete certain provisions that applied only to the one-time conversion of Bank stock to the new capital structure required by the Gramm-Leach-Bliley Act (GLB Act) and to make certain other clarifying changes. FHFA is now adopting the proposed rule as a final rule without change.

DATES: This final rule will become effective on April 10, 2015.

FOR FURTHER INFORMATION CONTACT: Julie Paller, Senior Financial Analyst, *Julie.Paller@FHFA.gov,* 202–649–3201, Division of Federal Home Loan Bank Regulation; or Thomas E. Joseph, Associate General Counsel, *Thomas.Joseph@FHFA.gov,* 202–649–3076 (these are not toll-free numbers), Office of General Counsel (OGC), Federal Housing Finance Agency, Constitution Center, 400 Seventh Street SW., Washington, DC 20024. The telephone number for the Telecommunications Device for the Hearing Impaired is 800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

A. Creation of the Federal Housing Finance Agency

Effective July 30, 2008, the Housing and Economic Recovery Act of 2008 (HERA) [1] created FHFA as a new independent agency of the Federal Government, and transferred to FHFA the supervisory and oversight responsibilities of the Office of Federal Housing Enterprise Oversight (OFHEO) over the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (collectively, the Enterprises), the oversight responsibilities of the Finance Board over the Banks and the Office of Finance (OF) (which acts as the Banks' fiscal agent) and certain functions of the Department of Housing and Urban Development.[2] Under the legislation, the Enterprises, the Banks, and the OF continue to operate under regulations promulgated by OFHEO and the Finance Board until such regulations are superseded by regulations issued by FHFA.[3] While FHFA has amended or re-adopted and transferred most of the former Finance Board regulations, certain Finance Board regulations, including those which address Bank capital, have not yet been transferred by FHFA, although they continue to apply to the Banks.

B. Bank Capital Stock and Capital Plans

The twelve Banks are instrumentalities of the United States organized under the Federal Home Loan Bank Act (Bank Act).[4] The Banks are cooperatives; only members of a Bank may purchase the capital stock of a Bank, and only members or certain eligible housing associates (such as state housing finance agencies) may obtain access to secured loans, known as advances, or other products provided by a Bank.[5] Each Bank is managed by its own board of directors and serves the public interest by enhancing the availability of residential mortgage and community lending credit through its member institutions.[6]

In 1999, the GLB Act [7] amended the Bank Act to replace the capital structure of the Bank System. Under the GLB Act, the Banks became subject to risk-based and leverage capital requirements similar to those applicable to depository institutions and other housing GSEs. The GLB Act also directed the Finance Board to adopt regulations prescribing uniform capital standards applicable to each Bank. It also required the Banks to replace their existing capital stock with new classes of capital stock that would have different terms from the stock then held by Bank System members. Specifically, the GLB Act authorized the Banks to issue new Class A stock, which the GLB Act defined as redeemable six months after filing of a notice by a member, and Class B stock, defined as redeemable five years after filing of a notice by a member. The GLB Act allowed Banks to issue Class A and Class B stock in any combination and to establish terms and preferences for each class or subclass of stock issued, consistent with Finance Board regulations and the Bank Act.[8]

As part of the process for converting the ''old'' capital stock to the new GLB Act Class A and Class B stock, the GLB Act required each Bank to adopt and maintain a capital plan that established the rights, terms and preferences of each class or subclass of capital stock that it would issue.[9] The GLB Act also required that each Bank's capital plan establish the minimum investment in capital stock required for its members to maintain membership and to conduct business with the Bank. Such minimum investment requirements needed to be sufficient for the Bank to meet its new minimum regulatory capital requirements. The GLB Act provided each Bank's board of directors the discretion to develop and implement a capital plan that it determined was best suited for the conditions and operations

[1] Public Law 110–289, 122 Stat. 2654.

[2] *See* 12 U.S.C. 4511.

[3] *See* 12 U.S.C. 4511, note.

[4] *See* 12 U.S.C. 1423 and 1432(a). The twelve Banks are located in: Boston, New York, Pittsburgh, Atlanta, Cincinnati, Indianapolis, Chicago, Des Moines, Dallas, Topeka, San Francisco, and Seattle.

[5] *See* 12 U.S.C. 1426(a)(4), 1430(a), and 1430b.

[6] *See* 12 U.S.C. 1427.

[7] Public Law 106–102, 113 Stat. 1338 (Nov. 12, 1999).

[8] *See* 12 U.S.C. 1426, and 12 CFR parts 931 and 933.

[9] *Id.*

of the Bank and the interests of the Bank's members.[10] It also required Finance Board approval of each Bank's capital plan prior to it taking effect.

Under the Finance Board regulations, each Bank had discretion as to when it would convert to the new capital structure. The Finance Board regulations also addressed in detail the process for the one-time conversion to the new capital structure, including requirements for disclosure to be given to members prior to the conversion. Since the Finance Board originally adopted these regulations in 2001, all Banks have converted to the GLB Act capital structure. The original Finance Board regulations were never amended, however, to remove provisions that applied only to the initial conversion process.[11]

C. Considerations of Differences Between the Banks and the Enterprises

When promulgating regulations relating to the Banks, section 1313(f) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (Safety and Soundness Act) requires the Director of FHFA (Director) to consider the differences between the Banks and the Enterprises with respect to the Banks' cooperative ownership structure; mission of providing liquidity to members; affordable housing and community development mission; capital structure; and joint and several liability.[12] This requirement does not apply to regulations of the Finance Board that the Director reissues.

The changes to the Bank capital stock and capital plan regulations proposed by FHFA in October 2014 were clarifying and conforming in nature and applied exclusively to the Banks. The proposed amendments did not alter the substance of the existing Finance Board regulations. Accordingly, the proposed rule did not trigger this statutory requirement. Nonetheless, FHFA, in preparing the proposed rule, considered the differences between the Banks and the Enterprises as they related to the above factors and specifically requested comments from the public about whether these differences should have resulted in any revisions to the proposed rule. FHFA received no comments in response to this request.

II. Analysis of the Final Rule

The Proposed Rule

FHFA published a proposed rule on Bank capital stock and capital plans in the **Federal Register** on October 8, 2014, with a 60-day comment period.[13] The proposed rule would have transferred the Finance Board Bank capital stock regulations from 12 CFR part 931 and the Bank capital plan regulations from 12 CFR part 933 to subparts C and D of new part 1277 of FHFA regulations, respectively. Relevant definitions for parts 931 and 933 also would have been transferred to subpart A of new part 1277.[14] FHFA also proposed to make certain non-substantive, clarifying and conforming changes to these provisions and to remove requirements which applied only to the Banks' initial conversion to the GLB Act capital structure.

Among other changes, FHFA proposed to replace definitions for ''regulatory risk-based capital requirement'' and ''regulatory total capital requirement'' with a new single definition for ''regulatory capital requirements.'' It also proposed to define the term ''former member'' and to add relevant references to ''former member'' in the regulatory text to clarify that under the Bank Act and existing regulations, such institutions could be required to hold Bank stock in certain situations after termination of their Bank membership.

With regard to existing capital stock provisions, FHFA proposed to transfer current 12 CFR part 931 to new subpart C of part 1277. Most of these provisions were to be transferred without change, beyond necessary conforming changes. FHFA, however, proposed to delete current § 931.9 which addresses various transition requirements related to the Banks' conversion to the GLB Act capital structure. Given that all Banks have successfully completed this process, § 931.9 has no future applicability.

FHFA also proposed to add clarifying language to § 1277.24 that any provision in a Bank's capital plan related to stockholder rights in a liquidation, merger, or consolidation of the Bank cannot limit FHFA's authority under the Bank Act or the Safety and Soundness Act to issue a regulation or order or to take any other action that may affect or otherwise alter the rights or privileges of stock holders in these situations. FHFA noted that it believed that the proposed change was consistent with existing provisions in each Bank's approved capital plan.

FHFA proposed to relocate relevant provisions in current part 933 to subpart D of new part 1277. As part of this process, it proposed to remove those provisions that related only to the Banks' initial conversion to the GLB Act capital structure, given that the provisions had no continuing applicability.[15]

FHFA also proposed not to reissue duplicative provisions related to the calculation and application of a member's, or former member's, minimum investment requirements, and instead, incorporated into proposed § 1277.28(a) the requirements governing the calculation and maintenance of the minimum investment set forth in proposed § 1277.22 by reference. FHFA noted that this change was not intended to alter the current capital plan requirements in any substantive manner.

FHFA also proposed to add to subpart D of new § 1277.29 to address the process for amending a Bank's approved capital plan. The Finance Board rules did not specifically address the process for submitting capital plan amendments for approval, although the Bank Act allows Banks to amend their capital plans with FHFA approval.[16] The amendments proposed in this new section reflected long-standing guidance first provided to the Banks in 2003 governing the submission of capital plan amendments for approval. FHFA also proposed to carry over in § 1277.29(c), current language from § 933.1(c) stating that the Director can approve an amendment to a capital plan subject to specific conditions.

Finally, as discussed more fully in the **SUPPLEMENTARY INFORMATION** section of the proposed rule, FHFA also proposed other conforming or clarifying changes to the existing Finance Board regulations on Bank capital stock and capital plans.

Final Rule

FHFA received one comment on the proposed rule, but the comment did not address issues relevant to this rulemaking.[17] As a result and for the reasons discussed above and in the notice of proposed rulemaking, FHFA is

[10] *See* 12 U.S.C. 1426(b)(1).

[11] *See* Final Rule: Capital Requirements for Federal Home Loan Banks, 66 FR 8262 (Jan. 30, 2001); and Final Rule: Capital Requirements for Federal Home Loan Banks, 66 FR 54097 (Oct. 26, 2001) (amending capital requirements).

[12] *See* 12 U.S.C. 4513 (*as amended by* section 1201 Public Law 110–289, 122 Stat. 2782–83).

[13] Proposed Rule: Federal Home Loan Bank capital Stock and Capital Plans, 79 FR 60783 (Oct. 8, 2014).

[14] As part of a separate and future rulemaking, FHFA intends to amend and transfer the existing Bank capital regulations from part 932 of the Finance Board regulations to subpart B of new part 1277.

[15] Specifically, FHFA proposed not to reissue 12 CFR 933.2(d), (e), and (h), 933.3, 933.4, and 933.5.

[16] *See* 12 U.S.C. 1426(b)(2).

[17] Instead, the comment urged FHFA to recapitalize the Enterprises.

adopting the proposed rule as a final rule without change.

III. Paperwork Reduction Act

The information collection, entitled ''Capital Requirements for the Federal Home Loan Banks,'' contained in the 12 CFR parts 931 and 933 of the regulations that are being relocated to 12 CFR part 1277 by this final rule, has been assigned control number 2590–0002 by the Office of Management and Budget (OMB). The final rule does not substantively or materially modify the current, approved information collection. OMB has approved the relocation of this information collection to part 1277 as a non-substantive change under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, *et seq.*

IV. Regulatory Flexibility Act

The final rule applies only to the Banks, which do not come within the meaning of small entities as defined in the Regulatory Flexibility Act (RFA). *See* 5 U.S.C. 601(6). Therefore, in accordance with section 605(b) of the RFA, FHFA certifies that this final rule does not have a significant economic impact on a substantial number of small entities.

List of Subjects

12 CFR Parts 931 and 933

Capital, Credit, Federal home loan banks, Investments, Reporting and recordkeeping requirements.

12 CFR Part 1277

Capital, Credit, Federal home loan banks, Investments, Reporting and recordkeeping requirements.

Accordingly, for reasons stated in the **SUPPLEMENTARY INFORMATION** and under the authority of 12 U.S.C. 1426, 1436, 1440, 1443, 1446, 4511, 4513, 4526, FHFA hereby amends subchapter E of chapter IX and subchapter D of chapter XII of title 12 of the Code of Federal Regulations as follows:

CHAPTER IX—FEDERAL HOUSING FINANCE BOARD

Subchapter E—Federal Home Loan Bank Risk Management and Capital Standards

PART 931—[REMOVED]

■ 1. Remove part 931.

PART 933—[REMOVED]

■ 2. Remove part 933.

CHAPTER XII—FEDERAL HOUSING FINANCE AGENCY

Subchapter D—Federal Home Loan Banks

■ 3. Part 1277 is added to read as follows:

PART 1277—FEDERAL HOME LOAN BANK CAPITAL REQUIREMENTS, CAPITAL STOCK AND CAPITAL PLANS

Subpart A—Definitions

Sec.
1277.1 Definitions.

Subpart B—[Reserved]

Subpart C—Bank Capital Stock

1277.20 Classes of capital stock.
1277.21 Issuance of capital stock.
1277.22 Minimum investment in capital stock.
1277.23 Dividends.
1277.24 Liquidation, merger, or consolidation.
1277.25 Transfer of capital stock.
1277.26 Redemption and repurchase of capital stock.
1277.27 Other restrictions on the repurchase or redemption of Bank stock.

Subpart D—Bank Capital Plans

1277.28 Bank capital plans.
1277.29 Amendments to a Bank's capital plan.

Authority: 12 U.S.C. 1426, 1436(a), 1440, 1443, 1446, 4511, 4513, 4514, 4526, 4612.

Subpart A—Definitions

§ 1277.1 Definitions.

As used in this part:

Class A stock means capital stock issued by a Bank, including subclasses, that has the characteristics specified by § 1277.20(a).

Class B stock means capital stock issued by a Bank, including subclasses, that has the characteristics specified by § 1277.20(b).

Former member means an institution for which the membership in a Bank has been terminated but which continues to hold stock in the Bank as required by the Bank's capital plan, and includes any successor to such institution that continues to hold the stock in the Bank that had been issued to the acquired institution.

General allowance for losses means an allowance established by the Bank in accordance with GAAP for losses, but which does not include any amounts held against specific assets of the Bank.

Minimum investment means the minimum amount of stock that an institution is required to own in order to be a member of a Bank and in order to obtain advances and to engage in other business activities with the Bank in accordance with § 1277.22.

Permanent capital means the retained earnings of a Bank, determined in accordance with GAAP, plus the amount paid-in for the Bank's Class B stock.

Redeem or Redemption means the acquisition by a Bank of its outstanding Class A or Class B stock at par value following the expiration of the six-month or five-year statutory redemption period, respectively, for the stock.

Regulatory capital requirements means the minimum amounts of permanent and total capital that a Bank is required to maintain under section 6(a) of the Bank Act (12 U.S.C. 1426(a)) and any related regulations, as such requirements may be modified by the Director, or any similar requirement established for a Bank by regulation, order, written agreement or other action.

Repurchase means the acquisition by a Bank of excess stock prior to the expiration of the six-month or five-year statutory redemption period for the stock.

Total capital of a Bank means the sum of permanent capital, the amounts paid-in for Class A stock, the amount of any general allowance for losses, and the amount of other instruments identified in a Bank's capital plan that the Director has determined to be available to absorb losses incurred by such Bank.

Subpart B—[Reserved]

Subpart C—Bank Capital Stock

§ 1277.20 Classes of capital stock.

The authorized capital stock of a Bank shall consist of the following instruments:

(a) Class A stock, which shall:

(1) Have a par value as determined by the board of directors of the Bank and stated in the Bank's capital plan;

(2) Be issued, redeemed, and repurchased only at its stated par value; and

(3) Be redeemable in cash only on six-months written notice to the Bank.

(b) Class B stock, which shall:

(1) Have a par value as determined by the board of directors of the Bank and stated in the Bank's capital plan;

(2) Be issued, redeemed, and repurchased only at its stated par value;

(3) Be redeemable in cash only on five-years written notice to the Bank; and

(4) Confer an ownership interest in the retained earnings, surplus, undivided profits, and equity reserves of the Bank.

(c) Any one or more subclasses of Class A or Class B stock, each of which may have different rights, terms, conditions, or preferences as may be authorized in the Bank's capital plan, provided, however, that each subclass of stock shall have all of the characteristics of its respective class, as specified in paragraph (a) or (b) of this section.

§ 1277.21 Issuance of capital stock.

A Bank may issue either one or both classes of its capital stock (including subclasses), as authorized by § 1277.20, and shall not issue any other class of capital stock. A Bank shall issue its stock only to its members, or to former members to the extent those institutions are required to maintain a minimum stock investment for existing activities under the capital plan, and only in book-entry form. The Bank shall act as its own transfer agent. All capital stock shall be issued in accordance with the Bank's capital plan.

§ 1277.22 Minimum investment in capital stock.

(a) A Bank shall require each member to maintain a minimum investment in the capital stock of the Bank, both as a condition to becoming and remaining a member of the Bank and as a condition to transacting business with the Bank or obtaining advances and other services from the Bank. The amount of the required minimum investment shall be determined in accordance with the Bank's capital plan and shall be sufficient to ensure that the Bank remains in compliance with its regulatory capital requirements. A Bank shall require each member to maintain its minimum investment for as long as the institution remains a member of the Bank and shall require each member and former member to maintain its minimum investment for as long as the institution engages in any activity with the Bank for which the capital plan requires the institution to maintain capital stock.

(b) A Bank may establish the minimum investment as a percentage of the total assets of an institution, as a percentage of the advances outstanding to that institution, as a percentage of any other business activity conducted with the institution, on any other basis that is approved by the Director, or any combination thereof.

(c) A Bank may require that the minimum investment requirement be satisfied through the purchase of either Class A or Class B stock, or through the purchase of one or more combinations of Class A and Class B stock that have been authorized by the board of directors of the Bank in its capital plan. A Bank, in its discretion, may establish a lower minimum investment to the extent the requirement is met through investment in Class B stock than if the requirement is met through investment in Class A stock, provided that such reduced investment provides sufficient capital for the Bank to remain in compliance with its regulatory capital requirements.

(d) Each member, or if applicable, former member, of a Bank shall at all times maintain an investment in the capital stock of the Bank in an amount that is sufficient to satisfy the minimum investment required under the Bank's capital plan.

§ 1277.23 Dividends.

(a) *In general.* A Bank may pay dividends on Class A or Class B stock, including any subclasses of such stock, only out of previously retained earnings or current net earnings, and shall declare and pay dividends only as provided by its capital plan. The capital plan may establish different dividend rates or preferences for each class or subclass of stock, which may include a dividend that tracks the economic performance of certain Bank assets, such as Acquired Member Assets. A member, including a member that has provided the Bank with a notice of intent to withdraw from membership, or a former member shall be entitled to receive any dividends that a Bank declares on its capital stock while such institution owns the stock.

(b) *Limitation on payment of dividends.* In no event shall a Bank declare or pay any dividend on its capital stock if after doing so the Bank would fail to meet any of its regulatory capital requirements, nor shall a Bank that is not in compliance with any of its regulatory capital requirements declare or pay any dividend on its capital stock.

§ 1277.24 Liquidation, merger, or consolidation.

The respective rights of the Class A and Class B stockholders, in the event that the Bank is liquidated, merged, or otherwise consolidated with another Bank, shall be determined in accordance with the capital plan of the Bank, provided, however, that nothing in the capital plan shall be construed to limit any rights or authority granted FHFA under the Bank Act or the Safety and Soundness Act to issue any regulation or order or to take any other action that may affect or otherwise alter the rights or privileges of stock holders in a liquidation, merger, or consolidation of a Bank.

§ 1277.25 Transfer of capital stock.

A Bank in its capital plan may allow a member or former member to transfer any excess stock to a member of that Bank or to an institution that has been approved for membership in that Bank and that has satisfied all conditions for becoming a member, other than the purchase of the minimum amount of Bank stock that it is required to hold as a condition of membership. Any such stock transfers shall be at par value and shall be effective upon being recorded on the appropriate books and records of the Bank. The Bank may, in its capital plan, require that the transfer be approved by the Bank before such transfer can occur.

§ 1277.26 Redemption and repurchase of capital stock.

(a) *Redemption.* (1) A member or former member may have its stock in a Bank redeemed by providing written notice to the Bank in accordance with this section. A member or former member shall provide six-months written notice for Class A stock and five-years written notice for Class B stock. The notice shall indicate the number of shares of Bank stock that are to be redeemed. No more than one notice of redemption may be outstanding at one time for the same shares of Bank stock. At the expiration of the applicable notice period, the Bank shall pay to the member or other institution holding the stock the stated par value of that stock in cash.

(2) A member may cancel a notice of redemption by so informing the Bank in writing, and the Bank may impose a fee (to be specified in its capital plan) with respect to any cancellation of a pending notice of redemption. A request by a member (whose membership has not been terminated) to redeem specific shares of stock shall automatically be cancelled if the Bank is prevented from redeeming the member's stock by paragraph (c) of this section within five business days from the end of the expiration of the applicable redemption notice period because the member would fail to maintain its minimum investment in the stock of the Bank after such redemption. The automatic cancellation of a member's redemption request shall have the same effect as if the member had cancelled its notice to redeem stock prior to the end of the redemption notice period, and a Bank may impose a fee (to be specified in its capital plan) for automatic cancellation of a redemption request.

(3) A Bank shall not be obligated to redeem its capital stock other than in accordance with this paragraph.

(b) *Repurchase.* A Bank, in its discretion and without regard to the applicable redemption periods, may repurchase excess stock in accordance with the capital plan of that Bank. A Bank undertaking such a stock repurchase at its own initiative shall provide reasonable notice prior to repurchasing any excess stock, with the period of such notice to be specified in the Bank's capital plan, and shall pay the stated par value of that stock in

cash. A member's submission of a notice of intent to withdraw from membership, or its termination of membership in any other manner, shall not, in and of itself, cause any Bank stock to be deemed excess stock for purposes of this section.

(c) *Limitation.* In no event may a Bank redeem or repurchase any stock if, following the redemption or repurchase, the Bank would fail to meet its regulatory capital requirements, or if the member or former member would fail to maintain its minimum investment in the stock of the Bank, as required by § 1277.22.

§ 1277.27 Other restrictions on the repurchase or redemption of Bank stock.

(a) *Capital impairment.* A Bank may not redeem or repurchase any capital stock without the prior written approval of the Director if the Director or the board of directors of the Bank has determined that the Bank has incurred or is likely to incur losses that result in or are likely to result in charges against the capital of the Bank. This prohibition shall apply even if a Bank is currently in compliance with its regulatory capital requirements, and shall remain in effect for however long the Bank continues to incur such charges or until the Director determines that such charges are not expected to continue.

(b) *Bank discretion to suspend redemption.* A Bank, upon the approval of its board of directors, or of a subcommittee thereof, may suspend redemption of stock if the Bank reasonably believes that continued redemption of stock would cause the Bank to fail to meet its regulatory capital requirements, would prevent the Bank from maintaining adequate capital against a potential risk that may not be adequately reflected in its regulatory capital requirements, or would otherwise prevent the Bank from operating in a safe and sound manner. A Bank shall notify the Director in writing within two business days of the date of the decision to suspend the redemption of stock, providing the reasons for the suspension and the Bank's strategies and time frames for addressing the conditions that led to the suspension. The Director may require the Bank to re-institute the redemption of stock. A Bank shall not repurchase any stock without the written permission of the Director during any period in which the Bank has suspended redemption of stock under this paragraph.

Subpart D—Bank Capital Plans

§ 1277.28 Bank capital plans.

Each Bank shall have in place a capital plan approved by the Bank's board of directors and the Director. The capital plan shall include, at a minimum, provisions addressing the following matters:

(a) *Minimum investment.* (1) The capital plan shall require each member, and if applicable each former member, to purchase and maintain a minimum investment in the capital stock of the Bank and prescribe the manner for calculating the minimum investment, in accordance with § 1277.22.

(2) The capital plan shall specify the amount and class (or classes) of Bank stock that an institution is required to own in order to become and remain a member of the Bank, and to obtain advances from, or to engage in other business transactions with, the Bank. If a Bank requires that the minimum investment be satisfied through the purchase of one or more combinations of Class A and Class B stock, the authorized combinations of stock shall be specified in the capital plan, which shall afford the option of satisfying the minimum investment through the purchase of any such combination of stock.

(3) The capital plan shall require the board of directors of the Bank to monitor and, as necessary, to adjust, the minimum investment to ensure that outstanding stock remains sufficient for the Bank to comply with its regulatory capital requirements. The plan shall require each member or, where required by the plan, former member, to comply promptly with any adjusted minimum investment established by the board of directors of the Bank, but may allow a reasonable time to do so and may allow a reduction in outstanding business with the Bank as an alternative to purchasing additional stock.

(b) *Classes of capital stock.* The capital plan shall specify the class or classes of stock (including subclasses, if any) that the Bank will issue, and shall establish the par value, rights, terms, and preferences associated with each class (or subclass) of stock. A Bank may establish preferences relating to, but not limited to, the dividend, voting, or liquidation rights for each class or subclass of Bank stock. Any voting preferences established by the Bank pursuant to § 1261.6 of this chapter shall expressly state the voting rights of each class of stock with regard to the election of Bank directors. The capital plan shall provide that the owners of the Class B stock own the retained earnings, surplus, undivided profits, and equity reserves of the Bank, but shall have no right to receive any portion of those items, except through declaration of a dividend or capital distribution approved by the board of directors or through the liquidation of the Bank.

(c) *Dividends.* The capital plan shall establish the manner in which the Bank will pay dividends, if any, on each class or subclass of stock, and shall provide that the Bank may not declare or pay any dividends if it is not in compliance with any regulatory capital requirement or if after paying the dividend it would not be in compliance with any regulatory capital requirement.

(d) *Stock transactions.* The capital plan shall establish the criteria for the issuance, redemption, repurchase, transfer, and retirement of stock issued by the Bank. The capital plan also:

(1) Shall provide that the Bank may not issue stock other than in accordance with § 1277.21;

(2) Shall provide that the stock of the Bank may be issued only to and held only by the members of that Bank, and by former members to the extent necessary to meet requirements set forth in a capital plan;

(3) Shall specify whether the stock of the Bank may be transferred, as allowed under § 1277.25, and, if such transfer is allowed, shall specify the procedures to effect such transfer, and provide that the transfer shall be undertaken only in accordance with § 1277.25;

(4) Shall specify that the stock of the Bank may be traded only among the Bank and its members, and former members;

(5) May provide for a minimum investment based on investment in Class B stock that is lower than a minimum investment based on investment in Class A stock, provided that the level of investment is sufficient for the Bank to comply with its regulatory capital requirements;

(6) Shall specify the fee, if any, to be imposed upon cancellation of a request to redeem Bank stock or upon cancellation of a request to withdraw from membership; and

(7) Shall specify the period of notice that the Bank will provide before the Bank, on its own initiative, determines to repurchase any excess Bank stock.

(e) *Termination of membership.* The capital plan shall address the manner in which the Bank will provide for the disposition of its capital stock that is held by institutions that terminate their membership, and the manner in which the Bank will liquidate claims against such institutions, including claims resulting from prepayment of advances prior to their stated maturity.

§ 1277.29 Amendments to a Bank's capital plan.

(a) *In general.* A Bank's board of directors shall approve any amendments to the Bank's capital plan and submit such amendment to the Director for approval. No such amendment may take effect until it has been approved by the Director.

(b) *Submission of amendments for approval.* Any request for approval of capital plan amendments should be submitted to the Deputy Director for the Division of Federal Home Loan Bank Regulation and should include the following:

(1) The name of the Bank making the request and the name, title, and contact information of the official filing the request;

(2) The name, title and contact information of the staff member(s) whom FHFA may contact for additional information;

(3) A certification by an executive officer of the Bank with knowledge of the facts that the representations made in the request are accurate and complete. The following form of certification may be used: ''I hereby certify that the statements contained in the submission are true and complete to the best of my knowledge. [Name and Title]'';

(4) A written, narrative description of the proposed amendments to the Bank's capital plan and a discussion of the Bank's reasons for the proposed changes;

(5) The amended capital plan as approved by the Bank's board of directors;

(6) A version of the Bank's capital plan showing all proposed changes to its previously approved capital plan;

(7) Resolutions of the Bank's board of directors:

(i) Approving the proposed capital plan amendments; and

(ii) Authorizing the filing of the application for approval of the amendments and concurring in substance with the supporting documentation provided;

(8) An opinion of counsel demonstrating that the proposed amendments comply with the Bank Act, FHFA regulations and any other applicable law or regulation. If the amendments would be identical in substance to provisions approved for other Banks' capital plans, a Bank's legal analysis may reference the other capital plans that contain the provisions in question;

(9) An analysis of the effect of the proposed amendments, if any, on the Bank's capital levels and the Bank's ability to meet its regulatory capital requirements;

(10) *Pro forma* financial statements from the end of the quarter immediately prior to the date of submission of the request for approval through at least the end of the next two years, showing the impact of the proposed changes, if any, on capital levels; and

(11) A discussion of and an explanation for changes to the Bank's strategic plan, if any, which may be related to the capital plan amendments.

(c) *FHFA consideration of the amendment.* The Director may approve any amendment to a Bank's capital plan as submitted or may condition approval on the Bank's compliance with certain stated conditions.

Dated: March 2, 2015.

Melvin L. Watt,

Director, Federal Housing Finance Agency.

[FR Doc. 2015–05268 Filed 3–10–15; 8:45 am]

BILLING CODE 8070–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 389

[Docket No. RM15–10–000; Order No. 805]

Display of OMB Control Numbers

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Commission is revising and updating its regulations related to the display of Office of Management and Budget (OMB) control numbers under the Paperwork Reduction Act. The Final Rule updates the existing table and revises the regulations to explain that an updated table displaying OMB control numbers is available on *www.ferc.gov.*

DATES: This rule will become effective March 11, 2015.

FOR FURTHER INFORMATION CONTACT: Ellen Brown (Technical Information), Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8663, *DataClearance@ferc.gov.*

Christopher MacFarlane (Legal Information), Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–6761, *christopher.macfarlane@ferc.gov.*

SUPPLEMENTARY INFORMATION:

I. Discussion

1. The Commission is revising and updating Part 389 of its regulations related to the display of Office of Management and Budget (OMB) control numbers,[1] by updating the existing table and revising the regulations to explain that an updated table displaying OMB control numbers is available on *www.ferc.gov.*

2. Part 389 aids in fulfilling the requirements of the Paperwork Reduction Act[2] to display current OMB control numbers for information collections. The Commission also displays OMB control numbers on its Web site at *www.ferc.gov* under ''Documents and Filings'' and then ''Information Collections'' or directly at *http://www.ferc.gov/docs-filing/info-collections.asp.* The Web site is updated regularly. For the most up-to-date information, interested persons are urged to consult the Commission's Web site.

II. Information Collection Statement

3. OMB's regulations require that it approve certain information collection requirements imposed by agency rule.[3] This Final Rule does not contain new or revised information collection requirements and thus does not require OMB approval.

III. Environmental Analysis

4. The Commission is required to prepare an Environmental Assessment or Environmental Impact Statement for any action that may have a significant adverse effect on the quality of the human environment.[4] Part 380 of the Commission's regulations provides exemptions to the requirement to prepare an Environmental Assessment or Environmental Impact Statement. Included is an exemption for procedural, ministerial or internal administrative actions and management.[5] This Final Rule falls within that exemption; consequently, no environmental analysis is required.

IV. Regulatory Flexibility Act

5. The Regulatory Flexibility Act of 1980 (RFA)[6] generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. This Final Rule, which revises and updates regulations on the display of OMB control numbers, will not have a significant economic impact on a substantial number of small entities.

[1] 18 CFR 389.101 (2014).

[2] 44 U.S.C. 3501–3521 (1980).

[3] 5 CFR part 1320.

[4] *Regulations Implementing the National Environmental Policy Act,* Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. ¶ 30,783 (1987).

[5] 18 CFR 380.4(1).

[6] 5 U.S.C. 601–12.

Thus, an analysis under the RFA is not required.

V. Document Availability

6. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE., Room 2A, Washington DC 20426.

7. From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

8. User assistance is available for eLibrary and the Commission's Web site during normal business hours from FERC Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

VI. Effective Date

9. These regulations are effective March 11, 2015. Pursuant to 5 U.S.C. 553(d), this is not a substantive rule and thus may become effective less than 30 days from publication.

10. The Commission is issuing this rule as a Final Rule without a period for public comment. Under 5 U.S.C. 553(b), notice and comment procedures are unnecessary where a rulemaking concerns only agency procedure and practice, or where the agency finds that notice and comment are unnecessary. The Commission finds that notice and comment are unnecessary because the affected regulations are administrative in nature and will not substantially affect the rights of non-agency parties. Moreover, no new burden or regulatory requirement is imposed on regulated entities or the general public.

List of Subjects in 18 CFR Part 389

Reporting and recordkeeping requirements.

By the Commission.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

In consideration of the foregoing, the Commission amends part 389, Chapter I, Title 18, *Code of Federal Regulations,* as follows:

PART 389—OMB CONTROL NUMBERS FOR COMMISSION INFORMATION COLLECTION REQUIREMENTS

■ 1. The authority citation for part 389 continues to read as follows:

Authority: 44 U.S.C. 3501–3520.

■ 2. Section 389.101 is revised to read as follows:

§ 389.101 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

(a) *Purpose.* This part displays Office of Management and Budget (OMB) control numbers assigned to information collection requirements. This part aids in fulfilling the requirements of the Paperwork Reduction Act to display current OMB control numbers for these information collection requirements. The Commission also displays OMB control numbers on its Web site, *www.ferc.gov.* For the most current information, interested persons should consult the Commission's Web site under ''Documents and Filings'' and then ''Information Collections'' or directly at *http://www.ferc.gov/docs-filing/info-collections.asp.*

(b) *Display.*

18 CFR Part or section	OMB Control number
2.19	1902–0058, 1902–0115
2.20	1902–0170
2.55	1902–0128
2.400	1902–0075
4.31	1902–0073
4.32	1902–0073, 1902–0115
4.33	1902–0073
4.35	1902–0058, 1902–0115, 1902–0073, 1902–0145
4.36(a)	1902–0073, 1902–1045
4.36(b)	1902–0058, 1902–0115, 1902–0145
4.36(c)	1902–0058, 1902–0115, 1902–0073
4.40	1902–0058
4.41	1902–0058
4.50	1902–0058
4.51	1902–0058
4.61	1902–0115
4.71	1902–0115
4.81	1902–0073
4.81(b)(5)	1902–0145
4.82	1902–0073
4.84	1902–0073
4.92	1902–0115
4.95	1902–0115
4.96	1902–0115
4.102	1902–0115
4.104	1902–0115
4.107	1902–0115
4.108	1902–0115
4.201	1902–0058, 1902–0115
4.202	1902–0058, 1902–0115
4.301	1902–0058, 1902–0115
4.303	1902–0058, 1902–0115
5.2	1902–0058, 1902–0115
5.3(c)(1)	1902–0058, 1902–0115
5.3(c)(2)	1902–0058, 1902–0115
5.3(d)(1)	1902–0058, 1902–0115
5.4	1902–0058, 1902–0115
5.5	1902–0058, 1902–0115
5.6	1902–0058, 1902–0115
5.11	1902–0058, 1902–0115
5.13	1902–0058, 1902–0115
5.15(b)	1902–0058, 1902–0115
5.15(c)	1902–0058, 1902–0115
5.15(d)	1902–0058, 1902–0115
5.15(e)	1902–0058, 1902–0115
5.15(f)	1902–0058, 1902–0115
5.16	1902–0058, 1902–0115
5.17	1902–0058, 1902–0115
5.18	1902–0058, 1902–0115
5.18(d)	1902–0058, 1902–0115
5.20	1902–0058, 1902–0115
5.21	1902–0058, 1902–0115
5.23(b)	1902–0058, 1902–0115
5.27	1902–0058, 1902–0115
6.1	1902–0068
8.1	1902–0058, 1902–0115
8.2	1902–0058, 1902–0115
8.11	1902–0106
9	1902–0069
11.1(d)(4)	1902–0136
11.3(c)	1902–0136
11.4(d)	1902–0136
11.6(i)	1902–0136
11.16	1902–0087
16.4	1902–0058, 1902–0115
16.6	1902–0058, 1902–0115
16.7	1902–0058, 1902–0115
16.8	1902–0058, 1902–0115
16.9	1902–0058, 1902–0115
16.10	1902–0058, 1902–0115
16.11	1902–0058, 1902–0115
16.12	1902–0058, 1902–0115
16.14	1902–0058, 1902–0115
16.19	1902–0058, 1902–0115
16.20	1902–0058, 1902–0115
16.22	1902–0115
16.26	1902–0058, 1902–0115
20	1902–0043
24	1902–0079
25.1	1902–0145
33	1902–0082
34	1902–0043
35.1	1902–0096
35.2	1902–0096
35.3	1902–0096
35.5	1902–0096
35.7	1902–0096
35.8	1902–0096
35.9	1902–0096
35.10	1902–0096
35.10(a)	1902–0096
35.10(b)	1902–0255
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35.13	1902–0096
35.14	1902–0137
35.15	1902–0096
35.16	1902–0096
35.17	1902–0096
35.18	1902–0096
35.19	1902–0096
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35.28(f)	1902–0096, 1902–0203
35.28(c), (d), (e).	1902–0096, 1902–0233
35.28(g)	1902–0096
35.28(g)(4)	1902–0257
35.29	1902–0096
35.30	1902–0096
35.33	1902–0096
35.34(d)	1902–0096, 1902–0082
35.34(g)	1902–0096
35.35(h)	1902–0239
35.37	1902–0234
35.38	1902–0234
35.40	1902–0234
35.41(d)	1902–0250
35.42	1902–0234
35.47	1902–0096
36.1	1902–0170
37.5	1902–0173
37.6	1902–0233
37.7	1902–0233
37.8	1902–0173
38	1902–0173
38.2	1902–0265
39.3	1902–0225
39.5	1902–0225
39.6	1902–0225
39.7	1902–0225
39.8	1902–0225
39.10	1902–0225
39.11	1902–0225
39.12	1902–0225
39.13	1902–0225
40	1902–0225, 1092–0244, 1902–0248, 1902–0247, 1902–0246, 1902–0249, 1902–0252, 1902–0256, 1902–0258, 1902–0259, 1902–0260, 1902–0261, 1902–0263, 1902–0264, 1902–0269, 1902–0268, 1902–0270, 2902–0273, 1902–0275, 1902–0276
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45	1902–0083
46.3	1902–0114
46.4	1902–0099
46.5	1902–0099
46.6	1902–0099
50	1902–0238
125	1902–0098
131.20	1902–0069
131.31	1902–0099
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131.50	1902–0043
131.52	1902–0096
131.70	1902–0136
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141.51	1902–0140
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141.400	1902–0205
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153	1902–0062
154.4	1902–0155
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154.111	1902–0169
154.112	1902–0154
154.201	1902–0155
154.204–208	1902–0155
154.301–315	1902–0154
154.401–403	1902–0070
154.501–502	1902–0084
154.602–603	1902–0155
156.3–5	1902–0061
157.5–11	1902–0060
157.13–.20	1902–0060
157.53	1902–0060
157.201–.209	1902–0060
157.203(d)	1902–0128
157.211	1902–0060
157.214–218	1902–0060
225	1902–0098
250.6	1902–0061
250.16	1902–0157
260.1	1902–0028
260.2	1902–0030
260.8	1902–0005
260.9	1902–0004
260.300	1902–0205
260.400	1902–0267
260.401	1902–0242
281	1902–0154
284.8	1902–0060
284.11	1902–0060
284.12	1902–0174
284.12(b)(4)	1902–0265
284.13(c)	1902–0169
284.13(d)(1)	1902–0243
284.13(d)(2)	1902–0169
284.13(e)	1902–0060
284.14	1902–0243
284.102(e)	1902–0086
284.123	1902–0086
284.126(a)	1902–0060
284.126(b)	1902–0253
284.221	1902–0060
284.224	1902–0060
284.261–271	1902–0144
284.286	1902–0157
284.288(a)	1902–0242
284.288(b)	1902–0086
284.403(a)	1902–0242
284.403(b)	1902–0086
284.501–505	1902–0154, 1902–0155, 1902–0086
292.207	1902–0075
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292.602	1902–0231
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342	1902–0089
343	1902–0089, 1902–0180
344	1902–0089
346	1902–0089
347	1902–0089
348	1902–0089
356	1902–0098
357.2	1902–0022
357.3	1902–0019
357.4	1902–0206
357.5	1902–0267
366.2(d)	1902–0254
366.4	1902–0218
366.7(a)	1902–0166
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369.1	1902–0215
380	1902–0128
381.105	1902–0132
381.106	1902–0132
381.108	1902–0132
381.302	1902–0132
381.303	1902–0132
381.304	1902–0132
381.305	1902–0132
382	1902–0132
385.206	1902–0180
385.2013	1902–0241
385.2014	1902–0241
388.113	1902–0197

[FR Doc. 2015–05323 Filed 3–10–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9709]

RIN 1545–BK64

Application for Recognition as a 501(c)(29) Organization; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations; correction.

SUMMARY: This document contains corrections to final regulations (TD 9709) that were published in the **Federal Register** on January 29, 2015 (79 FR 4791). The final regulations authorize the IRS to prescribe the procedure by which certain entities may apply to the IRS for recognition of exemption from Federal income tax.

DATES: This correction is effective on March 11, 2015 and applicable beginning January 29, 2015.

FOR FURTHER INFORMATION CONTACT: Martin Schaffer at (202) 317–5800 (not a toll free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations (TD 9709) that are the subject of this correction is under section 501(c)(29) of the Internal Revenue Code.

Need for Correction

As published, the final regulations (TD 9709) contain errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the final regulations (TD 9709), that are the subject of FR Doc. 2015–01677, are corrected as follows:

1. On page 4792, third column, the tenth line of the second full paragraph,

the language ''thereunder generally requires all'' is corrected to read ''thereunder generally require all''.

2. On page 4793, first column, under the paragraph heading ''Drafting Information'' the third line, the language ''Office of Division Counsel/Associate'' is corrected to read ''Office of Associate''.

3. On page 4793, second column, the fourth line of the signature block, the language ''Approved: January 22, 2015.'' is corrected to read ''Approved: January 23, 2015.''.

Martin V. Franks,

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

[FR Doc. 2015–05518 Filed 3–10–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 53, and 602

[TD 9708]

RIN 1545–BK57; RIN 1545–BL30; RIN 1545–BL58

Additional Requirements for Charitable Hospitals; Community Health Needs Assessments for Charitable Hospitals; Requirements of a Section 4959 Excise Tax Return and Time for Filing the Return; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations; correction.

SUMMARY: This document contains corrections to final regulations (TD 9708) that were published in the **Federal Register** on December 31, 2014 (79 FR 78954). The final regulations provide guidance regarding the requirements for charitable hospital organizations added by the Patient Protection and Affordable Care Act of 2010.

DATES: This correction is effective on March 11, 2015 and applicable beginning December 31, 2014.

FOR FURTHER INFORMATION CONTACT: Amy F. Giuliano, Amber L. MacKenzie, or Stephanie N. Robbins at (202) 317–5800 (not a toll free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations (TD 9708) that are the subject of this correction is under section 501(r)(3) of the Internal Revenue Code.

Need for Correction

As published, the final regulations (TD 9708) contains errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the final regulations (TD 9708), that are the subject of FR Doc. 2014–30525, are corrected as follows:

1. On page 78961, first column, the eleventh line of the first full paragraph, the language ''only very serious failures, taking into'' is corrected to read ''only a very serious failure, taking into''.

2. On page 78975, third column, the last line of the column, the language ''members of the hospital's community'' is corrected to read ''members of the hospital facility's community''.

3. On page 78979, third column, the eighth line from the bottom the first full paragraph, the language ''co-payments, co-insurance, or'' is corrected to read ''co-payments, co-insurance, and''.

4. On page 78980, the third column, the seventh line from the top of the page, the language ''form of co-payments, co-insurance, or'' is corrected to read ''co-payments, co-insurance, and''.

5. On page 78981, the second column, the twenty-third line from the top of the page, the language ''payments, co-insurance, or deductibles),'' is corrected to read ''payments, co-insurance, and deductibles),''.

6. On page 78982, the first column, the thirteenth line from the top of the page, the language ''obtain such percentages, a hospital'' is corrected to read ''obtain such percentage(s), a hospital''.

7. On page 78983, the first column, the thirteenth line from the top of the page, the language ''required under section 501(r)(6)).'' is corrected to read ''required by the regulations under section 501(r)(6)).''.

8. On page 78983, the first column, the twelfth line from the bottom of the first full paragraph, the language ''facility must refund any amounts the'' is corrected to read ''facility must refund any amount the''.

9. On page 78997, the first column, the heading ''Adoption of Amendment to the Regulation'' is corrected to read ''Adoption of Amendments to the Regulation''.

Martin V. Franks,

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

[FR Doc. 2015–05520 Filed 3–10–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 53

[TD 9708]

RIN 1545–BK57; RIN 1545–BL30; RIN 1545–BL58

Additional Requirements for Charitable Hospitals; Community Health Needs Assessments for Charitable Hospitals; Requirements of a Section 4959 Excise Tax Return and Time for Filing the Return; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains corrections to final regulations (TD 9708) that were published in the **Federal Register** on December 31, 2014 (79 FR 78954). The final regulations provide guidance regarding the requirements for charitable hospital organizations added by the Patient Protection and Affordable Care Act of 2010.

DATES: This correction is effective on March 11, 2015 and applicable beginning December 31, 2014.

FOR FURTHER INFORMATION CONTACT: Amy F. Giuliano, Amber L. MacKenzie, or Stephanie N. Robbins at (202) 317–5800 (not a toll free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations (TD 9708) that are the subject of this correction is under section 501(r)(3) of the Internal Revenue Code.

Need for Correction

As published, the final regulations (TD 9708) contains errors that may prove to be misleading and are in need of clarification.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 53

Excise taxes, Foundations, Investments, Lobbying, Reporting and recordkeeping requirements.

Correction of Publication

Accordingly, 26 CFR parts 1 and 53 are corrected by making the following correcting amendments:

PART 1—INCOME TAXES

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

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

■ **Par. 2.** Section 1.501(r)–0 is amended by revising the heading for the table of contents entry § 1.501(r)–7 to read as follows:

§ 1.501(r)–0 Outlines of regulations.

* * * * *

§ 1.501(r)–7 Effective/applicability date.

* * * * *

■ **Par. 3.** Section 1.501(r)–1 is amended by revising the first sentence of paragraph (b)(23) and revising paragraph (b)(29)(ii)(B) to read as follows:

§ 1.501(r)–1 Definitions.

* * * * *

(b) * * *

(23) *Partnership agreement* means, for purposes of paragraph (b)(22)(ii)(B) of this section, all written agreements among the partners, or between one or more partners and the partnership, and concerning affairs of the partnership and responsibilities of the partners, whether or not embodied in a document referred to by the partners as the partnership agreement. * * *

* * * * *

(29) * * *

(ii) * * *

(B) Without paying a fee to the hospitality facility, hospital organization, or other entity maintaining the Web site; and

* * * * *

■ **Par. 4.** Section 1.501(r)–2 is amended by revising the second sentence of paragraph (c) to read as follows:

§ 1.501(r)–2 Failures to satisfy section 501(r).

* * * * *

(c) * * * For purposes of this paragraph (c), a ''willful'' failure includes a failure due to gross negligence, reckless disregard, or willful neglect, and an ''egregious'' failure includes only a very serious failure, taking into account the severity of the impact and the number of affected persons. * * *

* * * * *

■ **Par. 5.** Section 1.501(r)–3 is amended by revising the introductory text of paragraph (c)(2) to read as follows:

§ 1.501(r)–3 Community health needs assessments.

* * * * *

(c) * * *

(2) *Description of how the hospital facility plans to address a significant health need.* A hospital facility's implementation strategy will have described a plan to address a significant health need identified through a CHNA for purposes of paragraph (c)(1)(i) of this section if the implementation strategy—

* * * * *

■ **Par. 6.** Section 1.501(r)–6 is amended by:

■ 1. Revising paragraph (c)(4)(i)(A).

■ 2. Revising the first sentence of paragraph (c)(4)(iii)(A).

■ 3. Revising the second of paragraph (c)(4)(iv), *Example 2.*

■ 4. Revising paragraph (c)(6)(i)(C)(*1*).

The revisions read as follows:

§ 1.501(r)–6 Billing and collection.

* * * * *

(c) * * *

(4) * * *

(i) * * *

(A) Provides the individual with a written notice that indicates financial assistance is available for eligible individuals, that identifies the ECA(s) that the hospitality facility (or other authorized party) intends to initiate to obtain payment for the care, and that states a deadline after which such ECA(s) may be initiated that is no earlier than 30 days after the date that the written notice is provided.

* * * * *

(iii) * * *

(A) Otherwise meets the requirements of paragraph (c)(4)(i) of this section but, instead of the notice described in paragraph (c)(4)(i)(A) of this section, provides the individual with a FAP application form and a written notice indicating that financial assistance is available for eligible individuals and stating the deadline, if any, after which the hospital facility will no longer accept and process a FAP application submitted (or, if applicable, completed) by the individual for the previously provided care at issue. * * *

* * * * *

(iv) * * *

Example 2. * * * Y also makes numerous attempts to encourage G to apply for financial assistance, including by calling G to inform her about the financial assistance available to eligible patients under Y's FAP and to offer assistance with the FAP application process. * * *

* * * * *

(6) * * *

(i) * * *

(C) * * *

(*1*) If the individual is determined to be eligible for assistance other than free care, provides the individual with a billing statement that indicates the amount the individual owes for the care as a FAP-eligible individual and how that amount was determined and that states, or describes how the individual can get information regarding, the AGB for the care.

* * * * *

PART 53—FOUNDATION AND SIMILAR EXCISE TAXES

■ **Par. 8.** The authority citation for part 53 continues to read in part as follows:

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

■ **Par. 9.** In § 53.4959–1(c), the paragraph heading is revised to read as follows:

§ 53.4959–1 Taxes on failures by hospital organizations to meet section 501(r)(3).

* * * * *

(c) *Effective/applicability date.* * * *

* * * * *

Martin V. Franks,

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

[FR Doc. 2015–05519 Filed 3–10–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 191, 192, and 195

[Docket No. PHMSA–2010–0026; Amdt. Nos. 191–23; 192–120; 195–100]

RIN 2137–AE59

Pipeline Safety: Miscellaneous Changes to Pipeline Safety Regulations

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: PHMSA is amending the pipeline safety regulations to make miscellaneous changes that update and clarify certain regulatory requirements. These amendments address several subject matter areas including the performance of post-construction inspections, leak surveys of Type B onshore gas gathering lines, qualifying plastic pipe joiners, regulation of ethanol, transportation of pipe, filing of offshore pipeline condition reports, and calculation of pressure reductions for hazardous liquid pipeline anomalies.

The changes are addressed on an individual basis and, where appropriate, made applicable to the safety standards

for both gas and hazardous liquid pipelines. Editorial changes are also included.

DATES: The effective date of these amendments is October 1, 2015. Immediate compliance with these amendments is authorized. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of March 6, 2015.

FOR FURTHER INFORMATION CONTACT: Kay McIver, Transportation Specialist, by telephone at 202–366–0113, or by electronic mail at *kay.mciver@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

A. Notice of Proposed Rulemaking

On November 29, 2011, PHMSA published a Notice of Proposed Rulemaking (NPRM) under the docket, PHMSA–2010–0026, (76 FR 73570), notifying the public of the proposed changes to 49 CFR parts 191, 192, and 195. We allowed an initial 90-day comment period, but based on requests from several pipeline trade associations, the comment period was extended from February 3, 2012, to March 6, 2012, (77 FR 5472). Most of the amendments proposed in the NPRM were intended to provide relief to industry by eliminating, revising, clarifying, or relaxing regulatory requirements.

B. Advisory Committee Meetings

On July 11 and 12, 2012, the Technical Pipeline Safety Standards Committee (commonly referred to as the Gas Pipeline Advisory Committee (GPAC)) and the Technical Hazardous Liquid Pipeline Safety Standards Committee (commonly referred to as the Liquid Pipeline Advisory Committee (LPAC)), met jointly at the Marriott Hotel at Metro Center in Washington, DC. The Pipeline Advisory Committees (PACs) are statutorily mandated advisory committees that advise PHMSA on proposed safety standards, risk assessments and safety policies for natural gas pipelines and hazardous liquid pipelines. The PACs were established under the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App. 1–16) and the Federal Pipeline Safety Statutes (49 U.S.C. Chap. 601). Each committee consists of 15 members, with membership divided among the Federal and state agencies, the regulated industry and the public. The PACs advise PHMSA on the technical feasibility, practicability and cost-effectiveness of each proposed pipeline safety standard. During the meeting, the PACs considered the NPRM and discussed the various comments and edits proposed by the pipeline industry and the public regarding changes to the regulations.

The PACs recommended PHMSA adopt the following proposals with minor or no changes to the regulatory text:

- Leak Surveys for Type B Gathering Lines;
- Qualifying Plastic Pipe Joiners;
- Regulating the Transportation of Ethanol by Pipeline;
- Transportation of Pipe;
- Threading Copper Pipe;
- Offshore Pipeline Condition Reports;
- Alternative Maximum Allowable Operating Pressure (MAOP) Notifications;
- National Pipeline Mapping System;
- Welders vs. Welding Operators;
- Components Fabricated by Welding; and
- Editorial Amendments.

The PACs recommended PHMSA adopt the following proposals with changes to the regulatory text:

- Responsibility to Conduct Construction Inspections;
- Mill Hydrostatic Tests for Pipe to Operate at Alternative MAOP;
- Calculating Pressure Reductions for Hazardous Liquid Pipeline Integrity Anomalies; and
- Testing Components other than Pipe Installed in Low-Pressure Gas Pipelines.

The PACs recommended that PHMSA not adopt the proposed changes to:

- Limitation of Indirect Costs in State Grants; and
- Odorization of gas.

This Final Rule adopts the recommendations of the PACs. Additional discussion of the amendments and associated comments of the PACs are provided below:

II. Proposals Addressed in This Final Rule

1. Responsibility to Conduct Construction Inspections.
2. Leak Surveys for Type B Gathering Lines.
3. Qualifying Plastic Pipe Joiners.
4. Mill Hydrostatic Tests for Pipe to Operate at Alternative MAOP.
5. Regulating the Transportation of Ethanol by Pipeline.
6. Limitation of Indirect Costs in State Grants.
7. Transportation of Pipe.
8. Threading Copper Pipe.
9. Offshore Pipeline Condition Reports.
10. Calculating Pressure Reductions for Hazardous Liquid Pipeline Integrity Anomalies.
11. Testing Components other than Pipe Installed in Low-Pressure Gas Pipelines.
12. Alternative MAOP Notifications.
13. National Pipeline Mapping System.
14. Welders vs. Welding Operators.
15. Components Fabricated by Welding.
16. Odorization of Gas.
17. Editorial Amendments.

III. Commenters to the Rule.

PHMSA received a total of 42 comments on the NPRM, to include:

- 15 from pipeline trade associations.
- 17 from pipeline operators.
- 3 from pipeline manufacturers.
- 3 from states and municipalities.
- 1 from a Federal source (the National Transportation Safety Board (NTSB)).
- 3 from private organizations/citizens.

IV. Discussion of Public Comments on Individual Issues

In this section, PHMSA discusses the changes proposed in the NPRM and the comments received in response to the NPRM. Based on an assessment of the proposed changes and the comments received, PHMSA identifies the proposals that are adopted in this Final Rule.

(1) Responsibility to Conduct Construction Inspections §§ 192.305 and 195.204.

Proposal: PHMSA proposed to revise § 192.305 to specify that a transmission pipeline or main cannot be inspected by someone who participated in its construction. This proposal was based, in part, on a petition (Docket No. PHMSA–2010–0026) from the National Association of Pipeline Safety Representatives (NAPSR),[1] that suggested that contractors who install a transmission line or main should be prohibited from inspecting their own work for compliance purposes. This petition was also based on the experiences of NAPSR members concerned with the poor quality of construction by unsupervised contractors.

PHMSA agreed with NAPSR but recognized that the same concerns should apply to non-contractor pipeline personnel and to hazardous liquid lines. Accordingly, PHMSA proposed to revise §§ 192.305 and 195.204 to specify that a transmission pipeline main, or pipeline

[1] NAPSR is a non-profit organization of state pipeline safety personnel who serve to promote pipeline safety in the United States and its territories. Its membership includes the staff manager responsible for regulating pipeline safety from each state that is certified to do so or conducts inspections under an agreement with DOT in lieu of certification.

system, cannot be inspected by someone who participated in its construction.

Comments: This topic was the most controversial of all the proposed items. Comments included the following concerns and recommendations:

- The proposed rule will result in significant cost impact to operators;
- The proposal is overly burdensome economically and has the potential to compromise site safety due to additional personnel, congestion, inattention, carelessness and unnecessary overhead expenses;
- The proposed amendment is clearly a significant regulatory action and is inappropriately included in a non-significant rulemaking and should be considered in a separate rulemaking;
- The proposed language does not differentiate between an operator's employee and a contractor's employee;
- PHMSA should clarify the meaning of ''person participating in the construction'' of a pipeline;
- Inspection and new construction should be an Operator Qualification (OQ) task;
- Prohibiting any ''person'' involved in the construction of a pipeline could be interpreted to prohibit any other municipal employee from performing inspection; and
- PHMSA should re-define ''a person who participated'' in the construction of the pipeline.

NAPSR commented that their resolution was intended to preclude operators from allowing contractor personnel to self-inspect their own work and was based on its members' experience with poor quality of construction by unsupervised contractors.

Members of the Association of Oil Pipelines (AOPL) said they do not agree with the statement that ''the proposed rule does not impose any compliance, recordkeeping or other reporting requirement.'' AOPL said the proposed change to § 192.305 will result in significant cost to the operators. In addition, AOPL asserted that the proposal is overly burdensome economically and has the potential to compromise site safety due to additional personnel, congestion, inattention, carelessness and unnecessary overhead expense.

The American Gas Association (AGA) noted that PHMSA has failed to provide an analysis to support the significant expansion of the construction inspection revision to all entities and personnel encompassed in the § 192.3 definition of ''person.'' Another commenter noted that PHMSA did not provide a basis for its conclusion on construction inspection and PHMSA's proposed rule does not address the same concerns as NAPSR. The Interstate Natural Gas Association of America (INGAA) noted that instead of adopting the proposed amendment, which increases regulatory confusion and adds to the issues already surrounding construction, PHMSA should convene a public hearing or workshop to develop the fundamental regulatory changes needed to align PHMSA's policy objectives with common pipeline configurations.

Response: Consistent with the petition from NAPSR, PHMSA proposed to revise §§ 192.305 and 195.204 to prohibit individuals involved in the construction of a transmission line, main or pipeline system from inspecting his or her own work. These inspections are important because transmission pipelines and mains are generally buried after construction. Subsequent examinations often involve a difficult excavation process. PHMSA believes that allowing individuals to inspect their own work defeats, in part, the measure of safety garnered from such inspections. PHMSA was not intending to require third party inspections or attempting to prohibit any person from a company to inspect the work of another person from the same company.

The PACs did not agree with the proposed language. There was considerable discussion on the use of alternative language proposed by INGAA and the original language from the NAPSR petition.

Following the discussion, the PACs agreed on the revised language for gas and hazardous liquid pipelines. After reviewing the PACs' recommendations and evaluating public comments, PHMSA has adopted language that more clearly identifies the types of individuals who should be excluded from the required inspections, (*i.e.,* the individual who performed the construction task that requires inspection).

In regard to the comments that dealt with costs and the significance of the rule, PHMSA believes that the commenters overstated the impact of the proposal.

(2) Leak Surveys for Type B Gathering Lines § 192.9.

Proposal: In the NPRM, PHMSA proposed that operators of Type B gathering lines must perform leak surveys in accordance with § 192.706 and fix any leaks discovered.

Operators of Type B gathering lines currently must ensure that any new or substantially changed Type B line complies with the design, installation, construction, and initial testing and inspection requirements for transmission lines and, if of metallic construction, comply with the corrosion control requirements for transmission lines. Operators must also include Type B gathering lines in their damage prevention and public education programs, establish the MAOP of those lines under § 192.619, and comply with the requirements for maintaining and installing line markers that apply to transmission lines.

Comments: The Texas Pipeline Association (TPA) suggested that if PHMSA decided to move forward with the proposal to survey Type B lines, then several topics would need to be addressed to assure the reasonableness of the proposed regulation. TPA suggested that:

- PHMSA share any supporting information provided by NAPSR to show that leaks are the primary hazard for Type B gathering pipelines;
- Section 21 of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 requires the Secretary of Transportation to review the existing Federal and state regulations for gathering pipelines to determine their sufficiency to ensure the safety of such lines. As such, PHMSA should not move forward with additional regulatory requirements for Type B gathering lines since Congress has mandated a review of the sufficiency of existing regulations;
- The docket contains no supporting evidence to show that the proposed amendment is based on facts and not speculation;
- Excavation damage may pose a greater risk than leaks in Type B gathering lines;
- PHMSA should develop estimates of the cost of compliance for affected operators;
- The economic impact may exceed the threshold for a non-significant regulatory action; and
- If PHMSA implements the change, it must provide at least one year adequate time for affected operators to purchase leak detection equipment, establish leak survey routes, develop recordkeeping systems for these surveys and hire additional personnel following adoption of the new leak survey equipment.

The Iowa Utilities Board (IUB) commented that the proposed amendment appears responsive to NAPSR Resolution 2006–3, which called for the reinstatement of leak surveys that were not included when requirements for Type B gathering lines were adopted in Amendment 192–102. The IUB further noted that the proposed amendment includes a second part that

was not in the NAPSR resolution. The language of the second part reads: ''and fix hazardous leaks that are discovered in accordance with § 192.703(c).'' ''Fix'' is hardly usual regulatory language and has no specified definition or usage history in Part 192. The IUB and MichCon DTE Energy suggested that PHMSA use alternate language that removes a nonstandard term and an unnecessarily complicated rule reference by simply saying ''and promptly repair hazardous leaks that are discovered.''

The Northeast Gas Association suggested that PHMSA revise its proposal to require operators of Type B regulated gathering lines to apply leak survey methods in accordance with § 192.723 which provides the leak survey requirements for low-stress pipelines with a MAOP of less than 20 percent specified minimum yield strength (SMYS).

Response: As for the comment that PHMSA should wait until its congressionally mandated review of existing regulations for gas and hazardous liquid gathering lines is complete, the study required by Section 21 of the Pipeline Safety, Regulatory Certainty, and Job Creation Act requires PHMSA to study and report to Congress on:

(A) The sufficiency of existing Federal and state laws and regulations to ensure the safety of gas and hazardous liquid gathering lines;

(B) The economic impacts, technical practicability and challenges of applying existing Federal regulations to gathering lines that are not currently subject to Federal regulation when compared to the public safety benefits; and

(C) Subject to a risk-based assessment, the need to modify or revoke existing exemptions from Federal regulation for gas and hazardous liquid gathering lines.

The need to include leakage surveys as a compliance activity was identified between the publications of the Supplemental Notice of Proposed Rule Making (SNPRM) titled: ''Pipeline Safety: Gas Gathering Line Definition: Alternative Definition for Onshore Lines and Proposed Safety Standards,'' published October 3, 2005; 70 FR 57536 [Docket No. RSPA–1998–4868; Notice 5], and the Final Rule of the same title published March 15, 2006; 71 FR 13289 [Docket No. PHMSA–1998–4868]. The inclusion of leakage surveys as a compliance action was not included in the Final Rule because it was beyond the scope of the SNPRM and the agency did not want to further delay the rulemaking. During its annual meeting in September 2006, NAPSR also passed a resolution [NAPSR Resolution 2006–3] requesting the regulatory change to Type B lines.

As for the comment that Type B leaks due to excavation damage may pose a greater risk, the annual Type B report data for calendar year 2011 indicated that there were 289 leaks eliminated or repaired by operators of onshore Type B gathering lines, with the leading cause of leaks being external. Excavation damage is and has been recognized as a high risk for Type B gathering lines. This point was elaborated on in the Gas Gathering Line Definition in the SNPRM (October 3, 2005; 70 FR 57536) and Final Rule (March 15, 2006; 71 FR 13289), and served as the basis for the compliance activities for Type B lines (damage prevention programs, placement of line markers, and public awareness programs). This amendment will add one more recognized risk control activity required on Type B gathering lines.

Regarding the comment that PHMSA should estimate the costs of compliance, PHMSA performed a cost analysis by averaging the daily rate of two leak survey service providers. The average cost of surveying two miles of pipeline per day equaled $600. The estimated that approximately 3,650 miles of Type B gathering lines will be required to be inspected annually at an average cost of $300 per mile for an upper bound annual cost of approximately $1.1 million.

However, leak surveys, while not currently required for Type B gathering lines, are a widespread industry practice because they serve a business purpose in helping to detect leaks, thereby reducing lost gas and liability exposure. Although operators do not submit data on the extent of these surveys, PHMSA believes that approximately half of all Type B gathering line mileage that would otherwise be affected by this proposal is already being inspected. This is based on the fact that this is a widespread industry practice and until 2006, this was an existing regulatory requirement. Therefore, a more realistic estimate of the actual incremental cost is approximately 50% of the upper bound of $1.1 million, or $0.55 million per year.

The Northeast Gas Association, in a comment on PHMSA's published NPRM, noted there were operational similarities between Type B gathering lines and gas distribution lines that operate at similar, lower pressures, and requested PHMSA apply leak survey standards to Type B gathering lines that were more in line with leak survey standards for distribution lines, rather than leak survey standards for transmission lines.

Title 49 CFR 192.706 requires transmission line leak surveys at intervals not exceeding 15 months, but at least once each calendar year, and more frequently in densely populated areas. NAPSR believes that Type B gathering lines should be subject to the same requirements, as Type B gathering lines can carry gas that is corrosive, and gas leaks are a significant hazard on those low-stress pipelines. Therefore, requiring leak surveys on Type B gathering lines is an appropriate and necessary risk-management measure.

NAPSR also noted in their comments that some Type B gathering lines are located under broad paved areas, where electrical surveys that detect pipe damage may be difficult to perform, and leaking gas can migrate under the pavement and accumulate in surrounding structures. NAPSR recommends that leak detection surveys should be required to ensure the safety of these lines.

As it stands, distribution lines in business districts must be surveyed each calendar year, with the remainder of distribution lines subject to leak survey at frequencies driven by local conditions but at an interval that does not exceed 5 years. Distribution lines, per the regulations, are required to be odorized which provides members of the public with a warning system for the period between surveys. The gas in gathering lines is un-odorized, so the public does not have any advance warning of line leaks outside of those leak surveys. Leak surveys would serve as the warning bell.

Regarding the concerns raised by commenters about the cost of this proposal, under the current regulations, Type B gathering lines are treated the same as transmission lines for design, installation, construction, and initial testing and inspection. If the line in question is composed of metal, the line must also comply with the same corrosion control requirements as transmission lines. Similar to transmission lines, Type B gathering lines must be included in damage prevention and public education programs, have established MAOPs under § 192.619, and comply with the requirements for installing and maintaining line markers.

Because Type B gathering lines are regulated with many of the same requirements as transmission lines, it would follow that Type B gathering lines and transmission lines have a similar risk profile. Therefore, because transmission lines are subject to annual leak surveys, Type B gathering lines

should be subject to the same requirement for safety reasons.

While leak surveys are not currently required for Type B gathering lines, they are a widespread industry practice that help operators detect leaks early and avoid loss of lives, gas and liability exposure. When this voluntary practice becomes a regulation it will provide a standard and consistent level of safety to the American public and ensure the integrity of these lines.

Taking this into consideration, as well as the GPAC's recommendation and the evaluation of public comments, PHMSA has adopted § 192.9(d)(7) as proposed with the minor modification of substituting the word ''fix'' with ''repair.''

(3) Qualifying Plastic Pipe Joiners § 192.285(c)

Proposal: Section 192.285 contains requirements for qualifying persons to make joints in plastic pipe. Under § 192.285(c), ''[a] person must be re-qualified under an applicable procedure, if during any 12-month period that person: (1) Does not make any joints under that procedure; or (2) has three joints or three percent of the joints made, whichever is greater under that procedure that are found unacceptable by testing under § 192.513.'' In its petition to amend the regulations (2008–03–AC–1), NAPSR noted that the current rule, with its 12-month time period, requires detailed records of each individual joiner's activities and sets the stage for requalification date ''creep,'' where a joiner must requalify at an earlier date every year. NAPSR commented that the existing regulatory language sets a very low standard for joiner requalification and noted that the large number of operators requesting similar waivers demonstrates that a requalification system like the one proposed in its resolution is acceptable and preferred by pipeline operators.

In the NPRM, based on the NAPSR petition, PHMSA proposed to revise § 192.285 to provide greater scheduling flexibility and require requalification of a joiner if any production joint is found unacceptable.

Comments: Center Point Energy (CPE) noted that it is overly excessive to disqualify and retrain a joiner if one joint is found unacceptable during a 12-month period CPE suggested that PHMSA leave § 192.285(c)(2) as written and that quality assurance/quality checks of potentially unacceptable joints be accomplished through § 192.513 testing. CPE also queried whether PHMSA has data from a study to show that an individual who makes one unacceptable joint will make more. City Utilities of Springfield, Missouri, suggested that we amend the language to clarify that requalification is necessary only if the joint failure is due to operator error.

Nicor Gas (Nicor), while supporting the proposal to add a three-month grace period in the requalification interval, does not support the proposed revision that would require requalification of the joiner if one joint is found unacceptable by the required pressure testing. Nicor commented that the proposal is unnecessarily restrictive and not validated or supported by documentation from NAPSR. Nicor noted that there are field conditions and/or circumstances beyond the joiner's control (rain, snow, blowing dirt, trench cave-ins, equipment malfunctions and material flaws) that would affect the joining process without reflecting a lack of skill or proper training. All these incidents may lead to an unacceptable joint.

TPA also disagrees with the proposal to impose a zero-failure tolerance standard for plastic pipe joiners and commented that perfection in the performance of any task in any industry 100 percent of the time is rarely, if ever, achieved. TPA commented on the contrast of the regulations in plastic joining versus welding of steel pipelines and noted that the existing regulations for welders do not impose a zero-tolerance standard, even though most steel pipelines operate at higher pressures than plastic pipelines, and would pose a higher safety risk to the public. The zero tolerance proposal for plastic pipe joiners also fails to consider that all plastic pipe is required to be pressure tested before going into service and that this testing provides an additional layer of safety assurance that plastic pipe joints are safe before pipeline operation begins.

AGA suggested that PHMSA analyze data on fusion failures, present the information to the public and then determine how best to address the issue. AGA further commented that the amendment to prohibit the entire crew from further fusion after one joint failure until requalification occurs seems unnecessarily severe, is unsupported by statistical evidence and has the potential to create unexpected adverse consequences.

Response: PHMSA reviewed the comments received on the topic including those that raised concerns of, and requested clarification on, the changes surrounding requalification if one joint is found unacceptable. PHMSA understands some of the concerns may have been related to the language used in the preamble and additional clarification may be needed regarding PHMSA's intent. PHMSA does not believe the proposed requirements are as onerous as some of the commenters indicated, nor would there necessarily be a zero tolerance policy in effect as a result of the proposed changes. PHMSA agrees there could be a number of factors including some beyond the joiners control such as weather, equipment malfunctions and material flaws, which could result in an unacceptable joint. However, PHMSA expects some evaluation would be done following any unacceptable joint, and in some cases evaluation may be necessary on a case-by-case basis. If an unacceptable joint is a result of a factor(s) clearly beyond the joiner's control, PHMSA does not expect those conditions to affect the requalification of the joiner. Likewise, if an individual fusing a joint realizes that it is a bad joint, cuts it out, and fuses another (acceptable) joint immediately following, PHMSA does not expect that the joiner would have to requalify. On the other hand, if an unacceptable joint is related to issues that are within the joiner's control, that joiner would need to be re-qualified. While PHMSA has presented some general expectations, ultimate determination of the adequacy of an acceptable joint, whether or not the joiner would need to be requalify, and what may constitute an adequate qualifying joining test would be up to which ever entity inspects the joint. In most cases, particularly for intrastate systems, it would be up to the individual state.

In response to the comments regarding the burden of this provision, PHMSA notes that the changes may help reduce some of the current burden associated with the paperwork, tracking and record-keeping requirements that were associated with ''three joints or three percent of the joints made, whichever is greater'' in the current regulatory language. Regarding the comments inquiring about data or other studies surrounding joints, PHMSA is not aware of any studies showing that an individual who makes one unacceptable joint will make more. On the other hand, PHMSA is not aware of any data or studies that can guarantee that an individual who makes one unacceptable joint won't make another unacceptable joint. The potential safety issues surrounding an unacceptable joint those are not addressed through proper evaluation and requalification seem to outweigh any benefit with continuing the qualification requirements as they currently exist in

the regulations. Many of these and other aspects were discussed with the GPAC, the transcripts of which are available in the docket.

Following some discussion, the GPAC unanimously supported PHMSA's proposal that was based on the NAPSR petition. The PACs, industry and the public indicated that the original language in the regulations required numerous letters of interpretation and caused problems in the application of the regulations. The proposed language is also in keeping with some state waivers granted by PHMSA. Accordingly, the Final Rule revises § 192.285 to provide greater scheduling flexibility and require requalification of a joiner if any production joint is found unacceptable.

(4) Mill Hydrostatic Tests for Pipe To Operate at Alternative Maximum Allowable Operation Pressure § 192.112

Proposal: Section 192.112 applies to pipe that will operate at the higher stresses allowed under the alternative MAOP permitted under § 192.620 and specifies additional design requirements. In the NPRM, PHMSA proposed to revise § 192.112(e) by eliminating the allowance for combining loading stresses imposed by pipe mill hydrostatic testing equipment for the mill test. Eliminating the allowance to combine equipment loading stresses will have the effect of increasing the internal test pressure for mill hydrostatic tests for new pipe to be operated at an alternative MAOP. This design requirement, combined with pipe mill dimensional checks for expansion, will help assure that all new pipes to be operated at an alternative MAOP receive an adequate mill test and have adequate strength.

Comments: Evraz, a steel and pipe manufacturer, noted that eliminating the allowance for combining loading stresses imposed by pipe mill hydrostatic testing equipment could put mills that use testing processes that apply high end loadings at a competitive disadvantage to mills that do not. The amount of end loading applied depends on the testing process and equipment used. Mills that apply higher end loadings will produce combined stresses in excess of 100 percent SMYS if required to achieve 95 percent of SMYS based on gauge pressure alone. Evraz noted that the more effective way of addressing the potential of low strength line pipe would be to fully institute the changes in the 3rd addendum of the 44th edition of the American Petroleum Institute's (API), API Specification 5L, ''Specification for Line Pipe,'' (API Spec 5L). TransCanada Corporation suggested that PHMSA consult with pipe manufacturers regarding the potential impacts of consideration of end loading in the calculations of mill hydrostatic tests before adopting changes to the procedure. TransCanada maintained that the increased safety factor was already added in the 2008 Final Rule titled: ''Pipeline Safety: Standards for Increasing the Maximum Allowable Operating Pressure for Gas Transmission Pipelines'' (73 FR 62148).

Response: Pipe mill hydrostatic testing is a factory proof test used to ensure that new pipe has no structural or manufacturing flaws and adequate strength. Section 192.112 applies to pipe that will operate at the higher stresses allowed under the alternative MAOP rule. The mill test pressure of a minimum of 95 percent SMYS is being required to ensure that lower strength pipe is not used for alternative MAOP pipelines. The alternative MAOP rule allows pipelines to operate at stresses of up to 80 percent of SMYS, where other pipelines can only operate up to 72 percent SMYS. Pipelines that do not operate in accordance with the alternative MAOP must be mill tested as defined in the appropriate pipe manufacturing standard and the current edition of API Spec 5L incorporated by reference in § 192.7 (b)(7). The 45th edition of API Spec 5L was incorporated by reference on January 5, 2015 (80 FR 168). API Spec 5L offers a lower requirement than that of a mill test of 95 percent SMYS in § 192.112(e)(1) for non-*alternative* MAOP pipelines.

During the 2008 through 2010 construction seasons, PHMSA identified a number of cases where new pipe did not meet regulatory specified strength requirements. Pipe that is 15 percent below the mandated SMYS was found on several new pipeline construction projects. On May 21, 2009, PHMSA issued an advisory bulletin (ADB–09–01) Docket No. PHMSA–2009–0148—''Pipeline Safety: Potential Low and Variable Yield and Tensile Strength and Chemical Composition Properties in High Strength Line Pipe''), alerting pipeline operators of issues found with low strength pipe. Eliminating the mill test allowance to combine equipment loading stresses will have the effect of increasing the internal test pressure for mill hydrostatic tests for new pipe to be operated at an alternative MAOP. When combined with pipe mill dimensional checks for expansion, that change will help assure that all new pipes for this service receive an adequate mill test and have adequate strength. This mill hydrostatic test criteria change will help to eliminate low strength pipe in alternative MAOP pipelines.

During 2009 to 2010, INGAA conducted two studies/white papers titled, ''Guidelines for Evaluation and Mitigation of Expanded Pipes'' dated June 9, 2010, and ''Identification of Pipe with Low and Variable Mechanical Properties in High Strength, Low Alloy Steels'' dated September, 2009 (Docket No. PHMSA–2010–0026). The INGAA studies confirm that if the mill hydrostatic pressure test produced a stress of 95 percent or more of SMYS, and diameter dimensions were taken at intervals along the length of each joint in addition to the required end dimension measurements, expansion of the pipe beyond the set tolerances in the pipe specification did not occur. If unacceptable expansion has occurred, those pipe joints can be identified and eliminated.

Since steel and pipe production are worldwide manufacturing processes, it is very difficult to determine that a standard quality assurance process has been fully implemented. Mill hydrostatic tests are the final quality assurance process in the pipe manufacturing chain. They are conducted by the pipe manufacturer and have the full quality assurance review of the pipe manufacturer and pipe purchaser/pipeline operator. This new requirement is based upon an INGAA sponsored industry review of pipe making practices. If pipe is not tested to a higher pressure in the mill then the low strength pipe will create operational concerns in the field. The adoption of this amendment should expose low strength pipe in operation. Thus, PHMSA has adopted § 192.112(e) as proposed.

(5) Regulating the Transportation of Ethanol by Pipeline § 195.2

Proposal: In the NPRM, PHMSA proposed to modify its definition of ''hazardous liquid'' to include ethanol. This action was based in part on a policy statement published in the **Federal Register** on August 10, 2007; 72 FR 45002 (Docket Number: PHMSA–2007–28136) on the transportation of ethanol, ethanol blends, and other biofuels by pipeline. PHMSA noted in the policy statement that the demand for biofuels was projected to increase as a result of several Federal energy policy initiatives, which would result in greater use of pipelines for transporting biofuels. PHMSA also stated that ethanol and other biofuels are substances that ''may pose an unreasonable risk to life or property'' within the meaning of 49 U.S.C. 60101(a)(4)(B), and accordingly, these

materials constitute ''hazardous liquids for purposes of the pipeline safety laws and regulations.'' PHMSA went on to say that the agency was considering a possible modification to § 195.2 to include ethanol and biofuels in the definition of hazardous liquid. PHMSA invited comments on that proposal and on other issues related to the transportation of biofuels by pipeline.

Comments: Thomas Lael Services, L.P., suggested that the term ''ethanol'' and ''bio-diesel petroleum'' should be added to the definition of ''hazardous liquid.'' AOPL added that rather than having another Federal agency or a number of state agencies attempt to regulate the safety of pipeline transportation of ethanol, that denatured ethanol be defined as a ''hazardous liquid'' under § 195.2, so that ethanol transported via pipeline is regulated consistently with other energy liquids by PHMSA under 49 CFR part 195.

Response: After evaluating the comments on the proposal, PHMSA has adopted the amendment to add the term ''ethanol'' to the definition of ''hazardous liquids'' in § 195.2. In this Final Rule PHMSA will not adopt the commenter's suggestion that we add ''bio-diesel petroleum'' to the definition because this request is outside of the scope of this rulemaking. However, PHMSA may address this issue in a future rulemaking.

(6) Limitation of Indirect Costs in State Grants § 198.13

Proposal: PHMSA reimburses the states for a portion of the costs accrued in administering their pipeline safety programs and Congress appropriates the funds used to make these reimbursements on a regular basis. The Pipeline Inspection, Protection, Enforcement and Safety Act of 2006 (PIPES Act) removed a provision that imposed a 20 percent cap on indirect expenses allocated to the pipeline safety program grants. In the NPRM, PHMSA proposed to incorporate the 20 percent limitation on indirect expenses into the regulations governing grants to state pipeline safety programs.

Comments: PHMSA received several comments opposed to this proposal. IUB and NAPSR objected to the proposal to limit the indirect cost rate that can be recovered through a state's pipeline safety grant to 20 percent. They both stated that the limit is arbitrary and capricious and may prevent the recovery of legitimate costs of state participation in the Federal/state pipeline safety program. IUB said the 20 percent limit is not mandated by law or by any referenced Federal grant guide material or requirement. IUB also noted that there was no clear rationale as to why PHMSA should impose a requirement by rule that Congress found unnecessary and removed from law when the PIPES Act was passed in 2006. IUB and NAPSR noted that different states have different methods of allocating costs within their budget and no basis was presented for punishing states that distribute a larger portion of their costs as indirect costs. NAPSR is concerned that states could artificially inflate indirect costs to receive a larger grant payment.

PACs' members pointed out that the way in which states do their budgeting and accounting varies and some states do have indirect costs that exceed the 20 percent limit. However, because of the 20 percent required cost share, states do not present their costs that are above that threshold. Some state representatives noted that their indirect cost submissions are required to be approved first at the Federal level and are highly scrutinized to ensure no padding is done. In addition to that, to ensure compliance, PHMSA performs frequent audits of the state programs.

Response: PHMSA has decided not to adopt the proposal into regulation. However, PHMSA will maintain the 20 percent indirect cost cap through language in our payment agreements with states. As part of its state program, PHMSA has payment agreements with each state. These agreements are binding and cap indirect costs at 20 percent.

(7) Transportation of Pipe § 192.65

Proposal: Section 192.65 states that if pipe is to be transported by railroad, it will be operated at a hoop stress of 20 percent or more of SMYS, and has a diameter-to-wall-thickness ratio of 70 to one or more; the pipe must be transported in accordance with API RP 5L1. An exception is provided for certain pipe transported before November 12, 1970. That exception allows operators to use pipe stockpiled prior to the effective date of the original pipeline safety regulations, the transportation of which cannot be verified under API standards.

Based on an NTSB investigation and recommendation resulting from an Enbridge pipeline incident that took place on July 4, 2002, near Cohasset, Minnesota, PHMSA proposed to revise the regulation to require that the rail transportation of all pipe be subject to the referenced API standards.

Comments: We received several comments, including one from the NTSB in support of the proposal. The Committee on Pipe and Tube Imports (CPTI) Ad Hoc Large Diameter Line Pipe Producers Group agreed that the proposal would not have an adverse impact on operations or the ability to manufacture products. El Paso Pipeline Group (EPPG) commented that if PHMSA promulgates this amendment, it should specify that the use restriction does not apply to any pipe already installed, or to any pipe transported after § 192.65 initially took effect. EPPG commented that the proposed wording may result in misinterpretation and unintended consequences, such as assuming that ''use'' applies to pipe currently installed rather than to pipe in stock, and that shipping records must be provided for all pipe exceeding the specified diameter-to-wall thickness ratio. EPPG proposed this rewording of the regulatory language:

> (a) Railroad. In a pipeline to be operated at a hoop stress of 20 percent or more of SMYS, an operator may not install pipe shipped by rail prior to November 12, 1970, unless the operator can show that the transportation was performed in a manner that meets the requirements of API RP 5L1.

NAPSR agrees that any remaining stock of such pipe is likely to be minimal.

Response: Surveys conducted by INGAA failed to find any vintage pipe covered by § 192.65(a)(2). Therefore, PHMSA has no reason to continue the exemption and is removing this exemption from the regulation and adopting the amendment with one minor change. PHMSA is replacing the phrase ''operator may not use pipe'' with the phrase ''operator may not install pipe'' to clearly indicate that this amendment does not apply to pipe already installed.

(8) Threading Copper Pipe: § 192.279

Proposal: Section 192.279 specifies when copper pipe may be threaded and refers to Table C1 of American Society of Mechanical Engineers (ASME) Standard ASME/ANSI B16.5. In a letter dated June 11, 2009, the Gas Piping Technology Committee (GPTC) advised PHMSA that Table C1 was deleted in the most recent version of the ASME/ANSI B16.5, which is incorporated into Part 192 by reference. The GPTC stated that the information in Table C1 was taken from a different standard and that ASME/ANSI B36.10M, ''Standard for Welded and Seamless Wrought Steel Pipe,'' should be substituted as a more appropriate reference. PHMSA proposed to use ''threaded copper pipe if the wall thickness is equivalent to the comparable size of Schedule 40 or heavier wall pipe as listed in Table 1 of ASME B36.10M, Standard for Welded and Seamless Wrought Steel Pipe.''

Comments: We received no public or PAC comments on this proposal.

Response: PHMSA is unable to incorporate ASME/ANSI B36.10M, ''Standard for Welded and Seamless Wrought Steel Pipe'' due to the standards availability requirement described in Section 24 of the ''Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011'' (Pub. L. 112–90, January 3, 2012). Section 24 added a new public availability requirement for documents incorporated by reference after January 3, 2013. The law stated that beginning 1 year after the date of enactment of this subsection, the Secretary may not issue guidance or a regulation pursuant to this chapter that incorporates by reference any documents or portions thereof unless the documents or portions thereof are made available to the public, free of charge, on an Internet Web site.

This section was further amended on August 9, 2013. The current law continues to prohibit the Secretary from issuing a regulation that incorporates by reference any document unless that document is available to the public, free of charge, but removes the Internet Web site requirements (Pub. L. 113–30, August 9, 2013). PHMSA will address this proposal in a future rulemaking action.

(9) Offshore Pipeline Condition Reports §§ 191.27 and 195.57

Proposal: In the NPRM, PHMSA proposed to remove §§ 191.27 and 195.57. Sections 191.27 and 195.57 require operators to submit a report to PHMSA within 60 days of completing the underwater inspections of pipelines in the Gulf of Mexico required by §§ 192.612(a), and 195.413(a).

Sections 192.612(a) and 195.413(a) no longer require operators to perform an underwater inspection of all pipelines in the Gulf and its inlets. (*See also* Pub. L. 102–508 (Oct. 24, 1992) (modifying the statutory mandate for underwater inspection, reporting and reburial of pipelines in the Gulf and its inlets). Rather, those regulations call for periodic, risk-based inspections of shallow-water pipelines. The filing of a written report within 60 days of completing all of those inspections is not consistent with such an action. Additionally, sections 192.612(c) and 195.413(c) require operators to file their electronic/telephonic reports with the National Response Center within 24 hours of discovering that a pipeline in those areas is exposed or a hazard to navigation, which is sufficient to meet PHMSA's current information collection needs.

Comments: PHMSA received no public comments on this proposal.

Response: PHMSA has adopted the proposal to repeal §§ 191.27 and 195.57.

(10) Calculating Pressure Reductions for Hazardous Liquid Pipeline Integrity Anomalies § 195.452(h)(4)(i)

Proposal: Section 195.452(h)(4)(i) specifies the actions that an operator of a hazardous liquid pipeline must take after discovering an immediate repair condition. One of those actions is a temporary reduction in operating pressure as determined under the formula provided in section 451.6.2.2 (b) of ASME/ANSI B31.4, ''Pipeline Transportation Systems for Liquid Hydrocarbons and Other Liquids.'' The particular focus of that pressure reduction formula is corrosion. However, corrosion is only one of the threats that could cause an immediate repair condition under § 195.452(h)(4)(i).

In a July 17, 2007, Final Rule (72 FR 39017), PHMSA sought to modify § 195.452(h)(4)(i) to provide for alternative methods of calculating a pressure reduction for immediate repair conditions caused by threats other than corrosion. The Office of the Federal Register was unable to incorporate that change due to inaccurate amendatory instructions. In the NPRM, PHMSA again proposed to revise § 195.452(h)(4)(i) to make the same change as published in the July 17, 2007, Final Rule, with corrected amendatory instructions.

Comments: In response to our proposal, the TransCanada Corporation commented that it acknowledges the limitations of the current language in § 195.452(h)(4)(i) and believes a revision to the language in this section is appropriate. However, since § 195.452(h)(4)(i)(B) provides for the calculation of the remaining strength using methods that include, ''but are not limited to,'' ASME/ANSI B31G, ''Manual for Determining the Remaining Strength of Corroded Pipelines,'' (ASME/ANSI B31G) or AGA Pipeline Research Committee, Project PR–3–805, ''A Modified Criterion for Evaluating the Remaining Strength of Corroded Pipe,'' (PR–3–805 (RSTRING)), they do not believe a reference to the design requirements of § 195.106 is necessary. TransCanada commented that the ability to use alternative methods for calculating a pressure reduction would be incorporated with only a reference to § 195.452(h)(4)(i)(B). They suggested the following language in lieu of what PHMSA has proposed:

§ 195.452(h)(4)(i): ''Immediate repair conditions. An operator's evaluation and remediation schedule must provide for immediate repair conditions. To maintain safety an operator must provide for immediate repair conditions. To maintain safety an operator must temporarily reduce the operating pressure or shut down the pipeline until the operator completes the repair of these conditions. An operator must calculate the temporary reduction in operating pressure using the criteria in paragraph (h)(4)(i)(B) of this section. If no suitable remaining strength calculation method can be identified, a minimum 20 percent or greater operating pressure reduction must be implemented until the anomaly is repaired. An operator must treat the following conditions as immediate repair conditions.''

The AOPL commented that the proposed language requiring the calculation of pressure reductions for detected anomalies should be modified to appropriately reference suitable calculation methods.

API noted that § 195.452(h)(4)(i)(B) already allows the use of PR–3–805 (RSTRENG), modified PR–3–805 (RSTRENG), or a suitable alternative remaining strength calculation method to be used, and therefore already fully covers the calculation of a temporary reduction in operating pressure. The API suggests that the following sentence in the proposed section is redundant: ''If the formula is not applicable to the type of anomaly or would produce a higher operating pressure, an operator must use an alternative acceptable method to calculate a reduced operating pressure.''

The LPAC suggested the following language:

§ 195.452(h)(4)(i): ''Immediate repair conditions. An operator's evaluation and remediation schedule must provide for immediate repair conditions. To maintain safety, an operator must temporarily reduce the operating pressure or shut down the pipeline until the operator completes the repair of these conditions. An operator must calculate the temporary reduction in operating pressure using the formulas referenced in paragraph (h)(4)(i)(B) of this section. If no suitable remaining strength calculation method can be identified, a minimum 20 percent or greater operating pressure reduction, based on actual operating pressure for two months prior to the date of inspection, must be implemented until the anomaly is repaired. An operator must treat the following conditions as immediate repair conditions: [. . .]''

Response: PHMSA believes both commenters were trying to make similar changes. In the Final Rule, PHMSA is adopting LPAC's suggested language as it best clarifies that an operator must calculate remaining strength or reduce operating pressure until a repair can be completed.

(11) Testing Components Other Than Pipe Installed in Low-Pressure Gas Pipelines §§ 192.503 and 192.505

Proposal: In the NPRM, PHMSA proposed to amend §§ 192.503 and 192.505 to exempt certain components from the strength test requirement in Subpart J of Part 192. This proposal was based on a petition from the GPTC in a letter dated March 25, 2010. The GPTC argued that the primary purpose of a post-installation strength test is to prove the integrity of the entire pipeline system. The GPTC further noted that the most important parts to check of a single-component replacement are the joints that connect the component to the pipeline, and that these joints are currently exempted from testing for all gas pipelines by paragraph (d) of § 192.503.

Comments: PHMSA received many comments in support of this proposal. We also received some comments asking that we expand the list and sources of standards that can be used to establish pressure ratings. One commenter asked that we review all referenced standards and provide exemptions for all standards that establish pressure ratings.

Response: PHMSA is adopting the amendment as proposed. The request to expand the list and sources of standards that can be used to establish pressure ratings is out of the scope of this rulemaking, as is the request to review all referenced standards. Therefore, those requests have not been adopted but may be considered in future rulemaking actions.

(12) Alternative MAOP Notifications § 192.620(c)(1)

Proposal: Section 192.620(c)(1) currently requires a pipeline operator to notify each PHMSA pipeline safety regional office where the pipeline is in service of its election to use an alternative MAOP pressure with respect to a segment at least 180 days before operating at the alternative pressure. An operator must also notify a state pipeline safety authority when the pipeline is located in a state where PHMSA has an interstate agent agreement or where an intrastate pipeline is regulated by that state.

PHMSA proposed to require that for new pipelines, an operator would notify the PHMSA pipeline safety regional office of planned alternative MAOP design and operations 180 days prior to start of pipe manufacturing or construction activities. An operator would also notify state pipeline safety authorities when the pipeline is located in a state where PHMSA has an interstate agent agreement or where an intrastate pipeline is regulated by that state.

PHMSA also proposed to revise § 192.620(c)(8) to correct a typographical error related to the reference to § 192.611(a).

The proposal to require 180 day notice for new pipelines was to allow sufficient time for PHMSA to conduct any needed material manufacturing and construction inspections, including checks of new pipe rolling and coating processes, visit the new pipeline field sites during construction, analyze operating history of existing pipelines, and review test records, plans, and procedures.

Comments: INGAA suggested that the proposal should apply only prospectively, that the regulation should include an alternative notice period measured from the placement of the pipe purchasing order to the start of pipe manufacturing and that the language needs clarification with regard to new pipe. In its comments to the NPRM, INGAA noted that for new pipeline projects the application and permitting process can extend over months or years before approval to construct is granted. Once this approval is obtained, pipe orders are placed and production dates are established. The interval from the time the pipe is ordered until the start of production is sometimes less than 180 days making it impractical to provide the required notice as the proposed rule is currently worded. To address this INGAA recommends that the wording be changed to 180 days or 10 business days before the operator places a purchasing order for the pipe or the pipe starts being manufactured.

Panhandle Energy (Panhandle) recommended that the wording addressing new pipelines be changed to: ''For new pipelines, notify the PHMSA pipeline safety regional office 180 days prior to the start of pipe manufacturing and/or construction activities, if practicable, but no more than 10 business days after the operator places an order for the pipe or executes the pipeline construction contract.''

TPA commented that if the operator wishes to utilize the existing pipe stock that satisfies the MAOP regulation requirement, the 180 day notice to the manufacturer would be impossible, and that the language should be revised to remove ''and/or'' to provide clear, unambiguous standards.

Response: PHMSA evaluated the comments and believes the proposed 180 days notification is too restrictive. Notification to PHMSA of new alternative MAOP pipeline project activities at least 60 days prior to start of pipe manufacturing or construction activities should not delay operator project activities. PHMSA needs this time to schedule personnel for safety inspections at both the pipe and coating mills and at the construction site prior to the start of pipe construction activities. PHMSA will require a 60 day notice by the operator prior to the start of pipe manufacturing or construction activities of new alternative MAOP pipelines.

(13) National Pipeline Mapping System §§ 191.29, 195.61

Proposal: The National Pipeline Mapping System (NPMS) is a geospatial dataset that contains information about PHMSA-regulated gas transmission pipelines, hazardous liquid pipelines, and hazardous liquid low-stress gathering lines. The NPMS also contains data layers for all liquefied natural gas plants and a partial dataset of PHMSA-regulated breakout tanks.

In the NPRM, PHMSA proposed to codify the statutory requirement for the submission of the NPMS data into Parts 191 and 195. An NPMS submission consists of geospatial data, attribute data and metadata, public contact information, and a transmittal letter.

PHMSA also proposed to require operators to follow the submission guidelines and dates set forth in the July 31, 2008, advisory bulletin (73 FR 44800: Pipeline Safety; National Pipeline Mapping System). Gas transmission operators and liquefied natural gas (LNG) plant operators would make their NPMS submissions on or before March 15, representing their assets as of December 31 of the previous year. Hazardous liquid operators would make their NPMS submissions on or before June 15, representing their assets as of December 31 of the previous year.

Comments: Oleska commented that, though they agree that the requirements should be added to Part 191, requiring operators to report to both NPMS and PHMSA is unduly burdensome and is not necessary. The TPA asked that PHMSA revise the language to clarify that this proposal only covers hazardous liquid trunklines and regulated rural hazardous liquid gathering pipelines as defined in the NPMS Operator Standards. TPA and Oleska noted that the operator ID for each operator is the same as it is for PHMSA, and that PHMSA should have the ability to get whatever information it needs directly from the NPMS without operators having to submit two sets of data. TPA and Oleska suggested that it would be better for PHMSA to get its data from the NPMS, because two sets of data increase the chance of discrepancies,

especially if changes are made between annual submissions.

Response: In response to TPA's and Oleksa's concern about submitting the data twice, operators will continue to make only one NPMS submission following the guidelines in the NPMS Operator Standards Manual on the NPMS Web site (*www.npms.phmsa.dot.gov*). This Final Rule imposes no additional submission requirements. In response to the concern about the NPMS's and PHMSA's capability to process all the gas, LNG plant operator and liquid operator submissions received on or before March 15 and June 15, respectively, PHMSA encourages operators to make their submissions early beginning on January 1 of each year. In the Final Rule, PHMSA is adopting the amendment to the NPMS as proposed.

