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Rules and Regulations

Federal Register

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

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

AGENCY FOR INTERNATIONAL DEVELOPMENT

2 CFR Part 780

RIN 0412–AA77

Administrative Changes to the USAID Regulation on Nonprocurement Debarment and Suspension

AGENCY: U.S. Agency for International Development.

ACTION: Direct final rule.

SUMMARY: The U.S. Agency for International Development (USAID) is amending its regulations regarding nonprocurement debarment and suspension to revise the designation of the Agency official who will serve as the Agency's Suspending Official and Debarring Official and also to revise the designation of the individual who may grant an exception to let an excluded person participate in a covered transaction.

DATES: This rule is effective June 10, 2015 without further action, unless adverse comments are received by April 13, 2015. Submit comments on or before April 13, 2015.

ADDRESSES: Address all comments concerning this notice to Marcelle J. Wijesinghe, Bureau for Management, Office of Acquisition and Assistance, Policy Division (M/OAA/P), Room 867J, SA–44, Washington, DC 20523–2052. Submit comments, identified by title of the action and Regulatory Information Number (RIN) by any of the following methods:

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

Email: Submit electronic comments to both *mwijesinghe@usaid.gov* and *lbond@usaid.gov.* See **SUPPLEMENTARY INFORMATION** for file formats and other information about electronic filing.

Mail: USAID, Bureau for Management, Office of Acquisition & Assistance, Policy Division, Room 867J, SA–44, Washington, DC 20523–2052.

FOR FURTHER INFORMATION CONTACT: Lyudmila Bond, Telephone: 202–567–4753 or Email: *lbond@usaid.gov.*

SUPPLEMENTARY INFORMATION:

A. Instructions

All comments must be in writing and submitted through one of the methods specified in the **ADDRESSES** section above. All submissions must include the title of the action and RIN for this rulemaking. Please include your name, title, organization, postal address, telephone number, and email address in the text of the message.

Comments submitted by email must be included in the text of the email or attached as a PDF file. Please avoid using special characters and any form of encryption. Please note, however, that because security screening precautions have slowed the delivery and dependability of surface mail to USAID/Washington, USAID recommends sending all comments to the Federal eRulemaking Portal.

All comments will be made available for public review without change, including any personal information provided, from three workdays after receipt to finalization of the action at *http://www.regulations.gov.* Do not submit information that you consider Confidential Business Information (CBI) or any information that is otherwise protected from disclosure by statute.

USAID is publishing this revision as a direct final rule as the Agency views this as an administrative amendment and does not anticipate any adverse comments. This rule will be effective on the date specified in the Dates section above without further notice unless adverse comment(s) are received by the date specified in the **DATES** section above. If adverse comments are received, USAID will publish a timely withdrawal of the rule in the **Federal Register**. Only comments that explain why the rule would be inappropriate, ineffective or unacceptable without a change will be considered.

B. Background

The following changes are implemented by this final rule:

(1) To enhance and elevate the independent authority of the suspending and debarring official (SDO) at USAID, the Agency is transferring the duties of the SDO from the procurement office to the Assistant Administrator, Bureau for Management or designee. This rule is implementing this change as applicable to nonprocurement debarment and suspension.

(2) The authorities to grant an exception permitting an excluded person to participate in a particular covered transaction, previously delegated to the Director of the Office of Acquisition and Assistance is re-delegated to the Assistant Administrator, Bureau for Management or designee.

C. Regulatory Planning and Review

This rule has been determined to be ''nonsignificant'' under the Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993 and, therefore, is not subject to review. This rule is not a major rule under 5 U.S.C. 804.

D. Regulatory Flexibility Act

The U.S. Agency for International Development certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because the revisions of this rule will not impose any costs on either small or large businesses; therefore, an Initial Regulatory Flexibility Analysis has not been performed.

List of Subjects in 2 CFR Part 780

Federal grant program.

For the reasons discussed in the preamble, USAID amends 2 CFR part 780, subparts A and I as set forth below:

PART 780—NONPROCUREMENT DEBARMENT AND SUSPENSION

■ 1. The authority citations for 2 CFR part 780 continue to read as follows:

Authority: Sec. 2455, Pub. L. 103–355, 108 Stat. 3327; E.O. 12549, 3 CFR, 1986 Comp., p. 189; E.O. 12689, 3 CFR, 1989 Comp., p. 235.

Subpart A—General

■ 2. Revise § 780.137 to read as follows:

§ 780.137 Who in USAID may grant an exception to let an excluded person participate in a covered transaction?

The Assistant Administrator, Bureau for Management, or designee as delegated in Agency policy found in

ADS 103—Delegations of Authority, may grant an exception permitting an excluded person to participate in a particular covered transaction. If the Assistant Administrator, Bureau for Management or designee, grants an exception, the exception must be in writing and state the reason(s) for deviating from the government-wide policy in Executive Order 12549.

Subpart I—Definitions

■ 3. Revise § 780.930 to read as follows:

§ 780.930 Debarring Official (Agency for International Development supplement to government-wide definition at 2 CFR 180.930).

The *Debarring Official* for USAID is the Assistant Administrator, Bureau for Management, or designee as delegated in Agency policy found in ADS 103—Delegations of Authority.

■ 4. Revise § 780.1010 to read as follows:

§ 780.1010 Suspending Official (Agency for International Development supplement to government-wide definition at 2 CFR 180.1010).

The *Suspending Official* for USAID is the Assistant Administrator, Bureau for Management, or designee as delegated in Agency policy found in ADS 103—Delegations of Authority.

Aman S. Djahanbani,

Director, Bureau for Management, Office of Acquisition and Assistance.