(14) Welders vs. Welding Operators §§ 192.225, 192.227, 192.229, 195.214, 195.222

Proposal: The welding provisions in Subpart E of Part 192 and Subpart D of Part 195 allow qualification of welders in accordance with API Standard 1104, ''Welding of the ASME Pipelines and Related Facilities,'' (API Std 1104), section 6 or ASME Boiler and Pressure Vessel Code., section IX: ''Qualification Standard for Welding and Brazing Procedures, Welders, Brazers, and Welding and Brazing Operators,'' (ASME BPVC, section IX). In the NPRM, PHMSA proposed to add references to additional qualification standards in API Std 1104, such as sections 12 and 13 for welders and welding operators of mechanized and automated welding equipment. The addition of these qualification references was intended to follow current industry practice. These standards have specific processes to ensure that qualified personnel are used for welding processes whether they are performed by welders or welding operators.

Comments: EPPG commented that the proposed language appears to not allow for the qualification of a welding operator whose welds are regularly being assessed per the criteria in API Std 1104, Appendix A, which is regarded as being equivalent to section 9. EPPG suggested a revision of the proposed language of § 192.227(a) to read: ''under section 6, ~~or~~ section 9 or Appendix A, as applicable of API Std 1104 (incorporated by reference, *see* § 192.7).'' [Proposed deletion indicated by strikeout; proposed addition in bold].

INGAA recommended that while PHMSA is amending the welding regulations, PHMSA should take the opportunity to formally incorporate by reference Appendix B to API Std 1104 for in-service (also known as ''live line'') welding. Oleska suggested that the language of the proposed revision would be clearer if we changed ''pipe and components'' to read ''pipe or components.''

Panhandle commented that the proposed language for § 192.229(c)(1) contains an oversight related to this equivalence. The section says, in part:

A welder or welding operator qualified under § 192.227(a)—

(1) May not weld on pipe to be operated at a pressure that produces a hoop stress of 20 percent or more of SMYS unless within the preceding six calendar months the welder or welding operator has had one weld tested and found acceptable under section 6 or section 9 of API Std 1104 (incorporated by reference, *see* § 192.7).

According to Panhandle, sections 6 and 9 of API Std 1104 relate to workmanship criteria only. The proposed language would appear to exclude qualification of a welding operator whose welds are regularly being assessed per the criteria in API Std 1104, Appendix A which is regarded as being equivalent to ASME BPVC, section IX. It is reasonable to allow qualification for a welding operator whose work has been acceptable under the Appendix A criteria. Panhandle therefore suggested that PHMSA modify the proposed language in the notice to read:

A welder or welding operator qualified under § 192.227(a) may not weld on pipe to be operated at a pressure that produces a hoop stress of 20 percent or more of SMYS unless within the preceding 6 calendar months the welder or welding operator has had one weld tested and found acceptable under section 6, section 9 or Appendix A of API Std 1104, as applicable (incorporated by reference, *see* § 192.7).

Response: The Final Rule allows welds to be evaluated to API Std 1104, section 9 or Appendix A, and eliminates the requirement that the weld be first evaluated to section 9, before using Appendix A. Evaluating the welds first according to section 9 incurs unnecessary time and cost without any benefit.

PHMSA re-evaluated its proposal to add additional references to qualification standards in API Std 1104. PHMSA finds that adding API Std 1104, section 13 (''Automatic Welding Without Filler Metal Additions'') is inconsistent with pipeline safety. API Std 1104, section 13 is not used on regulated pipelines and would be a major change in girth welding standards. Also, for practical purposes, there are no commercially used pipeline welding systems in the United States to which API Std 1104, section 13 can be applied. Not adopting API Std 1104, section 13, will prevent an operator from using a potentially less safe welding system without a PHMSA special permit review.

INGAA suggested that PHMSA use the Final Rule as an opportunity to formally incorporate by reference Appendix B to API Std 1104 for in-service (''live line'') welding. Parts 192 and 195 currently require that all welding procedures be qualified to API Std 1104, section 5 or ASME BPVC, section IX, and that all welders be qualified to API Std 1104, section 6 or ASME BPVC, section IX. API Std 1104, Appendix B is only applicable to in-service welds on live or ''hot'' pipelines, with pressurized product in the pipe. The qualification requirements of Appendix B are optimized for in-service welds, and differ greatly from API Std 1104, sections 5 and 6 and ASME BPVC, section IX. Thus, adding API Std 1104, Appendix B to the Final Rule is a significant change that is outside the scope of this rule. We will consider this change for a future regulatory action.

Based upon further review by PHMSA of Part 192, Appendix C, PHMSA decided that adding welding operators for Appendix C qualification in § 192.227(b) would be inappropriate for the following reasons:

(1) Qualification of welding operators can be, and is more appropriately performed to API Std 1104, section 12, instead of Appendix C;

(2) Appendix C is primarily used for lower pressure, smaller diameter distribution lines, which are welded by welders, not welding operators; and

(3) The language in Appendix C was written for qualification of welders, and may not be appropriate for qualification of welding operators.

We agree with the comments that API 1104, Appendix A should be included as a qualification reference. When we proposed to add the relevant references to welding qualification standards to be consistent with industry practice, we intended to include the Appendix A reference, a widely accepted standard. Appendix A is now cited in the final regulations applicable to welding and welding operators.

(15) Components Fabricated by Welding § 192.153

Proposal: Pressure vessels can be found in meter stations, compressor stations and other pipeline facilities to facilitate the removal of liquids and other materials from the gas stream. These vessels are designed, fabricated

and tested in accordance with the requirements of ASME Boiler & Pressure Vessel Code, section VIII Rules for Construction of Pressure Vessels,'' as required by § 192.153 and § 192.165(b)(3), and the additional test requirements of § 192.505(b).

In the NPRM, PHMSA proposed that because the standard ASME pressure vessel test in ASME BPVC, section VIII, division 1 is 1.3 times MAOP, an operator must specify the correct test pressure when placing an order for an ASME vessel to ensure it is designed and tested to the requirements of 49 CFR part 192. Unless a vessel is specially ordered with a test pressure of 1.5 times MAOP as prescribed by the purchaser, the vessel will be tested in accordance with the standard test factor of 1.3. If the vessel is not tested to 1.5 times the MAOP, it cannot be used in a compressor or meter station, or other Class 3 or Class 4 locations. The failure to meet this requirement can potentially lead to exceeding the design parameters of the vessel during subsequent testing of the pipeline system.

The pressure test requirements in ASME BPVC, section VIII were lowered from a test factor of 1.5 to 1.3 by an earlier edition. PHMSA proposed to add § 192.153 to clearly specify the design and test requirements for pressure vessels in meter stations, compressor stations, and other locations that are tested to Class 3 requirements. Under the proposal, all ASME pressure vessels subject to § 192.153 and § 192.165(b)(3) would be designed and tested at a pressure that is 1.5 times the MAOP, in lieu of the standard ASME BPVC, section VIII test pressure of 1.3 times the MAOP. Additionally, PHMSA proposed to revise § 192.165(b)(3) reference to this requirement.

Comments: Kern River, INGAA and Northern Natural Gas maintained that this proposal is not a simple clarification but a change from the previous understanding and practice of both PHMSA and the operators. If the proposed regulation is applied retroactively, this change will place many facilities constructed after the change in the pressure test requirements in ASME BPVC, section VIII, as well as many facilities uprated under special permits, in violation of ASME BPVC, sections I and II. INGAA noted that these sections of Part 192 and the ASME BPVC revision history make it clear that the proposed rule will require a number of operators to make substantial and costly changes. Northern Natural Gas commented that retesting and replacing of these in-service components would be unnecessary, very expensive, and take several years to complete.

INGAA noted that station piping often includes fabricated sections that are assembled at the construction site. Many of these sections, such as compressor bottles, coolers and inlet scrubbers and separators are tested and certified by their manufacturers. Requiring a second test at the construction site as proposed would depart sharply from common practice, add costs that are not justified by a safety benefit and potentially invalidate the manufacturers' compliance certificates.

Kern River further commented that station piping is commonly tested in several segments and it is not common practice to include and retest ASME code vessels since they are certified by the manufacturers and retesting would require dewatering. INGAA advised PHMSA to adopt an alternate clarification that these components do not require testing beyond the ASME code. If PHMSA adopts the current recommendation, it should clarify that the amendment applies to components placed into service after the amendment's effective date.

Response: PHMSA has incorporated by reference ASME BPVC for pressure vessels. The revised ASME BPVC, section VII, division 1 has changed pressure testing standards from 1.5 times MAOP to 1.3 times MAOP. This proposal is not a change to the current pressure testing requirements found in Part 192, but simply a clarification to ensure a clearer understanding of PHMSA's pressure testing requirements for certain ASME BPVC vessels located in compressor stations, meter stations and other Class 3 or Class 4 locations. The pressure testing requirements for pipelines in the PSR (which by definition includes pressure vessels, meter stations, compressor stations and other facilities used to transport gas as defined in Part 192 and ASME/ANSI B31.8) in Class 3 and 4 areas, as well as those facilities located in Class 1 and Class 2 which are explicitly required by § 192.505(b), requires a pressure test equal to a minimum of 1.5 times the MAOP. The testing requirements of § 192.505(b) have not been revised and state that in a Class 1 or Class 2 location, each compressor station regulator station, and measuring station, must be tested to at least Class 3 location test requirements. This clarification of code requirements are to ensure that Industry does not incorrectly use the newer ASME BPVC standard for pressure testing even though that was never the requirement. This clarification will not lead to additional cost measures, and therefore, PHMSA is adopting this amendment as proposed.

(16) Odorization of Gas Transmission Lateral Lines § 192.625

Proposal: Section 192.625 contains requirements for operators to odorize combustible gas in a transmission line in Class 3 or Class 4 locations ''so that at a concentration in air of one-fifth of the lower explosive limit, the gas is readily detectable by a person with a normal sense of smell.'' Certain exceptions are recognized by regulation, including for a lateral line, ''which transports gas to a distribution center, [if] at least 50 percent of the length of that line is in a Class 1 or Class 2 location.'' This section does not specify a clear method for calculating the length of a lateral line, and that has led to inconsistencies in applying the odorization requirement. In the NPRM, PHMSA proposed to amend § 192.625(b)(3) to state that the length of a lateral line, for purposes of calculating whether at least 50 percent of the line is in a Class 1 or Class 2 location, be measured between the distribution center and the first upstream connection to the transmission line.

Comments: Texas Oil and Gas Association commented, and API supported this comment, that PHMSA's attempt to better define which natural gas transmission lateral pipelines are subject to the odorization requirement may create the unintended consequence of adversely impacting industrial facility (refinery) operations and product quality in addition to increasing emissions. TransCanada Corporation noted that the proposed amendment's apparent distinction between lateral and transmission lines appears to lack logic, as it allows parts of a line originally considered to be a ''lateral'' line to change classification due to introduction of a branch. TransCanada further noted that the industry is not aware of, nor has PHMSA presented in the preamble, statistical evidence that this understanding of lateral has caused safety issues resulting from operators applying this definition to exempt certain lines from odorization with commensurate safety benefits. TransCanada submits that the definition of ''lateral'' most commonly used by the industry more than adequately serves the interest of public safety. It also noted that ''laterals are not distinct classification of lines; rather, 'laterals' are described according to their function (*e.g.,* transmission, distribution or gathering).''

INGAA had similar comments and suggested that PHMSA convene a public hearing or workshop to develop the fundamental regulatory changes needed to align its policy objectives with

common pipeline configurations. The natural gas industry considers lateral lines to be any lines that branch off other lines. Section 192.625 does not specify a clear method to calculate the length of a lateral line, and that has led to inconsistency in applying the odorization requirement. Even with the proposed language, there is confusion on the calculation. There is no evidence, of record or otherwise, suggesting that the industry's understanding of ''lateral'' has caused any safety issues.

The American Chemical Council (ACC) commented that the use of gas odorants at certain facilities could affect some chemical manufacturing processes and the quality of some chemicals. While there are well-established safety benefits of odorants in natural gas transmission that are fully consistent with the ACC member company interests in enhanced natural gas production and use, the ACC is concerned that the potential requirement to odorize lateral lines that carry natural gas may affect some industrial facilities. Further, the proposal could force chemical manufacturers to remove the odorant before processing, leading to a substantial potential increase in the effective cost of natural gas and in the cost of production.

TPA commented that this change could also result in odorization equipment, including odorant storage tanks, being located in close proximity to populated areas, increasing the likelihood of false reports and odor complaints from nearby residents. According to TPA, some products manufactured with natural gas can be tainted by sulfur based odorant making the product worthless.

Response: This controversial topic was discussed at length at the advisory committee meeting. GPAC members found it difficult to agree on how to calculate the 50 percent length of a lateral line between the distribution center and the first upstream connection to the transmission line. Committee members were also concerned with the costs and benefits of this proposal. GPAC voted unanimously for PHMSA not to adopt this proposal. Although PHMSA believes that proper odorization is important, this proposal requires further analysis. Therefore, PHMSA will re-evaluate the proposal and may consider the revision in a future rulemaking action.

(17) Editorial Amendments

A: Editorial Amendments Proposed in the NPRM

In the NPRM, PHMSA proposed several editorial amendments to the regulations.

(1) In § 195.571, we proposed to revise the reference to NACE SP0169 to specify compliance with one or more of the applicable criteria contained in paragraphs 6.2.2, 6.2.3, 6.2.4, 6.2.5 and 6.3.

(2) In § 195.2, we proposed to amend the definition of ''Alarm'' to correct an error in the codification of the new control room management regulations (74 FR 63310).

(3) In §§ 192.925(b) and (b)(2), we proposed to replace ''indirect examination'' with ''indirect inspection'' to maintain consistency with § 192.925(a) and the applicable NACE standard.

(4) In § 195.428(c), we proposed to replace ''sections 5.1.2'' with ''section 7.1.2'' to correctly reference the overfill protection requirements for aboveground breakout tanks in the API Std 2510.

(5) In section 192.3 we proposed to add the definition of ''Welder'' and ''Welding Operator.

(6) In § 195.2, we proposed to revise the definitions of ''alarm'' and ''hazardous liquid.''

None of these editorial amendments received any comment and, as such, we are adopting them all as proposed.

B. Editorial Amendments Not Proposed in the NPRM

Several administrative regulatory changes summarized in the following paragraphs are included in this Final Rule.

Hazardous Liquid Construction Notifications 195.64 (c)(1)(i)

PHMSA discovered an error in the hazardous liquid regulations covering operator notifications of planned construction, and gave notice of its intention to correct the regulatory language (*see* March 21, 2012; 77 FR 16472, Advisory Bulletin ADB–2012–04). Section 195.64(c)(1)(iii) requires notification for construction of a new pipeline facility but does not specify a minimum dollar threshold for the construction project. Section 195.64(c)(1)(i) also requires notification for construction of a new pipeline facility, but only for those projects with a cost of ten million dollars ($10,000,000) or more. PHMSA does not wish to be notified about hazardous liquid pipeline facility construction with a cost of less than ten million dollars, so § 195.64(c)(1)(iii) is being deleted.

Reporting and Notification Methods

The NPRM proposed to remove the requirement to file offshore pipeline condition reports currently found in §§ 191.27 and 195.57. This Final Rule completes the removal and changes §§ 191.7 and 195.58 by removing the reference to offshore pipeline condition reports.

Sections 191.25 and 195.56 include the method for submitting safety-related condition reports. Since the receipt and processing of these reports is extremely time sensitive, the regulations currently require submittal by facsimile and do not provide an option for electronically mailing the report to PHMSA. These amendments are non-substantive and allow operators easier reporting methods. In this Final Rule, these regulations are revised to allow submittal of reports by electronic mail.

The remaining changes apply to the submittal methods for integrity management and operator qualification program notifications. Under changes made in this Final Rule, these notifications may now be submitted by either electronic mail or regular mail. For integrity management, changes are made in §§ 192.949 and 195.452. For operator qualification programs, changes are made in §§ 192.805 and 195.505.

Regulatory Analyses and Notices

Executive Order 12866, Executive Order 13563, and DOT Regulatory Policies and Procedures

This Final Rule is a non-significant regulatory action under section 3(f) of Executive Order 12866 (58 FR 51735) and, therefore, was not reviewed by the Office of Management and Budget. This Final Rule is not significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034).

Executive Orders 12866 and 13563 require agencies to regulate in the ''most cost-effective manner,'' to make a ''reasoned determination that the benefits of the intended regulation justify its costs,'' and to develop regulations that ''impose the least burden on society.'' PHMSA amended miscellaneous provisions to clarify and eliminate unduly burdensome requirements. PHMSA also responded to requests from industry and state pipeline safety representatives to revise its regulations. PHMSA anticipates that a majority of the amendments contained in this Final Rule will have economic benefits to the regulated community by

increasing the clarity of its regulations and reducing compliance costs.

For example, the changes related to NPMS and ethanol are simply a regulatory codification of current requirements. The elimination of the exception in § 192.65 related to the transportation of pipe should have minimal impact because the amount of pipe that would be eligible for the exception is very small. The elimination of the offshore pipeline condition report will eliminate a reporting requirement that is no longer necessary.

Several provisions of the Final Rule are specifically designed to eliminate confusion and potentially lower costs for regulated entities. For example, the final addition of § 192.153(e) is designed to prevent regulated entities from purchasing pressure vessels that do not comply with § 192.505(b), but that do comply with ASME BPVC, section VII, as required by § 192.165(b)(3). The changes with respect to qualifying plastic pipe joiners will prevent re-qualification date ''creep'' and provide operators greater re-qualification flexibility and overall cost savings.

Annual Compliance costs associated with this rulemaking are estimated to be $0.55 million, all of which are associated with requirement of leak Surveys for Type B gathering lines. PHMSA estimates approximately 3,650 miles of Type B gathering lines will be required to be inspected annually. PHMSA estimates that the average cost of inspection is $300 per mile, bringing the upper bound limit of the total annual expenditure to approximately $1.1 million. A more realistic estimate of the actual incremental cost is approximately 50% of the upper bound of $.55 million.

By performing leak surveys annually, operators are more likely to detect leaks early, thereby avoiding costlier future repairs and reducing the amount of gas lost. There are also practical, operational benefits to conducting leak surveys, in the form of greater knowledge of the state of the pipeline, including potential third-party encroachments, soil erosion, or intrusion by vegetation.

The lead cause of these leaks is external corrosion. Leak surveys are particularly important for low pressure gas gathering lines because these lines tend to leak rather than rupture and because their gas is non-odorized, making leaks more difficult to detect. In addition to the direct operational benefits, annual leak surveys will also reduce the environmental harm caused by lost gas (*i.e.,* the greenhouse gas potential of methane released into the atmosphere). Operator leak reporting also gives PHMSA valuable information that can be used in trending analysis for the determination of problem materials or poor operating practices. These important benefits cannot be readily quantified, but PHMSA believes that they are substantial.

In addition, eliminating these leak helps to ensure that leaked gas does not collect and lead a catastrophic explosion or other incident. Although fortunately there have been no serious incidents involving Type B gathering lines in the past several years, increased leak surveys would reduce the potential of a future incident. At an incremental cost of $0.55 million per year, requiring annual leak surveys would be a cost-effective safety intervention if it prevents even a single fatal incident over a 16 year period.

A more thorough discussion of the subjects and the associated costs and benefits can be found in the Regulatory Impact Analysis, a copy of which has been placed in the Docket, PHMSA–2010–0026.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), PHMSA must consider whether rulemaking actions would have a significant economic impact on a substantial number of small entities.

Description of the reasons that action by PHMSA was taken.

PHMSA, pipeline operators and others have identified certain errors, inconsistencies, and deficiencies in the pipeline safety regulations concerning the following subjects: (1) Performance of post-construction inspections; (2) leak surveys of Type B onshore gas gathering lines; (3) the requirements for qualifying plastic pipe joiners; (4) the transportation of ethanol by pipeline; (5) the transportation of pipe; (6) the filing of offshore pipeline condition reports and (7) the calculation of pressure reductions for hazardous pipeline anomalies. PHMSA is addressing these issues in this Final Rule.

Succinct statement of the objectives of, and legal basis, for the Final Rule.

Under the pipeline safety laws, 49 U.S.C. 60101 *et seq.,* the Secretary of Transportation must prescribe minimum safety standards for pipeline transportation and for pipeline facilities. The Secretary has delegated the authority of 49 CFR 1.53(a) to the PHMSA Administrator. The Final Rule would make changes in the regulations consistent with the protection of persons and property, while changing unduly burdensome or confusing requirements.

Description of small entities to which the Final Rule will apply.

In general, the Final Rule will apply to pipeline operators, some of which may qualify as a small business as defined in Section 601(3) of the Regulatory Flexibility Act. Some pipelines are operated by jurisdictions with a population of less than 50,000 people, and thus qualify as small governmental jurisdictions.

Some portions of the rule apply to manufacturers of pipeline components, as well as the contractors constructing or repairing a pipeline. Many of these may qualify as a small business entity.

Description of the projected reporting, recordkeeping, and other compliance requirements of the Final Rule, including an estimate of the classes of small entities that will be subject to the rule, and the type of professional skills necessary for preparation of the report or record.

The Final Rule does not directly impose any reporting or recordkeeping requirements. However, the rule creates an obligation to perform leak surveys of Type B gathering lines. This sort of survey is currently required of transmission lines. Professional technicians will be needed to comply with this requirement, and the time required for compliance will vary greatly with each system, depending on the system's size.

The remainder of the Final Rule does not impose any significant compliance, recordkeeping, or reporting requirements. However, it affects the timing and substance of one type of report that must be created and maintained under existing regulations. The Final Rule stipulates that operators notify PHMSA field offices 60 days prior to pipe manufacturing or construction activities on new alternative MAOP pipelines. The current regulations require operators to notify PHMSA 180 days in advance of operating a pipeline at a higher alternative MAOP. Because operators must currently provide PHMSA with a 180 day notice prior to operating at the alternative MAOP the Final Rule does not impose any additional reporting requirements.

Identification, to the extent practicable, of all relevant Federal rules that may duplicate, overlap, or conflict with the Final Rule.

PHMSA is unaware of any duplicative, overlapping, or conflicting Federal rules.

Description of any significant alternatives to the Final Rule that accomplish the stated objectives of applicable statutes and that minimize any significant economic impact of the

Final Rule on small entities, including alternatives considered.

PHMSA is unaware of any alternatives which would produce smaller economic impacts on small entities while at the same time meeting the objectives of the relevant statutes. Several provisions of the Final Rule are specifically designed to eliminate confusion and potentially lower costs for regulated entities. For example, the addition of 49 CFR 192.153(e) is designed to prevent regulated entities from purchasing pressure vessels that do not comply with § 192.505(b), but that do comply with ASME BPVC section VII, as required by § 192.165(b)(3). PHMSA believes that this Final Rule impacts a substantial number of small entities but that this impact will be negligible. The one requirement that may have a significant cost impact on small businesses is leak surveys for Type B gas gathering lines. PHMSA estimates that requiring leakage surveys on Type B gas gathering lines will necessitate an annual expenditure of approximately 0.55 million dollars. The costs are based on surveying two miles of pipeline per day at an approximate daily cost of $300 per mile and PHMSA's estimation that 50 percent of the mileage affected by this proposal already complies with the surveying. The daily costs are an average day rate provided by two providers of leak survey services.

The Small Business Administration's North American Industry Classification System Code for gas transmission pipeline operators defines a small business as those operators that have annual revenue of less than 25.5 million dollars. It is PHMSA's opinion that very few gas gathering operators have revenues less than 25.5 million dollars per year. No other types of small entities, such as manufacturers, will see a significant cost impact. Therefore, this amendment will not affect a substantial number of small businesses. Based on the facts available about the expected impact of this rulemaking, I certify, under Section 605 of the Regulatory Flexibility Act (5 U.S.C. 605) that this Final Rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 13175

PHMSA has analyzed this Final Rule according to the principles and criteria in Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' Because this Final Rule does not significantly or uniquely affect the communities of the Indian tribal governments or impose substantial direct compliance costs, the funding and consultation requirements of Executive Order 13175 do not apply.

Paperwork Reduction Act

This Final Rule imposes no new requirements for recordkeeping and reporting.

Unfunded Mandates Reform Act of 1995

This Final Rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It would not result in costs of $100 million, adjusted for inflation, or more in any one year to either state, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the Final Rule.

National Environmental Policy Act

The National Environmental Policy Act (42 U.S.C. 4321–4375) requires that Federal agencies analyze final actions to determine whether those actions will have a significant impact on the human environment. The Council on Environmental Quality regulations requires Federal agencies to conduct an environmental review considering (1) the need for the final action, (2) alternatives to the final action, (3) probable environmental impacts of the final action and alternatives, and (4) the agencies and persons consulted during the consideration process. 40 CFR 1508.9(b).

1. Purpose and Need

PHMSA's mission is to protect people and the environment from the risks of hazardous materials transportation. The purpose of this rulemaking change is to improve compliance, provide clarification, address conflicting language and promote improved pipeline integrity and safety. In addition the purpose is to address small gaps in the current regulations and mitigate some of the negative externalities that can result from industry market failures.

The need for this action stems from statutory requirements described in the Pipeline Safety, Regulatory Certainty, and job Creation Act of 2011 (Public Law 112–90), safety recommendations from the NTSB, and petitions from industry groups. In addition, due to shortfalls and unenforceability of industry standards, there arises a need for government to set minimum safety levels in pipeline regulations.

PHMSA is making amendments and editorial changes to the regulations that includes modifying the requirements for: the performance of post-construction inspections, the conducting of leak surveys of Type B onshore gas gathering lines, qualifying plastic pipe joiners, the regulation of ethanol, the transportation of pipe, the filing of offshore pipeline condition reports, and the calculation of pressure reductions for hazardous liquid pipeline anomalies.

2. Alternatives

In developing the Final Rule, PHMSA considered three alternatives:

(1) No action.

(2) Adopting all proposed amendments.

(3) Adopting all proposed amendments except for leak surveys for Type Gas gathering lines.

Alternative 1

PHMSA has an obligation to ensure the safe and effective transportation of hazardous liquids and gases by pipeline. The changes in this Final Rule serve that purpose by clarifying the regulations and eliminating unduly burdensome requirements. A failure to undertake these actions would allow for the continued imposition of unnecessary compliance costs without increasing public safety. Accordingly, PHMSA rejected the no action alternative.

Alternative 2

PHMSA's Selected Action is a set of amendments and editorial changes to the Federal Pipeline Safety Regulations (49 CFR parts 191, 192, and 195). These revisions would eliminate inconsistencies and respond to several petitions for rulemaking and recommendations from our stakeholders, thereby facilitating the safe and effective transportation of hazardous liquids and gases by pipeline. The changes in this Final Rule will serve that purpose by clarifying certain regulatory requirements.

Alternative 3

As discussed above under alternative 2, and in the published NPRM, PHMSA proposed to make certain amendments, corrections and editorial changes to the regulations. These revisions eliminate inconsistencies and respond to several petitions for rulemaking and recommendations from our stakeholders, thereby facilitating the safe and effective transportation of hazardous liquids and gases by pipeline. The proposal related to leak survey for Type B gas gathering lines. PHMSA established a new method for determining whether a gas pipeline is an ''onshore gathering line'' in 2006. PHMSA also imposed new safety standards for ''regulated onshore gathering lines,'' which divided regulated onshore gathering lines into

two risk-based categories. Type A gathering lines are metallic lines with a MAOP of 20 percent or more of SMYS, as well as nonmetallic lines with an MAOP of more than 125 psig, in a Class 2, 3, or 4 location. These lines are subject to all of the requirements in Part 192 that apply to transmission lines, except for the regulation that requires the accommodation of in-line inspection tools in the design and construction of certain new and replaced pipelines (49 CFR 192.150) and the integrity management requirements of Part 192, Subpart O. Operators of Type A gathering lines are also permitted to use an alternative process for demonstrating compliance with the requirements of Part 192, Subpart N, Qualification of Pipeline Personnel.

Type B gathering lines includes metallic lines with a MAOP of less than 20 percent of SMYS, as well as nonmetallic lines with a MAOP of 125 psig or less, in a Class 2 location (as determined under one of three formulas) or in a Class 3 or Class 4 location. These lines are subject to less stringent requirements than Type A gathering lines. Specifically, any new or substantially changed Type B line must comply with the design, installation, construction, and initial testing and inspection requirements for transmission lines and, if of metallic construction, the corrosion control requirements for transmission lines. Operators must also include Type B gathering lines in their damage prevention and public education programs, establish the MAOP of those lines under § 192.619, and comply with the requirements for maintaining and installing line markers that apply to transmission lines. It is important that dependable leak detection surveys are used to identify leakage so that appropriate repairs can be initiated to our nation's pipeline system. Prompt repair can help reduce the consequences of incidents to the public, environment and property. Performing field leak surveys is a preventative and proactive safety measure. Operator leak reporting also gives PHMSA valuable information that can be used in trending analysis for the determination of problematic materials or poor operating practices. Over time, unchecked leakage can potentially impact safety in addition to the fact that gas leaks have the risk of accidental ignition causing a fire or explosion.

Prior to the 2006 Final Rule, operators had to perform leak surveys of non-rural gas gathering lines. Also, some Type B gathering lines are located under broad paved areas where electrical surveys (another means of detecting pipe damage) may be difficult to perform and leaking gas could migrate under the pavement and accumulate in surrounding structures. PHMSA believes that leak surveys are an effective means of ensuring the integrity of low-stress pipelines. Accordingly, PHMSA rejected this alternative.

3. Analysis of Environmental Impacts

The Nation's pipelines are located throughout the United States in a variety of diverse environments—from offshore locations, to highly populated urban sites, to unpopulated rural areas. The pipeline infrastructure is a network of over 2.5 million miles of pipeline that move millions of gallons of hazardous liquids and over 55 billion cubic feet of natural gas daily. The biggest source of energy is petroleum, including oil and natural gas. Together, these commodities supply 65 percent of the energy in the United States.

The physical environment potentially affected by the Final Rule includes airspace, water resources (*e.g.,* oceans, streams, lakes), cultural and historical resources (*e.g.,* properties listed on the National Register of Historic Places), biological and ecological resources (*e.g.,* coastal zones, wetlands, plant and animal species and their habitat, forests, grasslands, offshore marine ecosystems) and special ecological resources (*e.g.,* threatened and endangered plant and animal species and their habitat, national and state parklands, biological reserves, wild and scenic rivers) that exist directly adjacent to and within the vicinity of pipelines.

Because the pipelines subject to the Final Rule contain hazardous materials, resources within the physically affected environment, as well as public health and safety, may be affected by gas pipeline incidents such as spills and leaks. Incidents on pipelines can result in fires and explosions, resulting in damage to the local environment. In addition, since pipelines often contain gas streams laden with condensates and natural gas liquids, failures also result in spills of these liquids, which can cause environmental harm. Depending on the size of a spill or gas leak and the nature of the impact zone, the environmental impacts could vary from property and environmental damage to injuries or, on rare occasions, fatalities.

A majority of the amendments in this Final Rule are not substantive in nature and would have little or no impact on the human environment. It is likely that on a national scale, the cumulative environmental damage from pipelines is reduced, or at a minimum, unchanged. Requiring leakage surveys on Type B gathering lines will have positive environmental impacts. The Environmental Protection Agency (EPA) data indicate that methane contributed to nine percent of the reported greenhouse gas emissions in Calendar Year 2011 (*www.epa.gov/methane/*). Operators reported 289 leaks repaired on regulated Type B gathering lines in 2011. It is expected that with formalized leak survey programs in place, emissions will be further reduced, in addition to enhanced safety from leak repairs. Although beneficial, this would not be a large-scale impact on the environment.

For these reasons, PHMSA has concluded that neither of the alternatives discussed above would result in any significant impacts on the environment.

4. Consultations

Various industry associations and state regulatory agencies, such as the American Gas Association, the American Petroleum Associations and NAPSR, were consulted in the development of this rulemaking.

5. Finding of No Significant Impact

PHMSA has determined that the selected alternative would not have a significant impact on the human environment.

Privacy Act Statement

Anyone may search the electronic form of all comments received for any of our dockets. You may review DOT's complete Privacy Act Statement published in the **Federal Register** on April 11, 2000, (70 FR 19477).

Executive Order 13132

PHMSA has analyzed this Final Rule according to Executive Order 13132 (''Federalism''). The Final Rule does not have a substantial direct effect on the states, the relationship between the national government and the states, or the distribution of power and responsibilities among the various levels of government. This Final Rule does not impose substantial direct compliance costs on state and local governments. This Final Rule does not preempt state law for intrastate pipelines. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

Executive Order 13211

This Final Rule is not a ''significant energy action'' under Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use). It is not likely to have a significant adverse effect on supply, distribution, or energy use.

Further, the Office of Information and Regulatory Affairs has not designated this Final Rule as a significant energy action.

List of Subjects

49 CFR Part 191

Pipeline Safety, Reporting, and recordkeeping requirements.

49 CFR Part 192

Fire prevention, Incorporation by reference, Pipeline safety, Security measures

49 CFR Part 195

Ammonia, Carbon dioxide, Incorporation by reference, Petroleum, Pipeline safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR Chapter I is amended as follows:

PART 191—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE; ANNUAL REPORTS, INCIDENT REPORTS, AND SAFETY-RELATED CONDITION REPORTS

■ 1. The authority citation for Part 191 is revised to read as follows:

Authority: 49 U.S.C. 5121, 60102, 60103, 60104, 60108, 60117, 60118, 60124, 60132, and 49 CFR 1.97.

■ 2. In § 191.7 paragraphs (a) and (b) are revised and paragraph (e) is added to read as follows:

§ 191.7 Report submission requirements.

(a) *General.* Except as provided in paragraphs (b) and (e) of this section, an operator must submit each report required by this part electronically to the Pipeline and Hazardous Materials Safety Administration at *http://portal.phmsa.dot.gov/pipeline* unless an alternative reporting method is authorized in accordance with paragraph (d) of this section.

(b) *Exceptions:* An operator is not required to submit a safety-related condition report (§ 191.25) electronically.

* * * * *

(e) *National Pipeline Mapping System (NPMS).* An operator must provide the NPMS data to the address identified in the NPMS Operator Standards manual available at *www.npms.phmsa.dot.gov* or by contacting the PHMSA Geographic Information Systems Manager at (202) 366–4595.

■ 3. In § 191.25 paragraph (a) is revised to read as follows:

§ 191.25 Filing safety-related condition reports.

(a) Each report of a safety-related condition under § 191.23(a) must be filed (received by OPS within five working days, not including Saturday, Sunday, or Federal Holidays) after the day a representative of the operator first determines that the condition exists, but not later than 10 working days after the day a representative of the operator discovers the condition. Separate conditions may be described in a single report if they are closely related. Reports may be transmitted by electronic mail to *InformationResourcesManager@dot.gov* or by facsimile at (202) 366–7128.

* * * * *

§ 191.27 [Removed].

■ 4. Section 191.27 is removed.

■ 5. Section 191.29 is added to read as follows:

§ 191.29 National Pipeline Mapping System.

(a) Each operator of a gas transmission pipeline or liquefied natural gas facility must provide the following geospatial data to PHMSA for that pipeline or facility:

(1) Geospatial data, attributes, metadata and transmittal letter appropriate for use in the National Pipeline Mapping System. Acceptable formats and additional information are specified in the NPMS Operator Standards Manual available at *www.npms.phmsa.dot.gov* or by contacting the PHMSA Geographic Information Systems Manager at (202) 366–4595.

(2) The name of and address for the operator.

(3) The name and contact information of a pipeline company employee, to be displayed on a public Web site, who will serve as a contact for questions from the general public about the operator's NPMS data.

(b) The information required in paragraph (a) of this section must be submitted each year, on or before March 15, representing assets as of December 31 of the previous year. If no changes have occurred since the previous year's submission, the operator must comply with the guidance provided in the NPMS Operator Standards manual available at *www.npms.phmsa.dot.gov* or contact the PHMSA Geographic Information Systems Manager at (202) 366–4595.

PART 192—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE: MINIMUM FEDERAL SAFETY STANDARDS

■ 6. The authority citation for Part 192 is revised to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60110, 60113, 60116 and 60118, 60137; and 49 CFR 1.97.

■ 7. In § 192.3, definitions for ''Welder'' and ''Welding operator'' are added in alphabetical order to read as follows:

§ 192.3 Definitions.

* * * * *

Welder means a person who performs manual or semi-automatic welding.

Welding operator means a person who operates machine or automatic welding equipment.

■ 8. In § 192.9, paragraph (d)(7) is added to read as follows:

§ 192.9 What requirements apply to gathering lines?

* * * * *

(d) * * *

(7) Conduct leakage surveys in accordance with § 192.706 using leak detection equipment and promptly repair hazardous leaks that are discovered in accordance with § 192.703(c).

* * * * *

■ 9. In § 192.65, paragraph (a) is revised to read as follows:

§ 192.65 Transportation of pipe.

(a) *Railroad.* In a pipeline to be operated at a hoop stress of 20 percent or more of SMYS, an operator may not install pipe having an outer diameter to wall thickness of 70 to 1, or more, that is transported by railroad unless the transportation is performed by API RP 5L1 (incorporated by reference, *see* § 192.7).

* * * * *

■ 10. In the table in § 192.112, paragraph (e) is revised to read as follows:

§ 192.112 Additional design requirements for steel pipe using alternative maximum allowable operating pressure.

* * * * *

To address this design issue:	The pipeline segment must meet these additional requirements:
* * * * * * *	
(e) Mill hydrostatic test.	(1) All pipe to be used in a new pipeline segment installed after October 1, 2015, must be hydrostatically tested at the mill at a test pressure corresponding to a hoop stress of 95 percent SMYS for 10 seconds. (2) Pipe in operation prior to December 22, 2008, must have been hydrostatically tested at the mill at a test pressure corresponding to a hoop stress of 90 percent SMYS for 10 seconds. (3) Pipe in operation on or after December 22, 2008, but before October 1, 2015, must have been hydrostatically tested at the mill at a test pressure corresponding to a hoop stress of 95 percent SMYS for 10 seconds. The test pressure may include a combination of internal test pressure and the allowance for end loading stresses imposed by the pipe mill hydrostatic testing equipment as allowed by "ANSI/API Spec 5L" (incorporated by reference, *see* § 192.7).
* * * * * * *	

■ 11. In § 192.153, a new paragraph (e) is added to read as follows:

§ 192.153 Components fabricated by welding.

* * * * *

(e) A component having a design pressure established in accordance with paragraph (a) or paragraph (b) of this section and subject to the strength testing requirements of § 192.505(b) must be tested to at least 1.5 times the MAOP.

■ 12. In § 192.165, paragraph (b)(3) is revised to read as follows:

§ 192.165 Compressor stations: Liquid removal.

* * * * *

(b) * * *

(3) Be manufactured in accordance with section VIII ASME Boiler and Pressure Vessel Code (BPVC) (incorporated by reference, *see* § 192.7) and the additional requirements of § 192.153(e) except that liquid separators constructed of pipe and fittings without internal welding must be fabricated with a design factor of 0.4, or less.

■ 13. In § 192.225, paragraph (a) is revised to read as follows:

§ 192.225 Welding procedures.

(a) Welding must be performed by a qualified welder or welding operator in accordance with welding procedures qualified under section 5, section 12, or Appendix A of API Std 1104 (incorporated by reference, *see* § 192.7) or section IX ASME Boiler and Pressure Vessel Code (BPVC) (incorporated by reference, *see* § 192.7), to produce welds which meet the requirements of this subpart. The quality of the test welds used to qualify welding procedures must be determined by destructive testing in accordance with the referenced welding standard(s).

* * * * *

■ 14. Section 192.227 is revised to read as follows:

§ 192.227 Qualification of welders and welding operators.

(a) Except as provided in paragraph (b) of this section, each welder or welding operator must be qualified in accordance with section 6, section 12, or Appendix A of API Std 1104 (incorporated by reference, *see* § 192.7), or section IX of ASME Boiler and Pressure Vessel Code (BPVC) (incorporated by reference, *see* § 192.7). However, a welder or welding operator qualified under an earlier edition than the edition listed in § 192.7 may weld but may not re-qualify under that earlier edition.

(b) A welder may qualify to perform welding on pipe to be operated at a pressure that produces a hoop stress of less than 20 percent of SMYS by performing an acceptable test weld, for the process to be used, under the test set forth in section I of Appendix C of this part. Each welder who is to make a welded service line connection to a main must first perform an acceptable test weld under section II of Appendix C of this part as a requirement of the qualifying test.

■ 15. Section 192.229 is revised to read as follows:

§ 192.229 Limitations on welders and welding operators.

(a) No welder or welding operator whose qualification is based on nondestructive testing may weld compressor station pipe and components.

(b) A welder or welding operator may not weld with a particular welding process unless, within the preceding 6 calendar months, the welder or welding operator was engaged in welding with that process.

(c) A welder or welding operator qualified under § 192.227(a)—

(1) May not weld on pipe to be operated at a pressure that produces a hoop stress of 20 percent or more of SMYS unless within the preceding 6 calendar months the welder or welding operator has had one weld tested and found acceptable under either section 6, section 9, section 12 or Appendix A of API Std 1104 (incorporated by reference, *see* § 192.7). Alternatively, welders or welding operators may maintain an ongoing qualification status by performing welds tested and found acceptable under the above acceptance criteria at least twice each calendar year, but at intervals not exceeding 7½ months. A welder or welding operator qualified under an earlier edition of a standard listed in § 192.7 of this part may weld, but may not re-qualify under that earlier edition; and,

(2) May not weld on pipe to be operated at a pressure that produces a hoop stress of less than 20 percent of SMYS unless the welder or welding operator is tested in accordance with paragraph (c)(1) of this section or re-qualifies under paragraph (d)(1) or (d)(2) of this section.

(d) A welder or welding operator qualified under § 192.227(b) may not weld unless—

(1) Within the preceding 15 calendar months, but at least once each calendar year, the welder or welding operator has re-qualified under § 192.227(b); or

(2) Within the preceding 7½ calendar months, but at least twice each calendar year, the welder or welding operator has had—

(i) A production weld cut out, tested, and found acceptable in accordance with the qualifying test; or

(ii) For a welder who works only on service lines 2 inches (51 millimeters) or smaller in diameter, the welder has had two sample welds tested and found acceptable in accordance with the test in section III of Appendix C of this part.

■ 16. In § 192.241, paragraph (c) is revised to read as follows:

§ 192.241 Inspection and test of welds.

* * * * *

(c) The acceptability of a weld that is nondestructively tested or visually inspected is determined according to the standards in section 9 or Appendix A of API Std 1104 (incorporated by

reference, *see* § 192.7). Appendix A of API Std 1104 may not be used to accept cracks.

■ 17. In § 192.243, paragraph (e) is revised to read as follows:

§ 192.243 Nondestructive testing.

* * * * *

(e) Except for a welder or welding operator whose work is isolated from the principal welding activity, a sample of each welder or welding operator's work for each day must be nondestructively tested, when nondestructive testing is required under § 192.241(b).

* * * * *

■ 18. In § 192.285, paragraph (c) is revised to read as follows:

§ 192.285 Plastic pipe: Qualifying persons to make joints.

* * * * *

(c) A person must be re-qualified under an applicable procedure once each calendar year at intervals not exceeding 15 months, or after any production joint is found unacceptable by testing under § 192.513.

* * * * *

■ 19. Section 192.305 is revised to read as follows:

§ 192.305 Inspection: General.

Each transmission line and main must be inspected to ensure that it is constructed in accordance with this subpart. An operator must not use operator personnel to perform a required inspection if the operator personnel performed the construction task requiring inspection. Nothing in this section prohibits the operator from inspecting construction tasks with operator personnel who are involved in other construction tasks.

■ 20. In § 192.503, a new paragraph (e) is added to read as follows:

§ 192.503 General requirements.

* * * * *

(e) If a component other than pipe is the only item being replaced or added to a pipeline, a strength test after installation is not required, if the manufacturer of the component certifies that:

(1) The component was tested to at least the pressure required for the pipeline to which it is being added;

(2) The component was manufactured under a quality control system that ensures that each item manufactured is at least equal in strength to a prototype and that the prototype was tested to at least the pressure required for the pipeline to which it is being added; or

(3) The component carries a pressure rating established through applicable ASME/ANSI, Manufacturers Standardization Society of the Valve and Fittings Industry, Inc. (MSS) specifications, or by unit strength calculations as described in § 192.143.

§ 192.505 [Amended]

■ 21. In § 192.505, paragraph (d) is removed and paragraph (e) is redesignated as paragraph (d).

■ 22. In § 192.620, paragraph (c)(1) and the first sentence of paragraph (c)(8) are revised to read as follows:

§ 192.620 Alternative maximum operating pressure for certain steel pipelines.

* * * * *

(c) * * *

(1) For pipelines already in service, notify the PHMSA pipeline safety regional office where the pipeline is in service of the intention to use the alternative pressure at least 180 days before operating at the alternative MAOP. For new pipelines, notify the PHMSA pipeline safety regional office of planned alternative MAOP design and operation at least 60 days prior to the earliest start date of either pipe manufacturing or construction activities. An operator must also notify the state pipeline safety authority when the pipeline is located in a state where PHMSA has an interstate agent agreement or where an intrastate pipeline is regulated by that state.

* * * * *

(8) A Class 1 and Class 2 location can be upgraded one class due to class changes per § 192.611(a). * * *

* * * * *

■ 23. In § 192.805 paragraph (i) is revised to read as follows:

§ 192.805 Qualification program.

* * * * *

(i) After December 16, 2004, notify the Administrator or a state agency participating under 49 U.S.C. Chapter 601 if the operator significantly modifies the program after the administrator or state agency has verified that it complies with this section. Notifications to PHMSA may be submitted by electronic mail to *InformationResourcesManager@dot.gov,* or by mail to ATTN: Information Resources Manager DOT/PHMSA/OPS, East Building, 2nd Floor, E22–321, New Jersey Avenue SE., Washington, DC 20590.

■ 24. In § 192.925, the introductory text of paragraph (b) and the introductory text of paragraph (b)(2) are revised to read as follows:

§ 192.925 What are the requirements for using External Corrosion Direct Assessment (ECDA)?

* * * * *

(b) *General requirements.* An operator that uses direct assessment to assess the threat of external corrosion must follow the requirements in this section, in ASME/ANSI B31.8S (incorporated by reference, *see* § 192.7), section 6.4, and in NACE SP0502 (incorporated by reference, *see* § 192.7). An operator must develop and implement a direct assessment plan that has procedures addressing pre-assessment, indirect inspection, direct examination, and post assessment. If the ECDA detects pipeline coating damage, the operator must also integrate the data from the ECDA with other information from the data integration (§ 192.917(b)) to evaluate the covered segment for the threat of third party damage and to address the threat as required by § 192.917(e)(1).

* * * * *

(2) *Indirect inspection.* In addition to the requirements in ASME/ANSI B31.8S, section 6.4 and in NACE SP0502, section 4, the plan's procedures for indirect inspection of the ECDA regions must include—

* * * * *

■ 25. Section 192.949 is revised to read as follows:

§ 192.949 How does an operator notify PHMSA?

An operator must provide any notification required by this subpart by—

(a) Sending the notification by electronic mail to *InformationResourcesManager@dot.gov;* or

(b) Sending the notification by mail to ATTN: Information Resources Manager, DOT/PHMSA/OPS, East Building, 2nd Floor, E22–321, 1200 New Jersey Ave. SE., Washington, DC 20590.

PART 195—TRANSPORTATION OF HAZARDOUS LIQUIDS BY PIPELINE

■ 26. The authority citation for Part 195 is revised to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60116, 60118, 60132, 60137, and 49 CFR 1.97.

■ 27. In § 195.2, the definitions of ''alarm'' and ''hazardous liquid'' are revised and definitions for ''welder'' and ''welder operator'' are added in appropriate alphabetical order to read as follows:

§ 195.2 Definitions.

* * * * *

Alarm means an audible or visible means of indicating to the controller that equipment or processes are outside operator-defined, safety-related parameters.

* * * * *

Hazardous liquid means petroleum, petroleum products, anhydrous ammonia, or ethanol.

* * * * *

Welder means a person who performs manual or semi-automatic welding.

Welding operator means a person who operates machine or automatic welding equipment.

■ 28. In § 195.56 paragraph (a) is revised to read as follows:

§ 195.56 Filing safety-related condition reports.

(a) Each report of a safety-related condition under § 195.55(a) must be filed (received by OPS) within five working days (not including Saturday, Sunday, or Federal Holidays) after the day a representative of the operator first determines that the condition exists, but not later than 10 working days after the day a representative of the operator discovers the condition. Separate conditions may be described in a single report if they are closely related. Reports may be transmitted by electronic mail to *InformationResourcesManager@dot.gov,* or by facsimile at (202) 366–7128.

* * * * *

§ 195.57 [Removed]

■ 29. Section 195.57 is removed.

■ 30. In § 195.58, paragraphs (a) and (b) are revised and a new paragraph (e) is added to read as follows:

§ 195.58 Report submission requirements.

(a) *General.* Except as provided in paragraphs (b) and (e) of this section, an operator must submit each report required by this part electronically to PHMSA at *http://opsweb.phmsa.dot.gov* unless an alternative reporting method is authorized in accordance with paragraph (d) of this section.

(b) *Exceptions:* An operator is not required to submit a safety-related condition report (§ 195.56) electronically.

* * * * *

(e) *National Pipeline Mapping System (NPMS).* An operator must provide NPMS data to the address identified in the NPMS Operator Standards Manual available at *www.npms.phmsa.dot.gov* or by contacting the PHMSA Geographic Information Systems Manager at (202) 366–4595.

■ 31. Section 195.61 is added to read as follows:

§ 195.61 National Pipeline Mapping System.

(a) Each operator of a hazardous liquid pipeline facility must provide the following geospatial data to PHMSA for that facility:

(1) Geospatial data, attributes, metadata and transmittal letter appropriate for use in the National Pipeline Mapping System. Acceptable formats and additional information are specified in the NPMS Operator Standards manual available at *www.npms.phmsa.dot.gov* or by contacting the PHMSA Geographic Information Systems Manager at (202) 366–4595.

(2) The name of and address for the operator.

(3) The name and contact information of a pipeline company employee, to be displayed on a public Web site, who will serve as a contact for questions from the general public about the operator's NPMS data.

(b) This information must be submitted each year, on or before June 15, representing assets as of December 31 of the previous year. If no changes have occurred since the previous year's submission, the operator must refer to the information provided in the NPMS Operator Standards manual available at *www.npms.phmsa.dot.gov* or contact the PHMSA Geographic Information Systems Manager at (202) 366–4595.

§ 195.64 [Removed]

■ 32. In § 195.64, paragraph (c)(1)(iii) is removed.

■ 33. Section 195.204 is revised to read as follows:

§ 195.204 Inspection—general.

Inspection must be provided to ensure that the installation of pipe or pipeline systems is in accordance with the requirements of this subpart. Any operator personnel used to perform the inspection must be trained and qualified in the phase of construction to be inspected. An operator must not use operator personnel to perform a required inspection if the operator personnel performed the construction task requiring inspection. Nothing in this section prohibits the operator from inspecting construction tasks with operator personnel who are involved in other construction tasks.

■ 34. In § 195.214, paragraph (a) is revised to read as follows:

§ 195.214 Welding procedures.

(a) Welding must be performed by a qualified welder or welding operator in accordance with welding procedures qualified under section 5, section 12 or Appendix A of API Std 1104 (incorporated by reference, *see* § 195.3), or section IX of ASME Boiler and Pressure Vessel Code (BPVC) (incorporated by reference, *see* § 195.3). The quality of the test welds used to qualify welding procedures must be determined by destructive testing.

* * * * *

■ 35. In § 195.222 the heading, paragraph (a), the introductory text of paragraph (b), and paragraph (b)(2) are revised to read as follows:

§ 195.222 Welders and welding operators: Qualification of welders and welding operators.

(a) Each welder or welding operator must be qualified in accordance with section 6, section 12 or Appendix A of API Std 1104 (incorporated by reference, *see* § 195.3), or section IX of ASME Boiler and Pressure Vessel Code (BPVC), (incorporated by reference, *see* § 195.3), except that a welder or welding operator qualified under an earlier edition than an edition listed in § 195.3, may weld but may not re-qualify under that earlier edition.

(b) No welder or welding operator may weld with a welding process unless, within the preceding 6 calendar months, the welder or welding operator has—

* * * * *

(2) Had one weld tested and found acceptable under section 9 or Appendix A of API Std 1104 (incorporated by reference, *see* § 195.3).

■ 36. In § 195.228, paragraph (b) is revised to read as follows:

§ 195.228 Welds and welding inspection: Standards of acceptability.

* * * * *

(b) The acceptability of a weld is determined according to the standards in section 9 or Appendix A of API Std 1104 (incorporated by reference, *see* § 195.3). Appendix A of API Std 1104 may not be used to accept cracks.

■ 37. In § 195.234, paragraph (d) is revised to read as follows:

§ 195.234 Welds: Nondestructive testing.

* * * * *

(d) During construction, at least 10 percent of the girth welds made by each welder and welding operator during each welding day must be nondestructively tested over the entire circumference of the weld.

* * * * *

■ 38. In § 195.307 paragraphs (c) and (d) are revised to read as follows:

§ 195.307 Pressure testing aboveground breakout tanks.

* * * * *

(c) For aboveground breakout tanks built to API Std 650 (incorporated by reference, *see* § 195.3) and first placed in service after October 2, 2000, testing must be in accordance with sections 7.3.5 and 7.3.6 of API Standard 650 (incorporated by reference, *see* § 195.3).

(d) For aboveground atmospheric pressure breakout tanks constructed of carbon and low alloy steel, welded or riveted, and non-refrigerated tanks built to API Std 650 or its predecessor Standard 12 C that are returned to service after October 2, 2000, the necessity for the hydrostatic testing of repair, alteration, and reconstruction is covered in section 12.3 of API Standard 653 (incorporated by reference, *see* § 195.3).

* * * * *

■ 39. In § 195.428, paragraph (c) is revised to read as follows:

§ 195.428 Overpressure safety devices and overfill protection systems.

* * * * *

(c) Aboveground breakout tanks that are constructed or significantly altered according to API Std 2510 (incorporated by reference, *see* § 195.3) after October 2, 2000, must have an overfill protection system installed according to API Std 2510, section 7.1.2. Other aboveground breakout tanks with 600 gallons (2271 liters) or more of storage capacity that are constructed or significantly altered after October 2, 2000, must have an overfill protection system installed according to API RP 2350 (incorporated by reference, *see* § 195.3). However, an operator need not comply with any part of API RP 2350 for a particular breakout tank if the operator describes in the manual required by § 195.402 why compliance with that part is not necessary for safety of the tank.

* * * * *

■ 40. In § 195.452, paragraph (h)(4)(i) introductory text and paragraph (m) are revised to read as follows:

§ 195.452 Pipeline integrity management in high consequence areas.

* * * * *

(h) * * *

(4) * * *

(i) *Immediate repair conditions.* An operator's evaluation and remediation schedule must provide for immediate repair conditions. To maintain safety, an operator must temporarily reduce the operating pressure or shut down the pipeline until the operator completes the repair of these conditions. An operator must calculate the temporary reduction in operating pressure using the formulas referenced in paragraph (h)(4)(i)(B) of this section. If no suitable remaining strength calculation method can be identified, an operator must implement a minimum 20 percent or greater operating pressure reduction, based on actual operating pressure for two months prior to the date of inspection, until the anomaly is repaired. An operator must treat the following conditions as immediate repair conditions:

* * * * *

(m) How does an operator notify PHMSA? An operator must provide any notification required by this section by:

(1) Sending the notification by electronic mail to *InformationResourcesManager@dot.gov;* or

(2) Sending the notification by mail to ATTN: Information Resources Manager, DOT/PHMSA/OPS, East Building, 2nd Floor, E22–321, 1200 New Jersey Ave SE., Washington, DC 20590.

■ 41. In § 195.505 paragraph (i) is revised to read as follows:

§ 195.505 Qualification program.

* * * * *

(i) After December 16, 2004, notify the Administrator or a state agency participating under 49 U.S.C. Chapter 601 if the operator significantly modifies the program after the administrator or state agency has verified that it complies with this section. Notifications to PHMSA may be submitted by electronic mail to *InformationResourcesManager@dot.gov,* or by mail to ATTN: Information Resources Manager DOT/PHMSA/OPS, East Building, 2nd Floor, E22–321, New Jersey Avenue SE., Washington, DC 20590.

■ 42. Section 195.571 is revised to read as follows:

§ 195.571 What criteria must I use to determine the adequacy of cathodic protection?

Cathodic protection required by this subpart must comply with one or more of the applicable criteria and other considerations for cathodic protection contained paragraphs 6.2.2, 6.2.3, 6.2.4, 6.2.5 and 6.3 in NACE SP 0169 (incorporated by reference, *see* § 195.3).

Issued in Washington, DC, on February 26, 2015, under authority delegated in 49 CFR 1.97.

Timothy P. Butters,

Acting Administrator.

[FR Doc. 2015–04440 Filed 3–10–15; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 141021887–5172–02]

RIN 0648–XD813

Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pollock in the Bering Sea and Aleutian Islands

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

ACTION: Temporary rule.

SUMMARY: NMFS is reallocating the projected unused amounts of the Community Development Quota pollock directed fishing allowances from the Aleutian Islands subarea to the Bering Sea subarea. This action is necessary to provide opportunity for harvest of the 2015 total allowable catch of pollock, consistent with the goals and objectives of the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), March 11, 2015 through 2400 hrs, A.l.t., December 31, 2015.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council (Council) under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

In the Aleutian Islands subarea, the portion of the 2015 pollock total allowable catch (TAC) allocated to the Community Development Quota (CDQ) directed fishing allowance (DFA) is 1,900 metric tons (mt) as established by the final 2015 and 2016 harvest specifications for groundfish in the BSAI (80 FR 11919, March 5, 2015).

As of March 5, 2015, the Administrator, Alaska Region, NMFS, (Regional Administrator) has determined that 1,900 mt of pollock CDQ DFA in the Aleutian Islands subarea will not be harvested. Therefore, in accordance with § 679.20(a)(5)(iii)(B)(*4*), NMFS

reallocates 1,900 mt of pollock CDQ DFA from the Aleutian Islands subarea to the 2015 Bering Sea subarea allocations. The 1,900 mt of pollock CDQ DFA is added to the 2015 Bering Sea CDQ DFA. As a result, the 2015 harvest specifications for pollock in the Aleutian Islands subarea included in the final 2015 and 2016 harvest specifications for groundfish in the BSAI (80 FR 11919, March 5, 2015) are revised as follows: 0 mt to CDQ DFA. Furthermore, pursuant to § 679.20(a)(5), Table 4 of the final 2015 and 2016 harvest specifications for groundfish in the BSAI (80 FR 11919, March 5, 2015), is revised to make 2015 pollock allocations consistent with this reallocation. This reallocation results in adjustments to the 2015 CDQ pollock allocations established at § 679.20(a)(5).

TABLE 4—FINAL 2015 ALLOCATIONS OF POLLOCK TACS TO THE DIRECTED POLLOCK FISHERIES AND TO THE CDQ DIRECTED FISHING ALLOWANCES (DFA)[1]

[Amounts are in metric tons]

Area and sector	2015 Allocations	2015 A season[1]		2015 B season[1]
		A season DFA	SCA harvest limit[2]	B season DFA
Bering Sea subarea TAC[1]	1,311,900	n/a	n/a	n/a
CDQ DFA	132,900	53,160	37,212	79,740
ICA[1]	47,160	n/a	n/a	n/a
AFA Inshore	565,920	226,368	158,458	339,552
AFA Catcher/Processors[3]	452,736	181,094	126,766	271,642
Catch by C/Ps	414,253	165,701	n/a	248,552
Catch by CVs[3]	38,483	15,393	n/a	23,090
Unlisted C/P limit[4]	2,264	905	n/a	1,358
AFA Motherships	113,184	45,274	31,692	67,910
Excessive harvesting limit[5]	198,072	n/a	n/a	n/a
Excessive processing limit[6]	339,552	n/a	n/a	n/a
Total Bering Sea DFA	1,131,840	452,736	316,915	679,104
Aleutian Islands subarea ABC	29,659	n/a	n/a	n/a
Aleutian Islands subarea TAC[1]	17,100	n/a	n/a	n/a
CDQ DFA	0	0	n/a	0
ICA	2,400	1,200	n/a	1,200
Aleut Corporation	14,700	9,904	n/a	4,796
Area harvest limit:				
541	8,898	n/a	n/a	n/a
542	4,449	n/a	n/a	n/a
543	1,483	n/a	n/a	n/a
Bogoslof District ICA[7]	100	n/a	n/a	n/a

[1] Pursuant to § 679.20(a)(5)(i)(A), the BS subarea pollock, after subtracting the CDQ DFA (10 percent) and the ICA (4.0 percent), is allocated as a DFA as follows: Inshore sector—50 percent, catcher/processor sector (C/P)—40 percent, and mothership sector—10 percent. In the BS subarea, 40 percent of the DFA is allocated to the A season (January 20–June 10) and 60 percent of the DFA is allocated to the B season (June 10–November 1). Pursuant to § 679.20(a)(5)(iii)(B)(*2*)(i) and (ii), the annual AI pollock TAC, after subtracting first for the CDQ directed fishing allowance (10 percent) and second the ICA (2,400 mt), is allocated to the Aleut Corporation for a pollock directed fishery. In the AI subarea, the A season is allocated 40 percent of the ABC and the B season is allocated the remainder of the pollock directed fishery.

[2] In the BS subarea, no more than 28 percent of each sector's annual DFA may be taken from the SCA before April 1.

[3] Pursuant to § 679.20(a)(5)(i)(A)(*4*), not less than 8.5 percent of the DFA allocated to listed catcher/processors shall be available for harvest only by eligible catcher vessels delivering to listed catcher/processors.

[4] Pursuant to § 679.20(a)(5)(i)(A)(*4*)(*iii*), the AFA unlisted catcher/processors are limited to harvesting not more than 0.5 percent of the catcher/processors sector's allocation of pollock.

[5] Pursuant to § 679.20(a)(5)(i)(*A*)(*6*), NMFS establishes an excessive harvesting share limit equal to 17.5 percent of the sum of the non-CDQ pollock DFAs.

[6] Pursuant to § 679.20(a)(5)(i)(*A*)(*7*), NMFS establishes an excessive processing share limit equal to 30.0 percent of the sum of the non-CDQ pollock DFAs.

[7] Pursuant to § 679.20(a)(5)(iii)(B)(*6*), NMFS establishes harvest limits for pollock in the A season in Area 541 no more than 30 percent, in Area 542 no more than 15 percent, and in Area 543 no more than 5 percent of the Aleutian Islands pollock ABC.

[8] The Bogoslof District is closed by the final harvest specifications to directed fishing for pollock. The amounts specified are for ICA only and are not apportioned by season or sector.

Note: Seasonal or sector apportionments may not total precisely due to rounding.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement 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 requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the reallocation of AI pollock. Since the pollock fishery is currently underway, it is important to immediately inform the industry as to the final Bering Sea subarea pollock allocations. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery; allow the industry to plan for the fishing season and avoid potential disruption to the fishing fleet as well as processors; and provide opportunity to harvest increased seasonal pollock allocations while value is optimum. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as March 5, 2015.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: March 6, 2015.

Alan D. Risenhoover,

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

[FR Doc. 2015–05541 Filed 3–10–15; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 80, No. 47
Wednesday, March 11, 2015

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 HOMELAND SECURITY

Coast Guard

33 CFR Parts 140, 143, and 146

46 CFR Parts 61 and 62

[USCG–2014–0063]

RIN 1625–AC16

Requirements for MODUs and Other Vessels Conducting Outer Continental Shelf Activities With Dynamic Positioning Systems

AGENCY: Coast Guard, DHS.

ACTION: Notice of public meeting; request for comments.

SUMMARY: The Coast Guard announces a public meeting to receive comments on a notice of proposed rulemaking entitled, ''Requirements for MODUs and Other Vessels Conducting Outer Continental Shelf Activities With Dynamic Positioning Systems.'' The proposed regulations would establish minimum design, operation, training, and manning standards for mobile offshore drilling units (MODUs) and other vessels using dynamic positioning systems to engage in Outer Continental Shelf activities.

DATES: A public meeting will be held in New Orleans, LA, on March 31, 2015, from 9 a.m. to 1 p.m. Please note that the public meeting has a limited number of seats. We request those who plan to attend to contact the meeting coordinator, Lieutenant Stephanie Waller, by phone or email listed in the **FOR FURTHER INFORMATION CONTACT** section not later than March 24, 2015. The meeting may close early if all business is finished or time may be extended to allow for more comments. Written comments and related material may be submitted to Coast Guard personnel specified at the meeting for inclusion in the official docket. The comment period for the proposed rule closes May 27, 2015. All written comments and related material submitted after the meeting must either be submitted to our online docket via *http://www.regulations.gov* on or before May 27, 2015 or reach the Docket Management Facility by that date.

ADDRESSES: The public meeting will be held at the following location:

- Board's Administration Building, 1350 Port of New Orleans Place, New Orleans, LA, 70130. The Board's Administration Building is located at the Port of New Orleans Headquarters, which is building 3 in the map linked below. Please view the map at the following link for the exact location: *http://portno.com/cms/resources/facilities/facilitiesmaps_03.jpg.*
- Parking will be at local private pay-to-park facilities. The Morial Convention Center's ''J'' lot is one option and is about 2 blocks from the Administration Building off of Henderson Street and right across from building 4 in the map linked above, which is Mardi Gras World.

You may submit written comments identified by docket number USCG–2014–0063 before or after the meeting using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov* under docket number USCG–2005–21869.

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. The online docket for this rulemaking is available on the Internet at *http://www.regulations.gov* under docket number USCG–2014–0063.

FOR FURTHER INFORMATION CONTACT: If you have questions concerning the public meeting, on facilities or services for individuals with disabilities, or wish to request special assistance or reasonable accommodation at the public meeting, please contact Lieutenant Stephanie Waller, Human Factors and Ship Design Division (CG–ENG–1), Coast Guard, *Stephanie.E.Waller@uscg.mil,* telephone 202–372–1374. If you have questions on viewing or submitting material to the docket, call Ms. Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826 or 1–800–647–5527.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments either orally at the meeting or in writing. If you bring written comments to the meeting, you may submit them to Coast Guard personnel specified at the meeting to receive written comments. These comments will be submitted to our online public docket. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

A. Submitting Comments

If you submit a comment using any of the methods described in the **ADDRESSES** section of this notice, please include the docket number for this rulemaking (USCG–2014–0063), indicate the specific section of the NPRM to which each comment applies, and provide a reason for each suggestion or recommendation. We recommend that you include your name and a mailing address, an email address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and insert ''USCG–2014–0063'' in the ''Search'' box. Click on ''Submit a Comment'' in the ''Actions'' column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this notice of proposed rulemaking (NPRM) based on your comments.

B. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* and insert

''USCG–2014–0063'' in the ''Search'' box. Click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

C. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008 issue of the **Federal Register** (73 FR 3316).

II. Background and Purpose

The Coast Guard published a notice of proposed rulemaking (NPRM) in the **Federal Register** on November 28, 2014 entitled, ''Requirements for MODUs and Other Vessels Conducting Outer Continental Shelf Activities With Dynamic Positioning Systems'' (79 FR 70943). In the NPRM we stated our intention to hold a public meeting, and to publish a notice to announce the location and date of that meeting (79 FR 70944).

The proposed rule would establish minimum design, operation, training, and manning standards for MODUs and other vessels using dynamic positioning systems to engage in Outer Continental Shelf activities. Establishing these minimum standards is necessary to improve the safety of people and property involved in such operations, and the protection of the environment in which they operate. The rule would decrease the risk of a loss of position by a dynamically-positioned MODU or other vessel that could result in a fire, explosion, or subsea spill, and support the Coast Guard's strategic goals of maritime safety and protection of natural resources.

We plan to record this meeting using an audio-digital recorder and to make that audio recording available through a link in our online docket. We will also provide a written summary of the meeting and comments and will place that summary in the docket.

III. Authority

This notice is issued under the authority of 5 U.S.C. 552(a).

Dated: March 4, 2015.

J.G. Lantz,

Director of Commercial Regulations and Standards, U.S. Coast Guard.

[FR Doc. 2015–05551 Filed 3–10–15; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[EPA–R04–OW–2014–0372; FRL–9921–73–Region 4]

Ocean Dumping: Expansion of an Ocean Dredged Material Disposal Site Offshore of Jacksonville, Florida

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve an expansion of the ocean dredged material disposal site (ODMDS) site offshore of Jacksonville, Florida pursuant to the Marine Protection, Research and Sanctuaries Act, as amended (MPRSA). The primary purpose for the site expansion is to serve the long-term need for a location to dispose of material dredged from the St. Johns River navigation channel, and to provide a location for the disposal of dredged material for persons who have received a permit for such disposal. The expanded site will be subject to ongoing monitoring and management to ensure continued protection of the marine environment.

DATES: Written comments must be received on or before April 10, 2015.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OW–2014–0372, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments and accessing the docket and materials related to this proposed rule.
- *Email: mcarthur.christopher@epa.gov.*
- *Mail:* Christopher McArthur, U.S. Environmental Protection Agency, Region 4, Water Protection Division, Marine Regulatory and Wetlands Enforcement Section, 61 Forsyth Street, Atlanta, Georgia 30303.

Instructions: Direct your comments to Docket ID No. EPA–R04–OW–2014–0372. 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 *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 through *www.regulations.gov* or email, information that you consider to be CBI or otherwise protected. The *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 disk or CD–ROM 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 EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: Publicly available docket materials are available either electronically at *www.regulations.gov* or in hard copy during normal business hours from the regional library at the U.S. Environmental Protection Agency, Region 4 Library, 9th Floor, 61 Forsyth Street, Atlanta, Georgia 30303. For access to the documents at the Region 4 Library, contact the Region 4 Library Reference Desk at (404) 562–8190, between the hours of 9:00 a.m. to 12:00 p.m., and between the hours of 1:00 p.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays, for an appointment.

FOR FURTHER INFORMATION CONTACT: Christopher McArthur, U.S. Environmental Protection Agency, Region 4, Water Protection Division, Marine Regulatory and Wetlands Enforcement Section, 61 Forsyth Street, Atlanta, Georgia 30303; phone number (404) 562–9391; email: *mcarthur.christopher@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Potentially Affected Persons

Persons potentially affected by this action include those who seek or might seek permits or approval to dispose of dredged material into ocean waters pursuant to the Marine Protection, Research, and Sanctuaries Act, as amended (MPRSA), 33 U.S.C. 1401 to 1445. The EPA's proposed action would be relevant to persons, including organizations and government bodies seeking to dispose of dredged material in ocean waters offshore of Jacksonville, Florida. Currently, the U.S. Army Corps of Engineers (USACE) would be most affected by this action. Potentially affected categories and persons include:

Category	Examples of potentially regulated persons
Federal government	U.S. Army Corps of Engineers Civil Works projects, U.S. Navy 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 persons likely to be affected by this action. For any questions regarding the applicability of this action to a particular person, please refer to the contact person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

II. Background

a. History of Disposal Sites Offshore of Jacksonville, Florida

The existing Jacksonville ODMDS is located approximately 5 nautical miles (nmi) southeast of the mouth of the St. Johns River on the continental shelf off the east coast of Florida. It is currently 1 nmi by 1 nmi (1 nmi^2) in size. Since 1952, the area now designated as the Jacksonville ODMDS and vicinity has been used for disposal of dredged material (*e.g.,* sand, silt, clay, rock) primarily from the Jacksonville Harbor Navigation Project, Naval Station Mayport entrance channel, and Naval Station Mayport turning basin. The Jacksonville ODMDS received interim site designation status in 1977 and final designation in 1983.

The USACE Jacksonville District and the EPA Region 4 have identified a need to either designate a new ODMDS or expand the existing Jacksonville ODMDS. The need for expanding current ocean disposal capacity is based on observed mounding at the Jacksonville ODMDS, future capacity modeling, historical dredging volumes, estimates of dredging volumes for future proposed projects, and limited capacity of upland confined disposal facilities (CDFs) in the area. This section discusses in detail the current and future capacity issues at the existing Jacksonville ODMDS and CDFs.

The proposed expansion of the ODMDS for dredged material does not mean that the USACE or the EPA has approved the use of the ODMDS for open water disposal of dredged material from any specific project. Before any person can dispose dredged material at the ODMDS, the EPA and the USACE must evaluate the project according to the ocean dumping regulatory criteria (40 CFR, part 227) and authorize the disposal. The EPA independently evaluates proposed dumping and has the right to restrict and/or disapprove of the actual disposal of dredged material if the EPA determines that environmental requirements under the MPRSA have not been met.

b. Location and Configuration of Expanded Ocean Dredged Material Disposal Site

This action proposes the expansion of the ocean dredged material site offshore of Jacksonville, Florida. The location of the proposed expanded ocean dredged material disposal site is bounded by the coordinates, listed below, and shown in Figure 1. The proposed expansion of the ODMDS will allow the EPA to adaptively manage the ODMDS to maximize its capacity, minimize the potential for mounding and associated safety concerns, potentially create hard bottom habitat and minimize the potential for any long-term adverse effects to the marine environment.

The coordinates for the site are, in North American Datum 83 (NAD 83):

Expanded Jacksonville ODMDS

(A) 30°21.514′ N, 81°18.555′ W
(B) 30°21.514′ N, 81°17.422′ W
(C) 30°20.515′ N, 81°17.422′ W
(D) 30°20.515′ N, 81°17.012′ W
(E) 30°17.829′ N, 81°17.012′ W
(F) 30°17.829′ N, 81°18.555′ W

The proposed expanded ODMDS is located in approximately 28 to 61 feet of water, and is located to 4.4 nmi offshore the mouth of the St. Johns River. The proposed expanded ODMDS would be 3.7 nmi long on the west side and 2.7 nmi long on the east side. It would be 1 nmi long on the north side and 1.3 nmi wide on the south side. It would be 4.56 nmi^2 in size.

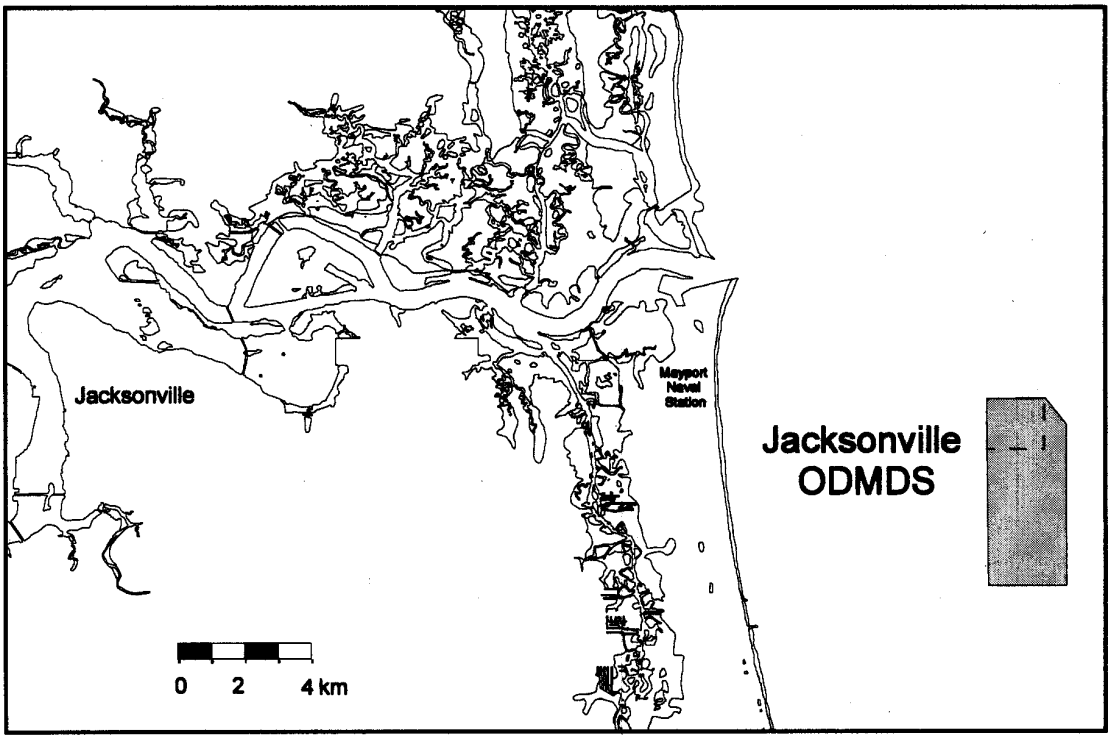

Figure 1. Proposed Expanded Jacksonville ODMDS

c. Management and Monitoring of the Site

The proposed expanded ODMDS is expected to receive sediments dredged by the USACE to deepen and maintain the federally authorized navigation project at Jacksonville Harbor, Florida, maintain Naval Station Mayport and dredged material from other persons who have obtained a permit for the disposal of dredged material at the ODMDS. All persons using the ODMDS are required to follow a Site Management and Monitoring Plan (SMMP) for the ODMDS. The SMMP includes management and monitoring requirements to ensure that dredged materials disposed at the ODMDS are suitable for disposal in the ocean and that adverse impacts of disposal, if any, are addressed to the maximum extent practicable. The SMMP for the proposed expanded ODMDS, in addition to the aforementioned, also addresses management of the ODMDS to ensure adverse mounding does not occur, promotes habitat creation where possible and to ensure that disposal events minimize interference with other uses of ocean waters in the vicinity of the proposed expanded ODMDS. The SMMP is available as a draft document for review and comment at this time. The public is encouraged to take advantage of this opportunity to read and submit comments on the draft SMMP.

d. MPRSA Criteria

In proposing to expand the ODMDS, the EPA assessed the proposed expanded ODMDS according to the criteria of the MPRSA, with particular emphasis on the general and specific regulatory criteria of 40 CFR part 228, to determine whether the proposed site designations satisfy those criteria. The EPA's *Final Environmental Impact Statement for Designation of an Ocean Dredged Material Disposal Site Offshore Jacksonville, Florida, [October 2014] (EIS),* provides an extensive evaluation of the criteria and other related factors for the expansion of the ODMDS.

General Criteria (40 CFR 228.5)

(1) Sites must be selected to minimize interference with other activities in the marine environment, particularly avoiding areas of existing fisheries or shellfisheries, and regions of heavy commercial or recreational navigation (40 CFR 228.5(a)).

Historical disposal of dredged material at the existing Jacksonville ODMDS has not interfered with commercial or recreational navigation, commercial fishing, or sportfishing activities. Expansion of this site is not expected to change these conditions. The proposed expanded ODMDS avoids any identified major fisheries, natural and artificial reefs, and areas of recreational use. The proposed expanded ODMDS is approximately 1 nmi east of the areas identified by commercial shrimpers as important shrimp trawling areas. The proposed expanded ODMDS minimizes interference with shellfisheries by avoiding areas frequently used by commercial shrimpers. The proposed expanded ODMDS is not expected to adversely affect recreational boating and is located outside of designated shipping/navigation channels and anchorage areas. The draft SMMP outlines site management objectives, including minimizing interference with other uses of the ocean. Should a site use conflict be identified, site use could be modified according to the SMMP to minimize that conflict.

(2) Sites must be situated such that temporary perturbations to water quality or other environmental conditions during initial mixing caused by disposal operations would be reduced to normal ambient levels or undetectable contaminant concentrations or effects before reaching any beach, shoreline, marine sanctuary, or known geographically limited fishery or shellfishery (40 CFR 228.5(b)).

Based on the EPA's review of modeling, monitoring data, sediment quality, and history of use, no detectable contaminant concentrations or water quality effects, *e.g.,* suspended solids, would be expected to reach any beach or shoreline from disposal activities at the proposed expanded ODMDS. The expanded proposed ODMDS is removed far enough from shore (4.4 nmi) and fishery resources to allow water quality perturbations caused by dispersion of disposed material to be reduced to ambient conditions before reaching any environmentally sensitive areas. Dilution rates are expected to range from 140:1 to 2800:1 after four hours. The primary impact of disposal activities on water quality is expected to be temporary turbidity caused by the physical movement of sediment through the water column. All dredged material proposed for disposal will be evaluated according to the ocean dumping regulations at 40 CFR 227.13 and guidance developed by the EPA and the USACE.

(3) The sizes of disposal sites will be limited in order to localize for identification and control any immediate adverse impacts, and to permit the implementation of effective monitoring and surveillance to prevent adverse long-range impacts. Size, configuration, and location are to be determined as part of the disposal site evaluation (40 CFR 228.5(d)).

The location, size, and configuration of the proposed expanded ODMDS allow and facilitate long-term capacity, site management, and site monitoring while limiting environmental impacts to the surrounding area to the extent possible. Based on projected future new work and maintenance dredged material disposal needs, it is estimated that the new ODMDS should be approximately 4 nmi^2 in size to meet the long-term (>50 years) disposal needs of the area. An ODMDS of this size should have a capacity of greater than 65 million cubic yards. The proposed expanded ODMDS is 4.56 nmi^2 in size inclusive of the existing Jacksonville ODMDS.

A site management and monitoring program will be implemented to determine if disposal at the site is significantly affecting adjacent areas and to detect the presence of long-term adverse effects. At a minimum, the monitoring program will consist of bathymetric surveys, sediment grain size analysis, chemical analysis of constituents of concern in the sediments, an assessment of the health of the benthic community, and an assessment of any movement of disposed dredged material offsite. The size of the proposed expanded ODMDS is similar to that of other ocean dredged material disposal sites in the Southeastern United States. Monitoring of sites of this size have proved to be effective and feasible.

(4) EPA will, wherever feasible, designate ocean dumping sites beyond the edge of the continental shelf and other such sites where historical disposal has occurred (40 CFR 228.5(e)).

Disposal areas located off of the continental shelf would be at least 60 to 70 nautical miles offshore. This distance is well beyond the 5 to 10 nautical mile haul distance determined to be feasible by the USACE for maintenance of their Jacksonville Harbor project. Additional disadvantages to off-shelf ocean disposal would be the unknown environmental impacts of disposal on deep-sea, stable, fine-grained benthic communities and the higher cost of monitoring sites in deeper waters and further offshore.

Historic disposal has occurred at the proposed location for the expanded ODMDS. The substrate of the proposed expanded ODMDS is similar grain size to the disposal material.

Specific Criteria (40 CFR 228.6)

(1) Geographical Position, Depth of Water, Bottom Topography and Distance from Coast (40 CFR 228.6(a)(1)).

The EPA does not anticipate that the geographical position of the proposed expanded ODMDS, including the depth, bottom topography and distance from the coastline, will unreasonably degrade the marine environment. The proposed expanded ODMDS is located on the shallow continental shelf off northeast Florida and is 7.1 nautical miles southeast of the mouth of the St. Johns River. Depths within the proposed expansion area of the ODMDS range from 43 to 66 feet (13 to 20 meters) with an average depth of 57 feet (17 meters). To help avoid adverse mounding at the proposed expanded ODMDS, bathymetry will be routinely monitored following disposal activities and disposal locations modified as necessary. In this way, mounding that could create a navigation hazard will be avoided. Material disposed in the proposed expanded ODMDS is not expected to move from the proposed expanded ODMDS except during large storm events.

(2) Location in Relation to Breeding, Spawning, Nursery, Feeding, or Passage Areas of Living Resources in Adult or Juvenile Phases (40 CFR 228.6(a)(2)).

The proposed expanded ODMDS is located within the North Atlantic right whale critical habitat. The coastal waters off Georgia and northern Florida are the only known calving ground for the North Atlantic right whale between November and April. The proposed expansion of the ODMDS is not expected to alter the critical habitat. Disposed dredged material will settle out of the water column to the benthos, which is not considered part of the critical habitat. Disturbances from ships transiting through the area would not be significantly different from normal vessel operations that occur daily in the project area, although during dredging activities there would be an increase in vessel activity in the areas between the river entrance and the proposed expanded ODMDS which may lead to an increase risk of animal collisions. Observance of critical habitat designations and the North Atlantic right whale Early Warning System should mitigate for this potential increase.

The proposed expanded ODMDS is not located in exclusive breeding, spawning, nursery, feeding or passage areas for adult or juvenile phases of living resources. The most active fish breeding and nursery areas are located in inshore estuarine waters, along adjacent beaches, or in nearshore reef areas. At and in the immediate vicinity of the proposed expanded ODMDS, spawning and migrating adult penaeid shrimp may be present. However, as much of the dredged material will consist of silts and clays, it appears likely that the area will remain suitable for penaeid shrimp.

(3) Location in Relation to Beaches and Other Amenity Areas (40 CFR 228.6(a)(3)).

The proposed site is approximately 4.4 nmi from coastal beaches and protected inshore waters. Shore-related amenities include Nassau River-St. Johns River Marshes Aquatic Preserve, Little Talbot Island State Park, Kingsley Plantation Historic Monument, and Fort Caroline National Memorial. These amenity areas are outside the area to be affected by disposal in the proposed expanded ODMDS. The site is approximately 4 to 5 nmi west of the nearest artificial reef or fishing hotspots.

(4) Types and Quantities of Wastes Proposed to be Disposed of, and Proposed Methods of Release, including Methods of Packing the Waste, if any (40 CFR 228.6(a)(4)).

Dredged material found suitable for ocean disposal pursuant to the regulatory criteria for dredged material, or characterized by chemical and biological testing and found suitable for disposal into ocean waters, will be the only material allowed to be disposed at the proposed expanded ODMDS. No material defined as ''waste'' under the

MPRSA will be allowed to be disposed at the site. The dredged material to be disposed at the proposed expanded ODMDS will be a mixture of rock, sands, silts and clays. Annual average quantities are expected to range 0.5 to 1.1 million cubic yards. 18 million cubic yards is expected to be disposed from the Jacksonville Harbor Deepening Project. Generally, disposal is expected to occur from a hopper dredge or disposal scow, in which case, material will be released just below the surface while the disposal vessel remains underway and slowly transits the disposal location.

(5) *Feasibility of Surveillance and Monitoring (40 CFR 228.6(a)(5)).*

The EPA expects monitoring and surveillance at the proposed expanded ODMDS to be feasible and readily performed from ocean or regional class research vessels. The proposed expanded ODMDS is of similar size, water depth and distance from shore of a majority of the ODMDSs within the Southeastern United States which are routinely monitored. The EPA will ensure monitoring of the site for physical, biological and chemical attributes as well as for potential impacts beyond the site boundaries. Bathymetric surveys will be conducted routinely as defined in the SMMP, contaminant levels in the dredged material will be analyzed prior to dumping, and the benthic infauna and epibenthic organisms will be monitored every 10 years, as funding allows.

(6) *Dispersal, Horizontal Transport and Vertical Mixing Characteristics of the Area, including Prevailing Current Direction and Velocity, if any (40 CFR 228.6(a)(6)).*

Waves are predominately out of the east and a few exceed 2 meters (6.6 feet) in height or 15 seconds (s) in period. Waves are the primary factor influencing re-suspension of disposed dredged material, and currents probably affect the direction and magnitude of transport. Currents flow predominately in a north-northwest and south-southeast direction and rarely exceeds 30 cm/s in magnitude. Modeling and monitoring conducted at the existing ODMDS has shown that the net direction of transport is to the south. Dilution rates due to mixing are expected to range from 140:1 to 2800:1 after four hours.

(7) *Existence and Effects of Current and Previous Discharges and Dumping in the Area (including Cumulative Effects) (40 CFR 228.6(a)(7)).*

The areas within the vicinity of the Jacksonville ODMDS have been in use since 1952 for disposal of dredged material (*e.g.,* sand, silt, clay, gravel, shell, and some rock) from the Jacksonville Harbor Navigation Project and the Naval Station Mayport entrance channel and turning basin. The Jacksonville ODMDS received interim site designation status in 1977 and final designation in 1983. Prior to 1970 and in the early 1970s, material was disposed in an area 0.5 nmi east of the Jacksonville ODMDS. In the late 1970s material was unintentionally disposed south of the site. Water column chemistry in past studies at ODMDS sites has typically shown little or no impact due to dredged material disposal. Sediment analysis in the late 1970s showed higher concentrations of certain heavy metals (nickel, copper, zinc, lead, and chromium), Kjeldahl nitrogen, and organic carbon in sediments within the disposal site versus outside the site. Sediment analysis as part of a 1995 benthic survey showed that, in general, metal concentrations within the ODMDS remained elevated compared to concentrations outside the ODMDS. However, concentrations within the ODMDS have decreased since 1978 and, based on a 1998 study, continue to decrease. The average percentage of silts and clays at stations within the ODMDS exceeds that of stations outside the ODMDS, but has decreased both inside and outside the ODMDS since. A 2009 study documented tri-n-butyltin, di-n-butyltin, and n-butyltin present at sampling stations both inside and outside the Jacksonville ODMDS. Benthic infaunal community studies at the existing Jacksonville ODMDS have showed that communities remain diverse with no significant changes. The normal equilibrium benthic community in the area consists of surface-dwelling suspension feeders that are pre-adapted to energetic sandy environments.

(8) *Interference with Shipping, Fishing, Recreation, Mineral Extraction, Desalination, Fish and Shellfish Culture, Areas of Special Scientific Importance and Other Legitimate Uses of the Ocean (40 CFR 228.6(a)(8)).*

The proposed expanded ODMDS is not expected to interfere with shipping, fishing, recreation or other legitimate uses of the ocean. Commercial navigation, commercial fishing, and mineral extraction (sand mining) are the primary activities that may spatially overlap with disposal at the proposed expanded ODMDS. The proposed expanded ODMDS avoids the National Oceanographic and Atmospheric Administration (NOAA) recommended vessel routes offshore Jacksonville, Florida, thereby avoiding conflict with commercial navigation.

Commercial fishing (shrimp trawling) occurs primarily to the west of the proposed expanded ODMDS. The northern portion of the proposed expanded ODMDS encompasses areas with rubble and other debris that commercial shrimp trawlers avoid due to potential damage to their shrimp nets. The southern portion of the proposed expanded ODMDS includes areas used for commercial shrimp trawling. The proposed expanded ODMDS will be managed such that rock will be disposed in the eastern portion of the proposed expanded ODMDS outside of the fishing area and finer grained material (silts/clays) will be disposed in the western portion. Additionally, the southern portion will only be used if the northern portion has reached capacity.

Potential sand borrow areas have been identified to the east of the proposed expanded ODMDS. The proposed expanded ODMDS will be managed to avoid impacts to these areas. Only rock and sand will be disposed in the eastern portions of the proposed expanded ODMDS providing a buffer between the disposal of silts and clays and the potential borrow areas. The nearest potential borrow areas is adjacent to the southern half of the proposed expanded ODMDS. This borrow area is expected to be exhausted prior to use of the southern portion of the proposed expanded ODMDS as the southern portion will only be used if the northern portion has reached capacity.

The likelihood of direct interference with these activities is low, provided there is close communication and coordination among users of the ocean resources. The EPA is not aware of any plans for desalination plants, or fish and shellfish culture operations near the proposed expanded ODMDS at this time. The proposed expanded ODMDS is not located in areas of special scientific importance.

(9) *The Existing Water Quality and Ecology of the Sites as Determined by Available Data or Trend Assessment of Baseline Surveys (40 CFR 228.6(a)(9)).*

Spring and fall season baseline surveys were conducted in 2010 at the proposed expanded ODMDS. Water quality was determined to be good with no evidence of degradation. No hypoxia conditions were observed and all chemical constituents were below EPA national recommended water quality criteria for salt water. Annelid worms, arthropods, echinoderms, gastropods, and bivalves are common benthic taxonomic groups. The Atlantic croaker, spotted hake, searobins, drums, and sand flounders are common fish species. Important mollusks include transverse

and ponderous arks, mussels, and Atlantic calico scallops.

(10) *Potentiality for the Development or Recruitment of Nuisance Species in the Disposal Site (40 CFR 228.6(a)(10)).*

Nuisance species, considered as any undesirable organism not previously existing at a location, have not been observed at, or in the vicinity of, the proposed expanded ODMDS. Material expected to be disposed at the proposed expanded ODMDS will be rock, sand, silt and clay similar to the sediment present at the proposed expanded ODMDS. Finer-grained material could have the potential to attract different species to the proposed expanded ODMDS then currently exist as was documented following disposal of significant amounts of silts and clays from deepening of Naval Station Mayport. However, it is expected that over time, as currents and waves energy transport the finer-grained sediments away, the normal equilibrium benthic community will re-establish itself. The proposed SMMP includes benthic infaunal monitoring requirements, which will act to identify any nuisance species and allow the EPA to direct special studies and/or operational changes to address the issue if it arises.

(11) *Existence at or in Close Proximity to the Site of any Significant Natural or Cultural Feature of Historical Importance (40 CFR 228.6(a)(11)).*

No significant cultural features have been identified at, or in the vicinity of, the proposed expanded ODMDS at this time. Archaeological surveys of the proposed expanded ODMDS were conducted in 2011 and 2012. The survey identified three sub-bottom features and one magnetic cluster. Archaeological divers investigated these targets and determined that they did not represent significant cultural features of historical or prehistorical importance. The EPA has coordinated with Florida's State Historic Preservation Officer (SHPO) to identify any cultural features. The SHPO concurred with the EPA's determination that the proposed expansion of the ODMDS will have no effect on cultural resources listed, or eligible for listing on the National Register of Historic Places. No shipwrecks have been observed or documented within the proposed expanded ODMDS or its immediate vicinity.

III. Environmental Statutory Review—National Environmental Policy Act (NEPA); Magnuson-Stevens Act (MSA); Marine Mammal Protection Act (MMPA); Coastal Zone Management Act (CZMA); Endangered Species Act (ESA); National Historic Preservation Act (NHPA)

a. NEPA

Section 102 of the National Environmental Policy Act of 1969, as amended (NEPA), 42 U.S.C. 4321 to 4370f, requires Federal agencies to prepare an Environmental Impact Statement (EIS) for major federal actions significantly affecting the quality of the human environment. NEPA does not apply to EPA designations of ocean disposal sites under the MPRSA because the courts have exempted the EPA's actions under the MPRSA from the procedural requirements of NEPA through the functional equivalence doctrine. The EPA has, by policy, determined that the preparation of NEPA documents for certain EPA regulatory actions, including actions under the MPRSA, is appropriate. The EPA's ''Notice of Policy and Procedures for Voluntary Preparation of NEPA Documents,'' (Voluntary NEPA Policy), 63 FR 58045, (October 29, 1998), sets out both the policy and procedures the EPA uses when preparing such environmental review documents. The EPA's primary voluntary NEPA document for expanding the ODMDS is the *Final Environmental Impact Statement for Designation of an Ocean Dredged Material Disposal Site Offshore Jacksonville, Florida, [October 2014]* (FEIS), prepared by the EPA in cooperation with the USACE. On October 17, 2014, the Notice of Availability (NOA) of the FEIS for public review and comment was published in the **Federal Register** (79 FR 62436 [October 17, 2014]). Anyone desiring a copy of the FEIS may obtain one from the addresses given above. The public comment period on the FEIS closed on November 17, 2014. The FEIS and its Appendices, which are part of the docket for this action, provide the threshold environmental review for expansion of the ODMDS. The information from the FEIS is used above, in the discussion of the ocean dumping criteria.

The EPA received five comment letters on the FEIS. There were two main concerns expressed in those letters: (1) Potential movement of disposed material impacting areas such as habitat, fisheries and sand borrow areas; and (2) effects on nearby recently designated loggerhead critical habitat. No objections to the ODMDS expansion were received. The proposed expanded ODMDS was sited to minimize impacts to shrimping grounds, habitat and sand borrow areas to the extent possible. The EPA and USACE have conducted computer modeling and field monitoring to evaluate sediment transport. The SMMP developed for the proposed expanded ODMDS outlines how the proposed expanded ODMDS will be monitored and managed to minimize impacts outside the boundaries of the proposed expanded ODMDS. This includes buffer zones, monitoring for sediment transport and deposition offsite and staged site use to avoid conflict with sand borrow activities. Regarding critical habitat for loggerhead sea turtles, the National Marine Fisheries Service issued the final rule on July 10, 2014 to designate critical habitat for the Northwest Atlantic Ocean Distinct Population Segment (DPS) of the loggerhead sea turtle (*Caretta caretta*) within the Atlantic Ocean and the Gulf of Mexico regarding critical habitat for loggerhead sea turtle in the Northwest Atlantic Ocean and Gulf of Mexico. Nearshore reproductive habitat is located within the vicinity of the proposed expanded ODMDS along parts of Duval and St. Johns counties extending from the mean high water mark to 1.6 km offshore. The analysis of endangered and threatened species and associated critical habitat presented in the FEIS did not include this habitat. The EPA has conducted a supplementary analysis of the loggerhead critical habitat and concluded that the action is not likely to adversely affect the loggerhead sea turtle or its critical habitat.

The proposed action discussed in the FEIS is the permanent designation of an expanded ODMDS offshore Jacksonville, Florida. The purpose of the proposed action is to provide an environmentally acceptable option for the ocean disposal of dredged material. The need for the expanded ODMDS is based on a demonstrated USACE need for ocean disposal of dredged material from the Jacksonville Harbor Navigation Project, Naval Station Mayport, and the proposed Jacksonville Harbor Deepening Project. The need for ocean disposal for these and other projects, and the suitability of the material for ocean disposal, will be determined on a case-by-case basis as part of the USACE process of issuing permits for ocean disposal for private/federal actions and a public review process for its own actions. This will include an evaluation of disposal alternatives.

For the proposed expanded ODMDS, the USACE and the EPA would evaluate all federal dredged material disposal

projects pursuant to the EPA criteria set forth in the Ocean Dumping Regulations (40 CFR 220–229) and the USACE regulations (33 CFR 209.120 and 335–338). The USACE issues Marine Protection, Research, and Sanctuaries Act (MPRSA) permits to applicants for the transport of dredged material intended for disposal after compliance with regulations is determined. The EPA has the right to disapprove any ocean disposal project if, in its judgment, all provisions of MPRSA and the associated implementing regulations have not been met.

The FEIS discusses the need for the proposed expanded ODMDS and examines ocean disposal site alternatives to the proposed actions. The need for expanding the current ODMDS is based on observed excessive mounding at the existing ODMDS, future capacity modeling, historical dredging volumes, estimated dredging volumes for proposed projects, and limited capacity of upland CDFs in the area. Non-ocean disposal options have been examined in the FEIS based on information provided by the USACE in the Dredged Material Management Plans for Jacksonville Harbor. There is sufficient capacity at CDFs for continued maintenance of the Jacksonville Harbor Cuts 14 through 42 for the next 20 years and nearshore placement is the preferred disposal alternative for beach-compatible material from Cuts 3 through 13. However, capacity at the CDFs is limited and may not be a viable alternative in the long term (greater than 20 years) and nearshore placement alternatives are limited to beach-quality sand and the expected quantity of beach quality sand can be minimal. Furthermore, neither of these alternatives provides capacity for disposal of material from Naval Station Mayport or the proposed Jacksonville Harbor Deepening Project.

The following ocean disposal alternatives were evaluated in the FEIS:

1. Alternative 2: South of the Jacksonville ODMDS

Alternative 2 is the designation of a new ODMDS approximately 1 nmi south of the southernmost boundary of the existing Jacksonville ODMDS. Alternative 2 had more potential impacts to sand borrow areas and was not preferred by shrimp fishing industry.

2. Alternative 3: North of the Jacksonville ODMDS

Alternative 3 is the designation of a new ODMDS approximately 6 nmi north of the northernmost boundary of the existing Jacksonville ODMDS. Alternative 3 is located in an area frequently fished by the shrimping industry. Additionally, it is in an area that historically has had a high number of recorded North Atlantic right whale visits compared to south of the St. Johns River.

3. Alternative Sites Beyond the Continental Shelf

Alternative sites beyond the continental shelf would be more than 60 nmi from the mouth of the St. Johns River, a distance beyond the point at which dredged material disposal is considered economically and operationally feasible. This limitation to a 5 to 10 nmi radius reflects the economic constraints on dredging and disposal operations for the Jacksonville Harbor area, particularly as they relate to increasing fuel costs, which could be as much as seven times higher if a site off the continental shelf were selected. Regular monitoring of the site, as required by the SMMP, would also be more difficult logistically and more costly than a site located beyond the continental shelf. Based on these factors, the option of using off shelf sites for disposal of dredged material was eliminated from detailed consideration.

4. No Action Alternative

The No-Action Alternative means that the EPA would not designate a new or expand the existing Jacksonville ODMDS. Dredged material that would normally have gone to the Jacksonville ODMDS may have to go to the Fernandina Beach ODMDS once the Jacksonville ODMDS reaches capacity. There are several concerns associated with using the Fernandina Beach ODMDS for disposal of dredged material from the Jacksonville Harbor area, including: (1) Adverse impacts to dredging projects from the Fernandina Beach, Florida area due to reduced capacity at the Fernandina Beach ODMDS; (2) increased costs associated with additional fuel consumption; (3) increased air emissions associated; and (4) increased risk of vessel strikes with the North Atlantic right whale. The No Action Alternative does not meet the proposed action's purpose and need. However, it was evaluated in the FEIS as a basis to compare the effects of the other alternatives considered.

5. Preferred Alternative: Expansion of the Existing Jacksonville ODMDS

The preferred alternative is the proposed expansion of the existing Jacksonville ODMDS. Under this alternative, an additional 3.56 nmi^2 area would be added adjacent to the south and east of the existing Jacksonville ODMDS. The eastern portion of the proposed expanded ODMDS contains approximately 3.5 acres of rubble from what is believed to be historic dredged material disposal. Disposal operations will be managed so that only rock disposal occurs in this area to enhance any potential habitat features. The eastern edge of proposed expanded ODMDS is approximately 1 nmi west of the Duval County Sand borrow area and does not overlap with any potential future sand band areas. It is approximately 1 nmi east of primary shrimp trawling areas and is in an area less frequented by the North Atlantic right whale. Furthermore, from an operations and site management standpoint, it is advantageous to have a single expanded ODMDS rather than the existing ODMDS and a new ODMDS as it can be managed as a single entity and will provide additional disposal capacity in areas that would otherwise be used as buffer zones. Therefore, expansion of the existing Jacksonville ODMDS has been selected as the preferred alternative in the FEIS.

The FEIS presents the information needed to evaluate the suitability of ocean disposal areas for final designation use and is based on a series of disposal site environmental studies. The environmental studies and final designation are being conducted in accordance with the requirements of MPRSA, the Ocean Dumping Regulations, and other applicable Federal environmental legislation. The site coordinates have been adjusted slightly from those presented in the FEIS to align site corners with lines of longitude and latitude. Differences differ by no more than 100 feet and do not affect the conclusions and information presented in the FEIS.

b. MSA

The EPA prepared an essential fish habitat (EFH) assessment pursuant to Section 305(b), 16 U.S.C. 1855(b)(2), of the Magnuson-Stevens Act, as amended (MSA), 16 U.S.C. 1801 to 1891d, and submitted that assessment to the National Marine Fisheries Service (NMFS) on May 11, 2012. The NMFS provided EFH Conservation Recommendations and a request for additional information on July 11, 2012. The EPA prepared an interim response with the requested additional information on August 2, 2012 and a revised EFH Assessment for the preferred alternative on October 6, 2014. In a letter dated January 5, 2015, NMFS determined that the EPA and the USACE have provided the substantive justification required by 50 CFR

600.920(k) for not following EFH conservation recommendations.

c. CZMA

Pursuant to an Office of Water policy memorandum dated October 23, 1989, the EPA has evaluated the proposed site designations for consistency with the State of Florida's (the State) approved coastal management program. The EPA has determined that the designation of the proposed site is consistent to the maximum extent practicable with the State coastal management program, and submitted this determination to the State for review in accordance with the EPA policy. The State concurred with this determination on November 17, 2014. In addition, as part of the NEPA process, the EPA has consulted with the State regarding the effects of the dumping at the proposed site on the State's coastal zone. The EPA has taken the State's comments into account in preparing the FEIS for the site, in determining whether the proposed site should be designated, and in determining whether restrictions or limitations should be placed on the use of the site, if they are designated. The EPA modified Alternative 1 to address the State's concern regarding potential impacts to hard bottom benthic habitat and has incorporated management and monitoring requirements into the SMMP to ensure that disposed dredged materials do not negatively affect important benthic resources and sand borrow areas located outside of the designated ODMDS boundaries. Furthermore, at the request of the State, the EPA has conducted an evaluation of recently designated critical habitat for the loggerhead sea turtle.

d. ESA

The Endangered Species Act, as amended (ESA), 16 U.S.C. 1531 to 1544, requires Federal agencies to consult with NMFS and the U.S. Fish and Wildlife Service (USFWS) to ensure that any action authorized, funded, or carried out by the Federal agency is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of any critical habitat. The EPA prepared a Biological Assessment (BA) to assess the potential effects of expanding the Jacksonville ODMDS on aquatic and wildlife species and submitted that BA to the NMFS and USFWS on October 6, 2014. A supplement to the BA addressing loggerhead critical habitat was submitted on January 15, 2015. The EPA concluded that its action may affect, but is not likely to adversely affect 10 ESA-listed species and is not likely to adversely affect designated critical habitat for the North Atlantic right whale or the loggerhead sea turtle. The USFWS concurred on the EPA's finding that the proposed action is not likely to adversely affect listed endangered or threatened species under the jurisdiction of the USFWS. The EPA will not take final action on the proposed site until consultation with NMFS under the ESA is complete.

e. NHPA

The USACE and the EPA initiated consultation with the State of Florida's Historic Preservation Officer (SHPO) on November 24, 2010, to address the National Historic Preservation Act, as amended (NHPA), 16 U.S.C. 470 to 470a–2, which requires Federal agencies to take into account the effect of their actions on districts, sites, buildings, structures, or objects, included in, or eligible for inclusion in the National Register of Historic Places (NRHP). A submerged cultural resource survey of the area including the use of magnetometer, side scan sonar, and sub-bottom profiler was conducted in 2011. A follow-up archaeological diver investigation was conducted in 2012. No historic properties were found within the proposed expanded ODMDS boundaries and SHPO concurred with the determination that designated the expanded ODMDS would have no effect on cultural resource listed, or eligible for listing on the NRHP.

IV. Statutory and Executive Order Reviews

This rule proposes the designation of an expanded ODMDS pursuant to Section 102 of the MPRSA. This proposed action complies with applicable executive orders and statutory provisions as follows:

a. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This proposed action is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

b. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Burden is defined at 5 CFR 1320.3(b). This proposed site designation, does not require persons to obtain, maintain, retain, report, or publicly disclose information to or for a Federal agency.

c. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires Federal agencies to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions. For purposes of assessing the impacts of this rule on small entities, small entity is defined as: (1) A small business defined by the Small Business Administration's size regulations at 13 CFR 121.201; (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. The EPA determined that this proposed action will not have a significant economic impact on small entities because the proposed rule will only have the effect of regulating the location of site to be used for the disposal of dredged material in ocean waters. After considering the economic impacts of this proposed rule, I certify that this action will not have a significant economic impact on a substantial number of small entities.

d. Unfunded Mandates Reform Act

This proposed action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act (UMRA) of 1995, 2 U.S.C. 1531 to 1538, for State, local, or tribal governments or the private sector. This action imposes no new enforceable duty on any State, local or tribal governments or the private sector. Therefore, this action is not subject to the requirements of sections 202 or 205 of the UMRA. This action is also not subject to the requirements of section 203 of the UMRA because it contains no regulatory requirements that might significantly or uniquely affect small government entities. Those entities are already subject to existing permitting requirements for the disposal of dredged material in ocean waters.

e. Executive Order 13132: Federalism

This proposed action does not have federalism implications. It does 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 various levels of government, as specified in Executive Order 13132. Thus, Executive Order 13132 does not apply to this action. In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between the EPA and State and local governments, the EPA specifically solicited comments on this proposed action from State and local officials.

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

This proposed action does not have tribal implications, as specified in Executive Order 13175 because the expansion of the Jacksonville ODMDS will not have a direct effect on Indian Tribes, on the relationship between the federal government and Indian Tribes, or on the distribution of power and responsibilities between the federal government and Indian Tribes. Thus, Executive Order 13175 does not apply to this action. Although Executive Order 13175 does not apply to this proposed action the EPA consulted with tribal officials in the development of this action, particularly as the action relates to potential impacts to historic or cultural resources. The EPA specifically solicits additional comments on this proposed action from tribal officials.

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under Section 5–501 of the Executive Order has the potential to influence the regulation. This proposed action is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks. The proposed action concerns the expansion of the Jacksonville ODMDS and only has the effect of providing a designated location for ocean disposal of dredged material pursuant to Section 102(c) of the MPRSA. However, we welcome comments on this proposed action related to this Executive Order.

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

This proposed action is not subject to Executive Order 13211, ''Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355) because it is not a ''significant regulatory action'' as defined under Executive Order 12866. However, we welcome comments on this proposed action related to this Executive Order.

i. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, 12(d) (15 U.S.C. 272), directs the 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 the EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This proposed action includes environmental monitoring and measurement as described in EPA's proposed SMMP. The EPA will not require the use of specific, prescribed analytic methods for monitoring and managing the designated ODMDS. The Agency plans to allow the use of any method, whether it constitutes a voluntary consensus standard or not, that meets the monitoring and measurement criteria discussed in the proposed SMMP. The EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially-applicable voluntary consensus standards and to explain why such standards should be used in this proposed action.

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

Executive Order 12898 (59 FR 7629) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. The EPA determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. The EPA has assessed the overall protectiveness of expanding the Jacksonville ODMDS against the criteria established pursuant to the MPRSA to ensure that any adverse impact to the environment will be mitigated to the greatest extent practicable. We welcome comments on this proposed action related to this Executive Order.

List of Subjects in 40 CFR Part 228

Environmental protection, Water pollution control.

Authority: This action is issued under the authority of Section 102 of the Marine Protection, Research, and Sanctuaries Act, as amended, 33 U.S.C. 1401, 1411, 1412.

Dated: February 11, 2015.

V. Anne Heard,

Acting Regional Administrator, Region 4.

For the reasons set out in the preamble, The EPA proposes to amend chapter I, 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 (h)(9)(i) through (iii) and (vi) to read as follows:

§ 228.15 Dumping sites designated on a final basis.

* * * * *

(h) * * *

(9) * * *

(i) *Location:* 30°21.514′ N, 81°18.555′ W., 30°21.514′ N, 81°17.422′ W., 30°20.515′ N, 81°17.422′ W., 30°20.515′ N, 81°17.012′ W., 30°17.829′ N, 81°17.012′ W., 30°17.829′ N, 81°18.555′ W.

(ii) *Size:* Approximately 3.68 nautical miles long and 1.34 nautical miles wide (4.56 square nautical miles); 3,861 acres (1,562 hectares).

(iii) *Depth:* Ranges from approximately 28 to 61 feet (9 to 19 meters).

* * * * *

(vi) *Restrictions:* (A) Disposal shall be limited to dredged material determined to be suitable for ocean disposal according to 40 CFR 227.13;

(B) Disposal shall be managed by the restrictions and requirements contained in the currently-approved Site Management and Monitoring Plan (SMMP);

(C) Monitoring, as specified in the SMMP, is required.

* * * * *

[FR Doc. 2015–05232 Filed 3–10–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2014–0471; FRL–9924–36–OAR]

RIN 2060–AS26

Petition To Add n-Propyl Bromide to the List of Hazardous Air Pollutants; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Receipt of a complete petition; extension of public comment period.

SUMMARY: The Environmental Protection Agency (EPA) is announcing that the period for providing public comments on the February 6, 2015, receipt of a complete petition document titled ''Petition To Add n-Propyl Bromide to the List of Hazardous Air Pollutants'' is being extended by 60 days.

DATES: The public comment period for the receipt of a complete petition document published in the **Federal Register** on February 6, 2015 (80 FR 6676), is being extended by 60 days to May 7, 2015, in order to provide the public additional time to submit comments and supporting information.

ADDRESSES: Written comments on the receipt of a complete petition document may be submitted to the EPA electronically, by mail, by facsimile or through hand delivery/courier. Please refer to the **Federal Register** document (80 FR 6676) for the addresses and detailed instructions.

Docket. Publicly available documents relevant to this action are available for public inspection either electronically at *http://www.regulations.gov* or in hard copy at the EPA Docket Center, Room 3334, 1301 Constitution Avenue NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying. The official public docket for this rulemaking is Docket ID No. EPA–HQ–OAR–2014–0471.

FOR FURTHER INFORMATION CONTACT: Mr. John Schaefer, Policy and Strategies Group (D205–02), Sector Policies and Programs Division, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; Telephone number: (919) 541–0296; Fax number (919) 541–5600; Email address: *schaefer.john@epa.gov.*

SUPPLEMENTARY INFORMATION:

Comment Period

After considering a request received to extend the public comment period, the EPA has decided to extend the public comment period for an additional 60 days. Therefore, the public comment period will end on May 7, 2015, rather than March 9, 2015. This extension will help ensure that the public has sufficient time to review the proposed rule, the supporting technical documents and data available in the docket.

Dated: March 2, 2015.

Stephen D. Page,

Director, Office of Air Quality Planning and Standards.

[FR Doc. 2015–05550 Filed 3–9–15; 11:15 am]

BILLING CODE 6560–50–P

Notices

Federal Register

Vol. 80, No. 47

Wednesday, March 11, 2015

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2015–0022]

National Wildlife Services Advisory Committee; Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of meeting.

SUMMARY: We are giving notice of a meeting of the National Wildlife Services Advisory Committee.

DATES: The meeting will be held on March 17, 18, and 19, 2015, from 8 a.m. to 5 p.m. each day.

ADDRESSES: The meeting will be held at the Animal and Plant Health Inspection Service Headquarters Building, 4700 River Road, Unit 87, Riverdale, MD 20737.

FOR FURTHER INFORMATION CONTACT: Mrs. Joanne Garrett, Director, Operational Support Staff, WS, APHIS, 4700 River Road, Unit 87, Riverdale, MD 20737; (301) 851–4009.

SUPPLEMENTARY INFORMATION: The National Wildlife Services Advisory Committee (the Committee) advises the Secretary of Agriculture concerning policies, program issues, and research needed to conduct the Wildlife Services (WS) program. The Committee also serves as a public forum enabling those affected by the WS program to have a voice in the program's policies.

The meeting will focus on operational and research activities. The Committee will discuss WS efforts to increase operational capacity through prioritizing research objectives. Additionally, the Committee will discuss pertinent national programs and how to increase their effectiveness, as well as ensuring WS remains an active participant in the goal of agricultural protection.

The meeting will be open to the public. However, due to time constraints, the public will not be allowed to participate in the discussions during the meeting. Written statements on meeting topics may be filed with the Committee before or after the meeting by sending them to the person listed under **FOR FURTHER INFORMATION CONTACT**. Written statements may also be filed at the meeting. Please refer to Docket No. APHIS–2015–0022 when submitting your statements.

This notice of meeting is given pursuant to section 10 of the Federal Advisory Committee Act.

Done in Washington, DC, this 6th day of March 2015.

Michael Gregoire,

Associate Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2015–05526 Filed 3–10–15; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Inviting Applications for the Rural Economic Development Loan and Grant Programs for Fiscal Year 2015

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice.

SUMMARY: This Notice is to invite applications for loans and grants under the Rural Economic Development Loan and Grant (REDLG) programs pursuant to 7 CFR part 4280, subpart A for fiscal year (FY) 2015. Funding to support $38.6 million in loans and $9.2 million in grants is currently available. The commitment of program dollars will be made to applicants of selected responses that have fulfilled the necessary requirements for obligation.

All applicants are responsible for any expenses incurred in developing their applications.

DATES: Application Deadline: Completed applications must be received in the United States Department of Agriculture (USDA) Rural Development State Office no later than 4:30 p.m. (local time) on the last business day of each month to be considered for funding in the following month in FY 2015.

ADDRESSES: Submit applications in paper format to the USDA Rural Development State Office for the State where the project is located. A list of the USDA Rural Development State Office contacts can be found at: *http://www.rurdev.usda.gov/StateOfficeAddresses.html.*

FOR FURTHER INFORMATION CONTACT: Kristi Kubista-Hovis at (202) 815–1589, *Kristi.Kubista-Hovis@wdc.usda.gov,* and Cindy Mason at (202) 690–1433, *Cindy.Mason@wdc.usda.gov.* Please contact the USDA Rural Development State Office in the State in which the project will be located.

Overview

Solicitation Opportunity Type: Rural Economic Development Loans and Grants.

Announcement Type: Initial Announcement.

Catalog of Federal Domestic Assistance Number: 10.854.

Dates: Application Deadline: Completed applications must be received in the USDA Rural Development State Office no later than 4:30 p.m. (local time) on the last business day of each month to be considered for funding in the following month in FY 2015.

I. Funding Opportunity Description

A. *Purpose of the Program.* The purpose of the program is to promote rural economic development and job creation projects.

B. *Statutory Authority.* These programs are authorized under 7 U.S.C. 940c and 7 CFR part 4280, subpart A. Assistance provided to rural areas, as defined, under this program may include business startup costs, business expansion, business incubators, technical assistance feasibility studies, advanced telecommunications services and computer networks for medical, educational, and job training services, and community facilities projects for economic development. Awards are made on a competitive basis using specific selection criteria contained in 7 CFR part 4280, subpart A. Information required to be in the application includes an SF–424, ''Application for Federal Assistance;'' a Resolution of the Board of Directors; AD–1047, ''Debarment/Suspension Certification;'' Assurance Statement for the Uniform Act; Restrictions on Lobbying, AD–1049, ''Certification Regarding Drug-Free Workplace Requirements;'' Form

RD 400–1, ''Equal Opportunity Agreement;'' Form RD 400–4, ''Assurance Agreement;'' Seismic Certification (if construction); paperwork required in accordance with 7 CFR 1940, subpart G, ''Environmental Program.'' If the proposal involves new construction; large increases in employment; hazardous waste; a change in use, size, capacity, purpose or location from an original facility; or is publicly controversial, the following is required: Form RD 1940–20, ''Request for Environmental Information;'' RUS Form 7, ''Financial and Statistical Report;'' and RUS Form 7a, ''Investments, Loan Guarantees, and Loans,'' or similar information; and written narrative of project description. Applications will be tentatively scored by the State Offices and submitted to the National Office for review.

C. *Definition of Terms.* The definitions applicable to this Notice are published at 7 CFR 4280.3.

D. *Application Awards.* The Agency will review, evaluate, and score applications received in response to this Notice based on the provisions found in 7 CFR part 4280, subpart A, and as indicated in this Notice. However, the Agency advises all interested parties that the applicant bears the burden in preparing and submitting an application in response to this Notice whether or not funding is appropriated for these programs in FY 2015.

II. Award Information

Type of Awards: Loans and Grants.

Fiscal Year Funds: FY 2015.

Available Funds: Loans: $38.6 million; Grants: $9.2 million.

Maximum Award: The Agency anticipates the following maximum amounts per award: Loans—$1,000,000; Grants—$300,000.

Application Dates: The last business day of each month to be considered for funding in the following month in FY 2015.

Award Dates: The last business day of the month following the month in which application was received. Applications will be received monthly.

III. Eligibility Information

A. Eligible Applicants

Loans and grants may be made to any entity that is identified by USDA Rural Development as an eligible borrower under the Rural Electrification Act of 1936, as amended (Act). In accordance with 7 CFR 4280.13, applicants that are not delinquent on any Federal debt or otherwise disqualified from participation in these programs are eligible to apply. An applicant must be eligible under 7 U.S.C. 940c. Notwithstanding any other provision of law, any former Rural Utilities Service borrower that has repaid or prepaid an insured, direct or guaranteed loan under the Act, or any not-for-profit utility that is eligible to receive an insured or direct loan under such Act shall be eligible for assistance under section 313(b)(2)(B) of such Act in the same manner as a borrower under such Act. All other restrictions in this Notice will apply.

B. Cost Sharing or Matching

For loans, either the Ultimate Recipient or the Intermediary must provide supplemental funds for the project equal to at least 20 percent of the loan to the Intermediary. For grants, the Intermediary must establish a Revolving Loan Fund and contribute an amount equal to at least 20 percent of the Grant. The supplemental contribution must come from Intermediary's funds which may not be from other Federal Grants, unless permitted by law.

C. Other Eligibility Requirements

Applications will only be accepted for projects that promote rural economic development and job creation.

D. Completeness Eligibility

Applications will not be considered for funding if they do not provide sufficient information to determine eligibility or are missing required elements.

IV. Fiscal Year 2015 Application and Submission Information:

A. Address To Request Application Package

For further information, entities wishing to apply for assistance should contact the Rural Development State Office identified in this Notice to obtain copies of the application package.

Applicants are encouraged to submit grant applications through the Grants.gov Web site at: *http://www.grants.gov.* Grant applications may be submitted in either electronic or paper format. Loan applications must be submitted via paper to the State Office. Applications may not be submitted by electronic mail.

- When you enter the Grants.gov Web site, you will find information about submitting an application electronically through the site, as well as the hours of operation. USDA Rural Development strongly recommends that you do not wait until the application deadline date to begin the application process through Grants.gov. To use Grants.gov, applicants must have a Dun and Bradstreet Data Universal Numbering System (DUNS) number which can be obtained at no cost via a toll-free request line at 1–866–705–5711 or at *http://fedgov.dnb.com/webform.*
- You may submit all documents electronically through the Web site, including all information typically included on the application for REDLGs and all necessary assurances and certifications.
- After electronically submitting an application through the Web site, the applicant will receive an automatic acknowledgement from Grants.gov that contains a Grants.gov tracking number.
- USDA Rural Development may request that the applicant provide original signatures on forms at a later date.
- If applicants experience technical difficulties on the closing date and are unable to meet the deadline, you may submit a paper copy of your application to your respective Rural Development State Office. Paper applications submitted to a Rural Development State Office must meet the closing date and local time deadline.
- Please note that applicants must locate the downloadable application package for this program by the Catalog of Federal Domestic Assistance Number or FedGrants Funding Opportunity Number, which can be found at *http://www.grants.gov.*

B. Content and Form of Submission

An application must contain all of the required elements. Each selection priority criterion outlined in 7 CFR 4280.42(b) must be addressed in the application. Failure to address any of the criteria will result in a zero-point score for that criterion and will impact the overall evaluation of the application. Copies of 7 CFR part 4280, subpart A, will be provided to any interested applicant making a request to a Rural Development State Office. An original copy of the application must be filed with the Rural Development State Office for the State where the Intermediary is located.

C. Submission Dates and Times

Application Dates: No later than 4:30 p.m. (local time) on the last business day of each month to be considered for funding in the following month.

Explanation of Dates: Applications must be in the USDA Rural Development State Office by the dates as indicated above.

V. Application Review Information

A. Criteria

All eligible and complete applications will be evaluated and scored based on the selection criteria and weights

contained in 7 CFR part 4280, subpart A. Failure to address any one of the criteria by the application deadline will result in the application being determined ineligible, and the application will not be considered for funding.

Rural Development is encouraging applications for projects that will support rural areas where according to the American Community Survey data by census tracts show at least 20 percent of the population is living in rural poverty. This emphasis will support Rural Development's mission of improving the quality of life for Rural Americans and commitment to directing resources to those who most need them.

B. Review and Selection Process

The State Offices will review applications to determine if they are eligible for assistance based on requirements contained in 7 CFR part 4280, subpart A. If determined eligible, your application will be submitted to the National Office. Funding of projects is subject to the Intermediary's satisfactory submission of the additional items required by that subpart and the USDA Rural Development Letter of Conditions.

VI. Award Administration Information

A. Award Notices

Successful applicants will receive notification for funding from the Rural Development State Office. Applicants must comply with all applicable statutes and regulations before the loan/grant award can be approved. Provided the application and eligibility requirements have not changed, an application not selected will be reconsidered in three subsequent funding competitions for a total of four competitions. If an application is withdrawn, it can be resubmitted and will be evaluated as a new application.

B. Administrative and National Policy Requirements

Additional requirements that apply to Intermediary's selected for this program can be found in 7 CFR part 4280, subpart A. The U.S. Department of Agriculture and the Agency are adopting the new U.S. Department of Agriculture grant regulation at 2 CFR chapter IV. This regulation incorporates the new Office of Management and Budget (OMB) regulations 2 CFR 200 and 2 CFR 400.1 to 400.18 for monitoring and servicing REDLG funding.

C. Reporting

In addition to any reports required by 2 CFR 200 and 2 CFR 400.1 to 400.18, the Intermediary must provide reports as required by 7 CFR part 4280, subpart A.

VII. Agency Contacts

For general questions about this announcement, please contact your USDA Rural Development State Office provided in the **ADDRESSES** section of this Notice.

VIII. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, the information collection requirement contained in this Notice is approved by OMB under OMB Control Number 0570–0024.

IX. National Environmental Policy Act

This Notice has been reviewed in accordance with 7 CFR part 1940, subpart G, ''Environmental Program.'' Rural Development has determined that the Environmental Impact Statement is not required because the issuance of regulations and instructions, as well as amendments to them, describing administrative and financial procedures for processing, approving, and implementing the Agency's financial programs is categorically excluded in the Agency's National Environmental Policy Act (NEPA) regulation found at 7 CFR part 1940.310(e)(3) of Subpart G, Environmental Program. Thus, in accordance with the NEPA of 1969 (42 U.S.C. 4321–4347), Rural Development has determined that this notice does not constitute a major Federal action significantly affecting the quality of the human environment; however, Rural Development will conduct individual NEPA analyses on a project-by-project basis whenever warranted.

X. Federal Funding Accountability and Transparency Act

All applicants, in accordance with 2 CFR part 25, must have a DUNS number, which can be obtained at no cost via a toll-free request line at 1–866–705–5711 or online at *http://fedgov.dnb.com/webform.* Similarly, all grant applicants must be registered in the System for Award Management (SAM) prior to submitting an application. Applicants may register for the SAM at *http://www.sam.gov.* All recipients of Federal financial grant assistance are required to report information about first-tier sub-awards and executive total compensation in accordance with 2 CFR part 170.

XI. Nondiscrimination Statement

The U.S. Department of Agriculture (USDA) prohibits discrimination against its customers, employees, and applicants for employment on the bases of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities.)

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form (PDF), found online at *http://www.ascr.usda.gov/complaint_filing_cust.html,* or at any USDA office, or call (866) 632–9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW., Washington, DC 20250–9410, by fax (202) 690–7442 or email at *program.intake@usda.gov.*

Individuals who are deaf, hard of hearing, or have speech disabilities and wish to file either an EEO or program complaint may contact USDA through the Federal Relay Service at (800) 877–8339 or (800) 845–6136 (in Spanish).

Persons with disabilities, who wish to file a program complaint, please see information above on how to contact us by mail directly or by email. If you require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, etc.) please contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Dated: February 27, 2015.

Lillian E. Salerno,

Administrator, Rural Business—Cooperative Service.

[FR Doc. 2015–05525 Filed 3–10–15; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–900]

Diamond Sawblades and Parts Thereof From the People's Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order

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

SUMMARY: The Department of Commerce (the Department) finds that revocation

of the antidumping duty order on diamond sawblades and parts thereof (diamond sawblades) from the People's Republic of China (the PRC) would be likely to lead to continuation or recurrence of dumping as indicated in the ''Final Results of Sunset Review'' section of this notice.

DATES: *Effective Date:* March 11, 2015.

FOR FURTHER INFORMATION CONTACT: Yang Jin Chun or Minoo Hatten, 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) 482–5760 or (202) 482–1690, respectively.

SUPPLEMENTARY INFORMATION:

Background

In accordance with 19 CFR 351.218(d)(1)(i) and (ii), the Department received notices of intent to participate in this sunset review from Diamond Sawblades Manufacturers Coalition and Husqvarna Construction Products North America (collectively, the domestic interested parties) within 15 days after the date of publication of the *Initiation Notice* and the effective date of the initiation of this sunset review.[1] The domestic interested parties claimed interested party status under sections 771(9)(A), (C), and (F) of the Tariff Act of 1930, as amended (the Act).

The Department received adequate substantive responses to the *Initiation Notice* from the domestic interested parties within the 30-day period specified in 19 CFR 351.218(d)(3)(i). The Department received no substantive response from any respondent interested parties. In accordance with section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(*2*), the Department conducted an expedited (120-day) sunset review of the antidumping duty order on diamond sawblades from the PRC.

Scope of the Order

The merchandise subject to the order is diamond sawblades. The diamond sawblades subject to the order are currently classifiable under subheadings 8202 to 8206 of the Harmonized Tariff Schedule of the United States (HTSUS), and may also enter under 6804.21.00. While the HTSUS subheadings are provided for convenience and customs purposes, the written description is dispositive. A full description of the scope of the order is contained in the Issues and Decision Memorandum.[2]

Analysis of Comments Received

All issues raised in this review are addressed in the Issues and Decision Memorandum, including the likelihood of continuation or recurrence of dumping in the event of revocation and the magnitude of dumping margins likely to prevail if the order was revoked. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in the Issues and Decision Memorandum, which is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS).[3] ACCESS is available to registered users at *http://access.trade.gov* and to all parties in the Central Records Unit 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.*

Final Results of Sunset Review

Pursuant to sections 752(c) of the Act, the Department determines that revocation of the antidumping duty order on diamond sawblades from the PRC would be likely to lead to continuation or recurrence of dumping at weighted-average margins up to 164.09 percent.

Notification to Interested Parties

This notice serves 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). Timely written notification of the destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

The Department is issuing and publishing the final results and notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act and 19 CFR 351.221(c)(5)(ii).

Dated: March 4, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2015–05558 Filed 3–10–15; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Initiation of Five-year (''Sunset'') Review,* 79 FR 65186 (November 3, 2014) (*Initiation Notice*) and *Diamond Sawblades and Parts Thereof From the People's Republic of China and the Republic of Korea: Antidumping Duty Orders,* 74 FR 57145 (November 4, 2009). The Department previously initiated and published final results of expedited sunset review in *Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order,* 79 FR 40062 (July 11, 2014) (*Sunset Review Final*). The Court of International Trade (CIT) ordered the rescission of the *Sunset Review Final* and a November 4, 2014, initiation of the sunset review. *See Diamond Sawblades Manufacturers Coalition* v. *United States Department of Commerce,* 11 F. Supp. 3d 1303, 1316 (CIT 2014). Thus, pursuant to the CIT's order, the effective date of this initiation is November 4, 2014. *See Initiation Notice,* 79 FR at 65186, n.1. *See also* the notices of intent to participate from the domestic interested parties, dated November 7, 2014, and November 12, 2014.

[2] *See* the Memorandum from Deputy Assistant Secretary Christian Marsh to Assistant Secretary Paul Piquado entitled ''Issues and Decision Memorandum for the Final Results of Expedited First Sunset Review of the Antidumping Duty Order on Diamond Sawblades and Parts Thereof from the People's Republic of China,'' dated concurrently with and hereby adopted by this notice (Issues and Decision Memorandum).

[3] On November 24, 2014, Enforcement and Compliance changed the name of Enforcement and Compliance's AD and CVD Centralized Electronic Service System (''IA ACCESS'') to AD and CVD Centralized Electronic Service System (''ACCESS''). The Web site location was changed from *http://iaaccess.trade.gov* to *http://access.trade.gov.* The Final Rule changing the references to the Regulations can be found at 79 FR 69046 (November 20, 2014).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–469–805]

Stainless Steel Bar From Spain: Final Results of Antidumping Duty Administrative Review; 2013–2014

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

SUMMARY: On November 18, 2014, the Department of Commerce (the Department) published in the **Federal Register** the preliminary results of the administrative review of the antidumping duty order on stainless steel bar (SSB) from Spain.[1] The period of review (POR) is March 1, 2013, through February 28, 2014. The review covers one producer/exporter of the subject merchandise, Gerdau Aceros Especiales Europa, S.L. (Gerdau). We invited parties to comment on the *Preliminary Results.* None were received. Accordingly, these final results are unchanged from the *Preliminary Results,* and we continue to find that Gerdau did not have reviewable entries during the POR.

DATES: Effective Date: *March 11, 2015.*

FOR FURTHER INFORMATION CONTACT: Dmitry Vladimirov or Minoo Hatten,

[1] *See Stainless Steel Bar From Spain: Preliminary Results of Antidumping Duty Administrative Review; 2013–2014,* 79 FR 68662 (November 18, 2014) (*Preliminary Results*).

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) 482–1690, and (202) 482–1690, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The merchandise subject to the order is SSB. The term SSB with respect to the order means articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons or other convex polygons. SSB includes cold-finished SSBs that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process. Except as specified above, the term does not include stainless steel semi-finished products, cut-length flat-rolled products (*i.e.,* cut-length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), wire (*i.e.,* cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes and sections.

The SSB subject to the order is currently classifiable under subheadings 7222.10.00, 7222.11.00, 7222.19.00, 7222.20.00, 7222.30.00 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 scope of the order is dispositive.

Background

We received a timely submission from Gerdau reporting that it did not have sales, shipments, or entries of the subject merchandise during the POR.[2] In addition, in response to the Department's query, U.S. Customs and Border Protection (CBP) did not provide any evidence that contradicted Gerdau's claim of no shipments.[3] We received no comments from interested parties concerning the results of our query with the CBP. Therefore, based on Gerdau's certification and our analysis of CBP information, we preliminarily determined that Gerdau did not have any reviewable entries during the POR.[4]

We invited interested parties to comment on the *Preliminary Results.*[5] None were received. The Department conducted this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act).

Final Determination of No Shipments

As explained above, in the *Preliminary Results,* we found that Gerdau did not have reviewable entries during the POR.[6] Also in the *Preliminary Results,* we stated that consistent with our recently announced refinement to our assessment practice, it is not appropriate to rescind the review with respect to Gerdau but, rather, to complete the review with respect to Gerdau and issue appropriate instructions to CBP based on the final results of this review.[7]

After issuing the *Preliminary Results,* we received no comments from interested parties, nor have we received any information that would cause us to revisit our preliminary determination. Therefore, for these final results, we continue to find that Gerdau did not have any reviewable entries during the POR.

Assessment

We determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with these final results of review.[8] Consistent with the Department's refinement to its assessment practice, because we determined that Gerdau had no shipments of subject merchandise during the POR, for entries of subject merchandise during the POR produced by Gerdau for which it did not know that the merchandise was destined for the United States, we will instruct CBP to liquidate un-reviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[9]

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

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of this notice of final results of the administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for Gerdau remains unchanged from the rate assigned to the company in the most recently completed review of the company; (2) for other manufacturers and exporters covered in a prior segment of the proceeding, the cash deposit rate continues to be the company-specific rate published for the most recently completed segment of this proceeding in which that manufacturer or exporter participated; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the manufacturer is, the cash deposit rate is the rate established for the most recently completed segment of this proceeding for the manufacturer of subject merchandise; and (4) the cash deposit rate for all other manufacturers or exporters continues to be 25.77 percent, the all-others rate established in the investigation.[10] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order

This notice also serves 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 return or destruction of APO materials, or conversion to judicial protective order,

[2] *See* Gerdau's letter entitled ''Stainless Steel Bar from Spain; Entry of appearance and notification of no shipments'' dated May 10, 2014.

[3] *See Preliminary Results,* 79 FR at 68663.

[4] *Id.*

[5] *Id.*

[6] *Id.*

[7] *Id.*

[8] *See* 19 CFR 351.212(b).

[9] For a full discussion, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003) (*Assessment Policy Notice*).

[10] *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar From Spain,* 59 FR 66931 (December 28, 1994).

is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

We are issuing and publishing these final results of administrative review and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: March 3, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2015–05561 Filed 3–10–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–849]

Commodity Matchbooks From India: Final Results of Expedited Sunset Review of the Countervailing Duty Order

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

SUMMARY: The Department of Commerce (the Department) finds that revocation of the countervailing duty (CVD) order on commodity matchbooks from India would be likely to lead to continuation or recurrence of a countervailable subsidy at the levels indicated in the final results of review section of this notice.

DATES: *Effective Date: March 11, 2015.*

FOR FURTHER INFORMATION CONTACT: Jacqueline Arrowsmith, Office VII, 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) 482–5255.

SUPPLEMENTARY INFORMATION:

Background

On November 3, 2014, the Department initiated a sunset review of the CVD order on commodity matchbooks from India [1] pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).[2] On November 18, 2014, D.D. Bean & Sons Co. (D.D. Bean) filed a notice of intent to participate in the review.[3] D.D. Bean claimed interested party status under section 771(9)(C) of the Act, as a domestic producer of the domestic like product.[4]

The Department received an adequate substantive response from the domestic industry within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).[5] The Department did not receive a response from the Government of India or any respondent interested party to the proceeding. Because the Department received no response from the respondent interested parties, the Department conducted an expedited review of this CVD order, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(l)(ii)(B)(2) and (C)(2).

Scope of the Order

The scope of this order covers commodity matchbooks, also known as commodity book matches, paper matches or booklet matches.[6] Commodity matchbooks typically, but do not necessarily, consist of twenty match stems which are usually made from paperboard or similar material tipped with a match head composed of any chemical formula. The match stems may be stitched, stapled or otherwise fastened into a matchbook cover of any material, on which a striking strip composed of any chemical formula has been applied to assist in the ignition process.

Commodity matchbooks included in the scope of this order may or may not contain printing. For example, they may have no printing other than the identification of the manufacturer or importer. Commodity matchbooks may also be printed with a generic message such as ''Thank You'' or a generic image such as the American Flag, with store brands (*e.g.,* Kroger, 7-Eleven, Shurfine or Giant); product brands for national or regional advertisers such as cigarettes or alcoholic beverages; or with corporate brands for national or regional distributors (*e.g.,* Penley Corp. or Diamond Brands). They all enter retail distribution channels. Regardless of the materials used for the stems of the matches and regardless of the way the match stems are fastened to the matchbook cover, all commodity matchbooks are included in the scope of this investigation. All matchbooks, including commodity matchbooks, typically comply with the United States Consumer Product Safety Commission (CPSC) Safety Standard for Matchbooks, codified at 16 CFR 1202.1 *et seq.*

The scope of this order excludes promotional matchbooks, often referred to as ''not for resale,'' or ''specialty advertising'' matchbooks, as they do not enter into retail channels and are sold to businesses that provide hospitality, dining, drinking or entertainment services to their customers, and are given away by these businesses as promotional items. Such promotional matchbooks are distinguished by the physical characteristic of having the name and/or logo of a bar, restaurant, resort, hotel, club, café/coffee shop, grill, pub, eatery, lounge, casino, barbecue or individual establishment printed prominently on the matchbook cover. Promotional matchbook cover printing also typically includes the address and the phone number of the business or establishment being promoted.[7] Also excluded are all other matches that are not fastened into a matchbook cover such as wooden matches, stick matches, box matches, kitchen matches, pocket matches, penny matches, household matches, strike-anywhere matches (*aka* ''SAW'' matches), strike-on-box matches (*aka* ''SOB'' matches), fireplace matches, barbeque/grill matches, fire starters, and wax matches.

Analysis of Comments Received

All issues raised in this review are addressed in the Issues and Decision Memorandum. The issues discussed in the Issues and Decision Memorandum include the likelihood of continuation or recurrence of a countervailable subsidy and the net countervailable subsidy likely to prevail if the CVD *Order* were revoked. Parties can find a complete discussion of all issues raised in this expedited sunset review and the corresponding recommendations in this public memorandum which is on file electronically via the Enforcement and Compliance's Antidumping and Countervailing Duty Centralized

[1] *See Commodity Matchbooks from India: Countervailing Duty Order,* 74 FR 65740 (December 11, 2009).

[2] *See Initiation of Five Year (''Sunset) Review,* 79 FR 65186 (November 3, 2014).

[3] *See* Letter from D.D. Bean to the Department, ''Five Year (''Sunset Review'') Countervailing Duty Order on Commodity Matchbooks from India—Notice of Intent to Participate,'' dated November 18, 2014.

[4] In its response, D.D. Bean claims to be the sole U.S. producer of the domestic like product. *Id.* at 1.

[5] *See* Letter from D.D. Bean to the Department, ''Commodity Matchbooks from India,'' dated December 3, 2014; *see also* Memo to the File from David Crespo, Senior Analyst, AD/CVD Operations Office II, ''RE: Telephone Conversation with D.D. Bean & Sons Co.,'' dated December 4, 2014.

[6] Such commodity matchbooks are also referred to as ''for resale'' because they always enter into retail channels, meaning businesses that sell a general variety of tangible merchandise, *e.g.,* convenience stores, supermarkets, dollar stores, drug stores and mass merchandisers.

[7] The gross distinctions between commodity matchbooks and promotional matchbooks may be summarized as follows: (1) If it has no printing, or is printed with a generic message such as ''Thank You'' or a generic image such as the American Flag, or printed with national or regional store brands or corporate brands, it is commodity; (2) if it has printing, and the printing includes the name of a bar, restaurant, resort, hotel, club, café/coffee shop, grill, pub, eatery, lounge, casino, barbecue, or individual establishment prominently displayed on the matchbook cover, it is promotional.

Electronic System (ACCESS).[8] ACCESS is available to registered users at *http://access.trade.gov* and 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 Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

Final Results of Review

Pursuant to sections 752(b)(1) and (3) of the Act, we determine that revocation of the CVD order on commodity matchbooks from India would be likely to lead to continuation or recurrence of a net countervailable subsidy at the rates listed below:

Manufacturers/Exporters/Producers	Net countervailable subsidy (percent)
Triveni Safety Matches Pvt. Limited	9.88
All Others	9.88

Notification Regarding Administrative Protective Order

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or destruction of APO materials or conversion to judicial protective orders is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

The Department is issuing and publishing these final results and this notice in accordance with sections 751(c), 752(b), and 777(i)(1) of the Act.

Dated: March 3, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2015–05565 Filed 3–10–15; 8:45 am]

BILLING CODE 3510–DS–P

[8] On November 24, 2014, Enforcement and Compliance changed the name of Enforcement and Compliance's AD and CVD Centralized Electronic Service System (''IA ACCESS'') to AD and CVD Centralized Electronic Service System (''ACCESS''): *http://ia.access.trade.gov* to *http://access.trade.gov*. The Final Rule changing the references to the Regulations can be found at 79 FR 6906 (November 20, 2014).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–848]

Commodity Matchbooks From India: Final Results of the Expedited First Sunset Review of the Antidumping Duty Order

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

SUMMARY: On November 3, 2014, the Department of Commerce (the Department) initiated a sunset review of the antidumping duty order on commodity matchbooks from India pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).[1] The Department has conducted an expedited (120-day) sunset review for this order[2] pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2). As a result of this sunset review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping as indicated in the ''Final Results of Review'' section of this notice.

DATES: *Effective* March 11, 2015.

FOR FURTHER INFORMATION CONTACT: David Crespo at (202) 482–3693, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On November 3, 2014, the Department published the notice of initiation of the first sunset review of the antidumping duty order on commodity matchbooks from India pursuant to section 751(c) of the Act.[3]

The Department received a notice of intent to participate from D.D. Bean & Sons Co. (D.D. Bean), a domestic interested party, within the deadline specified in 19 CFR 351.218(d)(1)(i). The company claimed interested party status under section 771(9)(C) of the Act as a producer of a domestic like product in the United States.

The Department received a complete substantive response to the notice of initiation from D.D. Bean within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). We received no substantive responses from respondent interested parties with respect to the order covered by this sunset review, nor was a hearing requested. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted an expedited (120-day) sunset review of the antidumping duty order on commodity matchbooks from India.

Scope of the Order

The merchandise covered by this order is commodity matchbooks, also known as commodity book matches, paper matches or booklet matches.[4] Commodity matchbooks typically, but do not necessarily, consist of twenty match stems which are usually made from paperboard or similar material tipped with a match head composed of any chemical formula. The match stems may be stitched, stapled, or otherwise fastened into a matchbook cover of any material, on which a striking strip composed of any chemical formula has been applied to assist in the ignition process.

Commodity matchbooks included in the scope of this order may or may not contain printing. For example, they may have no printing other than the identification of the manufacturer or importer. Commodity matchbooks may also be printed with a generic message such as ''*Thank You*'' or a generic image such as the American Flag, with store brands (*e.g., Kroger, 7-Eleven, Shurfine or Giant*); product brands for national or regional advertisers such as cigarettes or alcoholic beverages; or with corporate brands for national or regional distributors (*e.g., Penley Corp.* or *Diamond Brands*). They all enter retail distribution channels. Regardless of the materials used for the stems of the matches and regardless of the way the match stems are fastened to the matchbook cover, all commodity matchbooks are included in the scope of this order.

All matchbooks, including commodity matchbooks, typically comply with the United States Consumer Product Safety Commission (CPSC) Safety Standard for Matchbooks, codified at 16 CFR 1202.1 *et seq.*

The scope of this order excludes promotional matchbooks, often referred to as ''not for resale,'' or ''specialty advertising'' matchbooks, as they do not enter into retail channels and are sold

[1] *See Initiation of Five-Year (''Sunset'') Reviews*, 79 FR 65186 (November 3, 2014) (*Notice of Initiation*).

[2] *See Commodity Matchbooks from India: Antidumping Duty Order*, 74 FR 65737 (December 11, 2009).

[3] *Notice of Initiation*, 79 FR at 65186.

[4] Such commodity matchbooks are also referred to as ''for resale'' because they always enter into retail channels, meaning businesses that sell a general variety of tangible merchandise, *e.g.*, convenience stores, supermarkets, dollar stores, drug stores and mass merchandisers.

to businesses that provide hospitality, dining, drinking or entertainment services to their customers, and are given away by these businesses as promotional items. Such promotional matchbooks are distinguished by the physical characteristic of having the name and/or logo of a bar, restaurant, resort, hotel, club, café/coffee shop, grill, pub, eatery, lounge, casino, barbecue or individual establishment printed prominently on the matchbook cover. Promotional matchbook cover printing also typically includes the address and the phone number of the business or establishment being promoted.[5] Also excluded are all other matches that are not fastened into a matchbook cover such as wooden matches, stick matches, box matches, kitchen matches, pocket matches, penny matches, household matches, strike-anywhere matches (aka ''SAW'' matches), strike-on-box matches (aka ''SOB'' matches), fireplace matches, barbeque/grill matches, fire starters, and wax matches.

The merchandise subject to this order is properly classified under subheading 3605.00.0060 of the Harmonized Tariff Schedule of the United States (HTSUS). Subject merchandise may also enter under subheading 3605.00.0030 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

Analysis of Comments Received

All issues raised in this review are addressed in the ''Decision Memorandum for the Expedited First Sunset Review of the Antidumping Duty Order on Commodity Matchbooks from India'' from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance (March 3, 2015) (Decision Memo), which is hereby adopted by this notice. The issues discussed in the Decision Memo include the likelihood of continuation or recurrence of dumping and the magnitude of the margin of dumping likely to prevail if the order were revoked. The Decision Memo is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS).[6] ACCESS is available to registered users at *http://access.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 Decision Memo can be accessed directly at *http://enforcement.trade.gov/frn/index.html*. The signed Decision Memo and the electronic version of the Decision Memo are identical in content.

Final Results of Review

Pursuant to section 752(c) of the Act, the Department determines that revocation of the antidumping duty order on commodity matchbooks from India would be likely to lead to continuation or recurrence of dumping, and that the magnitude of the margins of dumping that are likely to prevail are up to 66.07 percent.

Notifications to Interested Parties

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a). Timely written notification of the return or destruction of APO materials, or conversion to judicial protective orders, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing these results in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act and 19 CFR 351.221(c)(5)(ii).

Dated: March 3, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2015–05564 Filed 3–10–15; 8:45 am]

BILLING CODE 3510–DS–P

[5] The gross distinctions between commodity matchbooks and promotional matchbooks may be summarized as follows: (1) If it has no printing, or is printed with a generic message such as ''Thank You'' or a generic image such as the American Flag, or printed with national or regional store brands or corporate brands, it is commodity; (2) if it has printing, and the printing includes the name of a bar, restaurant, resort, hotel, club, café/coffee shop, grill, pub, eatery, lounge, casino, barbecue, or individual establishment prominently displayed on the matchbook cover, it is promotional.

[6] On November 24, 2014, Enforcement and Compliance changed the name of Enforcement and Compliance's AD and CVD Centralized Electronic Service System (''IA ACCESS'') to AD and CVD Centralized Electronic Service System (''ACCESS''). The Web site location was changed from *http://iaaccess.trade.gov* to *http://access.trade.gov*. The Final Rule changing the references to the Regulations can be found at 79 FR 69046 (November 20, 2014).

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–79–2014]

Authorization of Export Production Activity, Foreign-Trade Zone 21, Crescent Dairy and Beverages (Milk-Based Infant Formula and Fluid Milk Beverages), Walterboro, South Carolina

On November 3, 2014, the South Carolina State Ports Authority, grantee of FTZ 21, submitted a notification of proposed export production activity to the Foreign-Trade Zones (FTZ) Board on behalf of Crescent Dairy and Beverages, within FTZ 21, in Walterboro, South Carolina.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (79 FR 66353, 11–7–2014). The FTZ Board has determined that no further review of the activity is warranted at this time. The production activity described in the notification is authorized, subject to the FTZ Act and the FTZ Board's regulations, including section 400.14, and further subject to a restriction requiring that all foreign-status whole milk powder, nonfat dry milk, and milk protein concentrate powder admitted to FTZ 21 for the Crescent Dairy and Beverages activity must be re-exported.

Dated: March 4, 2015.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2015–05559 Filed 3–10–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

DEPARTMENT OF THE INTERIOR

Allocation of Duty-Exemptions for Calendar Year 2015 for Watch Producers Located in the United States Virgin Islands

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce; Office of Insular Affairs, Department of the Interior.

ACTION: Notice.

SUMMARY: This action allocates calendar year 2015 duty exemptions for watch assembly producers (''program producers'') located in the United States Virgin Islands (''USVI'') pursuant to Public Law 97–446, as amended by

Public Law 103–465, Public Law 106–36 and Public Law 108–429 (''the Act'').

FOR FURTHER INFORMATION CONTACT: Supriya Kumar, Subsidies Enforcement Office; phone number: (202) 482–3530; fax number: (202) 501–7952; and email address: *Supriya.Kumar@trade.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to the Act, the Departments of the Interior and Commerce (''the Departments'') share responsibility for the allocation of duty exemptions among program producers in the United States territories of Guam, American Samoa and the Northern Mariana Islands.

In accordance with Section 303.3(a) of the regulations (15 CFR 303.3(a)), the total quantity of duty-free insular watches and watch movements for calendar year 2013 is 1,866,000 units for the USVI. This amount was established in *Changes in Watch, Watch Movement and Jewelry Program for the U.S. Insular Possessions,* 65 FR 8048 (February 17, 2000). There are currently no program producers in Guam, American Samoa or the Northern Mariana Islands.

The criteria for the calculation of the calendar year 2015 duty-exemption allocations among program producers within a particular territory are set forth in Section 303.14 of the regulations (15 CFR 303.14). The Departments have verified and, where appropriate, adjusted the data submitted in application form ITA–334P by USVI program producers and have inspected these producers' operations in accordance with Section 303.5 of the regulations (15 CFR 303.5).

In calendar year 2014, USVI program producers shipped 76,809 watches and watch movements into the customs territory of the United States under the Act. The dollar amount of corporate income taxes paid by USVI program producers during calendar year 2014, and the creditable wages and benefits paid by these producers during calendar year 2014 to residents of the territory was a combined total of $ 1,605,981. The calendar year 2015 USVI annual duty exemption allocations, based on the data verified by the Departments, are as follows:

Program producer	Annual allocation
Belair Quartz, Inc.	500,000

The balance of the units allocated to the USVI is available for new entrants into the program or existing program producers who request a supplement to their allocation.

Carole Showers,

Director, Office of Policy Enforcement & Compliance, International Trade Administration, Department of Commerce.

Dated: February 25, 2015.

Nikolao Pula,

Director of Office of Insular Affairs, Department of the Interior.

[FR Doc. 2015–05313 Filed 3–10–15; 8:45 am]

BILLING CODE 3510–DS–P; 4310–93–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–580–869]

Large Residential Washers From the Republic of Korea: Preliminary Results of Countervailing Duty Administrative Review; 2012–2013

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

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the countervailing duty (CVD) order on large residential washers from the Republic of Korea (Korea). The period of review (POR) is June 5, 2012, through December 31, 2013. We preliminarily determine that Samsung Electronics Co., Ltd. (Samsung) and Daewoo Electronics Corporation (Daewoo) received countervailable subsidies during the POR. Interested parties are invited to comment on these preliminary results.

DATES: *Effective Date: March 11, 2015.*

FOR FURTHER INFORMATION CONTACT: Justin Neuman, Office VII, 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) 482–0486.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The products covered by the order are all large residential washers and certain subassemblies thereof from Korea. The products are currently classifiable under subheadings 8450.20.0040 and 8450.20.0080 of the Harmonized Tariff System of the United States (HTSUS). Products subject to this order may also enter under HTSUS subheadings 8450.11.0040, 8450.11.0080, 8450.90.2000, and 8450.90.6000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to this scope is dispositive.[1]

Methodology

The Department is conducting this CVD review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, we determine that there is a subsidy, *i.e.,* a financial contribution by an ''authority'' that confers a benefit to the recipient, and that the subsidy is specific.[2] For a full description of the methodology underlying our preliminary conclusions, including our reliance, in part, on adverse facts available pursuant to sections 776(a) and (b) of the Act, *see* the Preliminary Decision Memorandum.[3] The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS).[4] ACCESS is available to registered users at *http://access.trade.gov*, and is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at *http://enforcement.trade.gov/frn/index.html*. The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Results of Review

As a result of this review, we preliminarily determine the countervailable subsidy rates for the mandatory respondents to be:

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[1] For a full description of the scope, *see* the Department Memorandum, ''Decision Memorandum for the Preliminary Results of the Countervailing Duty Administrative Review of Large Residential Washers from the Republic of Korea'' (Preliminary Decision Memorandum), dated concurrently with these results and hereby adopted by this notice.

[2] *See* sections 771(5)(B)and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and, section 771(5A) of the Act regarding specificity.

[3] A list of topics discussed in the Preliminary Decision Memorandum can be found as an appendix to this notice.

[4] On November 24, 2014, Enforcement and Compliance changed the name of Enforcement and Compliance's AD and CVD Centralized Electronic Service System (IA ACCESS) to (ACCESS). The Web site location changed from *http://iaaccess.trade.gov* to *http://access.trade.gov*. The Final Rule changing the references to the Regulations can be found at 79 FR 69046 (November 20, 2014).

Company	Subsidy rate (percent)
Samsung Electronics Co., Ltd.	34.77
Daewoo Electronics Corporation	81.91

Disclosure and Public Comment

The Department intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of publication of this notice in the **Federal Register**.[5] Interested parties may submit case and rebuttal briefs, as well as request a hearing.[6] Interested parties may submit written comments (case briefs) within 30 days of publication of the preliminary results and rebuttal comments (rebuttal briefs) within five days after the time limit for filing case briefs.[7] Rebuttal briefs must be limited to issues raised in the case briefs.[8] Parties who submit case or rebuttal briefs are requested to submit with the argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[9]

Interested parties who wish to request a hearing, or to participate if one is requested, must do so within 30 days of publication of these preliminary results by submitting a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, using Enforcement and Compliance's ACCESS system.[10] Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, we will inform parties of the scheduled date for the hearing which will be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a time and location to be determined.[11] Parties should confirm by telephone the date, time, and location of the hearing. Issues addressed at the hearing will be limited to those raised in the briefs.[12] All briefs and hearing requests must be filed electronically and received successfully in their entirety through ACCESS by 5:00 p.m. Eastern Time on the due date.

Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Act, we intend to issue the final results of this administrative review, including the results of our analysis of the issues raised by the parties in their comments, within 120 days after issuance of these preliminary results.

Assessment Rates and Cash Deposit Requirement

In accordance with 19 CFR 351.221(b)(4)(i), we assigned a subsidy rate for each producer/exporter subject to this administrative review. Upon issuance of the final results, the Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, CVDs on all appropriate entries covered by this review. We intend to issue instructions to CBP 15 days after publication of the final results of review.

Pursuant to section 751(a)(2)(C) of the Act, the Department also intends to instruct CBP to collect cash deposits of estimated CVDs, in the amounts shown above for each of the respective companies shown above, on shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. For all non-reviewed firms, we will instruct CBP to continue to collect cash deposits at the most-recent company-specific or all-others rate applicable to the company, as appropriate. These cash deposit requirements, when imposed, shall remain in effect until further notice.

These preliminary results are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: March 2, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Use of Facts Otherwise Available and Adverse Inferences
V. Analysis of Programs
VI. Conclusion

[FR Doc. 2015–05562 Filed 3–10–15; 8:45 am]

BILLING CODE 3510–DS–P

[5] *See* 19 CFR 351.224(b).
[6] *See* 19 CFR 351.309(c)–(d), 19 CFR 351.310(c).
[7] *See* 19 CFR 351.309(c)(l)(ii) and 351.309(d)(l).
[8] *See* 19 CFR 351.309(d)(2).
[9] *See* 19 CFR 351.309(c)(2) and (d)(2).
[10] *See* 19 CFR 351.310(c).
[11] *See* 19 CFR 351.310.
[12] *See* 19 CFR 351.310(c).

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–829]

Final Results of Expedited Sunset Review of Countervailing Duty Order: Prestressed Concrete Steel Wire Strand From India

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

SUMMARY: As a result of this sunset review, the Department of Commerce (the ''Department'') finds that revocation of the countervailing duty (''CVD'') order on prestressed concrete steel wire strand (''PC Strand'') from India would be likely to lead to continuation or recurrence of a countervailable subsidy at the level indicated in the ''Final Results of Review'' section of this notice.

DATES: *Effective Date:* March 11, 2015.

FOR FURTHER INFORMATION CONTACT: Mandy Mallott, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–6430.

SUPPLEMENTARY INFORMATION:

Background

On November 3, 2014, the Department initiated the second sunset review of the *Order*[1] pursuant to section 751(c)(2) of the Tariff Act of 1930, as amended (the ''Act'').[2] On November 17, 2014, the Department received a timely notification of intent to participate from Insteel Wire Products Company and Sumiden Wire Products Corporation (collectively, ''domestic parties'' or ''Petitioners''), filed in accordance with 19 CFR 351.218(d)(1)(i). On December 3, 2014, the Department received a substantive response from Petitioners, timely filed in accordance with 19 CFR 351.218(d)(3)(i).

Pursuant to 19 CFR 351.218(e)(1)(ii)(C)(2) and section 751(c)(3)(B) of the Act, when there are inadequate responses from respondent interested parties, the Department will conduct an expedited sunset review and, not later than 120 days after the date of publication in the **Federal Register** of the notice of initiation, issue final results of review based on the facts available. The Department did not receive a substantive response from the

[1] *See Countervailing Duty Order: Prestressed Concrete Steel Wire Strand From India,* 69 FR 5319 (February 4, 2004) (''*Order*'')
[2] *See Initiation of Five-Year (''Sunset'') Review,* 79 FR 65186 (November 3, 2014).

Government of India or any Indian producers or exporters. Accordingly, we conducted an expedited (120-day) sunset review of the *Order.*

Scope of the Order

The merchandise subject to this order is prestressed concrete steel wire (''PC strand''), which is steel strand produced from wire of non-stainless, non-galvanized steel, which is suitable for use in prestressed concrete (both pre-tensioned and post-tensioned) applications. The product definition encompasses covered and uncovered strand and all types, grades, and diameters of PC strand.

The merchandise under this order is currently classifiable under subheadings 7312.10.3010 and 7312.10.3012 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 under investigation is dispositive.

Analysis of Comments Received

All issues raised in this review are addressed in the accompanying Issues and Decision Memorandum (''IDM''), which is hereby adopted by this notice.[3] The issues discussed in the IDM include the likelihood of continuation or recurrence of a countervailable subsidy and the net countervailable subsidy likely to prevail if the *Order* were revoked. Parties can find a complete discussion of all issues raised in this expedited sunset review and the corresponding recommendations in this public memorandum which is on file electronically via the Enforcement and Compliance Antidumping and Countervailing Duty Centralized Electronic Service System (''ACCESS'').[4] ACCESS is available to registered users at *http://access.trade.gov* and in the Central Records Unit, Room 7046 of the main Department of Commerce building. In addition, a complete version of the IDM can be accessed directly on the Internet at *http://enforcement.trade.gov/frn/index.html.* The signed IDM and the electronic versions of the IDM are identical in content.

Final Results of Review

Pursuant to sections 752(b)(1) and (3) of the Act, the Department determines that revocation of the *Order* would be likely to lead to continuation or recurrence of a countervailable subsidy for all producers/manufacturers/exporters at a net countervailable subsidy rate of 62.92 percent.

Notification Regarding Administrative Protective Order

This notice serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction 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.

We are issuing and publishing the results and notice in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: March 2, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2015–05560 Filed 3–10–15; 8:45 am]

BILLING CODE 3510–DS–P

[3] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, entitled ''Issues and Decision Memorandum for the Final Results of the Expedited First Sunset Review of the Countervailing Duty Order on Prestressed Concrete Steel Wire Strand from the India,'' dated concurrently with this notice.

[4] On November 24, 2014, Enforcement and Compliance changed the name of Enforcement and Compliance's AD and CVD Centralized Electronic Service System (''IA ACCESS'') to AD and CVD Centralized Electronic Service System (''ACCESS''). The web location was changed from *http://iaaccess.trade.gov* to *http://access.trade.gov.* The Final Rule changing the references to the Regulations can be found at 79 FR 69046 (November 20, 2014).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–825]

Stainless Steel Bar From Brazil: Final Results of Antidumping Duty Administrative Review; 2013–2014

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

SUMMARY: On December 19, 2014, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on stainless steel bar (SSB) from Brazil.[1] The period of review (POR) is February 1, 2013, through January 31, 2014. The review covers one producer/exporter of the subject merchandise, Villares Metals S.A. (Villares). We invited parties to comment on the *Preliminarily Results.* None were received. Accordingly, for the final results, we continue to find that Villares did not make sales of subject merchandise at less than normal value.

DATES: *Effective Date:* March 11, 2015.

FOR FURTHER INFORMATION CONTACT: Catherine Cartsos or Minoo Hatten, 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) 482–1757, and (202) 482–1690, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 19, 2014, the Department published the *Preliminary Results* of the administrative review. The Department gave interested parties an opportunity to comment on the *Preliminary Results.* None were received. The Department conducted this review in accordance with section 751(a)(2) of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The merchandise subject to the order is SSB. The term SSB with respect to the order means articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons or other convex polygons. SSB includes cold-finished SSBs that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process. Except as specified above, the term does not include stainless steel semi-finished products, cut-length flat-rolled products (*i.e.,* cut-length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), wire (*i.e.,* cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes and sections. The SSB subject to the order is currently classifiable under

[1] *See Stainless Steel Bar From Brazil: Preliminary Results of Antidumping Duty Administrative Review; 2013–2014,* 79 FR 75789 (December 19, 2014) (*Preliminary Results*).

subheadings 7222.10.00, 7222.11.00, 7222.19.00, 7222.20.00, 7222.30.00 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 scope of the order is dispositive.

Final Results of Review

The Department made no changes to its calculations announced in the *Preliminary Results.* As a result of this review, we determine that a weighted-average dumping margin of 0.00 percent exists for Villares for the period February 1, 2013, through January 31, 2014.

Assessment

In accordance with 19 CFR 351.212 and the *Final Modification,*[2] the Department will instruct U.S. Customs and Border Protection (CBP) to liquidate all appropriate entries for Villares without regard to antidumping duties.

Consistent with the Department's refinement to its assessment practice, for entries of subject merchandise during the POR produced by Villares for which it did not know that the merchandise was destined for the United States, we will instruct CBP to liquidate un-reviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[3]

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

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of SSB from Brazil entered, or withdrawn from warehouse, for consumption on or after the date of publication as provided by section 751(a)(2) of the Act: (1) The cash deposit rate for Villares will be 0.00 percent, the weighted average dumping margin established in the final results of this administrative review; (2) for other manufacturers and exporters covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which that manufacturer or exporter participated; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the manufacturer of subject merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 19.43 percent, the all-others rate established in the less than fair value investigation.[4] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Orders

This notice also serves as a reminder to parties subject to 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 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.

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

Dated: March 3, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2015–05563 Filed 3–10–15; 8:45 am]

BILLING CODE 3510–DS–P

[2] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101, 8102 (February 14, 2012) (*Final Modification*).

[3] For a full discussion, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003) (*Assessment Policy Notice*).

[4] *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar From Brazil,* 59 FR 66914 (December 28, 1994).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD812

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Notice; availability of draft environmental assessment and request for comment.

SUMMARY: Notice is hereby given that NMFS has prepared a draft Environmental Assessment under the National Environmental Policy Act (NEPA) of the potential effects of the continued operation of four hatchery programs in the Sandy River Basin of Oregon. The Hatchery and Genetic Management Plans (HGMPs) for those programs were prepared and submitted by the Oregon Department of Fish and Wildlife (ODFW). All comments and other information received will become part of the public record and will be available for review.

DATES: Comments must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific time on May 11, 2015.

ADDRESSES: Written comments on the application should be addressed to the NMFS Sustainable Fisheries Division, 1201 NE. Lloyd Boulevard, Suite 1100, Portland, OR 97232, or faxed to (503) 872–2737. Comments may be submitted by email. The mailbox address for providing email comments is: *SandyHatcheriesEA.wcr@noaa.gov*. Include in the subject line of the email comment the following identifier: Comments on Oregon's 2013 Sandy Hatchery plans. When commenting on the draft environmental assessment, please refer to the specific page number and line number of the subject of your comment. The draft environmental assessment is also available on the Internet at *www.westcoast.fisheries.noaa.gov.* Comments received will also be available for public inspection, by appointment, during normal business hours by calling (503) 230–5418.

FOR FURTHER INFORMATION CONTACT: Rich Turner, at phone number: (503) 736–4737, or via email: *Rich.Turner@noaa.gov.*

SUPPLEMENTARY INFORMATION:

ESA-Listed Species Covered in This Notice

Chinook salmon (*Oncorhynchus tshawytscha*): threatened, naturally produced and artificially propagated Lower Columbia River.

Chum salmon (*O. keta*): threatened, naturally produced Columbia River.

Coho salmon (*O. kisutch*): threatened, naturally produced and artificially propagated Lower Columbia River.

Steelhead (*O. mykiss*): threatened, naturally produced and artificially propagated Lower Columbia River.

Pacific eulachon (*Thaleichthys pacificus*): threatened, naturally produced southern distinct population segment.

ODFW has previously submitted to NMFS four HGMPs describing hatchery programs that release salmon and steelhead into the Sandy River that were found, in a September 28, 2012, determination, to comply with requirements of the ESA under limit 5 of the 4(d) Rule. These programs were designed to meet mitigation responsibilities related to impacts from development in the Sandy River and Columbia River Basins by providing hatchery fish to support fishing opportunities while minimizing potential risks to natural-origin spring Chinook salmon, coho salmon, and winter steelhead populations, consistent with Oregon's Lower Columbia River Conservation and Recovery Plan for Oregon Populations of Salmon and Steelhead, and NMFS' Recovery Plan.

Since the determination in 2012, ODFW has identified changes it wishes to make to its hatchery operations and has submitted to NMFS four revised HGMPs describing changes to the current hatchery programs. The revised HGMPs were made available for public review and comment on December 10, 2013 (78 FR 74116). The revised HGMPs were found, in an August 8, 2014, determination, to comply with requirements of the ESA under limit 5 of the 4(d) Rule. The draft environmental assessment evaluates the potential effects of approving those updated HGMPs.

Authority

NEPA requires Federal agencies to conduct an environmental analysis of their proposed actions to determine if the actions may affect the human environment. Therefore, NMFS is seeking public input on the scope of the required NEPA analysis, including the range of reasonable alternatives and associated impacts of any alternatives.

Dated: March 4, 2015.

Cathryn E. Tortorici,

Acting Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2015–05537 Filed 3–10–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2014–ICCD–0168]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; an Examination of Trends in Algebra II Enrollment and Completion in Texas Public High Schools

AGENCY: Institute of Education Sciences/National Center for Education Statistics (IES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before April 10, 2015.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2014–ICCD–0168 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will ONLY accept comments during the comment period in this mailbox when the regulations.gov site is not available.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Mailstop L–OM–2–2E319, Room 2E105, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Chris Boccanfuso, 202–219–1674.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: An Examination of Trends in Algebra II Enrollment and Completion in Texas Public High Schools.

OMB Control Number: 1850–NEW.

Type of Review: A new information collection.

Respondents/Affected Public: State, Local and Tribal Government.

Total Estimated Number of Annual Responses: 343.

Total Estimated Number of Annual Burden Hours: 102.

Abstract: District administration staff from all Texas public school districts (one staff member per district) will be asked to complete a short, online survey regarding changes districts may have made in response to the new high school graduation requirements implemented under Texas House Bill 5. Participation in the survey of district administration staff is voluntary. Data collected by the survey will be used to describe changes that districts have made with regard to student diploma plan placement, mathematics course offerings, and information distribution to parents in response to Texas House Bill 5. This study will also provide the Texas Education Agency and the Texas Higher Education Coordination Board with information on the level of Texas students' college preparation in mathematics. The findings will be reported in a printed report available to the public.

Dated: March 6, 2015.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2015–05517 Filed 3–10–15; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2014–ICCD–0167]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Consolidated State Performance Report (Part I and Part II)

AGENCY: Office of Elementary and Secondary Education (OESE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before April 10, 2015.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2014–ICCD–0167 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will ONLY accept comments during the comment period in this mailbox when the regulations.gov site is not available.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Mailstop L–OM–2–2E319, Room 2E105, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Andy Brake, (202) 260–0998.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Consolidated State Performance Report (Part I and Part II).

OMB Control Number: 1810–0614.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local and Tribal Governments.

Total Estimated Number of Annual Responses: 14,653.

Total Estimated Number of Annual Burden Hours: 11,793.

Abstract: The Consolidated State Performance Report (CSPR) is the required annual reporting tool for each State, Bureau of Indian Education, District of Columbia, and Puerto Rico as authorized under Section 9303 of the Elementary and Secondary Education Act (ESEA), as amended by the No Child Left behind Act of 2001 (NCLB). The Department uses the information derived from the CSPR to: (1) Monitor and report its progress in meeting Strategic Plan goals; (2) assess and report individual program performance, including GPRA performance measures; (3) monitor States' implementation of No Child Left Behind and the extent to which States are meeting programs and accountability goals; (4) to identify areas for technical assistance to States and overall program improvement; and (5) to inform other reporting and program evaluation requirements specific to individual programs and including the Secretary's Annual State Report to Congress on No Child Left Behind. Specific to this submission, which requests the addition of new items to meet statutory and regulatory reporting requirements, Title I monitoring teams and other ED officials will use these data to ensure that State Educational Agencies, Local Educational Agencies, and schools implement science assessment requirements and school improvement activities in accordance with ESEA statute and regulations.

Dated: March 6, 2015.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2015–05542 Filed 3–10–15; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Deadline Dates for Reports and Other Records Associated With the Free Application for Federal Student Aid (FAFSA®), the Federal Pell Grant Program, the William D. Ford Federal Direct Loan Program, the Teacher Education Assistance for College and Higher Education Grant Program, and the Iraq and Afghanistan Service Grant Program for the 2015–2016 Award Year

AGENCY: Federal Student Aid, Department of Education.

ACTION: Notice.

Catalog Federal Domestic Assistance (CFDA) Numbers: 84.007 Federal Supplemental Educational Opportunity Grant (FSEOG) Program; 84.033 Federal Work Study (FWS) Program; 84.038 Federal Perkins Loan (Perkins Loan) Program; 84.063 Federal Pell Grant (Pell Grant) Program; 84.268 William D. Ford Federal Direct Loan (Direct Loan) Program; 84.379 Teacher Education Assistance for College and Higher Education (TEACH) Grant Program; 84.408 Iraq and Afghanistan Service Grant Program.

SUMMARY: The Secretary announces deadline dates for the receipt of documents and other information from applicants and institutions participating in certain Federal student aid programs authorized under title IV of the Higher Education Act of 1965, as amended (HEA), for the 2015–2016 award year. The Federal student aid programs covered by this deadline date notice are the Pell Grant, Direct Loan, TEACH Grant, and Iraq and Afghanistan Service Grant programs.

These programs, administered by the U.S. Department of Education (Department), provide financial assistance to students attending eligible postsecondary educational institutions to help them pay their educational costs.

Deadline and Submission Dates: See Tables A and B at the end of this notice.

Table A—Deadline Dates by Which a Student Must Submit the FAFSA, by Which the Institution Must Receive the Student's Institutional Student Information Record (ISIR) or Student Aid Report (SAR), and by Which the Institution Must Submit Verification Outcomes for Certain Students for the 2015–2016 Award Year.

Table A provides information and deadline dates for receipt of the FAFSA, corrections to and signatures for the FAFSA, ISIRs, and SARs, and verification documents.

The deadline date for the receipt of a FAFSA by the Department's Central Processing System is June 30, 2016, regardless of the method that the applicant uses to submit the FAFSA. The deadline date for the receipt of a signature page for the FAFSA (if required), correction, notice of change of address or school, or request for a duplicate SAR is September 17, 2016.

For all Federal student aid programs, an ISIR or SAR for the student must be received by the institution no later than the student's last date of enrollment for the 2015–2016 award year or September 26, 2016, whichever is earlier. As a reminder, a FAFSA must be submitted for the dependent student for whom a parent is applying for a Direct PLUS Loan.

Verification documents must be received by the institution no later than 120 days after the student's last date of enrollment for the 2015–2016 award year or September 26, 2016, whichever is earlier.

For all Federal student aid programs except for (1) Direct PLUS Loans that will be made to parent borrowers, and (2) Direct Unsubsidized Loans that will be made to dependent students who have been determined by the institution, pursuant to section 479A(a) of the HEA, to be eligible for such a loan without providing parental information on the FAFSA, the ISIR or SAR must have an official expected family contribution (EFC) and must be received by the institution no later than the earlier of the student's last date of enrollment for the 2015–2016 award year or September 26, 2016.

For a student who is requesting aid through the Pell Grant, FSEOG, FWS, and Federal Perkins Loan programs or for a student requesting Direct Subsidized Loans, who does not meet the conditions for a late disbursement under 34 CFR 668.164(g), a valid ISIR or valid SAR must be received no later than the student's last date of enrollment for the 2015–2016 award year or September 26, 2016, whichever is earlier.

In accordance with 34 CFR 668.164(g)(4)(i), an institution may not make a late disbursement of title IV student assistance funds later than 180 days after the date of the institution's determination that the student was no longer enrolled. Table A provides that, to make a late disbursement of title IV student assistance funds, an institution must receive a valid ISIR or valid SAR no later than 180 days after its determination that the student was no longer enrolled, but not later than September 26, 2016.

Table B—Pell Grant, Iraq and Afghanistan Service Grant, Direct Loan, and TEACH Grant Programs' Deadline Dates for Disbursement Information by Institutions for the 2015–2016 Award Year or Processing Year.

Table B provides the earliest dates for institutions to submit Pell Grant, Iraq and Afghanistan Service Grant, Direct Loan, and TEACH Grant disbursement records to the Department's Common Origination and Disbursement (COD) System and deadline dates for an institution's request for administrative relief if it cannot meet the established deadline for specified reasons.

An institution must submit Pell Grant, Iraq and Afghanistan Service Grant, Direct Loan, and TEACH Grant disbursement records, as applicable, no later than 15 days after making the disbursement or becoming aware of the need to adjust a student's previously reported disbursement. In accordance with 34 CFR 668.164(a), title IV funds are disbursed on the date that the institution: (a) Credits those funds to a student's account in the institution's general ledger or any subledger of the general ledger; or (b) pays those funds to a student directly. Title IV funds are disbursed even if an institution uses its own funds in advance of receiving program funds from the Secretary.

An institution's failure to submit disbursement records within the required timeframe may result in the Secretary rejecting all or part of the reported disbursement. Such failure may also result in an audit or program review finding or the initiation of an adverse action, such as a fine or other penalty for such failure, in accordance with subpart G of the General Provisions regulations in 34 CFR part 668.

Other Sources for Detailed Information

We publish a detailed discussion of the Federal student aid application process in the 2015–2016 *Federal Student Aid Handbook* and in the 2015–2016 *ISIR Guide.*

Additional information on the institutional reporting requirements for the Pell Grant, Iraq and Afghanistan Service Grant, Direct Loan, and TEACH Grant programs is included in the 2015–2016 *Common Origination and Disbursement (COD) Technical Reference.*

You may access these publications by selecting the ''iLibrary'' link at the Information for Financial Aid Professionals Web site at: *www.ifap.ed.gov.*

Applicable Regulations: The following regulations apply:

(1) Student Assistance General Provisions, 34 CFR part 668.

(2) Federal Pell Grant Program, 34 CFR part 690.

(3) William D. Ford Direct Loan Program, 34 CFR part 685.

(4) Teacher Education Assistance for College and Higher Education Grant Program, 34 CFR part 686.

FOR FURTHER INFORMATION CONTACT: Ian Foss, U.S. Department of Education, Federal Student Aid, 830 First Street NE., Union Center Plaza, Room 113H2, Washington, DC 20202–5345. Telephone: (202) 377–3681 or by email: *ian.foss@ed.gov.*

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

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

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

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

Program Authority: 20 U.S.C. 1070a, 1070a–1, 1070b–1070b–4, 1070g, 1070h, 1087a–1087j, and 1087aa–1087ii; 42 U.S.C. 2751–2756b.

Dated: March 6, 2015.

James W. Runcie,

Chief Operating Officer of Federal Student Aid.

TABLE A—DEADLINE DATES BY WHICH A STUDENT MUST SUBMIT THE FAFSA, BY WHICH THE INSTITUTION MUST RECEIVE THE STUDENT'S INSTITUTIONAL STUDENT INFORMATION RECORD (ISIR) OR STUDENT AID REPORT (SAR), AND BY WHICH THE INSTITUTION MUST SUBMIT VERIFICATION OUTCOMES FOR CERTAIN STUDENTS FOR THE 2015–2016 AWARD YEAR

Who submits?	What is submitted?	Where is it submitted?	What is the deadline date for receipt?
Student	FAFSA—"FAFSA on the Web" (original or renewal).	Electronically to the Department's Central Processing System (CPS).	June 30, 2016.[1]
	Signature page (if required)	To the address printed on the signature page.	September 17, 2016.
Student through an Institution	An electronic FAFSA (original or renewal).	Electronically to the Department's CPS using the "Electronic Data Exchange" (EDE) or "FAA Access to CPS Online".	June 30, 2016.[1]
Student	A paper original FAFSA	To the address printed on the FAFSA or envelope provided with the form.	June 30, 2016.
Student	Electronic corrections to the FAFSA using "Corrections on the Web".	Electronically to the Department's CPS.	September 17, 2016.[1]
	Signature page (if required)	To the address printed on the signature page.	September 17, 2016.
Student through an Institution	Electronic corrections to the FAFSA.	Electronically to the Department's CPS using the EDE or "FAA Access to CPS Online".	September 17, 2016.[1]
Student	Paper corrections to the FAFSA using a SAR, including change of mailing and email addresses and change of institutions.	To the address printed on the SAR.	September 17, 2016.
Student	Change of mailing and email addresses, change of institutions, or requests for a duplicate SAR.	To the Federal Student Aid Information Center by calling 1–800–433–3243.	September 17, 2016.
Student	Except for Parent PLUS Loans and Direct Unsubsidized Loans made to a dependent student under HEA section 479A(a), a SAR with an official expected family contribution (EFC) calculated by the Department's CPS.	To the institution	The earlier of: —The student's last date of enrollment for the 2015–2016 award year; or —September 26, 2016.[2]
Student through CPS	Except for Parent PLUS Loans and Direct Unsubsidized Loans made to a dependent student under HEA section 479A(a), an ISIR with an official EFC calculated by the Department's CPS.	To the institution from the Department's CPS.	The earlier of: —The student's last date of enrollment for the 2015–2016 award year; or —September 26, 2016.[2]
Student	Valid SAR (Pell Grant, FSEOG, FWS, Perkins Loan, and Direct Subsidized Loans).	To the institution	Except for a student meeting the conditions for a late disbursement under 34 CFR 668.164(g), the earlier of: —The student's last date of enrollment for the 2015–2016 award year; or —September 26, 2016.[2]
Student through CPS	Valid ISIR (Pell Grant, FSEOG, FWS, Perkins Loan, and Direct Subsidized Loans).	To the institution from the Department's CPS.	
Student	Valid SAR (Pell Grant, FSEOG, FWS, Perkins Loan, and Direct Subsidized Loans).	To the institution	For a student receiving a late disbursement under 34 CFR 668.164(g)(4)(i), the earlier of: —180 days after the date of the institution's determination that the student withdrew or otherwise became ineligible; or —September 26, 2016.[2]

TABLE A—DEADLINE DATES BY WHICH A STUDENT MUST SUBMIT THE FAFSA, BY WHICH THE INSTITUTION MUST RECEIVE THE STUDENT'S INSTITUTIONAL STUDENT INFORMATION RECORD (ISIR) OR STUDENT AID REPORT (SAR), AND BY WHICH THE INSTITUTION MUST SUBMIT VERIFICATION OUTCOMES FOR CERTAIN STUDENTS FOR THE 2015–2016 AWARD YEAR—Continued

Who submits?	What is submitted?	Where is it submitted?	What is the deadline date for receipt?
Student through CPS	Valid ISIR (Pell Grant, FSEOG, FWS, Perkins Loan, and Direct Subsidized Loans).	To the institution from the Department's CPS.	
Student	Verification documents	To the institution	The earlier of: [3] —120 days after the student's last date of enrollment for the 2015–2016 award year; or —September 26, 2016.[2]
Institution	Identity and high school completion verification results for a student selected for verification by the Department and placed in Verification Tracking Group V4 or V5.	Electronically to the Department's CPS using ''FAA Access to CPS Online''.	60 days following the institution's first request to the student to submit the required V4 or V5 identity and high school completion documentation.[4]

[1] The deadline for electronic transactions is 11:59 p.m. (Central Time) on the deadline date. Transmissions must be completed and accepted before 12:00 midnight to meet the deadline. If transmissions are started before 12:00 midnight but are not completed until after 12:00 midnight, those transmissions do not meet the deadline. In addition, any transmission submitted on or just prior to the deadline date that is rejected may not be reprocessed because the deadline will have passed by the time the user gets the information notifying him or her of the rejection.

[2] The date the ISIR/SAR transaction was processed by CPS is considered to be the date the institution received the ISIR or SAR regardless of whether the institution has downloaded the ISIR from its Student Aid Internet Gateway mailbox or when the student submits the SAR to the institution.

[3] Although the Secretary has set this deadline date for the submission of verification documents, if corrections are required, deadline dates for submission of paper or electronic corrections and, for Pell Grant applicants and applicants selected for verification, deadline dates for the submission of a valid SAR or valid ISIR to the institution must still be met. An institution may establish an earlier deadline for the submission of verification documents for purposes of the campus-based programs and the Direct Loan Program, but it cannot be later than this deadline date.

[4] **Note** that changes to previously submitted Identity Verification Results must be updated within 30 days.

TABLE B—PELL GRANT, IRAQ AND AFGHANISTAN SERVICE GRANT, DIRECT LOAN, AND TEACH GRANT PROGRAMS DEADLINE DATES FOR DISBURSEMENT INFORMATION BY INSTITUTIONS FOR THE 2015–2016 AWARD YEAR OR PROCESSING YEAR [1]

Which program?	What is submitted?	Under what circumstances is it submitted?	Where is it submitted?	What are the deadlines for disbursement and for submission of records and information?
All (Pell Grant, Direct Loan, TEACH Grant, and Iraq and Afghanistan Service Grant programs).	An origination or disbursement record.	The institution has made a disbursement.	To the Common Origination and Disbursement (COD) System using the Student Aid Internet Gateway (SAIG); or to the COD System using the COD Web site at: *www.cod.ed.gov*.	The earliest disbursement date is January 29, 2015. The earliest submission date for anticipated disbursement information is March 30, 2015. The earliest submission date for actual disbursement information is March 30, 2015, but no earlier than: (a) 7 calendar days prior to the disbursement date under the advance payment method or the Cash Monitoring #1 payment method; or (b) The date of disbursement under the Reimbursement or Cash Monitoring #2 payment methods.

TABLE B—PELL GRANT, IRAQ AND AFGHANISTAN SERVICE GRANT, DIRECT LOAN, AND TEACH GRANT PROGRAMS DEADLINE DATES FOR DISBURSEMENT INFORMATION BY INSTITUTIONS FOR THE 2015–2016 AWARD YEAR OR PROCESSING YEAR [1]—Continued

Which program?	What is submitted?	Under what circumstances is it submitted?	Where is it submitted?	What are the deadlines for disbursement and for submission of records and information?
Pell Grant, Iraq and Afghanistan Service Grant, and TEACH Grant programs.	An origination or disbursement record.	The institution has made a disbursement and will submit records on or before the deadline submission date.	To COD using SAIG; or to COD using the COD Web site at: *www.cod.ed.gov*.	The deadline submission date [2] is the earlier of: (a) 15 calendar days after the institution makes a disbursement or becomes aware of the need to make an adjustment to previously reported disbursement data, except that records for disbursements made between January 29, 2015 and March 30, 2015 must be submitted no later than April 14, 2015; or (b) September 30, 2016.
Direct Loan Program	An origination or disbursement record.	The institution has made a disbursement and will submit records on or before the deadline submission date.	To COD using SAIG; or to COD using the COD Web site at: *www.cod.ed.gov*.	The deadline submission date [2] is the earlier of: (a) 15 calendar days after the institution makes a disbursement or becomes aware of the need to make an adjustment to previously reported disbursement data, except that records of disbursements made between January 1, 2015, and March 30, 2015, may be submitted no later than April 14, 2015; or (b) July 31, 2016.
Pell Grant and Iraq and Afghanistan Service Grant programs.	A downward adjustment to an origination or disbursement record.	It is after the deadline submission date.	To COD using SAIG; or to COD using the COD Web site at: *www.cod.ed.gov*.	No later than September 30, 2021.
Pell Grant, Iraq and Afghanistan Service Grant programs.	An origination or disbursement record.	After the deadline submission date and after the institution has received approval of its request for an extension to the deadline submission date. Requests for extensions to the established submission deadlines may be made for reasons, including, but not limited to:	Via the COD Web site at: *www.cod.ed.gov*.	The earlier of: (a) When the institution is fully reconciled and is ready to submit all additional data for the program and the award year; or (b) September 30, 2021.
TEACH Grant and Direct Loan programs.	.....	(a) A program review or initial audit finding under 34 CFR 690.83; (b) A late disbursement under 34 CFR 668.164(g); or (c) Disbursements previously blocked as a result of another institution failing to post a downward adjustment.	.....	When the institution is fully reconciled and is ready to submit all additional data for the program and the award year.

TABLE B—PELL GRANT, IRAQ AND AFGHANISTAN SERVICE GRANT, DIRECT LOAN, AND TEACH GRANT PROGRAMS DEADLINE DATES FOR DISBURSEMENT INFORMATION BY INSTITUTIONS FOR THE 2015–2016 AWARD YEAR OR PROCESSING YEAR [1]—Continued

Which program?	What is submitted?	Under what circumstances is it submitted?	Where is it submitted?	What are the deadlines for disbursement and for submission of records and information?
Pell Grant and Iraq and Afghanistan Service Grant programs.	An origination or disbursement record.	It is after the deadline submission date and the institution has received approval of its request for an extension to the deadline submission date based on a natural disaster, other unusual circumstances, or an administrative error made by the Department.	Via the COD Web site at: *www.cod.ed.gov*.	The earlier of: (a) A date designated by the Secretary after consultation with the institution; or (b) February 1, 2017.
Pell Grant and Iraq and Afghanistan Service Grant programs.	An origination or disbursement record.	It is after the deadline submission date and the institution has received approval of its request for administrative relief to extend the deadline submission date based on a student's reentry to the institution within 180 days after initially withdrawing [3].	Via the COD Web site at: *www.cod.ed.gov*.	The earlier of: (a) 15 days after the student reenrolls; or (b) May 3, 2017.

[1] A COD Processing Year is a period of time in which institutions are permitted to submit Direct Loan records to the COD System that are related to a given award year. For a Direct Loan, the period of time includes loans that have a loan period covering any day in the 2015–2016 award year.

[2] Transmissions must be completed and accepted before the designated processing time on the deadline submission date. The designated processing time is published annually via an electronic announcement posted to the Information for Financial Aid Professionals Web site (*www.ifap.ed.gov*). If transmissions are started at the designated time, but are not completed until after the designated time, those transmissions will not meet the deadline. In addition, any transmission submitted on or just prior to the deadline date that is rejected may not be reprocessed because the deadline will have passed by the time the user gets the information notifying him or her of the rejection.

[3] Applies only to students enrolled in clock-hour and nonterm credit-hour educational programs.

Note: The COD System must accept origination data for a student from an institution before it accepts disbursement information from the institution for that student. Institutions may submit origination and disbursement data for a student in the same transmission. However, if the origination data is rejected, the disbursement data is rejected.

[FR Doc. 2015–05539 Filed 3–10–15; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER15–1172–000]

Live Oak Limited; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of Live Oak Limited's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is March 24, 2015.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*. or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 4, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–05544 Filed 3–10–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER15–1171–000]

Chalk Cliff Limited; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of Chalk Cliff Limited's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is March 24, 2015.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 4, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–05547 Filed 3–10–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

DOE/NSF High Energy Physics Advisory Panel

AGENCY: Office of Science, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the DOE/NSF High Energy Physics Advisory Panel (HEPAP). The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES:

Monday, April 6, 2015 8:30 a.m. to 6:00 p.m.

Tuesday, April 7, 2015 8:30 a.m. to 4:00 p.m.

ADDRESSES: Washington Marriott Wardman Park, 2660 Woodley Road NW., Washington, DC 20008

FOR FURTHER INFORMATION CONTACT: John Kogut, Executive Secretary; High Energy Physics Advisory Panel (HEPAP); U.S. Department of Energy; SC–25/Germantown Building, 1000 Independence Avenue SW., Washington, DC 20585–1290; Telephone: (301) 903–1298.

SUPPLEMENTARY INFORMATION:

Purpose of Meeting: To provide advice and guidance on a continuing basis to the Department of Energy and the National Science Foundation on scientific priorities within the field of high energy physics research.

Tentative Agenda: Agenda will include discussions of the following:

April 6–7, 2015

- Discussion of Department of Energy High Energy Physics Program
- Discussion of National Science Foundation Elementary Particle Physics Program
- Reports on and Discussions of Topics of General Interest in High Energy Physics
- Public Comment (10-minute rule)

Public Participation: The meeting is open to the public. A webcast of this meeting will be available. Please check the Web site below for updates and information on how to view the meeting. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of these items on the agenda, you should contact John Kogut at (301) 903–1298 or by email at: *John.Kogut@science.doe.gov.* You must make your request for an oral statement at least 5 business days before the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Panel will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule.

Minutes: The minutes of the meeting will be available on the U.S. Department of Energy's Office of High Energy Physics Advisory Panel Web site, at: (*http://science.energy.gov/hep/hepap/meetings/*).

Issued at Washington, DC, on March 4, 2015.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2015–05533 Filed 3–10–15; 8:45 am]

BILLING CODE 6450–01–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: EC15–82–000.

Applicants: Spokane Energy, LLC, Avista Corporation.

Description: Joint Application of Spokane Energy, LLC and Avista Corporation for Approval of Assignment of Capacity Sales Agreement, Waivers, and Request for Expedited Consideration.

Filed Date: 3/3/15.

Accession Number: 20150303–5247.

Comments Due: 5 p.m. ET 3/24/15.

Docket Numbers: EC15–83–000.

Applicants: Fowler Ridge Wind Farm LLC, Fowler Ridge II Wind Farm LLC, Fowler Ridge III Wind Farm LLC, Fowler Ridge IV Wind Farm LLC.

Description: Application for Authorization for Disposition of Jurisdictional Facilities and Requests for Waivers, and Expedited Consideration of Fowler Ridge Wind Farm LLC, et al.

Filed Date: 3/3/15.

Accession Number: 20150303–5248.

Comments Due: 5 p.m. ET 3/24/15.

Docket Numbers: EC15–84–000.

Applicants: Fowler Ridge IV Wind Farm LLC.

Description: Application for Authorization for Disposition of

Jurisdictional Facilities and Requests for Waivers, Confidential Treatment, and Expedited Consideration of Fowler Ridge IV Wind Farm LLC.
Filed Date: 3/3/15.
Accession Number: 20150303–5249.
Comments Due: 5 p.m. ET 3/24/15.

Docket Numbers: EC15–85–000.
Applicants: Longview Power, LLC.
Description: Section 203 Application of Longview Power, LLC.
Filed Date: 3/3/15.
Accession Number: 20150303–5251.
Comments Due: 5 p.m. ET 3/24/15.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG15–61–000.
Applicants: Bear Mountain Limited.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Bear Mountain Limited.
Filed Date: 3/4/15.
Accession Number: 20150304–5074.
Comments Due: 5 p.m. ET 3/25/15.

Docket Numbers: EG15–62–000.
Applicants: Chalk Cliff Limited.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Chalk Cliff Limited.
Filed Date: 3/4/15.
Accession Number: 20150304–5075.
Comments Due: 5 p.m. ET 3/25/15.

Docket Numbers: EG15–63–000.
Applicants: McKittrick Limited.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of McKittrick Limited.
Filed Date: 3/4/15.
Accession Number: 20150304–5076.
Comments Due: 5 p.m. ET 3/25/15.

Docket Numbers: EG15–64–000.
Applicants: Live Oak Limited.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Live Oak Limited.
Filed Date: 3/4/15.
Accession Number: 20150304–5078.
Comments Due: 5 p.m. ET 3/25/15.

Docket Numbers: EG15–65–000.
Applicants: NTE Energy, LLC.
Description: EWG Self-Certification of NTE Carolinas.
Filed Date: 3/4/15.
Accession Number: 20150304–5165.
Comments Due: 5 p.m. ET 3/25/15.