[FR Doc. 2015–05569 Filed 3–11–15; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. APHIS–2014–0023]

Gypsy Moth Generally Infested Areas; Additions in Minnesota, Virginia, West Virginia, and Wisconsin

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the gypsy moth regulations by adding areas in Minnesota, Virginia, West Virginia, and Wisconsin to the list of generally infested areas based on the detection of infestations of gypsy moth in those areas. As a result of this action, the interstate movement of regulated articles from those areas is restricted. This action is necessary to prevent the artificial spread of the gypsy moth to noninfested areas of the United States.

DATES: This interim rule is effective March 12, 2015. We will consider all comments that we receive on or before May 11, 2015.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2014-0023.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2014–0023, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2014-0023* or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Chaloux, National Policy Manager, Emerald Ash Borer Program and Gypsy Moth Program, Plant Protection and Quarantine, APHIS, 4700 River Road Unit 137, Riverdale, MD 20737; (301) 851–2064.

SUPPLEMENTARY INFORMATION:

Background

The gypsy moth, *Lymantria dispar* (Linnaeus), is a destructive pest of forest, shade, and commercial trees such as nursery stock and Christmas trees. The gypsy moth regulations (contained in 7 CFR 301.45 through 301.45–12 and referred to below as the regulations) restrict the interstate movement of regulated articles from generally infested areas to prevent the artificial spread of the gypsy moth.

In accordance with § 301.45–2 of the regulations, generally infested areas are, with certain exceptions, those States or portions of States in which a gypsy moth general infestation has been found by an inspector, or each portion of a State that the Administrator deems necessary to regulate because of its proximity to infestation or its inseparability for quarantine enforcement purposes from infested localities. Less than an entire State will be designated as a generally infested area only if: (1) The State has adopted and is enforcing a quarantine or regulation that imposes restrictions on the intrastate movement of regulated articles that are substantially the same as those that are imposed with respect to the interstate movement of such articles; and (2) the designation of less than the entire State as a generally infested area will be adequate to prevent the artificial interstate spread of infestations of the gypsy moth.

Section 301.45–3 of the regulations lists generally infested areas. In this rule, we are amending § 301.45–3(a) by adding the following areas to the list of generally infested areas: Cook and Lake Counties in Minnesota; Tazewell County in Virginia; McDowell, Mercer, Raleigh, Summers, and Wyoming Counties in West Virginia; and Iowa County in Wisconsin. As a result of this rule, the interstate movement of regulated articles from these areas will be restricted.

On December 4, 2012, January 2, 2013, and August 21, 2014, respectively, the Animal and Plant Health Inspection Service (APHIS) issued Federal Orders to quarantine the counties listed above for gypsy moth in response to confirmed infestations in those counties. This was done in cooperation with the respective State officials. By adding the above-named counties in Minnesota, Virginia, West Virginia, and Wisconsin to the list of generally infested areas, this rule will help prevent the artificial spread of the gypsy moth to noninfested areas of the United States.

We are also removing the requirement in § 301.45–4 that regulated articles originating outside of any generally infested area and moving interstate directly through any generally infested area must be covered to prevent access by the gypsy moth in any of its life stages. That requirement was put in place out of an abundance of caution when we had a more limited understanding of the biology and behavior of the gypsy moth. In the intervening time, advances in our understanding of the pest have led APHIS to conclude that the requirement does not provide additional protection from the spread of gypsy moth during shipment. We are therefore removing a requirement that we no longer view as necessary, thus lightening the regulatory burden on shippers of regulated articles.

Emergency Action

This rulemaking is necessary on an emergency basis because of the possibility that the gypsy moth could be artificially spread to noninfested areas of the United States, where it could cause economic losses due to the defoliation of susceptible forest and shade trees. Under these circumstances,

the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this rule effective less than 30 days after publication in the **Federal Register**.

We will consider comments we receive during the comment period for this interim rule (see **DATES** above). After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule.

Executive Order 12866 and Regulatory Flexibility Act

This interim rule is subject to Executive Order 12866. However, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities. The analysis is summarized below. The full analysis may be viewed on the Regulations.gov Web site (see **ADDRESSES** above for instructions for accessing Regulations.gov) or obtained from the person listed under **FOR FURTHER INFORMATION CONTACT**.

We are amending the gypsy moth regulations by adding areas in Minnesota, Virginia, West Virginia, and Wisconsin to the list of generally infested areas based on detected infestations of gypsy moth. As a result of this action, the interstate movement of regulated articles from those areas is restricted.

This interim rule will affect businesses such as nurseries, Christmas tree farms, and timber companies that are located within the newly quarantined areas and that transport regulated articles interstate. Agricultural entities in the newly quarantined areas are predominantly, if not entirely, small entities.

We do not anticipate any significant economic impacts resulting from this action. APHIS works closely with State officials through quarantines and regulatory programs to limit the artificial spread of gypsy moth beyond infested areas, and stakeholders support these efforts. Many of the potentially affected entities are already operating under compliance agreements. Businesses with compliance agreements can self-inspect regulated articles moved from quarantined areas. Businesses without compliance agreements can have inspection and certification services provided by State or Federal officials at no cost.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, we are amending 7 CFR part 301 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

■ 1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 issued under Sec. 204, Title II, Public Law 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 issued under Sec. 203, Title II, Public Law 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

■ 2. In § 301.45–3, paragraph (a) is amended as follows:

■ a. By adding, in alphabetical order, an entry for Minnesota.

■ b. Under the heading Virginia, by adding an entry for Tazewell County in alphabetical order.

■ c. Under the heading West Virginia, by adding entries for McDowell County, Mercer County, Raleigh County, Summers County, and Wyoming County in alphabetical order.

■ d. Under the heading Wisconsin, by adding an entry for Iowa County in alphabetical order.

The additions read as follows:

§ 301.45–3 Generally infested areas.

(a) * * *

Minnesota

Cook County. The entire county.

Lake County. The entire county.

* * * * *

Virginia

* * * * *

Tazewell County. The entire county.