Docket Numbers: EG15–66–000.
Applicants: NTE Energy, LLC.
Description: EWG Self Certification of NTE Ohio.
Filed Date: 3/4/15.
Accession Number: 20150304–5167.
Comments Due: 5 p.m. ET 3/25/15.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1484–011.
Applicants: Shell Energy North America (U.S.), L.P.
Description: Notice of Non-Material Change in Status of Shell Energy North America (U.S.), L.P.
Filed Date: 3/3/15.
Accession Number: 20150303–5256.
Comments Due: 5 p.m. ET 3/24/15.

Docket Numbers: ER10–1782–006.
Applicants: Tampa Electric Company.
Description: Tampa Electric Company submits Annual Compliance Report Regarding Operational Penalties for 2014.
Filed Date: 3/3/15.
Accession Number: 20150303–5255.
Comments Due: 5 p.m. ET 3/24/15.

Docket Numbers: ER12–1308–005.
Applicants: Palouse Wind, LLC.
Description: Notice of Non-Material Change in Status of Palouse Wind, LLC.
Filed Date: 3/2/15.
Accession Number: 20150302–5404.
Comments Due: 5 p.m. ET 3/23/15.

Docket Numbers: ER12–2068–007: ER14–2630–003; ER13–17–005; ER13–1585–004; ER13–1139–010; ER12–682–008; ER12–1311–007; ER11–4029–007; ER11–2657–004; ER11–2201–011; ER10–2466–008; ER10–2465–003; ER10–2464–004; ER10–2463–007; ER10–2461–007; ER10–2460–007.
Applicants: Blue Sky East, LLC, Canandaigua Power Partners, LLC, Canandaigua Power Partners II, LLC, Erie Wind, LLC, Evergreen Wind Power, LLC, Evergreen Wind Power III, LLC, First Wind Energy Marketing, LLC, Imperial Valley Solar 1, LLC, Longfellow Wind, LLC, Milford Wind Corridor Phase I, LLC, Milford Wind Corridor Phase II, LLC, Regulus Solar, LLC, Stetson Holdings, LLC, Stetson Wind II, LLC, Vermont Wind, LLC, Niagara Wind Power, LLC.
Description: Notice of Change in Status of Blue Sky East, LLC, et. al.
Filed Date: 3/2/15.
Accession Number: 20150302–5406.
Comments Due: 5 p.m. ET 3/23/15.

Docket Numbers: ER14–1656–003.
Applicants: CSOLAR IV West, LLC.
Description: Notification of Change in Status of CSOLAR IV West, LLC.
Filed Date: 3/2/15.
Accession Number: 20150302–5405.
Comments Due: 5 p.m. ET 3/23/15.

Docket Numbers: ER15–1086–000.
Applicants: Midcontinent Independent System Operator, Inc., American Transmission Systems, Incorporation.
Description: Section 205(d) rate filing per 35.13(a)(2)(iii): 2015–02–24_SA 765 Bill of Sale for ATC-Wisconsin Power and Light D–TIA to be effective 4/26/2015.
Filed Date: 2/24/15.
Accession Number: 20150224–5269.
Comments Due: 5 p.m. ET 3/17/15.

Docket Numbers: ER15–1162–000.
Applicants: Duke Energy Carolinas, LLC.
Description: Section 205(d) rate filing per 35.13(a)(2)(iii): Amendment to NCMPA NITSA SA 212 to be effective 2/1/2015.
Filed Date: 3/3/15.
Accession Number: 20150303–5211.
Comments Due: 5 p.m. ET 3/24/15.

Docket Numbers: ER15–1163–000.
Applicants: Southwest Power Pool, Inc.
Description: Section 205(d) rate filing per 35.13(a)(2)(iii): Revisions to Bylaws Section 6.6 to be effective 5/3/2015.
Filed Date: 3/4/15.
Accession Number: 20150304–5050.
Comments Due: 5 p.m. ET 3/25/15.

Docket Numbers: ER15–1164–000.
Applicants: Southwestern Electric Power Company.
Description: Section 205(d) rate filing per 35.13(a)(2)(iii): SWEPCO–NTEC PSA Amendment to be effective 1/1/2015.
Filed Date: 3/4/15.
Accession Number: 20150304–5053.
Comments Due: 5 p.m. ET 3/25/15.

Docket Numbers: ER15–1165–000.
Applicants: Southwestern Electric Power Company.
Description: Section 205(d) rate filing per 35.13(a)(2)(iii): SWEPCO–ETEC PSA Amendment to be effective 1/1/2015.
Filed Date: 3/4/15.
Accession Number: 20150304–5054.
Comments Due: 5 p.m. ET 3/25/15.

Docket Numbers: ER15–1166–000.
Applicants: Southwestern Electric Power Company.
Description: Section 205(d) rate filing per 35.13(a)(2)(iii): SWEPCO–ETEC NTEC PSA Amendment to be effective 1/1/2015.
Filed Date: 3/4/15.
Accession Number: 20150304–5055.
Comments Due: 5 p.m. ET 3/25/15.

Docket Numbers: ER15–1167–000.
Applicants: Southwestern Electric Power Company.
Description: Section 205(d) rate filing per 35.13(a)(2)(iii): SWEPCO-TexLa PSA Amendment to be effective 1/1/2015.
Filed Date: 3/4/15.
Accession Number: 20150304–5056.
Comments Due: 5 p.m. ET 3/25/15.

Docket Numbers: ER15–1168–000.
Applicants: Southwestern Electric Power Company.
Description: Section 205(d) rate filing per 35.13(a)(2)(iii): SWEPCO-Tex-La EC-Entergy TX Facilities Development Agreement to be effective 2/5/2015.

Filed Date: 3/4/15.
Accession Number: 20150304–5066.
Comments Due: 5 p.m. ET 3/25/15.

Docket Numbers: ER15–1169–000.
Applicants: AEP Texas Central Company.
Description: Section 205(d) rate filing per 35.13(a)(2)(iii): TCC-South Texas EC (Red Gate) Interconnection Agreement to be effective 2/9/2015.
Filed Date: 3/4/15.
Accession Number: 20150304–5068.
Comments Due: 5 p.m. ET 3/25/15.

Docket Numbers: ER15–1170–000.
Applicants: Bear Mountain Limited.
Description: Initial rate filing per 35.12 Market-Based Rate Application to be effective 4/30/2015.
Filed Date: 3/4/15.
Accession Number: 20150304–5070.
Comments Due: 5 p.m. ET 3/25/15.

Docket Numbers: ER15–1171–000.
Applicants: Chalk Cliff Limited.
Description: Initial rate filing per 35.12 MBR Application to be effective 4/30/2015.
Filed Date: 3/4/15.
Accession Number: 20150304–5071.
Comments Due: 5 p.m. ET 3/25/15.

Docket Numbers: ER15–1172–000.
Applicants: Live Oak Limited.
Description: Initial rate filing per 35.12 MBR Application to be effective 4/30/2015.
Filed Date: 3/4/15.
Accession Number: 20150304–5072.
Comments Due: 5 p.m. ET 3/25/15.

Docket Numbers: ER15–1173–000.
Applicants: McKittrick Limited.
Description: Initial rate filing per 35.12 MBR Application to be effective 4/30/2015.
Filed Date: 3/4/15.
Accession Number: 20150304–5073.
Comments Due: 5 p.m. ET 3/25/15.

Docket Numbers: ER15–1174–000.
Applicants: Covanta Power, LLC.
Description: Tariff Withdrawal per 35.15: Notice of Cancellation of Market-Based Rate Tariff to be effective 5/3/2015.
Filed Date: 3/4/15.
Accession Number: 20150304–5097.
Comments Due: 5 p.m. ET 3/25/15.

Docket Numbers: ER15–1175–000.
Applicants: Consumers Energy Company.
Description: Notice of Cancellation of Consumers Energy Company Service Agreement No. 4 Under FERC Electric Tariff, Volume No. 7.
Filed Date: 3/4/15.
Accession Number: 20150304–5149.
Comments Due: 5 p.m. ET 3/25/15.

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: March 4, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–05546 Filed 3–10–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

National Coal Council Meeting

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the National Coal Council (NCC). The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Wednesday, April 8, 2015 9:00 a.m. to 12:30 p.m.

ADDRESSES: Grand Hyatt Hotel, 1000 H Street, NW., Washington, DC 20001

FOR FURTHER INFORMATION CONTACT: Dr. Robert J. Wright, U.S. Department of Energy, 4G–036/Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585–0001; Telephone: 202–586–0429.

SUPPLEMENTARY INFORMATION:

Purpose of the Council: The National Coal Council provides advice and recommendations to the Secretary of Energy, on general policy matters relating to coal and the coal industry.

Purpose of Meeting: The 2015 Spring meeting of the National Coal Council.

Tentative Agenda:

1. Call to order and opening remarks by Jeff Wallace, Chair, National Coal Council
2. Remarks by U.S. Department of Energy Representative—TBD
3. Presentation by Mike Marsh, President & CEO, SaskPower on Boundary Dam's CCS Retrofit Project (TENTATIVE)
4. Presentation on Opportunities for Grid-Scale Energy Storage for Coal Power Plants
5. Presentation by Center for Climate & Energy Solutions (C2ES) & the National Enhanced Oil Recovery Initiative (NEORI) on Opportunities for Financing CCS Projects & the Impact of Oil Prices on CO2–EOR
6. Presentation by Wood Mackenzie on What Lies Ahead for Global Coal
7. Council Business:
   a. Finance report by Finance Committee Chair Greg Workman
   b. Coal Policy Committee report by Coal Policy Committee Chair Fred Palmer
   c. NCC Business Report & Communications Committee Report by NCC Executive Vice President & COO Janet Gellici
8. Other business
9. Adjourn

Public Participation: The meeting is open to the public. If you would like to file a written statement with the Council, you may do so either before or after the meeting. If you would like to make oral statements regarding any item on the agenda, you should contact Dr. Robert J. Wright, 202–586–0429 or *robert.wright@hq.doe.gov* (email). You must make your request for an oral statement at least 5 business days before the meeting. Reasonable provision will be made to include oral statements on the scheduled agenda. The Chairperson of the Council will lead the meeting in a manner that facilitates the orderly conduct of business. Oral statements are limited to 10-minutes per organization and per person.

Minutes: A link to the transcript of the meeting will be posted on the NCC Web site at: *http://www.nationalcoalcouncil.org/.*

Issued at Washington, DC on March 4, 2015.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2015–05532 Filed 3–10–15; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER15–1170–000]

Bear Mountain Limited; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of Bear Mountain Limited's application for

market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is March 24, 2015.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*. or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 4, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–05543 Filed 3–10–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER15–1173–000]

McKittrick Limited; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of McKittrick Limited's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is March 24, 2015.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 4, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–05548 Filed 3–10–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD15-4-000]

Technical Conference on Environmental Regulations and Electric Reliability, Wholesale Electricity Markets, and Energy Infrastructure; Supplemental Notice of Technical Conference

As announced in the Notice of Technical Conferences issued on December 9, 2014 [1] and the Supplemental Notice of Technical Conferences issued on January 6, 2015,[2] the Federal Energy Regulatory Commission (Commission) staff will hold an Eastern region [3] technical conference to discuss implications of compliance approaches to the Clean Power Plan proposed rule, issued by the Environmental Protection Agency (EPA) on June 2, 2014.[4] The technical conference will focus on issues related to electric reliability, wholesale electric markets and operations, and energy infrastructure in the Eastern region. The Commission will hold the Eastern region technical conference on March 11, 2015, from approximately 9:30 a.m.

[1] Technical Conference on Environmental Regulations and Electric Reliability, Wholesale Electricity Markets, and Energy Infrastructure, Docket No. AD15-4-000, (Dec. 9, 2014) (Notice of Technical Conferences), *available at http://www.ferc.gov/CalendarFiles/20141209165657-AD15-4-000TC.pdf.*

[2] Technical Conference on Environmental Regulations and Electric Reliability, Wholesale Electricity Markets, and Energy Infrastructure, Docket No. AD15-4-000, (Jan. 6, 2015) (Supplemental Notice of Technical Conferences), *available at http://www.ferc.gov/CalendarFiles/20150106170115-AD15-4-000TC1.pdf.*

[3] For purposes of this conference, the Eastern region includes the following Commission-approved Order No. 1000 planning regions: ISO New England Inc. (ISO-NE), PJM Interconnection, L.L.C. (PJM), New York Independent System Operator (NYISO), Southeastern Regional Transmission Planning (SERTP), South Carolina Regional Transmission Planning (SCRTP), and Florida Reliability Coordinating Council (FRCC). This region also includes the Northern Maine Independent System Administrator (NMISA).

[4] Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units, 79 FR 34,830 (2014) (Proposed Rule), *available at http://www.gpo.gov/fdsys/pkg/FR-2014-06-18/pdf/2014-13726.pdf.*

to 5:15 p.m. at the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC. This conference is free of charge and open to the public. Commission members may participate in the conference. The agenda for the Eastern region technical conference is attached to this Supplemental Notice of Technical Conference.

If you have not already done so, those who plan to attend the technical conference are strongly encouraged to complete the registration form located at: *https://www.ferc.gov/whats-new/registration/03-11-15-eastern-form.asp.* Those interested in attending the Eastern region conference are encouraged to register by close of business March 6, 2015.

The Commission will post information on the technical conference on the Calendar of Events on the Commission's Web site, *http://www.ferc.gov,* prior to the conference. The Eastern region technical conference will also be transcribed. Transcripts of the technical conference will be available for a fee from Ace-Federal Reporters, Inc. ((202) 347-3700 or (800) 336-6646). There will also be a free webcast of the conference. The webcast will allow persons to watch the Eastern region technical conference, but not participate. Anyone with Internet access who desires to watch the Eastern region conference can do so by navigating to the Calendar of Events on the Commission's Web site, *http://www.ferc.gov,* and locating the Eastern region technical conference in the Calendar. The Eastern region technical conference will contain a link to its webcast.[5]

Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations, please send an email to *accessibility@ferc.gov* or call toll free (866) 208-3372 (voice) or (202) 502-8659 (TTY), or send a FAX to (202) 208-2106 with the required accommodations.

For more information about the technical conferences, please contact:

Logistical Information, Sarah McKinley, Office of External Affairs, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502-8368, *sarah.mckinley@ferc.gov*

Legal Information, Alan Rukin, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502-8502, *alan.rukin@ferc.gov*

Technical Information, Matthew Jentgen, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502-8725, *matthew.jentgen@ferc.gov*

Technical Information, Michael Gildea, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502-8420, *michael.gildea@ferc.gov*

Dated: March 4, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015-05545 Filed 3-10-15; 8:45 am]

BILLING CODE 6717-01-P

[5] The webcast will continue to be available on the Calendar of Events on the Commission's Web site, *http://www.ferc.gov,* for three months after the conference.

DEPARTMENT OF ENERGY

Commission to Review the Effectiveness of the National Energy Laboratories

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces an open meeting of the Commission to Review the Effectiveness of the National Energy Laboratories (Commission). The Commission was created pursuant section 319 of the Consolidated Appropriations Act, 2014, Public Law 113–76, and in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. 2. This notice is provided in accordance with the Act.

DATES: Tuesday, March 24, 2015 10:00 a.m.–3:30 p.m.

ADDRESSES: Hilton at Mark Center, Laurel Conference Room, 5000 Seminary Road, Alexandria, VA 22311.

FOR FURTHER INFORMATION CONTACT: Karen Gibson, Designated Federal Officer, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585; telephone (202) 586–3787; email *crenel@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Commission was established to provide advice to the Secretary on the Department's national laboratories. The Commission will review the DOE national laboratories for alignment with the Department's strategic priorities, clear and balanced missions, unique capabilities to meet current energy and national security challenges, appropriate size to meet the Department's energy and national security missions, and support of other Federal agencies. The Commission will also look for opportunities to more effectively and efficiently use the capabilities of the national laboratories and review the use of laboratory directed research and development (LDRD) to meet the Department's science, energy, and national security goals.

Purpose of the Meeting: This meeting is the seventh meeting of the Commission.

Tentative Agenda: The meeting will start at 10:00 a.m. on March 24. The tentative meeting agenda includes a look at how to improve the oversight and cost efficiencies of the national laboratories. Key presenters will address and discuss these topics with comments from the public. The meeting will conclude at 3:30 p.m. The agenda along with possible schedule adjustments will be posted when finalized and in advance of the meeting on the Lab Commission Web site (*http://energy.gov/labcommission/commission-review-effectiveness-national-energy-laboratories*).

Public Participation: The meeting is open to the public. Individuals who would like to attend must RSVP to Karen Gibson no later than 5:00 p.m. on Friday, March 20, 2015 at email *crenel@hq.doe.gov.* Please provide your name, organization, and contact information. Individuals and representatives of organizations who would like to offer comments and suggestions may do so at the end of the meeting. Approximately 30 minutes will be reserved for public comments. Time allotted per speaker will depend on the number who wish to speak but will not exceed 5 minutes. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Those wishing to speak should register to do so beginning at 10:00 a.m. on March 24.

Those not able to attend the meeting or who have insufficient time to address the committee are invited to send a written statement to Karen Gibson, U.S. Department of Energy, 1000 Independence Avenue SW., Washington DC 20585, or to email *crenel@hq.doe.gov.*

Minutes: The minutes of the meeting will be available on the Commission Web site at: *http://energy.gov/labcommission*

Issued in Washington, DC on March 4, 2015.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2015–05529 Filed 3–10–15; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Southeastern Power Administration

Proposed Rate Adjustment for Kerr-Philpott System

AGENCY: Southeastern Power Administration (Southeastern), DOE.

ACTION: Notice of public hearing and opportunities for review and comment.

SUMMARY: Southeastern will host a public information and comment forum to discuss its proposal to replace existing schedules of rates and charges applicable for the sale of power from the Kerr-Philpott System effective for a five-year period from October 1, 2015, through September 30, 2020. Southeastern will evaluate all comments received in this process.

DATES: Written comments are due on or before June 9, 2015. A public information and comment forum will be held in Boydton, Virginia, at 10:00 a.m. on April 21, 2015. Persons desiring to speak at the forum should notify Southeastern at least seven (7) days before the forum is scheduled so that a list of forum participants can be prepared. Others present at the forum may speak if time permits. Persons desiring to attend the forum should notify Southeastern at least seven (7) days before the forum is scheduled. Unless Southeastern has been notified by the close of business on April 14, 2015, that at least one person intends to be present at the forum, the forum may be canceled.

ADDRESSES: Written comments should be submitted to: Kenneth E. Legg, Administrator, Southeastern Power Administration, Department of Energy, Elberton, GA 30635. The public comment forum will meet at the John H. Kerr Visitor Assistance Center, 1930 Mays Chapel Road, Boydton, Virginia, 23917; Phone: (434) 738–6633.

FOR FURTHER INFORMATION CONTACT: Virgil G. Hobbs III, Assistant Administrator, Finance and Marketing, Southeastern Power Administration, Department of Energy, 1166 Athens Tech Road, Elberton, GA 30635–6711, (706) 213–3800; Email: *Virgil.Hobbs@sepa.doe.gov.*

SUPPLEMENTARY INFORMATION: The Federal Energy Regulatory Commission (FERC), by order issued March 11, 2011, 134 FERC ¶ 62,233, confirmed and approved Rate Schedules VA–1–B, VA–2–B, VA–3–B, VA–4–B, CP&L–1–B, CP&L–2–B, CP&L–3–B, CP&L–4–B, AP–1–B, AP–2–B, AP–3–B, AP–4–B, NC–1–B, and Replacement–2–A, for the period October 1, 2010, through September 30, 2015. A repayment study prepared in January of 2015 showed that existing rates are adequate to recover all costs required by present repayment criteria. However, approval of the existing rate schedules expires September 30, 2015.

The existing rate schedules include two true-up mechanisms. First, the base capacity and base energy charge are subject to annual adjustment on April 1 of each year based on transfers to plant in service for the preceding fiscal year. The adjustment is for each increase of $1,000,000 to plant in service and increase of $0.013 per kilowatt per month added to the capacity charge and 0.052 mills per kilowatt-hour added to the energy charge. Second, the rates include a true-up of the capacity and energy rates based on the variance of the actual net revenue available for repayment from the planned net revenue available for repayment. The adjustment is for every $100,000 under-recovery of the planned net revenue available for repayment, the base capacity charge is increased by $0.02 per kilowatt per month, up to a maximum of $0.75 per kilowatt per month, and the base energy charge is increased by 0.10 mills per kilowatt-hour, up to a maximum of 3.0 mills per kilowatt-hour. For every $100,000 over-recovery of the planned net revenue available for repayment, the base capacity charge is reduced by $0.02 per kilowatt per month, up to a maximum of $0.75 per kilowatt per month, and the base energy charge is reduced by 0.10 mills per kilowatt-hour, up to a maximum of 3.0 mills per kilowatt-hour.

The initial base capacity charge for the current rate schedules was $3.65 per kilowatt per month. The initial base energy charge was 14.63 mills per kilowatt-hour. As of April 1, 2015, the base capacity charge has increased to $4.30 per kilowatt per month and the base energy charge has increased to 17.23 mills per kilowatt-hour because of transfers to plant in service. The true-up adjustment for net revenue available for repayment reduced the April 1, 2015 capacity charge to $4.18 per kilowatt per month and the energy charge to 16.63 mills per kilowatt-hour. The existing rates are adequate to meet repayment criteria. However, implementation of the true-ups incorporated in the rate schedules has proven to be difficult for Southeastern staff and customers to understand, and the rates have proven to be volatile. Southeastern is proposing to modify the true-up in an effort to simplify the process and stabilize the rates.

Proposed Unit Rates

The initial base rates for capacity and energy will be as follows:

Capacity: $3.97 per kW per month
Energy: 16.04 mills per kWh

Southeastern proposes to eliminate the true-up mechanism for transfers to plant in service. The rates are based on a repayment study that projects the Kerr-Philpott System are expected to produce the following net revenue available for repayment (rounded to nearest $10,000):

Fiscal year	Estimated annual net revenue available for repayment	Cumulative net revenue available for repayment
2015	$2,130,000	$2,130,000
2016	2,120,000	4,250,000
2017	1,830,000	6,080,000
2018	1,640,000	7,720,000
2019	1,640,000	9,360,000
2020	1,720,000	11,080,000
2021	1,800,000	12,880,000
2022	1,870,000	14,750,000
2023	1,950,000	16,700,000
2024	2,040,000	18,740,000

The proposed rates include a true-up of the capacity and energy rates based on the cumulative net revenue available for repayment from the table above. For every $100,000 under-recovery of the planned cumulative net revenue available for repayment, Southeastern will increase the base capacity charge by $0.02 per kilowatt per month, up to a maximum of $0.75 per kilowatt per month, and increase the base energy charge by 0.10 mills per kilowatt-hour, up to a maximum of 3.0 mills per kilowatt-hour. For every $100,000 over-recovery of the planned cumulative net revenue available for repayment, Southeastern will reduce the base capacity charge by $0.02 per kilowatt per month, up to a maximum of $0.75 per kilowatt per month, and reduce the base energy charge by 0.10 mills per kilowatt-hour, up to a maximum of 3.0 mills per kilowatt-hour, to be implemented April 1 of the next fiscal year.

The initial base rate is a revenue reduction of $1,301,000 annually, or about six percent (6%) under the base rates currently in effect.

Southeastern is proposing the following rate schedules to be effective for the period from October 1, 2015, through September 30, 2020. The capacity charge and energy charge will be the same for all rate schedules. These rate schedules are necessary to accommodate the transmission and scheduling arrangements that are available in the Kerr-Philpott System.

Rate Schedule VA–1–C

Available to public bodies and cooperatives in Virginia and North Carolina to whom power may be transmitted and scheduled pursuant to contracts between the Government, Virginia Electric and Power Company (also known as Dominion Virginia Power [DVP]), and DVP's Transmission Operator, currently PJM Interconnection, LLC (PJM).

Rate Schedule VA–2–C

Available to public bodies and cooperatives in Virginia and North Carolina to whom power may be transmitted pursuant to contracts between the Government, DVP, and PJM. The customer is responsible for providing a scheduling arrangement with the Government.

Rate Schedule VA–3–C

Available to public bodies and cooperatives in Virginia and North Carolina to whom power may be scheduled pursuant to contracts between the Government, DVP, and PJM. The customer is responsible for providing a transmission arrangement.

Rate Schedule VA–4–C

Available to public bodies and cooperatives in the service area of DVP and PJM. The customer is responsible for providing a scheduling arrangement with the Government and for providing a transmission arrangement.

Rate Schedule CP&L–1–C

Available to public bodies and cooperatives in North Carolina to whom power may be transmitted and scheduled pursuant to contracts between the Government and Duke Energy Progress (as successor of Carolina Power & Light).

Rate Schedule CP&L–2–C

Available to public bodies and cooperatives in North Carolina to whom power may be transmitted pursuant to contracts between the Government and Duke Energy Progress (as successor of Carolina Power & Light). The customer is responsible for providing a scheduling arrangement with the Government.

Rate Schedule CP&L–3–C

Available to public bodies and cooperatives in North Carolina to whom power may be scheduled pursuant to contracts between the Government and Duke Energy Progress (as successor of Carolina Power & Light). The customer is responsible for providing a transmission arrangement.

Rate Schedule CP&L–4–C

Available to public bodies and cooperatives in the service area of Duke Energy Progress. The customer is responsible for providing a scheduling arrangement with the Government and for providing a transmission arrangement.

Rate Schedule AP–1–C

Available to public bodies and cooperatives in Virginia to whom power may be transmitted and scheduled pursuant to contracts between the Government, American Electric Power Service Corporation and the American Electric Power Service Corporation's Transmission Operator, currently and the PJM Interconnection, LLC (PJM).

Rate Schedule AP–2–C

Available to public bodies and cooperatives in Virginia to whom power may be transmitted pursuant to contracts between the Government, American Electric Power Service Corporation, and PJM. The customer is responsible for providing a scheduling arrangement with the Government.

Rate Schedule AP–3–C

Available to public bodies and cooperatives in Virginia to whom power may be scheduled pursuant to contracts between the Government, American Electric Power Service Corporation, and PJM. The customer is responsible for providing a transmission arrangement.

Rate Schedule AP–4–C

Available to public bodies and cooperatives in the service area of American Electric Power Service Corporation and PJM. The customer is responsible for providing a scheduling arrangement with the Government and for providing a transmission arrangement.

Rate Schedule NC–1–C

Available to public bodies and cooperatives in Virginia and North Carolina to whom power may be transmitted pursuant to a contract between the Government and PJM and scheduled pursuant to a contract between the Government and Duke Energy Progress (as successor of Carolina Power & Light).

Rate Schedule Replacement–2–B

This rate schedule shall be applicable to the sale energy purchased to meet contract minimum energy and sold under appropriate contracts between the Government and the Customer.

The referenced repayment studies are available for examination at 1166 Athens Tech Road, Elberton, GA 30635.

Proposed Rate Schedules VA–1–C, VA–2–C, VA–3–C, VA–4–C, CP&L–1–C, CP&L–2–C, CP&L–3–C, CP&L–4–C, AP–1–C, AP–2–C, AP–3–C, AP–4–C, NC–1–B, and Replacement–2–B are also available.

Issued at Elberton, Georgia, on February 26, 2015.

Kenneth E. Legg,

Administrator.

[FR Doc. 2015–05534 Filed 3–10–15; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Hydrogen and Fuel Cell Technical Advisory Committee (HTAC); Meeting

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

ACTION: Notice of open meeting.

SUMMARY: This notice announces an open meeting of the Hydrogen and Fuel Cell Technical Advisory Committee (HTAC). The Federal Advisory Committee Act, Public Law 92–463, 86 Stat. 770, requires notice of the meeting be announced in the **Federal Register**.

DATES:

Tuesday, April 21, 2015 8:30 a.m.–5:15 p.m.

Wednesday, April 22, 2015 8:00 a.m.–12:00 p.m.

ADDRESSES: Westin Crystal City Hotel, 1800 Jefferson Davis Highway, Arlington, VA, 22202.

FOR FURTHER INFORMATION CONTACT: Email: *HTAC@nrel.gov* or at the mailing address: James Alkire, Deputy Designated Federal Officer, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, 15013 Denver West Parkway, Golden, CO 80401

SUPPLEMENTARY INFORMATION:

Purpose of the Committee: The Hydrogen and Fuel Cell Technical Advisory Committee (HTAC) was established under section 807 of the Energy Policy Act of 2005 (EPACT), Public Law 109–58; 119 Stat. 849.

Purpose of the Meeting: To provide advice and recommendations to the Secretary of Energy on the program authorized by Title VIII of EPACT.

Tentative Agenda: (updates will be posted on the web at: *http://hydrogen.energy.gov/advisory_htac.html*).

- HTAC Business (including public comment period)
- DOE Leadership Updates
- Program and Budget Updates
- Updates from Government and Industry

- HTAC Subcommittee Updates
- Open Discussion Period

Public Participation: The meeting is open to the public. Individuals who would like to attend and/or to make oral statements during the public comment period must register no later than 5:00 p.m. on Wednesday, April 15, 2015, by email at *HTAC@nrel.gov.* Entry to the meeting room will be restricted to those who have confirmed their attendance in advance. Please provide your name, organization, citizenship, and contact information. Anyone attending the meeting will be required to present government-issued identification. Those wishing to make a public comment are required to register. The public comment period will take place between 8:30 a.m. and 9:00 a.m. on April 21, 2015. Time allotted per speaker will depend on the number who wish to speak but will not exceed five minutes. Those not able to attend the meeting or have insufficient time to address the committee are invited to send a written statement by email to *HTAC@nrel.gov.*

Minutes: The minutes of the meeting will be available within 45 days for public review at *http://hydrogen.energy.gov/advisory_htac.html.*

Issued in Washington, DC in March 4, 2015.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2015–05531 Filed 3–10–15; 8:45 am]

BILLING CODE 6450–01–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Notice

March 9, 2015.

TIME AND DATE: 10:00 a.m., Tuesday, March 17, 2015

PLACE: The Richard V. Backley Hearing Room, Room 511N, 1331 Pennsylvania Avenue NW., Washington, DC 20004 (enter from F Street entrance)

STATUS: Open

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following in open session: *Pocahontas Coal Co., LLC.* v. *Secretary of Labor*, Docket No. WEVA 2014–202–R; and *Pocahontas Coal Co., LLC* v. *Secretary of Labor*, Docket Nos. WEVA 2014–642–R, et al. (Issues include whether the Administrative Law Judges erred in ruling that they lacked jurisdiction to review a Notice of Pattern of Violations and a Notice of Safeguard, respectively.)

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

FOR FURTHER INFORMATION CONTACT: Emogene Johnson (202) 434–9935/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Sarah Stewart,

Deputy General Counsel.

[FR Doc. 2015–05633 Filed 3–9–15; 4:15 pm]

BILLING CODE 6735–01–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Notice

March 9, 2015.

TIME AND DATE: 11:00 a.m., Tuesday, March 17, 2015.

PLACE: The Richard V. Backley Hearing Room, Room 511N, 1331 Pennsylvania Avenue NW., Washington, DC 20004 (enter from F Street entrance).

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following in open session: *Secretary of Labor* v. *Paramont Coal Company Virginia, LLC*, Docket Nos. VA 2010–369–R, et al. (Issues include whether the Administrative Law Judge erred in ruling that a particular violation of the standard governing conveyor belt alignment was not ''significant and substantial.'').

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

FOR FURTHER INFORMATION CONTACT: Emogene Johnson (202) 434–9935/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Sarah Stewart,

Deputy General Counsel.

[FR Doc. 2015–05637 Filed 3–9–15; 4:15 pm]

BILLING CODE 6735–01–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Notice: Cancellation of Meeting Notice

March 6, 2015.

The following Commission meeting has been cancelled. No earlier announcement of the cancellation was possible.

TIME AND DATE: 10:00 a.m., Thursday, March 5, 2015

PLACE: The Richard V. Backley Hearing Room, Room 511N, 1331 Pennsylvania Avenue NW., Washington, DC 20004 (enter from F Street entrance)

STATUS: Open

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following in open session: *Pocahontas Coal Co., LLC.* v. *Secretary of Labor,* Docket No. WEVA 2014–202–R; and *Pocahontas Coal Co., LLC* v. *Secretary of Labor,* Docket Nos. WEVA 2014–642–R, et al. (Issues include whether the Administrative Law Judges erred in ruling that they lacked jurisdiction to review a Notice of Pattern of Violations and a Notice of Safeguard, respectively.)

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

CONTACT PERSON FOR MORE INFO: Emogene Johnson (202) 434–9935/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Emogene Johnson,

Administrative Assistant.

[FR Doc. 2015–05589 Filed 3–9–15; 11:15 am]

BILLING CODE 6735–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Statement of Organization, Functions, and Delegations of Authority

Part C (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–76, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 80 FR 14117–1419, dated January 9, 2015) is amended to establish the Western States Division and Spokane Mining Research Division, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention.

Section C–B, Organization and Functions, is hereby amended as follows:

After the title and functional statement for the *World Trade Center Health Program (CCP), National*

Institute for Occupational Safety and Health (CC), insert the following:

Western States Division (CCQ). The Western States Division (WSD) conducts research and provides technical assistance for the prevention of work-related illness, injury, and death; these activities are predominately focused on, but not limited to, occupational safety and health (OS&H) problems in the Western U.S., including Alaska and Hawaii. WSD conducts specific activities that provide actionable evidence to reduce OS&H hazards. To accomplish its mission, WSD: (1) Conducts prevention research for at risk populations; (2) facilitates the development of OS&H programs in states and regions that have minimal or limited OS&H public health program capacity and state-supporting infrastructure; (3) serves as a multi-regional resource to provide outreach, expert advice, and technical assistance on OS&H priority issues, including the development, dissemination, and diffusion of NIOSH research products; (4) enhances and facilitates NIOSH initiatives and programs; and (5) responds to requests for technical assistance and conducts site evaluations to support Division programs and priorities and other NIOSH initiatives and programs, including evaluating exposures to hazardous chemical, biological, physical, and radioactive agents and recommending appropriate controls. Research includes the development of viable strategies to evaluate and prioritize hazards, communicate risk, provide evidence for prevention recommendations, and building state OS&H (capacity or activities) through surveillance data and stakeholder input. At risk populations include, but are not limited to, (a) high-risk industries such as oil and gas extraction, fishing, and aviation; (b) underserved groups such as American Indian/Alaska Native and immigrant and contingent workers; and (c) workers engaged in particularly hazardous activities such as hydraulic fracturing, wind and other renewable energy development, wild land firefighting; and water and air transportation.

After the title and functional statement for the *Office of Mine Safety and Health Research (CCM), National Institute for Occupational Safety and Health (CC),* insert the following:

Spokane Mining Research Division (CCMG). (1) Provides leadership for prevention of work-related illness, injury, and death in the extractive industries with an emphasis on the special needs of these industries in western United States; (2) develops numerical models and conducts laboratory and field investigations to better understand the causes of catastrophic failures in underground metal/nonmetal mines that may lead to multiple injuries and fatalities; (3) develops new design practices and tools, control technologies, and work practices to reduce the risk of these global and local ground failures in underground metal/nonmetal mines; (4) conducts numerical studies and field investigations to understand the problems of ventilating deep and multilevel underground mines, and develops improved design approaches and engineering controls to reduce the concentration of toxic substances in the mine air; (5) conducts laboratory and field studies to help leverage and support the Institute's mining research program; (6) develops and recommends appropriate criteria for new standards, NIOSH policy, documents, or testimony related to health and safety in the extractive industries.

James Seligman,

Acting Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2015–05552 Filed 3–10–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–1999–D–1315 (formerly 1999–D–0296)]

Formal Meetings Between the Food and Drug Administration and Sponsors or Applicants of Prescription Drug User Fee Act Products; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Formal Meetings Between the FDA and Sponsors or Applicants of Prescription Drug User Fee Act (PDUFA) Products.'' This draft guidance provides recommendations to industry on formal meetings between FDA and sponsors or applicants relating to the development and review of drug or biological products (''products''). This draft guidance revises the guidance for industry entitled ''Formal Meetings Between the FDA and Sponsors or Applicants'' published May 19, 2009.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by June 9, 2015.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Bldg., 4th Floor, Silver Spring, MD 20993–0002, or the 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 requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit electronic comments on the draft guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Rachel E. Hartford, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 6312, Silver Spring, MD 20993–0002, 301–796–0319; or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Formal Meetings Between the FDA and Sponsors or Applicants of PDUFA Products.'' This draft guidance provides recommendations to industry on formal meetings between FDA and sponsors or applicants relating to the development and review of products regulated by the Center for Drug Evaluation and Research and the Center for Biologics Evaluation and Research. This draft guidance does not apply to abbreviated new drug applications, applications for biosimilar biological products, or submissions for medical devices. For the purposes of this draft guidance, ''formal meeting'' includes any meeting that is requested by a sponsor or applicant following the request procedures provided in this guidance and includes meetings conducted in any format (*i.e.,* face to face, teleconference, videoconference, or written response).

This draft guidance discusses the principles of good meeting management practices and describes standardized procedures for requesting, preparing for, scheduling, conducting, and documenting such formal meetings. The general principles in this draft guidance may be extended to other nonapplication-related meetings with external constituents, insofar as this is possible.

This draft guidance revises the guidance for industry entitled ''Formal Meetings Between the FDA and Sponsors or Applicants'' published May 19, 2009. This draft guidance is being

updated in accordance with the Meeting Management Goals section of the PDUFA Reauthorization Performance Goals and Procedures, Fiscal Years 2013 through 2017. Significant changes from the 2009 guidance include:

- Addition of the written response meeting format for pre-investigational new drug application and Type C meetings
- Designation of a post-action meeting requested within 3 months after an FDA regulatory action other than approval as a Type A meeting
- Designation of a post-action meeting requested 3 or more months after an FDA regulatory action other than approval as a Type B meeting
- Designation of a meeting regarding risk evaluation and mitigation strategies or postmarketing requirements that occur outside the context of the review of a marketing application as a Type B meeting
- Inclusion of a meeting package in Type A meeting requests
- Designation of meetings to discuss the overall development program for products granted breakthrough therapy designation status as a Type B meeting

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 formal meetings between FDA and sponsors or applicants of PDUFA products. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. The Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information referred to in the guidance entitled ''Formal Meetings Between the FDA and Sponsors or Applicants'' have been approved under OMB control number 0910–0429. The collections of information for Form FDA 1571 and end-of-phase 2 meetings have been approved under OMB control number 0910–0014, and collections of information for Form FDA 356h have been approved under OMB control number 0910–0338.

III. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

IV. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm, http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/default.htm,* or *http://www.regulations.gov.*

Dated: March 5, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–05523 Filed 3–10–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–0001]

Arthritis Advisory Committee: Notice of Postponement of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is postponing the meeting of the Arthritis Advisory Committee scheduled for March 17, 2015. The meeting was announced in the **Federal Register** of February 10, 2015 (80 FR 7480). The postponement is due to information requests pending with the sponsor of the application. A future meeting date will be announced in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Stephanie L. Begansky, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, FAX: 301–847–8533, email: *AAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). Please call the Information Line for up-to-date information on this meeting.

Dated: March 6, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–05527 Filed 3–10–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Temporary Assistance for Needy Families Two-Parent Study.

OMB No.: New Collection.

Description: The Administration for Children and Families (ACF) is proposing an information collection activity as part of the Temporary Assistance for Needy Families Two-Parent Study. Through this information collection, ACF seeks to gain an in-depth, systematic understanding of the characteristics of two-parent families participating in or eligible to receive TANF, the variety of services two-parent families receive through TANF, how state policies may affect participation in TANF among two-parent families, and how the beliefs of staff and eligible families affect two-parent families' participation in TANF.

The proposed information collection consists of semi-structured interviews with key State and local staff, community-based organization representatives, and adult members of two-parent TANF or likely eligible families on questions of TANF policies, service delivery, and program context, as well as focus groups with adult members of two-parent TANF or likely eligible families.

Respondents: State- and local-level TANF administrators and staff, representatives from community-based organizations, and adults from two-parent families on or likely eligible for TANF.

ANNUAL BURDEN ESTIMATES

Instrument	Total/Annual number of respondents	Number of responses per respondent	Average burden hours per response	Annual burden hours
Discussion Guide for use with state TANF directors	10	1	1.5	15
Discussion Guide for use with local TANF directors	5	1	1.5	8
Discussion Guide for use with local TANF front-line staff	15	1	1	15
Discussion Guide for use with community-based organizations	5	1	1	5
Discussion Guide for use with client focus groups	112	1	1.5	168
Discussion guide for use with client interviews	25	1	1	25

Estimated Total Annual Burden Hours: 236.

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: OPRE Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *OPREinfocollection@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, Email: *OIRA_SUBMISSION@OMB.EOP.GOV*, Attn: Desk Officer for the Administration for Children and Families.

Karl Koerper,

OPRE Reports Clearance Officer.

[FR Doc. 2015–05522 Filed 3–10–15; 8:45 am]

BILLING CODE 4184–73–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Applications for New Awards; National Institute on Disability, Independent Living, and Rehabilitation Research—Advanced Rehabilitation Research Training Program

AGENCY: Administration for Community Living, Department of Health and Human Services.

ACTION: Notice.

Overview Information

National Institute on Disability, Independent Living, and Rehabilitation Research (NIDILRR)—Advanced Rehabilitation Research Training (ARRT) Program.

Notice inviting applications for new awards for fiscal year (FY) 2015.

Catalog of Federal Domestic Assistance (CFDA) Numbers: 84.133P–1, 84.133P–3, and 84–133P–4.

Note: This notice invites applications for three separate competitions. See the chart in the *Award Information* section of this notice for funding and other key information for each of the three competitions.

DATES:

Applications Available: March 11, 2015.

Note: On July 22, 2014, President Obama signed the Workforce Innovation Opportunity Act (WIOA). WIOA was effective immediately. One provision of WIOA transferred the National Institute on Disability and Rehabilitation Research (NIDRR) from the Department of Education to the Administration for Community Living (ACL) in the Department of Health and Human Services. In addition, NIDRR's name was changed to the Institute on Disability, Independent Living, and Rehabilitation Research (NIDILRR). For FY 2015, all NIDILRR priority notices will be published as ACL notices, and ACL will make all NIDILRR awards. During this transition period, however, NIDILRR will continue to review grant applications using Department of Education tools. NIDILRR will post previously-approved application kits to grants.gov, and NIDILRR applications submitted to grants.gov will be forwarded to the Department of Education's G–5 system for peer review. We are using Department of Education application kits and peer review systems during this transition year in order to provide for a smooth and orderly process for our applicants.

Date of Pre-Application Meeting: April 1, 2015.

Deadline for Transmittal of Applications: May 11, 2015.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the Disability and Rehabilitation Research Projects and Centers Program is to plan and conduct research, demonstration projects, training, and related activities, including international activities, to develop methods, procedures, and rehabilitation technology. The Program's activities are designed to maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities, and to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended (Rehabilitation Act).

Advanced Rehabilitation Research Training Program

The purpose of NIDILRR's ARRT program, which is funded through the Disability and Rehabilitation Research Projects and Centers Program, is to provide advanced research training and experience to individuals with doctorates, or similar advanced degrees, who have clinical or other relevant experience. ARRT projects train rehabilitation researchers, including researchers with disabilities, with particular attention to research areas that support the implementation and objectives of the Rehabilitation Act, and that improve the effectiveness of services authorized under the Rehabilitation Act.

Additional information on the ARRT program can be found at: *www.ed.gov/rschstat/research/pubs/res-program.html#ARRT.*

Priority: There is one priority for the three competitions, which will each address one of NIDILRR's major domains of individual well-being: (a) Community living and participation, (b) employment, or (c) health and function. This priority is from the notice of final priority for this program, published in the **Federal Register** on June 11, 2013 (78 FR 34901).

Absolute Priority: For FY 2015 and any subsequent year in which we make awards from the list of unfunded applicants from these competitions, this priority is an absolute priority for each of the three competitions. Under 45 CFR part 75 we consider only applications that meet this program priority.

This priority is:

Advanced Rehabilitation Research Training Program.

Note: The full text of this priority is included in the notice of final priorities and definitions published in the **Federal Register** on June 11, 2013 (78 FR 34901) and in the application package for these competitions.

Program Authority: 29 U.S.C. 764(a).

Applicable Regulations: (a) The Department of Health and Human Services General Administrative Regulations in 45 CFR part 75 (b) Audit Requirements for Federal Awards in 45 CFR part 75 Subpart F; (c) 45 CFR part 75 Non-procurement Debarment and Suspension; (d) 45 CFR part 75 Requirement for Drug-Free Workplace (Financial Assistance); (e) The regulations for this program in 34 CFR part 350; and (f) The notice of final priority for this program, published in the **Federal Register** on June 11, 2013 (78 FR 34901).

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: See chart.

Maximum Award: See chart.

Note: Consistent with 45 CFR part 75, indirect cost reimbursement for a training grant is limited to eight percent of a modified total direct cost base, defined as total direct costs less stipends, tuition and related fees, equipment, and the amount of each subaward in excess of $25,000. Indirect costs can also be determined in the grantee's negotiated indirect cost rate agreement if that amount is less than the amount calculated under the formula above.

Estimated Number of Awards: See chart.

Note: The Department is not bound by any estimates in this notice.

CFDA No. and name	Applications available	Deadline for transmittal of applications	Estimated available funds [1]	Maximum award amount (per year) [2 3]	Estimated number of awards	Project period (months)
84.133P–1 ARRT—Community Living and Participation.	March 11, 2015 ...	May 11, 2015	$150,000	$150,000	1	60
84.133P–3 ARRT—Employment	March 11, 2015 ...	May 11, 2015	150,000	150,000	1	60
84.133P–4 ARRT—Health and Function	March 11, 2015 ...	May 11, 2015	150,000	150,000	1	60

[1] Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2015 and any subsequent year from the list of unfunded applicants from these competitions.

[2] We will reject any application that proposes a budget exceeding the maximum award amount for a single budget period of 12 months. The Administrator of the Administration for Community Living may change the maximum amount through a notice published in the **Federal Register.**

[3] The maximum award amount includes both direct and indirect costs.

III. Eligibility Information

1. *Eligible Applicants:* Institutions of Higher Education.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via grants.gov or by contacting Patricia Barrett: U.S. Department of Health and Human Services, 400 Maryland Avenue SW., Room 5142, PCP, Washington, DC 20202–2700. Telephone: (202) 245–6211 or by email: *patricia.barrett@ed.gov.*

If you request an application from Patricia Barrett, be sure to identify these competitions as follows: CFDA number 84.133P–1; 84.133P–3; or 84.133P–4.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for the competitions announced in this notice.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you limit Part III to the equivalent of no more than 75 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative. You are not required to double space titles, headings, footnotes, references, and captions, or text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman or Arial Narrow) will not be accepted.

The recommended page limit applies to the project narrative section of your application, which is uploaded into Grants.gov under the ''Project Narrative'' heading. It does not apply to the material you will upload under the other nine required Grants.gov headings, and one optional heading for ''Other Attachment Forms,'' which are listed in the Application package instructions available at *www.ed.gov/fund/grant/apply/grantapps/index.html.*

Applicants should clearly indicate on the application cover sheet (SF 424 Form, line 4) whether they are applying for an ARRT program grant in the major domain of (a) community living and participation (CFDA number 84.133P–1); (b) employment (CFDA number 84.133P–3); or (c) health and function (CFDA number 84.133P–4). Although applicants may propose projects that address more than one domain, they should select the applicable competition based on the primary domain addressed in their proposed project.

Note 1: Please submit an appendix that lists every collaborating organization and individual named in the application, including staff, consultants, contractors, and advisory board members. We will use this information to help us screen for conflicts of interest with our reviewers.

Note 2: An applicant should consult NIDRR's Long-Range Plan for Fiscal Years 2013–2017 (78 FR 20299) when preparing its application. The Plan is organized around the following research domains: (1) Community Living and Participation; (2) Health and Function; and (3) Employment.

3. *Submission Dates and Times:*

Applications Available: March 11, 2015.

Date of Pre-Application Meeting: Interested parties are invited to participate in a pre-application meeting and to receive information and technical assistance through individual consultation with NIDILRR staff. The pre-application meeting will be held April 1, 2015. Interested parties may participate in this meeting by conference call with NIDILRR staff from the Administration for Community Living between 1:00 p.m. and 3:00 p.m., Washington, DC time. NIDILRR staff also will be available from 3:30 p.m. to 4:30 p.m., Washington, DC time, on the same day, by telephone, to provide information and technical assistance through individual consultation. For further information or to make arrangements to participate in the

meeting via conference call or to arrange for an individual consultation, contact Carolyn Baron, U.S. Department of Health and Human Services, 550 12th Street SW., Room 5134, PCP, Washington, DC 20202; or by email to: *Carolyn.Baron@ed.gov.*

Deadline for Transmittal of Applications: May 11, 2015.

Applications for grants under these competitions must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 7. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

4. *Intergovernmental Review:* This program is not subject to Executive Order 12372.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Health and Human Services, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM) (formerly the Central Contractor Registry (CCR)), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet. A DUNS number can be created within one-to-two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow two to five weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data entered into the SAM database by an entity. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, you will need to allow 24 to 48 hours for the information to be available in Grants.gov and before you can submit an application through Grants.gov.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov.* To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: *http://www2.ed.gov/fund/grant/apply/sam-faqs.html.*

In addition, to submit your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/web/grants/register.html.*

7. *Other Submission Requirements:* Applications for grants under the ARRT program must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the ARRT program competitions announced in this notice (CFDA Number 84.133P–1, 84.133P–3, and 84.133P–4) must be submitted electronically using the Governmentwide Grants.gov Apply site at *www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the ARRT program, CFDA Number 84.133P–1, 84.133P–3, and 84.133P–4 competitions announced in this notice at *www.Grants.gov.* You must search for the downloadable application package for the applicable competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.,* search for 84.133, not 84.133P).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30 p.m., Washington, DC time, on the wapplication deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and

the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.

• You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this program to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *http://www.G5.gov.*

• You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.

• You must submit all documents electronically, including all information you typically provide on the following forms: The Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.

• You must upload any narrative sections and all other attachments to your application as files in a PDF (Portable Document) read-only, non-modifiable format. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF or submit a password-protected file, we will not review that material. Additional, detailed information on how to attach files is in the application instructions.

• Your electronic application must comply with any page-limit requirements described in this notice.

• After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that the problem affected your ability to submit your application by 4:30 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to the Grants.gov system; *and*

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Patricia Barrett, U.S. Department of Health and Human Services, 400 Maryland Avenue SW., Room 5142, Potomac Center Plaza (PCP), Washington, DC 20202–2700. FAX: (202) 245–6211.

Your paper application must be submitted in accordance with the mail instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.133P–1; 84.133P–3; and 84.133P–4), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Administrator of the Administration for Community Living of the U.S. Department of Health and Human Services.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

Note for Mail Delivery of Paper Applications: If you mail your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in

Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the program under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this program are from 34 CFR 350.54 and are listed in the application package.

2. *Review and Selection Process:* Final award decisions will be made by the Administrator, ACL. In making these decisions, the Administrator will take into consideration: The ranking of the review panel; reviews for programmatic and grants management compliance; the reasonableness of the estimated cost to the government considering the available funding and anticipated results; and the likelihood that the proposed project will result in the benefits expected. Under Section 75.205, item (3) history of performance is an item that is reviewed.

In addition, in making a competitive grant award, the Administrator of the Administration for Community Living also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Health and Human Services 45 CFR part 75.

3. *Special Conditions:* Under 45 CFR part 75 the Administrator of the Administration for Community Living may impose special conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 45 CFR part 75, as applicable; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we send you a Notice of Award (NOA); or we may send you an email containing a link to access an electronic NOA. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the NOA. The NOA also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 45 CFR part 75 should you receive funding under the competition. This does not apply if you have an exception under 45 CFR part 75.

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Administrator of the Administration for Community Living. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Administrator of the Administration for Community Living under 45 CFR part 75. All NIDILRR grantees will submit their annual and final reports through NIDILRR's online reporting system and as designated in the terms and conditions of your NOA. The Administrator of the Administration for Community Living may also require more frequent performance reports under 45 CFR part 75. For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

(c) FFATA and FSRS Reporting

The Federal Financial Accountability and Transparency Act (FFATA) requires data entry at the FFATA Subaward Reporting System (*http://www.FSRS.gov*) for all sub-awards and sub-contracts issued for $25,000 or more as well as addressing executive compensation for both grantee and sub-award organizations.

For further guidance please see the following link: *http://www.acl.gov/Funding_Opportunities/Grantee_Info/FFATA.aspx.*

Note: NIDILRR will provide information by letter to successful grantees on how and when to submit the report.

4. *Performance Measures:* To evaluate the overall success of its research program, NIDILRR assesses the quality of its funded projects through a review of grantee performance and accomplishments. Performance measures for the ARRT program include—

- The percentage of NIDILRR-supported fellows, post-doctoral trainees, and doctoral students who publish results of NIDILRR-sponsored research in refereed journals.
- The average number of publications per award based on NIDILRR-funded research and development activities in refereed journals.

For these reviews, NIDILRR uses information submitted by grantees as part of its Annual Performance Reports.

5. *Continuation Awards:* In making a continuation award, the Administrator of the Administration for Community Living may consider, under 45 CFR part 75, the extent to which a grantee has made ''substantial progress toward meeting the objectives in its approved application.'' This consideration includes the review of a grantee's progress in meeting the targets and projected outcomes in its approved application, and whether the grantee has expended funds in a manner that is consistent with its approved application and budget. In making a continuation grant, the Administrator also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department. Continuation funding is also subject to availability of funds.

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Patricia Barrett, U.S. Department of Health and Human Services, 400 Maryland Avenue SW., Room 5142, PCP, Washington, DC 20202–2700. Telephone: (202) 245–6211 or by email: *patricia.barrett@ed.gov.*

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

VIII. Other Information

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

You may also access documents of the Department published in the **Federal Register** by using the article search

feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: February 3, 2015.

John Tschida,

Director, National Institute on Disability, Independent Living, and Rehabilitation Research.

[FR Doc. 2015–05317 Filed 3–10–15; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HOMELAND SECURITY

Customs and Border Protection

[1651–0019]

Agency Information Collection Activities: Vessel Entrance or Clearance Statement

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 60-Day Notice and request for comments; Extension of an existing collection of information.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Vessel of Entrance or Clearance Statement (CBP Form 1300). CBP is proposing that this information collection be extended with no change to the burden hours or to the information collected. This document is published to obtain comments from the public and affected agencies.

DATES: Written comments should be received on or before May 11, 2015 to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3507). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual cost burden to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for OMB approval. All comments will become a matter of public record. In this document, CBP is soliciting comments concerning the following information collection:

Title: Vessel Entrance or Clearance Statement.

OMB Number: 1651–0019.

Form Number: CBP Form 1300.

Abstract: CBP Form 1300, *Vessel Entrance or Clearance Statement,* is used to collect essential commercial vessel data at time of formal entrance and clearance in U.S. ports. The form allows the master to attest to the truthfulness of all CBP forms associated with the manifest package, and collects information about the vessel, cargo, purpose of entrance, certificate numbers, and expiration for various certificates. It also serves as a record of fees and tonnage tax payments in order to prevent overpayments. CBP Form 1300 was developed through agreement by the United Nations Intergovernmental Maritime Consultative Organization (IMCO) in conjunction with the United States and various other countries. This form is authorized by 19 U.S.C. 1431, 1433, and 1434, and provided for by 19 CFR 4.7–4.9, and accessible at *http://www.cbp.gov/newsroom/publications/forms?title=1300.*

Current Actions: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information being collected.

Type of Review: Extension (without change).

Affected Public: Businesses.

Estimated Number of Respondents: 12,000.

Estimated Number of Responses per Respondent: 22.

Estimated Total Annual Responses: 264,000.

Estimated Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 132,000.

Dated: March 4, 2015.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2015–05557 Filed 3–10–15; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0117]

Agency Information Collection Activities: Free Trade Agreements

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 30-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Free Trade Agreements. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with a change to the burden hours, but no changes to the information collected. This document is published to obtain comments from the public and affected agencies.

DATES: Written comments should be received on or before April 10, 2015 to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE.,

10th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** (79 FR 68458) on November 17, 2014, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10. CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3507). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden, including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for OMB approval. All comments will become a matter of public record. In this document, CBP is soliciting comments concerning the following information collection:

Title: Free Trade agreements.

OMB Number: 1651–0117.

Form Number: None.

Abstract: Free trade agreements are established to reduce and eliminate trade barriers, strengthen and develop economic relations, and to lay the foundation for further cooperation to expand and enhance benefits of the agreement. These agreements establish free trade by reduced-duty treatment on imported goods.

The U.S. has entered into the following Free Trade Agreements: United States-Chile Free Trade Agreement (US–CFTA) (Pub. L. 108–77); the Republic of Singapore (Pub. L. 108–78, 117 Stat. 948, 19 U.S.C. 3805 note); Australia (Pub. L. 108–286); Morocco (Pub. L. 108–302); Jordan (Pub. L. 107–43); Bahrain (Pub. L. 109–169); Oman (Pub. L. 109–283); Peru (Pub. L. 110–138, 121 Stat. 1455); Korea (Pub. L. 112–41); Colombia (Pub. L. 112–42, 125 Stat. 462); Panama (Pub. L. 112–43); and Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua (CAFTA–DR) (Pub. L. 109–53, 119 Stat. 462).

These free trade agreements involve collection of data elements such as information about the importer and exporter of the goods, a description of the goods, tariff classification number, and the preference criterion in the Rules of Origin. Respondents can obtain information on how to make claims under these Free Trade Agreements by going to *http://www.cbp.gov/trade/free-trade-agreements* and use a standard fillable format for the FTA submission by going to *http://www.cbp.gov/document/guides/certification-origin-template*.

Current Actions: CBP has reevaluated the time necessary to prepare and submit information related to these free trade agreements. Prior to this submission, CBP estimated a time per response of 12 minutes, or 0.2 hours. Based on our recent evaluation, CBP believes that 2 hours per response is a more accurate estimate. This update increased the estimated burden hours for this information collection from 71,220 annual hours to 722,000 annual hours. In addition to reevaluating the burden hours associated with free trade agreements, CBP has also added the Dominican Republic-Central American-United States Free Trade Agreement (CAFTA–DR) to this information collection. Previously, CAFTA–DR was reported under OMB Control Number 1651–0125.

Type of Review: Extension (with change).

Affected Public: Businesses.

Estimated Number of Respondents: 359,400.

Estimated Number of Total Annual Responses: 361,000.

Estimated Time per Response: 2 hours.

Estimated Total Annual Burden Hours: 722,000.

Dated: March 4, 2015.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2015–05554 Filed 3–10–15; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0013]

Agency Information Collection Activities Entry and Manifest of Merchandise Free of Duty, Carrier's Certificate and Release

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 60-Day notice and request for comments; Extension of an existing collection of information.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Entry and Manifest of Merchandise Free of Duty, Carrier's Certificate and Release (CBP Form 7523). CBP is proposing that this information collection be extended with no change to the burden hours or to the information collected. This document is published to obtain comments from the public and affected agencies.

DATES: Written comments should be received on or before May 11, 2015 to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3507). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d)

ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual cost burden to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for OMB approval. All comments will become a matter of public record. In this document, CBP is soliciting comments concerning the following information collection:

Title: Entry and Manifest of Merchandise Free of Duty, Carrier's Certificate of Release.

OMB Number: 1651–0013.

Form Number: CBP Form 7523.

Abstract: CBP Form 7523, *Entry and Manifest of Merchandise Free of Duty, Carrier's Certificate of Release,* is used by carriers and importers as a manifest for the entry of merchandise free of duty under certain conditions. CBP Form 7523 is also used by carriers to show that articles being imported are to be released to the importer or consignee, and as an inward foreign manifest for vehicles of less than 5 tons arriving from Canada or Mexico with merchandise conditionally free of duty. CBP uses this form to authorize the entry of such merchandise. CBP Form 7523 is authorized by 19 U.S.C. 1433, 1484 and 1498. It is provided for by 19 CFR 123.4 and 19 CFR 143.23. This form is accessible at: *http://www.cbp.gov/newsroom/publications/forms?title=7523&=Apply.*

Current Actions: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information being collected.

Type of Review: Extension (without change).

Affected Public: Businesses.

Estimated Number of Respondents: 4,950.

Estimated Number of Responses per Respondent: 20.

Estimated Total Annual Responses: 99,000.

Estimated Time per Response: 5 minutes.

Estimated Total Annual Burden Hours: 8,247.

Dated: March 4, 2015.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2015–05553 Filed 3–10–15; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0127]

Agency Information Collection Activities: Guarantee of Payment

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 60-Day notice and request for comments; Extension of an existing collection of information.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Guarantee of Payment (CBP Form I–510). CBP is proposing that this information collection be extended with no change to the burden hours or to the information collected. This document is published to obtain comments from the public and affected agencies.

DATES: Written comments should be received on or before May 11, 2015 to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3507). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual cost burden to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for OMB approval. All comments will become a matter of public record. In this document, CBP is soliciting comments concerning the following information collection:

Title: Guarantee of Payment.

OMB Number: 1651–00127.

Form Number: Form I–510.

Abstract: Section 253 of the Immigration and Nationality Act (INA) requires that an alien crewman found to be or suspected of being afflicted with any of the diseases named in section 255 of the INA shall be placed in a hospital for treatment and/or observation with the expense of such observation and/or treatment being borne by the carrier. The guarantee of payment for medical and other related expenses required by section 253 of the Act shall be executed by the owner, agent, consignee, commanding officer or master of the vessel or aircraft on CBP Form I–510, *Guarantee of Payment.* No vessel or aircraft can be granted clearance until such expenses are paid or their payment appropriately guaranteed. CBP Form I–510 collects information such as the name of the owner, agent, commander officer or master of the vessel or aircraft; the name of the crewman; the port of arrival; and signature of the guarantor. This form is provided for by 8 CFR 253.1 and is accessible at: *http://www.cbp.gov/newsroom/publications/forms?title=I-510.*

Action: CBP proposes to extend the expiration date of this information collection with no change to the estimated burden hours or to CBP Form I–510.

Type of Review: Extension (without change).

Affected Public: Businesses.

Estimated Number of Respondents: 100.

Estimated Total Annual Responses: 100.

Estimated Time per Response: 5 minutes.

Estimated Total Annual Burden Hours: 8.

Dated: March 4, 2015.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2015–05555 Filed 3–10–15; 8:45 am]

BILLING CODE 9111–14–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74448; File No. SR–NASDAQ–2015–012]

Self-Regulatory Organizations; The NASDAQ Stock Market, LLC; Notice of Filing of Proposed Rule Change Relating to the Listing and Trading of the Shares of the WisdomTree Western Unconstrained Bond Fund of the WisdomTree Trust

March 5, 2015.

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 February 18, 2015, The NASDAQ Stock Market LLC (''NASDAQ'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in in Items I and II 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.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASDAQ proposes to list and trade shares of the WisdomTree Western Unconstrained Bond Fund (the ''Fund'') of the WisdomTree Trust (the ''Trust'') under NASDAQ Rule 5735 (''Managed Fund Shares'').[3] The shares of the Fund are collectively referred to herein as the ''Shares.''

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASDAQ included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASDAQ has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade Shares of the Fund under NASDAQ Rule 5735, which governs the listing and trading of Managed Fund Shares on the Exchange.[4] The Fund will be an actively managed exchange traded fund (''ETF''). The Shares will be offered by the Trust, which was established as a Delaware statutory trust on December 15, 2005. The Trust is registered with the Commission as an investment company and has filed a registration statement on Form N–1A (''Registration Statement'') with the Commission on behalf of the Fund.[5]

Description of the Shares and the Fund

WisdomTree Asset Management, Inc. (''WisdomTree Asset Management'') will be the investment adviser (''Adviser'') to the Fund.[6] Western Asset Management Company will serve as sub-adviser for the Fund (''Sub-Adviser'').[7] State Street Bank and Trust Company will serve as the administrator, custodian and transfer agent for the Trust (''Custodian'' or ''Transfer Agent,'' as applicable). ALPS Distributors, Inc. (''Distributor'') will serve as the distributor for the Trust.

Paragraph (g) of Rule 5735 provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio.[8] In addition, paragraph (g) further requires that personnel who make decisions on the open-end fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the open-end fund's portfolio. Rule 5735(g) is similar to NASDAQ Rule 5705(b)(5)(A)(i), however, paragraph (g) in connection with the establishment of a ''fire wall'' between the investment adviser and the broker-dealer reflects the open-end fund's portfolio, not an underlying benchmark index, as is the case with index-based funds. Neither

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1)(the ''1940 Act'') organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Index Fund Shares, listed and traded on the Exchange under NASDAQ Rule 5705, seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

[4] The Commission approved NASDAQ Rule 5735 in Securities Exchange Act Release No. 57962 (June 13, 2008) 73 FR 35175 (June 20, 2008) (SR–NASDAQ–2008–039). The Fund would not be the first actively-managed fund listed on the Exchange; *see* Securities Exchange Act Release No. 66175 (February 29, 2012), 77 FR 13379 (March 6, 2012) (SR–NASDAQ–2012–004) (order approving listing and trading of WisdomTree Emerging Markets Corporate Bond Fund). Additionally, the Commission has previously approved the listing and trading of a number of actively managed WisdomTree funds on NYSE Arca, Inc. pursuant to Rule 8.600 of that exchange. *See, e.g.,* Securities Exchange Act Release No. 64643 (June 10, 2011), 76 FR 35062 (June 15, 2011) (SR–NYSEArca–2011–21) (order approving listing and trading of WisdomTree Global Real Return Fund). The Exchange believes the proposed rule change raises no significant issues not previously addressed in those prior Commission orders.

[5] The Trust has filed an amendment to its Registration Statement on Form N–1A for the Fund, dated December 19, 2014, under the Securities Act of 1933 (15 U.S.C. 77a) (''Securities Act'') and the 1940 Act (File Nos. 333–132380 and 811–21864). The descriptions of the Fund and the Shares contained herein are based, in part, on information in the Registration Statement. The Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. *See* Investment Company Act Release No. 28171 (October 27, 2008) (File No. 812–13458) (the ''Exemptive Relief''). In compliance with NASDAQ Rule 5735(b)(5), which applies to Managed Fund Shares based on an international or global portfolio, the Trust's application for exemptive relief under the 1940 Act states that the Fund will comply with the federal securities laws in accepting securities for deposits and satisfying redemptions with redemption securities, including that the securities accepted for deposits and the securities used to satisfy redemption requests are sold in transactions that would be exempt from registration under the Securities Act.

[6] WisdomTree Investments, Inc. (''WisdomTree Investments'') is the parent company of WisdomTree Asset Management.

[7] The Sub-Adviser is responsible for day-to-day management of the Fund and, as such, typically makes all decisions with respect to portfolio holdings. The Adviser has ongoing oversight responsibility.

[8] An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (15 U.S.C. 80b–1) (the ''Advisers Act''). As a result, the Adviser and Sub-Adviser and their related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act (17 CFR 275.204A–1). In addition, Rule 206(4)–7 under the Advisers Act (17 CFR 275.206(4)–7) makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

WisdomTree Asset Management nor Western Asset Management Company is registered as, or affiliated with any broker-dealer. In the event (a) the Adviser or the Sub-Adviser becomes newly registered as, or affiliated with, a broker-dealer or (b) any new adviser or sub-adviser is registered as or becomes affiliated with a broker-dealer, as applicable, it will implement a fire wall with respect to its relevant personnel or such affiliated broker-dealer regarding access to information concerning the composition and/or changes to a portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

WisdomTree Western Unconstrained Bond Fund

Principal Investments

The Fund seeks to provide a high level of total return consisting of both income and capital appreciation. The Fund intends to achieve its investment objective through direct and indirect investments in Debt Instruments (as defined below). For these purposes, Debt Instruments will include: (i) Fixed income securities,[9] such as bonds and notes; and (ii) other debt obligations and certain derivatives and other instruments based on Debt Instruments or currency, each as described below. Under normal market conditions,[10] the Fund intends to invest at least 80% of its net assets in Debt Instruments (but not more than 35% of Fund assets in derivatives that are Debt Instruments). The Fund intends to invest in the following Debt Instruments:

- Instruments denominated in U.S. dollars or local currencies.
- Securities or other debt obligations issued by corporations or agencies that may receive financial support or backing from local government.
- Securities or other debt obligations issued by supranational organizations, such as the European Investment Bank, International Bank for Reconstructions and Development, the International Finance Corporation or other regional development banks.
- ''Government securities'' as defined in Section 3(a)(42) of the Act (''Government Securities'').[11]
- Securities issued or guaranteed by non-U.S. governments, agencies and instrumentalities.
- Municipal securities (including taxable and tax-exempt municipal securities), as defined in Section 3(a)(29) of the Act.
- ''Putable'' bonds (bonds that give the holder the right to sell the bond to the issuer prior to the bond's maturity), when the put date is within a 24 month period; and ''busted'' convertible securities (a convertible security that is trading well below its conversion value minimizing the likelihood that it will ever reach its convertible price prior to maturity).
- Loan participation notes (''LPNs'').[12]
- Zero-coupon securities and interest-only securities.[13]
- Debt securities linked to inflation rates of the U.S. and non-U.S. countries.
- Repurchase agreements backed by Government Securities and non-U.S. government securities.[14]
- Bank loans (including senior loans).[15]
- Money Market Securities.[16]
- Money market mutual funds.
- Bank loans (including senior loans).
- Mortgage-backed securities,[17] including commercial mortgage-backed securities (''CMBSs''),[18] collateralized mortgage obligations (''CMOs''),[19] and adjustable rate mortgage back securities (''ARMBSs''),[20] and interest-only

[9] Fixed income securities generally represent obligations of issuers to re-pay money borrowed. The issuer of the fixed income security usually pays a fixed, variable or floating rate of interest and repays the amount borrowed, usually at the maturity of the instrument. Some fixed income securities, such as zero coupon bonds, do not pay current interest, but are issued at a discount from their face values. The Fund may invest in fixed income securities that have variable or floating interest rates which are readjusted on set dates (such as the last day of the month or calendar quarter) in the case of variable rates or whenever a specified interest rate change occurs in the case of a floating rate instrument. Variable or floating interest rates generally reduce changes in the market price of securities from their original purchase price because, upon readjustment, such rates approximate market rates. Accordingly, as interest rates decrease or increase, the potential for capital appreciation or depreciation is less for variable or floating rate securities than for fixed rate obligations.

[10] The term ''under normal market conditions'' includes, but is not limited to, the absence of extreme volatility or trading halts in the fixed income markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance. In response to adverse market, economic, political, or other conditions the Fund reserves the right to invest in U.S. government securities, other Money Market Securities (as defined below), and cash, without limitation, as determined by the Adviser or Sub-Adviser. ''Money Market Securities'' shall include: Short-term, high quality securities issued or guaranteed by the U.S. government or non-U.S. governments, their agencies and instrumentalities; repurchase agreements backed by U.S. government securities and non-U.S. government securities; money market mutual funds; and deposit and other obligations of U.S. and non-U.S. banks and financial institutions. In the event the Fund engages in these temporary defensive strategies that are inconsistent with its investment strategies, the Fund's ability to achieve its investment objectives may be limited.

[11] Government Securities include securities issued or guaranteed by the U.S. Treasury, agencies or instrumentalities of the U.S. government or government sponsored enterprises (''GSEs''). The Treasury securities in which the Fund may invest will include variable rate Treasury securities, whose rates are adjusted daily (or at such other increment as may later be determined by the Department of the Treasury) to correspond with the rate paid on one-month or three-month Treasury securities, as applicable.

[12] The Fund may invest in LPNs with a minimum outstanding principal amount of $200 million that the Adviser or Sub-Adviser deems to be liquid.

[13] A zero coupon bond is a debt security that is sold without interest and is therefore priced at a discount to the principal amount paid at maturity. An interest-only security is an investment in the interest portion only of that security (*i.e.,* it does not include repayment of principal, which is separated and typically sold separately).

[14] The Fund may enter into repurchase agreements with counterparties that are deemed to present acceptable credit risks, and may enter into reverse repurchase agreements, which involve the sale of securities held by the Fund subject to its agreement to repurchase the securities at an agreed upon date or upon demand and at a price reflecting a market rate of interest.

[15] A senior loan is an advance commitment of funds made by one or more banks or financial institutions to one or more corporations, partnerships or other business entities and typically pays interest at a floating rate that is determined periodically at a designated premium above a base lending rate, most commonly the London-Interbank Offered Rate (''LIBOR'').

[16] *See* note 10, *supra.*

[17] Mortgage-backed securities are interests in pools of residential or commercial mortgage loans, including mortgage loans, made by savings and loans institutions, mortgage bankers, commercial banks and others. Pools of mortgage loans are assembled as securities for sale to investors by various governmental, government-related and private organizations. Interests in pools of mortgage-backed securities differ from other forms of debt securities, which normally provide for periodic payment of interest in fixed amounts with principal payments at maturity or specified call dates. Instead, mortgage-backed securities provide a monthly payment which consists of both principal and interest payments. In effect, these payments are a ''pass-through'' of the monthly payments made by the individual borrowers on their residential or commercial mortgage loans, net of any fees paid to the issuer or guarantor of such securities. Additional payments are caused by repayments of principal resulting from the sale of the underlying property, refinancing or foreclosure, net of fees or costs which may be incurred.

[18] CMBSs include securities that reflect an interest in, and are secured by, mortgage loans on commercial real property.

[19] CMOs are debt obligations of a legal entity that are collateralized by mortgages and divided into classes. Similar to a bond, interest and prepaid principal is paid, in most cases on a monthly basis. CMOs may be collateralized by whole mortgage loans or private mortgage bonds, but are more typically collateralized by portfolios of mortgage pass-through securities guaranteed by Ginnie Mae, Fannie Mae, Freddie Mac, and their income streams.

[20] ARMBSs have interest rates that reset at periodic intervals. Acquiring ARMBSs permits the Fund to participate in increases in prevailing current interest rates through periodic adjustments in the coupons of mortgages underlying the pool on which ARMBSs are based. Such ARMBSs generally

Continued

mortgage-backed securities, [21] including in each case, agency mortgage-backed securities,[22] GSE issued or guaranteed mortgage-backed securities,[23] and privately issued mortgage-backed securities.

- Asset-backed securities (''ABSs'').[24]

The Fund may invest up to 20% of its net assets, in the aggregate, in privately issued mortgage backed securities and privately-issued ABSs. Debt Instruments will also include debt securities which are secured with collateral consisting of mortgage-backed securities or ABSs.

The Fund may invest in the aggregate up to 35% of its assets in the following derivatives which are also Debt Instruments:

- Credit-linked notes.[25]
- Listed futures contracts on Debt Instruments.[26]
- Non-deliverable forward currency contracts.[27]
- Currency swaps.[28]
- Interest rate swaps.[29]
- Listed currency options.
- Listed options on futures contracts on Debt instruments.

The Fund may invest in combinations of investments that provide similar exposure to local currency debt, such as investment in U.S. dollar denominated bonds combined with forward currency positions or swaps.[30] Forward currency contracts and swap positions can be incorporated with bonds denominated in non-U.S. currencies to hedge bond exposures back into U.S. dollars. Conversely, forward currency contracts and swap positions can be implemented in combination with U.S. dollar denominated bonds to create local currency bond exposures. Additionally, the Fund's use of forward contracts and swaps may be combined with investments in short-term, high quality U.S. Money Market Securities in a manner designed to provide exposure to similar investments in local currency deposits.[31]

The Fund will use derivative instruments primarily to hedge interest rate risk and actively manage interest rate exposure and, as described below, to hedge foreign currency risk and actively manage foreign currency exposure. The Fund may also use derivative instruments to enhance returns, as a substitute for, or to gain exposure to, a position in an underlying asset, to reduce transaction costs, to maintain full market exposure (which means to adjust the characteristics of its investments to more closely approximate those of the markets in which it invests), to manage cash flows or to preserve capital. The Fund's use of derivative instruments will be collateralized by investments in Money Market Securities and other liquid Debt Instruments.[32] Such investments will be consistent with the Fund's investment objective and will not be used to enhance leverage. For example, the Fund may engage in swap transactions that provide exposure to Debt Instruments or to interest rates. All Money Market Securities acquired by the Fund will be rated investment grade,[33] except that the Fund may invest in unrated Money Market Securities that are deemed by the Adviser or Sub-Adviser to be of comparable quality to

have higher current yield and lower price fluctuations than is the case with more traditional Debt Instruments of comparable rating and quality.

[21] In an interest-only mortgage backed security, the cash flows to investors are provided from the cash flows from the underlying mortgage loans.

[22] The principal U.S. government guarantor of mortgage-backed securities is Ginnie Mae, a wholly-owned corporation within the United States Department of Housing and Urban Development.

[23] GSE's are private corporations created by the United States government, often to enhance the flow of credit to targeted sectors of the economy. The two largest GSEs for mortgage-backed securities are Fannie Mae and Freddie Mac.

[24] ABSs are bonds backed by pools of loans or other receivables. ABSs are created from many types of assets, including auto loans, credit card receivables, home equity loans, and student loans. ABSs are issued through special purpose vehicles that are bankruptcy remote from the issuer or the collateral. The credit quality of an ABS transaction depends on the performance of the underlying assets. To protect ABS investors from the possibility that some borrowers could miss payments or even default on their loans, ABSs include various forms of credit enhancement.

[25] A credit-linked note is a type of structured note whose value is linked to an underling reference asset or entity. Credit-linked notes typically provide periodic payments of interest as well as payment of principal upon maturity. The Fund will invest not more than 25% of its net assets in credit-linked notes.

[26] The Adviser has registered with the Commodity Futures Trading Commission (''CFTC'') as a commodity pool operator (''CPO'') under the Commodity Exchange Act with regard to the Fund. The exchange-listed futures contracts in which the Fund may invest will be listed on exchanges in the United States, Brazil, Chile, Germany, Hong Kong, Mexico, Singapore, South Korea, or the United Kingdom. Each of the futures exchange's primary financial markets regulators are signatories to the International Organization of Securities Commissions (''IOSCO'') Multilateral Memorandum of Understanding (''MMOU''), which is a multi-party information sharing arrangement among financial regulators. Both the Commission and the Commodity Futures Trading Commission are signatories to the IOSCO MMOU. The exchange-listed futures contracts in which the Fund may invest in the United States, Germany, Hong Kong, Singapore, South Korea, or the United Kingdom will be listed on exchanges that are members of the Intermarket Surveillance Group (''ISG'') which include affiliates of LIFFE Administration and Management, Eurex Frankfurt, A.G., the Hong Kong Exchanges & Clearing Ltd., the Korea Exchange, the Singapore Exchange, Ltd., NASDAQ OMX BX and NASDAQ OMX PHLX LLC. At least 90% of Fund assets that are invested in exchange-traded derivative instruments will be invested in instruments that trade in markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[27] A forward currency contract is an agreement to buy or sell a specific currency on a future date at a price set at the time of the contract. The Fund will invest only in currencies, and instruments that provide exposure to such currencies, that have significant foreign exchange turnover and are included in the Bank for International Settlements Triennial Central Bank Survey, December 2013 (the ''BIS Survey''). The Fund may invest in currencies, and instruments that provide exposure to such currencies, selected from the top 40 currencies (as measured by percentage share of average daily turnover for the applicable month and year) included in the BIS Survey.

[28] A currency swap is a foreign exchange agreement between two parties to exchange aspects of a loan (*i.e.,* the principal and interest payments) of a loan in one currency for equivalent aspects of an equal in net present value of a loan in another currency. *See also* note 27, *supra,* regarding foreign currencies in which the Fund may invest.

[29] An interest rate swap involves the exchange of a floating interest rate payment for a fixed interest rate payment.

[30] To the extent practicable, the Fund will invest in swaps cleared through the facilities of a centralized clearing house. The Fund may also invest in Money Market Securities that would serve as collateral for the futures contracts and swap agreements.

[31] The Fund will seek, where possible, to use counterparties, as applicable, whose financial status is such that the risk of default is reduced; however, the risk of losses resulting from default is still possible. The Adviser or the Sub-Adviser will evaluate the creditworthiness of counterparties on an ongoing basis. In addition to information provided by credit agencies, the Adviser's or the Sub-Adviser's analysis will evaluate each approved counterparty using various methods of analysis and may consider such factors as the counterparty's liquidity, its reputation, the Adviser's or the Sub-Adviser's past experience with the counterparty, its known disciplinary history, and its share of market participation. The Adviser or Sub-Adviser will also attempt to mitigate the Fund's respective credit risk by transacting only with large, well-capitalized institutions using measures designed to determine the creditworthiness of the counterparty. The Adviser or Sub-Adviser will take various steps to limit counterparty credit risk. The Fund will enter into over-the-counter non-centrally cleared instruments only with financial institutions that meet certain credit quality standards and monitoring policies. The Fund may also use various techniques to minimize credit risk, including early termination or reset and payment, using different counterparties, and limiting the net amount due from any individual counterparty. The Fund generally will collateralize over-the-counter non-centrally cleared instruments with cash and/or certain securities. Such collateral will generally be held for the benefit of the counterparty in a segregated tri-party account at the custodian to protect the counterparty against non-payment by the Fund. In the event of a default by the counterparty, and the Fund is owed money in the over-the-counter non-centrally cleared instruments transaction, the Fund will seek withdrawal of the collateral from the segregated account and may incur certain costs exercising its right with respect to the collateral.

[32] *See* note 10, *supra.*

[33] The term ''investment grade,'' for purposes of Money Market Securities only, is intended to mean securities rated A1 or A2 by one or more Nationally Recognized Statistical Rating Organizations (''NRSROs'').

Money Market Securities rated investment grade.[34]

The Fund will comply with the regulatory requirements of the Commission to maintain assets as ''cover,'' maintain segregate accounts, and make margin payments when it takes positions in derivative instruments involving obligations to third parties (*i.e.,* instruments other than purchase options). With respect to certain kinds of derivative transactions entered into by the Fund that involve obligations to make future payments to third parties, including, but not limited to, futures and forward contracts, swap contracts, the purchase of securities on a when-issued or delayed delivery basis, or reverse repurchase agreements, the Fund, in accordance with applicable federal securities laws, rules, and interpretations thereof, will ''set aside'' liquid assets, or engage in other measures to ''cover'' open positions with respect to such transactions.[35]

The Fund intends to provide exposure across geographic regions and countries, world-wide. The Fund intends to invest in Debt Instruments originating in the following regions/countries: North America, South America, Asia, Australia and New Zealand, Latin America, Europe, Africa and the Middle East. The Fund intends to invest primarily in developed and emerging markets countries.[36] The Fund's credit exposure will be monitored on an ongoing basis from a risk perspective, and may be modified, reduced, or eliminated. The Fund's exposure to any single corporate issuer generally will be limited to 10% of the Fund's assets. The Fund's exposure to any single sovereign issuer generally will be limited to 25% of the Fund's assets (excluding exempted securities as defined in Section 3(a)(12) of the Act). The percentage of the Fund's assets in a specific region, country or issuer will change from time to time. The Fund's exposure to any one country (other than the United States) generally will be limited to 30% of the Fund's assets though this percentage may change from time to time in response to economic events and changes to the respective credit ratings of the Debt Instruments in such country.

The universe of Debt Instruments will include securities that are rated ''investment grade'' as well as ''non-investment grade'' (commonly referred to as 'junk bonds').[37] The Fund may invest in Debt Instruments of any credit quality, including unrated securities, and with effective or final maturities of any length.

Liquidity will be an important factor in the Fund's security selection process.[38] Under normal market conditions, at least 80% of the Fund's net assets that are invested in Debt Instruments will be invested in Debt Instruments that are issued by issuers with outstanding debt of at least $200 million (or the foreign currency equivalent thereof).

The Fund will be actively-managed and will not be tied to an index. The Exchange notes, however, that the Fund's investment portfolio will meet the criteria for non-actively managed, index-based, fixed income ETFs contained in NASDAQ Rule 5705(a)(4)(A).[39]

Secondary Investments in Derivatives and Foreign Currencies

The Fund's investments in derivative instruments will be made in accordance with the 1940 Act and consistent with the Fund's investment objectives and policies. Derivative instruments are financial contracts whose values depend upon, or are derived from, the value of any underlying asset, reference rate or index, and may relate to, among other things, interest rates, currencies or currency exchange rates. Under normal market conditions, no more than 35% of the Fund's investments will be in derivative instruments (with no more than 20% of the Fund's investments in derivative instruments that are not within the definition of ''Debt Instruments''). The Fund may invest in the following derivative instruments (in addition to Debt Instruments that are derivatives): listed futures contracts (other than on Debt Instruments),[40] total return swaps,[41] credit default swaps,[42]

[34] The determination that an unrated security is of comparable quality to a rated security (including, as applicable, an investment grade security) by the Adviser or Sub-Adviser will be based on, among other factors, a comparison between the unrated security and securities issued by similarly situated companies to determine where in the spectrum of credit quality the unrated security would fall. The Adviser or Sub-Adviser would also perform an analysis of the unrated security and its issuer similar, to the extent possible, to that performed by a NRSRO in rating similar securities and issuers. *See Credit Analysis of Portfolio Securities,* Commission No-Action Letter (May 8, 1990).

[35] *See* 15 U.S.C. 80a–18; Investment Company Act Release No. 10666 (April 18, 1979), 44 FR 25128 (April 27, 1979); *Dreyfus Strategic Investing,* Commission No-Action Letter (June 22, 1987); *Merrill Lynch Asset Management, L.P.,* Commission No-Action Letter (July 2, 1996).

[36] The Fund may invest up to 50% of Fund assets in securities issued by issuers that are organized in or maintain their principal place of business in emerging market countries. According to the Adviser, while there is no universally accepted definition of what constitutes an ''emerging market,'' in general, emerging market countries are characterized by developing commercial and financial infrastructure with significant potential for economic growth and increased capital market participation by foreign investors. The Adviser and Sub-Adviser look at a variety of commonly-used factors when determining whether a country is an ''emerging'' market. In general, the Adviser and Sub-Adviser consider a country to be an emerging market if: (1) It is either (a) classified by the World Bank in the lower middle or upper middle income designation for one of the past 5 years (*i.e.,* per capita gross national product of less than U.S. $9,385), (b) has not been a member of the Organization for Economic Co-operation and Development (''OECD'') for the past five years or (c) classified by the World Bank as high income and a member in OECD in each of the last five years, but with a currency that has been primarily traded on a non-delivered basis by offshore investors (*e.g.,* Korea and Taiwan); and (2) the country's debt market is considered relatively accessible by foreign investors in terms of capital flow and settlement considerations. This definition could be expanded or exceptions made depending on the evolution of market and economic conditions.

[37] According to the Adviser, ''investment grade'' (other than with respect to Money Market Securities) means securities rated in the Baa/BBB categories or above by one or more NRSROs. If a security is rated by multiple NRSROs and receives different ratings, the Fund will treat the security as being rated in the highest rating category received from an NRSRO. Rating categories may include sub-categories or gradations indicating relative standing.

[38] In reaching liquidity decisions, the Adviser or Sub-Adviser may consider the following factors: The frequency of trades and quotes for the security; the number of dealers wishing to purchase or sell the security and the number of other potential purchasers; dealer undertakings to make a market in the security; and the nature of the security and the nature of the marketplace in which it trades (*e.g.,* the time needed to dispose of the security, the method of soliciting offers and the mechanics of transfer).

[39] *See* Exchange Rule 5705(a)(4)(A). The Fund will meet the following requirements of Rule 5705(a)(4)(A): (i) The index or portfolio must consist of fixed income securities (which are generally defined to include Debt Instruments) (Rule 5705(a)(4)(A)(i)); (ii) components that in the aggregate account for at least 75% of the weight of the index or portfolio must each have a minimum original principal amount outstanding of $100 million or more (Rule 5705(a)(4)(A)(ii)); (iii) a component may be a convertible security, however, once the convertible security converts to an underlying equity security, the component is removed from the index or portfolio (Rule 5705(a)(4)(A)(iii)); (iv) no component fixed-income security (excluding Treasury Securities) will represent more than 30% of the weight of the index or portfolio, and the five highest weighted component fixed-income securities do not in the aggregate account for more than 65% of the weight of the index or portfolio (Rule 5705(a)(4)(A)(iv)); (v) an underlying index or portfolio (excluding exempted securities) must include securities from a minimum of 13 non-affiliated issuers (Rule 5705(a)(4)(A)(v)); and (vi) component securities that in the aggregate account for at least 90% of the weight of the index or portfolio must be from issuers that have a worldwide market value of its outstanding common equity held by non-affiliates of $700 million or more (Rule 5705(a)(4)(A)(vi)(c)).

[40] *See* note 26, *supra.*

[41] A total return swap is an agreement between two parties in which one party agrees to make payments of the total return of a reference asset in return for payments equal to a rate of interest on another reference asset.

[42] A credit default swap is a financial swap agreement that the seller of the credit default swap

Continued

and listed options on futures contracts (other than on Debt Instruments).[43]

As discussed above, the Fund's use of derivative instruments will be collateralized by investments in Money Market Securities and other liquid Debt Instruments.[44] Such investments will be consistent with the Fund's investment objective and will not be used to enhance leverage.

The Fund may engage in foreign currency transactions, and may invest directly in foreign currencies in the form of bank and financial institution deposits, and certificates of deposit denominated in a specified non-U.S. currency. The Fund may enter into forward currency contracts in order to ''lock in'' the exchange rate between the currency it will deliver and the currency it will receive for the duration of the contract.[45]

Other Fund Investments

The Fund may invest up to 20% of its net assets in one or more of the following instruments. The Fund may invest in the securities of other investment companies (including exchange-traded products (''ETPs''), such as other ETFs.[46] The Fund may invest in debt instruments that do not fall within the meaning of ''Debt Instruments'' above, including bank loans; banker's acceptances, which are short-term credit instruments used to finance commercial transactions; bank time deposits, which are monies kept on deposit with banks or savings and loan associations for a stated period of time at a fixed rate of interest; commercial paper, which is short-term unsecured promissory notes,[47] and certificates of deposit issued against funds deposited in a bank or savings and loan association. The Fund may invest in U.S. and non-U.S. equity securities.[48] The Fund may also hold cash.

Investment Restrictions

The Fund will invest only in corporate bonds that the Adviser or Sub-Adviser deems to be sufficiently liquid.[49] The Fund will only buy performing debt securities and not distressed debt. Generally, a corporate bond will be required to have $150 million or more par amount outstanding and significant par value traded to be considered as an eligible investment. Economic and other conditions may, from time to time, lead to a decrease in the average par amount outstanding of bond issuances. Therefore, although the Fund does not intend to do so, it may invest up to 5% of its net assets in corporate bonds with less than $150 million par amount outstanding if (1) the Adviser or Sub-Adviser deems such security to be sufficiently liquid based on its analysis of the market for such security (based on, for example, broker-dealer quotations or its analysis of the trading history of the security or the trading history of other securities issued by the issuer), (2) such investment is deemed by the Adviser or Sub-Adviser to be in the best interest of the Fund, and (3) such investment is deemed consistent with the Fund's goal of providing exposure to a broad range of countries and issuers.[50]

The Fund may hold up to an aggregate of 15% of its net assets in illiquid assets (calculated at the time of investment), including Rule 144A securities deemed illiquid by the Adviser or Sub-Adviser.[51] The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.[52] The Fund's investments will be consistent with the Fund's investment objectives and will not be used to enhance leverage. [53]

The Fund may invest in Debt Instruments with effective or final maturities of any length. The Fund will seek to keep the average effective duration of its portfolio between -5 and 10 years under normal market conditions. Effective duration is an indication of an investment's interest rate risk or how sensitive an investment or a fund is to changes in interest rates.

will compensate the buyer in the event of a loan default or other credit event.

[43] *See* note 30, *supra.*

[44] *See* note 10, *supra.*

[45] *See* note 30, *supra.*

[46] When used herein, ETPs may include, without limitation: Portfolio Depository Receipts and Index Fund Shares (as described in NASDAQ Rule 5705); Securities Linked to the Performance of Indexes and Commodities (as described in NASDAQ Rule 5710); Index-Linked Exchangeable Notes; Equity Gold Shares; Trust Certificates; Commodity-Based Trust Shares; Currency Trust Shares; Commodity Index Trust Shares; Commodity Futures Trust Shares; Partnership Units; Trust Units; Managed Trust Securities; and Currency Warrants (as described in NASDAQ Rule 5711); Alpha-Index Linked Securities (as described in NASDAQ Rule 5712); Equity-Linked Debt Securities (as described in NASDAQ Rule 5715); Trust Issued Receipts (as described in NASDAQ Rule 5720); Index Warrants (as described in NASDAQ Rule 5725); Securities Not Otherwise Specified (as described in NASDAQ Rule 5730); Managed Fund Shares (as described in NASDAQ Rule 5735); and closed-end funds. The ETPs in which the Fund may invest all will be listed and traded on U.S. registered exchanges. The Fund will invest in the securities of registered investment company ETPs consistent with the requirements of Section 12(d)(1) of the 1940 Act or any rule, regulation or order of the Commission or interpretation thereof. The Fund will only make such investments in conformity with the requirements of Section 817 of the Internal Revenue Code of 1986. The ETPs in which the Fund may invest will primarily be indexed-based ETFs that hold substantially all of their assets in securities representing a specific index. While the Fund may invest in ETPs, the Fund will not invest in leveraged or inverse leveraged (*e.g.,* 2X, −2X, 3X, or −3X) ETPs.

[47] Except for commercial paper that is included within the meaning of ''Debt Instruments,'' the Fund will only invest in commercial paper rated A–1 or higher by an NRSRO.

[48] The equity securities in which the Fund may invest will be limited to securities that trade on markets that are members of the ISG. *See* note 26, *supra.* The Fund may invest in non-U.S. equity securities by means of American Depository Receipts (''ADRs''), European Depository Receipts (''EDRs''), and Global Depository Receipts (''GDRs''). ADRs are receipts typically issued by an American Bank or trust company that evidence ownership of underlying securities issued by a foreign corporation. EDRs are receipts issued in Europe that evidence a similar ownership arrangement. GDRs are receipts issued throughout the world that evidence a similar ownership arrangement.

[49] *See* note 38, *supra,* regarding the method by which the Adviser or the Sub-Adviser, as applicable, will determine liquidity of an instrument.

[50] *See* note 39, *supra.*

[51] The Fund's Sub-Adviser is responsible for complying with the Fund's restrictions on investing in illiquid assets. *See* note 38, *supra.*

[52] The Commission has stated that long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. *See* Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), footnote 34. *See also,* Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding ''Restricted Securities''); Investment Company Act Release No. 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N–1A). A fund's portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund. *See* Investment Company Act Release No. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a–7 under the 1940 Act); Investment Company Act Release No. 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the Securities Act of 1933 (15 U.S.C. 77a).

[53] The Fund will include appropriate risk disclosure in its offering documents, including leveraging risk. Leveraging risk is the risk that certain transactions of a fund, including a fund's use of derivatives, may give rise to leverage, causing a fund to be more volatile than if it had not been leveraged. To mitigate leveraging risk, the Adviser will segregate or earmark liquid assets or otherwise cover the transactions that give rise to such risk. *See* 15 U.S.C. 80a–18; Investment Company Act Release No. 10666 (April 18, 1979), 44 FR 25128 (April 27, 1979); *Dreyfus Strategic Investing,* Commission No-Action Letter (June 22, 1987); *Merrill Lynch Asset Management, L.P.,* Commission No-Action Letter (July 2, 1996).

Generally, a fund or instrument with a longer effective duration is more sensitive to interest rate fluctuations, and, therefore, more volatile, than a similar fund with a shorter effective duration. To potentially protect the Fund against the impact of rising rates, the Adviser or Sub-Adviser may take the duration of the Fund below zero through strategic short positions in instruments such as U.S. Treasury futures (subject to the Fund's limits on investments in derivative instruments as described below). A negative duration suggests that the Fund may benefit from a rise in rates.[54] The Fund's actual portfolio duration may be longer or shorter depending on market conditions.

The Fund intends to invest in Debt Instruments of at least 13 non-affiliated issuers. The Fund will not concentrate 25% or more of the value of its total assets (taken at market value at the time of each investment) in any one industry, as that term is used in the 1940 Act (except that this restriction does not apply to obligations issued by the U.S. government or its respective agencies and instrumentalities or government-sponsored enterprises).[55]

The Fund intends to qualify each year as a regulated investment company (a ''RIC'') under Subchapter M of the Internal Revenue Code of 1986, as amended.[56] In addition to satisfying the above referenced RIC diversification requirements, no portfolio security held by the Fund (other than U.S. government securities) will represent more than 30% of the weight of the Fund's portfolio and the five highest weighted portfolio securities of the Fund (other than U.S. government securities) will not in the aggregate account for more than 65% of the weight of the Fund's portfolio. For these purposes, the Fund may treat repurchase agreements collateralized by U.S. government securities as U.S. government securities.[57]

Creation and Redemption of Shares

The Fund will issue and redeem Shares on a continuous basis at net asset value (''NAV'')[58] only in large blocks of Shares (''Creation Units'') in transactions with Authorized Participants (as defined below). Creation Units generally will consist of 100,000 Shares, though this may change from time to time. Creation Units are not expected to consist of less than 50,000 Shares. According to the Registration Statement and consistent with the Exemptive Relief, the Fund will issue and redeem Creation Units in exchange for a portfolio of Debt Instruments and other instruments (''Deposit Securities'') and/or an amount of U.S. cash representing one or more Deposit Securities (''Deposit Cash'') providing exposure to the holdings of the Fund and cash.

Together, the Deposit Securities and/or Deposit Cash and the Cash Component (defined below) will constitute the ''Fund Deposit,'' which represents the minimum initial and subsequent investment amount for a Creation Unit of the Fund. The ''Cash Component'' will be an amount equal to the difference between the NAV of the Shares (per Creation Unit) and the market value of the Deposit Securities (*e.g.,* if the NAV per Creation Unit is less than the market value of the Deposit Securities), the Cash Component will be a corresponding negative amount and the creator will be entitled to receive cash in an amount equal to the Cash Component. The Cash Component will serve the function of compensating for any differences between the NAV per Creation Unit and the market value of the Deposit Securities and/or Deposit Cash, as applicable.

To be eligible to place orders with respect to creations and redemptions of Creation Units, an entity must be (i) a ''Participating Party,'' *i.e.,* a broker-dealer or other participant in the clearing process through the Continuous Net Settlement System of the National Securities Clearing Corporation (''NSCC''); or (ii) a Depository Trust Company (''DTC'') participant. In addition, each Participating Party or DTC participant (each, an ''Authorized Participant'') must execute an agreement that has been agreed to by the Distributor and the Transfer Agent, and that has been accepted by the Trust, with respect to purchases and redemptions of Creation Units. All standard orders to create Creation Units must be received by the Transfer Agent no later than the closing time of the regular trading session of the New York Stock Exchange (ordinarily 4:00 p.m., Eastern Time) (the ''Closing Time'') in each case on the date such order is placed in order for the creation of Creation Units to be effected based on the NAV of Shares as next determined on such date after receipt of the order in proper form. Shares may be redeemed only in Creation Units at their NAV next determined after receipt not later than the Closing Time of a redemption request in proper form by the Fund through the Transfer Agent only on a business day.

The Custodian, through the NSCC, will make available on each business day, immediately prior to the opening of business on the Exchange's Core Trading Session (currently 9:30 a.m. E.T.), the list of names and the required number or amount of each Deposit Security and/or the amount of the Deposit Cash, to be included in the current Fund Deposit (based on information at the end of the previous business day) for the Fund. The Fund Deposit is subject to any applicable adjustments, in order to effect purchases of Creation Units of the Fund until such time as the next-announced composition of the Deposit Securities is made available.

With respect to the Fund, the Custodian, through the NSCC, will make available immediately prior to the opening of business on the Exchange (9:30 a.m. E.T.) on each business day, the list of the names and quantities of the Fund's portfolio securities (''Fund Securities'') that will be applicable (subject to possible amendment or correction) to redemption requests received in proper form on that day. Fund Securities on redemption may not be identical to Deposit Securities. Shares may be redeemed only in Creation Units at their NAV next determined after receipt of a redemption request in proper form by the Fund through the Transfer Agent and only on a business day.

Redemption proceeds for a Creation Unit will be paid either in-kind or in cash or a combination thereof, as determined by the Trust. With respect to in-kind redemptions of the Fund, redemption proceeds will consist of Fund Securities as announced by the Custodian on the business day of the request for redemption received in proper form plus cash in an amount equal to the difference between the NAV of the Shares being redeemed, as next determined after receipt of a request in proper form, and the value of the Fund

[54] Negative duration would occur when the total duration of the Fund's liabilities (*e.g.,* through short positions in U.S. government securities or related futures positions) is less than the total duration of the Fund's assets.

[55] *See* Form N–1A, Item 9. The Commission has taken the position that a fund is concentrated if it invests more than 25% of the value of its total assets in any one industry. *See, e.g.,* Investment Company Act Release No. 9011 (October 30, 1975), 40 FR 54241 (November 21, 1975).

[56] 26 U.S.C. 851.

[57] Repurchase agreements will not be used by the Fund to enhance leverage.

[58] The NAV of the Fund's Shares generally is calculated once daily Monday through Friday as of the close of regular trading on the New York Stock Exchange, generally 4:00 p.m. Eastern time (the ''NAV Calculation Time''). NAV per Share is calculated by dividing the Fund's net assets by the number of Fund Shares outstanding. For more information regarding the valuation of the Fund's investments in calculating the Fund's NAV, see the Registration Statement.

Securities (the ''Cash Redemption Amount''), less a fixed redemption transaction fee and any applicable variable charge as set forth in the Registration Statement. In the event the Fund Securities have a value greater than the NAV of the Shares, a compensating cash payment equal to the differential will be required to be made by or through an Authorized Participant by the redeeming shareholder. Notwithstanding the foregoing, at the Trust's discretion, an Authorized Participant may receive the corresponding cash value of the securities in lieu of the in-kind securities value representing one or more Fund Securities. Once created, Shares of the Fund will trade on the secondary market in amounts less than a Creation Unit.

Net Asset Value

The NAV of the Fund will be calculated by the Custodian and determined at the close of the regular trading session on the NASDAQ Stock Market (ordinarily 4:00 p.m. E.T.) on each day that the Exchange is open, provided that fixed-income assets may be valued as of the announced closing time for trading in fixed-income instruments on any day that the Securities Industry and Financial Markets Association (or the applicable exchange or market on which the Fund's investments are traded) announces an early closing time. The NAV per Share for the Fund will be computed by dividing the value of the net assets of the Fund (*i.e.,* the value of its total assets less total liabilities) by the total number of Shares outstanding, rounded to the nearest cent. Expenses and fees, including the management fees, are accrued daily and taken into account for purposes of determining NAV.[59] Creation/redemption order cut-off times may also be earlier on such days.

In calculating the Fund's NAV per Share, the Fund's investment will generally be valued using market valuations. A market valuation generally means a valuation (i) obtained from an exchange, a pricing service, or a major market maker (or dealer), (ii) based on a price quotation or other equivalent indication of value supplied by an exchange, a pricing service, or a major market maker or dealer, or (iii) based on amortized cost, for securities with remaining maturities of 60 days or less. The Adviser may use various Pricing Services or discontinue the use of any Pricing Service, as approved by the Fund's board of trustees (''Board'') from time to time. A price obtained from a Pricing Service based on such Pricing Service's valuation matrix may be considered a market valuation. Any assets or liabilities denominated in currencies other than the U.S. dollar will be converted into U.S. dollars at the current market rates on the date of valuation as quoted by one or more Pricing Service. Bank deposits held in U.S. dollars will be valued at their actual dollar amount; bank deposits held in foreign currencies will be converted into U.S. dollars and valued at their actual amounts in U.S. dollars.

According to the Adviser, debt instruments (including Money Market Securities), including without limitation, Debt Instruments, will generally be valued using prices received from independent Pricing Services as of the announced closing time for trading in fixed-income instruments in the respective market or exchange. In determining the value of a fixed-income investment, Pricing Services determine valuations for normal institutional-size trading units of such securities using valuation models or matrix pricing, which incorporates yield and/or price with respect to bonds that are considered comparable in characteristics such as rating, interest rate and maturity date and quotations from securities dealers to determine current value.

Exchange traded assets (including without limitation, equity securities, listed futures contracts, listed currency options, listed options on futures, and ETPs) will be valued at the last reported sale price or the official closing price on that exchange where the security or other instrument is primarily traded on the day that the valuation is made. Shares of money market funds (including Money Market Securities that are money market funds) will be valued at their net asset values as reported on the applicable fund's Web site or to major market vendors.

With respect to derivative instruments, if, however, neither the last sales price nor the official closing price is available, each of these derivative instruments will be valued at either the last reported sale price or official closing price as of the close of regular trading of the principal market on which the instrument is listed consistent with the primary benchmark.

Spot currencies and non-exchange–traded derivatives, including non-deliverable forward currency contracts, currency swaps, interest rate swaps, total return swaps, credit default swaps, and credit-linked notes will normally be valued on the basis of quotes obtained from brokers and dealers or Pricing Services using data reflecting the earlier closing of the principal markets for those assets. Prices from independent Pricing Services will also include prices based on valuation models or matrix pricing to determine current value. Prices obtained from independent Pricing Services typically use information provided by market makers or bond dealers or estimates of market values obtained by reference to yield data relating to investments or securities with similar characteristics, including rating, interest rate, maturity date, option adjusted spread models, prepayment projections, interest rate spreads and yield surveys. Matrix pricing is an estimated price or value for a fixed income security. Matrix pricing is considered a form of fair value pricing, discussed below. In the event that current market valuations are not readily available or such valuations do not reflect current market value, the Trust's procedures require the Pricing Committee to determine an asset's fair value if a market price is not readily available in accordance with the 1940 Act.[60] In determining such value, the Trust's Pricing Committee may consider, among other things, (i) price comparisons among multiple sources, (ii) a review of corporate actions and news events, and (iii) a review of relevant financial indicators (*e.g.,* movement in interest rates and market indices). In these cases a Fund's NAV may reflect certain portfolio assets' fair values rather than their market prices. Fair value pricing involves subjective judgments and it is possible that the fair value determination for a security is materially different than the value that could be realized upon the sale of the security.

Because foreign securities exchanges may be open on different days than the days during which an investor may purchase or sell Shares, the value of the

[59] International Data Corporation (''IDC'') is expected to be the primary price source for the Fund's assets. The Fund may also rely, however, on other recognized third-party pricing sources, including without limitation Bloomberg, WM Reuters, JP Morgan, Markit and JJ Kenney, to provide prices for certain asset categories, including among others, currency swaps, forward currency contracts, spot currencies, and corporate securities, in each case as determined, from time to time, by the Fund's Board, as defined below. Each of these pricing sources is a ''Pricing Service'' for purposes of this proposed rule change.

[60] The Trust's Board has established a Pricing Committee that is composed of officers of the Trust and investment management personnel of the Adviser. The Pricing Committee is responsible for the valuation and revaluation of any portfolio investments for which market quotations are not readily available. The Pricing Committee has implemented procedures designed to prevent the use and dissemination of material, non-public information regarding valuation and revaluation of any portfolio investment.

Fund's securities may change on days when investors are not able to purchase or sell Shares. Assets denominated in foreign currencies will be converted into U.S. dollars at the exchange rate of such currencies against the U.S. dollar as provided by a Pricing Service. The value of assets denominated in foreign currencies will be converted into U.S. dollars at the exchange rates at the time of valuation.

The pre-established pricing methods and valuation policies and procedures outlined above may change, subject to review and approval of the Pricing Committee and the Board, as necessary.

Availability of Information

The Fund's Web site (*www.wisdomtree.com*), which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for the Fund that may be downloaded. The Web site will include additional quantitative information updated on a daily basis, including, for the Fund: (1) the prior business day's reported NAV, mid-point of the bid/ask spread at the time of calculation of such NAV (the ''Bid/Ask Price''),[61] and a calculation of the premium and discount of the Bid/Ask Price against the NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. On each business day, before commencement of trading in Shares in the Regular Market Session[62] on the Exchange, the Trust will disclose on its Web site (*www.wisdomtree.com*) the identities and quantities of the portfolio of securities and other assets (the ''Disclosed Portfolio'' as defined in Nasdaq Rule 5732(c)(2)) held by the Fund that will form the basis for the Fund's calculation of NAV at the end of the business day.[63] The Disclosed Portfolio will include, as applicable, the names, quantity, ticker symbol (if applicable), percentage weighting and market value of Debt Instruments, and other assets held by the Fund and the characteristics of such assets, as discussed below. The Fund's disclosure of forward positions will include information regarding the underlying instruments for such positions that market participants can use to value these positions intraday, and this information may include ticker symbols or other identifiers, or the underlying index. The Web site and information will be publicly available at no charge.

A basket composition file, which will include the security names and quantities of securities and other assets required to be delivered in exchange for Fund Shares, together with estimates and actual cash components, will be publicly disseminated prior to the opening of the Exchange via the NSCC. The basket will represent one Creation Unit of the Fund. The NAV of the Fund will normally be determined as of the close of the regular trading session on the Exchange (ordinarily 4:00 p.m. ET) on each business day. Authorized Participants may refer to the basket composition file for information regarding Debt Instruments and any other instrument that may comprise the Fund's basket on a given day.

In addition, an estimated value, defined in Rule 5735 as the ''Intraday Indicative Value'' (as defined in Nasdaq Rule 5753(c)(3)), that reflects an estimated intraday value of the Fund's portfolio, will be disseminated. Moreover, the Intraday Indicative Value, available on the NASDAQ OMX Information LLC proprietary index data service,[64] will be based upon the current value for the components of the Disclosed Portfolio and will be updated and widely disseminated by one or more major market data vendors at least every 15 seconds during the Regular Market Session. In addition, during hours when the markets for local debt and other assets in the Fund's portfolio are closed, the Intraday Indicative Value will be updated at least every 15 seconds during the Regular Market Session to reflect currency exchange fluctuations.

The dissemination of the Intraday Indicative Value, together with the Disclosed Portfolio, will allow investors to determine the value of the underlying portfolio of the Fund on a daily basis and to provide a close estimate of that value throughout the trading day.

Investors can also obtain Trust's Statement of Additional Information (''SAI''), the Fund's Shareholder Reports, and its Form N–CSR and Form N–SAR, filed twice a year. The Trust's SAI and Shareholder Reports will be available free upon request from the Trust, and those documents and the Form N–CSR may be viewed on screen or downloaded from the Commission's Web site at *www.sec.gov*.

Information regarding market price and volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. The previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Quotation and last sale information will be available via NASDAQ proprietary quote and trade services, as well as in accordance with the Unlisted Trading Privileges and the Consolidated Tape Association (''CTA'') plans for the Shares and any underlying ETPs.

Intra-day, executable price quotations on Debt Instruments, including fixed rate, variable rate and zero coupon securities, Money Market Securities that are Debt Instruments (*i.e.,* other than money market mutual funds), LPNs, senior loans, ABSs, mortgage backed securities (including CMBSs, ARMBSs, CMOs and interest only securities), putable bonds, busted convertible bonds, credit-linked notes, inflation-linked securities, Government Securities, foreign sovereign debt securities, supranational debt securities, corporate debt securities, and municipal securities, as well as on other debt securities, and non-exchange traded derivative instruments, such as non-deliverable forward currency contracts, currency swaps, total return swaps, and credit default swaps, are available from major broker-dealer firms. Intra-day price information is available through subscription services, such as Bloomberg and Thomson Reuters, which can be accessed by Authorized Participants and other investors. Intra-day and closing price information regarding equity securities, ETPs and listed currency options traded on a national securities exchange, and regarding non-securities derivative instruments traded on an exchange, including futures contracts and listed options on futures contracts will be

[61] The Bid/Ask Price of the Fund will be determined using the midpoint of the highest bid and the lowest offer on the Exchange as of the time of calculation of such Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Fund and its service providers.

[62] *See* NASDAQ Rule 4120(b)(4) (describing the three trading sessions on the Exchange: (1) Pre-Market Session from 4 a.m. to 9:30 a.m. Eastern time; (2) Regular Market Session from 9:30 a.m. to 4 p.m. or 4:15 p.m. Eastern time; and (3) Post-Market Session from 4 p.m. or 4:15 p.m. to 8 p.m. Eastern time).

[63] Under accounting procedures to be followed by the Fund, trades made on the prior business day (''T'') will be booked and reflected in NAV on the current business day (''T+1''). Notwithstanding the foregoing, portfolio trades that are executed prior to the opening of the Exchange on any business day may be booked and reflected in NAV on such business day. Accordingly, the Fund will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

[64] Currently, the NASDAQ OMX Global Index Data Service (''GIDS'') is the NASDAQ OMX global index data feed service, offering real-time updates, daily summary messages, and access to widely followed indexes and ETFs. GIDS provides investment professionals with the daily and historical information needed to track or trade NASDAQ OMX indexes, listed ETFs or third-party partner indexes and ETFs.

available from the exchange on which such securities or other instruments are traded. Price information regarding non-exchange listed derivative instruments, including swap agreements, credit-linked notes, and forward currency contracts and regarding spot currencies is available from major market vendors. Money market funds are typically priced once each business day and their prices are available through the applicable fund's Web site or from major market vendors. Intra-day and closing price information is available for bank deposits held in foreign currencies (*i.e.,* non-U.S. dollar accounts).

Additional information regarding the Fund and the Shares, including investment strategies, risks, creation and redemption procedures, fees, Fund holdings disclosure policies, distribution and taxes will be included in the Registration Statement.

Disclosed Portfolio

The Fund's disclosure of derivative positions in the Disclosed Portfolio will include information that market participants can use to value these positions intraday. On a daily basis, the Fund will disclose on the Fund's Web site the following information regarding each portfolio holding, as applicable to the type of holding: Ticker symbol, CUSIP number or other identifier, if any; a description of the holding (including the type of holding); the identity of the security or other asset or instrument underlying the holding, if any; for options, the option strike price; quantity held (as measured by, for example, par value, notional value or number of shares, contracts or units); maturity date, if any; coupon rate, if any; effective date, if any; market value of the holding; and the percentage weighting of the holding in the Fund's portfolio.

Initial and Continued Listing

The Shares will be subject to Rule 5735, which sets forth the initial and continued listing criteria applicable to Managed Fund Shares. The Exchange represents that, for initial and/or continued listing, the Fund must be in compliance with Rule 10A–3 [65] under the Act. A minimum of 100,000 Shares for the Fund will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund. NASDAQ will halt trading in the Shares under the conditions specified in NASDAQ Rules 4120 and 4121, including the trading pauses under NASDAQ Rules 4120(a)(11) and (12). Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the securities and/or the financial instruments comprising the Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares also will be subject to Rule 5735(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted.

Trading Rules

NASDAQ deems the Shares to be equity securities, thus rendering trading in the Shares subject to NASDAQ's existing rules governing the trading of equity securities. NASDAQ will allow trading in the Shares from 4:00 a.m. until 8:00 p.m. Eastern time. The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NASDAQ Rule 5735(b)(3), the minimum price variation for quoting and entry of orders in Managed Fund Shares traded on the Exchange is $0.01.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by both NASDAQ and also FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[66] The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and the U.S and non-U.S. equity securities, ETPs, listed options, and listed futures contracts and other instruments held by the Fund with other markets and other entities that are members of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[67] FINRA may obtain trading information regarding trading in the Shares and the U.S. and non-U.S. equity securities, ETPs, listed options, listed futures contracts and other instruments held by the Fund from such markets and other entities. The Exchange also will communicate as needed regarding trading in the Shares and the U.S and non-U.S. equity securities, ETPs, listed options, and listed futures contracts and other instruments held by the Fund with other markets and other entities that are members of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, the Exchange may obtain information regarding trading in the Shares and the exchange-traded securities and instruments held by the Fund from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. Moreover, FINRA, on behalf of the Exchange, is able to obtain trading information regarding certain Debt Instruments held by the Fund reported to FINRA's Trade Reporting and Compliance Engine (''TRACE''). At least 90% of the Fund's assets that are invested in exchange-traded derivative instruments will be invested in instruments that trade in markets that are members of ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange. The ETPs and other equity securities in which the Fund will invest will be traded solely on ISG member exchanges.[68]

The Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

[65] *See* 17 CFR 240.10A–3.

[66] FINRA surveils trading on the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[67] For a list of the current members of ISG, *see www.isgportal.org.* The Exchange notes that not all components of the Disclosed Portfolio may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[68] *See* notes 26, 46, and 48, *supra.*

Information Circular

Prior to the commencement of trading of the Shares, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (2) NASDAQ Rule 2310, which imposes suitability obligations on NASDAQ members with respect to recommending transactions in the Shares to customers; (3) how and by whom information regarding the Intraday Indicative Value and Disclosed Portfolio are disseminated; (4) the risks involved in trading the Shares during the Pre-Market and Post-Market Sessions when an updated Intraday Indicative Value will not be calculated or publicly disseminated; (5) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Information Circular will advise members, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Fund. Members purchasing Shares from the Fund for resale to investors will deliver a prospectus to such investors. The Information Circular will also discuss any exemptive, no-action and interpretive relief granted by the Commission from any rules under the Act.

Additionally, the Information Circular will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Information Circular will also disclose the trading hours of the Shares of the Fund and the NAV Calculation Time for the Shares. The Information Circular will disclose that information about the Shares of the Fund will be publicly available on the Fund's Web site.

2. Statutory Basis

NASDAQ believes that the proposal is consistent with Section 6(b) of the Act [69] in general and Section 6(b)(5) of the Act [70] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NASDAQ Rule 5735. The Exchange represents that trading in the Shares will be subject to the existing trading surveillances administered by both NASDAQ and FINRA on behalf of the Exchange, which are designed to detect violations of the Exchange rules and applicable federal securities laws. Neither the Adviser nor the Sub-Adviser is a broker-dealer or is affiliated with any broker-dealer. In the event (a) the Adviser or the Sub-Adviser becomes newly registered as a broker-dealer or affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a broker-dealer or becomes newly affiliated with a broker-dealer, as applicable, they will implement a fire wall with respect to its relevant personnel or such broker-dealer regarding access to information concerning the composition and/or changes to a portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio as required by paragraph (g) of NASDAQ Rule 5735. The Exchange may obtain information regarding trading in the Shares and the other exchange traded securities and other instruments held by the Fund via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and the exchange-traded securities and other instruments held by the Fund with other markets and other entities that are members of the ISG.[71] FINRA may obtain trading information regarding trading in the Shares and the exchange-traded securities and other instruments held by the Fund from markets and other entities that are members of ISG, which includes securities and futures exchanges, or with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, FINRA, on behalf of the Exchange, is able to obtain trading information regarding certain Debt Instruments through its TRACE serve [sic]. At least 90% of the Fund's net assets that are invested in exchange-traded derivative instruments will be invested in instruments that trade in markets that are members of ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange. The Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

The Fund's investments will be consistent with the Fund's investment objectives and will not be used to enhance leverage.[72] Under normal circumstances, the Fund will invest at least 80% of its assets in Debt Instruments. The Fund's exposure to any single corporate issuer generally will be limited to 10% of the Fund's assets. The Fund's exposure to any single sovereign issuer (other than the United States government) will typically be limited to 25% of the Fund's assets. The Fund's exposure to any single country (other than the United States) generally will be limited to 30% of the Fund's assets. There is no limit on the amount of the Fund's assets that may be invested in non-investment grade and unrated securities. The Fund will invest only in corporate bonds that the Adviser or Sub-Adviser deems to be sufficiently liquid and, generally, a corporate bond will be required to have $150 million or more par amount outstanding and significant par value traded to be considered as an eligible investment. The Fund intends to invest in Debt Instruments of at least 13 non-affiliated issuers. The Fund's investments in derivative instruments will be made in accordance with the 1940 Act and the Fund's investment objectives and policies. Under normal market conditions, no more than 35% of the value of the Fund's net assets will be invested in derivative instruments (and no more than 20% of the Fund's net assets will be invested in derivative instruments that are not Debt Instruments). Such investments will be consistent with the Fund's investment objective. The Fund will comply with the regulatory requirements of the Commission to maintain assets as ''cover,'' maintain segregated accounts, and/or make margin payments when it takes positions in derivative instruments involving obligations to third parties (*i.e.,* instruments other than purchase options). The Fund's investments in derivative instruments will not be used to seek to achieve a multiple or inverse multiple of an index or other benchmark. The Fund will

[69] 15 U.S.C. 78f.

[70] 15 U.S.C. 78f(b)(5).

[71] For a list of the current members of ISG, *see www.isgportal.org.* The Exchange notes that not all components of the Disclosed Portfolio may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[72] *See* note 53, *supra.*

seek, where possible, to use counterparties, as applicable, whose financial status is such that the risk of default is reduced; however, the risk of losses resulting from default is still possible. The Adviser or Sub-Adviser will also attempt to mitigate the Fund's respective credit risk by transacting only with large, well-capitalized institutions using measures designed to determine the creditworthiness of the counterparty.

The Fund may invest up to 20% of its net assets, in the aggregate, in privately issued ABSs and privately issued mortgage-backed securities. The Fund may invest up to 25% of its net assets in credit-linked notes. The Fund may invest up to 20% of its net assets in both U.S. and non-U.S. equity securities, including ETPs. The Fund may also invest up to 20% of its net assets in debt instruments that do not fall within the meaning of ''Debt Instrument.''

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid securities (calculated at the time of investment), including Rule 144A securities deemed illiquid by the Adviser or the Sub-Adviser. Prior to the commencement of trading in the Shares of the Fund, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. In addition, a large amount of information is publicly available regarding the Fund and the Shares, thereby promoting market transparency. Moreover, the Intraday Indicative Value, available on the NASDAQ OMX Information LLC proprietary index data service will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Regular Market Session. On each business day, before commencement of trading in Shares in the Regular Market Session on the Exchange, the Fund will disclose on its Web site the Disclosed Portfolio that will form the basis for the Fund's calculation of NAV at the end of the business day. Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and quotation and last sale information will be available via NASDAQ proprietary quote and trade services, as well as in accordance with the Unlisted Trading Privileges and the Consolidated Tape Association plans for the Shares and any underlying exchange-traded products. Intra-day, executable price quotations on Debt Instruments as well as derivative instruments are available from major broker-dealer firms. Intra-day price information is available through subscription services, such as Bloomberg and Thomson Reuters, which can be accessed by Authorized Participants and other investors.

Quotation and last sale information for ETFs will be available via the CTA high-speed line, and will be available from the national securities exchange on which they are listed. Pricing information for ETFs and exchange-traded derivatives and other instruments will be available from the exchanges on which they trade and from major market vendors. Pricing information for Debt Instruments, forward currency contracts, spot currencies, and debt instruments that do not fall within the meaning of ''Debt Instruments,'' in which the Fund may invest that are described under ''Other Investments'' will be available from major broker-dealer firms, major market data vendors or Pricing Services, as applicable. Money market funds are typically priced once each business day and their prices will be available through the applicable fund's Web site or major market vendors.

The Fund's Web site will include a form of prospectus for the fund and additional data relating to NAV and other applicable quantitative information. Trading in Shares of the Fund will be halted under the condition specified in Nasdaq Rules 4120 and 4121 or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable, and trading in the Shares will be subject to Nasdaq Rule 5735(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. The Exchange may obtain information regarding trading in the Shares and the other exchange traded securities and other instruments held by the Fund via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and the exchange-traded securities and other instruments held by the Fund with other markets and other entities that are members of the ISG.[73] FINRA may obtain trading information regarding trading in the Shares and the exchange-traded securities and other instruments held by the Fund from markets and other entities that are members of ISG, which includes securities and futures exchanges, or with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, FINRA, on behalf of the Exchange, is able to obtain trading information regarding certain Debt Instruments through its TRACE serve [sic]. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

For the above reasons, NASDAQ believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

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. The Exchange notes that the proposed rule change will facilitate the listing and trading of an additional actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period

[73] *See* note 71, *supra.*

up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

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–2015–012 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2015–012. 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–2015–012 and should be submitted on or before April 1, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[74]

Brent J. Fields,

Secretary.

[FR Doc. 2015–05514 Filed 3–10–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, March 12, 2015 at 2:00 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or her designee, has certified that, in her opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matter at the Closed Meeting.

Commissioner Gallagher, as duty officer, voted to consider the items listed for the Closed Meeting in closed session, and determined that no earlier notice thereof was possible.

The subject matter of the Closed Meeting will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551–5400.

Dated: March 6, 2015.

Brent J. Fields,

Secretary.

[FR Doc. 2015–05631 Filed 3–9–15; 4:15 pm]

BILLING CODE 8011–01–P

[74] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation

Advisory Board; Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I), notice is hereby given of a meeting of the Advisory Board of the Saint Lawrence Seaway Development Corporation (SLSDC), to be held from 2:00 p.m. to 3:30 p.m. (EDT) on Monday, March 23, 2015 via conference call. The agenda for this meeting will be as follows: Opening Remarks; Consideration of Minutes of Past Meeting; Quarterly Report; Old and New Business; Closing Discussion; Adjournment.

Attendance at the meeting is open to the interested public but limited to the space available. With the approval of the Administrator, members of the public may present oral statements at the meeting. Persons wishing further information should contact, not later than Thursday, March 19, 2015, Carrie Lavigne, Chief Counsel, Saint Lawrence Seaway Development Corporation, 180 Andrews Street, Massena, N.Y. 13662; 315–764–3231.

Any member of the public may present a written statement to the Advisory Board at any time.

Issued at Washington, DC, on March 6, 2015.

Carrie Lavigne,

Chief Counsel.

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Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Black Pinesnake; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R4–ES–2014–0065; 4500030114]

RINs 1018–BA24; 1018–BA03

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Black Pinesnake

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to designate critical habitat for the black pinesnake (*Pituophis melanoleucus lodingi*) under the Endangered Species Act (Act). In total, approximately 338,100 acres (136,824 hectares) in Forrest, George, Greene, Harrison, Jones, Marion, Perry, Stone, and Wayne Counties, Mississippi, and in Clarke County, Alabama, fall within the boundaries of the proposed critical habitat designation. We also announce the availability of a draft economic analysis (DEA) of the proposed critical habitat designation. If we finalize this rule as proposed, it would extend the Act's protections to this species' critical habitat. In addition, we announce the reopening of the public comment period on the October 7, 2014, proposed rule to list the black pinesnake as a threatened species under the Act. We are reopening the comment period to allow all interested parties an opportunity to comment simultaneously on the proposed listing rule as well as this proposed critical habitat rule and its associated DEA. Comments previously submitted on the proposed listing rule need not be resubmitted, as they will be fully considered in preparation of that final rule.

DATES: We will accept comments received or postmarked on or before May 11, 2015. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. Eastern Time on the closing date. We must receive requests for public hearings, in writing, at the address shown in **FOR FURTHER INFORMATION CONTACT** by April 27, 2015.

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

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* In the Search box, enter Docket No. FWS–R4–ES–2014–0065 for the proposed critical habitat rule and its associated DEA or FWS–R4–ES–2014–0046 for the proposed listing rule. Then, in the Search panel on the left side of the screen, under the Document Type heading, click on the Proposed Rules link to locate the correct document. You may submit a comment by clicking on ''Comment Now!''

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R4–ES–2014–0065 [for the proposed critical habitat rule and its associated DEA] or FWS–R4–ES–2014–0046 [for the proposed listing rule]; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

We request that you send comments only by the methods described above. We will post all comments on *http://www.regulations.gov*. This generally means that we will post any personal information you provide us (see the Information Requested section, below, for more information).

The coordinates or plot points or both from which the maps are generated are included in the administrative record for the proposed critical habitat designation and are available at *http://www.fws.gov/mississippiES/*, at *http://www.regulations.gov* at Docket No. FWS–R4–ES–2014–0065, and at the Mississippi Field Office (see **FOR FURTHER INFORMATION CONTACT**). Any additional tools or supporting information that we may develop for this critical habitat designation will also be available at the Fish and Wildlife Service Web site and Field Office listed above, and may also be included in the preamble and/or at *http://www.regulations.gov.* The proposed listing rule can be read, in its entirety, at *http://www.regulations.gov* at Docket No. FWS–R4–ES–2014–0046 or at the Field Office listed above.

FOR FURTHER INFORMATION CONTACT: Stephen Ricks, Field Supervisor, U.S. Fish and Wildlife Service, Mississippi Field Office, 6578 Dogwood View Parkway, Jackson, MS 39213; telephone: 601–321–1122; facsimile: 601–965–4340. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Executive Summary

Why we need to publish a rule. Under the Act, when we determine that a species is endangered or threatened, we must designate critical habitat to the maximum extent prudent and determinable. Designations of critical habitat can only be completed by issuing a rule. On October 7, 2014, we proposed to list the black pinesnake as a threatened species under the Act (79 FR 60406).

This rule consists of a proposed rule to designate critical habitat for the black pinesnake, an announcement of the availability of the associated draft economic analysis (DEA), and an announcement of the reopening of the comment period for the proposed listing rule for the black pinesnake.

The basis for our action. Under the Act, if we determine that a species is endangered or threatened, we must designate critical habitat at to the maximum extent prudent and determinable. Section 4(b)(2) of the Act states that the Secretary shall designate to critical habitat on the basis of the best available scientific data after taking into consideration the economic impact, national security impact, and any other relevant impact of specifying any particular area as critical habitat. The Secretary may exclude an area from critical habitat if she determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless she determines, based on the best scientific data available, that the failure to designate such area as critical habitat will result in the extinction of the species.

We prepared a draft economic analysis of the proposed designation of critical habitat. We are making available for public comment the DEA of the proposed designation of critical habitat for the black pinesnake.

We will seek peer review. We are seeking comments from independent specialists to ensure that our critical habitat proposal is based on scientifically sound data and analyses. We are inviting these peer reviewers to comment on our specific assumptions and conclusions in the critical habitat proposal. Because we will consider all comments and information we receive during the comment period, our final determination may differ from this critical habitat proposal.

Information Requested

We intend that any final action resulting from this proposed rule will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we request comments or information from other concerned government agencies, the scientific community, industry, or any other interested party concerning this proposed rule. We particularly seek comments concerning:

(1) Additional information concerning the historical and current status, range, distribution, and population size of the black pinesnake, including the locations of any additional populations of this subspecies.

(2) The black pinesnake's biology, range, and population trends, including:

(a) Biological or ecological requirements of the subspecies, including habitat requirements for feeding, breeding, and sheltering;

(b) Genetics and taxonomy, including interpretations of existing studies or whether new information is available;

(c) Historical and current range, including distribution patterns;

(d) Historical and current population levels, and current and projected trends; and

(e) Past and ongoing conservation measures for the subspecies, its habitat, or both.

(3) Factors that may affect the continued existence of the subspecies, which may include habitat modification or destruction, overutilization, collection for the pet trade, disease, predation, the inadequacy of existing regulatory mechanisms, or other natural or manmade factors.

(4) Biological, commercial trade, or other relevant data concerning any threats (or lack thereof) to this subspecies and existing regulations that may be addressing those threats.

(5) Any information concerning the appropriateness and scope of the proposed section 4(d) rule provisions for take of the black pinesnake (see the proposed listing rule at 79 FR 60406, October 7, 2014). We are particularly interested in input regarding timber and forest management and restoration practices that would be appropriately addressed through a section 4(d) rule, including those that adjust the timing or methods to minimize impacts to the subspecies or its habitat.

(6) Any additional information on current conservation activities or partnerships benefitting the subspecies, or opportunities for additional partnerships or conservation activities that could be undertaken in order to address threats.

(7) Any information on specific pesticides that could impact the black pinesnake or its prey base either directly or indirectly, which could cause further mortality or decline of the subspecies.

(8) The reasons why we should or should not designate habitat as ''critical habitat'' under section 4 of the Act (16 U.S.C. 1531 *et seq.*), including whether there are threats to the subspecies from human activity, the degree of which can be expected to increase due to the designation, and whether that increase in threat outweighs the benefit of designation such that the designation of critical habitat may not be prudent.

(9) Specific information on:

(a) The amount and distribution of black pinesnake habitat;

(b) What areas, that were occupied at the time of listing (or are currently occupied) and that contain features essential to the conservation of the subspecies, should be included in the designation and why;

(c) Special management considerations or protection that may be needed in critical habitat areas we are proposing, including managing for the potential effects of climate change; and

(d) What areas not occupied at the time of listing are essential for the conservation of the subspecies and why.

(10) Land use designations and current or planned activities in the subject areas and their possible impacts on proposed critical habitat.

(11) How the patch size of proposed critical habitat was derived (*i.e.,* how much acreage a viable population of black pinesnakes requires).

(12) Information on the projected and reasonably likely impacts of climate change on the black pinesnake and proposed critical habitat.

(13) Any probable economic, national security, or other relevant impacts of designating any area that may be included in the final designation; in particular, we seek information on any impacts on small entities or families, and the benefits of including or excluding areas that exhibit these impacts.

(14) Information on the extent to which the description of economic impacts in the draft economic analysis is a reasonable estimate of the likely economic impacts and is complete and accurate.

(15) The likelihood of adverse social reactions to the designation of critical habitat, as discussed in the associated documents of the draft economic analysis, and how the consequences of such reactions, if likely to occur, would relate to the conservation and regulatory benefits of the proposed critical habitat designation.

(16) Whether any specific areas we are proposing for critical habitat designation should be considered for exclusion under section 4(b)(2) of the Act, and whether the benefits of potentially excluding any specific area outweigh the benefits of including that area under section 4(b)(2) of the Act.

(17) Whether we could improve or modify our approach to designating critical habitat in any way to provide for greater public participation and understanding, or to better accommodate public concerns and comments.

If you submitted comments or information on the proposed listing rule (79 FR 60406) during the initial comment period from October 7, 2014, to December 8, 2014, please do not resubmit them. We will incorporate them into the public record and we will fully consider them in the preparation of that final determination.

You may submit your comments and materials concerning this proposed rule and/or the proposed listing rule by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in the **ADDRESSES** section.

We will post your entire comment—including your personal identifying information—on *http://www.regulations.gov.* You may request at the top of your document that we withhold personal information such as your street address, phone number, or email address from public review; however, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on *http://www.regulations.gov*, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Mississippi Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Previous Federal Actions

All previous Federal actions are described in the proposed rule to list the black pinesnake as a threatened species under the Act published in the **Federal Register** on October 7, 2014 (79 FR 60406).

Critical Habitat

It is our intent to discuss below only those topics directly relevant to the designation of critical habitat for the black pinesnake. For information related to the listing of this subspecies, see the proposed rule.

Background

Critical habitat is defined in section 3 of the Act as:

(1) The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the Act, on which are found those physical or biological features

(a) Essential to the conservation of the species, and

(b) Which may require special management considerations or protection; and

(2) Specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Conservation, as defined under section 3 of the Act, means to use and the use of all methods and procedures that are necessary to bring an endangered or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

Critical habitat receives protection under section 7 of the Act through the requirement that Federal agencies ensure, in consultation with the Service, that any action they authorize, fund, or carry out is not likely to result in the destruction or adverse modification of critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Such designation does not allow the government or public to access private lands. Such designation does not require implementation of restoration, recovery, or enhancement measures by non-Federal landowners. Where a landowner requests Federal agency funding or authorization for an action that may affect a listed species or critical habitat, the consultation requirements of section 7(a)(2) of the Act would apply, but even in the event of a destruction or adverse modification finding, the obligation of the Federal action agency and the landowner is not to restore or recover the species, but to implement reasonable and prudent alternatives to avoid destruction or adverse modification of critical habitat.

Under the first prong of the Act's definition of critical habitat, areas within the geographical area occupied by the species at the time it was listed are included in a critical habitat designation if they contain physical or biological features (PBFs) (1) which are essential to the conservation of the species and (2) which may require special management considerations or protection. For these areas, critical habitat designations identify, to the extent known using the best scientific and commercial data available, those PBFs that are essential to the conservation of the species (such as space, food, cover, and protected habitat). In identifying those PBFs within an area, we focus on the principal biological or physical constituent elements (primary constituent elements, or PCEs, such as roost sites, nesting grounds, seasonal wetlands, water quality, tide, soil type) that are essential to the conservation of the species. PCEs are those specific elements of PBFs that, when laid out in the appropriate quantity and spatial arrangement, provide for a species' life-history processes and are essential to the conservation of the species.

Under the second prong of the Act's definition of critical habitat, we can designate critical habitat in areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. We designate critical habitat in areas outside the geographical area occupied by a species only when a designation limited to its range would be inadequate to ensure the conservation of the species.

Section 4 of the Act requires that we designate critical habitat on the basis of the best scientific data available. Further, our Policy on Information Standards under the Endangered Species Act (published in the **Federal Register** on July 1, 1994 (59 FR 34271)), the Information Quality Act (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658)), and our associated Information Quality Guidelines provide criteria, establish procedures, and provide guidance to ensure that our decisions are based on the best scientific data available. They require our biologists, to the extent consistent with the Act and with the use of the best scientific data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat.

When we are determining which areas should be designated as critical habitat, our primary source of information is generally the information developed during the listing process for the species. Additional information sources may include the recovery plan for the species, articles in peer-reviewed journals, conservation plans developed by States and counties, scientific status surveys and studies, biological assessments, other unpublished materials, or experts' opinions or personal knowledge.

Habitat is dynamic, and species may move from one area to another over time. We recognize that critical habitat designated at a particular point in time may not include all of the habitat areas that we may later determine are necessary for the recovery of the species. For these reasons, a critical habitat designation does not signal that habitat outside the designated area is unimportant or may not be needed for recovery of the species. Areas that are important to the conservation of the species, both inside and outside the critical habitat designation, will continue to be subject to: (1) Conservation actions implemented under section 7(a)(1) of the Act, (2) regulatory protections afforded by the requirement in section 7(a)(2) of the Act for Federal agencies to ensure their actions are not likely to jeopardize the continued existence of any endangered or threatened species, and (3) section 9 of the Act's prohibitions on taking any individual of the species, including taking caused by actions that affect habitat. Federally funded or permitted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. These protections and conservation tools will continue to contribute to conservation of this species. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans (HCPs), or other species conservation planning efforts if new information available at the time of these planning efforts calls for a different outcome.

Prudency Determination

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12), require that, to the maximum extent prudent and determinable, the Secretary shall designate critical habitat at the time the species is determined to be an endangered or threatened species. Our regulations (50 CFR 424.12(a)(1)) state that the designation of critical habitat is not prudent when one or both of the following situations exist:

(1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species, or

(2) Such designation of critical habitat would not be beneficial to the species.

There is currently no imminent threat of take attributed to collection or vandalism under Factor B for the black

pinesnake (see the proposed listing rule published on October 7, 2014 at 79 FR 60406), and identification and mapping of critical habitat is not expected to initiate any such threat. Therefore, in the absence of finding that the designation of critical habitat would increase threats to a species, if there are any benefits to a critical habitat designation, a finding that designation is prudent is warranted. Here, the potential benefits of designation include: (1) Triggering consultation under section 7 of the Act, in new areas for actions in which there may be a Federal nexus where it would not otherwise occur because, for example, it is unoccupied; (2) focusing conservation activities on the most essential features and areas; (3) providing educational benefits to State or county governments or private entities; and (4) preventing people from causing inadvertent harm to the black pinesnake.

Because we have determined that the designation of critical habitat will not likely increase the degree of threat to the subspecies and may provide some measure of benefit, we determine that designation of critical habitat is prudent for the black pinesnake.

Critical Habitat Determinability

Having determined that designation is prudent, under section 4(a)(3) of the Act we must find whether critical habitat for the black pinesnake is determinable. Our regulations at 50 CFR 424.12(a)(2) state that critical habitat is not determinable when one or both of the following situations exist:

(i) Information sufficient to perform required analyses of the impacts of the designation is lacking, or

(ii) The biological needs of the species are not sufficiently well known to permit identification of an area as critical habitat.

At the time of our October 7, 2014, proposed rule to list the subspecies, a careful assessment of the economic impacts was ongoing, leading us to find that critical habitat was not determinable. We have continued to review the available information related to the draft economic analysis as well as newly acquired information necessary to perform this assessment. This and other information represent the best scientific data available, and we now believe the data are sufficient for us to analyze the impacts of designation. Accordingly, we conclude that the designation of critical habitat is determinable for the black pinesnake.

Physical or Biological Features

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12(b), in determining which areas within the geographical area occupied by the species at the time of listing to designate as critical habitat, we consider the PBFs essential to the conservation of the species and which may require special management considerations or protection. These include, but are not limited to:

(1) Space for individual and population growth, and for normal behavior;

(2) Food, water, air, light, minerals, or other nutritional or physiological requirements;

(3) Cover or shelter;

(4) Sites for breeding, reproduction, or rearing (or development) of offspring; and

(5) Habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of a species.

We derive the specific PBFs essential for the black pinesnake from studies of the subspecies and other similar species' habitat, ecology, and life history as described below. Additional information can be found in the proposed listing rule published in the **Federal Register** on October 7, 2014 (79 FR 60406). We have determined that the following PBFs are essential for the black pinesnake:

Space for Individual and Population Growth and for Normal Behavior

Telemetry studies and previous records indicate that the black pinesnake prefers an open canopy, a reduced midstory, and a dense herbaceous cover typical of a classic longleaf pine forest (see the ''Habitat'' and ''Life History'' sections of our proposed listing rule published in the **Federal Register** on October 7, 2014 (79 FR 60406)). An abundant herbaceous groundcover is typical of those areas characterized by a more open-canopied condition, as a by-product of the increased amount of sunlight reaching the forest floor. As an ectotherm (an organism that regulates its body temperature (*i.e.,* thermoregulates) primarily by exchanging heat with its surroundings), the black pinesnake requires this open condition to provide thermoregulatory opportunities, and possibly to provide proper incubation temperatures for nests.

Studies of black pinesnakes have supported this subspecies' preference for a relatively open canopy and reduced mid-story shrub cover (Duran 1998b, pp. 4–8; Baxley *et al.* 2011, p. 154). Values for these landscape features reflecting habitat structure have been estimated for the black pinesnake by looking to habitat conditions described for the threatened gopher tortoise (*Gopherus polyphemus*), a species sharing the same habitat within the same geographic range in the longleaf pine ecosystem. Management plans for the tortoise include upland longleaf pine forest desired conditions of ≤70 percent canopy cover, a shrub cover of <10 percent, and a herbaceous groundcover of at least 40 to 50 percent (Florida Fish and Wildlife Conservation Commission (FWCC) 2012, p. 42; U.S. Forest Service 2014, p. 14; Service 2014, p. 1). These same metrics are all indicative of the forest structure in suitable black pinesnake habitat as well.

Longleaf pine ecosystems have historically been maintained with fire, as it is necessary for exposing bare mineral soil for seed germination, increasing nutrient content in forage species, and reducing competition of hardwood species (DeBerry and Pashley 2008, pp. 20–21). Prescribed burning during the growing season (late spring to early summer) is more effective at controlling mid-story hardwood vegetation, thereby promoting a more abundant herbaceous groundcover; however, some understory plants respond positively to fires in the dormant season as well (Knapp *et al.* 2009, p. 2). Therefore, fire regimes should optimally incorporate variability in their seasonality and intensity, as a heterogeneous fire regime is likely to maximize plant biodiversity (Knapp *et al.* 2009, p. 3). Management of upland longleaf pine forests should include a fire return interval of 1 to 3 years (FWCC 2012, p. 42; U.S. Forest Service 2014, p. 14), with variable seasonality and intensity in the fire regime to promote the open-canopied condition and abundant, diverse forage species that sustain the prey base (small mammals) for black pinesnakes.

A broad distribution of home ranges have been estimated from various telemetry studies, from a mean Minimum Convex Polygon (MCP) (a mathematical tool for determining home range boundaries by connecting the outer location points) value of 106 acres (ac) (43 hectares (ha)) for adult female pinesnakes (Duran 1998a, p. 19) to a mean MCP value of 551 ac (223 ha) for adult male pinesnakes (Baxley and Qualls 2009, p. 287). The maximum home range reported for a black pinesnake in the literature is 979 ac (396 ha) for an adult male, and the maximum distance between consecutive locations in a telemetry study (reported as a straight-line distance) was 1.3 miles (2.1 kilometers) (Baxley and Qualls 2009, pp. 287–288). Examination of MCP areas for black pinesnakes occupying the same general area shows very little

overlap of home ranges, providing some evidence for territoriality (Duran 1998a, p. 15). The minimum amount of habitat necessary to support a viable black pinesnake population (known as reserve area requirements) has not previously been determined, and estimating those parameters can be quite challenging, primarily based on the elusive nature of the subspecies (Wilson *et al.* 2011, pp. 42–43). We estimated a minimum black pinesnake reserve size by calculating the total area covered by two partially overlapping activity areas created from location points buffered with a radius equaling the maximum known movement distance for the subspecies (see discussion under *Criteria Used To Identify Critical Habitat*). The resulting area of 5,000 ac (2,023 ha) is considered to be a minimum population reserve size for the black pinesnake, as long as the area is not highly fragmented (see discussion under *Criteria Used to Identify Critical Habitat*). Fragmentation by roads, urbanization, or incompatible habitat conversion continues to be a major threat affecting the subspecies (see *Factor E. Other Natural or Manmade Factors Affecting Its Continued Existence* in our proposed listing rule published in the **Federal Register** on October 7, 2014 (79 FR 60406)).

For comparison purposes we investigated the population requirements of another large-bodied, wide-ranging snake with large home ranges that is also a longleaf pine ecosystem specialist, the threatened eastern indigo snake (*Drymarchon couperi;* listed as *Drymarchon corais couperi*). Moler (1992, p. 185) recommended that large tracts of land (≥2,500 ac (1,012 ha)) should be protected in order to have a high probability of sustaining populations of eastern indigo snakes long term. A modeling study by Sytsma *et al.* (2012, pp. 39–40) estimated a reserve size of 10,000 ac (4,047 ha) to be sufficiently large to support a small population of eastern indigo snakes. Although the eastern indigo snake's home ranges are larger than the black pinesnake's, these studies do support the need for large areas to support large, wide-ranging snake species sensitive to landscape fragmentation. Thus, based on these estimates of eastern indigo snake reserve size, the available long distance movement data for the black pinesnake, and data that describe non-overlapping large home range sizes, we believe that 5,000 ac (2,023 ha) of suitable habitat is an appropriate estimate of the minimum reserve size for a population of black pinesnakes.

Therefore, based on the information above, we identify open-canopied pine forest habitat (≤70 percent canopy coverage), historically dominated by longleaf pine and maintained by frequent fires, a reduced midstory (<10 percent), and a diverse and abundant native herbaceous groundcover (>40 percent) to be the physical and biological features necessary for the conservation of the black pinesnake. These pine forests should be primarily unfragmented and occupy at least 5,000 ac (2,023 ha) in area.

Food, Water, Air, Light, Minerals, or Other Nutritional or Physiological Requirements

Black pinesnakes are known to consume a variety of food, including nestling rabbits (*Sylvilagus aquaticus*), bobwhite quail (*Colinus virginianus*) and their eggs, and eastern kingbirds (*Tyrannus tyrannus*) (Vandeventer and Young 1989, p. 34; Yager *et al.* 2005, p. 28); however, rodents represent the most common type of prey. The majority of documented prey items are hispid cotton rats (*Sigmodon hispidus*), various mice species (*Peromyscus* spp.), and to a lesser extent eastern fox squirrels (*Sciurus niger*) (Rudolph *et al.* 2002, p. 59; Yager *et al.* 2005, p. 28). Through concurrent studies involving both snake radio-telemetry and small mammal trapping, it has been documented that the hispid cotton rat was the most frequently trapped small mammal within black pinesnake home ranges (Duran 1998a, p. 34), and that the core home ranges of telemetered black pinesnakes had higher mammal abundance (especially hispid cotton rats) compared with areas on the periphery of the snakes' home ranges (Baxley and Qualls 2009, p. 291).

To provide the refugia and food needed to support the rodent prey base of black pinesnakes, the habitat must have an abundant herbaceous groundcover. Bluestem grasses (*Andropogon* and *Schizachyrium* sp.) typically represent the dominant groundcover species of the open-canopied longleaf pine habitat within the geographic range of the black pinesnake, and bluestem grass stems are a primary food of the hispid cotton rat (Miller and Miller 2005, p. 202). Research on black pinesnakes has shown they more frequently occupy forested habitats with significantly higher cover of herbaceous understory vegetation and avoid areas with significantly higher percentages of leaf litter (Duran 1998a, p. 11; Baxley *et al.* 2011, p. 161; Smith 2011, pp. 86 and 100). Therefore, we identify as a physical and biological feature an abundant, diverse, native groundcover, as described above under *Space for Individual and Population Growth and for Normal Behavior*.

Cover or Shelter

From radio-telemetry studies, it has been shown that black pinesnakes spend a majority of their time below ground (Duran 1998a, p. 12; Yager *et al.* 2005, p. 27; Baxley and Qualls 2009, p. 288). The subterranean environments most commonly utilized by black pinesnakes are burned-out or rotted-out stump holes (Duran 1998a, p. 12; Yager *et al.* 2005, p. 27; Baxley and Qualls 2009, p. 288). Where pine stumps have become limited, black pinesnakes may utilize gopher tortoise and nine-banded armadillo (*Dasypus novemcinctus*) burrows more frequently; however, the large diameters of these burrows might allow access to a wide array of potential predators (Rudolph *et al.* 2007, p. 563).

Rudolph *et al.* (2007, pp. 560–565) excavated five black pinesnake winter refugia (overwintering sites) utilized for significant periods of time from late fall through early spring. They were found to be located exclusively in chambers formed by the decay and burning of longleaf pine stumps and root tunnels, at depths of 3.5 to 14 inches (in) (9 to 35 centimeters (cm)) below the surface (Rudolph *et al.* 2007, pp. 560–561). There is also evidence for site fidelity towards specific winter refugia sites in the genus *Pituophis,* specifically for northern pinesnakes. Burger *et al.* (2012, p. 600) documented hibernacula use by northern pinesnakes over a 26-year period in New Jersey, and they determined that even when known hibernacula do not get used for a year, those hibernacula have a 37 percent chance of being used the following year. Data on black pinesnake habitat use document site fidelity in this subspecies as well. During research studies, black pinesnakes have been shown to return to the same general location during monitoring and to even return to the same stump hole (Yager *et al.* 2006, pp. 34–36; Baxley and Qualls 2009, p. 288). These data on microhabitat use reinforce the importance of locating and protecting known refugia, regardless of the seasonality of their use.

In addition to requiring the presence of stump holes, it is imperative that this microhabitat be in areas where the black pinesnakes' subterranean refugia will remain above the seasonal water table, as flooding may increase the potential for harm to the snakes. An examination of elevation thresholds in the black pinesnake locality data indicates that the subspecies occurs most frequently along upland ridges. We determined

that 90 percent (329) of all black pinesnake locations (post-1980) occurred in areas ≥200 feet (ft) (61 meters (m)) elevation, and 96 percent of these locations (349) were in areas ≥150 ft (46 m).

Therefore, based on the information above, we identify the presence of naturally burned-out or rotted-out pine stumps and their associated root systems in upland areas at an elevation ≥150 ft (46 m), within historically longleaf-dominated pine forests, to be a physical and biological feature needed for the conservation of this subspecies.

Sites for Breeding, Reproduction, or Rearing (or Development) of Offspring

Very little information on breeding and egg-laying of wild black pinesnakes is available. Lyman *et al.* (2007, pp. 40–42) documented mating activities at the entrance to armadillo burrows, and Lee (2007, p. 93) described mating in a pair of black pinesnakes above ground, but in the vicinity of a rotted-out pine root system that the pair subsequently occupied. The only documented natural nest for the subspecies is a clutch of 6 recently hatched black pinesnake eggs found 29 in (74 cm) below the soil surface at the end of a juvenile gopher tortoise burrow (burrow width: 2.5 in (6 cm)) in Perry County, Mississippi (Lee *et al.* 2011, p. 301). The microhabitat within the tortoise burrow likely provides a suitable microclimate for egg incubation in warm climate areas (Lee *et al.* 2011, p. 301). Female northern pinesnakes are known to excavate tunnels and nest chambers for egg deposition (Burger and Zappalorti 1992, p. 331), but it is unknown whether female black pinesnakes excavate their own nests or only utilize and modify existing tunnels.

Since there is only one documented natural black pinesnake nest, it is unknown whether the subspecies exhibits nest site fidelity; however, nest site fidelity has been described for other *Pituophis* species and subspecies. Burger and Zappalorti (1992, pp. 333–335) conducted an 11-year study of nest site fidelity of northern pinesnakes in New Jersey and documented the exact same nest site being used for 11 years in a row, evidence of old egg shells in 73 percent of new nests, and recapture of 42 percent of female snakes at prior nesting sites.

In addition to the stump holes and associated root systems commonly used by adult black pinesnakes (Duran 1998a, p. 12; Yager *et al.* 2005, p. 27; Baxley and Qualls 2009, p. 288), radio-telemetry data have shown that yearling and young juvenile black pinesnakes frequently use small mammal burrows, specifically eastern mole (*Scalopus aquaticus*) tunnels, as retreat sites (Lyman *et al.* 2007, pp. 39–41). Because of this documented utilization and modification of existing burrow and tunnel systems, it is necessary for black pinesnakes to have access to areas with sandy soils for ease of excavation.

Appropriate soils have been described for the gopher tortoise, and are recognized as one of their key habitat requirements, as they allow for burrow excavation and nest development (Ernst *et al.* 1994, p. 466). Gopher tortoises typically occur where soils have high sand content, low clay content, and little to no stones or gravel; the soils are often well-drained and are deep to a water table (Service 2012, p. 3). When sufficient sunlight reaches the forest floor, sandy soils also promote herbaceous ground cover (component of PCE 1) as food for rodents (primary prey of the black pinesnake), and provide the appropriate environment for egg incubation and hatching (Service 2012, p. 3). Because black pinesnakes share a requirement for sandy soils with the gopher tortoise, and the two occur within the same habitat, characteristics of suitable gopher tortoise soils can also be used to describe appropriate black pinesnake soils. These soil characteristics include: (1) No flooding or ponding; (2) <15 percent medium and coarse gravel fragments; (3) >60 in (152 cm) depth to seasonal high water table (elevation to which the ground or surface water can be expected to rise due to a normal or wet season); (4) >60 in (152 cm) depth to the hardpan (dense layer of soil impervious to plant roots and water); (5) textural components equaling >30 percent sand and <35 percent clay; and (6) a slope <15 percent (Service 2012, p. 6). The association of black pinesnakes utilizing these soil types is corroborated in telemetry work by Duran (1998b, p. 15), which showed that snakes in his study spent most of their time on well-drained soils determined to be appropriate for gopher tortoises.

Therefore, based on the information above, we identify sandy, well-drained soils characteristic of historically longleaf-dominated upland pine forest to be a physical and biological feature for this subspecies. These specific soil series and related soil associations have the following characteristics: No flooding or ponding; < 15 percent medium and coarse gravel fragments; >60 in (152 cm) depth to seasonal high water table; >60 in (152 cm) depth to the hardpan; textural components equaling >30 percent sand and <35 percent clay; and a slope <15 percent.

Primary Constituent Elements for the Black Pinesnake

According to 50 CFR 424.12(b), we are required to identify the PBFs essential to the conservation of the black pinesnake in areas occupied at the time of listing, focusing on the features' primary constituent elements (PCEs). We consider PCEs to be those specific elements of PBFs that provide for a species' life-history processes and are essential to the conservation of the species.

(1) Primary Constituent Element 1: *Tract size and habitat structure.* A longleaf pine-dominated forest maintained by frequent fire, and primarily having the following characteristics:

(a) Open canopy (≤70 percent);

(b) Reduced woody mid-story (<10 percent cover);

(c) Abundant, diverse, native groundcover (at least 40 percent cover); and

(d) Minimum of 5,000 ac (2,023 ha) of mostly unfragmented habitat.

(2) Primary Constituent Element 2: *Refugia sites and topographic features.* Naturally burned-out or rotted-out pine stumps and their associated root systems, in longleaf pine forests on ridges with elevation of 150 ft (46 m) or greater.

(3) Primary Constituent Element 3: *Soils.* Deep, sandy, well-drained soils of longleaf pine forest, characterized by:

(a) No flooding or ponding;

(b) <15 percent medium and coarse gravel fragments;

(c) >60 in (152 cm) depth to seasonal high water table;

(d) >60 in (152 cm) depth to the hardpan;

(e) Textural components equaling >30 percent sand and <35 percent clay; and

(f) A slope <15 percent.

Special Management Considerations or Protection

When designating critical habitat, we assess whether the specific areas within the geographical area occupied by the species at the time of listing contain features which are essential to the conservation of the species and which may require special management considerations or protection.

All areas proposed as critical habitat would require some level of management to address the current and future threats to the black pinesnake and to maintain the PCEs. Special management of the upland longleaf pine forest would be needed to ensure an open canopy, reduced mid-story, and abundant herbaceous ground cover (PCE

1); underground refugia for snakes to occupy (PCE 2); and relatively unfragmented tracts of pine forests (PCE 1).

A detailed discussion of activities affecting the black pinesnake and its habitat can be found in the proposed listing rule published in the **Federal Register** on October 7, 2014 (79 FR 60406). The features essential to the conservation of this subspecies may require special management considerations or protection to reduce threats posed by: Land use conversion, primarily urban development and conversion to agriculture and pine plantations; timber management practices, including clear-cutting, stump removal, or other ground-disturbing activities; fire suppression and low fire frequencies; random effects of drought or floods; encroachment of invasive species; fragmentation from new roads or development; road mortality; and creation of utility pipelines and powerlines.

Management activities that could ameliorate these threats include (but are not limited to): Maintaining critical habitat areas as open pine habitat (preferably longleaf pine); conducting forestry management using frequent prescribed burning (1 to 3 years) with seasonal variability, avoiding intensive site preparation that would disturb or destroy pine stumps, avoiding the practice of bedding when planting trees, and reducing planting densities to create or maintain an open canopied forest with abundant herbaceous ground cover; maintaining forest underground structure such as gopher tortoise burrows, small mammal burrows, and stump holes; and retaining large tracts of pine forest unfragmented by protecting sites from development and new road construction. More information on the special management considerations for each critical habitat unit is provided in the individual unit descriptions below.

Criteria Used To Identify Critical Habitat

As required by section 4(b)(2) of the Act, we use the best scientific data available to designate critical habitat. In accordance with the Act and our implementing regulations at 50 CFR 424.12(b) we review available information pertaining to the habitat requirements of the species and identify occupied areas at the time of listing that contain the features essential to the conservation of the species. If after identifying currently occupied areas, a determination is made that those areas are inadequate to ensure conservation of the species, in accordance with the Act and our implementing regulations at 50 CFR 424.12(e) we then consider whether designating additional areas—outside those currently occupied—are essential for the conservation of the species. Here, as discussed below, we are not currently proposing to designate any areas outside the geographical area occupied by the black pinesnake because we have determined that occupied areas are sufficient for the conservation of the subspecies.

We began our determination of which areas to designate as critical habitat for the black pinesnake with an assessment of the critical life-history components of the subspecies, as they relate to habitat. We reviewed the available information pertaining to historical and current distributions, life histories, and habitat requirements of this subspecies. We focused on the identification of large tracts of remaining unfragmented open pine habitat in our analysis because they are requisite sites for population survival and conservation and their disappearance in the environment is one of the primary reasons that the black pinesnake is declining. Our sources included surveys, unpublished reports, and peer-reviewed scientific literature prepared by the Alabama Department of Conservation and Natural Resources; Alabama Natural Heritage Program; Mississippi Department of Wildlife, Fisheries, and Parks Natural Heritage Program; and black pinesnake researchers. Other sources are Service data and Geographic Information System (GIS) data (such as species occurrence data, elevation contours, soils, transportation, urban areas, National Wetland Inventory, 2011 National Land Cover Database, aerial imagery, ownership maps, and U.S. Geological Survey (USGS) Terrestrial Ecosystems data).

For estimation of activity ranges of black pinesnakes, we utilized the process of establishing species occurrence areas (SOAs), which the New Jersey Department of Environmental Protection (NJDEP) uses for northern pinesnakes. These areas are derived by placing circular buffers around documented locations, in order to approximate typical activity ranges (NJDFW 2009, p. 17). There are unproven assumptions that underlie this method, such as that pinesnakes have circular activity ranges, and that the occurrence location represents the center of that individual's range; however, given the lack of representative telemetry data for many areas, this is a suitable approach to estimate activity ranges. We placed circular buffers around recent black pinesnake location points (post-1990) from the sources listed above, with a radius equaling the maximum known movement distance (1.3 miles (2.1 km)) to approximate the SOA of each snake (3,400 ac (1,376 ha)). The 1990 date was used as it coincides with dates chosen by black pinesnake researchers who conducted habitat assessments at what were considered recently and historically occupied locations (Duran and Givens 2001, pp. 5–9). By utilizing GIS, we looked for areas of overlap between activity ranges, and calculated that the total area covered by two partially overlapping SOA estimates (5,000 ac (2,023 ha)) would be considered a minimum population reserve size, as long as the area was not highly fragmented. This is not to say that two snakes are considered a viable population, but that this area estimate should be considered a minimum value.

To examine the possibility of an elevation threshold from the locality data, recent black pinesnake records were obtained from the sources listed above. By overlapping these locality data with GIS elevation contour data, we determined that 90 percent (329) of all black pinesnake locations occurred in areas ≥200 ft (61 m) elevation, and 96 percent of these locations (349) were in areas ≥150 ft (46 m) elevation.

Soils determined to be suitable habitat for the gopher tortoise were used as a surrogate to determine suitable soils for the black pinesnake, as these both occupy deep, sandy soils of upland longleaf pine forest. A team of biologists and soil scientists from the Service and the Natural Resources Conservation Service, with input from staff from the U.S. Forest Service, developed a model to classify soils throughout the gopher tortoise's federally listed range (Service 2012, pp. 1–37). These specific soil characteristics are detailed in the *Primary Constituent Elements for the Black Pinesnake* section, above.

Using GIS, we located all areas where at least two black pinesnake activity ranges overlapped, and identified those as potential populations. Areas within and directly adjacent to these black pinesnake activity ranges that met the soils and elevation criteria were considered contiguous habitat and were included in potential population boundaries. There were 11 populations identified using this method: 6 in Mississippi and 5 in Alabama. These populations were then assessed in regards to impacts from nearby fragmentation sources such as major roads, wetlands and open water, incompatible land use (such as agricultural conversion), and urban development.

To analyze potential impacts from roads, a transportation layer was used with GIS, specifically examining Class 1 and 2 roads. Class 1 roads are hard surface highways including Interstate and U.S. numbered highways, primary State routes, and all controlled access highways; Class 2 roads include secondary State routes, primary county routes, and other highways that connect principal cities and towns. Both of these road classifications have a high probability of causing permanent black pinesnake population fragmentation and were excluded. Population boundaries were buffered at least 100 meters from all Class 1 and 2 roads. Major wetland areas and streams were avoided in determining population boundaries, although these generally were consistent with changes in elevation. To analyze the fragmentation effects from incompatible land uses (including but not limited to urbanization), recent aerial imagery and the 2011 National Land Cover Database (NLCD) were utilized. By selecting the evergreen forest layers from NLCD, it was possible to delineate large tracts of remaining pine forested habitat, and concurrent analysis from the aerial imagery further removed areas with agricultural fields, housing developments, and urban areas.

Once all the above analyses were complete, the level of fragmentation in each population was assessed. If fragmentation within a population boundary limited the suitable habitat to the point where less than 5,000 ac (2,023 ha) was available, that population was no longer considered viable and was removed from critical habitat consideration.

Using the above-described process, eight of the 11 populations examined met the criteria for consideration as critical habitat: All six of the populations in Mississippi and two of the five in Alabama. Five of the six Mississippi populations occur at least partially on the De Soto National Forest, the largest of which is located almost exclusively on the Camp Shelby Special Use Permit area, and the sixth population occurs primarily on the Marion County Wildlife Management Area (WMA). All six populations meet the criteria of appropriate size; contiguous, pine-dominated, forested habitat; elevation; soils; and minimal fragmentation. The Service has determined that these sites contain the PCEs that are essential for the conservation of the black pinesnake, and therefore we are proposing to designate them as critical habitat.

Both of the Alabama populations that met the criteria to be considered critical habitat are located in Clarke County and include a population primarily located on the Scotch WMA and a population located at the Fred T. Stimpson WMA. Three other populations, in Washington and Mobile Counties, each have two black pinesnake records from the last 25 years, but due to fragmentation do not meet the criteria for critical habitat and therefore are not proposed for designation.

We have determined that the areas we are proposing for designation as critical habitat contain the PCEs that are essential for the conservation of the black pinesnake based on our current understanding of the subspecies' requirements. However, as discussed in the Critical Habitat section above, we recognize that designation of critical habitat might not include all habitat areas that we may eventually determine are necessary for the recovery of the subspecies and that for this reason, a critical habitat designation does not signal that habitat outside the designated area is unimportant or may not promote the recovery of the subspecies.

Areas Occupied at the Time of Listing

The proposed critical habitat designation does not include all forested areas known to have been occupied by the subspecies historically; instead, it focuses on occupied areas within the current range that have retained the necessary PCEs that will allow for the maintenance and expansion of existing populations.

In summary, for areas within the geographic area occupied by the subspecies at the time of listing, we delineated critical habitat unit boundaries using the following criterion: Evaluate habitat suitability of forested parcels within the geographic area occupied at the time of listing (post 1990), and retain those segments that contain some or all of the PCEs to support life-history functions essential for conservation of the subspecies.

Areas Not Occupied at the Time of Listing

We are not proposing any areas outside the geographical areas occupied by the black pinesnake at the time of listing for critical habitat designation. The proposed units within the area occupied by the subspecies at the time of listing are representative of the current geographical range and include both the core population areas of black pinesnakes, as well as remaining peripheral population areas. We determined that there was sufficient area for the conservation of the subspecies within the occupied areas determined above.

When determining proposed critical habitat boundaries, we made every effort to avoid including developed areas such as lands covered by buildings, pavement, and other structures because such lands lack physical or biological features necessary for the black pinesnake. The scale of the maps we prepared under the parameters for publication within the Code of Federal Regulations may not reflect the exclusion of such developed lands nor all lands covered under the Camp Shelby integrated natural resources management plan (INRMP), which are exempted from proposed critical habitat designation (see *Application of Section 4(a)(3) of the Act* under Exemptions, below). Thus, any such lands inadvertently left inside critical habitat boundaries shown on the maps of this proposed rule have been excluded by text in the proposed rule and are not proposed for designation as critical habitat. Therefore, if the critical habitat is finalized as proposed, a Federal action involving these lands would not trigger section 7 consultation with respect to critical habitat and the requirement of no adverse modification unless the specific action would affect the PBFs in the adjacent critical habitat.

The proposed critical habitat designation is defined by the map or maps, as modified by any accompanying regulatory text, presented at the end of this document in the Proposed Regulation Promulgation section. We include more detailed information on the boundaries of the critical habitat designation in the preamble of this document. We will make the coordinates or plot points or both on which each map is based available to the public on *http://www.regulations.gov* at Docket No. FWS–R4–ES–2014–0065, on our Internet site at *http://www.fws.gov/mississippiES/,* and at the field office responsible for the designation (see **FOR FURTHER INFORMATION CONTACT**, above).

Proposed Critical Habitat Designation

We are proposing to designate approximately 338,100 ac (136,824 ha) in eight units, one of which is divided into two subunits, as critical habitat for the black pinesnake. The critical habitat areas we describe below constitute our current best assessment of areas that meet the definition of critical habitat for the black pinesnake. The areas we propose as critical habitat are all occupied at the time of listing and contain all elements of the physical or biological features of the black pinesnake to support life-history functions essential to the conservation of the subspecies including:

Unfragmented tracts of pine forest of sufficient size and structure (PCE 1); suitable underground refugia sites at appropriate elevation (PCE 2); and deep, sandy soils (PCE 3).

The areas we propose as critical habitat are: Unit 1—Ovett; Unit 2—Piney Woods Creek; Unit 3—Cypress Creek; Unit 4A—Maxie; Unit 4B—Maxie; Unit 5—Howison; Unit 6—Marion County WMA; Unit 7—Scotch WMA; and Unit 8—Fred T. Stimpson WMA.

Table 1 provides the location, approximate area, and ownership of each critical habitat unit.

TABLE 1—PROPOSED CRITICAL HABITAT UNITS FOR BLACK PINESNAKE

[Area estimates reflect all land within critical habitat unit boundaries]

Unit	County	Ownership				Total area
		Federal	State	Local	Private	
MISSISSIPPI						
1—Ovett	Jones, Wayne	40,637 ac (16,445 ha).			6,540 ac (2,647 ha).	47,177 ac (19,092 ha).
2—Piney Woods Creek	Perry, Wayne	17,744 ac (7,181 ha).			4,645 ac (1,880 ha).	22,389 ac (9,061 ha).
3—Cypress Creek	Perry, Greene, George, Forrest.	131,045 ac (53,032 ha).	1,768 ac (715 ha).	41 ac (16 ha)	12,289 ac (4,973 ha).	145,143 ac (58,737 ha).
4A—Maxie	Forrest, Stone	8,883 ac (3,595 ha).			6,334 ac (2,563 ha).	15,217 ac (6,158 ha).
4B—Maxie	Forrest, Perry, Stone.	28,233 ac (11,425 ha).			16,078 ac (6,507 ha).	44,311 ac (17,932 ha).
5—Howison	Stone, Harrison	9,371 ac (3,792 ha).		640 ac (259 ha).	2,938 ac (1,189 ha).	12,949 ac (5,240 ha).
6—Marion County WMA	Marion		5,587 ac (2,261 ha).		6,270 ac (2,537 ha).	11,857 ac (4,798 ha).
ALABAMA						
7—Scotch WMA	Clarke				33,395 ac (13,514 ha).	33,395 ac (13,514 ha).
8—Fred T. Stimpson WMA	Clarke		2,547 ac (1,031 ha).		3,114 ac (1,260 ha).	5,661 ac (2,291 ha).
Total Area		235,915 ac (95,471 ha).	9,902 ac (4,007 ha).	681 ac (276 ha).	91,603 ac (37,070 ha).	338,100 ac (136,824 ha).

Note: Area sizing may not sum due to rounding.

We present brief descriptions of all units, and reasons why they meet the definition of critical habitat for the black pinesnake, below.

Unit 1: Ovett—Jones and Wayne Counties, Mississippi

Unit 1 encompasses approximately 47,177 ac (19,092 ha) on Federal and private land in Jones and Wayne Counties, Mississippi. This unit is located between the Bogue Homo River and Thompson Creek, is approximately 2.0 mi (3.2 km) northeast of Ovett, and is mostly within the boundary of the Chickasawhay Ranger District of the De Soto National Forest (DNF). It is located just east of State Highway 15, west of Salem Road, north of the intersection of State Highway 15 and County Road 205, and approximately 1.3 mi (2.1 km) south of the intersection of Freedom Road and Forest Road.

The majority of this unit (40,637 ac (16,445 ha)) is on Federal lands within the DNF, with the remainder of the unit (6,540 ac (2,647 ha)) on private land. Unit 1 contains all elements of the physical or biological features of the black pinesnake to support life-history functions essential to the conservation of the subspecies.

There are records of eight black pinesnakes located within Unit 1 since 1990. Many of these are located on the higher ridges within the unit boundary, but are within close enough proximity to each other (with contiguous habitat between) for all of them to belong to the same breeding population. Habitat management on the section of this unit owned by the U.S. Forest Service (86 percent) is performed under the Revised Land and Resource Management Plan for National Forests in Mississippi (U.S. Forest Service 2014, 207 pp.). The other 14 percent is privately owned. This forest plan contains objectives for the threatened gopher tortoise and endangered red-cockaded woodpecker (*Picoides borealis*), both of which occur on Unit 1. These objectives include restoring and opening up canopy conditions in areas with sandy soils and in mature and old-growth pine forests and woodlands, with 1- to 3-year fire intervals; however, there are no management practices outlined in this plan that specifically target all of the habitat requirements of the black pinesnake.

Threats to the black pinesnake and its habitat in Unit 1 that may require special management considerations or protection of the physical or biological features include: Fire suppression and low fire frequencies; detrimental alterations in forestry practices that could destroy belowground soil structures such as clear-cutting, disking, or stump removal; land use conversion and fragmentation, primarily urban development, new roads, and conversion to agriculture and pine plantations; utility easements; road mortality; and encroachment of invasive species.

Unit 2: Piney Woods Creek—Wayne and Perry Counties, Mississippi

Unit 2 encompasses approximately 22,389 ac (9,061 ha) on Federal and private land located primarily in Wayne County, Mississippi, with a small portion extending into Perry County, Mississippi. This unit is located between Thompson Creek and Piney Woods Creek, is approximately 4.0 mi (6.4 km) west of Clara, and is mostly within the boundary of the Chickasawhay Ranger District of the DNF. It is located 2.3 mi (3.7 km) north of the intersection of Camp Eight Road and Will Best Road, and 0.4 mi (0.6 km) southeast of the intersection of Clara-Strengthford Road and Clara-Strengthford Reservoir Road.

The majority of this unit (17,744 ac (7,181 ha)) is on Federal lands within the DNF, with the remainder of the Unit (4,645 ac (1,880 ha)) on private land. Unit 2 contains all elements of the physical or biological features of the black pinesnake to support life-history functions essential to the conservation of the subspecies.

There are records of five black pinesnakes located within Unit 2 since 1990. Many of these are located on the higher ridges within the unit boundary, but are within close enough proximity to each other (with contiguous habitat between) for all of them to belong to the same breeding population. Habitat management on the section of this unit owned by the U.S. Forest Service (79 percent) is performed under the Revised Land and Resource Management Plan for National Forests in Mississippi (U.S. Forest Service 2014, 207 pp.) (see discussion under Unit 1, above).

Threats to the black pinesnake and its habitat in Unit 2 that may require special management considerations or protection of the physical or biological features include: Fire suppression and low fire frequencies; detrimental alterations in forestry practices that could destroy belowground soil structures such as clear-cutting, disking, or stump removal; land use conversion and fragmentation, primarily urban development, new roads, and conversion to agriculture and pine plantations; gas, water, electrical power, and sewer easements; road mortality; and encroachment of invasive species.

Unit 3: Cypress Creek—Forrest, Perry, George, and Greene Counties, Mississippi

Unit 3 is the largest of all the units, encompassing approximately 145,143 ac (58,737 ha) on Federal, State, local, and private land in Forrest, Perry, George, and Greene Counties, Mississippi. This unit is located north of Black Creek (Cypress Creek runs into part of the unit, but is not a barrier to gene flow), and is approximately 3.0 mi (4.8 km) east of McLaurin, 1.8 mi (2.9 km) south of New Augusta, and 4.6 mi (7.4 km) northwest of Benndale. Unit 3 is mostly within the installation boundary of Camp Shelby on the De Soto Ranger District of the DNF, and is bordered by State Highways 26 and 57 and U.S. Highways 49 and 98.

The majority of this unit (131,045 ac (53,032 ha)) is on Federal lands, with another 1,768 ac (715 ha) on State lands; 41 ac (16 ha) on local, county-owned lands; and the remainder (12,289 ac (4,973 ha)) on private land. This unit contains 5,735 ac (2,321 ha) of State- and Department of Defense (DoD)-owned lands that are covered under the Camp Shelby INRMP, which are exempted from proposed critical habitat designation (see *Application of Section 4(a)(3) of the Act* under Exemptions, below). Unit 3 contains all elements of the physical or biological features of the black pinesnake to support life-history functions essential to the conservation of the subspecies.

There are over 100 records of black pinesnakes located within Unit 3 since 2004, as compiled by The Nature Conservancy's Camp Shelby Field Office. Many of these are located on the higher ridges within the unit boundary, but are within close enough proximity to each other (with contiguous habitat between) for all of them to belong to the same breeding population. Habitat management on the section of this unit owned by the U.S. Forest Service is performed under the Revised Land and Resource Management Plan for National Forests in Mississippi (U.S. Forest Service 2014, 207 pp.). In addition to containing objectives for the threatened gopher tortoise and endangered red-cockaded woodpecker, both of which occur on Unit 3 (see discussion under Unit 1, above), it also includes objectives for the endangered dusky gopher frog (*Rana sevosa*), which has three critical habitat units totaling 961.8 ac (389.2 ha), also located within Unit 3. Forest plan objectives for the dusky gopher frog include upland forest management to restore and improve open-canopied conditions compatible with black pinesnake habitat requirements.

Threats to the black pinesnake and its habitat in Unit 3 that may require special management considerations or protection of the physical or biological features include: Fire suppression and low fire frequencies; detrimental alterations in forestry practices that could destroy belowground soil structures such as clear-cutting, disking, or stump removal; land use conversion and fragmentation, primarily urban development, new roads, and conversion to agriculture and pine plantations; gas, water, electrical power, and sewer easements; road mortality; and encroachment of invasive species.

Unit 4: Maxie—Forrest, Perry, and Stone Counties, Mississippi

Unit 4 encompasses a total of approximately 59,527 ac (24,090 ha) on Federal and private land in Forrest, Perry, and Stone Counties, Mississippi. Located south of Black Creek and 3.0 mi (4.8 km) north of Wiggins, this unit is bisected into two subunits (4A and 4B) by U.S. Highway 49. Both subunits are buffered from U.S. Highway 49 by at least 328 ft (100 m). The close proximity of black pinesnake records with adjacent suitable habitat would have made Unit 4 a single unit following the criteria for designation of critical habitat, if not for the presence of U.S. Highway 49, which is a significant source of fragmentation and is potentially restricting gene flow between the two subunits.

Subunit 4A is located between Double Branch and U.S. Highway 49 in Forrest and Stone Counties, Mississippi. It is 0.3 mi (4.8 km) northwest of Bond and 0.5 mi (0.8 km) southwest of Maxie, and is located mostly within the boundary of the De Soto Ranger District of the DNF. Most of this subunit (8,883 ac (3,595 ha)) is on Federal lands within the DNF, with the remainder of the subunit (6,334 ac (2,563 ha)) on private land. There are records of two black pinesnakes located within subunit 4A since 1990. These are located on the eastern edge of the subunit, but have contiguous habitat with the rest of the area.

Subunit 4B is located between Black Creek and U.S. Highway 49 in Forrest, Perry, and Stone Counties, Mississippi. It is directly adjacent to Maxie on the western border, and is located mostly within the boundary of the De Soto Ranger District of the DNF. Most of this subunit (28,233 ac (11,425 ha)) is on Federal lands within the DNF, with the remainder of the subunit (16,078 ac (6,507 ha)) on private land. There are records of four black pinesnakes located within subunit 4B since 1990. These are located on the higher ridges of the subunit, but have contiguous habitat with the rest of the area.

Both subunits of Unit 4 are within the geographic area of the subspecies occupied at the time of listing. They contain all elements of the physical or biological features of the black pinesnake to support life-history functions essential to the conservation

of the subspecies. Habitat management on the section of these subunits owned by the U.S. Forest Service (86 percent) is performed under the Revised Land and Resource Management Plan for National Forests in Mississippi (U.S. Forest Service 2014, 207 pp.). This forest plan contains objectives for the threatened gopher tortoise, which occurs on both subunits of Unit 4. These objectives include restoring and opening up canopy conditions in areas with sandy soils with 1- to 3-year fire intervals; however, there are no management practices outlined in this plan that specifically target the habitat requirements of the black pinesnake. Subunit 4B also contains two units designated as critical habitat for the endangered dusky gopher frog, totaling 598.6 ac (242.2 ha) (see discussion of Unit 3, above, for more about forest plan objectives for the gopher frog).

Threats to the black pinesnake and its habitat in Unit 4 that may require special management considerations or protection of the physical or biological features include: Fire suppression and low fire frequencies; detrimental alterations in forestry practices that could destroy belowground soil structures such as clear-cutting, disking, or stump removal; land use conversion and fragmentation, primarily urban development, new roads, and conversion to agriculture and pine plantations; gas, water, electrical power, and sewer easements; road mortality; and encroachment of invasive species.

Unit 5: Howison—Stone and Harrison Counties, Mississippi

Unit 5 encompasses approximately 12,949 ac (5,240 ha) on Federal, local, and private land in Harrison and Stone Counties, Mississippi. This unit is located between Tuxachanie Creek and U.S. Highway 49, approximately 0.4 mi (0.6 km) east of Howison and 1.3 mi (2 km) southeast of McHenry, and this unit is mostly within the boundary of the De Soto Ranger District of the DNF. The unit is bordered on the northern edge by E. McHenry Road and on the western edge by U.S. Highway 49 (buffered from the highway by at least 328 ft (100 m)).

The majority of this unit (9,371 ac (3,792 ha)) is on Federal lands within the DNF, with the remainder of the unit on local (640 ac (259 ha)) and private (2,938 ac (1,189 ha)) lands. Unit 5 contains all elements of the physical or biological features of the black pinesnake to support life-history functions essential to the conservation of the subspecies.

There are records of seven black pinesnakes located within Unit 5 since 1990. Many of these are located on the higher ridges within the unit boundary, but are within close enough proximity of each other (with contiguous habitat between) for all of them to belong to the same breeding population. Habitat management on the section of this unit owned by the U.S. Forest Service is performed under the Revised Land and Resource Management Plan for National Forests in Mississippi (U.S. Forest Service 2014, 207 pp.). This forest plan contains objectives for the threatened gopher tortoise, which occurs on Unit 5 (see discussion for Unit 4, above).

Threats to the black pinesnake and its habitat in Unit 5 that may require special management considerations or protection of the physical or biological features include: Fire suppression and low fire frequencies; detrimental alterations in forestry practices that could destroy belowground soil structures such as clear-cutting, disking, or stump removal; land use conversion and fragmentation, primarily urban development, new roads, and conversion to agriculture and pine plantations; gas, water, electrical power, and sewer easements; road mortality; and encroachment of invasive species.

Unit 6: Marion County WMA—Marion County, Mississippi

Unit 6 encompasses approximately 11,857 ac (4,798 ha) on State and private land in Marion County, Mississippi. This unit is located between the Upper Little Creek and Lower Little Creek, 7.0 mi (11 km) southeast of Columbia. It is located 0.8 mi (1.3 km) north of State Highway 13, and 2.6 mi (4.2 km) south of U.S. Highway 98. Approximately half of Unit 6 is within the Marion County WMA.

The unit is divided between State lands (5,587 ac (2,261 ha)) and private lands (6,270 ac (2,537 ha)). Unit 6 contains all elements of the physical or biological features of the black pinesnake to support life-history functions essential to the conservation of the subspecies.

There are records of two black pinesnakes located within Unit 6 since 1990. These are both located on the WMA, although there is contiguous suitable habitat across the remainder of the unit. Regulations on the WMA include prohibitions of wildlife harassment; however, there are no habitat management activities occurring at the WMA that specifically target the habitat requirements of the black pinesnake.

Threats to the black pinesnake and its habitat in Unit 6 that may require special management considerations or protection of the physical or biological features include: Fire suppression and low fire frequencies; detrimental alterations in forestry practices that could destroy belowground soil structures such as clear-cutting, disking, or stump removal; land use conversion and fragmentation, primarily urban development, new roads, and conversion to agriculture and pine plantations; gas, water, electrical power, and sewer easements; road mortality; and encroachment of invasive species.

Unit 7: Scotch WMA—Clarke County, Alabama

Unit 7 encompasses approximately 33,395 ac (13,514 ha) of private land in Clarke County, Alabama. This unit is bordered by Salitpa Creek to the south, Tallahatta Creek to the north, and Harris Creek to the west. It is located approximately 2.7 mi (4.3 km) southeast of Campbell, and approximately half of the unit is on the Scotch WMA. Unit 7 is located 1.1 mi (1.8 km) north of the intersection of Old Mill Pond Road and Reedy Branch Road.

This unit contains all elements of the physical or biological features of the black pinesnake to support life-history functions essential to the conservation of the subspecies.

There are records of four black pinesnakes located within Unit 7 since 1990. Many of these are located on the higher ridges within the unit boundary, but are within close enough proximity to each other (with contiguous habitat between) for all of them to belong to the same breeding population. Most of this unit is managed by Scotch Land Management, LLC; however, there are no management practices on this unit that specifically target the habitat requirements of the black pinesnake.

Threats to the black pinesnake and its habitat in Unit 7 that may require special management considerations or protection of the physical or biological features include: Fire suppression and low fire frequencies; detrimental alterations in forestry practices that could destroy belowground soil structures such as clear-cutting, disking, or stump removal; land use conversion and fragmentation, primarily urban development, new roads, and conversion to agriculture and pine plantations; gas, water, electrical power, and sewer easements; road mortality; and encroachment of invasive species.

Unit 8: Fred T. Stimpson WMA—Clarke County, Alabama

Unit 8 encompasses approximately 5,661 ac (2,291 ha) on State and private land in Clarke County, Alabama. This unit is located between Sand Hill Creek and the Tombigbee River, is approximately 2.5 mi (4 km) north of

Carlton, and is 1.0 mi (1.6 km) south of the intersection of County Road 15 and Christian Vall Road. The southern half of this unit is on the Fred T. Stimpson WMA.

Approximately half of the unit (2,547 ac (1,031 ha)) is on State lands, with the remainder of the unit (3,114 ac (1,260 ha)) on private land. Unit 8 contains all elements of the physical or biological features of the black pinesnake to support life-history functions essential to the conservation of the subspecies.

There are records of two black pinesnakes located within Unit 8 since 1990. These are both located on the WMA, although there is contiguous suitable habitat across the remainder of the unit. There are no habitat management practices outlined at the site that specifically target the habitat requirements of the black pinesnake.

Threats to the black pinesnake and its habitat in Unit 8 that may require special management considerations or protection of the physical or biological features include: Fire suppression and low fire frequencies; detrimental alterations in forestry practices that could destroy belowground soil structures such as clear-cutting, disking, or stump removal; land use conversion and fragmentation, primarily urban development, new roads, and conversion to agriculture and pine plantations; gas, water, electrical power, and sewer easements; road mortality; and encroachment of invasive species.

Effects of Critical Habitat Designation

Section 7 Consultation

Section 7(a)(2) of the Act requires Federal agencies, including the Service, to ensure that any action they fund, authorize, or carry out is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of designated critical habitat of such species. In addition, section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any agency action that is likely to jeopardize the continued existence of any species proposed to be listed under the Act or result in the destruction or adverse modification of proposed critical habitat.

Decisions by the 5th and 9th Circuit Courts of Appeals have invalidated our regulatory definition of ''destruction or adverse modification'' (50 CFR 402.02) (see *Gifford Pinchot Task Force* v. *U.S. Fish and Wildlife Service,* 378 F. 3d 1059 (9th Cir. 2004) and *Sierra Club* v. *U.S. Fish and Wildlife Service,* 245 F.3d 434 (5th Cir. 2001)), and we do not rely on this regulatory definition when analyzing whether an action is likely to destroy or adversely modify critical habitat. Under the statutory provisions of the Act, we determine destruction or adverse modification on the basis of whether, with implementation of the proposed Federal action, the affected critical habitat would continue to serve its intended conservation role for the species.

If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with us. Examples of actions that are subject to the section 7 consultation process are actions on State, tribal, local, or private lands that require a Federal permit (such as a permit from the U.S. Army Corps of Engineers under section 404 of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or a permit from the Service under section 10 of the Act) or that involve some other Federal action (such as funding from the Federal Highway Administration, Federal Aviation Administration, or the Federal Emergency Management Agency). Federal actions not affecting listed species or critical habitat, and actions on State, tribal, local, or private lands that are not federally funded or authorized, do not require section 7 consultation.

As a result of section 7 consultation, we document compliance with the requirements of section 7(a)(2) through our issuance of:

(1) A concurrence letter for Federal actions that may affect, but are not likely to adversely affect, listed species or critical habitat; or

(2) A biological opinion for Federal actions that may affect and are likely to adversely affect, listed species or critical habitat.

When we issue a biological opinion concluding that a project is likely to jeopardize the continued existence of a listed species and/or destroy or adversely modify critical habitat, we provide reasonable and prudent alternatives to the project, if any are identifiable, that would avoid the likelihood of jeopardy and/or destruction or adverse modification of critical habitat. We define ''reasonable and prudent alternatives'' (at 50 CFR 402.02) as alternative actions identified during consultation that:

(1) Can be implemented in a manner consistent with the intended purpose of the action,

(2) Can be implemented consistent with the scope of the Federal agency's legal authority and jurisdiction,

(3) Are economically and technologically feasible, and

(4) Would, in the Director's opinion, avoid the likelihood of jeopardizing the continued existence of the listed species and/or avoid the likelihood of destroying or adversely modifying critical habitat.

Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 require Federal agencies to reinitiate consultation on previously reviewed actions in instances where we have listed a new species or subsequently designated critical habitat that may be affected and the Federal agency has retained discretionary involvement or control over the action (or the agency's discretionary involvement or control is authorized by law). Consequently, Federal agencies sometimes may need to request reinitiation of consultation with us on actions for which formal consultation has been completed, if those actions with discretionary involvement or control may affect subsequently listed species or designated critical habitat.

Application of the ''Adverse Modification'' Standard

The key factor related to the adverse modification determination is whether, with implementation of the proposed Federal action, the affected critical habitat would continue to serve its intended conservation role for the species. Activities that may destroy or adversely modify critical habitat are those that alter the PBFs to an extent that appreciably reduces the conservation value of critical habitat for the black pinesnake. As discussed above, the role of critical habitat is to support life-history needs of the species and provide for the conservation of the species.

Section 4(b)(8) of the Act requires us to briefly evaluate and describe, in any proposed or final regulation that designates critical habitat, activities involving a Federal action that may destroy or adversely modify such habitat, or that may be affected by such designation.

Activities that may affect critical habitat, when carried out, funded, or authorized by a Federal agency, should result in consultation for the black pinesnake. These activities include, but are not limited to:

(1) Forestry management actions in pine habitat that would significantly alter the suitability of black pinesnake habitat. Such activities could include,

but are not limited to: Silvicultural activites such as disking, bedding, and clear-cutting that involve ground disturbance; conversion to densely stocked pine plantations; and chemical applications (pesticides or herbicides) that are either unlawful or that are not directly aimed at hazardous fuels reduction, mid-story hardwood control, or noxious weed control. These activities could destroy or alter the pine forest habitats and refugia necessary for the growth and development of black pinesnakes, and may reduce populations of the snake's primary prey (rodents), either through direct extermination or through loss of the forage necessary to sustain the prey base.

(2) Actions that would significantly fragment black pinesnake populations. Such activities could include, but are not limited to: Conversion of timber land to other uses (agricultural, urban/residential development) and construction of new structures or roads. These activities could lead to degradation or elimination of forest habitat, limit or prevent breeding opportunities between black pinesnakes, limit access to familiar refugia or nesting sites within individual home ranges, and increase the frequency of road mortality from road crossings.

Exemptions

Application of Section 4(a)(3) of the Act

The Sikes Act Improvement Act of 1997 (Sikes Act) (16 U.S.C. 670a) required each military installation that includes land and water suitable for the conservation and management of natural resources to complete an integrated natural resources management plan (INRMP) by November 17, 2001. An INRMP integrates implementation of the military mission of the installation with stewardship of the natural resources found on the base. Each INRMP includes:

(1) An assessment of the ecological needs on the installation, including the need to provide for the conservation of listed species;

(2) A statement of goals and priorities;

(3) A detailed description of management actions to be implemented to provide for these ecological needs; and

(4) A monitoring and adaptive management plan.

Among other things, each INRMP must, to the extent appropriate and applicable, provide for fish and wildlife management; fish and wildlife habitat enhancement or modification; wetland protection, enhancement, and restoration where necessary to support fish and wildlife; and enforcement of applicable natural resource laws.

Section 4(a)(3)(B)(i) of the Act (16 U.S.C. 1533(a)(3)(B)(i)) provides that: ''The Secretary shall not designate as critical habitat any lands or other geographic areas owned or controlled by the Department of Defense, or designated for its use, that are subject to an Integrated Natural Resources Management Plan prepared under section 101 of the Sikes Act (16 U.S.C. 670a), if the Secretary determines in writing that such plan provides a benefit to the species for which critical habitat is proposed for designation.''

We consult with the military on the development and implementation of INRMPs for installations with listed species. We analyzed one INRMP developed by military installations located within the range of the proposed critical habitat designation for the black pinesnake to determine if it met the criteria for exemption from critical habitat under section 4(a)(3) of the Act.

Approved INRMP

Camp Shelby Joint Forces Training Center (Camp Shelby), 5,735 ac (2,321 ha)

Camp Shelby is located in Forrest, George, and Perry Counties, near the town of Hattiesburg, Mississippi, and contains habitat with features essential to the conservation of the black pinesnake. The primary mission of Camp Shelby is to train U.S. Army soldiers (National Guard and Reserve) for combat and combat-related missions. Training activities at Camp Shelby primarily include troop bivouacking, wheeled vehicle maneuvers, artillery firing exercises, and tank training maneuvers.

Camp Shelby is composed of property belonging in four different categories: Department of Defense (DoD), State, United States Forest Service (USFS), and private land. The main part of Camp Shelby's training area belongs to the USFS and is operated under a special use permit from the USFS granted in 2007 for 20 years (see discussion under *Exclusions Based on National Security Impacts,* below). The DoD and State lands are managed by the Mississippi Army National Guard (MSARNG) in support of the military mission, and the Camp Shelby INRMP addresses integrative management on these lands only (MSARNG 2014, p. 13). These DoD and State lands, included in the INRMP, with habitat features essential to the conservation of the black pinesnake, total approximately 5,558 ac (2,249 ha). We have examined the INRMP and determined that it does outline conservation measures for the black pinesnake, as well as management plans for important upland habitats at Camp Shelby. Conservation measures outlined in the INRMP for the black pine snake at Camp Shelby include: Research on life history, habitat requirements, and habitat use; monitoring; prescribed burning and longleaf pine restoration programs, including increasing the frequency of growing season burns, reducing canopy closure and basal area, and restoring the natural fire regime; protecting and maintaining downed deadwood and pine stumps (when not identified as a safety hazard); and implementation of education programs for users of Camp Shelby (geared towards minimizing the negative impacts of vehicular mortality on the black pine snake and other species) (MSARNG 2014, pp. 92–94). The INRMP will continue to be reviewed annually to monitor the effectiveness of the plan, and be reviewed every 5 years to develop revisions and updates as necessary.