* * * * *

West Virginia

* * * * *

McDowell County. The entire county.

Mercer County. The entire county.

* * * * *

Raleigh County. The entire county.

* * * * *

Summers County. The entire county.

* * * * *

Wyoming County. The entire county.

Wisconsin

* * * * *

Iowa County. The entire county.

* * * * *

§ 301.45–4 [Amended]

■ 3. In § 301.45–4, paragraph (b) is amended by removing the last sentence of the paragraph.

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

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2015–05661 Filed 3–11–15; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

20 CFR Parts 702 and 703

RIN 1240–AA09

Longshore and Harbor Workers' Compensation Act: Transmission of Documents and Information

AGENCY: Office of Workers' Compensation Programs, Labor.

ACTION: Direct final rule; request for comments.

SUMMARY: Parties to claims arising under the Longshore and Harbor Workers' Compensation Act and its extensions (LHWCA or Act) and entities required to

have insurance pursuant to the Act frequently correspond with the Office of Workers' Compensation Programs (OWCP) and each other. The current regulations require that some of these communications be made in paper form via a specific delivery mechanism such as certified mail, U.S. mail or hand delivery. As technologies improve, other means of communication—including electronic methods—may be more efficient and cost-effective. Accordingly, this rule broadens the acceptable methods by which claimants, employers, and insurers can communicate with OWCP and each other.

DATES: This direct final rule is effective June 10, 2015 without further action unless OWCP receives significant adverse comment to this rule by midnight Eastern Standard Time on May 11, 2015. If OWCP receives significant adverse comment, it will publish a timely withdrawal of the final rule in the **Federal Register**.

ADDRESSES: You may submit written comments, identified by RIN number 1240–AA09, by any of the following methods.

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions on the Web site for submitting comments. To facilitate receipt and processing of comments, OWCP encourages interested parties to submit their comments electronically.
- *Fax:* (202) 693–1380 (this is not a toll-free number). Only comments of ten or fewer pages, including a Fax cover sheet and attachments, if any, will be accepted by Fax.
- *Regular Mail:* Division of Longshore and Harbor Workers' Compensation, Office of Workers' Compensation Programs, U.S. Department of Labor, Suite C–4319, 200 Constitution Avenue NW., Washington, DC 20210. The Department's receipt of U.S. mail may be significantly delayed due to security procedures. You must take this into consideration when preparing to meet the deadline for submitting comments.
- *Hand Delivery/Courier:* Division of Longshore and Harbor Workers' Compensation, Office of Workers' Compensation Programs, U.S. Department of Labor, Suite C–4319, 200 Constitution Avenue NW., Washington, DC 20210.

Instructions: All submissions received must include the agency name and the Regulatory Information Number (RIN) for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Antonio Rios, Director, Division of Longshore and Harbor Workers' Compensation, Office of Workers' Compensation Programs, U.S. Department of Labor, Suite C–4319, 200 Constitution Avenue NW., Washington, DC 20210. Telephone: (202) 693–0038 (this is not a toll-free number). TTY/TDD callers may dial toll-free 1–877–889–5627 for further information.

SUPPLEMENTARY INFORMATION:

I. Direct Final Rule Published Concurrently With Companion Proposed Rule

In direct final rulemaking, an agency publishes a direct final rule in the **Federal Register** with a statement that the rule will go into effect unless the agency receives significant adverse comment within a specified period. The agency concurrently publishes an identical proposed rule. If the agency receives no significant adverse comment in response to the direct final rule, the rule goes into effect. If the agency receives significant adverse comment, the agency withdraws the direct final rule and treats such comment as submissions on the proposed rule. An agency typically uses direct final rulemaking when it anticipates the rule will be non-controversial.

OWCP has determined that this rule, which modifies the existing regulations to facilitate the exchange of documents and information, is suitable for direct final rulemaking. The rule expands the methods by which employers, claimants, insurers, and OWCP can transmit documents and information to each other; the rule does not eliminate current methods. Thus, OWCP does not expect to receive significant adverse comment on this rule.

OWCP is also publishing a companion notice of proposed rulemaking in the ''Proposed Rules'' section of today's **Federal Register** to expedite notice-and-comment rulemaking in the event OWCP receives significant adverse comment and withdraws this direct final rule. The proposed and direct final rules are substantively identical, and their respective comment periods run concurrently. OWCP will treat comments received on the companion proposed rule as comments regarding the direct final rule and vice versa. Thus, if OWCP receives significant adverse comment on either this direct final rule or the companion proposed rule, OWCP will publish a **Federal Register** notice withdrawing this direct final rule and will proceed with the proposed rule. If no significant adverse comment is received, this direct final rule will become effective June 10, 2015.

For purposes of this direct final rule, a significant adverse comment is one that explains: (1) Why the rule is inappropriate, including challenges to the rule's underlying premise or approach; or (2) why the direct final rule will be ineffective or unacceptable without a change. In determining whether a significant adverse comment necessitates withdrawal of this direct final rule, OWCP will consider whether the comment raises an issue serious enough to warrant a substantive response had it been submitted in a standard notice-and-comment process. A comment recommending an addition to the rule will not be considered significant and adverse unless the comment explains how this direct final rule would be ineffective without the addition.

OWCP requests comments on all issues related to this rule, including economic or other regulatory impacts of this rule on the regulated community. All interested parties should comment at this time because OWCP will not initiate an additional comment period on the proposed rule even if it withdraws the direct final rule.