Based on the above considerations, and in accordance with section 4(a)(3)(B)(i) of the Act, we have determined that the identified lands are subject to the Camp Shelby INRMP and that conservation efforts identified in the INRMP will provide a benefit to the black pinesnake. Therefore, DoD and State lands within this installation, which are covered under the INRMP, are exempt from critical habitat designation under section 4(a)(3) of the Act. We are not including approximately 5,558 ac (2,249 ha) of habitat in this proposed critical habitat designation because of this exemption.

Exclusions

Section 4(b)(2) of the Act states that the Secretary shall designate and make revisions to critical habitat on the basis of the best available scientific data after taking into consideration the economic impact, national security impact, and any other relevant impact of specifying any particular area as critical habitat. The Secretary may exclude an area from critical habitat if she determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless she determines, based on the best scientific data available, that the failure to designate such area as critical habitat will result in the extinction of the species. In making that determination, the statute on its face, as well as the legislative history, are clear that the Secretary has broad discretion regarding

which factor(s) to use and how much weight to give to any factor.

Under section 4(b)(2) of the Act, we may exclude an area from designated critical habitat based on economic impacts, impacts on national security, or any other relevant impacts. In considering whether to exclude a particular area from the designation, we identify the benefits of including the area in the designation, identify the benefits of excluding the area from the designation, and evaluate whether the benefits of exclusion outweigh the benefits of inclusion. If the analysis indicates that the benefits of exclusion outweigh the benefits of inclusion, the Secretary may exercise her discretion to exclude the area only if such exclusion would not result in the extinction of the species.

When considering the benefits of exclusion, we consider, among other things, whether exclusion of a specific area is likely to result in conservation; the continuation, strengthening, or encouragement of partnerships; or implementation of a management plan. In the case of the black pinesnake, the benefits of critical habitat include public awareness of the presence of the black pinesnake and the importance of habitat protection, and, where a Federal nexus exists, increased habitat protection for the black pinesnake due to protection from adverse modification or destruction of critical habitat. In practice, situations with a Federal nexus exist primarily on Federal lands or for projects undertaken by Federal agencies.

After identifying the benefits of inclusion and the benefits of exclusion, we carefully weigh the two sides to evaluate whether the benefits of exclusion outweigh those of inclusion. If our analysis indicates that the benefits of exclusion outweigh the benefits of inclusion, we then determine whether exclusion would result in extinction. If exclusion of an area from critical habitat will result in extinction, we will not exclude it from the designation.

Based on the information we receive during the public comment period, we will evaluate whether certain lands in the proposed critical habitat in a portion of Unit 3 are appropriate for exclusion from the final designation under section 4(b)(2) of the Act (see discussion under *Exclusions Based on National Security Impacts,* below). If the analysis indicates that the benefits of excluding lands from the final designation outweigh the benefits of designating those lands as critical habitat, then the Secretary may exercise her discretion to exclude the lands from the final designation.

The final decision on whether to exclude any areas will be based on the best scientific data available at the time of the final designation, including information obtained during the comment period.

Exclusion Based on Economic Impacts

Section 4(b)(2) of the Act and its implementing regulations require that we consider the economic impact that may result from a designation of critical habitat. To assess the probable economic impacts of a designation, we must first evaluate specific land uses or activities and projects that may occur in the area of the critical habitat. We then must evaluate the impacts that a specific critical habitat designation may have on restricting or modifying specific land uses or activities for the benefit of the species and its habitat within the areas proposed. We then identify which conservation efforts may be the result of the species being listed under the Act versus those attributed solely to the designation of critical habitat for this particular species. The probable economic impact of a proposed critical habitat designation is analyzed by comparing scenarios both ''with critical habitat'' and ''without critical habitat.'' The ''without critical habitat'' scenario represents the baseline for the analysis, which includes the existing regulatory and socio-economic burden imposed on landowners, managers, or other resource users potentially affected by the designation of critical habitat (*e.g.,* under the Federal listing as well as other Federal, State, and local regulations). The baseline, therefore, represents the costs of all efforts attributable to the listing of the species under the Act (*i.e.,* conservation of the species and its habitat incurred regardless of whether critical habitat is designated). The ''with critical habitat'' scenario describes the incremental impacts associated specifically with the designation of critical habitat for the species. The incremental conservation efforts and associated impacts would not be expected without the designation of critical habitat for the species. In other words, the incremental costs are those attributable solely to the designation of critical habitat, above and beyond the baseline costs. These are the costs we use when evaluating the benefits of inclusion and exclusion of particular areas from the final designation of critical habitat should we choose to conduct an optional section 4(b)(2) exclusion analysis.

For this designation, we developed an incremental effects memorandum (IEM) considering the probable incremental economic impacts that may result from this proposed designation of critical habitat. The information contained in our IEM was then used to develop a screening analysis of the probable effects of the designation of critical habitat for the black pinesnake (IEc 2014). The screening analysis focuses on the key factors that are likely to result in incremental economic impacts. The purpose of the screening analysis is to filter out the geographic areas in which the critical habitat designation is unlikely to result in probable incremental economic impacts. In particular, the screening analysis considers baseline costs (*i.e.,* absent critical habitat designation) and includes probable economic impacts where land and water use may be subject to conservation plans, land management plans, best management practices, or regulations that protect the habitat area as a result of the Federal listing status of the subspecies. The screening analysis filters out particular areas of critical habitat that are already subject to such protections and are therefore, unlikely to incur incremental economic impacts. Ultimately, the screening analysis allows us to focus our analysis on evaluating the specific areas or sectors that may incur probable incremental economic impacts as a result of the designation. The screening analysis also assesses whether units are unoccupied by the subspecies and may require additional management or conservation efforts as a result of the critical habitat designation for the subspecies which may incur incremental economic impacts. This screening analysis, combined with the information contained in our IEM, constitutes our draft economic analysis (DEA) of the proposed critical habitat designation for the black pinesnake and is summarized in the narrative below.

Executive Orders (E.O.s) 12866 and 13563 direct Federal agencies to assess the costs and benefits of available regulatory alternatives in quantitative (to the extent feasible) and qualitative terms. Consistent with the E.O. regulatory analysis requirements, our effects analysis under the Act may take into consideration impacts to both directly and indirectly impacted entities, where practicable and reasonable. We assess, to the extent practicable, the probable impacts, if sufficient data are available, to both directly and indirectly impacted entities. As part of our screening analysis, we considered the types of economic activities that are likely to occur within the areas likely affected by the critical habitat designation, if adopted as proposed. In our evaluation

of the probable incremental economic impacts that may result from the proposed designation of critical habitat for the black pinesnake, first we identified, in the IEM dated May 2, 2014, probable incremental economic impacts associated with the following categories of activities: (1) Federal lands management (U.S. Forest Service); (2) forest management; (3) agriculture; (4) development; (5) silviculture/timber; (6) transportation activities; and (7) utilities. We considered each industry or category individually. Additionally, we considered whether the activities have any Federal involvement. Critical habitat designation would not affect activities that do not have any Federal involvement; designation of critical habitat only affects activities conducted, funded, permitted, or authorized by Federal agencies. In areas where the black pinesnake is present, if we finalize the listing of the subspecies, Federal agencies would be required to consult with the Service under section 7 of the Act on activities they fund, permit, or implement that may affect the subspecies. If we finalize this proposed critical habitat designation, consultations to avoid the destruction or adverse modification of critical habitat would be incorporated into that consultation process. Therefore, disproportionate impacts to any geographic area or sector would not be likely as a result of this critical habitat designation.

In our IEM, we attempted to clarify the distinction between the effects that would result from the subspecies being listed and those attributable to the critical habitat designation (*i.e.,* difference between the jeopardy and adverse modification standards) for the black pinesnake's critical habitat. Because we are proposing the designation of critical habitat for black pinesnake before finalizing (if appropriate) the subspecies' listing, it has been our experience that it is more difficult to discern which conservation efforts are attributable to the species being listed and those which will result solely from the designation of critical habitat. However, the following specific circumstances in this case help to inform our evaluation: (1) The essential PBFs identified for critical habitat are the same features essential for the life requisites of the subspecies, and (2) any actions that would result in sufficient harm or harassment to constitute jeopardy to the black pinesnake would also likely adversely affect the essential physical and biological features of critical habitat. The IEM outlines our rationale concerning this limited distinction between baseline conservation efforts and incremental impacts of the designation of critical habitat for this subspecies. This evaluation of the incremental effects has been used as the basis to evaluate the probable incremental economic impacts of this proposed designation of critical habitat.

The proposed critical habitat designation for the black pinesnake consists of eight units, one of which is divided into two subunits, encompassing approximately 338,100 ac (136,824 ha) in Mississippi and Alabama. Included lands are under Federal, State, local, and private ownership, and all are within the area occupied by the black pinesnake at the time of listing. Federal land is predominant in Units 1 through 5. In these units, Federal lands make up from 58 to 90 percent of the acreage, which accounts for approximately 70 percent of the total proposed critical habitat acreage. Privately owned land is present in all eight units and ranges from 8 percent to a high of 100 percent in one unit. Private lands account for approximately 27 percent of the total proposed critical habitat acreage. Approximately 4,647 ac (1,880 ha) of the proposed designation in one unit have been identified for potential exclusion under section 4(b)(2) of the Act due to a national security concern (see *Exclusions Based on National Security Impacts,* below).

All lands in the proposed critical habitat designation for the black pinesnake are currently occupied by the subspecies. In these areas any actions that may affect the subspecies or its habitat would also affect designated critical habitat, and it is unlikely that any additional conservation efforts would be recommended to address the adverse modification standard over and above those recommended as necessary to avoid jeopardizing the continued existence of the black pinesnake. Therefore, only administrative costs are expected in the proposed critical habitat designation. While this additional analysis will require time and resources by both the Federal action agency and the Service, it is believed that, in most circumstances, these costs would predominantly be administrative in nature and would not be significant.

The entities most likely to incur incremental costs are parties to section 7 consultations, including Federal action agencies and, in some cases, third parties, most frequently State agencies or municipalities. Activities we expect will be subject to consultations that may involve private entities as third parties are residential and commercial development that may occur on private lands; however, cost to private entities within these sectors is expected to be minor as most of the proposed critical habitat is in Federal ownership (70 percent) and only 27 percent of the lands are privately owned. According to a review of consultation records, the additional administrative cost of addressing adverse modification during the section 7 consultation process ranges from approximately $410 to $9,000 per consultation. Based on the project activity identified by relevant action agencies and comparison to the consultation history for species that co-occur or share habitat with the black pinesnake, the number of future formal consultations is likely to be five or fewer in the year immediately following the final designation. In addition, up to 60 informal consultations and five technical assists could occur annually following the designation. Thus, the incremental administrative burden resulting from the designation is likely to be less than $190,000 in this first year, the year with the highest anticipated costs; therefore, the costs would not be significant.

In summary, the probable incremental economic impacts of the black pinesnake critical habitat designation are expected to be limited to additional administrative efforts as well as minor costs of conservation efforts resulting from a small number of future section 7 consultations. This finding is based on the following factors: (1) All proposed critical habitat is occupied by the subspecies; thus, the presence of the subspecies, once it is listed, would result in significant baseline protection under the Act; (2) project modifications requested by the Service to avoid jeopardy to the subspecies would be the same as those likely to avoid adverse modification of critical habitat; (3) critical habitat would be unlikely to increase the number of consultations as a result of the awareness by Federal agencies of the need to consult if the subspecies is listed, as well as the past involvement of key action agencies in consultations for co-occurring species; (4) the proposed designation also receives baseline protection from the presence of two federally-listed species (gopher tortoise and red-cockaded woodpecker) that have habitat needs similar to those of the pinesnake; and (5) the proposed designation also receives baseline protection from overlap with designated critical habitat for the dusky gopher frog.

As we stated earlier, we are soliciting data and comments from the public on the DEA, as well as all aspects of this proposed rule. We may revise the

proposed rule or supporting documents to incorporate or address information we receive during the public comment period. In particular, we may exclude an area from critical habitat if we determine that the benefits of excluding the area outweigh the benefits of including the area, provided that the exclusion will not result in the extinction of the species.

Exclusions Based on National Security Impacts

Under section 4(b)(2) of the Act, we consider whether there are lands where a national security impact might exist. This portion of the Act allows the Secretary to exercise her discretion to exclude areas from critical habitat for reasons of national security if she determines the benefits of such exclusion exceed the benefits of designating the area as critical habitat. However, this exclusion cannot occur if it will result in the extinction of the species.

Camp Shelby Joint Forces Training Center Impact Area

After considering the Camp Shelby Joint Forces Training Center Impact Area occupying a portion (4,647 ac (1,880 ha)) of Unit 3 in Perry County, Mississippi, under section 4(b)(2) of the Act, we are considering excluding it from the critical habitat designation for the black pinesnake.

However, we specifically solicit comments on the inclusion or exclusion of this area. In the paragraphs below, we provide a detailed analysis of our consideration to exclude this land under section 4(b)(2) of the Act.

The Impact Area of Camp Shelby Joint Forces Training Center (Camp Shelby) is a 4,647–ac (1,880–ha) area operated by the MSARNG for training and maneuver exercises in an area of the De Soto National Forest within Unit 3 located in Perry County, Mississippi. The MSARNG utilizes this area under a special use permit from the U.S. Forest Service, who is the primary landowner and manager within the installation boundary. The Impact Area, which is located in the center of Camp Shelby and in the northern portion of Unit 3, has been utilized for artillery training for decades. As a result, access of any kind is prohibited in this impact area due to the high risk of encountering unexploded ordnance. None of the acreage within the Impact Area is covered under the Camp Shelby INRMP; thus, none of this acreage was considered for exemption under section 4(a)(3) of the Act (see *Approved INRMP* under the Exemptions section, above).

Benefits of Inclusion: Camp Shelby Impact Area

We are not able to demonstrate any benefit to including this area in the critical habitat designation for the black pinesnake. Access into this area is prohibited for human safety. The educational benefit associated with identifying specific areas as critical habitat as a means to provide public with notice of areas of potential conservation value is realized in that this area is embedded in currently proposed critical habitat. Furthermore, because access into this area is prohibited, there are likely no habitat-altering activities taking place in this area at the scale that would affect the physical and biological features essential to the conservation of this subspecies. To the contrary, due to the nature of use of this area, this area experiences frequent fires, a natural component of the longleaf pine ecosystem that promotes optimal forest conditions for the black pinesnake.

Benefits of Exclusion: Camp Shelby Impact Area

The benefits of excluding approximately 4,647 ac (1,880 ha) of U.S. Forest Service lands that encompasses the Impact Area of Camp Shelby (which the Mississippi Army National Guard uses for training purposes) are significant. Foremost, as a human safety issue, access of any kind is prohibited into this area due to the high risk of encountering unexploded ordnance; thus, there is no opportunity to implement management. However, as stated above, the area experiences frequent fires due to the nature of its use, which is the preferred management technique for maintaining optimal habitat conditions for the black pinesnake. In addition, the black pinesnake receives secondary conservation benefits from management of adjacent lands for the threatened gopher tortoise. Lands within the Impact Area of Camp Shelby are used for artillery training that provides soldiers with essential combat skills that they use on the battlefield. We believe that excluding these U.S. Forest Service lands from critical habitat designation would remove the potential impact that a designation of critical habitat could have on MSARNG and the military's ability to maintain national security.

Benefits of Exclusion Outweigh the Benefits of Inclusion: Camp Shelby Impact Area

Though access to the Camp Shelby Impact Area is prohibited, an analysis of GIS and aerial imagery determined that the Impact Area (4,647 ac (1,880 ha)) of the Camp Shelby Joint Forces Training Center contains the physical and biological features essential to the conservation of the black pinesnake, thereby meeting the definition of critical habitat under the Act. This area is also contiguous with other proposed critical habitat with known occurrences for the black pinesnake. In making our recommendation to exclude the Camp Shelby Impact area, we considered several factors: Prohibited access due to a human safety issue; the apparent maintenance of physical and biological factors essential to the conservation of the subspecies from frequent burning due to the nature of use of the area; protection from habitat loss associated with land conversion; and potential impacts to national security associated with a critical habitat designation. We believe there are significant benefits to excluding these lands from critical habitat designation and are unable to demonstrate a benefit to including these lands in the designation. Access is prohibited into the area; thus, there is no opportunity for surveying, monitoring, or management. Therefore, we have preliminarily determined that the benefits of exclusion of approximately 4,647 ac (1,880 ha) of the Impact Area of Camp Shelby from the critical habitat designation outweigh the benefits of including these lands.

Exclusion Will Not Result in Extinction of the Subspecies: Camp Shelby Impact Area

The exclusion of this small portion (4,647 ac (1,880 ha)) from the total proposed critical habitat designation in Unit 3 (145,143 ac (58,737 ha)) will have minimal to no adverse effect on the subspecies. Adjacent lands contain habitat for the black pinesnake and are part of proposed designation. Maintenance of appropriate habitat for the black pinesnake with frequent fires is likely to continue in this area due to the use of this area for artillery training. The jeopardy standard of section 7 of the Act and routine implementation of conservation measures through the section 7 process on lands provide additional assurances that the subspecies will not become extinct as a result of this exclusion. Thus, it is our assessment that the exclusion of the Camp Shelby Impact Area lands from the final designation of critical habitat for the black pinesnake will not result in the extinction of the subspecies.

Based on this analysis, under section 4(b)(2) of the Act, the Secretary is considering exercising her discretion to exclude the Camp Shelby Impact Area within Unit 3 from the final critical

habitat designation as a result of impacts to national security.

Exclusions Based on Other Relevant Impacts

Under section 4(b)(2) of the Act, we consider any other relevant impacts, in addition to economic impacts and impacts on national security. We consider a number of factors, including whether the landowners have developed any HCPs or other management plans for the area, or whether there are conservation partnerships that would be encouraged by designation of, or exclusion from, critical habitat. In addition, we look at any tribal issues, and consider the government-to-government relationship of the United States with tribal entities. We also consider any social impacts that might occur because of the designation.

In preparing this proposal, we have determined that there are currently no HCPs or other management plans for the black pinesnake, and the proposed designation does not include any tribal lands or trust resources. Therefore, we anticipate no impact on tribal lands or HCPs from this proposed critical habitat designation. Accordingly, the Secretary does not plan to exercise her discretion to exclude any areas from the final designation based on other relevant impacts.

Peer Review

In accordance with our joint policy on peer review published in the **Federal Register** on July 1, 1994 (59 FR 34270), we will seek the expert opinions of at least three appropriate and independent specialists regarding this proposed rule. The purpose of peer review is to ensure that our critical habitat designation is based on scientifically sound data and analyses. We will invite these peer reviewers to comment during this public comment period.

We will consider all comments and information we receive during the comment period on this proposed rule during our preparation of a final determination. Accordingly, the final decision may differ from this proposal.

Public Hearings

Section 4(b)(5) of the Act provides for one or more public hearings on this proposal, if requested. Requests must be received within 45 days after the date of publication of this proposed rule in the **Federal Register**. Such requests must be sent to the address shown in the **FOR FURTHER INFORMATION CONTACT** section. We will schedule public hearings on this proposal, if any are requested, and announce the dates, times, and places of those hearings, as well as how to obtain reasonable accommodations, in the **Federal Register** and local newspapers at least 15 days before the hearing.

Required Determinations

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of 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 (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (RFA; 5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA; 5 U.S.C. 801 *et seq.*), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (*i.e.,* small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the RFA to require Federal agencies to provide a certification statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities.

According to the Small Business Administration, small entities include small organizations such as independent nonprofit organizations; small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents; and small businesses (13 CFR 121.201). Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than $5 million in annual sales, general and heavy construction businesses with less than $27.5 million in annual business, special trade contractors doing less than $11.5 million in annual business, and agricultural businesses with annual sales less than $750,000. To determine if potential economic impacts to these small entities are significant, we considered the types of activities that might trigger regulatory impacts under this designation as well as types of project modifications that may result. In general, the term ''significant economic impact'' is meant to apply to a typical small business firm's business operations.

The Service's current understanding of the requirements under the RFA, as amended, and following recent court decisions, is that Federal agencies are only required to evaluate the potential incremental impacts of rulemaking on those entities directly regulated by the rulemaking itself, and therefore, not required to evaluate the potential impacts to indirectly regulated entities. The regulatory mechanism through which critical habitat protections are realized is section 7 of the Act, which requires Federal agencies, in consultation with the Service, to ensure that any action authorized, funded, or carried by the agency is not likely to adversely modify critical habitat. Therefore, under these circumstances only Federal action agencies are directly subject to the specific regulatory requirement (avoiding destruction and adverse modification) imposed by critical habitat designation. Under these circumstances, it is our position that only Federal action agencies will be directly regulated by this designation. Federal agencies are not small entities, and to this end, there is no requirement under RFA to evaluate the potential impacts to entities not directly regulated. Therefore, because no small entities are directly regulated by this rulemaking, the Service certifies that, if promulgated, the proposed critical habitat designation will not have a significant economic impact on a substantial number of small entities.

In summary, we have considered whether the proposed designation would result in a significant economic impact on a substantial number of small entities. For the above reasons and based on currently available

information, we certify that, if promulgated, the proposed critical habitat designation would not have a significant economic impact on a substantial number of small business entities. Therefore, an initial regulatory flexibility analysis is not required.

Energy Supply, Distribution, or Use—Executive Order 13211

Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use) requires agencies to prepare Statements of Energy Effects when undertaking certain actions. Based on an analysis of areas included in this proposal, we do not expect that the designation of critical habitat as proposed would significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action, and no Statement of Energy Effects is required. However, we will further evaluate this issue as we conduct our economic analysis, and review and revise this assessment as warranted.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), we make the following findings:

(1) This rule would not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, or tribal governments, or the private sector, and includes both ''Federal intergovernmental mandates'' and ''Federal private sector mandates.'' These terms are defined in 2 U.S.C. 658(5)–(7). ''Federal intergovernmental mandate'' includes a regulation that ''would impose an enforceable duty upon State, local, or tribal governments'' with two exceptions. It excludes ''a condition of Federal assistance.'' It also excludes ''a duty arising from participation in a voluntary Federal program,'' unless the regulation ''relates to a then-existing Federal program under which $500,000,000 or more is provided annually to State, local, and tribal governments under entitlement authority,'' if the provision would ''increase the stringency of conditions of assistance'' or ''place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding,'' and the State, local, or tribal governments ''lack authority'' to adjust accordingly. At the time of enactment, these entitlement programs were: Medicaid; Aid to Families with Dependent Children work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement. ''Federal private sector mandate'' includes a regulation that ''would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance or (ii) a duty arising from participation in a voluntary Federal program.''

The designation of critical habitat does not impose a legally binding duty on non-Federal Government entities or private parties. Under the Act, the only regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat under section 7. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply, nor would critical habitat shift the costs of the large entitlement programs listed above onto State governments.

(2) We do not believe that this rule would significantly or uniquely affect small governments because the black pinesnake occurs primarily on Federal and privately owned lands. None of these government entities fit the definition of ''small governmental jurisdiction.'' Therefore, a Small Government Agency Plan is not required. However, we will further evaluate this issue as we conduct our economic analysis, and review and revise this assessment if appropriate.

Takings—Executive Order 12630

In accordance with Executive Order 12630 (''Government Actions and Interference with Constitutionally Protected Private Property Rights''), we have analyzed the potential takings implications of designating critical habitat for the black pinesnake in a takings implications assessment. Based on the best available information, the takings implications assessment concludes that this designation of critical habitat the black pinesnake would not pose significant takings implications. However, we will further evaluate this issue as we develop our final designation, and review and revise this assessment as warranted.

Federalism—Executive Order 13132

In accordance with E.O. 13132 (Federalism), this proposed rule does not have significant Federalism effects. A federalism summary impact statement is not required. In keeping with Department of the Interior and Department of Commerce policy, we requested information from, and coordinated development of this proposed critical habitat designation with appropriate State resource agencies in Alabama, Louisiana, and Mississippi. From a federalism perspective, the designation of critical habitat directly affects only the responsibilities of Federal agencies. The Act imposes no other duties with respect to critical habitat, either for States and local governments, or for anyone else. As a result, the rule does not have substantial direct effects either on the States, or on the relationship between the national government and the States, or on the distribution of powers and responsibilities among the various levels of government. The designation may have some benefit to these governments because the areas that contain the features essential to the conservation of the subspecies are more clearly defined, and the PBFs of the habitat necessary to the conservation of the subspecies are specifically identified. This information does not alter where and what federally sponsored activities may occur. However, it may assist these local governments in long-range planning (because these local governments no longer have to wait for case-by-case section 7 consultations to occur).

Where State and local governments require approval or authorization from a Federal agency for actions that may affect critical habitat, consultation under section 7(a)(2) would be required. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency.

Civil Justice Reform—Executive Order 12988

In accordance with Executive Order 12988 (Civil Justice Reform), the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2)

of the Order. We are proposing to designate critical habitat in accordance with the provisions of the Act. To assist the public in understanding the habitat needs of the black pinesnake, this proposed rule identifies the elements of PBFs essential to the conservation of the subspecies. The proposed critical habitat units are presented on maps, and the rule provides several options for the interested public to obtain more detailed location information, if desired.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This rule does not contain any new collections of information that require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This rule will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

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

It is our position that, outside the jurisdiction of the U.S. Court of Appeals for the Tenth Circuit, we do not need to prepare environmental analyses pursuant to the National Environmental Policy Act in connection with designating critical habitat under the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This position was upheld by the U.S. Court of Appeals for the Ninth Circuit (*Douglas County* v. *Babbitt,* 48 F.3d 1495 (9th Cir. 1995), cert. denied 516 U.S. 1042 (1996)).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951), Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with tribes in developing programs for healthy ecosystems, to acknowledge that tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to tribes.

We have determined that there are no tribal lands that are occupied by the black pinesnake at the time of listing that contain the features essential for conservation of the subspecies, and no tribal lands unoccupied by the black pinesnake that are essential for the conservation of the subspecies. Therefore, we are not proposing to designate critical habitat for the black pinesnake on tribal lands.

Clarity of the Rule

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:

(1) Be logically organized;

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

(3) Use clear language rather than jargon;

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

(5) 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 are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

References Cited

A complete list of references cited in this rulemaking is available on the Internet at *http://www.regulations.gov* under Docket No. FWS–R4–ES–2014–0065 and upon request from the Mississippi Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this proposed rule are the staff members of the Mississippi Field Office.

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

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

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

■ 2. In § 17.95, amend paragraph (c) by adding an entry for ''Black Pinesnake (*Pituophis melanoleucus lodingi*),'' in the same alphabetical order that the species appears in the table at § 17.11(h), to read as follows:

§ 17.95 Critical habitat—fish and wildlife.

* * * * *

(c) *Reptiles.*

* * * * *

Black Pinesnake (*Pituophis melanoleucus lodingi*)

(1) Critical habitat units are depicted for Forrest, George, Greene, Harrison, Jones, Marion, Perry, Stone, and Wayne Counties, Mississippi, and Clarke County, Alabama, on the maps below.

(2) Within these areas, the primary constituent elements of the physical and biological features essential to the conservation of the black pinesnake consist of three components:

(i) *Tract size and habitat structure.* A longleaf pine-dominated forest maintained by frequent fire, and primarily having the following characteristics:

(A) Open canopy (≤ 70 percent);

(B) Reduced woody mid-story (< 10 percent cover);

(C) Abundant, diverse, native groundcover (at least 40 percent cover); and

(D) Minimum of 5,000 acres (2,023 hectares) of mostly unfragmented habitat.

(ii) *Refugia sites and topographic features.* Naturally burned-out or rotted-out pine stumps and their associated root systems, in longleaf pine forests on ridges with elevation of 150 feet (46 meters) or greater.

(iii) *Soils.* Deep, sandy, well-drained soils of longleaf pine forest, characterized by:

(A) No flooding or ponding;

(B) < 15 percent medium and coarse gravel fragments;

(C) > 60 inches (152 centimeters) depth to seasonal high water table;

(D) > 60 inches (152 centimeters) depth to the hardpan;

(E) Textural components equaling > 30 percent sand and < 35 percent clay; and

(F) A slope < 15 percent.

(3) Critical habitat does not include manmade structures (such as buildings, aqueducts, runways, roads, and other paved areas) and the land on which they are located existing within the legal boundaries on the effective date of this rule. In addition, State and Department of Defense lands, covered under the Camp Shelby INRMP, are also not considered critical habitat in Unit 3.

(4) *Critical habitat map units.* Data layers defining map units were developed from USGS 7.5'quadrangles, and critical habitat units were then using Universal Transverse Mercator (UTM) Zone 15N coordinates. The maps in this entry, as modified by any accompanying regulatory text, establish the boundaries of the critical habitat designation. The coordinates or plot points or both on which each map is based are available to the public at the Service's Internet site at *http://www.fws.gov/mississippiES/,* at *http://www.regulations.gov* at Docket No. FWS–R4–ES–2014–0065, and at the field office responsible for this designation. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

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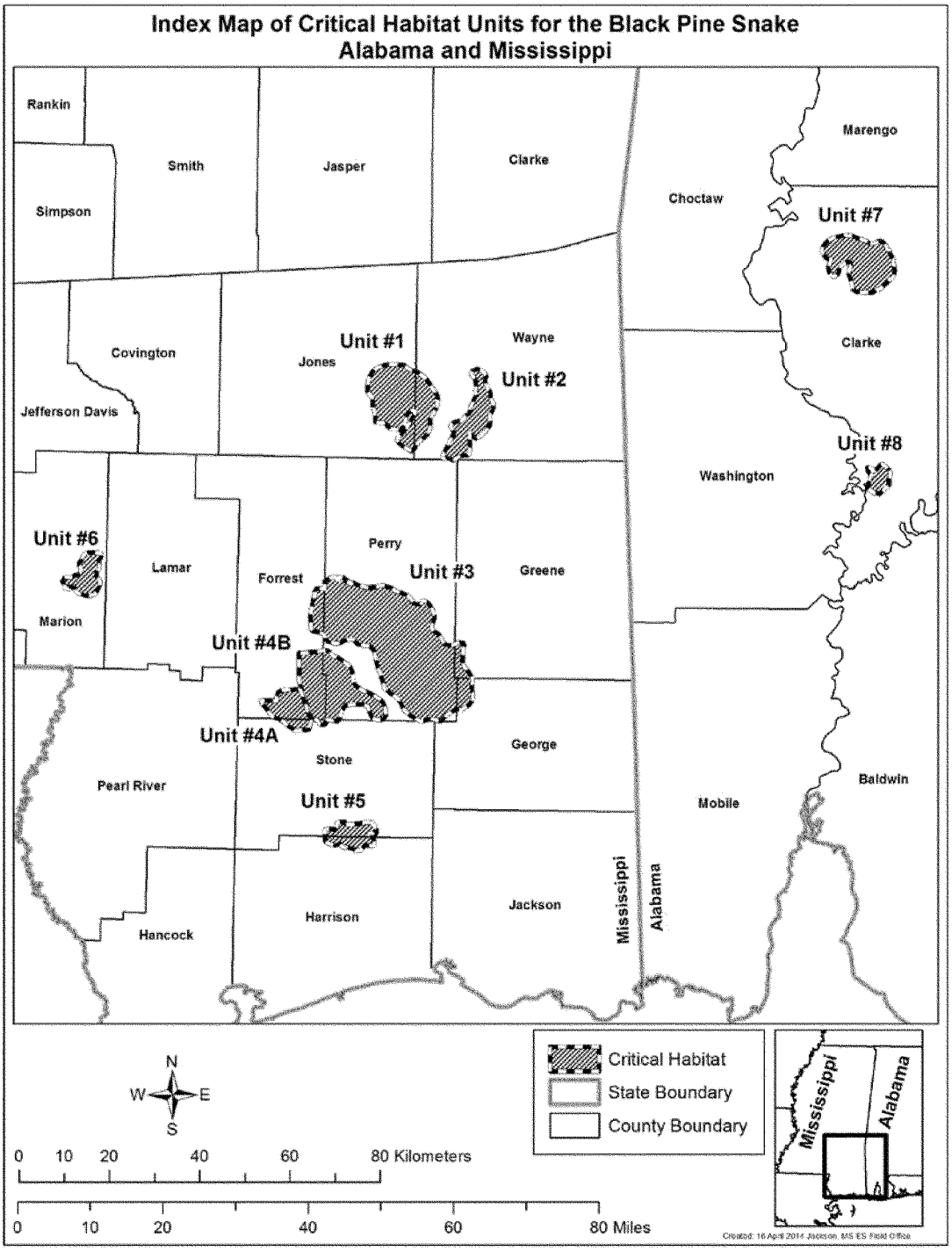
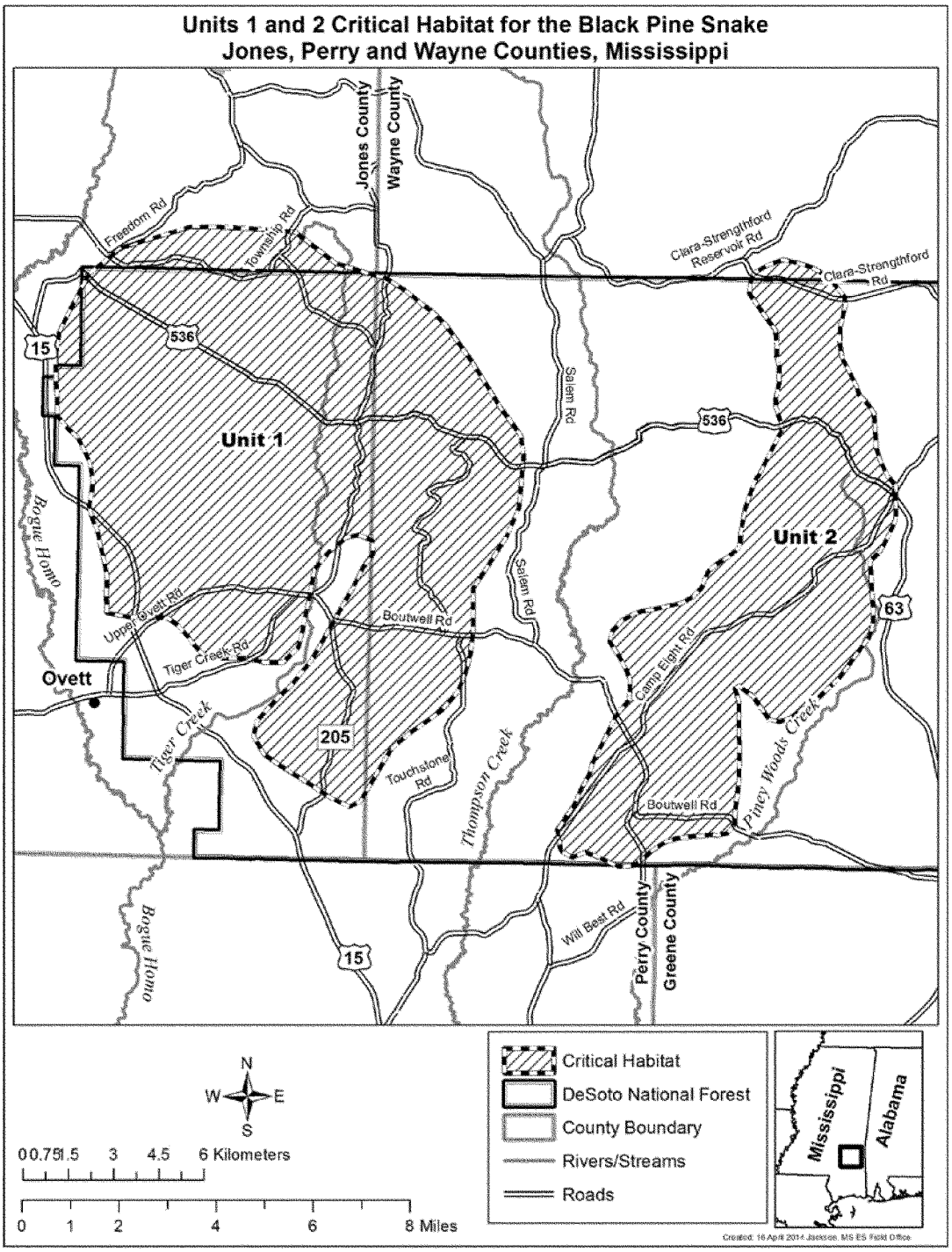
(5) **NOTE:** Index map follows:



(6) Unit 1: Ovett—Jones and Wayne Counties, Mississippi.

(i) This unit is located between the Bogue Homo River and Thompson Creek, is approximately 2.0 mi (3.2 km) northeast of Ovett, and is mostly within the boundary of the Chickasawhay Ranger District of the De Soto National Forest. It is located just east of State Highway 15, west of Salem Road, north of the intersection of State Highway 15 and County Road 205, and approximately 1.3 mi (2.1 km) south of the intersection of Freedom Road and Forest Road.

(ii) Map of Units 1 (Ovett) and 2 (Piney Woods Creek) follows:



(7) Unit 2: Piney Woods Creek—Perry and Wayne Counties, Mississippi.

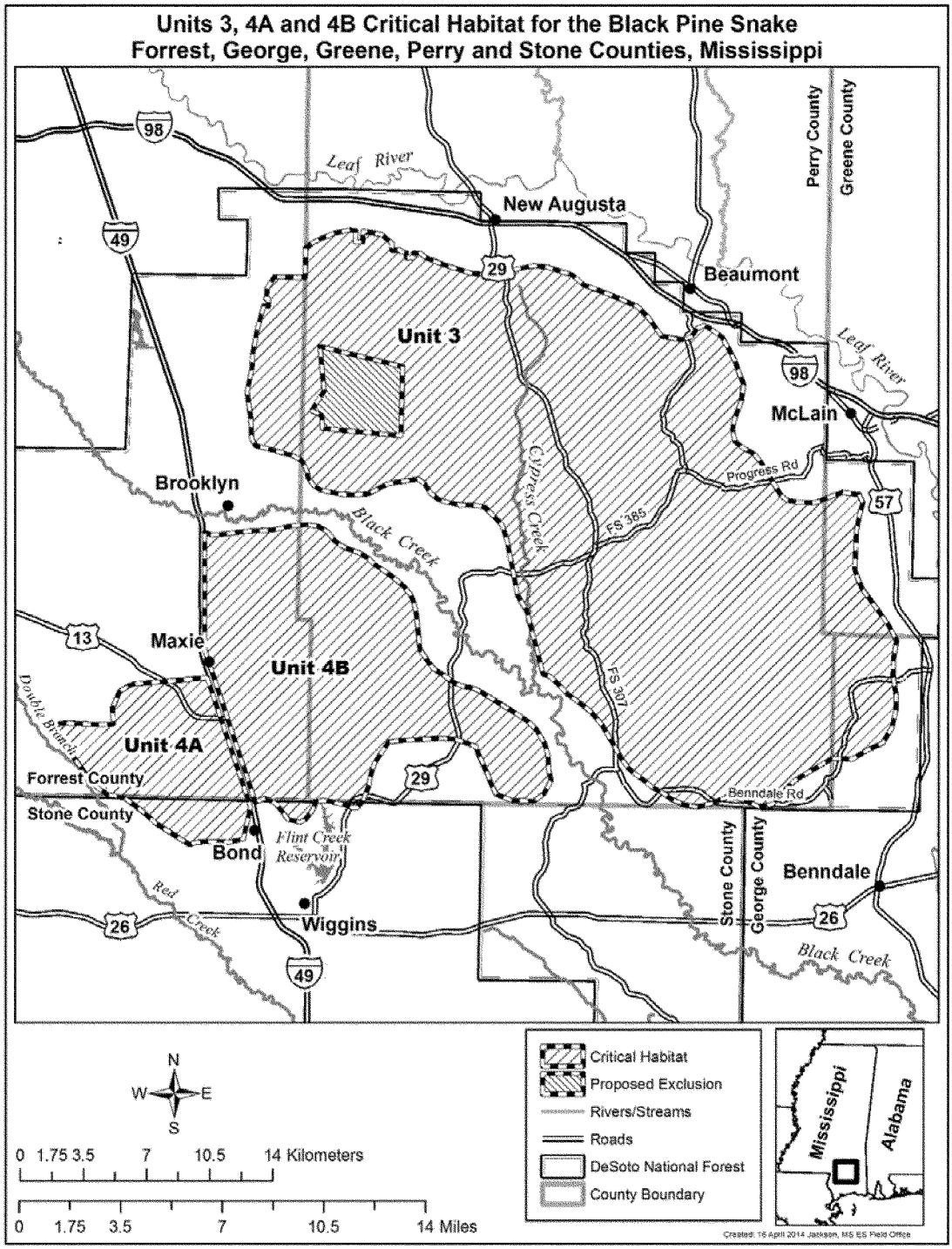
(i) This unit is located between Thompson Creek and Piney Woods Creek, is approximately 4.0 mi (6.4 km) west of Clara, and is mostly within the boundary of the Chickasawhay Ranger District of the De Soto National Forest. It is located 2.3 mi (3.7 km) north of the intersection of Camp Eight Road and Will Best Road, and 0.4 mi (0.6 km) southeast of the intersection of Clara-Strengthford Road and Clara-Strengthford Reservoir Road.

(ii) Map of Unit 2 (Piney Woods Creek) is provided at paragraph (6)(ii) of this entry.

(8) Unit 3: Cypress Creek—Greene, George, Forrest, and Perry Counties, Mississippi.

(i) This unit is located north of Black Creek (Cypress Creek runs into part of the unit, but is not a barrier to gene flow), and is approximately 3.0 mi (4.8 km) east of McLaurin, 1.8 mi (2.9 km) south of New Augusta, and 4.6 mi (7.4 km) northwest of Benndale. Unit 3 is mostly within the installation boundary of Camp Shelby on the De Soto Ranger District of the De Soto National Forest, and is bordered by State Highways 26 and 57 and U.S. Highways 49 and 98.

(ii) Map of Units 3 (Cypress Creek) and 4 (Maxie) follows:



(9) Unit 4: Maxie—Forrest, Perry, and Stone Counties, Mississippi.

(i) Subunit 4A—Forrest and Stone Counties, Mississippi. Subunit 4A is located between Double Branch and U.S. Highway 49 in Forrest and Stone Counties, Mississippi. It is 0.3 mi (4.8 km) northwest of Bond and 0.5 mi (0.8 km) southwest of Maxie, and is located mostly within the boundary of the De Soto Ranger District of the De Soto National Forest.

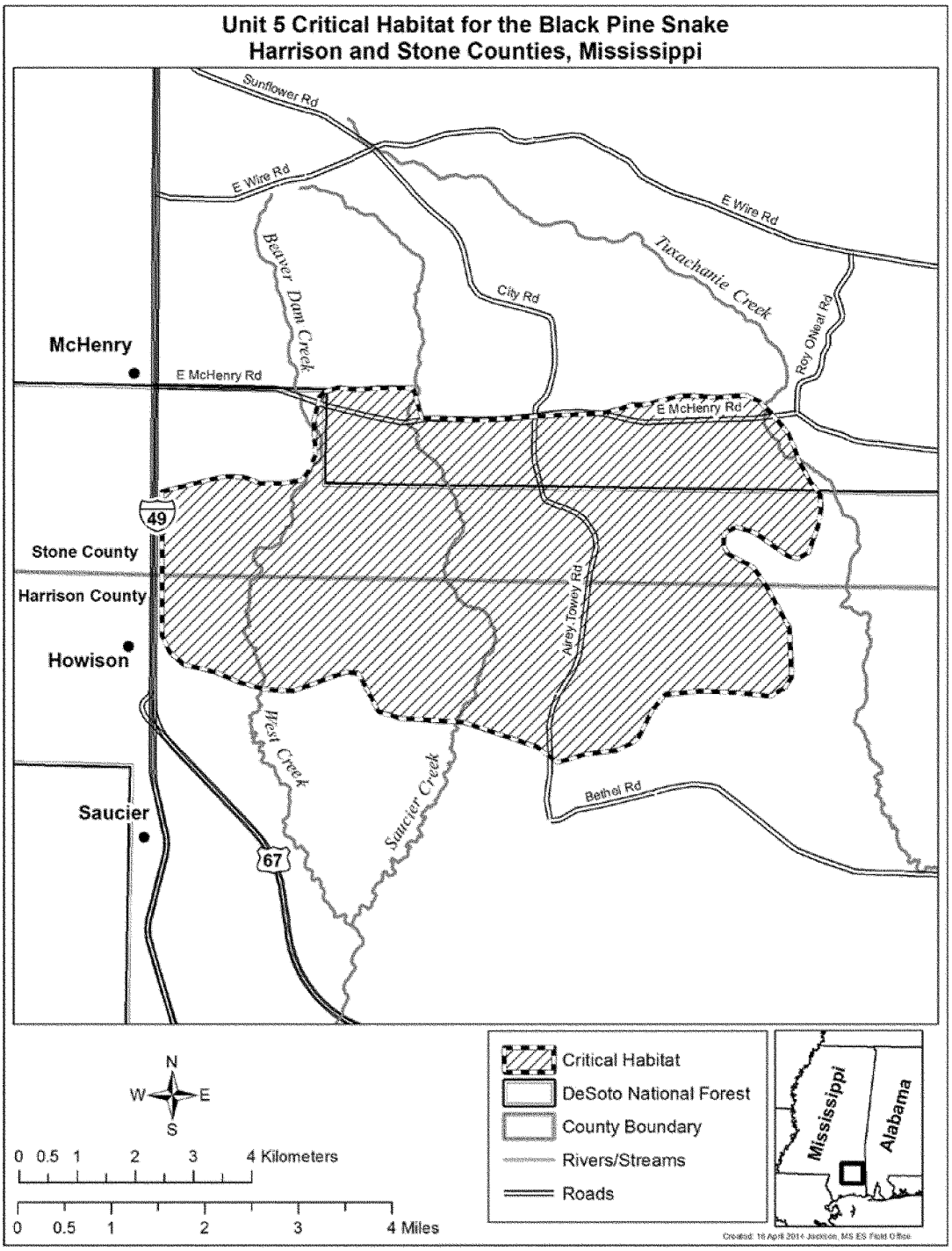
(ii) Subunit 4B—Forrest, Perry, and Stone Counties, Mississippi. Subunit 4B is located between Black Creek and U.S. Highway 49 in Forrest, Perry, and Stone Counties, Mississippi. It is directly adjacent to Maxie on the western border, and is located mostly within the boundary of the De Soto Ranger District of the De Soto National Forest.

(iii) Map of Unit 4 (Maxie) is provided at paragraph (8)(ii) of this entry.

(10) Unit 5: Howison—Harrison and Stone Counties, Mississippi.

(i) This unit is located between Tuxachanie Creek and U.S. Highway 49, approximately 0.4 mi (0.6 km) east of Howison and 1.3 mi (2 km) southeast of McHenry, and is mostly within the boundary of the De Soto Ranger District of the De Soto National Forest. The unit is bordered on the northern edge by E. McHenry Road and on the western edge by U.S. Highway 49 (buffered from the highway by at least 328 ft (100 m)).

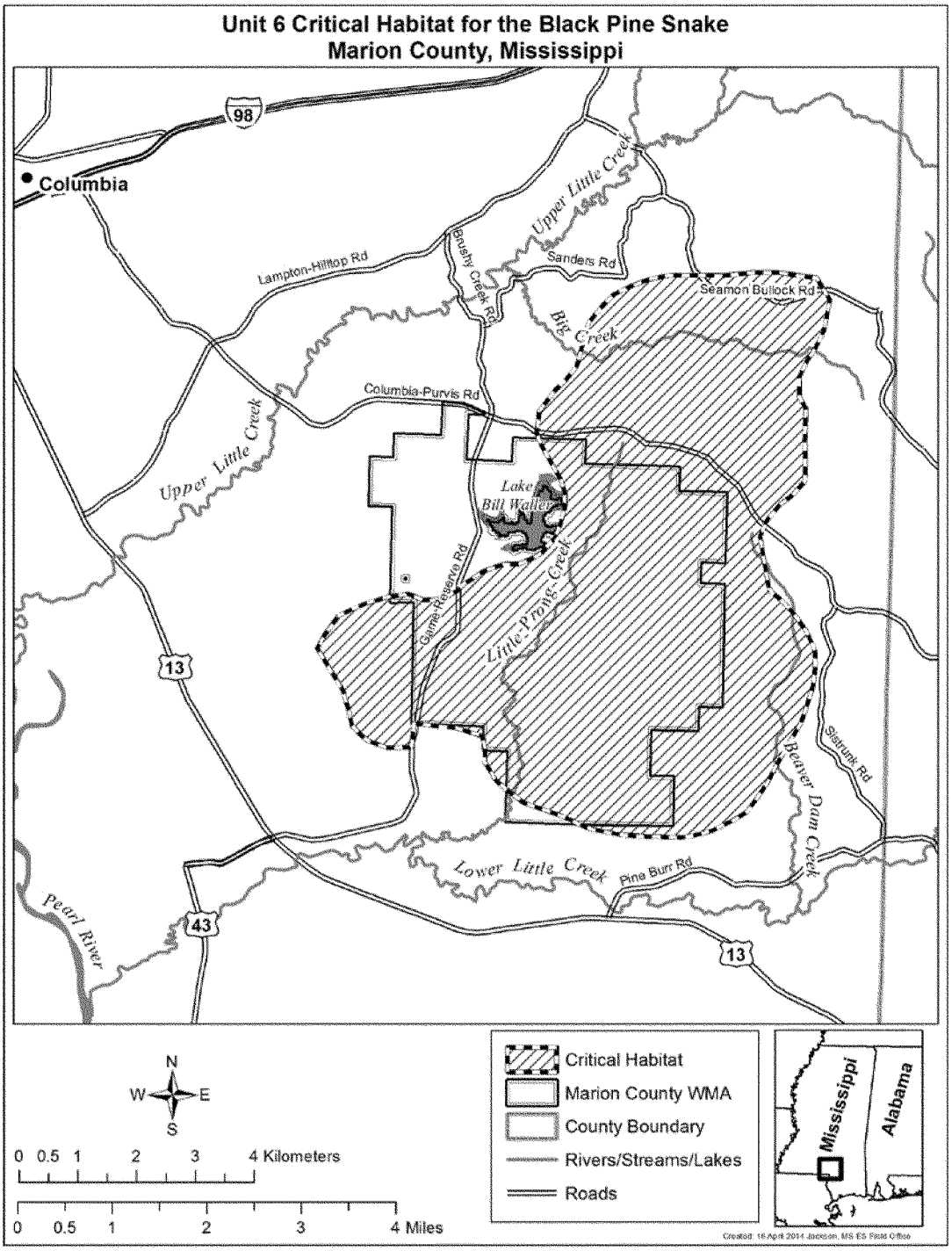
(ii) Map of Unit 5 (Howison) follows:



(11) Unit 6: Marion County WMA—Marion County, Mississippi.

(i) This unit is located between the Upper Little Creek and Lower Little Creek, 7.0 mi (11 km) southeast of Columbia. It is located 0.8 mi (1.3 km) north of State Highway 13, and 2.6 mi (4.2 km) south of U.S. Highway 98. Approximately half of Unit 6 is within the Marion County Wildlife Management Area (WMA).

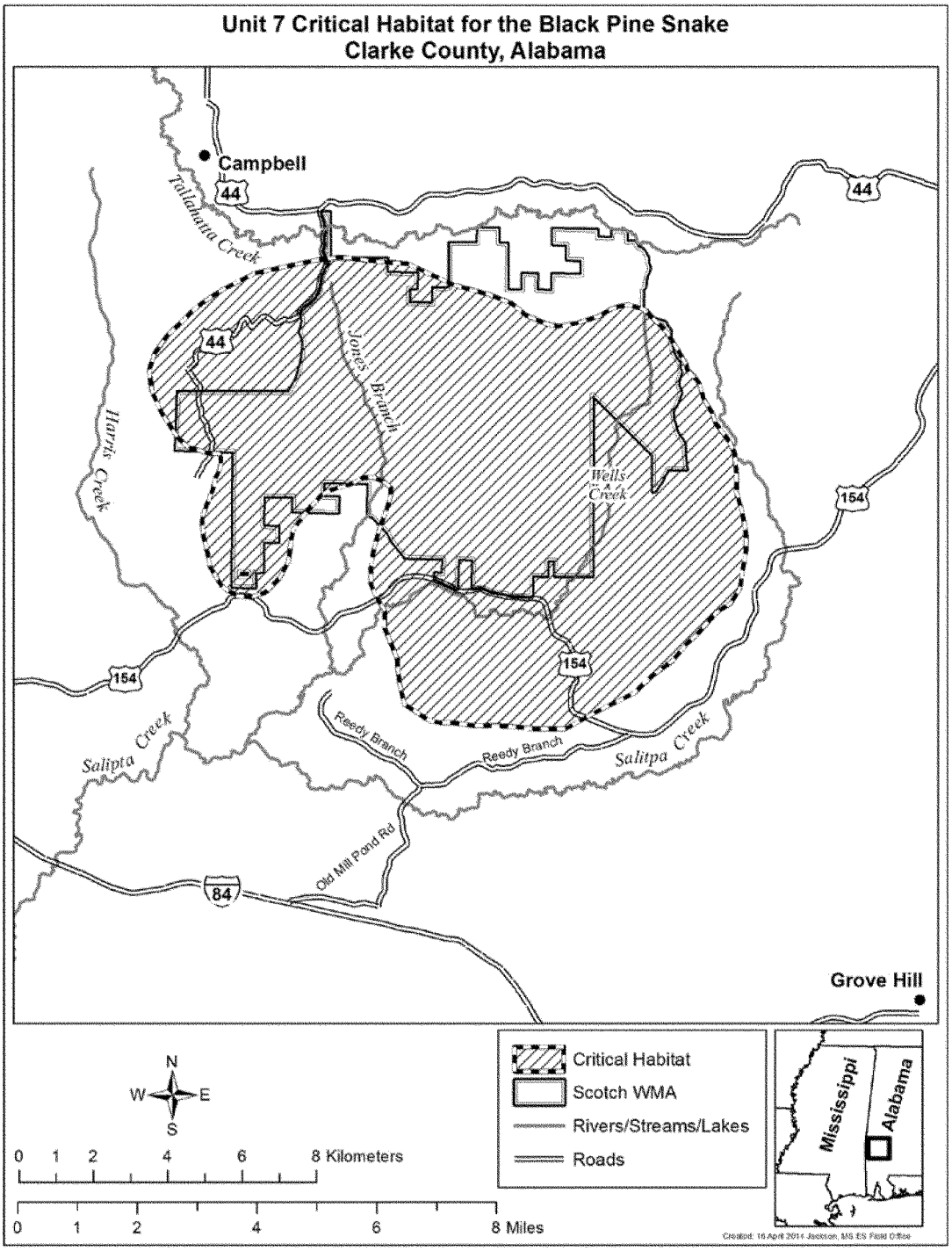
(ii) Map of Unit 6 (Marion County WMA) follows:



(12) Unit 7: Scotch WMA—Clarke County, Alabama.

(i) This unit is bordered by Salitpa Creek to the south, Tallahatta Creek to the north, and Harris Creek to the west. It is located approximately 2.7 mi (4.3 km) southeast of Campbell, and approximately half of the unit is on the Scotch Wildlife Management Area (WMA). Unit 7 is located 1.1 mi (1.8 km) north of the intersection of Old Mill Pond Road and Reedy Branch Road.

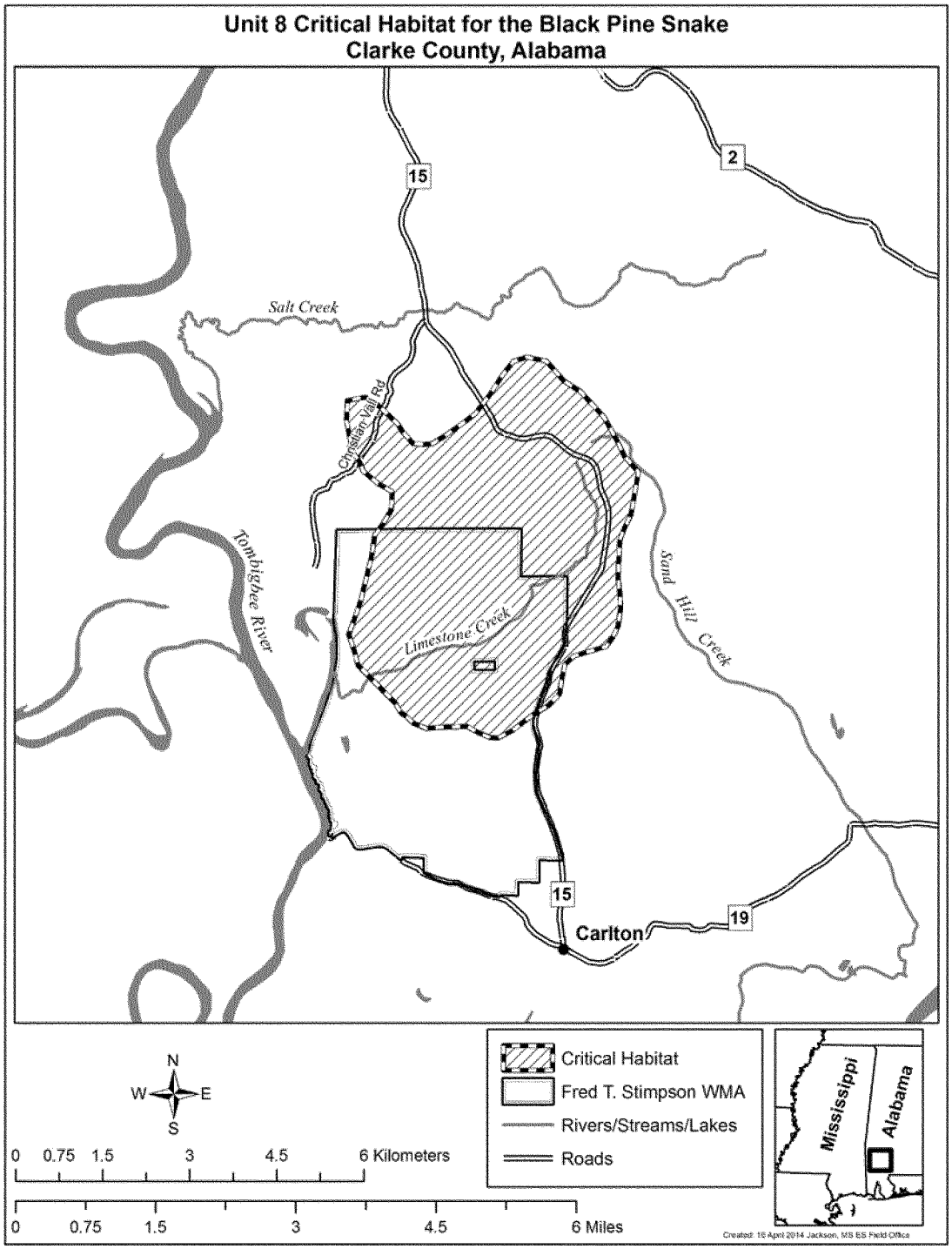
(ii) Map of Unit 7 (Scotch WMA) follows:



(13) Unit 8: Fred T. Stimpson WMA—Clarke County, Alabama.

(i) This unit is located between Sand Hill Creek and the Tombigbee River, is approximately 2.5 mi (4 km) north of Carlton, and is 1.0 mi (1.6 km) south of the intersection of County Road 15 and Christian Vall Road. The southern half of this unit is on the Fred T. Stimpson Wildlife Management Area (WMA).

(ii) Map of Unit 8 (Fred T. Stimpson WMA) follows:



* * * * *

Dated: January 14, 2015.

Michael J. Bean,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2015–05326 Filed 3–10–15; 8:45 am]

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Part III

Department of Energy

10 CFR Parts 429 and 430

Energy Conservation Program for Consumer Products: Test Procedures for Residential Furnaces and Boilers; Proposed Rule

DEPARTMENT OF ENERGY

10 CFR Parts 429 and 430

[Docket No. EERE–2012–BT–TP–0024]

RIN 1904–AC79

Energy Conservation Program for Consumer Products: Test Procedures for Residential Furnaces and Boilers

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

ACTION: Notice of proposed rulemaking and announcement of public meeting.

SUMMARY: The U.S. Department of Energy (DOE) proposes to revise its test procedure for residential furnaces and boilers established under the Energy Policy and Conservation Act. This rulemaking will fulfill DOE's obligation to review its test procedures for covered products at least once every seven years. The proposed rule generally considers revisions based on the latest industry standards incorporated by reference, clarifications to the set-up and methodology, as well as new procedures for verification of the design requirements for certain categories of boilers and for estimating electrical consumption of furnaces and boilers. DOE is also announcing a public meeting to discuss and receive comments on issues presented in this test procedure rulemaking.

DATES: *Meeting:* DOE will hold a public meeting on Thursday March 26, 2015 from 1 p.m. to 5 p.m., in Washington, DC. The meeting will also be broadcast as a webinar. See section V, ''Public Participation,'' for webinar registration information, participant instructions, and information about the capabilities available to webinar participants.

Comments: DOE will accept comments, data, and information regarding this notice of proposed rulemaking (NOPR) before and after the public meeting, but no later than May 26, 2015. See section V, ''Public Participation,'' for details.

ADDRESSES: The public meeting will be held at the U.S. Department of Energy, Forrestal Building, Room 8E–089, 1000 Independence Avenue SW., Washington, DC 20585. To attend, please notify Ms. Brenda Edwards at (202) 586–2945. Persons may also attend the public meeting via webinar. For more information, refer to section V, ''Public Participation,'' section near the end of this notice.

Interested parties are encouraged to submit comments using the Federal eRulemaking Portal at *www.regulations.gov.* Alternatively, interested parties may submit comments, by any of the following methods:

- *Email: ResFurnBoilers2013TP0008@ee.doe.gov* Include the docket number EERE–2012–BT–TP–0024 and/or RIN 1904–AC79 in the subject line of the message. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption.
- *Postal Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW., Washington, DC, 20585–0121. If possible, please submit all items on a 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, 950 L'Enfant Plaza, SW., Suite 600, Washington, DC, 20024. Telephone: (202) 586–2945. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimiles (faxes) will be accepted. For detailed instructions on submitting comments and additional information on the rulemaking process, see section V of this document (Public Participation).

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

A link to the docket Web page can be found at: *http://www.regulations.gov/#!docketDetail;D=EERE-2012-BT-TP-0024.* This Web page contains a link to the docket for this notice of proposed rulemaking on the *www.regulations.gov* site. The *www.regulations.gov* Web page contains simple instructions on how to access all documents, including public comments, in the docket. See section V, ''Public Participation,'' for information on how to submit comments through *www.regulations.gov.*

For further information on how to submit a comment, review other public comments and the docket, or participate in the public meeting, contact Ms. Brenda Edwards at (202) 586–2945 or by email: *Brenda.Edwards@ee.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Ashley Armstrong, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW., Washington, DC, 20585–0121. Telephone: (202) 586–6590. Email: *Ashley.Armstrong@ee.doe.gov.*

Mr. Eric Stas, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW., Washington, DC, 20585–0121. Telephone: (202) 586–9507. Email: *Eric.Stas@hq.doe.gov.*

For information on how to submit or review public comments, contact Ms. Brenda Edwards, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–2945. Email: *Brenda.Edwards@ee.doe.gov.*

SUPPLEMENTARY INFORMATION:

DOE intends to incorporate by reference the following industry standards into 10 CFR part 430: ASTM–D2156—09 (Reapproved 2013).

Copies of ASTM–D2156—09 can be obtained from the American Society of Testing and Materials (ASTM) at ASTM Headquarters, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428–2959, (877) 909–2786 or (610) 832–9585, or go to *http://www.astm.org.*

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I. Authority and Background

Title III, Part B[1] of the Energy Policy and Conservation Act of 1975 (''EPCA'' or ''the Act''), Public Law 94–163 (42 U.S.C. 6291–6309, as codified) sets forth a variety of provisions designed to improve energy efficiency and established the Energy Conservation Program for Consumer Products Other Than Automobiles.[2] These products include residential furnaces and boilers, the subject of this notice. (42 U.S.C. 6292(a)(5))

Under EPCA, the energy conservation program generally consists of four parts: (1) Testing; (2) labeling; (3) Federal energy conservation standards; and (4) certification and enforcement procedures. The testing requirements consist of test procedures that manufacturers of covered products must use as the basis for: (1) Certifying to DOE that their products comply with the applicable energy conservation standards adopted pursuant to EPCA, and (2) making other representations about the efficiency of those products. (42 U.S.C. 6293(c); 42 U.S.C. 6295(s)) Similarly, DOE must use these test procedures to determine whether the products comply with any relevant standards promulgated under EPCA. (42 U.S.C. 6295(s))

Under 42 U.S.C. 6293, EPCA sets forth the criteria and procedures that DOE must follow when prescribing or amending test procedures for covered products. EPCA provides, in relevant part, that any test procedures prescribed or amended under this section shall be reasonably designed to produce test results which measure energy efficiency, energy use, or estimated annual operating cost of a covered product during a representative average use cycle or period of use, and shall not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3))

In addition, if DOE determines that a test procedure amendment is warranted, it must publish proposed test procedures and offer the public an opportunity to present oral and written comments on them. (42 U.S.C. 6293(b)(2)) Finally, in any rulemaking to amend a test procedure, DOE must determine to what extent, if any, the proposed test procedure would alter the product's measured energy efficiency as determined under the existing test procedure. (42 U.S.C. 6293(e)(1))

Further, the Energy Independence and Security Act of 2007 (EISA 2007), Public Law 110–140, amended EPCA to require that at least once every 7 years, DOE must review test procedures for all covered products and either amend the test procedures (if the Secretary determines that amended test procedures would more accurately or fully comply with the requirements of 42 U.S.C. 6293(b)(3)) or publish a notice in the **Federal Register** of any determination not to amend a test procedure. (42 U.S.C. 6293(b)(1)(A)) Under this requirement, DOE must review the test procedure for residential furnaces and boilers not later than December 19, 2014 (*i.e.,* 7 years after the publication of EISA 2007 on December 19, 2007). The final rule resulting from this rulemaking will satisfy this requirement.

DOE's current energy conservation standards for residential furnaces and boilers are expressed as a minimum Annual Fuel Utilization Efficiency (AFUE). AFUE is an annualized fuel efficiency metric that accounts for fuel consumption in active, standby, and off modes. The following discussion provides a brief history of the rulemakings underlying the existing test procedure for residential furnaces and boilers.

The existing DOE test procedure for determining the AFUE of residential furnaces and boilers is located at 10 CFR part 430, subpart B, appendix N, *Uniform Test Method for Measuring the Energy Consumption of Furnaces and Boilers.* The existing DOE test procedure for residential furnaces and boilers was established by a final rule published in the **Federal Register** on May 12, 1997, and it incorporates by reference ASHRAE Standard 103–1993, *Method of Testing for Annual Fuel Utilization Efficiency of Residential Central Furnaces and Boilers.* 62 FR 26140, 26157 (incorporated by reference at 10 CFR 430.3(f)(10)). On October 14, 1997 DOE published an interim final rule in the **Federal Register** to revise a provision concerning the insulation of the flue collector box in order to ensure the updated test procedure would not affect the measured AFUE of existing furnaces and boilers. 62 FR 53508. This interim final rule was adopted without change in a final rule published in the **Federal Register** on February 24, 1998. 63 FR 9390.

On October 20, 2010 DOE amended its test procedure for furnaces and boilers to establish a method for measuring the electrical energy use in standby mode and off mode for gas-fired and oil-fired furnaces and boilers, as required by EISA 2007. 75 FR 64621. These test procedure amendments incorporated by reference, and were based primarily on, provisions of the International Electrotechnical Commission (IEC) Standard 62301 (First Edition), *Household electrical appliances—Measurement of standby power.* On December 31, 2012 DOE published a final rule in the **Federal Register** that updated the incorporation by reference of the standby mode and off mode test procedure provisions to refer to the latest edition of IEC Standard 62301 (Second Edition). 77 FR 76831. On July 10, 2013, DOE published a final rule in the **Federal Register** that amended its test procedure for residential furnaces and boilers by adopting needed equations that allow manufacturers the option to omit the heat-up and cool-down tests and still generate a valid AFUE measurement. 78 FR 41265. On August 30, 2013, DOE published a correction to the July 10,

[1] For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A.

[2] All references to EPCA in this document refer to the statute as amended through the American Energy Manufacturing Technical Corrections Act (AEMTCA), Public Law 112–210 (Dec. 18, 2012).

2013 final rule that rectified errors in the redesignations of affected subsections within section 10 of appendix N. 78 FR 53625.

Most recently, on January 4, 2013, DOE published a request for information (RFI) in the **Federal Register** that sought comment and information on a variety of issues relating to the existing DOE residential furnace and boiler AFUE test method. 78 FR 675. Key issues discussed in the RFI include: (1) Test conditions impacting the AFUE metric; (2) test conditions impacting non-AFUE efficiency parameters; (3) the incorporation of a performance test to verify compliance with the design requirement that mandates the boiler must have a functioning automatic means for adjusting water temperature; (4) harmonization of standards; (5) reducing the test burden; (6) alternative methods for furnace/boiler efficiency determination; (7) scope of test procedure coverage; and (8) standby mode and off mode. By issuing the RFI, DOE began the process of fulfilling its obligation to periodically review its test procedures under 42 U.S.C. 6293(b)(1)(A).

II. Summary of the Notice of Proposed Rulemaking

In this NOPR, DOE proposes to modify the existing DOE test procedure for residential furnaces and boilers to improve the consistency and accuracy of test results generated using the DOE test procedure and to reduce test burden. DOE's proposals in the NOPR are based on data collected during product testing, as well as public comment received on the January 2013 RFI. A summary of the data analysis is included in the furnace and boiler development testing report (''Testing Report'').[3]

In overview, DOE proposes to amend the residential furnaces and boilers test procedure by incorporating by reference ASHRAE Standard 103–2007 (hereinafter referred to as ASHRAE 103–2007) in place of ASHRAE 103–1993, which currently is referenced in the existing test procedure. In addition, this notice proposes to adopt modifications that establish revised test procedures for two-stage and modulating products, as well as for boilers with long post-purge times that would not otherwise be included in the incorporation by reference of ASHRAE Standard 103–2007.

DOE also proposes to amend the test procedure to include: (1) Allowing the measurement of condensate under steady-state conditions during the steady-state test rather than requiring an additional 30 minutes of testing after the steady-state conditions are established; (2) revised annual electricity consumption equations to account for additional electrical components; (3) revised test procedure references to ''manufacturer recommendations'' or ''manufacturer's instructions'' that do not explicitly identify the source of the recommendations or instructions; (4) a test protocol for determining the functionality of the automatic means for adjusting water temperature, (5) adopting a test method to indicate the absence or presence of airflow to determine whether the minimum default draft factor may be used; (6) revised required reporting precision for AFUE; (7) specifying testing requirements for units that are installed without a return duct, and (8) testing requirements for units with multiposition configurations. The specific proposed changes to the test procedure are presented at the end of this notice.

In any rulemaking to amend a test procedure, DOE must determine to what extent, if any, the proposed test procedure would alter the measured efficiency of any covered product as determined under the existing test procedure. (42 U.S.C. 6293(e)(1)) For residential furnaces and boilers, DOE has tentatively determined that the proposed test procedure amendments would have a *de minimis* impact on the products' measured efficiency.

III. Discussion

In the January 2013 RFI, DOE sought input from interested parties on the following topics: (1) Test conditions impacting the AFUE metric; (2) test conditions impacting non-AFUE efficiency parameters; (3) the incorporation of a performance test to verify compliance with the design requirement that mandates the boiler must have a functioning automatic means for adjusting water temperature; (4) harmonization of standards; (5) reducing the test burden; (6) alternative methods for determining furnace/boiler efficiency; and (7) scope of test procedure coverage. 78 FR 675, 676–79 (Jan. 4, 2013). The following 14 interested parties submitted written comments: American Gas Association (AGA), National Propane Gas Association (NPGA), American Public Gas Association (APGA), Lennox Industries Inc.—PD&R (LII), United Technologies (UT) and Carrier (UT&C), Ingersoll Rand Residential Solutions (IRRS), Crown Boiler Company (CBC), U.S. Boiler Company (USBC), Energy Kinetics, Inc. (EKI), Rheem Manufacturing Company (RMC), the Air-Conditioning, Heating and Refrigeration Institute (AHRI), Natural Resources Defense Council (NRDC), Natural Resources Canada (NRCan), and Goodman Global, Inc. (GGI). Stakeholders provided comments on a range of issues, including those DOE identified in the January 2013 RFI, as well as several other pertinent issues related to the proposed test procedure changes and also clarification and consideration of some additional opportunities for improvement. The following discussion addresses the specific topics and provides DOE's responses to stakeholder comments.

A. Products Covered by the Proposed Rule

The proposed test procedure amendments cover those products that meet the definitions for residential furnaces and boilers, as codified in DOE's regulations at 10 CFR 430.2, which defines a furnace as a product that: (1) Utilizes only single-phase electric current, or single-phase electric current or direct current (DC) in conjunction with natural gas, propane, or home heating oil; (2) is designed to be the principal heating source for the living space of a residence; (3) is not contained within the same cabinet with a central air conditioner whose rated cooling capacity is above 65,000 Btu per hour; (4) is an electric central furnace, electric boiler, forced-air central furnace, gravity central furnace, or low pressure steam or hot water boiler; and (5) has a heat input rate of less than 300,000 Btu per hour for electric boilers and low pressure steam or hot water boilers and less than 225,000 Btu per hour for forced-air central furnaces, gravity central furnaces, and electric central furnaces.[4]

The definitions for the individual products covered in this test procedure, as codified in DOE's regulations at 10 CFR 430.2, include: (1) An *electric boiler* is an electrically powered furnace designed to supply low pressure steam or hot water for space heating application. A low pressure steam boiler operates at or below 15 pounds per

[3] U.S. Department of Energy—Office of Energy Efficiency and Renewable Energy. Energy Conservation Program for Consumer Products: Residential Furnace and Boiler Test Procedure Rulemaking: Testing Report: Energy Efficiency Standards for Consumer Products: Residential Furnaces and Boilers (February 2015) (Available in Docket #EERE–2012–BT–TP–0024 at *http://www.regulations.gov*).

[4] The definition of ''Furnace'' currently in the CFR at 10 CFR 430.2 mistakenly repeats the terms ''gravity central furnaces, and electric central furnaces'' at the end of the definition. In this NOPR, DOE proposes modifying the definition to correct this error and remove the duplicated language.

square inch gauge (psig) steam pressure; a hot water boiler operates at or below 160 psig water pressure and 250 °F water temperature; (2) an *electric central furnace* is a furnace that is designed to supply heat through a system of ducts with air as the heating medium, in which heat generated by one or more electric resistance heating elements is circulated by means of a fan or blower; (3) a *forced air central furnace* is a furnace that burns gas or oil and is designed to supply heat through a system of ducts with air as the heating medium. The heat generated by combustion of gas or oil is transferred to the air within a casing by conduction through heat exchange surfaces and is circulated through the duct system by means of a fan or blower; (4) a *gravity central furnace* is a gas-fueled furnace which depends primarily on natural convection for circulation of heated air and which is designed to be used in conjunction with a system of ducts; (5) A *low pressure steam or hot water boiler* is an electric, gas, or oil-burning furnace designed to supply low pressure steam or hot water for space heating applications. A low pressure steam boiler operates at or below 15 pounds psig steam pressure; a hot water boiler operates at or below 160 psig water pressure and 250 °F water temperature; (6) a *mobile home furnace* is a direct vent furnace that is designed for use only in mobile homes; (7) an *outdoor furnace or boiler* is a furnace or boiler normally intended for installation out-of-doors or in an unheated space (such as an attic or a crawl space); and (8) a *weatherized warm air furnace or boiler* is a furnace or boiler designed for installation outdoors, approved for resistance to wind, rain, and snow, and supplied with its own venting system.

B. Effective Date and Compliance Date for the Amended Test Procedure

This notice proposes amendments that would be made in 10 CFR 430.3, 10 CFR 430.23, and in 10 CFR part 430, subpart B, appendix N. Pursuant to 42 U.S.C. 6293(c)(2), effective 180 days after DOE prescribes or establishes a new or amended test procedure, manufacturers must make representations of energy efficiency, including certifications of compliance, using that new or amended test procedure.

C. Proposed Test Procedure Amendments

In the January 2013 RFI, DOE requested comments about improving the residential furnace and boiler test procedure's effectiveness in quantifying energy efficiency performance under typical field conditions. 78 FR 675, 677 (Jan. 4, 2013). DOE identified opportunities to reduce variability, eliminate ambiguity, and address discrepancies between the test procedure and actual field conditions. DOE received input on a variety of issues, including: (1) Updating the incorporated ASHRAE Standard 103 from the 1993 version to the 2007 version; (2) measurement of condensate under steady-state conditions; (3) measurement of additional electrical consumption for modulating products and auxiliary components; (4) installation and operational manual reference; (5) verification test for automatic means for adjusting water temperature; (6) AFUE reporting precision; (7) oversize factor; (8) supply and return water temperature; (9) default factors, including draft, jacket loss, and seasonal factors; (10) calculation simplification for burner cycling and draft losses; (11) room ambient temperature and humidity ranges; (12) burner operating hours determination; (13) alignment of vent stack configuration with American National Standards Institute (ANSI) standards; (14) harmonization of pressure drop requirements; (15) alternative methods for determining the efficiency of residential furnaces and boilers; (16) the scope of the test procedure; and (17) full-fuel-cycle (FFC) energy metrics in the AFUE test. In addition, DOE considered: (18) Specifying ductwork requirements for units that are installed without a return duct and (19) specifying testing requirements for units with multiposition configurations. The proposed test procedure amendments are addressed in further detail immediately following.

1. Updating ASHRAE Standard 103 From the 1993 Version to the 2007 Version

The DOE test procedure for determining the AFUE of residential furnaces and boilers currently references industry test standard ASHRAE 103–1993. The ASHRAE Standard 103–1982 test procedure was initially developed in 1982 based on the DOE test procedures for single-stage furnaces and boilers recommended by Kelly *et al.*[5] ASHRAE 103 was revised in 1988 and again in 1993 to include test procedures for condensing units, for two-stage and modulating units, and for units employing a short post-purge period after the burner is shut off. In 1998, ASHRAE organized Standard Project Committee (SPC) 103R to begin the revision process to ASHRAE 103–1993, which followed comments from the industry on the need to address some possible shortcomings of the standard based on user experiences. The 1993 ASHRAE Standard 103 was updated in 2007 (ASHRAE Standard 103–2007) to reflect product design improvements and other changes. Particular attention was given to the new classes of two-stage and modulating products, as well as products incorporating combustion chamber post-purge technology. The ASHRAE standard was also updated to reflect greater understanding of energy losses, as well as to incorporate changes to clarify nomenclature and definitions. In addition, the revisions included changes to parameters in appendix C of ASHRAE 103, impacting the determination of national average burner operating hours, average annual fuel energy consumption, and average annual auxiliary electrical energy consumption for gas or oil furnaces and boilers.

DOE received several comments regarding updating its incorporation by reference of ASHRAE 103–2007 in the DOE test procedure. Lennox, NRDC, and NRCan responded in favor of adopting the 2007 version of ASHRAE 103 without requesting specific changes. Additionally, Goodman, Carrier, AHRI, and Ingersoll Rand requested that DOE consider adopting the newer version, but with some exceptions. Rheem expressed concerns about the adoption of specific provisions of ASHRAE 103–2007 that in their view would not be an improvement to the current version DOE has incorporated by reference. These comments are addressed in further detail subsequently.

Lennox stated that the company generally supports incorporation by reference of the new version of the ASHRAE standard into the DOE test procedure. (Lennox, No. 6 at p. 2) NRDC also supports the use of ASHRAE 103–2007 to the extent that the standard is fully up-to-date and not controversial from a technical perspective. (NRDC, No. 14 at p. 1) NRCan also supports the use of ASHRAE 103–2007 and stated that Canada has already used it to update its oil-fired boiler regulations. (NRCan, No. 15 at p. 1) Goodman supports DOE's intent to update references to the most current edition of industry test procedures as well. Goodman also recommended better coordination between the development of DOE's and ASHRAE's test procedures to reduce the regulatory burden on

[5] Kelly, G.E., Chi, J., Kuklewicz, M.E., ''Recommended Testing and Calculation Procedures for Determining the Seasonal Performance of Residential Central Furnaces and Boilers,'' NBSIR 78–1543 (March 1978).

manufacturers. (Goodman, No. 16 at p. 2) Carrier agreed with the adoption of ASHRAE 103–2007, as long as it does not affect the measure of AFUE of existing furnaces and boilers. It added that DOE must maintain the exceptions allowed by ASHRAE 103–1993 because the burden of testing would increase significantly without the exceptions, while the effect on the result would be small. These exceptions include not needing to fully insulate the inducer and allowing for the 30-second post-purge of the inducer. (Carrier, No. 7 at p. 1)

AHRI conditionally agreed with updating the test procedure based on ASHRAE 103–2007 but stated that DOE must try to avoid making changes just for the sake of making changes. AHRI also recommended DOE consider: (1) Not incorporating sections 11.4.9.11 and 11.4.9.12 of ASHRAE 103–2007 because those provisions add a consequential burden to manufacturers without an obvious benefit; and (2) that the table of Design Heating Requirements (DHR) (Table 8 in the 1993 edition) has been deleted from the 2007 version, and the associated calculations,[6] which formerly used DHR values from that table, now rely solely on the oversize factor and heating capacity when operating under steady-state conditions (Q_{OUT}). AHRI stated that this change may have more of an effect on estimates of electric consumption than on the AFUE value. (AHRI, No. 13 at p. 2–3)

Ingersoll Rand acknowledged that on balance, adoption of ASHRAE 103–2007 in its entirety would be an improvement over currently referenced ASHRAE 103–1993. However, in its comments, Ingersoll Rand identified changes made to the 2007 version that are troublesome and need further study, such as the change to the on/off timings of two-stage and modulating products, which has been found to result in lower AFUE results for high-efficiency furnaces (90+ percent AFUE) and higher AFUE results for less-efficient furnaces (80+ percent AFUE). Ingersoll Rand also stated its view that the changes are significant enough require retesting and rerating of current equipment. In addition, the change to how DHR is determined would change the electrical usage calculation, which may require recalculating electrical usage estimates for all products and could result in delisting of many current Energy Star products. (Ingersoll Rand, No. 8 at p. 2)

Rheem also commented on ASHRAE 103–2007 provisions. Rheem stated that Table 7 (Average Burner On-Time and Off-Time Per Cycle for Furnaces and Boilers) from ASHRAE 103–2007 should not be included in the DOE test procedure. Rheem believes that the ASHRAE 103–2007 method for calculating the on and off cycle times based on a calculated oversize factor has value, but that the calculation is flawed due to the assumption that the thermostat cycle response at 50-percent load, N_{50}, is equal to 5 cycles per hour for furnaces (equations 11.4.9.11 and 11.4.9.12 of ASHRAE 103–2007). (Rheem, No. 12 at p. 4) Rheem believes that there should be a significant difference between the high-fire cycle time and reduced-fire cycle time. Rheem presented data to support this statement. (Rheem, No. 12 at p. 5)

In addition, according to Rheem, the elimination of the requirement to test the efficiency at maximum input rate for multi-stage products would significantly reduce the burden on manufacturers. Rheem argued that currently, the efficiency at the maximum input rate has very little, if any, effect on the overall AFUE rating and is not representative of operation of the furnace in the field. Rheem stated that an AFUE metric for multi-stage products, that incorporates measured values at a reduced input that is close to the design load is a more appropriate representation of furnace operation in the average home. Rheem suggested that multi-stage products be tested at the lowest reduced input rate and the highest reduced input rate below 60 percent of furnace rated capacity.[7] (Rheem, No. 12 at p. 8)

Rheem highlighted that ASHRAE 103–2007 and ASHRAE 103–1993 allow an option to collect condensate over an additional three cycles (ASHRAE 103–2007, section 9.8.5), but the standards do not sufficiently address the issue of variation of condensate flow at varying cycle rates. ASHRAE 103–2007 addresses variation within subsequent cycles at a single rate but does not address differences between cycle rates. (Rheem, No. 12 at p. 6–7)

In response to the stakeholder comments, DOE notes that results from testing to ASHRAE 103–2007 more accurately reflect the efficiency of two-stage/modulating models because the standard calculates the on/off cycle times for such models, as opposed to ASHRAE 103–1993, which assigned fixed values to these parameters. When tested under the ASHRAE 103–1993 test procedure, some two-stage/modulating units operate at reduced fire more than 95 percent of the time.[8] Thus, under the test procedure calculations, such units operate similarly to a single-stage unit operating at the reduced input capacity of the unit. As a check for consistency, the AFUE of a two-stage/modulating unit operating entirely at reduced input, as determined using the single-stage calculation method, should be very similar to the actual AFUE of that unit, as determined using the two-stage/modulating calculation method. However, the two-stage and modulating calculation method in ASHRAE 103–1993 can result in an AFUE of more than one percentage point higher than the AFUE resulting from the single-stage calculation method.[9] The reason for this discrepancy is that ASHRAE 103–1993 assigns different on/off times to single-stage and two-stage/modulating units. ASHRAE 103–2007 resolves the inconsistency between the two calculation methods by calculating the on/off cycle times for two-stage/modulating units while maintaining fixed on/off times for single-stage equipment. The resulting two-stage and modulating on/off cycle times are closer to those specified for single-stage units, as one would expect based upon their operation.

Another calculation revision addressed by ASHRAE 103–2007 is the equation used for determining off-period losses. ASHRAE 103–1993 limits the post-purge period to three minutes after the burner is shut off, thereby producing inaccurate flue loss results for oil-fired boilers that require a post-purge time longer than three minutes. ASHRAE 103–2007 addresses this issue by providing a calculation to account for greater flue losses for boilers with post-purge times longer than three minutes.

Additionally, ASHRAE 103–2007 provisions allow calculating AFUE for two-stage and modulating products based on the reduced fuel input only when the balance point temperature (T_C) value is less than or equal to 5 °F (ASHRAE 103–2007, section 11.4.8.4), which occurs when $Q_{OUT,R}/Q_{OUT}$ is greater than 0.59. This is the case for all two-stage furnaces currently on the market and for some modulating models. The adoption of this ASHRAE 103–2007 provision would allow testing of models that meet the balance point

[6] In ASHRAE 103–1993, in addition to being used in the calculations related to electricity use, DHR is also used in: (1) Calculating the oversize factor in section 11.4.8.3; (2) calculating $Effy_{SS,M}$ in section 11.4.8.8; and, (3) calculating $Q_{OUT,M}$ in section 11.4.8.10.

[7] The 60 percent rate cited by Rheem represents the capacity required to meet the design house heating load when using an oversize factor of 0.7 (100%/(1 + 0.7) = 59%).

[8] Liu, Stanley, ''Proposed Revisions of Part of the Test Procedures for Furnaces and Boilers in ASHRAE Standard 103–1993,'' NIST (September 2002).

[9] *Id.*

provision using only the steady-state test at low fire for many two-stage and modulating models, resulting in a reduction of test burden.

Finally, ASHRAE 103–2007 improved the accuracy of the determination of national average burner operating hours (BOH), average annual fuel energy consumption (E_F), and average annual auxiliary electrical energy consumption (E_{AE}), especially for two-stage and modulating products, based on a 2002 study from NIST.[10] A 2006 study [11] showed that the main improvements to these parameters in the 2007 ASHRAE test procedure are: (a) The approach used to calculate the heat generated by the product's electrical components; (b) properly accounting for maximum and reduced operating modes; (c) the approach used to determine the design heating requirement; and (d) the approach for calculating on-time ratios for the product's electrical components. This study showed that these updates significantly increase the accuracy of the two-stage and modulating calculations so that they can be more comparable to single-stage results and field studies.

Burner operating hours account for the heat provided by the fuel and electrical components. In the calculation for the number of annual burner operating hours (BOH_R and BOH_M) for two-stage and modulating furnaces (or boilers), respectively, the existing DOE test procedure estimates the BOH_R and BOH_M using heat provided by the fuel and electrical components, which are measured at the maximum operating mode only.[12] In practice, two-stage and modulating furnaces (or boilers) operate most of the time in a reduced mode, which lengthens the product's hours of operation. To make the test procedure for two-stage and modulating products more representative of actual operating conditions, the existing DOE text procedure incorporates the factor R calculated as the ratio of the duration of on-time of two-stage or modulating products during actual usage to the duration of on-time of single-stage products. The factor R is not included in the ASHRAE 103–2007 test procedure, as heat provided from the electrical components is determined separately for the burner operating hours at the maximum, reduced, and modulating modes, which results in reducing the fraction of heat from the electricity components. By adopting ASHRAE 103–2007, the proposed DOE test procedure eliminates the factor R.

In addition, the current DOE test procedure calculates E_F for two-stage and modulating products at the maximum operating mode only. In contrast, because the majority of the heating load is not delivered at the maximum input operating mode, ASHRAE 103–2007 calculates E_F for two-stage and modulating products by taking into account the fuel consumption at maximum, reduced, and modulating operating modes. This approach results in a more accurate calculation of E_F for two-stage and modulating products. Under the existing test procedure, DHR is calculated as a step function of output capacity, which causes a small rise in the heating capacity to impact the calculated DHR value in a way that results in higher, calculated, energy consumption for more-efficient furnaces. This causes the current DOE test procedure methodology to not always be suitable for comparing furnace energy use. ASHRAE 103–2007 improves the calculation of the house heating load in the BOH calculations by replacing the DHR step function in the existing DOE test procedure with a linear function of the oversize factor and heating capacity when operating under steady-state conditions (Q_{OUT}). Lastly, the on-time ratios for the product's electrical components (y_R and $y_{P,R}$) are included in ASHRAE 103–2007 to more accurately represent the duration of the electrical components operating in reduced operating mode when calculating BOH and E_{AE}.[13]

In conclusion, DOE has tentatively decided to incorporate by reference ASHRAE 103–2007 with amendments as set forth in this rulemaking. DOE has tentatively concluded that ASHRAE 103–2007 offers significant improvements over ASHRAE 103–1993 through the changes made to the AFUE calculation method for two-stage/modulating products, for products with a post-purge period longer than 3 minutes, and for the determination of BOH, E_F, and E_{AE} parameters. In addition, the majority of stakeholders responded in favor of adopting the 2007 version of ASHRAE Standard 103. The incorporation by reference of ASHRAE 103–2007 requires removing from 10 CFR 430.3 the section exceptions to ASHRAE 103–2007 associated with the residential furnaces and boilers test procedure and the residential furnace fans test procedure. Accordingly, DOE proposes to include the product-specific section exceptions in the definitions section in the corresponding appendix of subpart B of 10 CFR 430, (*i.e.,* appendix N for furnaces and boilers and appendix AA for furnace fans). Therefore, DOE proposes to revise section 2.2 of appendix N and section 2.3 of appendix AA of subpart B of 10 CFR 430 to include the product-specific section exceptions to ASHRAE 103–2007. DOE also proposes to modify the equations for determining BOH, E_F, and E_{AE} parameters adopted from ASHRAE 103–2007 to incorporate ignition power consumption, standby mode and off mode energy consumption, and electric components' useful heat parameter in the burner operating hours as a function of the installation location, all of which are incorporated into the current DOE test procedure.

2. Measurement of Condensate Under Steady-State Conditions

DOE considered the possibility of reducing test burden by providing that the condensate mass can be measured during the establishment of steady-state conditions, rather than after steady-state has been achieved. Section 9.2 of both ASHRAE 103–1993 and ASHRAE 103–2007 requires that the measurement of condensate shall be conducted during the 30-minute period after steady-state conditions have been established. To reduce test burden, DOE proposes to allow for the measurement of condensate during the establishment of the steady-state conditions (ASHRAE 103–2007, section 9.1) rather than during a 30-minute period after establishing steady-state conditions (ASHRAE 103–2007, section 9.2). DOE investigated the difference in condensate mass collected and the rate of condensate production during the two separate periods (*i.e.,* during the establishment of steady-state conditions and after steady-state conditions have been reached). Based on the comparison of the measurements, DOE has determined that there is no significant difference in the mass of condensate collected or the rate of condensate production during the two separate tests.

[10] Liu, Stanley, ''Proposed Revisions of Part of the Test Procedures for Furnaces and Boilers in ASHRAE Standard 103–1993,'' NIST (September 2002).

[11] Lekov, A., V. Franco, and J. Lutz, ''Residential Two-Stage Gas Furnaces: Do They Save Energy?,'' Presented at 2006 ACEEE Summer Conference. LBNL (August 2006) (Available at: *http://aceee.org/files/proceedings/2006/data/papers/SS06_Panel1_Paper16.pdf*).

[12] ''BOH_R'' is defined as the national average number of burner operating hours at the reduced operating mode for furnaces and boilers equipped with two-stage or step-modulating controls. ''BOH_M'' is defined as the national average burner operating hours in the modulating mode for furnaces and boilers equipped with step-modulating controls.

[13] ''y'' is the ratio of blower or pump on-time to average burner on-time. ''y_P'' is the ratio of induced or forced draft blower on-time to average burner on-time. ''y_R'' and ''$y_{P,R}$'' are the equivalent parameters at reduced operating mode.

3. Electrical Consumption of Components

In the January 2013 RFI, DOE stated that it would consider amendments to account for the electrical consumption of additional components not already captured by the existing DOE test procedure. 78 FR 675, 678 (Jan. 4, 2013). Currently, the DOE residential furnace and boiler test procedure measures only the power supplied to the power burner motor, the ignition device, and the circulation pump. The existing DOE test procedure does not explicitly include other devices that use power during the active mode, such as the gas valve, safety and operating controls, and internal pumps used to maintain a minimum flow rate through the heat exchanger that do not function as system circulating pumps.

In the January 2013 RFI, DOE requested comment on whether the boiler average annual auxiliary electrical energy consumption calculations should include one system circulating pump and an additional pump (if present) that circulates water during burner operation, and how to address any electrical power consumption not already measured during the active mode. *Id.*

AHRI commented that the electrical consumption of any internal circulating pump should be included in the test procedure. However, AHRI stated that in most designs, the operation of this internal circulating pump is directly tied to the operation of the burner (*i.e.,* water must be flowing for the burner to fire). Thus, according to AHRI, it may be more appropriate to include the electrical consumption of the internal circulating pump in the ''BE'' term.[14] (AHRI, No. 13 at p. 5) NRCan also stated that the residential furnace and boiler test procedure provisions for electrical ratings should include all connected loads and ancillary components. (NRCan, No. 15 at p. 4)

The current DOE test procedure accounts for the power consumed by the ignition device, circulating pump, and power burner motors, but it does not account for the power used by other devices during the active mode (*e.g.,* gas valve operation and safety and operating controls). In the January 2013 RFI, DOE stated its intent to consider including any electrical power consumption not already measured during the active mode, and requested comment on how to address electrical power consumption by these additional components. 78 FR 675, 678 (Jan. 4, 2013).

Lennox, Rheem, and AHRI did not support measuring additional electrical power consumption that is not already measured during the active mode. Lennox stated that manufacturers typically connect two power cords to their furnaces for efficiency testing, one for the blower motor and one for the rest of the furnace; therefore, all the significant electrical power consumption is being recorded. (Lennox, No. 6 at p. 3) Rheem commented that the manufacturer has already included the power consumed by the gas valve and safety operating controls in the measurement of electrical power to the burner (PE). Rheem categorized the control, inducer, and gas valve as components of the burner system. (Rheem, No. 12 at p. 10) AHRI recommended that DOE not address this issue, as power consumed by other devices during the active mode may already be measured. (AHRI, No. 13 at p. 6) In contrast, Carrier recommended that all electrical power consumption needed to operate the appliance should be measured during active mode and included in the annual electrical consumption calculation. (Carrier, No. 7 at p. 2)

DOE performed electrical measurements to investigate the presence of auxiliary electrical energy consumption not accounted for in the existing test procedure. DOE concluded that there is significant measureable auxiliary electricity consumption associated with components such as controls, gas valves, and additional pumps (if present), which is not captured by the specific methods of electrical measurement prescribed in the existing DOE test procedure. Therefore, DOE proposes to expand the electricity use equations and the applicable parameter definitions to specifically capture all active mode electricity use. In particular, DOE proposes to add two new terms to the calculations of E_{AE} for single-stage, two-stage, and modulating products. The first new term (BE_S) accounts for a secondary boiler pump for units with such a device, and the second term (E_O) represents electrical power not captured in the existing terms.[15] If BE is determined by subtracting PE from the total measured power (or if PE is determined by subtracting BE from the total measured power), E_O would be zero. DOE believes that these changes would introduce only a small additional testing burden because the total electricity consumption is often being captured during testing. In addition, E_{AE} values already have to be recalculated due to ASHRAE 103–2007 changes; therefore, the proposed changes are not expected to introduce any additional burden in terms of recalculating and reporting.

DOE has tentatively concluded that the additional electrical components (secondary, pump, controls, and gas valve) represent a significant, measurable amount of the total electrical power. Therefore, DOE proposes to include electrical consumption of additional electrical components in the test procedure, as this would provide for a more accurate and complete measurement of the total electricity consumed by the furnaces and boilers.

4. Installation and Operation Manual Reference

The existing DOE test procedure specifies that the tested product is to be set up according to ''manufacturer's recommendations'' or ''manufacturer's instructions.''[16] In the January 2013 RFI, DOE sought comment on whether the test procedure should specify that the tested product is set up according to recommended field settings as defined in the product's installation and operation (I&O) manual. 78 FR 675, 677–78 (Jan. 4, 2013).

APGA, Lennox, Carrier, Rheem, AHRI, and NRDC all agreed that DOE should consider changes to its furnaces and boilers test procedure to better account for recommended field settings for those products. APGA stated that DOE should test appliances according to field settings because setting up products in a manner inconsistent with recommended field guide settings raises safety concerns for the testing professional as well as future customers, and testing appliances in a manner inconsistent with recommended field guide settings may yield inaccurate data. According to APGA, appropriate installation procedures are important to ensure proper furnace/boiler performance, especially with vent configurations. (APGA, No. 5 at p. 2) Lennox also stated that the test procedure should be revised to specify that the tested product be set up according to recommended field settings, as defined in the product's

[14] The term BE means ''the circulating air fan or water pump electrical energy input rate at full load steady state operation'' (ASHRAE 103–2007, p. 51).

[15] The existing DOE test procedure includes five terms for determining electrical consumption: (1) BE, which is the electrical power to the circulating air blower or water pump; (2) PE, which is the electrical power to the burner; (3) P_{IG} which is the electrical input to the interrupted ignition device, (4) $P_{W,SB}$ which is the standby mode power; and (5) $P_{W,OFF}$ which is the off mode power.

[16] See sections 7.2.3.1, 7.2.3.2, 7.8, 8.3.3.2, and 8.4.1.1.2 in ASHRAE 103–1993 for references to ''manufacturer's instructions''; see sections 7.2.2.2 and 8.4.1.1 in ASHRAE 103–1993 for references to ''manufacturer's recommendations.''

installation instructions or comparable documentation. (Lennox, No. 6 at p. 2) AHRI agreed that this issue should be considered. AHRI stated that there are some test set-up specifications that would need to be clarified and that they will provide specific recommendations in a subsequent submittal.[17] (AHRI, No. 13 at p. 5) NRDC stated that DOE should develop specifications that minimize the difference between test procedure conditions and field conditions, particularly for manufacturer-recommended settings for parameters like carbon dioxide (CO_2), part-load motor efficiency, and use of pumps that are included as part of the product. (NRDC, No. 14 at p. 2)

Carrier and Rheem offered specific instances in which manufacturer set-ups should be used in testing. Carrier specified that if a product has a unique and required set-up specified in the manufacturer's instructions such that the only way of using the product is as defined in the manufacturer's instructions, the DOE test procedure should allow for testing using these instructions. However, if the instructions for a unique set-up are merely optional for the use of a product, then the default should be to test per the DOE test procedure. (Carrier, No. 7 at p. 2) Rheem commented that if the operation manual requires that the furnace should be set at a low-fire rate, it would be appropriate to make the same adjustment in the DOE test procedure for the AFUE test. (Rheem, No. 12 at p. 9)

In response, DOE proposes changing the test procedure language to explicitly state that, where permitted by the test procedure, the testing recommendations should be drawn from the I&O manual shipped with the unit. The existing language (*e.g.,* ''manufacturer recommendations'' or ''manufacturer instructions'') is vague and ambiguous and can lead to the use of *ad hoc* instructions derived solely for AFUE testing purposes. DOE believes the proposed language will increase the repeatability and reproducibility of the existing test procedure and will not result in additional test burden. In particular, in relation to Carrier's comments, DOE believes that the proposed provision will allow a product to be tested with its own primary, unique, and required set-up specified in the manufacturer's instructions, and that the language is clear that testing may not be done using any other optional set-ups that may be available in the manufacturer's I&O manual. It also clarifies that the information provided in an I&O manual would not trump any portion of the DOE test procedure provisions. Concerning Rheem's comment, the test procedure requires two-stage and modulating furnace and boilers to be tested at high-fire and low-fire rates unless specific criteria are met, regardless of the operational manual recommendations. DOE is also proposing specific instructions for parameters such as combustion airflow ratio (*see proposed* 10 CFR part 430, subpart B, appendix N, sec. 7.3), and reduced fuel input rate (*see proposed* 10 CFR part 430, subpart B, appendix N, sec. 10.3), for instances where I&O recommendations are not provided. Further, DOE would clarify that when the DOE test procedure provisions and I&O manuals are not sufficient for testing a furnace or boiler, the manufacturer must request a test procedure waiver from DOE.

5. Verification Test for Automatic Means for Adjusting the Water Temperature in Boilers

In 2008, DOE published a technical amendment to the 2007 furnace and boiler final rule to add design requirements for boilers consistent with the provisions of EISA 2007.[18] 73 FR 43611 (July 28, 2008). These design requirements prohibit constant-burning pilot lights for gas-fired hot water boilers and gas-fired steam boilers, and require an automatic means for adjusting the water temperature for gas-fired hot water boilers, oil-fired hot water boilers, and electric hot water boilers (''automatic means''). The automatic means must automatically adjust the temperature of the water supplied by the boiler to ensure that an incremental change in inferred heat load produces a corresponding incremental change in the temperature of water supplied. For boilers that fire at a single input rate, the requirement that the boiler have an automatic means for adjusting water temperature may be satisfied by incorporating controls that allow the burner or heating element to fire only when the inferred heat load cannot be met by the residual heat of the water in the system. However, this prescriptive requirement lacks sufficient detail as to how a manufacturer may execute the control strategy for the means to be considered automatic. DOE reasons that the statute established these design requirements as a way to conserve energy, and DOE believes that proper functional testing will help to ensure these energy savings.

In the January 2013 RFI, DOE sought comment regarding any principles or tests currently used, or being considered for use, to evaluate whether a boiler design satisfies the automatic means requirement. 78 FR 675, 678 (Jan. 4, 2013).

AHRI recommended that DOE not consider this issue. AHRI commented that the designs being used to comply with the automatic means requirement are so diverse that it is not possible to develop a test that could properly evaluate all these design solutions. It stated that any benefit from this concept is overwhelmed by its potential for controversy. (AHRI, No. 13 at p. 6) NRCan provided a verification test it developed that is based on: (1) Identification of how the automatic control infers a change of load; (2) simulating a change to that variable; and (3) measuring the response from the control. (NRCan, No. 15 at p. 5–6)

DOE's RFI also sought comment on required inputs and types of technologies needed to project changes in demand, and the relationships between these inputs/technologies and supply temperature or pump/burner operation. 78 FR 675, 678 (Jan. 4, 2013). DOE received no comments regarding the technologies and/or strategies used for adjusting the boiler supply water temperature based on inferred heat load. The following describes DOE's understanding of the technologies used to address the boiler design requirements.

Outdoor Reset. The most prevalent technology for adjusting water temperature according to load is outdoor reset. Outdoor reset uses a simple outdoor temperature sensor, typically located on the north side of the home. Another sensor mounted at the boiler senses water temperature. A computer chip in the control system uses the outdoor temperature information to adjust the boiler's output by changing the boiler's supply water temperature. Some systems also employ a third internal room sensor to provide additional data for the control system.[19]

[17] As of the date of issuance of this NOPR, DOE has not received any additional information from AHRI.

[18] EISA 2007 mandated, starting September 1, 2012, that all gas, oil, and electric hot water boilers (excluding those equipped with a tankless domestic water heating coil) must be equipped with automatic means for adjusting the boiler water temperature (codified at 42 U.S.C. 6295(f)(3)). This excludes boilers that are manufactured to operate without any need for electricity. 73 FR 43611, 43613 (July 28, 2008).

[19] TJ's Plumbing and Heating, ''Weather-Responsive Controls (Outdoor Reset Controls)'' (2013) (Available at: *http://www.tjsradiantheat.com/noteworthies/weather-responsive-controls/*); Weil-McLain, ''WM–ODR Outdoor Reset Control Instruction Manual'' (Available at: *http://www.weil-mclain.com/en/*

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Inferred Load. The adjustment of water temperature based on building load can also be achieved using software, rather than sensors, to predict the inferred heating load. Inferred heating load can be based on outdoor temperature information, thermostat demand patterns, indoor temperature information, or burner cycling and/or modulation patterns.[20] Under this approach, microprocessor-based algorithms monitor thermostat activity to track how much heat the building requires and adjust the supply water temperature accordingly.[21]

Thermal Pre-Purge. Thermal pre-purge is an automatic means that identifies the amount of residual heat available in the boiler following a call for heating. This strategy allows the pump to operate prior to the ignition of the burner.[22] Following an ''off'' cycle, the boiler's control system determines how much latent heat is still available from the previous ''on'' cycle, and only activates the burner when the measured latent heat cannot meet the heating demand.[23]

Based on the overall comments and the provided draft test methodologies, DOE proposes the use of two test methods—one for single-stage boilers and one for two-stage/modulating boilers—for verification of the functionality of the automatic means for adjusting the water temperature supplied by a boiler. These test methods are independent of the AFUE test because the automatic means requirement is a design requirement and is not part of the minimum efficiency requirements. The draft testing methodologies provided by NRCan, as well as the California mechanical codes section for non-residential boilers,[24] were used as bases for the proposed test methods. The proposed test methods can evaluate a variety of control strategies used to comply with the automatic means prescriptive requirement. The two separate tests have been developed to accommodate the various boiler control strategies.

As discussed previously, the requirement to incorporate an automatic means does not specify how a manufacturer must implement the automatic means. It only requires that an incremental change in inferred heat load produce a corresponding incremental change in heat output. Each of the proposed test methods allows for accommodation of technological advances in controls and designs and does not limit the innovation of this control type.

The proposed test methods for automatic means verification would confirm whether the boiler heat output responds to a change in inferred heat load, thereby verifying the functionality of the automatic means. Specifically, the single-stage boiler test captures the delayed burner reaction following a call for heating when residual heat is present within the boiler. The two-stage/modulating test monitors water temperature settings from the inferential load controller and/or supply water temperature measurements to determine whether these values properly respond to changes in the inferred load. The proposed tests would be added to 10 CFR part 429.134.

6. Off-Cycle and Power Burner Draft Factors

In the January 2013 RFI, DOE requested feedback on existing default draft factor values for furnaces and boilers. 78 FR 675, 676–77 (Jan. 4, 2013). Existing draft factors, as specified in the test procedure,[25] include the off-cycle draft factor for flue gas flow (D_F) and the power burner draft factor (D_P), the off-cycle draft factor for stack gas flow (D_S), and the off-cycle draft factor for stack gas flow without a stack damper (D_S^O). The existing DOE test procedure allows for the use of the default values for D_F of 0.4 for furnaces and boilers with power burners and 1.0 for furnaces and boilers with atmospheric burners.[26] The DOE test procedure also allows for D_F to be assigned a value equal to D_P, which is determined using optional testing.[27] Also, for furnaces and boilers employing a power burner, if the measured D_P is less than 0.1, then D_P is set at 0.05 because, based on input by industry experts and DOE testing, the tracer gas test is often inaccurate at flows lower than a D_P of 0.1.[28] Under the existing DOE test procedure, when there is no airflow through the flue side of the heat exchanger in the off cycle, manufacturers may apply a minimum default draft factor (D_F or D_P) of 0.05.[29] However, the existing test procedure does not provide a process to determine whether the tested model is designed with no measurable airflow through the combustion chamber and heat exchanger during the burner off-period. DOE sought comment on whether a minimum default draft factor may be applied at all, the conditions under which a minimum default draft factor may be applied, and how such conditions can be verified.

Ingersoll Rand commented that testing burden can be reduced by improving draft factor default values. (Ingersoll Rand, No. 8 at p. 1) Rheem indicated that the default draft factor for furnaces should be lowered for today's furnaces. (Rheem, No. 12 at p. 2) Rheem stated that for all furnaces, it uses a value for D_F and D_P of 0.05, although actual tested values may be lower. (Rheem, No. 12 at p.7) AHRI recommended that DOE reassess the default values for draft factors. AHRI also stated that information provided by their members indicates that the default draft factors are too high for current models of furnaces and boilers. (AHRI, No. 13 at p. 2) Energy Kinetics also stated that the off-cycle draft factor may be reduced due to the use of draft-controlling devices, controls, and control strategies. (Energy Kinetics, No. 11 at p. 2)

Lennox stated that the test procedure should specify the conditions under which it is appropriate to use the minimum default draft factor of 0.05, and also should include instructions explaining how to test for low or no flow through the heat exchanger. It added that furnaces designed with burners above the outlet of the heat exchanger/combustion air inducer usually have no flow through the heat exchanger and into the vent system. (Lennox, No. 6 at p. 2) AHRI recommended that the test procedure should continue to use a minimum

assets/pdf/outdoor_reset_controls_odr_manual.pdf); Tekmar, ''Outdoor Reset ARC'' (2008).

[20] AHRI, ''Residential Boilers Certification Program Operations Manual'' (Available at: *http://www.ahrinet.org/App_Content/ahri/files/Certification/OM%20pdfs/updated/RBLR%20OM-%202013.pdf*). (Last accessed January 16, 2015).

[21] Hydrolevel Company, ''Fuel Smart Hydrostat Sales Sheet Three Function Control'' (Available at: *http://www.hydrolevel.com/new/images/literature/sales_sheets/fuel_smart_hydrostat_sales_sheet.pdf*) (Last accessed January 16, 2015).

[22] Tekmar, ''Boiler Post Purge'' (2012) (Last accessed January 16, 2015).

[23] Hydrolevel Company, ''Fuel Smart Hydrostat Sales Sheet Three Function Control'' (Available at: *http://www.hydrolevel.com/new/images/literature/sales_sheets/fuel_smart_hydrostat_sales_sheet.pdf*) (Last accessed January 16, 2015).

[24] California Energy Commission, ''Reference Appendices for the 2008 Building Energy Efficiency Standards for Residential and Non-residential Buildings'', p. 332, (Available at: *http://www.energy.ca.gov/2008publications/CEC–400–2008–004/CEC–400–2008–004–CMF.PDF*) (Last accessed January 16, 2015).

[25] Sections 11.2.9.9, 11.2.9.10, 11.2.10.2 of ASHRAE 103–1993.

[26] See Table 6 of ASHRAE 103–1993.

[27] Sections 8.8.2 of ASHRAE 103–1993.

[28] Section 11.6.4 of ASHRAE 103–1993.

[29] See section 8.8.3 of ASHRAE 103–1993 (''On units whose design is such that there is absolutely no chance of airflow through the combustion chamber and heat exchanger when the burner(s) is off, DF and DP may be set equal to 0.05.'') and section 9.7.4 of ASHRAE 103–1993 (''On units having a design such that there is absolutely no chance of airflow through the combustion chamber and heat exchanger when the burner(s) is off, DF and DP may be set equal to 0.05.'').

default draft factor for products with restricted flueways. AHRI also requested that DOE consider identifying conditions under which the minimum default draft factor can be applied. AHRI additionally recommended that DOE consider revising the default draft factor value and reevaluating the tracer gas method, and it offered to provide information on some of these additional items based on experience obtained from their efficiency certification program.[30] (AHRI, No. 13 at p. 4)

DOE tested several furnaces and boilers and used the measured mass flow rate to calculate D_F. The calculated D_F ranged from 0.05 to 0.16 for five tested furnace models and from 0.15 to 1.00 for three tested boilers equipped with power burners or direct venting capabilities. DOE also analyzed data from manufacturer testing conducted in 2001[31] for 10 two-stage or modulating furnaces, which showed that D_F varied from 0.05 to 0.22. Although it appears that the data support lower default factors for D_F (*i.e.,* the direction taken by ASHRAE), the development of entirely new default draft factors would require a larger representative sample than the data from the available test results. Therefore, DOE has tentatively concluded that the test data are not sufficient to support revising the default draft factors at this time. DOE did not receive comments from stakeholders regarding default values for D_S and D_S^O. Neither ASHRAE 103–1993 nor ASHRAE 103–2007 explain the derivation of the fixed default values when provided for these terms. In cases where default values for D_S and D_S^O are not used, these values are dependent on D_F, which, as discussed previously, DOE does not propose to change. Therefore, DOE tentatively proposes to adopt the default draft values as defined in ASHRAE 103–2007, which are unchanged from the existing DOE test procedure.

Additionally, DOE recognizes that stakeholders have indicated that they are interested in the test procedure providing better direction as to how to determine whether a boiler model design and/or performance would qualify the boiler to use the minimum default draft factor of 0.05 (*i.e.,* for units with no airflow through the combustion chamber and heat exchanger).[32] Two separate, but related, sections of the DOE test procedure address the conditions required for use of this minimum default draft factor. Specifically, section 8.8.3 of ASHRAE 103–1993, which is incorporated by reference into the DOE test procedure for residential furnaces and boilers, states that ''on units whose design is such that there is *absolutely* no chance for airflow . . ., D_F and D_P may be set equal to 0.05.'' Similarly, section 9.10 of ASHRAE 103–1993, which is also incorporated by reference in the DOE test procedure, states that ''for units designed with no *measurable* airflow . . ., D_F and D_P may be set equal to 0.05.'' DOE agrees that the existing DOE test procedure lacks specificity in terms of determining whether a boiler design allows for no measurable airflow through the combustion chamber and heat exchanger during the burner off-period. Without such details, it is unclear to DOE how the manufacturers of residential boilers determine whether a particular model satisfies this criterion.

Upon further inquiry, it is DOE's understanding that the commonly used test to prove ''no flow'' is based on tracer gas testing and/or identification of designs that ensure no chance of airflow. However, experience with the tracer gas testing applied to these types of product designs indicates that the tracer gas method does not produce consistent and repeatable results for very low to no-flow conditions. In addition, DOE is not aware of any existing design characteristics that provide for ''absolutely'' no chance of airflow.

DOE has not found a consistent and widely accepted test method to determine whether the use of the minimum default draft factor value is appropriate for a given model. To address this issue, DOE considered retaining the existing language in conjunction with the following methods:

(a) Define design characteristics which ensure no flow through the combustion chamber and heat exchanger;

(b) Use of commonly applied tracer gas method;

(c) Smoke stick protocol; and

(d) A combination of (b) and (c).

DOE considered defining product design characteristics, such as downflow heat exchangers and availability of combustion intake dampers, which would be used for identifying products, which meet the requirements of sections 8.8.3 and 9.10 of ASHRAE 103. However, DOE understands that identified design characteristics do not always guarantee that there will be no chance of measurable airflow through the combustion chamber and heat exchanger when the burner is off.

DOE also considered the use of the existing tracer gas test. As addressed in the previous discussion, in instances where the measured D_P is less than 0.1, D_P can be set at 0.05. Based on testing experience, DOE understands that the tracer gas test is often inaccurate at flows lower than a D_P of 0.1 and, therefore, may not provide clear evidence of the absence of flow.

After considering the alternatives, DOE proposes to incorporate a test based on the use of a smoke stick. The proposed test protocol would establish the absence of flow through the heat exchanger using a smoke stick device for products designed with no measurable airflow. If the smoke from the stick passes by the combustion air intake without visual disturbance, then it indicates that there is no measurable airflow through the heat exchanger. If the smoke from the stick is visually induced into the combustion air intake, then it indicates that there is measurable airflow through the heat exchanger. The smoke stick test is not intended to quantify the volume of air moving through the heat exchanger. If the smoke stick test indicates that there is an absence of flow through the heat exchanger, the use of the minimum default factor would be allowed (per sections 8.8.3 and 9.10 of incorporated ASHRAE Standard 103). In the event that the smoke stick test indicates the presence of airflow, the use of the optional tracer gas test[33] would be required for determining a draft factor value other than the default draft factor as specified in Table 6 of ASHRAE 103–2007.

Additionally, DOE proposes to include revisions to the incorporated requirements of sections 8.8.3 and 9.10 of ASHRAE 103–2007, specifically to accommodate the use of the smoke stick test and to eliminate use of the term ''absolutely'' in sections 8.8.3 and 9.7.4. See proposed sections 7.12, 8.10, and 8.11 of 10 CFR part 430, subpart B, appendix N for the detailed test protocol and language revisions.

[30] As of the date of issuance of this NOPR, DOE has not received any additional information from AHRI.

[31] Provided to DOE in 2002 by the National Institute of Standards and Technology (NIST).

[32] Verification of absolutely no flow through combustion chamber and heat exchanger is left to the discretion of ''the one testing'' (typically the manufacturer or testing agency), as set forth in sections 8.8.3 and 9.10 of ASHRAE 103–1993 and ASHRAE 103–2007.

[33] Per sections 8.8.2 (Optional Tracer Gas Method for Determining Draft Factors D_P and D_F for Systems Equipped with Power Burners or Direct Vent) and 9.7 (Optional Tracer Gas Method for Determining Draft Factors D_P, D_F, and D_S for Systems Equipped with Power Burners or Direct Vent and Not Equipped with Stack Dampers) of ASHRAE 103–2007.

7. AFUE Reporting Precision

DOE's existing furnaces and boilers test procedure specifies that the AFUE rating be rounded to the nearest whole percentage point (see 10 CFR 430.23(n)(2)). In the January 2013 RFI, DOE sought comment on how much precision is statistically possible when reporting AFUE. 78 FR 675, 678 (Jan. 4, 2013).

Lennox, Carrier, Rheem, and AHRI commented that the AFUE rating should be reported to the nearest tenth of a percent. (Lennox, No. 6 at p. 3; Carrier, No. 7 at p. 2; Rheem, No. 12 at p. 9; AHRI, No. 13 at p. 5) Rheem added that furnaces listed in the AHRI Directory report AFUE values at this level of specificity. (Rheem, No. 12 at p. 9) AHRI stated that rounding AFUE values to the nearest tenth of a percent has been common industry practice for furnaces and boilers, and it provides a sufficient level of accuracy to distinguish models that have different efficiencies. (AHRI, No. 13 at p. 5)

DOE understands that reporting AFUE values to the nearest tenth of a percent has been common industry practice for furnaces and boilers. DOE agrees with stakeholders that reporting AFUE values to the nearest tenth of a percent will provide a sufficient level of precision to distinguish models that have different efficiencies. Therefore, DOE proposes to update the existing requirement for residential furnaces and boilers to report AFUE to the nearest tenth of a percentage point.

8. Duct Work for Units That Are Installed Without a Return Duct

Section 7.2.1 of ASHRAE 103–1993, incorporated by reference in the existing DOE test procedure, specifies use of a return duct for all furnaces according to Figure 1 and Figure 2 in section 7.2.1. During DOE's furnace and boiler testing, it was observed that there could be some ambiguity about testing requirements for units that manufacturers have designed to be installed without a return duct. To eliminate such ambiguity, DOE proposes to add a provision in the test procedure clarifying that the return (inlet) duct is not required during testing for units intended to be installed without a return duct, according to the manufacturer's I&O manual.

9. Testing Requirements for Multiposition Configurations

The current DOE test procedure does not specify the testing requirements for multiposition furnaces.[34] During DOE's furnace and boiler testing, DOE observed ambiguity in testing requirements for multiposition furnaces, regarding which furnace orientation to use during testing and how to test the unit if there is no open inlet. Testing the furnace in different configurations (*i.e.,* upflow, downflow, or horizontal) often results in different AFUE ratings. In addition, some multiposition furnaces might be shipped without an open inlet. Instead, there may be perforated metal cutouts blocking the inlet options that correspond to the available installation configurations. In some cases, DOE understands that testing facilities remove the blower access door and use it as an inlet instead of one of the inlet configurations, even though the DOE test procedure does not provide this option. Using the blower access door opening on sealed cabinets preserves the value of the test unit and reduces the length of the set-up time.

To reduce ambiguity, DOE proposes to require that multiposition furnaces be tested using, at a minimum, the least-efficient position. DOE is also expressly allowing manufacturers to test multiposition furnaces in other configurations in addition to the least efficient if they wish. DOE understands that currently, most multiposition models are already tested using multiple configurations because the existing DOE test procedure has different requirements and test setup for each configuration, which can result in different AFUE ratings. Therefore, DOE believes that in most cases, there would be no additional testing burden to the manufacturer associated with this clarification. DOE notes that, under this proposal, the manufacturer must either: (1) represent the efficiency of each of the various configurations using the AFUE of the least-efficient configuration and certify them pursuant to the requirements in 10 CFR part 429 or (2) test and certify the various configurations pursuant to the requirements in 10 CFR part 429.

Regarding multiposition furnaces not shipped with an open inlet, DOE proposes to allow testing of the unit using only the blower access door. This testing approach allows the value of the test unit to be preserved and reduces the length of the set-up time.

D. Tolerances on Test Conditions and Measurements

In the RFI, DOE requested comment as to whether the existing statistical variability of AFUE is acceptable. 78 FR 675, 677 (Jan. 4, 2013). The statistical variability within the test procedure depends on the permissible variations in test conditions (room ambient temperature, return water temperature, and product hourly Btu nameplate input rating) and the existing equipment measurement error associated with the measurement of variables (such as firing rate, heating media temperatures, flow rates, fuel calorific value, weight of condensate, water flow and temperature, voltage, and flue gas composition). DOE sought comment and received input on whether the existing tolerance ranges for test conditions and statistical variability in the test procedure are acceptable or whether DOE should define different methods of measuring and recording such variables.

The DOE test procedure allows for variations in certain test conditions. While these conditions do not directly impact the accuracy of the of the test method, they may impact the reproducibility of the AFUE results determined under the range of allowable test conditions.[35]

Rheem commented that the firing rate varies with run time; having a wider tolerance ensures that a sample furnace may be set at an appropriate rate at the beginning of a test and stay within the tolerance for the duration of the test. (Rheem, No. 12 at p. 7) Lennox added that any additional narrowing of the firing rate tolerance range from ±2% could cause the product to drift out of range while conducting the steady-state, heat-up, and cyclic condensate collection tests. According to Lennox, variations in gas valve performance can cause gas manifold pressures to vary slightly over time while conducting the test, thereby affecting the firing rate. (Lennox, No. 6 at p. 2) Several of the stakeholders reiterated that DOE should only consider changing tolerances if DOE has data supporting the change. (Lennox, No. 6 at p. 2, Carrier, No. 7 at p. 1, Rheem, No. 12 at p. 7, AHRI, No. 13 at p. 3) NRDC commented that permissible variations for tests can be used, from a positive perspective, to avoid the need to control arbitrary conditions in an overly tight or an overly expensive way, or they can be used, from a negative perspective, as a way of influencing the results by choosing the end of the tolerance range that gives the best AFUE. The commenter stated that DOE should review existing certifications to make sure that the latter is not happening, and tighten the permissible variation ranges if it is. (NRDC, No. 14 at p. 1) Other

[34] A multiposition furnace is a furnace that can be installed in more than one airflow configuration (*e.g.,* upflow or horizontal; downflow or horizontal; and upflow, downflow or horizontal).

[35] See section III.E.5 of this notice for an example of how reproducibility is affected by the allowed tolerances.

stakeholders (NRCan, APGA, AHRI, Carrier, Lennox, Crown Boiler, APGA, and Energy Kinetics) also commented on this issue regarding specific variables, such as room ambient air conditions and boiler supply and return water temperature ranges.

DOE has addressed room ambient air conditions and boiler supply and return water temperature ranges in sections III.E.5 and III.E.7 of this notice. For product hourly Btu nameplate input rating, DOE agrees with Lennox that the variation in gas valve performance does not allow further narrowing of the tolerance range. Additionally, there are no data to support such a change. Therefore, DOE has decided not to propose changes to the allowable tolerance range on firing rate because of the increased manufacturer burden.

On the subject of the appropriateness of the existing test procedure tolerances on measured variables, AHRI, Rheem, Carrier, and Lennox all stated that they believe the existing tolerances for measured variables such as fuel calorific value, weight of condensate, water flow and temperature, voltage, flue gas composition, firing rate, heating media temperatures and flow rates, and ambient air temperatures are acceptable. (AHRI, No. 13 at p. 3; Rheem No. 12 at p. 7; Carrier, No. 7 at p. 1; Lennox, No. 6 at p. 2)

To establish the overall uncertainty of the test procedure, DOE developed an analytical tool that determines the AFUE of residential furnaces and boilers based on ASHRAE 103–1993 provisions. The methodology applies Monte Carlo simulations that use distributions of values for all variables with defined measurement error. The tool is implemented as a computer spreadsheet with an add-on program to perform 10,000 iterations of the simulation. The parameter uncertainty ranges were defined based on the tolerances specified in section 5 and section 8.6.1.3 (jacket loss) of ASHRAE 103–1993 and ASHRAE 103–2007, which are incorporated by reference or are proposed to be incorporated by reference, respectively, in the DOE test procedure.

Table 1 provides a summary of the maximum standard deviations by product type, using the existing DOE test procedure. For the models tested, AFUE uncertainty ranged from 0.1 (for modulating condensing boilers) to 0.4 (for single-stage non-condensing boilers). Detailed results of the uncertainty analysis are presented in the Testing Report, which can be found in the docket for this rulemaking.

TABLE 1—UNCERTAINTY ON AFUE BY PRODUCT TYPE, BASED ON EXISTING DOE TEST PROCEDURE

Control type	Boilers		Furnaces	
	Non-condensing	Condensing	Non-condensing	Condensing
Single-stage (1)	0.4	0.2	0.3	0.3
Two-stage (2)	0.2	.....	0.3	0.3
Modulating (3)	.....	0.2	0.3	0.3

Based on DOE's analysis of the uncertainty associated with AFUE and stakeholder input, DOE agrees that, overall, the tolerances as specified within the existing DOE test procedure (section 5 of 10 CFR part 430, subpart B, appendix N) allow for an acceptable level of uncertainty. Considering stakeholders' input, the lack of data supporting any other specific changes to the existing tolerances, and the results of the uncertainty analysis, DOE proposes no modifications to any of the measurement tolerances in the existing test procedure.

E. Other Test Procedure Considerations

1. Electrical Consumption for Modulating Products

In the January 2013 RFI, DOE considered incorporating a method to measure part-load efficiency for modulating products with variable-speed motors. 78 FR 675, 678 (Jan. 4, 2013). Modulating units are often equipped with electronically commutated motors that allow for variable-speed operation of circulating blowers and pumps and combustion blowers. Motor efficiency changes as a function of partial loading (operation at speeds other than the nominal speed), which occurs as a result of a change in firing rate. These types of motors consume less energy when the product is functioning at lower speeds (*i.e.,* reduced firing rates). However, for modulating units, ASHRAE 103–1993 and ASHRAE 103–2007 assume that motors always operate at the settings for the maximum input rate during the modulating mode. Including a method for determining the part-load electricity consumption into the total electricity consumption calculations for modulating equipment could improve the accuracy of the electricity consumption calculations for modulating products.

Carrier, Rheem, and AHRI all opposed incorporating in the proposed test procedure a method for calculating part-load motor efficiency into its electricity consumption calculations. Carrier stated that motor efficiency is fairly constant within the useable operating range and that the benefits attendant to adding part-load efficiency provisions is not worth complicating the calculations. (Carrier, No. 7 at p. 2) Rheem commented that the existing test procedure does not assume a fixed motor efficiency: the E_{AE} (average annual auxiliary electrical energy consumption) has always been a part-load efficiency descriptor because it applies to multistage products such as modulating furnaces. Rheem argued that expanding E_{AE} to include four levels of operations, similar to the approach used by IEER,[36] would require double the testing. Rheem does not believe that this added level of complexity would provide consumers with information that would help them to make more informed product purchase decisions. (Rheem, No. 12 at p. 10) AHRI recommended DOE not consider the issue of part-load efficiency because the proposed approach would not provide a significantly improved consumption calculation, and would only amount to a minor change to an electrical consumption value that is already insignificant compared to the total furnace or boiler energy consumption. (AHRI, No. 13 at p. 5) Lennox commented that incorporating an additional testing method beyond that in the incorporated ASHRAE 103–2007 could impose an undue burden on manufacturers without providing a significant benefit to the customer, as the electrical consumption is a small

[36] Integrated Energy Efficiency Ratio (IEER) is a metric that integrates cooling part-load EER efficiency for commercial unitary air conditioning and heat pump equipment on the basis of weighted operation at various load capacities for the equipment.

percentage of the overall energy consumption for a furnace, and even more so for furnaces that incorporate modulating power burners. (Lennox, No. 6 at p. 3) NRCan stated that the test procedure should incorporate measurement of electrical energy used by power burners and circulating pumps in modulating appliances as part of a ''connected load'' during active mode testing, rather than developing and incorporating a new part-load motor efficiency calculation. (NRCan, No. 15 at p. 4)

Modifying the method to include part-load testing (in addition to the required testing at full and reduced-load operation) for determining the electricity consumption for modulating products would result in a minor improvement of the accuracy of the electricity consumption calculations. However, incorporating part-load electricity consumption testing for modulating products would require a significant amount of additional testing in the modulating mode of operation. Therefore, DOE has tentatively concluded that including additional provisions for part-load testing for modulating products would impose an undue burden on manufacturers without providing a significant benefit to the customer. Thus, DOE does not propose to modify the existing method for determining the electricity consumption for modulating products.

2. Jacket Loss and Jacket Loss Factors

DOE's January 2013 RFI also requested feedback on parameters that account for heat losses through the furnace or boiler jacket, including: (1) An overall jacket loss value (L_J), which is either assigned a value of 1.0 percent or determined in accordance with 8.6 of ASHRAE 103–1993; and (2) the default factors that adjust the L_J based on installation location—jacket loss factor (C_J) and the factor that adjusts jacket losses measured in the laboratory to those that would be measured under outdoor design conditions (K).[37] 78 FR 675, 677 (Jan. 4, 2013).

Ingersoll Rand argued that the testing burden can be reduced by improving jacket loss default values. (Ingersoll Rand, No. 8 at p. 1) Rheem stated that the existing default jacket loss value is too high, and that a value more representative of the results of an actual jacket loss test may eliminate the need for this test. (Rheem, No. 12 at p. 2) Rheem stated that testing of current production furnaces indicates jacket losses (L_J) in the range of 0.3 to 0.4, far below the default value of 1.0. (Rheem, No. 12 at p. 2) AHRI also stated that the default jacket loss value for furnaces may be twice as high as the typical jacket loss of current models. (AHRI, No. 13 at p. 2)

Several stakeholders indicated that applying the existing jacket loss default factors may result in an overestimation of the AFUE rating of furnaces and boilers. NRCan commented that the definition of the permitted default jacket loss value and jacket loss factors should be re-examined to ensure that jacket losses from furnaces and boilers are accurately calculated and reflect the way that those products are typically installed in residential applications. NRCan also stated that DOE should clarify and review the definitions for ''isolated combustion system,'' ''direct vent system,'' and ''systems intended to be installed indoors'' to ensure that the definitions unambiguously lead to and clearly identify the appropriate jacket loss factors for residential furnaces and boilers. In addition, NRCan stated that the jacket loss factor (C_J) for non-weatherized boilers should not be set to zero. (NRCan, No. 15 at p. 2&3) NRDC suggested that DOE pursue conservatively chosen default factors, which would result in lower AFUE values that are more representative of the majority of real world situations. (NRDC, No. 14 at p. 1) Energy Kinetics indicated that steady-state jacket losses, which can range from 2 percent to 6 percent, are not accounted for in the AFUE rating and, therefore, could encourage manufacturers to minimally insulate boilers, which may contribute to inflated AFUE values. Energy Kinetics stated that DOE, as demonstrated by its test procedure and energy conservation standard, assumes that these losses contribute to heating the home, but in most instances, boilers are not located within the heated living space, so jacket losses are efficiency losses. (Energy Kinetics, No. 11 at p. 2)

DOE understands that determining jacket loss through testing presents a testing burden for manufacturers. The existing test procedure sets the default jacket loss value at 1 percent. Rheem and AHRI reported that the jacket losses determined through testing are about half the default value, which for non-weatherized furnaces represents an AFUE increase of up to 1.2 percent[38] when using the measured value as compared to using the default value.

Based on available test data, DOE has tentatively concluded that changing the jacket loss default value would be inappropriate at this time. DOE tested a number of residential furnaces and boilers according to the test methods prescribed in section 7 of the DOE test procedure and used the resulting measurements to calculate L_J, which ranged from 0.360 to 0.776 for the five furnace models tested. The 2001 manufacturer test data provided by NIST for 16 two-stage or modulating furnaces showed this value to range from 0.112 to 0.750. In DOE's view, there are not enough data to represent the more than 5,000 furnace and boiler models with diverse design characteristics currently on the market, and a larger, statistically representative market sample would be needed for DOE to consider such a major change. The preparation of such a sample would require a significant amount of manufacturer input that was not available for this notice. Therefore, DOE does not propose changing the existing default value for the jacket loss at this time.

The existing DOE test procedure identifies default jacket loss factors C_J and K based on product type (non-weatherized furnaces, non-weatherized boilers, and weatherized furnaces and boilers) and the assumed intended installation location. NRCan, NRDC, and Energy Kinetics commented that the values for these factors should be reevaluated on the basis that installation location assumptions within the existing test procedure do not reflect the way that those products are typically installed in residential applications. (NRCan, No. 15 at pp. 2–3; NRDC, No. 14 at p. 1; Energy Kinetics, No. 11 at p. 2) The installation locations associated with each product type are as established by the statute[39] and cannot be changed by DOE. Therefore, DOE is not proposing any changes to the existing default values for the jacket loss factors.

[37] See section 11.2.11 (C_J) and 11.2.8.1 (K) of ASHRAE 103–1993, which are incorporated by reference in the DOE test procedure.

[38] According to Rheem's results, which report measured jacket losses averaging of 0.3 to 0.4 percent compared to the default value of 1 percent.

[39] Under 42 U.S.C. 6291(a)(20), ''[t]he term 'annual fuel utilization efficiency' means the efficiency descriptor for furnaces and boilers, determined using test procedures prescribed under section 6293 of this title and based on the assumption that all—

(A) weatherized warm air furnaces or boilers are located out-of-doors;

(B) warm air furnaces which are not weatherized are located indoors and all combustion and ventilation air is admitted through grills or ducts from the outdoors and does not communicate with air in the conditioned space; and

(C) boilers which are not weatherized are located within the heated space.''

3. Use of Default Seasonal Factors To Replace ''Heat-Up'' and ''Cool-Down'' Tests

During the heat-up and cool-down tests, flue gas temperatures are measured at various time intervals throughout the test. These measurements are used when determining the impact of the cyclic conditions on AFUE. Several terms in the AFUE calculation are dependent on the measurements from the heat-up and cool-down tests. The use of default seasonal factors may reduce overall manufacturer test burden by making the ''heat-up'' and ''cool-down'' tests (and their associated calculations) unnecessary. In the January 2013 RFI, DOE requested input from stakeholders as to whether such default factors are a feasible alternative to testing and whether such factors correlate to the physical characteristics of the product. 78 FR 675, 677 (Jan. 4, 2013).

AHRI recommended that DOE consider replacing the heat-up and cool-down tests with default seasonal factors. (AHRI, No. 13 at p. 2) Both Lennox and Rheem stated that they were in favor of replacing the heat-up and cool-down tests with seasonal default factors to reduce the test burden. (Lennox, No. 6 at p. 1; Rheem, No. 12 at p. 2) Lennox agreed that the physical characteristics of the product may have a bearing on the heat-up and cool-down test values and their effect on the AFUE. (Lennox, No. 6 at p. 1) Rheem suggested that data from the heat-up test show a difference between condensing and non-condensing furnaces in the calculated value of AFUE. In contrast, Rheem also stated that data from the cool-down test do not show a difference between condensing and non-condensing furnaces and, in general, the cool-down test has a minimal effect on AFUE. (Rheem, No. 12 at p. 2) Rheem recommended separate default values for CT_{ON} (heat-up temperature profile correction factor for the effect of cycling) and CT_{OFF} (cool-down temperature profile correction factor for the effect of cycling) for both non-condensing and condensing products: 0.9 for CT_{ON} and 0.9 for CT_{OFF} for non-condensing products, and 0.6 for CT_{ON} and 0.9 for CT_{OFF} for condensing products. Rheem provided a statistical summary that showed low variability of cool-down and heat-up results in their testing and suggested DOE allow the use of default factors for CT_{ON} and CT_{OFF}.

In DOE's view, replacing CT_{ON} and CT_{OFF} with default values would simplify the AFUE calculation. However, DOE cannot establish representative default values for CT_{ON} and CT_{OFF} for all covered units based on data from only one manufacturer's products. Additionally, these two parameters are only two calculated values among several that depend on the time-temperature values measured during the cool-down and heat-up tests.[40] Completely eliminating the heat-up and cool-down would require replacing all of these values with default values. Therefore, DOE tentatively concludes that it cannot justify replacing the heat-up and cool-down tests with default factors.

4. Calculation Simplification for Burner Cycling and Draft Losses

In the January 2013 RFI, DOE requested comment on whether simplifying the calculation for determining the burner cycling and draft losses used to compute seasonal efficiency is a viable alternative to testing, and whether or not such a simplification would result in a less precise assessment of the efficiency rating. 78 FR 675, 677 (Jan. 4, 2013).

AHRI recommended that DOE try to simplify the calculation procedure for determining the burner cycling and draft losses. (AHRI, No. 13 at p. 2) Lennox likewise stated support for DOE's efforts in simplifying the calculation procedure for determining the burner cycling and draft losses. (Lennox, No. 6 at p. 2) Rheem suggested that, based on the minimal variation in CT_{ON} and CT_{OFF}, default values would be acceptable to use in place of performance testing. (Rheem, No. 12 at p. 3) However, Rheem recommended that non-condensing and condensing products should have different default values for CT_{ON}. (Rheem, No. 12 at p. 3)

Although stakeholder comments indicate agreement with simplification of the calculation process, data are required to substantiate a change to the values. Given the lack of proposed simplifications and supporting data, DOE does not propose to simplify the calculation for determining the burner cycling and draft losses at this time.

5. Room Ambient Air Temperature and Humidity Ranges

The DOE test procedure for residential furnaces and boilers set forth in 10 CFR part 430, subpart B, appendix N, which currently incorporates by reference ASHRAE 103–1993, includes a steady-state and a cyclic condensate collection test for modulating and two-stage condensing furnaces and boilers. The amount of condensate produced, which captures the latent energy of the flue gases, is a major determinant of AFUE for condensing products but is sensitive to the humidity and temperature of the room ambient air. Under the existing DOE test procedure, the room temperature may not fall below 65 °F or exceed 100 °F, except for condensing furnaces and boilers, for which the room temperature may not exceed 85 °F. Additionally, the existing test procedure specifies a maximum relative humidity limit of 80 percent. To improve the comparability of AFUE for models tested under different conditions within the allowable range of room ambient conditions, DOE considered revisions to these conditions as set forth in the current DOE test procedure. In particular, in the RFI, DOE requested comment as to the appropriateness of tightening the allowable room air temperature range. 78 FR 675, 677 (Jan. 4, 2013). Several stakeholders provided comments in response to this request.

NRCan stated that the ambient room temperature tolerance for testing condensing furnaces should be tightened. NRCan stated that in the DOE test procedure for water heaters, the ambient air temperature is required to be maintained between 65.0 °F and 70.0 °F (18.3 °C and 21.1 °C) on a continuous basis. An ambient temperature range from 65 °F to 85 °F, as currently permitted for condensing furnaces and boilers, might be too wide, resulting in greater variation of AFUE for models tested under different temperature conditions. (NRCan, No. 15 at p 1–2) APGA stated that a furnace test may produce higher AFUE results during a hot summer day; to aid customers in comparing products, the testing conditions (with regards to ambient air temperature) should be similar. (APGA, No. 5 at p. 2)

Carrier supported consideration of a narrower window for allowable room air temperature range, provided that the low temperature limit is not increased above 65 °F. (Carrier, No. 7 at p. 1) AHRI commented that the topic merits consideration but also that DOE must recognize that any tightening of the range may either require test facility changes to control temperature or limit a manufacturer to conducting this test only during certain times of the year when the outside ambient conditions allow the test facility to be within the specified range. AHRI suggested that if DOE's inclination is to tighten this range, this consideration should include the option of a mathematical correction to adjust results when a test is conducted with the room temperature

[40] Section 8.0 of Appendix N to Subpart B of Part 430, which refers to ASHRAE 103–1993, sections 9.5, 9.6; and section 10 of Appendix N, which refers to ASHRAE 103–1993, sections 11.2.9.4—11.2.9.8.

outside the specified range. (AHRI, No.13 at p. 3)

Lennox similarly commented that tightening the allowable ambient air temperature range may require some test facilities to implement test facility temperature control. In the case of non-condensing furnaces, this would prove costly and burdensome to manufacturers while providing little value to consumers, because AFUE is not significantly impacted by ambient room temperatures for such products. (Lennox, No. 6 at p. 2)

The AFUE of condensing boilers is also affected by room ambient humidity ratio because the amount of condensate produced depends in part on the moisture content of the ambient air: The higher the humidity ratio, the more condensate is available from which a boiler can extract heat. Crown Boiler stated that the current humidity limit significantly increases the amount of condensate a condensing boiler can collect compared to what is theoretically possible under typical operating conditions. Crown Boiler stated that most residential condensing boilers are designed so that they can be directly vented to outside the home; in addition, AFUE is currently calculated based on venting using outdoor air at a temperature assumed to be 42 °F. Based on this, in Crown Boiler's view, the upper limit for humidity for testing condensing boilers should be the humidity ratio at 100 percent relative humidity at 42 °F. According to Crown Boiler, this equates to a room humidity of slightly more than 20 percent at the current maximum allowable 85 °F ambient temperature. Limiting the relative humidity would help to ensure that the testing conditions accurately reflect the assumptions made in the test procedure calculations. However, Crown Boiler also stated that the decision to limit room humidity should not be taken lightly, as it could create a significant new test burden for manufacturers who may need to construct environmental chambers in order to continue performing AFUE testing during humid weather. Given the burden associated with restricting room humidity, Crown Boiler requested that even if such changes prove warranted for condensing boilers, DOE should not change the limitations for room humidity for furnaces or non-condensing boilers, unless there are data to justify such a change for these types of products. Crown Boiler stated that the imposition of this burden may be justified for condensing boilers in order to ensure that the energy performance is more accurately represented in the marketplace. Crown Boiler stated that it would also support the adoption of a computational technique for correcting results from testing done at higher relative humidity (RH) levels back to a standard RH that can be realistically expected in the field. (Crown Boiler, No. 9 at pp. 1–2)

AHRI stated that DOE should give careful consideration before amending the DOE test procedure to specify a relative humidity range. AHRI also recommended that mathematical corrections should be taken into consideration in lieu of tightening the room air humidity range. (AHRI, No. 13 at p. 3)

The stakeholder comments discussed two options for addressing the room ambient conditions during testing: (a) Introduce a mathematical correction methodology that normalizes condensate production during the AFUE test to a standard set of ambient conditions while retaining the existing ambient temperature ranges and (b) further restrict temperature and humidity ranges during testing.

DOE investigated the impact of ambient conditions on AFUE of non-condensing units by testing one non-condensing furnace and one non-condensing boiler under several sets of ambient conditions. Based on the testing results, DOE concluded that the room ambient air temperature and humidity do not have a statistically significant impact on the AFUE of non-condensing furnaces and boilers. (See Testing Report.) Therefore, for non-condensing products, DOE has tentatively decided not to propose revisions to the existing ambient temperature and humidity ranges.

To evaluate the impact of varying room ambient conditions on condensing product efficiency, DOE conducted eight separate AFUE tests on one modulating condensing boiler and one two-stage condensing furnace (four tests per unit) based on the existing DOE test procedure. For the tested furnace model, the AFUE difference between the tests conducted at varying ambient conditions shows that AFUE may vary as much as 2.3 percent. This variation in AFUE is greater than the uncertainty associated with the measurement error and is attributed to changes in ambient conditions between the tests. For the tested boiler model, the test results show that the AFUE of the tests conducted at varying ambient conditions are within the overall measurement uncertainty; therefore, the variation in AFUE cannot be attributed to changes in ambient conditions based on the data. The details of the test results can be found in the Testing Report.

DOE investigated a computational method for normalizing condensate mass to a set of standard ambient conditions in order to limit the variability in reported AFUE from tests conducted at various ambient temperatures and humidity levels. To assess the validity of the normalization methodology, DOE utilized the test data from the eight AFUE tests performed at different temperature and humidity conditions.

Applying the normalization approach to the test data resulted in significant differences in the calculated AFUE values at different room ambient conditions, particularly for the furnace models. DOE conducted a statistical evaluation to determine whether the differences in the adjusted AFUE values at different room ambient conditions can be solely attributed to measurement tolerances. For the statistical evaluation, DOE assumed that only two factors impacted condensate collection: Room ambient conditions and measurement accuracy. Based on the results from the statistical evaluation, which are described in the Testing Report, DOE concluded that the normalization methodology does not eliminate the variability of AFUE due to the room ambient conditions.

Based on the analyzed test data and the outcome of the statistical test, the normalization approach appears to be ineffective. Therefore, DOE is not proposing to implement a mathematical approach for normalizing condensate production to a standard set of conditions during the AFUE test.

Alternatively, DOE assessed whether to further restrict the currently required room temperature and humidity ranges during testing. To determine whether narrowing the admissible range of ambient conditions would impact the ability of the test facility to perform testing, DOE assessed the average ambient conditions (dry-bulb temperature and relative humidity) using Typical Meteorological Year 3 (TMY3) data [41] for all TMY weather stations across the United States. The results of this assessment, which are included in the Testing Report, show that 75 percent of the stations currently within the allowable range would fall outside the considered restricted allowable range of ambient test conditions. Based on this assessment, DOE agrees with AHRI, Lennox, and Crown Boiler that tightening the allowable ambient air temperature and humidity range may force some test facilities that currently do not use

[41] See *http://rredc.nrel.gov/solar/old_data/nsrdb/1991-2005/tmy3/.*

mechanical space conditioning to incorporate environmental controls or limit the testing to only certain times of the year, thereby resulting in additional testing burden for these facilities. Therefore, based on the potentially significant burden to manufacturers, DOE is not proposing to restrict the currently required room ambient conditions ranges.

6. Oversize Factor

In the January 2013 RFI, DOE sought comment as to whether the use of the existing oversize factor [42] (0.7, or 170 percent of the house heating load) remains appropriate for current field installations. 78 FR 675, 677 (Jan. 4, 2013). This request was primarily focused on use of the oversize factor for single-stage boilers, as the adoption of ASHRAE 103–2007 should adequately address the oversize factor issues related to two-stage/modulating products.

Energy Kinetics, Rheem, NRCan, and NRDC all agreed that the existing 0.7 oversize factor merits review. Energy Kinetics stated that the fixed 0.7 oversizing factor provides misleading information to the marketplace: A boiler that is perfectly sized will have no benefit in the AFUE rating compared to a system that is oversized by a factor of five. (Energy Kinetics, No. 11 at p. 2) Rheem would appreciate clarification from DOE on the definition of ''average oversizing'' and the specific assumptions that lead to a national value. Rheem stated that it has seen no indication that replacement furnaces are less oversized than in the past, but there is an important effect due to the increasing market share of multistage products. (Rheem, No. 12 at p. 8) DOE acknowledges that when units operate at the reduced input rate in the cycling mode, the unit is considered to be properly sized at the reduced rate to meet the heating load.[43]

Energy Kinetics, Rheem, and NRDC each offered recommended adjustments to the existing oversize factor. Energy Kinetics stated that fuel consumption data coupled with degree-day analysis indicate that an oversize factor of 2.0 (*i.e.,* an additional 200 percent of the house heating load, resulting in a total sizing of 300 percent of the house heating load) or more is not only common, but the norm. (Energy Kinetics, No. 11 at p. 2) NRDC commented that DOE should review the concept of oversizing as a multiplicative factor, as opposed to a more nuanced adjustment. NRDC stated that a more sophisticated approach may make more sense in light of thermal upgrades to the International Energy Conservation Code (IECC),[44] both those already adopted and those anticipated in the future. (NRDC, No. 14 at p 1) The commenter stated that for such an approach, DOE should investigate whether an oversize factor that varies as a function of furnace sizing would provide a more accurate representation of expected field results. (NRDC, No. 14 at p. 2)

In contrast, Carrier and AHRI commented that the oversize factor, as set forth in the existing test procedure, does not need to be reviewed. However, Carrier recommended, in the event that DOE does not adopt ASHRAE 103–2007, DOE should use the same fixed oversize factor for maximum input on modulating products, which is currently not the way the incorporated modulating section of ASHRAE 103–1993 assigns an oversize factor. (Carrier, No. 7, p. 2) AHRI commented that the heating loads of today's residences tend to be lower because of tighter building envelopes and weatherization improvements, but this does not correlate directly to any change in the oversize factor. It added that the increased use of two-stage and multistage models reduces the significance of having an accurate oversize factor in the test procedure. AHRI stated that in the field, the oversize factor only relates to the full input rate of the furnace or boiler. When the unit is operating at the reduced rate, it will fire at an input much closer to the estimated design heating load of the house. (AHRI, No. 13 at p. 4)

A literature review conducted by DOE in response to stakeholder comments revealed a variety of recommended oversize factors. Some sources recommended lower values. For example, the Cold Climate Housing Research Center stated that, although the assumed national oversize factor is 0.7, recent developments in software and sizing techniques have allowed installers to size appliances more closely to the Air Conditioners Contractors of America (ACCA) guidelines of using an oversize factor of 0 to 0.4 (*i.e.,* 100 percent to 140 percent of the house heating load).[45] The Center cited both the March 2012 Partnership for Advanced Residential Retrofit [46] oversize factor of 0.4, which is based on the ACCA recommendation, and the 2009 Alaska Building Energy Efficiency Standards [47] value of 0.20, as more representative of current field installations. Research released later in 2012 by the Partnership for Advanced Residential Retrofit also stated that high-efficiency furnaces are insensitive to oversizing when AFUE is evaluated according to the ASHRAE standard (*i.e.,* not varying by more than 0.5 percent AFUE when tested between 70 percent and 120 percent oversizing).[48] A report by the Minnesota Department of Commerce State Energy Office stated that 47 percent of their field studies revealed oversizing of 50 percent or more, which it considers a significant problem because oversized units cycle more often, resulting in less-efficient operation.[49]

Other researchers found a higher range of oversize factors. Research by Arctic Energy Systems of South Central Alaskan Homes found that forced-air furnace oversizing ranged from 66 percent to 223 percent, with an average of 121 percent.[50] A report by the Minnesota Department of Commerce State Energy Office also found that ACCA's Manual J computer software [51] currently incorporates an oversizing safety factor of around 25 percent, so safety factors added by contractors and wholesalers can oversize units even more drastically (*i.e.,* in the

[42] ''Oversize factor'' accounts for the national average oversizing of equipment that occurs when a heating product is sized to satisfy more than the heating load of the household. This is typically done to size the equipment so that it is able to satisfy the days in which the house heating requirements might be exceeded and/or to take into account uncertainties regarding house heating load. For example, a 0.7 oversize factor is equivalent to 170-percent oversizing of the heating equipment (*i.e.,* 70 percent greater input capacity than is required).

[43] Kweller, E. and Thomas, F., ''An Analysis of United States Weather Data for the Calculation of Average Outdoor Temperatures and Fractional Heating Loads for Furnaces and Boilers Equipped with Fuel-Modulating Controls, National Bureau of Standards'' (1982).

[44] International Code Council, *2012 International Energy Conservation Code* (2011) (Available at: *https://law.resource.org/pub/us/code/ibr/icc.iecc.2012.pdf*).

[45] Cold Climate Housing Research Center, ''Annual Fuel Utilization Efficiency, A Review for Cold Climate Applicability'' (2013).

[46] Brand, Larry, ''Achieving the Best Installed Performance from High-Efficiency Residential Gas Furnaces,'' Partnership for Advanced Residential Retrofit (March 2012).

[47] Alaska Housing Finance Corporation, *Alaska-Specific Amendments to the IECC 2009* (2011) (Available at: *http://www.ahfc.us/files/1013/7393/1537/ak_bees_2009_ashrae_std_62_2_2010.pdf*).

[48] Brand, Larry, and Rose, William, *Measure Guideline: High Efficiency Natural Gas Furnaces,* U.S. Department of Energy Building America program (2012) (Available at: *http://www.nrel.gov/docs/fy13osti/55493.pdf*).

[49] Krigger, John, and Dorsi, Chris, Minnesota Mechanical Systems Field Guide, Minnesota Department of Commerce State Energy Office (2005).

[50] Kaluza, Phil, ''Over-Sizing of Residential Forced-Air Heating Systems in Southcentral Alaska Homes,'' Arctic Energy Systems (June 2002).

[51] ACCA's Manual J software produces equipment sizing loads (heating and cooling) for single-family-detached homes, small multi-unit structures, condominiums, town houses and manufactured homes.

neighborhood of 50 to 200 percent).[52] Additionally, the heating, ventilation, and air conditioning (HVAC) industry oftentimes scales predicted loads up to take into account unmeasured window performance, envelope construction, insulation, and duct system efficiency information. Integrated Building and Construction Solutions (IBACOS) modeled two baseline houses in Chicago, Illinois, and Orlando, Florida, and applied common ''safety factors'' to determine their effect on oversizing. Combining all the considered outdoor/indoor design, building component, ductwork and ventilation/infiltration safety factors resulted in 55 percent total oversizing for the Chicago house, and 141 percent total oversizing for the Orlando house.[53] A report in *Home Energy* magazine stated that the assumed amount of oversizing varies with the size of the furnace, but averages about 100 percent.[54]

Another study was conducted by the city of Fort Collins, Colorado, to assess the impact of the city's 1996 energy code (implementation experience, compliance rates, and energy-saving results).[55] The study focused on homes built between 1994 and 1999. The major components of the study were: (1) Inspections of 20 homes under construction; (2) market research interviews with 20 builders and 150 homeowners; (3) energy inspections, energy modeling, and utility bill analysis for 80 completed homes; and (4) performance testing of 40 completed homes. The study concluded that the furnaces installed in the homes surveyed were sized an average of 158 percent of the minimum required size with oversizing observed for 70 percent of the furnaces.

After considering the available information, DOE tentatively concludes that the revisions incorporated in ASHRAE 103–2007 have effectively addressed oversize factor corrections for two-stage and modulating products, and that the literature supports the continued use of an oversize factor of 0.7. Although Energy Kinetics, Rheem, NRCan, and NRDC commented that there is merit in reviewing the oversize factor, no data were provided that would support a change to the existing oversize factor. Moreover, based on recent research evaluating the sensitivity of AFUE to a change in oversize factor,[56] DOE found that furnace AFUE is generally insensitive to oversizing in the 70 percent to 120 percent oversizing range. Considering the conclusions and widely varying results presented by the studies discussed previously, DOE has tentatively determined the existing value of 0.7 continues to be representative of the oversized factor applicable to the average U.S. household. Therefore, DOE proposes to maintain the existing oversize factor.

7. Boiler Supply and Return Water Temperatures

Currently, the DOE test procedure sets the temperature of water delivered to the boiler (*i.e.,* return water) during the steady-state and heat-up tests between 120°F and 124°F [57] for non-condensing hot water boilers, and 120°F ± 2°F for condensing hot water boilers.[58] In the January 2013 RFI, DOE sought comment on these temperatures, and whether DOE should revise the values to more accurately reflect the average water temperatures of non-condensing and condensing boiler installations. 78 FR 675, 677 (Jan. 4, 2013).

APGA, Energy Kinetics, and NRCan agreed that the boiler water supply temperatures merit review. APGA commented that supply water temperatures can vary in different regions and seasons, and these regional and seasonal variations should be taken into account when measuring boiler performance. (APGA, No. 5 at p. 2) NRCan stated that for boilers, the supply and return water temperatures used to determine AFUE should approximate the temperatures that will be used after the appliance is installed. (NRCan, No. 15 at p. 4) Energy Kinetics stated that the nominal test return water temperature of 120 °F and supply water temperature of 140 °F used for determining AFUE are not representative of the supply and return water temperatures used in typical hydronic heating system installations, and the actual operational and off cycle temperatures may vary based on boiler controls. Energy Kinetics also stated that the performance of these controls is not assessed in the test method because of the fixed water temperatures used for the test, and that the exception for low-temperature radiant applications referenced in the RFI has very limited relevance to American homes because of the small fraction of boilers installed in low-temperature radiant systems. (Energy Kinetics, No. 11 at p. 2–3)

AHRI did not agree that the supply water temperatures specified for testing boilers need to be changed. AHRI recommended that DOE consider including the low-water-temperature test in Appendix F of ASHRAE 103–2007 as an additional test for use by manufacturers if they choose to provide supplemental information. (AHRI, No. 13 at p. 4–5)

The supply water temperature in the existing DOE test procedure has been used to represent average supply temperature conditions of various boiler designs and applications. DOE acknowledges that return water temperatures may vary by application for different types of products; however, DOE has tentatively concluded that the existing temperature value allows for consistent comparison of AFUE between non-condensing and condensing models. Therefore, DOE does not plan to change the supply/return water temperatures for boilers in the DOE test procedure.

DOE acknowledges AHRI's suggestion of identifying Appendix F of ASHRAE 103–2007 as the test method for use in determining seasonal efficiency testing at low supply water temperatures in the event that a manufacturer chooses to publish this efficiency information. In denying a prior waiver request from PB Heat, DOE clarified that it is permissible for a manufacturer conducting low-water-temperature seasonal efficiency (LWTSE) testing to present such results in product literature and to make related supplemental statements; however, AFUE test results generated under the DOE test procedure must continue to be disclosed, and LWTSE results must provide reasonable, clear, and distinguishable representations of those results to the consumer. 75 FR 25228 (May 7, 2010). While DOE permits publication of these data as supplemental information, these measurements are not part of DOE's test procedure.

8. Burner Operating Hours Determination

In the January 2013 RFI, DOE explored whether the parameters used to calculate the burner operating hours in the DOE test procedure (national average home-heating loads) should be amended due to changes in housing construction and climate conditions. 78 FR 675, 678 (Jan. 4, 2013). DOE sought comment on whether revised national

[52] Krigger, John, and Dorsi, Chris, Minnesota Mechanical Systems Field Guide, Minnesota Department of Commerce State Energy Office. (2005).

[53] Burdick, Alan, ''Accurate Heating and Cooling Load Calculations'' IBACOS, Inc. (June 2011).

[54] Pigg, Scott, ''Electricity Use by New Furnaces,'' Energy Center of Wisconsin (October 2003).

[55] Evaluation of New Home Energy Efficiency, Summary Report, City of Fort Collins (June 2002).

[56] Brand, Larry, and Rose, William, *Measure Guideline: High Efficiency Natural Gas Furnaces,* U.S. Department of Energy Building America program (2012) (Available at: *http://www.nrel.gov/docs/fy13osti/55493.pdf*).

[57] Section 8.4.2.3 of ASHRAE 103–1993.

[58] Section 8.4.2.3.2 of ASHRAE 103–1993.

average values should be used to calculate burner operating hours.

Carrier, Rheem, and AHRI did not support changing the burner operating hours. Carrier commented that unless there are compelling data showing the average conditions have changed significantly from what is currently the basis for the test procedure, it does not see a need to change the burner operating hours calculations. (Carrier, No. 7 at p. 2) Rheem admitted that it has not studied climatic conditions that would affect the burner operating hours, but it recommended that the national average heating load hours should not change. (Rheem, No. 12 at p. 10) AHRI recommended that DOE not consider this issue, as using a different average burner operating hours just moves the scale of comparison but provides no added value to consumers. (AHRI, No. 13 at p. 6) In contrast, NRCan commented that operating times used to determine annual fuel and electrical energy consumption ratings should be based on representative loads for the specific types of products. (NRCan, No. 15 at pp. 4–5)

DOE does not believe that there is sufficient evidence to substantiate a change in the national average heating load hours that are used to calculate the burner operating hours in the existing DOE test procedure. Therefore, DOE is not proposing changes to the existing value of the national average heating load hours.

9. Aligning Vent Stack Configuration With ANSI Standards

The installation configuration of a furnace or boiler vent stack depends on the type of product and the intended installation location. Currently, the configuration requirements for vent stacks used during testing differ between ANSI Z21.13 [59]/ANSI Z21.47 [60] and the DOE test procedure. ANSI Z21.47 and ANSI Z21.13 are standards for safe operation, substantial and durable construction, and acceptable performance of gas-fired central furnaces and gas-fired low-pressure steam and hot water boilers, respectively. These standards are intended to be used by manufacturers and those responsible for its proper installation. In the January 2013 RFI, DOE sought comment on whether there is a significant difference in efficiency rating related to the differences in vent stack configurations and whether it should consider adopting the vent stack requirements as set forth in ANSI Z21.13 and/or ANSI Z21.47. 78 FR 675, 678 (Jan. 4, 2013).

Lennox, Carrier, and AHRI stated that DOE should keep the existing test procedure vent stack configuration. (Lennox, No. 6 at p. 3; Carrier, No. 7 at p. 2; AHRI, No. 13 at p. 5) Lennox stated that changes to the vent stack configuration provisions would shift the AFUE values and provide no practical benefit to consumers. (Lennox, No. 6 at p. 3) AHRI stated that the existing configuration is appropriate for efficiency testing and that the vent configurations in safety standards are different because they focus on safety considerations. (AHRI, No. 13 at p. 5)

Rheem and NRCan commented that the requirements in the identified ANSI standards merit consideration. Rheem stated that aligning the test procedure with the ANSI Z21.47 vent stack configuration, which is meant to represent a marginal installation and not a typical installation, would require the use of uninsulated and slightly shorter vents for AFUE testing. This change would affect the vent temperature slightly, lowering the test AFUE. Rheem suggested that DOE should consider adopting the same vent stack requirements as used in the ANSI Z21.47 standard in order to reduce the number of test vents that must be maintained in the laboratory. (Rheem, No. 12 at p. 9) NRCan commented that the test procedure should adopt the same vent stack requirements as set forth in ANSI Z21.13 or ANSI Z21.47. NRCan stated that ultimately, the test procedure should incorporate whichever vent stack configurations are the most representative of typical field installations. (NRCan, No. 15 at p. 4)

In response, DOE recognizes that there is a potential opportunity for reducing testing burden associated with the storage and mounting of multiple vent stacks, and reducing the testing differences between ANSI Z21.13/ANSI Z21.47 and DOE's test procedure. However, several stakeholders expressed the opinion that any reduction in test burden would not be significant enough to outweigh the potential impacts to AFUE and any re-testing required as a result of new stack configurations. DOE also agrees with Rheem's comment that the change in stack configuration has the ability to impact AFUE in a way that may make the AFUE results less representative of actual field conditions. Because the ANSI standards address both safety and performance, the tests specify the minimum configurations for safe installation, and are not necessarily representative of product field installations. Furthermore, DOE believes the potential reduction in test burden associated with this change is not significant enough to offset the impact to the AFUE rating. Based on these considerations, DOE proposes not to pursue changes to the DOE test procedure that would require the use of the stack configuration as specified in ANSI Z21.13 and ANSI Z21.47 standards for boiler and furnace products.

10. Harmonization of External Static Pressure Requirements

In the January 2013 RFI, DOE sought comment on differences in efficiency performance caused by differences in minimum static pressure requirements between ASHRAE 103–2007 (Table IV) and DOE's recently published furnace fan test procedure,[61] as well as any drawbacks or advantages associated with harmonizing the requirements. DOE also requested information on any other national or international standards that should be considered for this cycle of residential furnaces and boilers test procedure rulemaking. 78 FR 675, 678–79 (Jan. 4, 2013).

Lennox expressed support for harmonizing to the minimum static pressure requirements listed in ASHRAE Standard 103–2007, rather than the much higher static pressures in DOE's furnace fan test procedure. (Lennox, No. 6 at p. 3) NRCan stated that it is difficult to predict the effects of revising the reference system in appendix N to match the proposed reference system in the furnace fan test procedure or vice versa. It commented that ideally the air duct reference system in both appendix N and the proposed furnace fan test procedure should be revised and harmonized to reflect realistic installations. NRCan went on to state that DOE should also consider harmonizing the minimum duct static pressures for gas furnaces and oil furnaces. (NRCan, No. 15 at p. 6) Rheem stated that the evaporator coils used in today's Rheem products have a pressure drop of close to 0.3 in. w.c. for an airflow rate of 350 cfm/ton and 0.4 in. w.c. at an airflow rate of 400 cfm/ton. Since the introduction of the 13 Seasonal Energy Efficiency Ratio (SEER) minimum efficiency regulations, Rheem argued that the assumptions supporting the minimum static pressure in Table 4 of ASHRAE 103–1993 are no longer true and that higher static

[59] American National Standards Institute, *American National Standard/CSA Standard for Gas-Fired Low Pressure Steam and Hot Water Boilers* (2010) Report No. ANSI Z21.13–2010, CSA 4.9–2010.

[60] American National Standards Institute, *American National Standard/CSA Standard for Gas-Fired Central Furnaces* (2006) Report No. ANSI Z21.47–2006, CSA 2.3–2006.

[61] 79 FR 500 (Jan. 3, 2014).

pressures are appropriate. Rheem commented that the static pressure values that were proposed in the furnace fan test procedure are more than double the existing test condition, and the effect on AFUE and the current product standards would require further study. (Rheem, No. 12 at p. 11)

AHRI recommended that DOE not consider this issue because it does not affect the AFUE measurement, so any change would have little to no value. It added that DOE should wait until the furnace fan test procedure is finalized before any further consideration is given to this issue. (AHRI, No. 13 at p. 6)

Stakeholders' input indicates that the impact of harmonizing the static pressure requirements in the residential furnaces and boilers test procedure and the furnace fan test static pressure conditions in the furnace fans test procedure is uncertain and would require further study. DOE investigated a method applied in the furnace fan test procedure for the purposes of measuring the airflow at the required static pressure. This method was proposed by AHRI and uses procedures and a test setup consistent with those used for the DOE test procedure for furnaces. However, the method specifies a maximum airflow-control setting that is consistent with operation in cooling mode but may not be suitable in heating mode operation, which is required for determining AFUE. Therefore, DOE proposes not to change the minimum static pressure requirements from those set forth in the existing furnaces and boilers test procedure.

11. Alternative Methods for Furnace/Boiler Efficiency Determination

As noted in the January 2013 RFI, DOE is aware of alternative methods to measure the heating efficiency of residential furnaces and boilers. In particular, DOE sought input on Brookhaven National Laboratory's test procedure for combination boilers,[62] which determines the thermal efficiency of boilers operating under various space heating and domestic hot water loads, as well as any other test methods worthy of consideration. 78 FR 675, 679 (Jan. 4, 2013).

Energy Kinetics offered an extensive critique of the current DOE furnace efficiency metric (AFUE), maintaining that the metric restrains progress in the residential boiler market, fails to provide insight about a product's energy performance and actual field performance, does not reflect the real performance efficiencies of boilers, is based on incorrect concepts of hydronic heating systems, and potentially rewards poor performing boilers with high ratings. Energy Kinetics commented that the AFUE test for boilers is obsolete and should be replaced with a more appropriate metric such as the linear input/output method developed by Brookhaven National Laboratory (BNL). Energy Kinetics believes that this method provides several benefits, including greater accuracy, accounting for design improvements in products, and better differentiation between poorly performing and better performing products. Energy Kinetics commented that BNL's linear input/output metric also much more closely reflects annual efficiency than AFUE alone, and could also replace the heat-up/cool-down tests, which do not capture seasonal efficiency. (Energy Kinetics, No. 11 at p. 4) AHRI recommended that DOE not consider any other procedures for measuring furnace and boiler efficiency. It stated that there is no value in considering wholesale changes to the current test procedure, and the effects on manufacturers and others would be significant and negative. (AHRI, No. 13 at p. 7)

Energy Kinetics recommended that DOE should abandon the current AFUE procedure and replace it with BNL's thermal efficiency test. Energy Kinetics identified the advantages of the BNL test in broad terms, but did not attempt to quantify the benefits that would result from its implementation. DOE understands that BNL's test accounts for jacket losses, which gives an efficiency advantage to well-insulated boilers. However, by definition, most boilers under DOE's test procedure are assumed to be indoor boilers, and, therefore, considers all jacket losses to be useful heat.[63] Boilers that utilize designs for minimizing jacket losses during the off-season will be more efficient in the BNL test than under DOE's test procedure. However, DOE's test procedure is intended to be a measurement of the energy efficiency for space heating alone.

DOE considered the stakeholders' input about adopting alternative test procedures, specifically the test method developed by BNL. However, there are insufficient data regarding the accuracy and applicability of the linear input/output method to determine its feasibility as a measure of efficiency for residential furnaces and boilers. Additionally, DOE is statutorily required to use the metric of AFUE to calculate the efficiency of all residential furnace and boiler products.[64] It is unclear how the AFUE metric could incorporate the thermal efficiency metric that is central to the BNL method. Therefore, DOE tentatively concludes that it will not modify the DOE test procedure to incorporate the BNL test procedure or other alternative test methods.

12. Test Procedure Scope

Currently, there is no DOE test procedure for determining the efficiency of combination products that can provide both space heating and domestic hot water. However, there are DOE test procedures for the individual components (boiler and water heater) of a combined appliance to determine efficiency ratings for each primary function (space heating and domestic water heating). ASHRAE has an existing test procedure, ASHRAE 124–2007 (Methods of Testing for Rating Combination Space-Heating and Water-Heating Appliances), which provides a test method to rate the performance of a combination space-heating and water-heating appliance. In the January 2013 RFI, DOE sought input on expanding the scope of the existing DOE test procedure to include definitions and test methods for combination products. 78 FR 675, 679 (Jan. 4, 2013).

AHRI supported the concept of covering combination products in general, but voiced concern as to whether a test procedure appropriate for all such types of combination products can be developed. (AHRI, No. 13 at p. 7) Rheem commented that it may be difficult to measure energy use of modular components in combination products. Rheem believes that the market for combination products is too new to support combined energy efficiency ratings. (Rheem, No. 12 at p.11–12) NRCan stated that an expansion of the scope of the test procedure to include definitions and test methods for combination products may not be advisable. It noted that because the characteristics of one component of a combination system can strongly influence the performance of others, it is vital that the appliance be tested as a system rather than as separate components. NRCan suggested that combination appliances are different enough to warrant a separate rulemaking rather than trying to include them within appendix N. (NRCan, No. 15 at p. 7) Energy Kinetics stated that a rating for combination heat and domestic water heating systems has

[62] T. Butcher, ''Performance of Integrated Hydronic Heating Systems,'' BNL–79814–2008–IR (December 2007) (Available at: *http://www.bnl.gov/isd/documents/41399.pdf*).

[63] 42 U.S.C. 6291(20).

[64] 42 U.S.C. 6291(20) and (22)(A).

significant potential for energy conservation improvements. It noted that the existing state of ASHRAE 124 for combined heating and hot water products is not satisfactory; AFUE for heating season creates a conflict in considering jacket losses under the hot water portion of the test, while the heating portion considers them again. (Energy Kinetics, No. 11 at p. 1–4)

DOE agrees that the concept of covering combination products has merit. However, DOE prefers not to delay or complicate this rulemaking in pursuit of test procedure requirements for combination products. DOE plans to continue to seek input about the development of a test procedure for combination appliances. DOE may consider a separate rulemaking devoted specifically to combination appliances in the future.

Regarding another test procedure issue, Energy Kinetics commented that the well-established impact of idle losses [65] on boiler operation was not addressed in the December 31, 2012 test procedure final rule for residential furnaces and boilers related to standby mode and off mode energy consumption. (Energy Kinetics, No. 11 at p. 3)

In response, the DOE test procedure accounts for idle losses associated with boiler space heating in the heating season efficiency value. DOE recognizes that the idle losses during non-space heating operation (*i.e.,* domestic water heating) are not captured in the existing DOE test procedure. However, the scope of this test procedure rulemaking does not account for the efficiency of the products that are used for both space heating and domestic water heating. For the reasons discussed, DOE is not considering provisions at this time to address non-space heating boiler operations, including idle losses.

13. Standby Mode and Off Mode

On December 31, 2012 DOE published a test procedure final rule for residential furnaces and boilers to address the standby mode and off mode energy consumption of these products. 77 FR 76831. In the January 2013 RFI, DOE requested comments on test procedure provisions for determining standby mode and off mode energy use. 78 FR 675, 679 (Jan. 4, 2013).

AHRI stated it had no specific comments regarding standby mode and off mode energy consumption at the time, though it generally agreed that these modes should be considered as part of this rulemaking. (AHRI, No. 13 at p. 7) NRCan stated that standby mode and off mode power should include all ''connected loads'' rather than selected loads from a few identified components. It noted that a default value could be considered for a control thermostat and/or automatic temperature reset control to account for the fact that different furnace and boiler controls (with different electricity consumption characteristics) may be installed with the appliance. It added that a control transformer that is included with a furnace or boiler should be included within the base electric measurements, as it will be a part of the connected load after installation. (NRCan, No. 15 at p. 8)

DOE conducted a review of the IEC Standard 62301 and did not identify any changes or revisions to that standard that would necessitate updating sections of the DOE test procedure pertaining to standby mode or off mode calculations. DOE's standby mode and off mode power measurements include only auxiliary components that are part of the furnace and boiler, including the automatic temperature reset. The standby mode or off mode power of components such as the furnace controls that respond to the house thermostat input are included; however, the electricity consumption of the house thermostat device itself is not considered in the overall standby mode and off mode electricity consumption, because it is independent of the furnace or boiler. Furthermore, DOE is not aware of representative electricity consumption values that could be used as default values for the house thermostat.[66] DOE's residential furnace and boiler test procedure only applies to covered products as defined in 42 U.S.C. 6291(23) and does not include other equipment and/or components installed in specific installations. For these reasons, DOE does not plan to modify the standby mode and off mode energy consumption provisions of the furnace and boiler test procedure.

14. Full-Fuel-Cycle Energy Metrics

In comments on the January 2013 RFI, AGA stated that DOE should continue the transition toward use of full-fuel-cycle (FFC) energy metrics by developing a secondary energy descriptor for residential furnaces and boilers that reflects either extended site or FFC energy metrics. (AGA, No. 3 at pp. 1–4) AGA stated that EPCA does not preclude the use of additional or secondary energy descriptors that provide useful information to consumers on the energy consumption and environmental impacts of their appliance choices. It stated that implementing an extended site or FFC energy descriptor would not require alteration of any test methods for the appliances, as a simple calculation can be done using the primary (site-based) energy descriptor as an independent variable.

AGA pointed out that in DOE's August 2011 FFC Statement of Policy, DOE committed to working with other Federal agencies to make readily available to consumers improved information on energy consumption and emissions impacts of comparable products.[67] AGA urged DOE to take the opportunity in this proceeding to formulate metrics that can be incorporated into a FFC descriptor and used on Energy Guide labels. According to AGA, the Federal Trade Commission (FTC) has previously noted that energy consumption information on the Energy Guide labels must be derived from DOE's test procedures.[68] The FTC acknowledged that it may be possible to derive fuel cycle emissions information from the DOE test procedures, but suggested that such procedures would need to specify the means for calculating fuel cycle impacts.[69] AGA contends that adding a secondary FFC energy descriptor to appliance test procedures is an essential step in enabling the FTC to include such information on the Energy Guide labels to allow consumers to make better informed appliance choices, consistent with the recommendations of the National Academy of Sciences and DOE's FFC Statement of Policy.

AGA also contends that adding an FFC energy descriptor to the test procedures for residential furnaces and

[65] ''Idle loss,'' as the term applies to residential heating boilers, is heat wasted when the burner is not firing. For combination appliances, the idle losses occur following space heating and/or domestic hot water heating operations. The idle losses include the heat from combustion that is not transferred to the heating water and includes the products of combustion up the flue, the loss out of the heat exchanger walls and boiler's jacket in the form of radiant, conductive, or convective transfer, and the loss down the drain as a condensate. Since no fuel is being consumed during the off-cycle, off-cycle losses are important only to the extent that they must be replaced during the on-cycle by the burning of extra fuel (*i.e.,* longer burner on times or higher firing rates).

[66] 10 CFR part 430, subpart B, appendix N, sections 8.6.1 and 8.6.2.

[67] Statement of Policy for Adopting Full-Fuel-Cycle Analyses Into Energy Conservation Standards Programs, 76 FR 51281 (Aug. 18, 2011).

[68] *See* Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act (''Appliance Labeling Rule''), 72 FR 49948, 49961 (Aug. 29, 2007).

[69] *Id.* at 49961–62.

boilers to establish FFC AFUE ratings for such appliances provides an important ability to compare the energy efficiency of heating systems that use different fuels. Finally, AGA stated that a secondary FFC energy descriptor could also be used to more accurately reflect the energy consumption of products within the same product class. It noted that because the electric energy consumption of natural gas furnaces is not currently included in the AFUE ratings, the current AFUE rating alone does not provide consumers with a measure of the true efficiency of a particular gas furnace product, nor allow consumers to properly compare products that use different fuels.

DOE agrees with AGA that an FFC energy descriptor for furnaces could provide consumers and other parties with useful information for comparing products. Indeed, in its FFC Statement of Policy, DOE stated its intention to ''work with other Federal agencies to make readily available to consumers improved information on the energy use, life-cycle cost and associated emissions of comparable products, even if those products use different forms of energy.'' 76 FR 51281, 51289 (Aug. 18, 2011). However, DOE is not convinced that this test procedure is the appropriate vehicle for deriving an FFC energy descriptor for furnaces (or other products). As discussed in the Notice of Policy Amendment Regarding Full-Fuel-Cycle Analyses, DOE intends to use the National Energy Modeling System (NEMS) as the basis for deriving the energy and emission multipliers used to conduct FFC analyses in support of future energy conservation standards rulemakings. 77 FR 49701 (Aug. 17, 2012). DOE also uses NEMS to derive factors to convert site electricity use or savings to primary energy consumption by the electric power sector. NEMS is updated annually in association with the preparation of the Energy Information Administration's (EIA) *Annual Energy Outlook.* Based on its experience to date, DOE expects that the energy and emission multipliers used to conduct FFC analyses will change each year. If DOE were to include a secondary FFC energy descriptor as part of the furnace and boiler test procedure, DOE would need to update the test procedure annually.

DOE believes that there are more suitable means to derive an FFC energy descriptor for residential furnaces and boilers, and, more generally, to provide consumers improved information on the energy use and associated emissions of furnaces and other products. DOE remains committed to work with the FTC and other interested parties to develop such information. Furthermore, DOE intends to estimate FFC energy savings in future energy conservation standards rulemakings for furnaces, and to take those savings into account in proposing and selecting amended standards.

15. Test Burden

EPCA requires that the test procedures DOE prescribes or amends be reasonably designed to produce test results that measure the energy efficiency, energy use, water use (in the case of showerheads, faucets, water closets, and urinals) or estimated annual operating cost of a covered product during a representative average use cycle or period of use. These procedures must also not be unduly burdensome to conduct. *See* 42 U.S.C. 6293(b)(3).

Under the proposed test procedure, the cycle on and off times are calculated as a function of high and reduced input capacity, as opposed to under the existing test procedure, which specifies a burner on time of 10 minutes and off time of 10 minutes for two-stage and step-modulating furnaces, and a burner on time of 15 minutes and off time of 15 minutes for two-stage and step-modulating boilers. In DOE's view, the proposal requiring manufacturers to perform calculations to determine burner cycling times as opposed to using standard fixed values would impose a small additional burden on manufacturers. However, the additional time necessary to calculate the cycle times would likely be offset by the shorter cycling times during testing, which may result in overall shorter test duration. In addition, the proposed calculation method for determining AFUE for two-stage and modulating products would allow the use of reduced fuel input only, allowing manufacturers to bypass the high fire test for many of these units. Therefore, on average, DOE expects little or no additional burden as the result of this proposed revision.

Allowing the condensate to be measured during the establishment of steady-state conditions rather than during an additional 30-minute period once steady-state conditions have been established would reduce the time required to measure condensate mass and, thus, would reduce the test burden to manufacturers while still providing accurate results.

DOE believes that capturing the total electrical consumption will significantly improve the accuracy and consistency of the reported electricity consumption across different models as well as align the test procedure with current field practices. Furthermore, in many cases, the total electricity consumption is already being captured during testing. Therefore, for most manufacturers, including additional measurements of electrical consumption would introduce little to no additional test burden.

The proposed inclusion of reference to the approved I&O manual could provide additional guidance and clarity to the test procedure. DOE believes that this proposal would reduce the burden and time requirements by allowing the manufacturers to utilize information already available in the manufacturers' literature instead of instructions derived solely for AFUE testing purposes. Therefore, DOE expects that there would be no additional costs associated with this revision.

Included within the proposed test procedure is the adoption of a method for verifying the functionality of the design requirement that requires an automatic means for adjusting water temperature. This test would be conducted independently of the AFUE test and would require additional time and labor beyond the existing AFUE test procedure. DOE expects that the required measurements should be able to be conducted using the same components and material required for the existing AFUE test. DOE has also tentatively concluded that the extra test is warranted to verify that the various controls for automatic means for adjusting water temperature operate as expected.

DOE assumes that manufacturers currently perform the tracer gas test to determine whether the minimum default draft factor of 0.05 may be used. DOE believes that when establishing the absence of flow through the heat exchanger, the use of the smoke stick test will reduce the test burden to manufacturers by eliminating, in some cases, the need for the tracer gas test.

For these reasons, DOE concludes that the amended test procedures proposed in the NOPR would not be unduly burdensome to conduct.

16. Changes in Measured Energy Use

When DOE modifies test procedures, it must determine to what extent, if any, the new test procedure would alter the measured energy efficiency or energy use of any covered product. (42 U.S.C. 6293(e)(1)) For the reasons described subsequently, DOE has determined that none of the proposed test procedure amendments would significantly alter the projected measured energy efficiency or energy use of the covered products that are the subject of this rulemaking.

The test procedure amendments in this proposed rule would affect the test

procedures that will be required for certifying compliance with the amended energy conservation standards. Many of the changes that would be made to appendix N through this proposed rule would clarify the manner in which the test is conducted, or would otherwise represent minor changes or additions to the test or reporting requirements that would not affect measured energy use. These amendments include: (1) Revisions in instances where the test procedure references ''manufacturer recommendations'' or ''manufacturer's instructions;'' (2) allowing the measurement of condensate under steady-state conditions during the steady-state test; (3) a test protocol for determining the functionality of the automatic means for adjusting water temperature; (4) adopting a test method to indicate the absence or presence of airflow to determine whether the minimum default draft factor may be used; (5) revised annual electricity consumption equations; (6) increasing AFUE reporting precision; (7) specifying ductwork for units that are installed without a return duct; and (8) specifying testing requirements for units with multiposition configurations.

The one amendment in this proposed rule that might alter the AFUE of covered products is the incorporation by reference of ASHRAE 103–2007. DOE does not believe that the resulting changes in AFUE would require amending the applicable energy conservation standard or affect compliance with the standard. The impact on AFUE from the incorporation mentioned previously for two-stage and modulating non-condensing residential furnaces or boilers is small and tends to increase the AFUE. Furthermore, two-stage and modulating features are usually associated with premium or higher efficiency products. The product tests performed by DOE and stakeholder comments confirm that a model that would need to be re-rated using the provisions adopted in this notice would have a resulting AFUE above the current minimum required efficiency.

IV. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

The Office of Management and Budget has determined that test procedure rulemakings do not constitute ''significant regulatory actions'' under section 3(f) of Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (Oct. 4, 1993). Accordingly, this regulatory action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB).

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act of 1996) requires preparation of an initial regulatory flexibility analysis (IRFA) for any rule that by law must be proposed for public comment and a final regulatory flexibility analysis (FRFA) for any such rule that an agency adopts as a final rule, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A regulatory flexibility analysis examines the impact of the rule on small entities and considers alternative ways of reducing negative effects. Also, as required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the DOE rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's Web site: *http://energy.gov/gc/office-general-counsel.*

DOE reviewed the proposed rule under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003. 68 FR 7990. DOE has concluded that the rule would not have a significant impact on a substantial number of small entities. The factual basis for this certification is as follows:

For manufacturers of residential furnaces and boilers, the Small Business Administration (SBA) has set a size threshold, which defines those entities classified as ''small businesses'' for the purposes of the Act. DOE used the SBA's small business size standards to determine whether any small entities would be subject to the requirements of the rule. 65 FR 30836, 30848 (May 15, 2000), as amended at 65 FR 53533, 53544 (Sept. 5, 2000) and codified at 13 CFR part 121. These size standards and codes are established by the North American Industry Classification System (NAICS) and are available at *http://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf.* Residential boiler manufacturing is classified under NAICS 333414, ''Heating Equipment (Except Warm Air Furnaces) Manufacturing,'' for which the maximum size threshold is 500 employees or fewer. Residential furnace manufacturing is classified under NAICS 333415, ''Air-conditioning and warm air heating equipment and commercial and industrial refrigeration equipment manufacturing'' for which the maximum size threshold is 750 employees or fewer. To estimate the number of companies that could be small business manufacturers of products covered by this rulemaking, DOE conducted a market survey using available public information to identify potential small manufacturers. DOE's research involved reviewing several industry trade association membership directories (*e.g.,* AHRI [70]), SBA databases,[71] individual company Web sites, and marketing research tools (*e.g.,* Hoovers [72] reports) to create a list of all domestic small business manufacturers of residential furnaces and boilers covered by this rulemaking.

After DOE identified manufacturers of residential furnaces and residential boilers, DOE then consulted publically-available data and contacted companies, as necessary, to determine if they both meet the SBA's definition of a ''small business'' manufacturer and have their manufacturing facilities located within the United States. DOE screened out companies that did not offer products covered by this rulemaking, did not meet the definition of a ''small business,'' or are foreign-owned and operated. Based on this analysis, DOE identified 9 small businesses that manufacture residential furnaces and 9 small businesses that manufacture residential boilers (two of which also manufacture residential furnaces), for a total of 16 small businesses potentially impacted by this rulemaking.

This notice proposes amendments to DOE's test procedure by incorporating several changes that modify the existing test procedure for furnaces and boilers. This proposal includes the following changes: (1) Incorporation by reference of the ASHRAE 103–2007; (1) allowing the measurement of condensate under steady-state conditions during the steady-state test; (1) a revised annual electricity consumption test protocol and calculation methodology; (1) revisions to how the test procedure references ''manufacturer recommendations'' or ''manufacturer's instructions;'' (1) a test protocol for verifying the functionality of the automatic means for adjusting water temperature; (1) a smoke stick method

[70] For more information on the boiler and furnace directories, see *http://www.ahridirectory.org/ahridirectory/pages/home.aspx.*

[71] For more information see: *http://dsbs.sba.gov/dsbs/search/dsp_dsbs.cfm.*

[72] For more information see: *http://www.hoovers.com/.*

for determining whether the minimum default draft factor may be used; (1) revising the reporting precision for AFUE to the nearest tenth of a percentage point; (1) specifying ductwork for units that are installed without a return duct; and (1) specifying testing requirements for units with multiposition configurations. The estimated costs of testing/rating and potential impact to manufacturer burden resulting from use of the proposed test procedure are discussed subsequently. The estimated costs and potential impacts apply to all manufacturers, including the manufacturers identified as small businesses.

Most of the proposed test procedure amendments in this notice would have little or no impact on test burden. As stated in section III.E.15, updating the ASHRAE 103 reference from the 1993 to the 2007 version would, in DOE's view, result in little or no additional burden on average, while improving the accuracy of the test procedure. Revising the language to reference Installation and Operation Manuals would not impose any additional burden on manufacturers. Revising the reporting precision for AFUE also would not impose any additional burden on manufacturers. DOE notes that allowing the measurement of condensate under steady-state conditions during the steady-state test, rather than requiring an additional 30-minute period for measuring condensate after steady-state conditions have been established, would reduce the test burden, as it would lessen the overall duration of the test. Additionally, the proposed smoke stick method for determining whether the minimum default draft factor may be used is intended to reduce the test burden to manufacturers.

With respect to the proposal to include additional measurements of electrical consumption, DOE has evaluated the impact of measuring the electricity consumption of one additional component—the secondary pump—as part of the auxiliary electrical measurements. DOE has determined that this extra measurement would require 30 minutes of additional time to conduct the AFUE test. DOE has tentatively concluded that manufacturers would not have any additional material or component costs resulting from this proposal because these measurements should be able to be conducted using the same components and materials required for the existing measurements. DOE has estimated that at an assumed cost of $60 per hour for a lab technician, the cost to perform this additional electrical measurement is approximately $30 per unit tested.

The proposed method for verifying the functionality of the design requirement that requires an automatic means for adjusting water temperature would require additional time and labor beyond the existing AFUE test procedure. DOE expects that manufacturers would not have any major material or component costs associated with the required measurements and that they should be able to be conduct such testing using the same components and material required for the existing AFUE test. DOE expects that all affected parties should have this type of capability readily available. DOE has estimated that at an assumed cost of $60 per hour for a lab technician, the cost to perform these additional test measurements is approximately $90 per unit tested.

While DOE has estimated that the additional electrical measurements and the verification of automatic means would result in additional testing costs, two other proposed amendments—allowing the measurement of condensate under steady-state conditions during the steady-state test and the smoke stick method for determining the minimum default draft factor—would offset a portion of these additional test costs. For condensing furnaces and boilers that would benefit from the time and labor savings attributed to the measurement of condensate during the steady-state test, DOE estimates that the overall duration of the test would be reduced by 30 minutes. DOE has estimated that at an assumed cost of $60 per hour for a lab technician, the cost savings attributed to the measurement of condensate during the steady-state test is approximately $30 per unit tested. DOE estimated that condensing furnaces and boilers will account for about 40 percent and 36 percent of the market in 2015, respectively. Furthermore, DOE estimated that the smoke stick method for determining the minimum default draft factor would reduce the overall duration of the test by about 15 minutes for units designed to have no flow through the heat exchanger. However, DOE does not have sufficient information to support estimating the fraction of units that have been designed such that there is no flow through the heat exchanger. Therefore, DOE has not included the cost savings associated with the smoke stick test but has included the cost savings associated with the measurement of condensate.

To determine the potential cost of the proposed test procedure amendments on small furnace and boiler manufacturers, DOE estimated the cost of testing per basic model. DOE has estimated that the proposed test procedure changes would result in an additional testing cost of $30 per basic model for non-condensing furnaces, no additional cost per basic model for condensing furnaces, an additional testing cost of $120 per basic model for non-condensing boilers, and an additional testing cost of $90 per basic model for condensing boilers. (The cost savings attributed to the measurement of condensate during the steady-state test have been accounted for in the cost estimates.) DOE estimated that on average, each furnace small business would have 51 basic models, and each boiler small business would have 70 basic models. DOE applied the condensing product market shares to the basic model counts to account for the difference in cost estimates between non-condensing and condensing products. Then the additional testing cost associated with the proposed test procedure amendments was multiplied by the estimated number of basic models produced by a small manufacturer. DOE has estimated a total added cost of testing of $916 per furnace manufacturer and a total added cost of testing of $7,640 per boiler manufacturer.

When considering the costs just discussed, DOE believes they are very small relative to the overall cost of manufacturing, testing, and certifying residential furnace and boiler products. DOE seeks comment on its tentative conclusion.

For the reasons stated previously, DOE certifies that this rule, if adopted, would not have a significant economic impact on a substantial number of small entities. Therefore, DOE did not prepare an initial regulatory flexibility analysis for the proposed rule. DOE will transmit its certification and a supporting statement of factual basis to the Chief Counsel for Advocacy of the SBA for review pursuant to 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act of 1995

Manufacturers of residential furnaces and boilers must certify to DOE that their products comply with all applicable energy conservation standards. In certifying compliance, manufacturers must test their products according to the DOE test procedures for residential furnaces and boilers, including any amendments adopted for those test procedures, on the date that compliance is required. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer

products and commercial equipment, including residential furnaces and boilers. 76 FR 12422 (March 7, 2011); 80 FR 5099 (Jan. 30, 2015). The collection-of-information requirement for certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement has been approved by OMB under OMB control number 1910–1400. Public reporting burden for the certification is estimated to average 20 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

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

D. Review Under the National Environmental Policy Act of 1969

In this proposed rule, DOE proposes amendments to its test procedure for residential furnaces and boilers. DOE has determined that this rule falls into a class of actions that are categorically excluded from review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and DOE's implementing regulations at 10 CFR part 1021. Specifically, this proposed rule would amend the existing test procedure without affecting the amount, quality or distribution of energy usage, and, therefore, would not result in any environmental impacts. Thus, this rulemaking is covered by Categorical Exclusion A5 under 10 CFR part 1021, subpart D, which applies to any rulemaking that interprets or amends an existing rule without changing the environmental effect of that rule. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

E. Review Under Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (August 10, 1999) imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have Federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States, and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE examined this proposed rule and has tentatively determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this proposal. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297(d)) No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

Regarding the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (Feb. 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. Regarding the review required by section 3(a), section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in sections 3(a) and 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and tentatively determined that, to the extent permitted by law, the proposed rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. (This policy is also available at *http://energy.gov/gc/office-general-counsel*). DOE examined the proposed rule according to UMRA and its statement of policy and has tentatively determined that the rule contains neither an intergovernmental mandate, nor a mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or more in any year. Accordingly, no further assessment or analysis is required under UMRA.