II. Background of This Rulemaking

The LHWCA, 33 U.S.C. 901–950, establishes a comprehensive federal workers' compensation system for an employee's disability or death arising in the course of covered maritime employment. *Metropolitan Stevedore Co.* v. *Rambo*, 515 U.S. 291, 294 (1995). The Act's provisions have been extended to: (1) Contractors working on military bases or U.S. government contracts outside the United States (Defense Base Act, 42 U.S.C. 1651–54); (2) employees of nonappropriated fund instrumentalities (Nonappropriated Fund Instrumentalities Act, 5 U.S.C. 8171–73); (3) employees engaged in operations that extract natural resources from the outer continental shelf (Outer Continental Shelf Lands Act, 43 U.S.C. 1333(b)); and (4) private employees in the District of Columbia injured prior to July 26, 1982 (District of Columbia Workers' Compensation Act of May 17, 1928, Public Law 70–419 (formerly codified at 36 D.C. Code 501 *et seq.* (1973) (repealed 1979)). Consequently, the Act and its extensions cover a broad range of claims for injuries that occur throughout the United States and around the world.

The Department's regulations implementing the LHWCA and its

extensions (20 CFR parts 701–704) currently contemplate that private parties and OWCP file and exchange documents only in paper form and, in some instances, require transmission via specific methods such as certified mail, U.S. mail, or hand delivery. Because many of these procedural rules were last amended in 1985 and 1986, *see* 51 FR 4270 (February 3, 1986); 50 FR 384 (January 3, 1985), they do not address whether the parties or OWCP may use electronic communication methods (*e.g.*, facsimile, email, web portal) or commercial delivery services (*e.g.*, United Parcel Service, Federal Express). These communication methods have now become ubiquitous and are routinely relied upon by individuals, businesses, and government agencies alike.

Recently, OWCP has been employing electronic technology to improve the program's administration. In 2009, OWCP began accepting reports of insurance coverage electronically. *See* Notice from Chief, Branch of Financial Management, Insurance and Assessments (December 2, 2009) *http://www.regulations.gov* (docket folder for RIN 1240–AA09); Industry Notice No. 138 (January 3, 2012) *http://www.dol.gov/owcp/dlhwc/lsindustrynotices/industrynotice138.htm.* In 2013, OWCP began creating electronic case files for all new LHWCA cases. *See* LHWCA Bulletin No. 14–03 (November 26, 2013), *http://www.dol.gov/owcp/dlhwc/LSBulletin14-03.pdf.* And in 2014, OWCP launched SEAPortal, a web-based electronic portal that parties may use to submit case-specific documents to OWCP. *See* Industry Notice No. 148 (October 31, 2014), *http://www.dol.gov/owcp/dlhwc/lsindustrynotices/industrynotice148.pdf.* These advancements have enhanced claims administration within OWCP and the parties' ability to submit documents to OWCP. But they do not adequately expand the methods employers, claimants, insurers, and OWCP may use to transmit documents and information to each other.

Consistent with other workers' compensation schemes, the LHWCA provides ''limited liability for employers'' and ''certain, prompt recovery for employees.'' *Roberts* v. *Sea–Land Servs., Inc.*, __ U.S. __, 132 S.Ct. 1350, 1354 (2012). These goals are advanced through efficient and effective communications between the private parties and OWCP. This rule thus revises the regulations to: (1) Remove bars to using electronic and other commonly used communication methods wherever possible; (2) provide flexibility for OWCP to allow the use of technological advances in the future; and (3) ensure that all parties remain adequately apprised of claim proceedings.

Because the revisions are procedural in nature, this rule applies to all matters pending on the date the rule is effective as well as those that arise thereafter. This will not work a hardship on the private parties or their representatives since, as explained below, the revisions either codify current practice or broaden the methods by which documents and information may be transmitted.

III. Legal Basis for the Rule

Section 39(a) of the LHWCA, 33 U.S.C. 939(a), authorizes the Secretary of Labor to prescribe all rules and regulations necessary for the administration and enforcement of the Act and its extensions. The LHWCA also grants the Secretary authority to determine by regulation how certain statutory notice and filing requirements are met. *See* 33 U.S.C. 907(j)(1) (the Secretary is authorized to ''make rules and regulations and to establish procedures'' regarding debarment of physicians and health care providers under 33 U.S.C. 907(c)); 33 U.S.C. 912(c) (employer must notify employees of the official designated to receive notices of injury ''in a manner prescribed by the Secretary in regulations''); 33 U.S.C. 919(a) (claim for compensation may be filed ''in accordance with regulations prescribed by the Secretary''); 33 U.S.C. 919(b) (notice of claim to be made ''in accordance with regulations prescribed by the Secretary''); 33 U.S.C. 935 (''the Secretary shall by regulation provide for the discharge, by the carrier,'' of the employer's liabilities under the Act). This rule falls well within these statutory grants of authority.

In developing these rules, the Department has also considered the principles underlying two additional statutes: The Government Paperwork Elimination Act (GPEA), 44 U.S.C. 3504, and the Electronic Signatures in Global and National Commerce Act (E–SIGN), 15 U.S.C. 7001 *et seq.* GPEA requires agencies, when practicable, to store documents electronically and to allow individuals and entities to communicate with agencies electronically. It also provides that electronic documents and signatures will not be denied legal effect merely because of their electronic form. Similarly, E–SIGN generally provides that electronic documents have the same legal effect as their hard copy counterparts and allows electronic records to be used in place of hard copy documents with appropriate safeguards. 15 U.S.C. 7001. Under E–SIGN, federal agencies retain the authority to specify the means by which they receive documents, 15 U.S.C. 7004(a), and to modify the disclosures required by Section 101(c), 15 U.S.C. 7001(c), under appropriate circumstances. These rules are consistent with and further the purposes of GPEA and E–SIGN.