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

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

Pursuant to Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights,'' 53 FR 8859 (March 18, 1988), DOE has determined that this proposed rule would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). DOE has reviewed the proposed rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A ''significant energy action'' is defined as any action by an agency that 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 regulatory action to amend the test procedure for measuring the energy efficiency of residential furnaces and boilers is not a significant regulatory action under Executive Order 12866 or any successor order. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as a significant energy action by the Administrator of OIRA. Therefore, it is not a significant energy action, and, accordingly, DOE has not prepared a Statement of Energy Effects for this rulemaking.

L. Review Under Section 32 of the Federal Energy Administration Act of 1974

Under section 301 of the Department of Energy Organization Act (Pub. L. 95–91; 42 U.S.C. 7101 *et seq.*), DOE must comply with all laws applicable to the former Federal Energy Administration, including section 32 of the Federal Energy Administration Act of 1974 (Pub. L. 93–275), as amended by the Federal Energy Administration Authorization Act of 1977 (Pub. L. 95–70). (15 U.S.C. 788; FEAA) Section 32 essentially provides in relevant part that, where a proposed rule authorizes or requires use of commercial standards, the notice of proposed rulemaking must inform the public of the use and background of such standards. In addition, section 32(c) requires DOE to consult with the Attorney General and the Chairman of the Federal Trade Commission (FTC) concerning the impact of the commercial or industry standards on competition.

As discussed in section III.C.1 of this document, the proposed rule incorporates testing methods contained in the following commercial standard: ASHRAE Standard 103–2007, *Method of Testing for Annual Fuel Utilization Efficiency of Residential Central Furnaces and Boilers.* While this proposed test procedure is not exclusively based on this standard, DOE test procedure adopts several provisions from this standard without amendment. DOE has evaluated this standard and is unable to conclude whether it fully complies with the requirements of section 32(b) of the FEAA (*i.e.,* that it was developed in a manner that fully provides for public participation, comment, and review). DOE's previous test procedure incorporated testing methods from the earlier version of the same standard (ASHRAE Standard 103–1993). The modifications reflected in ASHRAE Standard 103–2007 were developed as part of ASHRAE's public comment and review process. DOE will consult with the Attorney General and the Chairwoman of the FTC concerning the impact of these test procedures on competition prior to prescribing a final rule.

M. Description of Materials Incorporated by Reference

DOE is proposing to incorporate by reference the test standard published by ASTM, titled ''Standard Test Method for Smoke Density in Flue Gases from Burning Distillate Fuels,'' ASTM–D2156–09 (Reapproved 2013). ASTM–D2156 is an industry accepted test procedure that establishes uniform test methods for the evaluation of smoke density in the flue gases from burning distillate fuels. The test procedure proposed in this NOPR incorporates by reference in its entirety which includes terminology, methods of testing, materials, apparatus, procedures, reporting, and precision and bias. ASTM–D2156–09 is readily available for purchase on ASTM's Web site at *http://www.astm.org/Standards/D2156.htm.*

V. Public Participation

A. Attendance at the Public Meeting

The time, date, and location of the public meeting are listed in the **DATES** and **ADDRESSES** sections at the beginning of this document. If you plan to attend the public meeting, please notify Ms. Brenda Edwards at (202) 586–2945 or *Brenda.Edwards@ee.doe.gov.*

Please note that foreign nationals visiting DOE Headquarters are subject to advance security screening procedures. If a foreign national wishes to participate in the public meeting, please inform DOE of this fact as soon as possible by contacting Ms. Regina Washington at (202) 586–1214 or by email (*Regina.Washington@ee.doe.gov*) so that the necessary procedures can be completed.

DOE requires visitors to have laptops and other devices, such as tablets, checked upon entry into the Forrestal Building. Any person wishing to bring these devices into the building will be required to obtain a property pass. Visitors should avoid bringing these devices, or allow an extra 45 minutes to check in. Please report to the visitor's desk to have devices checked before proceeding through security.

Due to the REAL ID Act implemented by the Department of Homeland Security (DHS), there have been recent changes regarding identification (ID) requirements for individuals wishing to enter Federal buildings from specific States and U.S. territories. As a result, driver's licenses from several States or territory will not be accepted for building entry, and instead, one of the alternate forms of ID listed below will be required. DHS has determined that regular driver's licenses (and ID cards) from the following jurisdictions are not acceptable for entry into DOE facilities: Alaska, American Samoa, Arizona, Louisiana, Maine, Massachusetts, Minnesota, New York, Oklahoma, and Washington. Acceptable alternate forms

of Photo-ID include: U.S. Passport or Passport Card; an Enhanced Driver's License or Enhanced ID-Card issued by the States of Minnesota, New York, or Washington (Enhanced licenses issued by these States are clearly marked Enhanced or Enhanced Driver's License); a military ID or other Federal government-issued Photo-ID card.

In addition, you can attend the public meeting via webinar. Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE's Web site at: *http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/55.* Participants are responsible for ensuring their systems are compatible with the webinar software.

B. Procedure for Submitting Requests To Speak and Prepared General Statements for Distribution

Any person who has an interest in the topics addressed in this notice of proposed rulemaking, or who is representative of a group or class of persons that has an interest in these issues, may request an opportunity to make an oral presentation at the public meeting. Such persons may hand-deliver requests to speak to the address show in the **ADDRESSES** section at the beginning of this notice between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays. Requests may also be sent by mail or email to Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121, or *Brenda.Edwards@ee.doe.gov.* Persons who wish to speak should include in their request a computer diskette or CD–ROM in WordPerfect, Microsoft Word, PDF, or text (ASCII) file format that briefly describes the nature of their interest in this rulemaking and the topics they wish to discuss. Such persons should also provide a daytime telephone number where they can be reached.

DOE requests persons selected to make an oral presentation to submit an advance copy of their statements at least one week before the public meeting. DOE may permit persons who cannot supply an advance copy of their statement to participate, if those persons have made advance alternative arrangements with the Building Technologies Program. As necessary, request to give an oral presentation should ask for such alternative arrangements.

Any person who has plans to present a prepared general statement may request that copies of his or her statement be made available at the public meeting. Such persons may submit requests, along with an advance electronic copy of their statement in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format, to the appropriate address shown in the **ADDRESSES** section at the beginning of this notice of proposed rulemaking. The request and advance copy of statements must be received at least one week before the public meeting and may be emailed, hand-delivered, or sent by mail. DOE prefers to receive requests and advance copies via email. Please include a telephone number to enable DOE staff to make follow-up contact, if needed.

C. Conduct of the Public Meeting

DOE will designate a DOE official to preside at the public meeting and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA (42 U.S.C. 6306). A court reporter will be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the public meeting. There shall not be discussion of proprietary information, costs or prices, market share, or other commercial matters regulated by U.S. anti-trust laws. After the public meeting, interested parties may submit further comments on the proceedings, as well as on any aspect of the rulemaking, until the end of the comment period.

The public meeting will be conducted in an informal, conference style. DOE will present summaries of comments received before the public meeting, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this rulemaking. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will allow, as time permits, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly and comment on statements made by others. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this rulemaking. The official conducting the public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the above procedures that may be needed for the proper conduct of the public meeting.

A transcript of the public meeting will be posted on the DOE Web site and will be included in the docket, which can be viewed as described in the *Docket* section at the beginning of this notice. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

Instructions: DOE will accept comments, data, and information regarding this proposed rule before or after the public meeting, but no later than the date provided in the **DATES** section at the beginning of this notice of proposed rulemaking. Interested parties may submit comments using any of the methods described in the **ADDRESSES** section at the beginning of this notice of proposed rulemaking.

All submissions must include the agency name and docket number EERE–2012–BT–TP–0024 and/or regulatory information number (RIN) 1904–AC79. No telefacsimilies (faxes) will be accepted.

Submitting comments via www.regulations.gov. The *www.regulations.gov* Web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment itself or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Otherwise, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any

documents submitted with the comments.

Do not submit to *www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through *www.regulations.gov* cannot be claimed as CBI. Comments received through the Web site will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *www.regulations.gov* provides after you have successfully uploaded your comment.

Submitting comments via email, hand-delivery/courier, or mail. Comments and documents submitted via email, hand-delivery/courier, or mail also will be posted to *www.regulations.gov.* If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via mail or hand delivery/courier, please provide all items on a compact disk (CD), if feasible, in which case it is not necessary to submit printed copies. No telefacsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English, and are free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery/courier two well-marked copies: One copy of the document marked ''confidential'' including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include: (1) A description of the items; (2) whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) when such information might lose its confidential character due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

E. Issues on Which DOE Seeks Comment

Although DOE welcomes comments on any aspect of this proposal, DOE is particularly interested in receiving comments and views of interested parties concerning the following issues:

1. ASHRAE 103 Update From Version 1993 to 2007

DOE requests comment from stakeholders on the proposed changes to the DOE test procedure resulting from incorporating the 2007 version of ASHRAE 103 with some limited modifications.

2. Measurement of Condensate Under Steady-State Conditions

DOE requests comment from stakeholders on the proposed changes to allow for the measurement of condensate during the establishment of steady-state conditions (ASHRAE 103–2007, section 9.1).

3. Additional Auxiliary Electrical Consumption

In this NOPR, DOE proposes changes to the test procedure by updating the incorporation by reference of ASHRAE 103 to the 2007 version and by incorporating testing of auxiliary electricity components. DOE requests comment from stakeholders on these proposed changes.

4. Installation and Operation Manual Reference

DOE requests comment on its proposal to clarify the test procedure language to explicitly state that testing recommendations should be drawn from each product's approved I&O manual, and to provide a specific combustion airflow ratio, reduced fuel input rate, and draft settings when the manufacturer does not provide recommended values in the I&O manual provided with the unit.

5. Automatic Means for Adjusting Water Temperature Testing

DOE seeks stakeholder comment on any additional methods for inferring building heat load to ensure that DOE's proposed test method validates the functionality of all strategies currently available in the market used to provide an automatic means for adjusting water temperature.

6. Test Method for Indicating the Absence of Flow Through the Heat Exchanger

DOE is interested in whether, in addition to the proposed smoke stick test, other options exist for measuring or indicating the absence of flow through the heat exchanger.

7. AFUE Reporting Precision

DOE's existing furnaces and boilers test procedure specifies that the AFUE rating be rounded to the nearest whole percentage point. DOE requests comment on its proposal to update the existing requirement for residential furnaces and boilers to report AFUE to the nearest tenth of a percentage point.

8. Duct Work for Units That Are Installed Without a Return Duct

DOE requests comments on the proposal to add a provision in the test procedure clarifying that the return

(inlet) duct is not required during testing for units which, according to the manufacturer's I&O manual, are intended to be installed without a return duct.

9. Testing Requirements for Multiposition Configurations

DOE requests comment on its proposal to allow testing of units configured for multiple position installations to use the blower access door as an option instead of one of the inlet openings.

10. Room Ambient Air Temperature and Humidity Ranges

DOE requests comment from stakeholders on DOE's preliminary determination not to propose changes to the test procedure regarding room ambient temperature and humidity, neither in the form of a mathematical correction methodology nor by limiting the existing ambient condition ranges.

11. Oversize Factor Value

DOE did not receive data supporting a change to the existing oversize factor of 0.7. DOE proposes to maintain the existing oversize factor and seeks comment on the appropriateness of this strategy.

VI. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this notice of proposed rulemaking.

List of Subjects

10 CFR Part 429

Confidential business information, Energy conservation, Household appliances, Imports, Reporting and recordkeeping requirements.

10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Incorporation by reference, Intergovernmental relations, Small businesses.

Issued in Washington, DC, on February 13, 2015.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

For the reasons stated in the preamble, DOE proposes to amend parts 429 and 430 of Chapter II, Subchapter D of Title 10, Code of Federal Regulations, as set forth below:

PART 429—CERTIFICATION, COMPLIANCE, AND ENFORCEMENT FOR CONSUMER PRODUCTS AND COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 429 continues to read as follows:

Authority: 42 U.S.C. 6291–6317.

■ 2. Section 429.134 is amended by adding paragraphs (c), (d), and (e) to read as follows:

§ 429.134 Product-specific enforcement provisions.

* * * * *

(c) [Reserved].

(d) [Reserved].

(e) *Test protocols for functional verification of automatic means for adjusting water temperature.* These tests are intended to verify the functionality of the design requirement that a boiler has an automatic means for adjusting water temperature for single-stage, two-stage, and modulating boilers. These test methods are intended to permit the functional testing of a range of control strategies used to fulfill this design requirement. Section 2 *Definitions* and paragraph 6.1.a of appendix N to subpart B of part 430 of this title apply for the purposes of this paragraph.

(1) *Test protocol for single-stage products.* This test is intended to verify the functionality of the automatic means for establishing a burner delay upon a heat call in single-stage boiler products. The nature of this test method allows the functional testing of the control strategy that allows the burner or heating element to fire only when the means has determined that the inferred heat load cannot be met by the residual heat of the water in the system.

(i) Boiler setup. (A) Boiler installation. For boilers subject to this testing, boiler installation in the test room shall be in accordance with the setup and apparatus requirements by section 6.0 of appendix N to subpart B of 10 CFR part 430.

(B) *Activation of controls.* Adjust the boiler controls (in accordance with the I&O manual to the default setting that allows for activation of the means for adjusting water temperature.

(C) *Adjustment of water flow and temperature.* The flow and temperature of return (inlet) water to the boiler shall be capable of being adjusted manually.

(ii) *Boiler heat-up.* (A) *Boiler start-up.* Power up the boiler and initiate a call for heat.

(B) *Adjustment of firing rate.* Adjust the boiler's firing rate to within ±5% of its maximum rated input.

(C) *Establishing flow rate and temperature rise.* Adjust the water flow through the boiler to achieve a ΔT of 20 °F (±2 °F) or greater with a supply water temperature equal to 120 °F (±2 °F).

(D) *Terminate the call for heating.* Terminate the call for space heating, stop the flow of water through the boiler, and record the time at termination.

(iii) *Verify burner delay.* (A) Reinitiate call for heat. Within three (3) minutes of termination (paragraph (e)(1)(i)(H) of this section) and without adjusting the inlet water flow rate or heat load as specified in paragraph (e)(1)(i)(G) of this section, reinitiate the call for heat and water flow and record the time.

(B) *Verify burner ignition.* At 15-second intervals, record time and outlet water temperature until the main burner ignites.

(C) Terminate the call for heat.

(2) Test protocol for two-stage and modulating products. This test is intended to verify the functionality of the design requirement that a boiler has an automatic means for adjusting water temperature. The nature of this test method allows the functional testing of the control strategy that ensures that an incremental change in inferred heat load produces a corresponding incremental change in temperature of water supplied.

(i) *Boiler setup.* (A) *Boiler installation.* Boiler installation in the test room shall be in accordance with the setup and apparatus requirements of section 6 of appendix N to subpart B of 10 CFR part 430.

(B) Establishing flow rate and temperature rise.

(*1*) Start the boiler without enabling the means for adjusting water temperature. Establish a water flow rate that allows for a water temperature rise of greater than or equal to 20 °F at maximum input rate.

(*2*) Adjust the inferential load controller in accordance with the I&O manual.

(C) *Temperature stabilization.* Following stabilization of boiler operations and water temperatures, continue to paragraph (e)(2)(ii) of this section.

(ii) Establishing inferred load conditions for reduced boiler output.

(A) *Adjust the inferential load controller.* (*1*) While the boiler is still operational, adjust the boiler controls (in accordance with the I&O manual) to the default setting that allows for activation of the means for adjusting water temperature. (For boiler controls that do not allow for control adjustment during active mode operation, terminate call for heating and adjust the inferential load controller in accordance

with the I&O manual. Then reinitiate call for heating.)

(*2*) If the means for adjusting water temperature uses outdoor temperature reset, the maximum outdoor temperature setting (if equipped) should be set to a temperature high enough that the boiler operates continuously during the duration of this test (*i.e.,* if the conditions in paragraph (e)(2)(ii)(B) of this section equal room ambient temperature, then the maximum outdoor temperature should be set at a temperature greater than the normal variation in the room ambient air temperature).

(B) *Establish inferred load conditions.* (*1*) Establish the inferred load conditions (simulated using a controlling parameter) so that the supply water temperature is maintained at the lowest supply water temperature (±4 °F) prescribed by the boiler manufacturer's temperature reset control strategy found in the I&O manual.

(*2*) The minimum supply water temperature of the default temperature reset curve is usually provided within the I&O manual. If there is no recommendation, set the minimum supply water temperature equal to 20 °F less than the high supply water temperature specified in paragraph (e)(2)(iii)(A).

(C) *Supply water temperature condition.* (*1*) Maintain the call for heating until the boiler supply water temperature has stabilized.

(*2*) For this test, a stabilized temperature control setting is deemed to be obtained when the setting does not vary by more than ±3 °F over a period of 5 minutes. The duration of time required to stabilize the supply water, following the procedure in paragraph (e)(2)(ii)(B) of this section, is dependent on the reset strategy and may vary from model to model.

(D) *Supply temperature verification.* (*1*) Verify that the resulting supply water temperature corresponds to the low boiler water temperature as required in paragraph (e)(2)(ii)(B) of this section.

(*2*) Record the stabilized boiler supply water temperature.

(iii) *Verify Water Temperature Reset for Change in Inferred Load.* (A) *Adjust inferred load conditions.* Establish the inferred load conditions so that the supply water temperature is set to the highest allowable supply water temperature (±2 °F) as prescribed in the I&O manual or if there is no recommendation, set to a temperature greater than 170 °F.

(B) *Temperature stabilization.* (*1*) Maintain the call for heating until the boiler supply water temperature has stabilized.

(*2*) Record the boiler supply water temperature while the temperature is stabilized.

(3) Terminate the call for heating.

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 3. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

■ 4. Section 430.2 is amended by revising the definition of ''Furnace'' to read as follows:

§ 430.2 Definitions.

* * * * *

Furnace means a product which utilizes only single-phase electric current, or single-phase electric current or DC current in conjunction with natural gas, propane, or home heating oil, and which—

(1) Is designed to be the principal heating source for the living space of a residence;

(2) Is not contained within the same cabinet with a central air conditioner whose rated cooling capacity is above 65,000 Btu per hour;

(3) Is an electric central furnace, electric boiler, forced-air central furnace, gravity central furnace, or low-pressure steam or hot water boiler; and

(4) Has a heat input rate of less than 300,000 Btu per hour for electric boilers and low-pressure steam or hot water boilers and less than 225,000 Btu per hour for forced-air central furnaces, gravity central furnaces, and electric central furnaces.

* * * * *

■ 5. Section 430.3 is amended by:

■ a. Revising paragraph (f)(10);

■ b. Removing paragraph (f)(11);

■ c. Redesignating paragraph (f)(12) as (f)(11);

■ d. Revise paragraph (i).

The revisions read as follows:

§ 430.3 Materials incorporated by reference.

* * * * *

(f) * * *

(10) ASHRAE Standard 103–2007, (''ASHRAE 103–2007''), Methods of Testing for Annual Fuel Utilization Efficiency of Residential Central Furnaces and Boilers, ANSI approved March 25, 2008, IBR approved for § 430.23, appendix N, and appendix AA to subpart B.

* * * * *

(i) *ASTM.* American Society of Testing and Materials, ASTM Headquarters, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428–2959, (877) 909–2786 or (610) 832–9585, or go to *http://www.astm.org.*

(1) ASTM–D2156—09 (Reapproved 2013), Method of Test for Smoke Density in the Flue Gases from Distillate Fuels, approved December 1, 2009, IBR approved for appendix N to subpart B.

(2) [Reserved]

* * * * *

■ 6. Revise § 430.23(n)(2) to read as follows:

§ 430.23 Test procedures for the measurement of energy and water consumption.

* * * * *

(n) * * *

(2) The annual fuel utilization efficiency for furnaces, expressed in percent, is the ratio of the annual fuel output of useful energy delivered to the heated space to the annual fuel energy input to the furnace determined according to section 10.1 of appendix N of this subpart for gas and oil furnaces and determined in accordance with section 11.1 of the American National Standards Institute/American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) Standard 103–2007 (incorporated by reference, see § 430.3) for electric furnaces. Round the annual fuel utilization efficiency to the nearest one-tenth of a percentage point.

* * * * *

■ 7. Revise section 2.3 of Appendix AA to subpart B to read as follows:

Appendix AA to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption of Furnace Fans

* * * * *

2.0 *Definitions.* * * *

2.3 *ASHRAE Standard 103–2007* (incorporated by reference; see § 430.3) means the test standard published in 2007 by ASHRAE, approved by the American National Standards Institute (ANSI) on March 25, 2008, and titled ''Method of Testing for Annual Fuel Utilization Efficiency of Residential Central Furnaces and Boilers,'' except for sections 3.0, 7.2.2.5, 8.6.1.1, 9.1.2.2, 9.5.1.1, 9.5.1.2.1, 9.5.1.2.2, 9.5.2.1, 9.7.1, 10.0, 11.2.12, 11.3.12, 11.4.12, 11.5.12 and appendices B and C. Only those sections of ASHRAE 103–2007 specifically referenced in this test procedure are part of this test procedure. In cases where there is a conflict, the language of the test procedure in this appendix takes precedence over ASHRAE 103–2007.

* * * * *

■ 8. Revise appendix N to subpart B to read as follows:

Appendix N to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption of Furnaces and Boilers

Note: On and after [*180 days after publication of the final rule in the* **Federal Register**], any representations made with respect to the energy use or efficiency of residential furnaces and boilers must be made in accordance with the results of testing pursuant to this appendix. On and after this date, if a manufacturer makes representations of standby mode and off mode energy consumption, then testing must also include the provisions of this appendix related to standby mode and off mode energy consumption (*i.e.,* sections 8.12 and 10.12 of this appendix N).

Until [*180 days after the publication of the final rule in the* **Federal Register**], representations must be made in accordance with the results of testing pursuant to either this appendix, or appendix N as it appeared at 10 CFR part 430, subpart B revised as of January 1, 2015. Any representations made with respect to the energy use or efficiency of such residential furnaces and boilers must be in accordance with whichever version is selected. DOE notes that, because testing under this appendix N must be completed as of [*180 days after publication of the final rule in the* **Federal Register**], manufacturers may wish to begin using this test procedure immediately.

1.0 *Scope.* This appendix provides the test procedures for furnaces and boilers subject to the standards specified at 10 CFR 430.32(e).

2.0 *Definitions.* Definitions include those specified in section 3 of ASHRAE 103–2007 (incorporated by reference, see § 430.3) and the following additional and modified definitions. In cases where there is a conflict, these definitions take precedence over the definitions specified in ASHRAE 103–2007.

2.1 *Active mode* means the condition in which the furnace or boiler is connected to the power source, and at least one of the burner, electric resistance elements, or any electrical auxiliaries such as blowers or pumps, are activated.

2.2 *ASHRAE* means the American Society of Heating, Refrigerating, and Air-Conditioning Engineers.

2.3 *ASHRAE 103–2007* (incorporated by reference; see § 430.3) means the test standard published in 2007 by ASHRAE, approved by the American National Standards Institute (ANSI) on March 25, 2008, and titled ''Method of Testing for Annual Fuel Utilization Efficiency of Residential Central Furnaces and Boilers'' (incorporated by reference, see § 430.3), except for sections 2, 7.1, 7.2.2.2, 7.2.2.5, 7.2.3.1, 7.8, 8.2.1.3, 8.3.3.1, 8.4.1.1, 8.4.1.1.2, 8.4.1.2, 8.4.2.1.4, 8.4.2.1.6, 8.6.1.1, 8.7.2, 8.8.3, 9.1.2.1, 9.1.2.2.1, 9.1.2.2.2, 9.2, 9.5.1.1, 9.5.1.2.1, 9.5.1.2.2, 9.5.2.1, 9.7.6, 9.7.4, 9.10, 11.5.11.1, 11.5.11.2 and appendices B and C. Only those sections of ASHRAE 103–2007 specifically referenced in this test procedure are part of this test procedure. In cases where there is a conflict, the language of the test procedure in this appendix takes precedence over ASHRAE 103–2007.

2.4 *ASTM–D2156* means the test standard published by the American Society for Testing and Materials (ASTM), titled ''Method of Test for Smoke Density in the Flue Gases from Distillate Fuels,'' published in 2009 (reapproved 2013). (incorporated by reference, see § 430.3)

2.5 *Controlling Parameter* means a measurable quantity (such as temperature or usage pattern) used for inferring heating load, which would then result in incremental changes in supply water temperature.

2.6 *IEC 62301* means the test standard published by the International Electrotechnical Commission (IEC), titled ''Household electrical appliances—Measurement of standby power,'' Publication 62301 (Edition 2.0 2011–01). (incorporated by reference, see § 430.3)

2.7 *Installation and operation (I&O) manual* means instructions for installing, commissioning, and operating the furnace or boiler, which are approved as part of the product's safety listing and are supplied with the product when shipped by the manufacturer.

2.8 *Multiposition furnace* means a furnace that can be installed in more than one airflow configuration (*i.e.,* upflow or horizontal; downflow or horizontal; and upflow, downflow, or horizontal).

2.9 *Off mode* means a mode in which the furnace or boiler is connected to a mains power source and is not providing any active or standby mode function, and where the mode may persist for an indefinite time. The existence of an off switch in off position (a disconnect circuit), is included within the classification of an off mode.

2.10 *Off switch* means the switch on the furnace or boiler that, when activated, results in a measurable change in energy consumption between the standby and off modes.

2.11 *Standby mode* means any mode in which the furnace or boiler is connected to a mains power source and offers one or more of the following space heating functions that may persist for an indefinite time:

a. To facilitate the activation of other modes (including activation or deactivation of active mode) by remote control (including thermostat or use patterns) or internal or external sensors (temperature);

b. Continuous functions, including information or status displays (where present).

2.12 *Thermal stack damper* means a type of stack damper which is dependent for operation exclusively upon the direct conversion of thermal energy of the stack gases to open the damper.

3.0 *Classifications.* Classifications are as specified in section 4 of ASHRAE 103–2007 (incorporated by reference, see § 430.3).

4.0 *Requirements.* Requirements are as specified in section 5 of ASHRAE 103–2007 (incorporated by reference, see § 430.3).

5.0 *Instruments.* Instruments must be as specified in section 6 of ASHRAE 103–2007 (incorporated by reference, see § 430.3).

6.0 *Apparatus.* The apparatus used in conjunction with the furnace or boiler during the testing shall be as specified in section 7 of ASHRAE 103–2007 (incorporated by reference, see § 430.3) except for sections 7.1, 7.2.2.2, 7.2.2.5, 7.2.3.1, and 7.8, and as specified in sections 6.1 through 6.5 of this appendix.

6.1 *General.*

a. Install the furnace or boiler in the test room in accordance with the I&O manual, as defined in section 2.7 of this appendix, unless a specific provision of the referenced test procedure applies. The exception to this case is that if additional provisions within this appendix have been specified, then the provisions herein drafted and prescribed by DOE shall govern. If the I&O manual and any additional provisions are not sufficient for testing a furnace or boiler, the manufacturer must request a waiver from the test procedure pursuant to 10 CFR 430.27.

b. If the I&O manual indicates the unit should not be installed with a return duct, then the return (inlet) duct specified in section 7.2.1 of ASHRAE 103–2007 is not required.

c. Test multiposition furnaces in the least-efficient configuration. Testing of multiposition furnaces in other configurations is permitted if represented pursuant to the requirements in 10 CFR 429. If a multiposition furnace is not shipped with an open inlet, testing of the unit would use the blower access door instead of removing one of the designed inlet cut-outs.

d. The apparatus described below is used in conjunction with the furnace or boiler during testing. Each piece of apparatus shall conform to material and construction specifications and the reference standards cited.

e. Test rooms containing equipment must have suitable facilities for providing the utilities (including but not limited to environmental controls, sufficient fluid source(s), applicable measurement equipment, and any other technology or tools) necessary for performance of the test and must be able to maintain conditions within the limits specified.

6.2 *Forced Air Central Furnaces (Direct Vent and Direct Exhaust).*

a. Units not equipped with a draft hood or draft diverter shall be provided with the minimum-length vent configuration recommended in the I&O manual or a 5-ft flue pipe if there is no recommendation (see Figure 4 of ASHRAE 103–2007). For a direct exhaust system, insulate the minimum-length vent configuration or the 5-ft flue pipe with insulation having an R-value not less than 7 and an outer layer of aluminum foil. For a direct vent system, see section 7.5 of ASHRAE 103–2007 for insulation requirements.

b. For units with power burners, cover the flue collection box with insulation having an R-value of not less than 7 and an outer layer of aluminum foil before the cool-down and heat-up tests described in sections 9.5 and 9.6 of ASHRAE 103–2007, respectively. However, do not apply the insulation for the jacket loss test (if conducted) described in section 8.6 of ASHRAE 103–2007 or the steady-state test described in section 9.1 of ASHRAE 103–2007.

c. For power-vented units, insulate the shroud surrounding the blower impeller with insulation having an R-value of not less than 7 and an outer layer of aluminum foil before

the cool-down and heat-up tests described in sections 9.5 and 9.6 of ASHRAE 103–2007. Do not apply the insulation for the jacket loss test (if conducted) described in section 8.6 of ASHRAE 103–2007 or the steady-state test described in section 9.1 of ASHRAE 103–2007. Do not insulate the blower motor or block the airflow openings that facilitate the cooling of the combustion blower motor or bearings.

6.3 *Downflow furnaces.* Install an internal section of vent pipe the same size as the flue collar for connecting the flue collar to the top of the unit, if not supplied by the manufacturer. Do not insulate the internal vent pipe during the jacket loss test (if conducted) described in section 8.6 of ASHRAE 103–2007 or the steady-state test described in section 9.1 of ASHRAE 103–2007. Do not insulate the internal vent pipe before the cool-down and heat-up tests described in sections 9.5 and 9.6, respectively, of ASHRAE 103–2007. If the vent pipe is surrounded by a metal jacket, do not insulate the metal jacket. Install a 5-ft test stack of the same cross-sectional area or perimeter as the vent pipe above the top of the furnace. Tape or seal around the junction connecting the vent pipe and the 5-ft test stack. Insulate the 5-ft test stack with insulation having an R-value not less than 7 and an outer layer of aluminum foil. (See Figure 3–A & B of ASHRAE 103–2007.)

6.4 *Units with Draft Hoods or Draft Diverters.* Install the stack damper in accordance with the I&O manual. Install five feet of stack above the damper.

a. For units with an integral draft diverter, cover the 5-ft stack with insulation having an R-value of not less than 7 and an outer layer of aluminum foil.

b. For units with draft hoods, insulate the flue pipe between the outlet of the furnace and the draft hood with insulation having an R-value of not less than 7 and an outer layer of aluminum foil.

c. For units with integral draft diverters that are mounted in an exposed position (not inside the overall unit cabinet), cover the diverter boxes (excluding any openings through which draft relief air flows) before the beginning of any test (including jacket loss test) with insulation having an R-value of not less than 7 and an outer layer of aluminum foil.

d. For units equipped with integral draft diverters that are enclosed within the overall unit cabinet, insulate the draft diverter box with insulation as described above before the cool-down and heat-up tests described in sections 9.5 and 9.6, respectively, of ASHRAE Standard 103–2007. Do not apply the insulation for the jacket loss test (if conducted) described in section 8.6 of ASHRAE 103–2007 or the steady-state test described in section 9.1 of ASHRAE 103–2007.

6.5 *Condensate Collection.* Condensate drain lines shall be attached to the unit as specified in the I&O manual. A continuous downward slope of drain lines from the unit shall be maintained. Additional precautions (such as eliminating any line configuration or position that would otherwise restrict or block the flow of condensate or checking to ensure a proper connection with condensate drain spout that allows for unobstructed flow) shall be taken to facilitate uninterrupted flow of condensate during the test. Collection containers must be glass or polished stainless steel to facilitate removal of interior deposits. The collection container shall have a vent opening to the atmosphere.

7.0 *Testing conditions.* The testing conditions shall be as specified in section 8 of ASHRAE 103–2007 (incorporated by reference, see § 430.3), except for section 8.2.1.3, 8.3.3.1, 8.4.1.1, 8.4.1.1.2, 8.4.1.2, 8.4.2.1.4, 8.4.2.1.6, 8.6.1.1, 8.7.2, and 8.8.3; and as specified in sections 7.1 to 7.10 of this appendix, respectively.

7.1 *Fuel Supply, Gas.* In conducting the tests specified herein, gases with characteristics as shown in Table 1 of ASHRAE 103–2007 shall be used. The gas supply, ahead of all controls for a furnace, shall be maintained at a test pressure between the normal and increased values shown in Table 1 of ASHRAE 103–2007. Maintain the regulator outlet pressure at a level approximating that recommended in the I&O manual, as defined in section 2.7 of this appendix, or, in the absence of such recommendation, to the nominal regulator settings used when the product is shipped by the manufacturer. Use a gas having a specific gravity as shown in Table 1 and with a higher heating value within ±5% of the higher heating value shown in Table 1 of ASHRAE 103–2007. Determine the actual higher heating value in Btu per standard cubic foot for the gas to be used in the test with an error no greater than 1%.

7.2 *Installation of Piping.* Install piping equipment in accordance with the I&O manual. In the absence of such specification, install piping in accordance with section 8.3.1.1 of ASHRAE 103–2007.

7.3 *Gas Burner.* Adjust the burners of gas-fired furnaces and boilers to their maximum Btu input ratings at the normal test pressure specified by section 8.2.1.3 of ASHRAE 103–2007. Correct the burner input rate to reflect gas characteristics at a temperature of 60 °F and atmospheric pressure of 30 in. of Hg and adjust to within ±2 percent of the hourly Btu nameplate input rating as measured during the steady-state performance test described below. Adjust the combustion airflow to achieve an excess air ratio, flue O_2 percentage, or flue CO_2 percentage to within the middle 30th percentile of the acceptable range specified in the I&O manual. In the absence of such specification, adjust the combustion airflow to provide between 6.9 percent and 7.1 percent dry flue gas O_2, or the lowest dry flue gas O_2 percentage that produces a stable flame, no carbon deposits, and an air-free flue gas CO ratio below 400 parts per million during the steady-state test described in section 9.1 of ASHRAE 103–2007, whichever is higher. After the steady-state performance test has been started, do not make additional adjustments to the burners during the required series of performance tests specified in section 9 of ASHRAE 103–2007. If a vent-limiting means is provided on a gas pressure regulator, keep it in place during all tests.

7.4 *Modulating Gas Burner Adjustment at Reduced Input Rate.* For gas-fired furnaces and boilers equipped with modulating-type controls, adjust the controls to operate the unit at the nameplate minimum input rate. If the modulating control is of a non-automatic type, adjust the control to the setting recommended in the I&O manual. In the absence of such recommendation, the midpoint setting of the non-automatic control shall be used as the setting for determining the reduced fuel input rate. Start the furnace or boiler by turning the safety control valve to the ''ON'' position. For boilers, use a supply water temperature that will allow for continuous operation without shutoff by the control. If necessary to achieve such continuous operation, supply water may be increased above 120 °F; in such cases, gradually increase the supply water temperature to determine what minimum supply water temperature, with a 20 °F temperature rise across the boiler, will be needed to adjust for the minimum input rate at the reduced input rate control setting. Monitor regulated gas pressure out of the modulating control valve (or entering the burner) to determine when no further reduction of gas pressure results. The flow rate of water through the boiler shall be adjusted to achieve a 20 °F temperature rise.

7.5 *Oil Burner.* Adjust the burners of oil-fired furnaces or boilers to give a CO_2 reading within the middle 30th percentile of the acceptable range specified in the I&O manual. In the absence of such specification, adjust the airflow through the burner to achieve a dry flue gas CO_2 percentage between 10.0 percent and 10.4 percent, or a dry flue gas CO_2 percentage that results in flue gas smoke that does not exceed No. 1 smoke during the steady-state performance test as measured by the procedure in ASTM–D2156 (incorporated by reference; see § 430.3), whichever is lower. Adjust the fuel input rate to within ±2 percent of the highest nameplate input rate. Maintain the average draft over the fire and in the flue during the steady-state performance test within the middle 30th percentile of the ranges specified in the I&O manual. In the absence of such specification, maintain the lowest draft that produces either flue CO_2 levels or smoke values within the ranges stipulated in this paragraph. Do not allow draft fluctuations exceeding 0.005 in. water. Do not make additional adjustments to the burner during the required series of performance tests. The instruments and measuring apparatus for this test are described in section 6 of this appendix and shown in Figure 8 of ASHRAE 103–2007.

7.6 Air throughputs shall be adjusted to a temperature rise that is the higher of a and b, unless c applies.

a. 15 °F less than the nameplate maximum temperature rise or

b. 15 °F higher than the minimum temperature rise specified in the I&O manual.

c. A furnace with a non-adjustable air temperature rise range and an automatically controlled airflow that does not permit a temperature rise range of 30 °F or more shall be tested at the midpoint of the rise range.

A tolerance of ±2 °F is permitted.

7.7 The specified temperature rise shall be established by adjusting the circulating airflow. This adjustment shall be accomplished by symmetrically restricting

the outlet air duct and varying blower speed selection to obtain the desired temperature rise and minimum external static pressure, as specified in Table 4 of ASHRAE 103–2007. If the required temperature rise cannot be obtained at the minimum specified external static pressure by adjusting blower speed selection and duct outlet restriction, then the following applies.

a. If the resultant temperature rise is less than the required temperature rise, vary the blower speed by gradually adjusting the blower voltage so as to maintain the minimum external static pressure listed in Table 4 of ASHRAE 103–2007. The airflow restrictions shall then remain unchanged. If static pressure must be varied to prevent unstable blower operation, it shall be varied on the plus side but shall not exceed the maximum external static pressure as specified by the manufacturer in the I&O manual.

b. If the resultant temperature rise is greater than the required temperature rise, then the unit can be tested at a higher temperature rise value, but one not greater than nameplate maximum temperature rise. In order not to exceed the maximum temperature rise, the speed of a direct-driven blower may be increased by increasing the circulating air blower motor voltage.

7.8 *Measurement of Jacket Surface Temperature.* The jacket of the furnace or boiler shall be subdivided into 6-inch squares when practical, and otherwise into 36-square-inch regions comprising 4 in. × 9 in. or 3 in. × 12 in. sections, and the surface temperature at the center of each square or section shall be determined with a surface thermocouple. The 36-square-inch areas shall be recorded in groups where the temperature differential of the 36-square-inch area is less than 10 °F for temperature up to 100 °F above room temperature, and less than 20 °F for temperature more than 100 °F above room temperature. For forced air central furnaces, the circulating air blower compartment is considered as part of the duct system, and no surface temperature measurement of the blower compartment needs to be recorded for the purpose of this test. For downflow furnaces, measure all cabinet surface temperatures of the heat exchanger and combustion section, including the bottom around the outlet duct and the burner door, using the 36-square-inch thermocouple grid. The cabinet surface temperatures around the blower section do not need to be measured (See figure 3–E of ASHRAE 103–2007.)

7.9 *Installation of Vent System.* Keep the vent or air intake system supplied by the manufacturer in place during all tests. Test units intended for installation with a variety of vent pipe lengths shall be tested with the minimum vent length as specified in the I&O manual, or a 5-ft flue pipe if there are no recommendations. Do not connect a furnace or boiler employing a direct vent system to a chimney or induced-draft source. Vent combustion products solely by using the venting incorporated in the furnace or boiler and the vent or air intake system supplied by the manufacturer. For units that are not designed to significantly preheat the incoming air, see 7.5 and Figure 4a or 4b of ASHRAE 103–2007. For units that do significantly preheat the incoming air, see Figure 4c or 4d of ASHRAE 103–2007.

7.10 *Additional Optional Method of Testing for Determining D_P and D_F for Furnaces and Boilers.* On units whose design is such that there is no measurable airflow through the combustion chamber and heat exchanger when the burner(s) is (are) off (as determined by the optional test procedure in section 7.10.1 of this appendix), D_F and D_P may be set equal to 0.05.

7.10.1 *Optional Test Method for Indicating the Absence of Flow through the Heat Exchanger.* Manufacturers may use the following test protocol to determine whether air flows through the combustion chamber and heat exchanger when the burner(s) is (are) off using a smoke stick device. The minimum default draft factor (as allowed per sections 8.8.3 & 9.10 of ASHRAE 103–2007) may be used only for units determined pursuant to this protocol to have no airflow through the combustion chamber and heat exchanger.

7.10.1.1 *Test Conditions.* Wait for two minutes following the termination of the furnace or boiler on-cycle before beginning the optional test method for indicating the absence of flow through the heat exchanger.

7.10.1.2 *Location of the Test Apparatus.* After all air currents in the test location have been minimized, position the operable smoke stick/pencil accordingly based on the following equipment configuration: (a) For horizontal combustion air intakes, approximately 4 inches from the vertical plane at the termination of the intake vent and 4 inches below the bottom edge of the combustion air intake, or (b) for vertical combustion air intakes, approximately 4 inches horizontal from vent perimeter at the termination of the intake vent and 4 inches down (parallel to the vertical axis of the vent). In the instance where the boiler combustion air intake is closer than 4 inches to the floor, place the smoke device directly on the floor without impeding the flow of smoke.

Monitor the presence and the direction of the smoke flow.

7.10.1.3 *Duration of Test.* Continue monitoring the release of smoke for 30 seconds.

7.10.1.4 *Test Results.* During visual assessment, determine whether there is any draw of smoke into the combustion air intake vent.

If absolutely no smoke is drawn into the combustion air intake, the furnace or boiler meets the requirements to allow use of the minimum default draft factor pursuant to section 8.8.3 and/or section 9.10 of ASHRAE 103–2007.

If there is any smoke drawn into the intake, proceed with the methods of testing as prescribed in section 8.8 of ASHRAE 103–2007.

8.0 *Test procedure.* Testing and measurements shall be as specified in section 9 of ASHRAE 103–2007 (incorporated by reference, see § 430.3) except for sections 9.1.2.1, 9.1.2.2.1, 9.1.2.2.2, 9.2, 9.5.1.1, 9.5.1.2.1, 9.5.1.2.2, 9.5.2.1, 9.7.6, 9.7.4, and 9.10; and as specified in sections 8.1, 8.2, 8.3, 8.4, 8.5, 8.6, 8.7, 8.8, 8.9, 8.10, and 8.11 of this appendix, respectively.

8.1 *Conditions.* Begin the steady-state performance test by operating the burner and the circulating air blower or water pump until steady-state conditions are attained, as indicated by visual confirmation of condensate production and a temperature variation in three successive readings, taken 15 minutes apart, of not more than any of the following:

a. 3 °F in the stack gas temperature for furnaces and boilers equipped with draft diverters;

b. 5 °F in the flue gas temperature for furnaces and boilers equipped with either draft hoods, direct exhaust, or direct vent systems;

c. 4 °F in the outlet water temperature for hot water boilers;

d. 1 °F in the flue gas temperature for condensing furnaces and boilers; and

e. 1 °F in the supply (outlet) water temperatures for condensing hot water boilers.

8.2 *Gas.* Measure and record the steady-state gas input rate, including pilot gas, corrected to standard conditions of 60 °F and 30 in. Hg. Use measured values of gas temperature and pressure at the meter and barometric pressure to correct the metered gas flow rate to the above standard conditions. Measure the steady-state electric power to the burner (PE) on units so equipped. For furnaces, measure the steady-state electrical power to the conditioned air blowers (BE). For hot water boilers, use a steady-state water pump power of BE = pump nameplate kW or 0.13 kW, if no pump is supplied. Measure the steady-state electric power to the secondary pump (BE_S) on units so equipped. Measure the steady-state electric power to the controls and gas valve (E_O) on units so equipped.

8.3 *Oil.* Measure and record the steady-state fuel input rate and the steady-state electrical power to the burner, PE, on units so equipped. For furnaces, measure the steady-state electrical power to the conditioned air blower, BE. For hot water boilers, use a steady-state water pump power of BE = pump nameplate kW or 0.13 kW, if no pump is supplied. Measure the steady-state electric power to the secondary pump (BE_S) on units so equipped. Measure the steady-state electric power to the controls and gas valve (E_O) on units so equipped.

8.4 *Condensing Furnaces and Boilers, Measurement of Condensate Under Steady-State Conditions.* For units with step-modulating or two-stage controls, the test shall be conducted at both the maximum and reduced inputs. Begin a steady-state condensation collection after steady-state conditions are attained. Perform steady-state condensate collection for at least 30 minutes. Condensate mass shall be measured immediately at the end of the collection period to prevent evaporation loss from the sample. Fuel input shall be recorded for the 30-minute condensate collection steady-state test period. Fuel higher heating value (HHV), temperature, and pressures necessary for determining fuel energy input ($Q_{C,SS}$) will be observed and recorded. The fuel quantity and HHV shall be measured with errors no greater than 1%. The humidity of the room air shall at no time exceed 80%. Determine the mass

of condensate for the steady-state test ($M_{C,SS}$) in pounds by subtracting the tare container weight from the total container and condensate weight measured at the end of the 30-minute condensate collection test period.

8.5 *Input to interrupted ignition device.* For burners equipped with an interrupted ignition device, record the nameplate electric power used by the ignition device, PE_{IG}, or record that PE_{IG} = 0.4 kW if no nameplate power input is provided. Record the nameplate ignition device on-time interval, t_{IG}, or, if the nameplate does not provide the ignition device on-time interval, measure the on-time interval with a stop watch at the beginning of the test, starting when the burner is turned on. Set t_{IG} = 0 and PE_{IG} = 0 if the device on-time interval is less than or equal to 5 seconds after the burner is on.

8.6 *Cool-down test for gas- and oil-fueled gravity and forced air central furnaces without stack dampers and without adjustable fan control.* Turn off the main burner after completing steady-state testing, and measure the flue gas temperature by means of the thermocouple grid described in section 7.6 of ASHRAE 103–2007 at 1.5 minutes ($T_{F,OFF}(t_3)$) and 9 minutes ($T_{F,OFF}(t_4)$) after the burner shuts off. When taking these temperature readings, the integral draft diverter shall remain blocked and insulated, and the stack restriction shall remain in place. On atmospheric systems with an integral draft diverter or draft hood and equipped with either an electromechanical inlet damper or an electromechanical flue damper that closes within 10 seconds after the burner shuts off to restrict the flow through the heat exchanger in the off-cycle, bypass or adjust the control for the electromechanical damper so that the damper remains open during the cool-down test. For furnaces that employ post-purge, measure the length of the post-purge period with a stopwatch. The time from burner ''OFF'' to combustion blower ''OFF'' (electrically de-energized) shall be recorded as t_P. If t_P is designated by the I&O manual to be greater than 180 seconds, stop the combustion blower at 180 seconds and use that value for t_P. Measure the flue gas temperature by means of the thermocouple grid described in section 7.6 of ASHRAE 103–2007 at the end of post-purge period, $t_P(T_{F,OFF}(t_P))$, and at the time (1.5 + t_P) minutes ($T_{F,OFF}(t_3)$) and (9.0 + t_P) minutes ($T_{F,OFF}(t_4)$) after the main burner shuts off. If the measured t_P is less than or equal to 30 seconds, set t_P at 0 and conduct the cool-down test as if there is no post-purge.

8.7 *Cool-down test for gas- and oil-fueled gravity and forced air central furnaces without stack dampers and with adjustable fan control.* For a furnace with adjustable fan control, the time delay, t_P, will be until the supply air temperature drops to a value of 40 °F above the inlet air temperature or 3 minutes for non-condensing furnaces and 1.5 minutes for condensing furnaces, whichever is longer. For a furnace with adjustable fan control with a range of adjustment that does not allow for the time delay specified above, the fan control shall be bypassed and the fan manually controlled to allow for the appropriate delay time, as specified in section 8.6 of this appendix (case equivalent to a central furnace without adjustable fan control). For a furnace that employs a single motor to drive both the power burner and the indoor air circulating blower, the power burner and indoor air circulating blower shall be turned off at the same time.

8.8 *Cool-down test for gas- and oil-fueled boilers without stack dampers.* After steady-state testing has been completed, turn the main burner(s) ''OFF'' and measure the flue gas temperature at 3.75 minutes (temperature designated as $T_{F,OFF}(t_3)$) and 22.5 minutes (temperature designated as $T_{F,OFF}(t_4)$) after the burner shut-off using the thermocouple grid described in section 7.6 of ASHRAE 103–2007.

a. During this off-period, for units that do not have pump delay after shut-off, no water shall be allowed to circulate through the hot water boilers.

b. For units that have pump delay on shut-off, except those having pump controls sensing water temperature, the pump shall be stopped by the unit control and the time between burner shut-off and pump shut-off (t^+) shall be measured and recorded to the nearest second.

c. For units having pump delay controls that sense water temperature, the pump shall be operated for 15 minutes and t^+ shall be recorded as 15 minutes. While the pump is operating, the inlet water temperature and flow rate shall be maintained at the same values as during the steady-state test, as specified in sections 9.1 and 8.4.2.3 of ASHRAE 103–2007.

d. For boilers that employ post-purge, measure the length of the post-purge period with a stopwatch. The time from burner ''OFF'' to combustion blower ''OFF'' (electrically de-energized) shall be recorded as t_P. If t_P is designated by the I & O manual to be greater than 180 seconds, stop the combustion blower at 180 seconds and use that value for t_P. Measure the flue gas temperature by means of the thermocouple grid described in section 7.6 of ASHRAE 103–2007 at the end of the post-purge period t_P ($T_{F,OFF}(t_P)$) and at (3.75 + t_P) minutes ($T_{F,OFF}(t_3)$) and (22.5 + t_P) minutes ($T_{F,OFF}(t_4)$) after the main burner shuts off. If the measured t_P is less than or equal to 30 seconds, record t_P as 0 and conduct the cool-down test as if there is no post-purge.

8.9 *Direct measurement of off-cycle losses testing method.* [Reserved.]

8.10 *Calculation options.* The rate of the flue gas mass flow through the furnace and the factors D_P, D_F, and D_S are calculated by the equations in sections 11.6.4, 11.7.1, and 11.7.2 of ASHRAE 103–2007. On units whose design is such that there is no measurable airflow through the combustion chamber and heat exchanger when the burner(s) is (are) off (as determined by the optional test procedure in section 7.10.1 of this appendix), D_F and D_P may be set equal to 0.05.

8.11 *Optional test procedures for condensing furnaces and boilers that have no off-period flue losses.* For units that have applied the test method in section 7.10 of this appendix to determine that no measurable airflow exists through the combustion chamber and heat exchanger during the burner off-period and having post-purge periods of less than 5 seconds, D_F and D_P may be set equal to 0.05. At the discretion of the one testing, the cool-down and heat-up tests specified in sections 9.5 and 9.6 of ASHRAE 103–2007 may be omitted on such units. In lieu of conducting the cool-down and heat-up tests, the tester may use the losses determined during the steady-state test described in section 9.1 of ASHRAE 103–2007 when calculating heating seasonal efficiency, $Effy_{HS}$.

8.12 *Measurement of electrical standby and off mode power.*

8.12.1 *Standby power measurement.* With all electrical auxiliaries of the furnace or boiler not activated, measure the standby power ($P_{W,SB}$) in accordance with the procedures in IEC 62301 (incorporated by reference, see § 430.3), except that section 8.5, *Room Ambient Temperature,* of ASHRAE 103–2007 (incorporated by reference, see § 430.3) and the voltage provision of section 8.2.1.4, *Electrical Supply,* of ASHRAE 103–2007 shall apply in lieu of the corresponding provisions of IEC 62301 at section 4.2, *Test room,* and the voltage specification of section 4.3, *Power supply.* Frequency shall be 60Hz. Measure the wattage so that all possible standby mode wattage for the entire appliance is recorded, not just the standby mode wattage of a single auxiliary. Round the recorded standby power ($P_{W,SB}$) to the second decimal place, except for loads greater than or equal to 10W, which must be recorded to at least three significant figures.

8.12.2 *Off mode power measurement.* If the unit is equipped with an off switch or there is an expected difference between off mode power and standby mode power, measure off mode power ($P_{W,OFF}$) in accordance with the standby power procedures in IEC 62301 (incorporated by reference, see § 430.3), except that section 8.5, *Room Ambient Temperature,* of ASHRAE 103–2007 (incorporated by reference, see § 430.3) and the voltage provision of section 8.2.1.4, *Electrical Supply,* of ASHRAE 103–2007 shall apply in lieu of the corresponding provisions of IEC 62301 at section 4.2, *Test room,* and the voltage specification of section 4.3, *Power supply.* Frequency shall be 60Hz. Measure the wattage so that all possible off mode wattage for the entire appliance is recorded, not just the off mode wattage of a single auxiliary. If there is no expected difference in off mode power and standby mode power, let $P_{W,OFF} = P_{W,SB}$, in which case no separate measurement of off mode power is necessary. Round the recorded off mode power ($P_{W,OFF}$) to the second decimal place, except for loads greater than or equal to 10W, which must be recorded to at least three significant figures.

9.0 *Nomenclature.* Nomenclature shall include the nomenclature specified in section 10 of ASHRAE Standard 103–2007 (incorporated by reference, see § 430.3) and the following additional variables:

Eff_{motor}= Efficiency of power burner motor
PE_{IG} = Electrical power to the interrupted ignition device, kW
$R_{T,a}$ = $R_{T,F}$ if flue gas is measured
= $R_{T,S}$ if stack gas is measured
$R_{T,F}$ = Ratio of combustion air mass flow rate to stoichiometric air mass flow rate

$R_{T,S}$ = Ratio of the sum of combustion air and relief air mass flow rate to stoichiometric air mass flow rate

t_{IG} = Electrical interrupted ignition device on-time, min.

$T_{a,SS,X}$ = $T_{F,SS,X}$ if flue gas temperature is measured, °F

= $T_{S,SS,X}$ if stack gas temperature is measured, °F

y_{IG} = Ratio of electrical interrupted ignition device on-time to average burner on-time

y_P = Ratio of power burner combustion blower on-time to average burner on-time

BE_S = Secondary boiler pump electrical energy input rate at full-load steady-state operation, if present

E_O = Gas valve and controls combined electrical energy input rate at full-load steady-state operation, if present

E_{SO} = Average annual electric standby mode and off mode energy consumption, in kilowatt-hours

$P_{W,OFF}$ = Furnace or boiler off mode power, in watts

$P_{W,SB}$ = Furnace or boiler standby mode power, in watts

10.0 *Calculation of derived results from test measurements.* Calculations shall be as specified in section 11 of ASHRAE 103–2007 (incorporated by reference, see § 430.3), except for sections 11.5.11.1, 11.5.11.2, and appendices B and C; and as specified in sections 10.1 through 10.12 and Figure 1 of this appendix.

10.1 *Heating Seasonal Efficiency and AFUE for Electric Furnaces and Boilers.* The heating seasonal efficiency for various types of electric furnaces and boilers, $Effy_{HS-E}$, is determined as follows:

$Effy_{HS-E}$ = 100 (for indoor units)

$Effy_{HS-E}$ = 100–3.3L_J (for electric forced-air central furnaces intended for outdoor installation)

$Effy_{HS-E}$ = 100–1.7L_J (for electric forced-air central furnaces intended for installation in a location identical to isolated combustion system installation)

$Effy_{HS-E}$ = 100–4.7L_J (for electric boilers intended for outdoor installation)

$Effy_{HS-E}$ = 100–2.4L_J (for electric boilers intended for installation in a location identical to isolated combustion system installation)

Where

L_J = jacket loss as determined in section 8.6 of ASHRAE 103–2007, %

AFUE = $Effy_{HS-E}$

10.2 *Annual fuel utilization efficiency.* The annual fuel utilization efficiency (AFUE) is as defined in sections 11.2.12 (non-condensing systems), 11.3.12 (condensing systems), 11.4.12 (non-condensing modulating systems) and 11.5.12 (condensing modulating systems) of ASHRAE 103–2007, except for the definition for the term $Effy_{HS}$ in the defining equation for AFUE. $Effy_{HS}$ is defined as:

$Effy_{HS}$ = heating seasonal efficiency as defined in sections 11.2.11 (non-condensing systems), 11.3.11 (condensing systems), 11.4.11 (non-condensing modulating systems) and 11.5.11 (condensing modulating systems) of ASHRAE 103–2007, except that for condensing modulating systems sections 11.5.11.1 and 11.5.11.2 are replaced by sections 10.3 and 10.4 of this appendix. $Effy_{HS}$ is based on the assumptions that all weatherized warm air furnaces or boilers are located outdoors, that non-weatherized warm air furnaces are installed as isolated combustion systems, and that non-weatherized boilers are installed indoors.

10.3 *Part-Load Efficiency at Reduced Fuel Input Rate.* If the option in section 9.10 of ASHRAE 103–2007 is not employed, calculate the part-load efficiency at the reduced fuel input rate, $Effy_{U,R}$, for condensing furnaces and boilers equipped with either step-modulating or two-stage controls, expressed as a percent and defined as:

$$Effy_{U,R} = 100 - L_{L,A} + L_G - L_C - C_J L_J - \left[\frac{t_{ON}}{t_{ON} + \left(\frac{Q_P}{Q_{IN}}\right) t_{OFF}}\right] x \left(L_{S,ON} + L_{S,OFF} + L_{I,ON} + L_{I,OFF}\right)$$

If the option in section 9.10 of ASHRAE 103–2007 is employed, calculate $Effy_{U,R}$ *as follows:*

$$Effy_{U,R} = 100 - L_{L,A} + L_G - L_C - C_J L_J - \left[\frac{t_{ON}}{t_{ON} + \left(\frac{Q_P}{Q_{IN}}\right) t_{OFF}}\right] (C_S)(L_{S,SS})$$

Where:

$L_{L,A}$ = value as defined in section 11.2.7 of ASHRAE 103–2007,

L_G = value as defined in section 11.3.11.1 of ASHRAE 103–2007, at reduced input rate,

L_C = value as defined in section 11.3.11.2 of ASHRAE 103–2007 at reduced input rate,

L_J = value as defined in section 11.4.8.1.1 of ASHRAE 103–2007 at maximum input rate,

t_{ON} = value as defined in section 11.4.9.11 of ASHRAE 103–2007,

Q_P = pilot fuel input rate determined in accordance with section 9.2 of ASHRAE 103–2007 in Btu/h,

Q_{IN} = value as defined in section 11.4.8.1.1 of ASHRAE 103–2007,

t_{OFF} = value as defined in section 11.4.9.12 of ASHRAE 103–2007 at reduced input rate,

$L_{S,ON}$ = value as defined in section 11.4.10.5 of ASHRAE 103–2007 at reduced input rate,

$L_{S,OFF}$ = value as defined in section 11.4.10.6 of ASHRAE 103–2007 at reduced input rate,

$L_{I,ON}$ = value as defined in section 11.4.10.7 of ASHRAE 103–2007 at reduced input rate,

$L_{I,OFF}$ = value as defined in section 11.4.10.8 of ASHRAE 103–2007 at reduced input rate,

C_J = jacket loss factor and equal to:

= 0.0 for furnaces or boilers intended to be installed indoors

= 1.7 for furnaces intended to be installed as isolated combustion systems

= 2.4 for boilers (other than finned-tube boilers) intended to be installed as isolated combustion systems

= 3.3 for furnaces intended to be installed outdoors

= 4.7 for boilers (other than finned-tube boilers) intended to be installed outdoors

= 1.0 for finned-tube boilers intended to be installed outdoors

= 0.5 for finned-tube boilers intended to be installed in isolated combustion system applications

$L_{S,SS}$ = value as defined in section 11.5.6 of ASHRAE 103–2007 at reduced input rate,

C_S = value as defined in section 11.5.10.1 of ASHRAE 103–2007 at reduced input rate.

10.4 *Part-Load Efficiency at Maximum Fuel Input Rate.* If the option in section 9.10 of ASHRAE 103–2007 is not employed, calculate the part-load efficiency at maximum fuel input rate, $Effy_{U,H}$, for condensing furnaces and boilers equipped with two-stage controls, expressed as a percent and defined as:

$$Effy_{U,H} = 100 - L_{L,A} + L_G - L_C - C_J L_J - \left[\frac{t_{ON}}{t_{ON} + \left(\frac{Q_P}{Q_{IN}}\right) t_{OFF}}\right] x\ (L_{S,ON} + L_{S,OFF} + L_{I,ON} + L_{I,OFF})$$

If the option in section 9.10 of ASHRAE 103–2007 is employed, calculate $Effy_{U,H}$ as follows:

$$Effy_{U,H} = 100 - L_{L,A} + L_G - L_C - C_J L_J - \left[\frac{t_{ON}}{t_{ON} + \left(\frac{Q_P}{Q_{IN}}\right) t_{OFF}}\right] (C_S)(L_{S,SS})$$

Where:

$L_{L,A}$ = value as defined in section 11.2.7 of ASHRAE 103–2007,

L_G = value as defined in section 11.3.11.1 of ASHRAE 103–2007 at maximum input rate,

L_C = value as defined in section 11.3.11.2 of ASHRAE 103–2007 at maximum input rate,

L_J = value as defined in section 11.4.8.1.1 of ASHRAE 103–2007 at maximum input rate,

t_{ON} = value as defined in section 11.4.9.11 of ASHRAE 103–2007,

Q_P = pilot fuel input rate determined in accordance with section 9.2 of ASHRAE 103–2007 in Btu/h,

Q_{IN} = value as defined in section 11.4.8.1.1 of ASHRAE 103–2007,

t_{OFF} = value as defined in section 11.4.9.12 of ASHRAE 103–2007 at maximum input rate,

$L_{S,ON}$ = value as defined in section 11.4.10.5 of ASHRAE 103–2007 at maximum input rate,

$L_{S,OFF}$ = value as defined in section 11.4.10.6 of ASHRAE 103–2007 at maximum input rate,

$L_{I,ON}$ = value as defined in section 11.4.10.7 of ASHRAE 103–2007 at maximum input rate,

$L_{I,OFF}$ = value as defined in section 11.4.10.8 of ASHRAE 103–2007 at maximum input rate,

C_J = value as defined in section 10.3 of this appendix,

$L_{S,SS}$ = value as defined in section 11.5.6 of ASHRAE 103–2007 at maximum input rate,

C_S = value as defined in section 11.5.10.1 of ASHRAE 103–2007 at maximum input rate.

10.5 *National average burner operating hours, average annual fuel energy consumption, and average annual auxiliary electrical energy consumption for gas or oil furnaces and boilers.*

10.5.1 *National average number of burner operating hours.* For furnaces and boilers equipped with single-stage controls, the national average number of burner operating hours is defined as:

BOH_{SS} = 2,080 (0.77) (A) (Q_{OUT}/(1 + α)) − 2,080 (B)

Where:

2,080 = national average heating load hours

0.77 = adjustment factor to adjust the calculated design heating requirement and heating load hours to the actual heating load experienced by the heating system

A = 100,000/[341,300(y_P PE + y_{IG} PE_{IG} + y BE) + (Q_{IN} − Q_P)$Effy_{HS}$], for forced draft unit, indoors

= 100,000/[341,300(y_P PE Eff_{motor} + y_{IG} PE_{IG} + y BE) + (Q_{IN} − Q_P) $Effy_{HS}$], for forced draft unit, ICS,

= 100,000/[341,300(y_P PE(1 − Eff_{motor}) + y_{IG} PE_{IG} + y BE) + (Q_{IN} − Q_P) $Effy_{HS}$], for induced draft unit, indoors, and

= 100,000/[341,300(y_{IG} PE_{IG} + y BE) + (Q_{IN} − Q_P) $Effy_{HS}$], for induced draft unit, ICS

B = 2 Q_P ($Effy_{HS}$)(A)/100,000

Where:

Eff_{motor} = Power burner motor efficiency provided by manufacturer,

= 0.50, an assumed default power burner efficiency if not provided by manufacturer.

100,000 = factor that accounts for percent and kBtu

PE = burner electrical power input at full-load steady-state operation, including electrical ignition device if energized, as defined in section 9.1.2.2 of ASHRAE 103–2007.

y_P = ratio of induced or forced draft blower on-time to average burner on-time, as follows:

1 for units without post-purge;

1 + (t_P/t_{ON}) for single-stage furnaces or boilers with post-purge;

PE_{IG} = electrical input rate to the interrupted ignition device on burner (if employed), as defined in section 8.5 of this appendix

y_{IG} = ratio of burner interrupted ignition device on-time to average burner on-time, as follows:

0 for burners not equipped with interrupted ignition device;

(t_{IG}/t_{ON}) for single-stage furnaces or boilers.

t_{IG} = on-time of the burner interrupted ignition device, as defined in section 8.5 of this appendix

t_P = post-purge time as defined in section 8.6 or 8.7 (furnace) or section 8.8 (boiler) of this appendix

= 0 if t_P is equal to or less than 30 second.

y = ratio of blower or pump on-time to average burner on-time, as follows:

1 for furnaces without fan delay or boilers without a pump delay;

1+(t^+ − t^-)/t_{ON} for furnaces with fan delay or boilers with pump delay;

BE = circulating air fan or water pump electrical energy input rate at full-load steady-state operation, as defined in section 9.1.2.2 of ASHRAE 103–2007

Q_{IN} = as defined in section 11.2.8.1 of ASHRAE 103–2007

Q_P = as defined in section 11.2.11 of ASHRAE 103–2007

$Effy_{HS}$ = as defined in section 11.2.11 (non-condensing systems) or section 11.3.11.3 (condensing systems) of ASHRAE Standard 103–2007, percent, and calculated on the basis of:

isolated combustion system installation, for non-weatherized warm air furnaces;

indoor installation, for non-weatherized boilers; or

outdoor installation, for furnaces and boilers that are weatherized.

2 = ratio of the average length of the heating season in hours to the average heating load hours

t^+ = as defined in section 9.5.1.2 of ASHRAE 103–2007 or section 8.8 of this appendix

t^- = as defined in section 9.6.1 of ASHRAE 103–2007

t_{ON} = average burner on-time per cycle as defined in Table 7 of ASHRAE 103–2007

Q_{OUT} = as defined in section 11.2.8 of ASHRAE 103–2007

α = as defined in section 11.2.8.2 of ASHRAE 103–2007

10.5.1.1 For furnaces and boilers equipped with two-stage or step-modulating controls, the national average number of burner operating hours at the reduced operating mode is defined as:

$BOH_R = X_R\ (2{,}080)\ (0.77)\ (A_R)\ (Q_{OUT}/(1+\alpha)) - 2{,}080\ (B_R)$

Where:

$A_R = 100{,}000/[341{,}300(y_{P,R}\ PE_R + y_{IG,R}\ PE_{IG,R} + y_R BE_R) + (Q_{IN,R} - Q_P) Effy_{U,R}]$, for forced draft unit, indoors

$= 100{,}000/[341{,}300(y_{P,R}\ PE_R\ Eff_{motor} + y_{IG,R}\ PE_{IG,R} + y_R BE_R) + (Q_{IN,R} - Q_P)\ Effy_{U,R}]$, for forced draft unit, isolated combustion system,

$= 100{,}000/[341{,}300(y_{P,R}\ PE_R\ (1\text{-}Eff_{motor}) + y_{IG,R}\ PE_{IG,R} + y_R BE_R) + (Q_{IN,R} - Q_P)\ Effy_{U,R}]$, for induced draft unit, indoors, and

$= 100{,}000/[341{,}300(y_{IG,R}\ PE_{IG,R} + y_R BE_R) + (Q_{IN,R} - Q_P)\ Effy_{U,R}]$, for induced draft unit, isolated combustion system

$B_R = 2\ Q_P\ (Effy_{U,R})(A_R)/100{,}000$

X_R = as defined in section 11.4.8.6 of ASHRAE 103–2007

$Q_{IN,R}$ = as defined in section 11.4.8.1.2 of ASHRAE 103–2007

$Effy_{U,R}$ = average part load efficiency at the reduced fuel input rate as defined in section 11.4.11.1 of ASHRAE 103–2007

$PE_{IG,R}$ = electrical input rate to the interrupted ignition device on burner (if employed), as defined in section 8.5 of this appendix and measured at the reduced fuel input rate.

$y_{IG,R}$ = ratio of burner interrupted ignition device on-time to average burner on-time, as follows:

0 for burners not equipped with an interrupted ignition device; $(t_{IG}/t_{ON,R})$ otherwise;

t_{IG} = on-time of the burner interrupted ignition device, as defined in section 8.5 of this appendix

PE_R = value as defined in section 9.1.2.2 of ASHRAE 103–2007 and measured at the reduced fuel input rate.

$y_{P,R}$ = ratio of induced or forced draft blower on-time to average burner on-time, as follows:

1 for units without post-purge;

$1+(t_P/t_{ON,R})$ for furnaces or boilers with post-purge;

$t_{P,R}$ = post-purge time measured at the reduced fuel input rate as defined for t_P in sections 8.6 or 8.7 (furnace) or section 8.8 (boiler) of this appendix.

= 0 if $t_{P,R}$ is equal to or less than 30 second.

BE_R = value as defined in section 9.1.2.2 of ASHRAE 103–2007 and measured at the reduced fuel input rate.

y_R = ratio of blower or pump on-time to average burner on-time, determined as follows:

1 for furnaces without fan delay or boilers without a pump delay;

$1+(t_R^+ - t_R^-)/t_{ON,R}$ for furnaces with fan delay or oilers with pump delay.

t_R^+ = delay time between burner shutoff and the blower or pump shutoff measured at the reduced fuel input rate as defined for t^+ in section 9.5.1.2 of ASHRAE 103–2007 (furnace) or section 8.8 of this appendix (boiler).

t_R^- = as defined in section 9.6.1 of ASHRAE 103–2007 and measured at the reduced fuel input rate.

$t_{ON,R}$ = average burner on-time per cycle as defined in Table 7 of ASHRAE 103–2007 and measured at the reduced fuel input rate.

Q_{OUT} = as defined in section 11.2.8 of ASHRAE 103–2007

α = as defined in section 11.2.8.2 of ASHRAE 103–2007

10.5.1.2 For furnaces and boilers equipped with two-stage controls, the national average number of burner operating hours at the maximum operating mode is defined as:

$BOH_H = X_H\ (2{,}080)\ (0.77)\ (A_H)\ (Q_{OUT}/(1+\alpha)) - 2{,}080\ (B_H)$

Where:

$A_H = 100{,}000/[341{,}300(y_{P,H}\ PE_H + y_{IG,H}\ PE_{IG,H} + y_H BE_H) + (Q_{IN} - Q_P) Effy_{U,H}]$, for forced draft unit, indoors

$= 100{,}000/[341{,}300(y_{P,H}\ PE_H\ Eff_{motor} + y_{IG,H}\ PE_{IG,H} + y_H BE_H) + (Q_{IN} - Q_P)\ Effy_{U,H}]$, for forced draft unit, isolated combustion system,

$= 100{,}000/[341{,}300(y_{P,H}\ PE_H\ (1\text{-}Eff_{motor}) + y_{IG,H}\ PE_{IG,H} + y_H BE_H) + (Q_{IN} - Q_P)\ Effy_{U,H}]$, for induced draft unit, indoors, and

$= 100{,}000/[341{,}300(y_{IG,H}\ PE_{IG,H} + y_H BE_H) + (Q_{IN}\text{-}Q_P)\ Effy_{U,H}]$, for induced draft unit, isolated combustion system

$B_R = 2\ Q_P\ (Effy_{U,H})(A_H)/100{,}000$

X_H = as defined in section 11.4.8.5 of ASHRAE 103–2007

Q_{IN} = as defined in section 11.4.8.1.1 of ASHRAE 103–2007

$Effy_{U,H}$ = average part load efficiency at the maximum fuel input rate as defined in section 11.4.11.2 of ASHRAE 103–2007

$PE_{IG,H}$ = value as defined in section 8.5 of this appendix and measured at the maximum fuel input rate

$y_{IG,H}$ = ratio of burner interrupted ignition device on-time to average burner on-time, as follows:

0 for burners not equipped with interrupted ignition device; $(t_{IG}/t_{ON,H})$ otherwise

t_{IG} = on-time of the burner interrupted ignition device, as defined in section 8.5 of this appendix

PE_H = value as defined in section 9.1.2.2 of ASHRAE 103–2007 and measured at the maximum fuel input rate

$y_{P,H}$ = ratio of induced or forced draft blower on-time to average burner on-time, as follows:

1 for units without post-purge;

$1+(t_P/t_{ON,H})$ for furnaces or boilers with post-purge;

$t_{P,H}$ = post-purge time measured at the maximum fuel input rate as defined for t_P in sections 8.6 or 8.7 (furnace) or section 8.8 (boiler) of this appendix

= 0 if $t_{P,H}$ is equal to or less than 30 second

BE_H = value as defined in section 9.1.2.2 of ASHRAE 103–2007 and measured at the maximum fuel input rate

y_H = ratio of blower or pump on-time to average burner on-time, as follows:

1 for furnaces without fan delay or boilers without a pump delay;

$1+ (t_H^+ - t_H^-)/t_{ON,H}$ for furnaces with fan delay or boilers with pump delay

t_H^+ = delay time between burner shutoff and the blower or pump shutoff measured at the maximum fuel input rate as defined for t^+ in section 9.5.1.2 of ASHRAE 103–2007 (furnace) or section 8.8 of this appendix (boiler)

t_H^- = as defined in section 9.6.1 of ASHRAE 103–2007 and measured at the maximum fuel input rate

$t_{ON,H}$ = average burner on-time per cycle as defined in Table 7 of ASHRAE Standard 103–2007 and measured at the maximum fuel input rate

Q_{OUT} = as defined in section 11.2.8 of ASHRAE 103–2007

α = as defined in section 11.2.8.2 of ASHRAE 103–2007

10.5.1.3 For furnaces and boilers equipped with step-modulating controls, the national average number of burner operating hours at the modulating operating mode is defined as:

$BOH_M = X_M\ (2{,}080)\ (0.77)\ (A_M)\ (Q_{OUT}/(1 + \alpha)) - 2{,}080\ (B_M)$

Where:

$A_M = 100{,}000/[341{,}300(y_{P,H}\ PE_H + y_{IG,H}\ PE_{IG,H} + y_H BE_H) + (Q_{IN,M} - Q_P) Effy_{U,M}]$, for forced draft unit, indoors

$= 100{,}000/[341{,}300(y_{P,H}\ PE_H\ Eff_{motor} + y_{IG,H}\ PE_{IG,H} + y_H BE_H) + (Q_{IN,M} - Q_P)\ Effy_{U,M}]$, for forced draft unit, isolated combustion system,

$= 100{,}000/[341{,}300(y_{P,H}\ PE_H\ (1 - Eff_{motor}) + y_{IG,H}\ PE_{IG,H} + y_H BE_H) + (Q_{IN,M} - Q_P)\ Effy_{U,M}]$, for induced draft unit, indoors, and

$= 100{,}000/[341{,}300(y_{IG,H}\ PE_{IG,H} + y_H BE_H) + (Q_{IN,M} - Q_P)\ Effy_{U,M}]$, for induced draft unit, isolated combustion system

$B_R = 2\ Q_P\ (Effy_{U,M})(A_M)/100{,}000$

X_H = as defined in section 11.4.8.5 of ASHRAE 103–2007

$Q_{IN,M} = (100)(Q_{OUT,M}/Effy_{SS,M})$

$Q_{OUT,M}$ = as defined in section 11.4.8.10 of ASHRAE 103–2007

$Effy_{U,M}$ = average part-load efficiency at the modulating fuel input rate as defined in section 11.4.8.7 of ASHRAE 103–2007

$PE_{IG,H}$ = value as defined in section 8.5 of this appendix and measured at the modulating fuel input rate

$y_{IG,H}$ = ratio of burner interrupted ignition device on-time to average burner on-time, as follows:

0 for burners not equipped with an interrupted ignition device;

$(t_{IG}/t_{ON,H})$ otherwise

t_{IG} = on-time of the burner interrupted ignition device, as defined in section 8.5 of this appendix

PE_H = value as defined in section 9.1.2.2 of ASHRAE 103–2007 and measured at the maximum fuel input rate

$y_{P,H}$ = ratio of induced or forced draft blower on-time to average burner on-time, as follows:

1 for units without post-purge;

$1 + (t_P/t_{ON,H})$ for furnaces or boilers with post-purge;

$t_{P,H}$ = post-purge time measured at the maximum fuel input rate as defined for t_P in sections 8.6 or 8.7 (furnace) or section 8.8 (boiler) of this appendix

= 0 if $t_{P,H}$ is equal to or less than 30 second

BE_H = value as defined in section 9.1.2.2 of ASHRAE 103–2007 and measured at the maximum fuel input rate

y_H = ratio of blower or pump on-time to average burner on-time, as follows:

1 for furnaces without fan delay or boilers without a pump delay;

$1 + (t_H^+ - t_H^-)/t_{ON,H}$ for furnaces with fan delay or boilers with pump delay

t_H^+ = as defined in section 9.5.1.2 of ASHRAE 103–2007 or section 8.8 of this appendix and measured at the maximum fuel input rate

t_H^- = as defined in section 9.6.1 of ASHRAE 103–2007 and measured at the maximum fuel input rate

$t_{ON,H}$ = average burner on-time per cycle as defined in Table 7 of ASHRAE 103–2007 and measured at the maximum fuel input rate

Q_{OUT} = as defined in section 11.2.8 of ASHRAE 103–2007

α = as defined in section 11.2.8.2 of ASHRAE 103–2007

10.5.2 *Average annual fuel energy consumption for gas or oil fueled furnaces or boilers.* For furnaces or boilers equipped with single-stage controls, the average annual fuel energy consumption (E_F) is expressed in Btu per year and defined as:

$$E_F = BOH_{SS} (Q_{IN} - Q_P) + 8{,}760\ Q_P$$

Where:

BOH_{SS} = as defined in section 10.5.1 of this appendix

Q_{IN} = as defined in section 11.2.8.1 of ASHRAE 103–2007

Q_P = as defined in section 11.2.11 of ASHRAE 103–2007

8,760 = total number of hours per year

10.5.2.1 For furnaces or boilers equipped with two-stage controls, E_F is defined as:

$$E_F = BOH_H (Q_{IN}) + BOH_R (Q_{IN,R}) + (8{,}760 - BOH_H - BOH_R)\ Q_P$$

Where:

BOH_R = as defined in section 10.5.1.1 of this appendix

BOH_H = as defined in section 10.5.1.2 of this appendix

$Q_{IN,R}$ = as defined in section 11.4.8.1.2 of ASHRAE 103–2007

Q_{IN} = as defined in section 11.4.8.1.1 of ASHRAE 103–2007

8,760 = as specified in section 10.5.2 of this appendix

Q_P = as defined in section 11.2.11 of ASHRAE 103–2007

10.5.2.2 For furnaces or boilers equipped with step-modulating controls, E_F is defined as:

$$E_F = BOH_M (Q_{IN,M}) + BOH_R (Q_{IN,R}) + (8{,}760 - BOH_H - BOH_R)\ Q_P$$

Where:

BOH_R = as defined in section 10.5.1.1 of this appendix

BOH_M = as defined in section 10.5.1.3 of this appendix

$Q_{IN,R}$ = as defined in section 11.4.8.1.2 of ASHRAE 103–2007

$Q_{IN,M}$ = as defined in section 10.5.1.3 of this appendix

8,760 = as specified in section 10.5.2 of this appendix

Q_P =as defined in section 11.2.11 of ASHRAE 103–2007

10.5.3 *Average annual auxiliary electrical energy consumption for gas or oil-fueled furnaces or boilers.* For furnaces and boilers equipped with single-stage controls, the average annual auxiliary electrical consumption (E_{AE}) is expressed in kilowatt-hours and defined as:

$$E_{AE} = BOH_{SS} (y_P\ PE + y_{IG}\ PE_{IG} + yBE + y_S BE_S + y_O E_O) + E_{SO}$$

Where:

BOH_{SS} = as defined in section 10.5.1 of this appendix

y_P = as defined in section 10.5.1 of this appendix

PE = as defined in section 10.5.1 of this appendix

y_{IG} = as defined in section 10.5.1 of this appendix

PE_{IG} = as defined in section 10.5.1 of this appendix

y = as defined in section 10.5.1 of this appendix

BE = as defined in section 10.5.1 of this appendix

y_S = ratio of secondary boiler pump on-time to average burner on-time, as follows:

0 for furnaces;

1 for boilers;

BE_S = secondary boiler pump electrical energy input rate at full-load steady-state operation, if present

y_O = ratio of gas valve and controls combined on-time to average burner on-time, as follows:

1 for furnaces or boilers;

E_O = gas valve and controls combined electrical energy input rate at full-load steady-state operation, if present

E_{SO} = as defined in section 10.12 of this appendix

10.5.3.1 For furnaces or boilers equipped with two-stage controls, E_{AE} is defined as:

$$E_{AE} = BOH_R (y_{P,R}\ PE_R + y_{IG,R}\ PE_{IG,R} + y_R BE_R + y_{S,R}\ BE_{S,R} + y_{O,R}\ BE_{O,R}) + BOH_H (y_{P,H}\ PE_H + y_{IG,H}\ PE_{IG,H} + y_H\ BE_H + y_{S,H}\ BE_{S,H} + y_{O,H}\ BE_{O,H}) + E_{SO}$$

Where:

BOH_R = as defined in section 10.5.1.1 of this appendix

$y_{P,R}$ = as defined in section 10.5.1.1 of this appendix

PE_R = as defined in section 10.5.1.1 of this appendix

$y_{IG,R}$ = as defined in section 10.5.1.1 of this appendix

$PE_{IG,R}$ = as defined in section 10.5.1.1 of this appendix

y_R = as defined in section 10.5.1.1 of this appendix

BE_R = as defined in section 10.5.1.1 of this appendix

$y_{S,R}$ = ratio of secondary boiler pump on-time to average burner on-time, as follows:

0 for furnaces;

1 for boilers;

$BE_{S,R}$ = secondary boiler pump electrical energy input rate at reduced load steady-state operation, if present

$y_{O,R}$ = ratio of gas valve and controls combined on-time to average burner on-time, as follows:

1 for furnaces or boilers;

$E_{O,R}$ = gas valve and controls combined electrical energy input rate at reduced load steady-state operation, if present

BOH_H = as defined in section 10.5.1.2 of this appendix

$y_{P,H}$ = as defined in section 10.5.1.2 of this appendix

PE_H = as defined in section 10.5.1.2 of this appendix

$y_{IG,H}$ = as defined in section 10.5.1.2 of this appendix

$PE_{IG,H}$ = as defined in section 10.5.1.2 of this appendix

y_H = as defined in section 10.5.1.2 of this appendix

BE_H = as defined in section 10.5.1.2 of this appendix

$y_{S,H}$ = ratio of secondary boiler pump on-time to average burner on-time, as follows:

0 for furnaces;

1 for boilers;

$BE_{S,H}$ = secondary boiler pump electrical energy input rate at full-load steady-state operation, if present

$E_{O,H}$ = gas valve and controls combined electrical energy input rate at full-load steady-state operation, if present

E_{SO} = as defined in section 10.12 of this appendix

10.5.3.2 For furnaces or boilers equipped with step-modulating controls, E_{AE} is defined as:

$$E_{AE} = BOH_R (y_{P,R}\ PE_R + y_{IG,R}\ PE_{IG,R} + y_R BE_R + y_{S,R}\ BE_{S,R} + y_{O,R}\ BE_{O,R}) + BOH_M (y_{P,H}\ PE_H + y_{IG,H}\ PE_{IG,H} + y_H\ BE_H + y_{S,H}\ BE_{S,H} + y_{O,H}\ E_{O,H}) + E_{SO}$$

Where:

BOH_R = as defined in section 10.5.1.1 of this appendix

$y_{P,R}$ = as defined in section 10.5.1.1 of this appendix

PE_R = as defined in section 10.5.1.1 of this appendix

$y_{IG,R}$ = as defined in section 10.5.1.1 of this appendix

$PE_{IG,R}$ = as defined in section 10.5.1.1 of this appendix

y_R = as defined in section 10.5.1.1 of this appendix

BE_R = as defined in section 10.5.1.1 of this appendix

$y_{S,R}$ = as defined in section 10.5.3.1 of this appendix

$BE_{S,R}$ = as defined in section 10.5.3.1 of this appendix

$y_{O,R}$ = as defined in section 10.5.3.1 of this appendix

$E_{O,R}$ = as defined in section 10.5.3.1 of this appendix

BOH_M = as defined in section 10.5.1.3 of this appendix

$y_{P,H}$ = as defined in section 10.5.1.2 of this appendix

PE_H = as defined in section 10.5.1.2 of this appendix

$y_{IG,H}$ = as defined in section 10.5.1.2 of this appendix
$PE_{IG,H}$ = as defined in section 10.5.1.2 of this appendix
y_H = as defined in section 10.5.1.2 of this appendix
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$BE_{S,H}$ = as defined in section 10.5.3.1 of this appendix
$y_{O,H}$ = as defined in section 10.5.3.1 of this appendix
$E_{O,H}$ = as defined in section 10.5.3.1 of this appendix
E_{SO} = as defined in section 10.12 of this appendix

10.6 *Average annual electric energy consumption for electric furnaces or boilers.*

$E_E = 100(2{,}080)(0.77)(Q_{OUT}/(1 + \alpha))/(3.412\ AFUE) + E_{SO}$

Where:

100 = to express a percent as a decimal
2,080 = as specified in section 10.5.1 of this appendix
0.77 = as specified in section 10.5.1 of this appendix
Q_{OUT} = as defined in section 10.5.1 of this appendix
α = as defined in section 10.5.1 of this appendix
3.412 = conversion to express energy in terms of watt-hours instead of Btu
AFUE = as defined in section 11.1 of ASHRAE 103–2007, in percent, and calculated on the basis of: isolated combustion system installation, for non-weatherized warm air furnaces; indoor installation, for non-weatherized boilers; or outdoor installation, for furnaces and boilers that are weatherized
E_{SO} = as defined in section 10.12 of this appendix

10.7 *Energy factor.*

10.7.1 *Energy factor for gas or oil furnaces and boilers.* Calculate the energy factor, EF, for gas or oil furnaces and boilers defined as, in percent:

$EF = (E_F - 4{,}600\ (Q_P))(Effy_{HS})/(E_F - 3{,}412\ (E_{AE}))$

Where:

E_F = average annual fuel consumption as defined in section 10.5.2 of this appendix
E_{AE} = as defined in section 10.5.3 of this appendix
$Effy_{HS}$ = Annual Fuel Utilization Efficiency as defined in sections 11.2.11, 11.3.11, 11.4.11 or 11.5.11 of ASHRAE 103–2007, in percent, and calculated on the basis of: isolated combustion system installation, for non-weatherized warm air furnaces;
indoor installation, for non-weatherized boilers; or outdoor installation, for furnaces and boilers that are weatherized.
3,412 = conversion factor from kilowatt to Btu/h

10.7.2 *Energy factor for electric furnaces and boilers.* The energy factor, EF, for electric furnaces and boilers is defined as:

EF = AFUE

Where:

AFUE = Annual Fuel Utilization Efficiency as defined in section 10.6 of this appendix, in percent

10.8 *Average annual energy consumption for furnaces and boilers located in a different geographic region of the United States and in buildings with different design heating requirements.*

10.8.1 *Average annual fuel energy consumption for gas or oil-fueled furnaces and boilers located in a different geographic region of the United States and in buildings with different design heating requirements.* For gas or oil-fueled furnaces and boilers, the average annual fuel energy consumption for a specific geographic region and a specific typical design heating requirement (E_{FR}) is expressed in Btu per year and defined as:

$E_{FR} = (E_F - 8{,}760\ Q_P)(HLH/2{,}080) + 8{,}760\ Q_P$

Where:

E_F = as defined in section 10.5.2 of this appendix
8,760 = as specified in section 10.5.2 of this appendix
Q_P = as defined in section 10.5.1 of this appendix
HLH = heating load hours for a specific geographic region determined from the heating load hour map in Figure 1 of this appendix
2,080 = as defined in section 10.5.1 of this appendix

10.8.2 *Average annual auxiliary electrical energy consumption for gas or oil-fueled furnaces and boilers located in a different geographic region of the United States and in buildings with different design heating requirements.* For gas or oil-fueled furnaces and boilers, the average annual auxiliary electrical energy consumption for a specific geographic region and a specific typical design heating requirement (E_{AER}) is expressed in kilowatt-hours and defined as:

$E_{AER} = (E_{AE} - E_{SO})\ (HLH/2080) + E_{SOR}$

Where:

E_{AE} = as defined in section 10.5.3 of this appendix
E_{SO} = as defined in section 10.12 of this appendix
HLH = as defined in section 10.8.1 of this appendix
2,080 = as specified in section 10.5.1 of this appendix
E_{SOR} = as specified in section 10.8.3 of this appendix

10.8.3 *Average annual electric energy consumption for electric furnaces and boilers located in a different geographic region of the United States and in buildings with different design heating requirements.* For electric furnaces and boilers, the average annual electric energy consumption for a specific geographic region and a specific typical design heating requirement (E_{ER}) is expressed in kilowatt-hours and defined as:

$E_{ER} = 100(0.77)(Q_{OUT}/(1 + \alpha))HLH/(3.412\ AFUE) + E_{SOR}$

Where:

100 = as specified in section 10.6 of this appendix
0.77 = as specified in section 10.5.1 of this appendix
Q_{OUT} = as defined in section 10.5.1 of this appendix
α = as defined in section 10.5.1 of this appendix
HLH = as defined in section 10.8.1 of this appendix
3.412 = as specified in section 10.6 of this appendix
AFUE = as defined in section 10.6 of this appendix
E_{SOR} = E_{SO} as defined in section 10.12 of this appendix, except that in the equation for E_{SO}, the term BOH is multiplied by the expression (HLH/2080) to get the appropriate regional accounting of standby mode and off mode loss

10.9 *Annual energy consumption for mobile home furnaces.*

10.9.1 *National average number of burner operating hours for mobile home furnaces (BOH_{SS}).* BOH_{SS} is the same as in section 10.5.1 of this appendix, except that the value of $Effy_{HS}$ in the calculation of the burner operating hours, $BOH_{SS,}$ is calculated on the basis of a direct vent unit with system number 9 or 10.

10.9.2 *Average annual fuel energy for mobile home furnaces (E_F).* E_F is same as in section 10.5.2 of this appendix except that the burner operating hours, $BOH_{SS,}$ is calculated as specified in section 10.9.1 of this appendix.

10.9.3 *Average annual auxiliary electrical energy consumption for mobile home furnaces (E_{AE}).* E_{AE} is the same as in section 10.5.3 of this appendix, except that the burner operating hours, $BOH_{SS,}$ is calculated as specified in section 10.9.1 of this appendix.

10.10 *Calculation of sales weighted average annual energy consumption for mobile home furnaces.* In order to reflect the distribution of mobile homes to geographical regions with average HLH_{MHF} values different from 2,080, adjust the annual fossil fuel and auxiliary electrical energy consumption values for mobile home furnaces using the following adjustment calculations.

10.10.1 For mobile home furnaces, the sales weighted average annual fossil fuel energy consumption is expressed in Btu per year and defined as:

$E_{F,MHF} = (E_F - 8{,}760\ QP)HLH_{MHF}/2{,}080 + 8{,}760\ Q_P$

Where:

E_F = as defined in section 10.9.2 of this appendix
8,760 = as specified in section 10.5.2 of this appendix
Q_P = as defined in section 10.5.1 of this appendix
HLH_{MHF} = 1880, sales weighted average heating load hours for mobile home furnaces
2,080 = as specified in section 10.5.1 of this appendix

10.10.2 For mobile home furnaces, the sales-weighted-average annual auxiliary electrical energy consumption is expressed in kilowatt-hours and defined as:

$E_{AE,MHF} = E_{AE}\ HLH_{MHF}/2{,}080$

Where:

E_{AE} = as defined in section 10.9.3 of this appendix

HLH_{MHF} = as defined in section 10.10.1 of this appendix

2,080 = as specified in section 10.5.1 of this appendix

10.11 *Direct determination of off-cycle losses for furnaces and boilers equipped with thermal stack dampers.* [Reserved.]

10.12 *Average annual electrical standby mode and off mode energy consumption.* Calculate the annual electrical standby mode and off mode energy consumption (E_{SO}) in kilowatt-hours, defined as:

$E_{SO} = ((P_{W,SB} * (4160 - BOH)) + (P_{W,OFF} * 4600)) * K$

Where:

$P_{W,SB}$ = furnace or boiler standby mode power, in watts, as measured in section 8.12.1 of this appendix

4,160 = average heating season hours per year

$P_{W,OFF}$ = furnace or boiler off mode power, in watts, as measured in section 8.12.2 of this appendix

4,600 = average non-heating season hours per year

K = 0.001 kWh/Wh, conversion factor for watt-hours to kilowatt-hours

BOH = total burner operating hours as calculated in section 10.5 of this appendix for gas or oil-fueled furnaces or boilers. Where for gas or oil-fueled furnaces and boilers equipped with single-stage controls, BOH = BOH_{SS}; for gas or oil-fueled furnaces and boilers equipped with two-stage controls, BOH = (BOH_R + BOH_H); and for gas or oil-fueled furnaces and boilers equipped with step-modulating controls, BOH = (BOH_R + BOH_M). For electric furnaces and boilers,

$BOH = 100(2080)(0.77)(Q_{OUT}/(1+\alpha))/(E_{in}\ 3.412(AFUE))$

Where:

100 = to express a percent as a decimal

2,080 = as specified in section 10.5.1 of this appendix

0.77 = as specified in section 10.5.1 of this appendix

Q_{OUT} = as defined in section 10.5.1 of this appendix

α = as defined in section 10.5.1 of this appendix

3.412 = conversion to express energy in terms of kBtu instead of kilowatt-hours

AFUE = as defined in section 11.1 of ASHRAE 103—2007 in percent

E_{in} = Steady-state electric rated power, in kilowatts, from section 9.3 of ASHRAE 103–2007

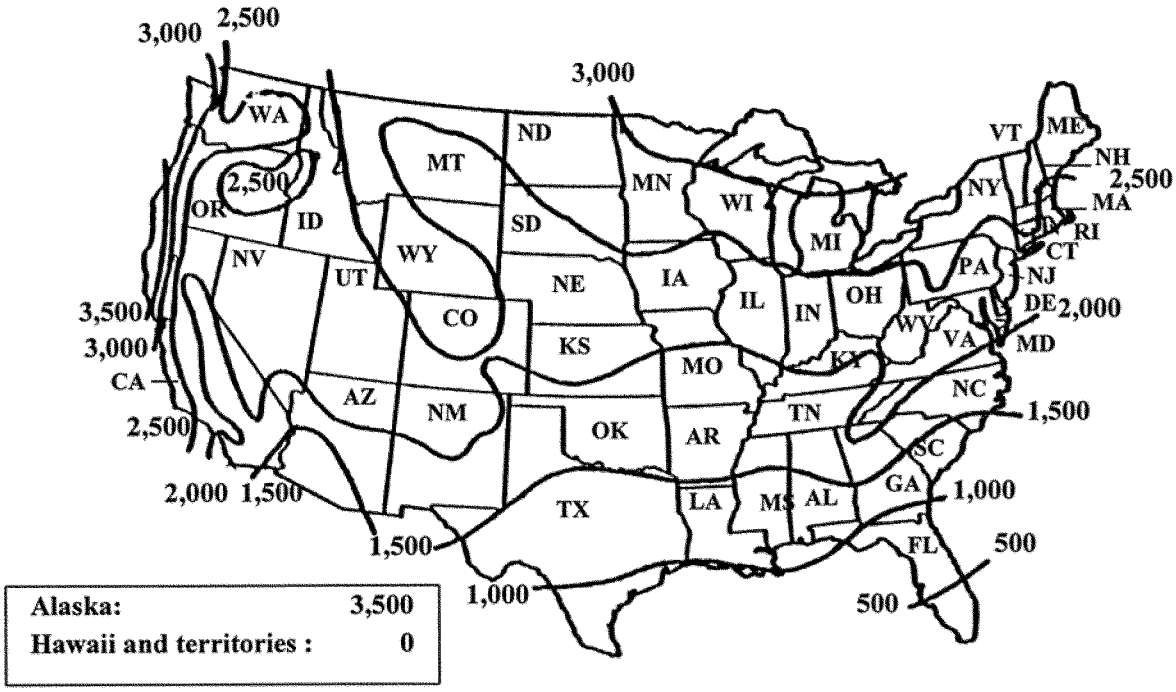

FIGURE 1- HEATING LOAD HOURS (HLH) FOR THE UNITED STATES

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Making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2015, and for other purposes. (Mar. 4, 2015; 129 Stat. 39)

H.R. 431/P.L. 114–5
To award a Congressional Gold Medal to the Foot Soldiers who participated in Bloody Sunday, Turnaround Tuesday, or the final Selma to Montgomery Voting Rights March in March of 1965, which served as a catalyst for the Voting Rights Act of 1965. (Mar. 7, 2015; 129 Stat. 78)

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