IV. New and Revised Rules

A. General Provisions

This rule makes several general revisions to advance the goals set forth in Executive Order 13563 (January 18, 2011). That Order states that regulations must be ''accessible, consistent, written in plain language, and easy to understand.'' 76 FR 3821; *see also* E.O. 12866, 58 FR 51735 (September 30, 1993) (''Each agency shall draft its regulations to be simple and easy to understand, with the goal of minimizing the potential for uncertainty and litigation arising from such uncertainty.''). Accordingly, this rule removes the imprecise term ''shall'' throughout those sections it amends and substitutes ''must,'' ''must not,'' ''will,'' or other situation-appropriate terms. These changes are designed to make the regulations clearer and more user-friendly. *See generally* Federal Plain Language Guidelines, *http://www.plainlanguage.gov/howto/guidelines.*

Executive Order 13563 also instructs agencies to review ''rules that may be outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them.'' As a result, this rule ceases publication of two rules that are obsolete or unnecessary. These rules are set forth in the Section-by-Section Explanation below.

B. Section-by-Section Explanation

20 CFR 702.101 Exchange of Documents and Information

This section is new. It sets out general rules for transmitting documents and information that apply except when another rule or OWCP requires a specific form of communication.

Paragraph (a) specifies the methods by which documents and information must be sent to OWCP. Paragraph (a)(1) specifies that hard copy documents and information must be submitted by postal mail, commercial delivery service, or delivered by hand. Paragraph (a)(2) specifies that electronic documents and information must be submitted through an electronic system that has been authorized by OWCP. OWCP's SEAPortal is an example of such a system. Paragraph (a)(3) recognizes that occasions may arise where transmission

methods other than those enumerated would be preferable and provides that additional methods may be used when allowed by OWCP.

Paragraph (b) specifies the methods by which documents and information must be sent from OWCP to parties and their representatives or exchanged between parties and party representatives. Paragraph (b)(1) specifies that hard copy documents must be sent or exchanged by postal mail, commercial delivery service, or hand delivery. Paragraph (b)(2) specifies that documents and information can be sent or exchanged electronically, but only if they are sent through a reliable method and the receiving party agrees in writing to accept electronic transmission by the particular method used. Requiring written confirmation protects all parties and representatives from misunderstandings about service and ensures that the recipient has the technology necessary to receive documents by the selected method. The Department does not intend that this process be overly formalistic; a letter, email or other writing memorializing the receiving party's agreement would be sufficient to satisfy the regulatory requirement. A party's agreement to receive documents or information electronically, although required before a sender can elect to use an electronic transmission method, does not obligate the sender to use an electronic transmission method. Finally, paragraph (b)(3) specifies that documents and information can be sent or exchanged through any OWCP-authorized electronic system that allows for service of documents. Although not currently available, this provision is added for use in the event OWCP adopts such a system in the future.

Paragraph (c) provides a non-exhaustive list of reliable electronic transmission methods.

Paragraph (d) specifies that parties or representatives who agree to receive documents electronically in accordance with paragraph (b)(2) can revoke their agreement by giving written notice to the person or entity with whom they initially agreed to receive documents electronically. For example, if a claimant's legal representative no longer wishes to receive documents electronically from the employer's attorney, the representative can revoke the agreement by simply notifying opposing counsel in writing. Similarly, if a *pro se* claimant initially agrees to receive documents electronically from OWCP, he or she may terminate that agreement by sending a letter or some other form of writing to OWCP. As with the procedure for agreeing to electronic service, the Department does not intend this procedure to be overly formalistic.

Paragraph (e) recognizes that the Longshore regulations use various terms to describe the process of exchanging documents and information with OWCP and between parties. It provides that paragraphs (a) through (d) apply when those terms are used.

Paragraph (f) clarifies that references to documents include both electronic and hard copy documents.

Paragraph (g) explains that a requirement that something be in writing, signed, certified, or executed does not presuppose that the document must be in hard copy.

Paragraph (h) states that an entity's address may include its electronic address or Web portal.

Finally, paragraphs (i)(1) and (2) clarify that when a document must be sent to a particular district director's office or a district director must take an action with respect to a document in his or her office, the physical or electronic address or file location provided for that district director's office by OWCP rather than that district director's physical location controls. These provisions accommodate the Department's current and anticipated future plans to have most mail for district offices sent to a central mail receipt location and eventually to an electronic location and to handle documents in an electronic case file environment.

20 CFR 702.102 Establishment and Modification of Compensation Districts, Establishment of Suboffices and Jurisdictional Areas

Current § 702.102(a) explains that the Director has established compensation districts as required under the Act and specifies that the Director must notify interested parties ''by mail'' of changes to the compensation districts. Revised § 701.102(a) removes the phrase ''by mail'' to broaden the methods by which the Director may notify interested parties of a change to the compensation districts.

20 CFR 702.103 Effect of Establishment of Suboffices and Jurisdictional Areas

Current § 702.103 explains that the Director may require claims-related materials to be filed in suboffices. Revised § 702.103 changes the phrase ''at the suboffice'' to ''with the suboffice'' to reflect that documents being filed with a suboffice will not necessarily be filed at that suboffice per se, but rather will be filed at the physical or electronic address provided by OWCP.

20 CFR 702.104 Transfer of Individual Case File

Current § 702.104(b) provides that the district director who is transferring a case to a different district office may give advice, comments, or suggestions to the district director receiving the case. The regulation also specifies that the transfer must be made by registered or certified mail. District directors now have the capacity to transfer many cases by secure electronic means, or may prefer to use a commercial delivery service such as Federal Express or the United Parcel Service. Accordingly, revised § 702.104 removes the requirement that cases be transferred by registered or certified mail to broaden the methods by which district directors may transfer cases between offices.

20 CFR 702.174 Exemptions; Necessary Information

Current § 702.174(b)(1) provides that in cases where the Director approves an employer's application for an exemption from coverage under the Act, the Director shall notify the employer of its exemption by certified mail, return receipt requested. This non-statutory requirement limits the Director's ability to take advantage of other efficient means of service that may be less costly. Accordingly, revised § 702.174(b)(1) removes the certified mail requirement to broaden the methods by which the Director may notify employers that their application for exemption has been approved. The revised rule also includes a technical amendment to § 702.174(b)(2) to conform the language regarding notification of a denial of exempt status to the language in revised subsection (b)(1).

20 CFR 702.203 Employer's Report; How Given

Current § 702.203 provides that employers must submit their injury reports by delivering or mailing an original and one copy to the office of the district director. The rule implements the statutory directive to employers to ''send to the Secretary a report'' of injury and ''a copy of such report'' to the district director within ten days of an employee's injury or death. 33 U.S.C. 930(a), (b). Although not reflected in the current regulation, the Act also provides that ''mailing'' a report ''in a stamped envelope'' within the ten-day time period satisfies the statute's requirements. 33 U.S.C. 930(d).

Revised § 702.203 alters the current rule in two ways. First, revised paragraph (a) eliminates the requirement that employers provide an original and a copy of their injury

reports. OWCP has instituted a policy of storing documents electronically; thus, there is no continuing need to submit multiple copies of the same document. Instead, submission of one report to the district director will satisfy the employer's statutory obligation to notify both the Secretary and the district director. Second, revised paragraph (b) modifies the current regulation to address what actions satisfy the ten-day time period for filing the injury report. Consistent with Section 30(d), revised paragraph (b) specifies that when sent by U.S. postal mail, an employer's report of injury will be deemed filed on the date mailed. The rule extends this same statutory concept—that an employer meets the reporting obligation when it sends the report, not when the report is received by OWCP—to commercial delivery services and electronic filings. Thus, the rule provides that the report will be considered filed on the date given to a commercial delivery service or, when sent by permissible electronic means, the date the employer completes all steps necessary for electronic delivery.

20 CFR 702.215 Notice; How Given

Current § 702.215 provides that an employee's notice of injury or survivor's notice of death must be given to the employer by hand delivery or by mail. It further provides that notice of an injury may be given to the district director by hand delivery, mail, orally in person, or by telephone. Revised § 702.215 modifies the current section to allow the use of additional means of providing notice to the employer and to the district director.

For employer notice, the revised rule allows an employee or survivor to provide notice at the physical or electronic address supplied by the employer. Using the broader ''physical'' address term encompasses the current hand and mail delivery, and expands it to other methods such as a commercial delivery service. And by allowing notice to be delivered to an electronic address, employers will be able to adopt electronic systems (*e.g.*, email, web portal) that may speed the injury reporting process. For district director notice, the revised regulation provides that the employee's or survivor's notice of injury may be given to the district director by submitting the correct form. Using the word ''submitting'' brings this document within the general transmission rule set forth in 20 CFR 702.101(a), thus implementing the statutory directive that notice be given to the district director ''by delivering it to him or sending it by mail addressed to his office.'' 33 U.S.C. 912(c). The revised rule retains the option of reporting injuries to the district director either in person or by telephone.

20 CFR 702.224 Claims; Notification of Employer of Filing by Employee

Current § 702.224 requires the district director to give the employer or insurance carrier written notice of claims for compensation served ''personally or by mail.'' This regulation implements the statutory requirement that the district director provide notice of claims to interested parties, which ''may be served personally upon the employer or other person, or sent to such employer or person by registered mail.'' 33 U.S.C. 919(b). Revised § 702.224 deletes the current rule's reference to specific service methods. Using the phrase ''give notice'' brings the notice within the general transmission rule set forth in 20 CFR 702.101(a), which allows for methods of service beyond mailing and what is traditionally considered personal service. Because the statute uses the permissive term ''may'' in addressing service methods for this notice and does not mandate any particular method, the revised rule is also consistent with the statute.

20 CFR 702.234 Report by Employer of Commencement and Suspension of Payments

Current § 702.234 provides that the employer shall immediately notify the district director having jurisdiction over the place where the injury or death occurred when it makes its first payment of compensation or suspends payment of compensation. The Department recognizes that cases are not always adjudicated by the district director who has jurisdiction over the place where the injury or death occurred. For example, cases may be transferred to a district other than the district where the injury occurred if a worker moves his or her residence to a different compensation district. 20 CFR 702.104. Thus, revised § 702.234 removes the reference to the district director having jurisdiction over the place where the injury or death occurred and instead directs the employer to notify the district director who is administering the claim.

20 CFR 702.243 Settlement Application; How Submitted, How Approved, How Disapproved, Criteria

Current § 702.243(a) requires that settlement applications be sent to the adjudicator by certified mail, return receipt requested, submitted in person, or sent by any other delivery service with proof of delivery to the adjudicator. The revised rule modifies this subsection to explicitly allow parties to submit settlement applications via commercial delivery service with tracking capability or electronically through an OWCP-authorized system.

Current § 702.243(c) requires that when the adjudicator disapproves a settlement application, he or she must serve a disapproval letter or order on the parties by certified mail. This requirement both limits the adjudicator's ability to take advantage of more efficient means of service and imposes an unnecessary expense. Accordingly, the revised rule removes the requirement that notice be sent by certified mail in order to broaden the methods by which adjudicators may notify parties that their settlement applications have been disapproved.

20 CFR 702.251 Employer's Controversion of the Right To Compensation

Current § 702.251 requires that employers notify the district director of their election to controvert a claim by sending the ''original notice'' of controversion form to the district director and a copy to the claimant. By requiring the ''original'' form, the regulation implies that the employer must deliver a hard copy form bearing its authorized signature in ink. There is no statutory requirement that an employer submit an original form in that manner and requiring the employer to do so by regulation unduly limits the means by which the employer would otherwise be permitted to submit the form. For example, OWCP has instituted a policy of accepting case-related documents electronically through its web portal. Further, OWCP now scans and electronically stores the documents it receives, so the ''original'' document submitted by the employer would not be retained in hard copy. For these reasons, there is no need to require employers to send an ''original'' document to the district director. Thus, revised § 702.251 omits the requirement that an original document be provided.

20 CFR 702.261 Claimant's Contest of Actions Taken by Employer or Carrier With Respect to the Claim

Current § 702.261 provides that a claimant who contests a reduction, termination, or suspension of benefits by the employer or carrier must notify the office of the district director having jurisdiction either in person or in writing and explain the basis for his or her complaint. New § 702.101 specifies the methods by which the claimant can provide documents or information to

OWCP, and there is no statutory requirement pertaining to claimants' contests of employer or carrier action that justifies treating transmission of this type of information differently. Accordingly, revised § 702.261 eliminates the requirement that notice be given in person or in writing. In addition, the revised rule substitutes the phrase ''the district director who is administering the claim'' for the phrase ''the district director having jurisdiction.'' As noted, claims are not always handled by the district director for the district where the injury or death occurred. *See* 20 CFR 702.104. To clarify the regulation, revised § 702.234 directs the claimant to notify the district director who is administering the claim when he or she wishes to contest the employer's or carrier's actions.

20 CFR 702.272 Informal Recommendation by District Director

Current § 702.272 concerns informal recommendations by the district director regarding claims of improper discharge or discrimination against employees who seek compensation under the Act or testify in a compensation claim under the Act. Paragraph (a) provides that where the employee and employer agree to the district director's recommendation, that recommendation shall be incorporated into an order and mailed to the parties. The revised rule removes the reference to service by mail and instead indicates that service should be accomplished under the same procedures that govern service of compensation orders under § 702.349.

Current § 702.272(b) provides that where the parties do not agree to the district director's recommendation, the director must ''mail'' a memorandum to the parties that summarizes the disagreement. This requirement precludes the Director from using other methods of service. Accordingly, the revised rule deletes the word ''mail'' and replaces it with the word ''send'' so that delivery of the memorandum is governed by the general rule in § 702.101.

20 CFR 702.281 Third Party Action

Current § 702.281(b) provides that in order for an employee to settle a claim with a third party for an amount less than the employee would receive under the Act, the employee must first receive prior written approval from the employer and the employer's carrier. That approval must be filed with the district director with jurisdiction where the injury occurred. As noted, claims are not always handled by the district director for the district where the injury or death occurred. *See* 20 CFR 702.104. Thus, revised § 702.281(b) directs that the approval be filed with the district director who is administering the claim.

20 CFR 702.315 Conclusion of Conference; Agreement on All Matters With Respect to the Claim

Current § 702.315(a) provides that when an informal conference results in a formal compensation order, the order must be ''filed and mailed in accordance with § 702.349.'' This rule also provides that when the problem considered is resolved by telephone or by exchange of written correspondence, the parties shall be notified by the same method through which agreement was reached, and the district director will also issue a memorandum or order setting forth the agreed terms. Revised § 702.315(a) modifies the rule in two ways. First, the revised rule substitutes the phrase ''filed and served'' for ''filed and mailed'' to conform the language to the addition of § 702.349(b), which would allow parties and their representatives to waive registered and certified mail service of compensation orders. Second, to allow more flexibility, revised § 702.315(a) eliminates the requirement that the district director use the same method to communicate the results of the conference but preserves the authority to communicate those results by telephone.

20 CFR 702.317 Preparation and Transfer of the Case for Hearing

Current § 702.317 provides rules for transferring a case from the district director's office to the Office of Administrative Law Judges (OALJ) for hearing. When the district director receives pre-hearing statement forms from the parties and determines that no further conferences will help resolve the dispute, § 702.317(c) instructs the district director to transmit the pre-hearing statements, a transmittal letter, and certain other evidence to OALJ. Paragraph (c) excepts from this requirement materials ''not suitable for mailing.'' To avoid any implication that these documents must be mailed between the district director and OALJ rather than transmitted by some other method (*e.g.,* commercial delivery service, electronically), the revised rule substitutes the term ''transmission'' for ''mailing'' in paragraph (c).

20 CFR 702.319 Obtaining Documents From the Administrative File for Reintroduction at Formal Hearings

Current § 702.319 provides that upon receipt of a request for a document from the administrative file, the district director shall give the original document to the requester and retain a copy in the file. OWCP has instituted a policy of storing documents electronically rendering it unable to send requesters original documents. A properly reproduced copy of the electronically stored document can be used in adjudicative proceedings. *See United States* v. *Hampton,* 464 F.3d 687, 690 (7th Cir. 2006) (holding that copies of documents are admissible to the same extent as the original documents unless there is an issue with the authenticity of the original); *United States* v. *Georgalis,* 631 F.2d 1199, 1205 (5th Cir. 1980) (''A duplicate may be admitted into evidence unless . . . there is a genuine issue as to the authenticity of the unintroduced original, or as to the trustworthiness of the duplicate . . .''). Accordingly, revised § 702.319 specifies that the district director will send a copy of the requested document(s) to the requester and retain a copy of the record request and a statement of whether it has been satisfied in the administrative file.

20 CFR 702.321 Procedures for Determining Applicability of Section 8(f) of the Act

Current § 702.321(a)(1) requires employers or carriers who file applications under Section 8(f) of the Act to file those applications in duplicate. As OWCP has instituted a policy of storing documents electronically, there is no continuing need to file multiple copies of the same document. Accordingly, the revised rule deletes that requirement from § 702.321(a)(1). The Department has also eliminated the mid-paragraph numbering in this provision. This technical change is made to conform to the current formatting rules of the Office of the Federal Register.

20 CFR 702.349 Formal Hearings; Filing and Mailing of Compensation Orders; Disposition of Transcripts

Current § 702.349 provides that at the conclusion of the administrative hearing, the administrative law judge shall deliver the administrative record ''by mail or otherwise'' to the district director that had original jurisdiction over the case. As noted above, cases are not always administered by the district director who has ''original'' jurisdiction over the controversy. For example, cases may be transferred to a district other than the district where the injury occurred if a worker moves his or her residence to a different compensation district. *See* 20 CFR 702.104. Thus, the revised rule removes the reference to the district director that had original jurisdiction and instead directs the

administrative law judge to forward the record to the district director who administered the case.

This rule contains two additional revisions to the existing language designed to accommodate transmission of decisions and case records electronically between OWCP and the Office of Administrative Law Judges. First, the revised rule eliminates the language that the case record be sent to the district director ''together with'' a signed compensation order. Currently, the Office of Administrative Law Judges does not always transmit the full case record at the same time as the compensation order. Moreover, OWCP also anticipates that, as an intermediate step to transitioning to a full electronic case file environment, a system may be adopted for administrative law judge decisions to be transmitted electronically to OWCP for filing and service. Second, the revised rule eliminates reference to the ''original'' compensation order in anticipation of future expansion of the electronic case file system. The term ''original'' implies that the district director must file a paper copy of a compensation order. This process may not be required in a full electronic case file environment.

This rule is also revised to add a new paragraph (b) that allows parties and their representatives to receive compensation orders by other service methods in cases where they explicitly waive service by registered or certified mail. Under Section 19(e) of the Act, 33 U.S.C. 919(e), all parties have the right to be served with a compensation order via registered or certified mail (at OWCP's option). By practice, OWCP has extended this service to the parties' representatives. *See* 20 CFR 702.349. Service via registered or certified mail has many benefits, but unlike electronic service, it cannot be accomplished immediately. Several days will generally elapse between the date that an order is mailed by the district director and the date the parties receive it. Some parties and their representatives have requested that the Department begin serving compensation orders immediately by electronic means.

The right to registered or certified mail service of compensation orders is a personal right that is conveyed by the Act. But there is no indication in the Act that the right to registered or certified mail service cannot be waived, *contra* 33 U.S.C. 915(b), 916, and it is generally presumed that statutory rights can be knowingly and voluntarily waived. *See New York* v. *Hill,* 528 U.S. 110, 114 (2000). Accordingly, § 702.349(b) institutes a procedure allowing parties and their representatives who are entitled to registered or certified mail service to waive their right to such service. The waiver applies only to service of compensation orders and does not extend to other documents or information transmitted by OWCP.

New § 702.349(b) provides that a party or their representative can waive registered or certified mail service of compensation orders by filing the appropriate form with the district director that is administering the party's case. Waivers will only be accepted if they are submitted on the proper form, and a separate form must be submitted for each party or representative. Paragraph (b) emphasizes that submission of a completed form constitutes a knowing and voluntary waiver of registered or certified mail service.

New § 702.349(b)(1)–(b)(5) flesh out important details related to the waiver of service by registered or certified mail. Paragraph (b)(1) provides that all parties and representatives must provide a valid electronic address on the waiver form for the service waiver to be effective.

Paragraph (b)(2) provides that parties and their representatives must submit a separate waiver form for each case in which they intend to waive service. Although it is common for certain employers, carriers, and attorneys to have an interest in several Longshore Act cases pending at the same time, the district director will not accept blanket service waivers. This will ensure that the party or representative has in fact waived registered or certified mail service in the particular case. Similarly, paragraph (b)(3) prohibits a party's representative from signing the waiver form on the party's behalf. Instead, to ensure that waivers are knowing and voluntary, the parties themselves must sign the waiver forms.

Paragraph (b)(4) provides that all compensation orders issued after the service waiver form is received will be served in accordance with the instructions on the form provided by the party or representative. This includes supplementary compensation orders and orders on modification. This paragraph also specifies that individuals must submit another waiver form to change their service address or to revoke the waiver.

Finally, paragraph (b)(5) provides that the district director will serve parties and their representatives by certified mail despite the existence of a waiver form if there is some problem with the service method selected. Thus, for example, the district director will effect service by certified or registered mail if he or she receives an error message when trying to serve a party or representative via email.

20 CFR 702.372 Supplementary Compensation Orders

Current § 702.372(b) requires that supplementary compensation orders declaring amounts of compensation in default be served by certified mail on the parties and their representatives. This provision implements Section 18(a) of the Act, which requires that supplementary orders ''be filed in the same manner as the compensation order.'' 33 U.S.C. 918(a). As discussed above, Section 19(e) of the Act requires that compensation orders be filed in the office of the district director, and then served by registered or certified mail. 33 U.S.C. 919(e). The revised rule incorporates the filing provisions found in § 702.349. This revision clarifies that supplementary compensation orders must be treated like any other compensation order for purposes of filing and service. In addition, by cross-referencing § 702.349, the Department intends to extend the provisions allowing voluntary waiver of registered or certified mail service in § 702.349(b) to supplementary compensation orders.

20 CFR 702.432 Debarment Process

Current § 702.432(b) provides that when the Director determines that debarment proceedings are appropriate against a physician, health care provider or claims representative, he or she will notify the individual by certified mail, return receipt requested. Similarly, current § 702.432(e) requires that the Director send a copy of his or her decision regarding debarment to the individual by certified mail, return receipt requested. This method of service is not required by the statute in either instance. And requiring certified mail service both limits the Director's ability to take advantage of electronic means of service and imposes an unnecessary expense. Accordingly, to broaden the methods by which the Director may notify individuals of debarment proceedings and decisions rendered in them, the revised rule removes the requirement that notice be sent by certified mail with return receipt requested from paragraphs (b) and (e).

20 CFR 702.433 Requests for Hearing

Current § 702.433(b) requires that the administrative law judge who will conduct a hearing regarding debarment serve a copy of a notice of hearing on the individual who may be subject to debarment via certified mail, return receipt requested. This method of service is not required by the statute,

and it both limits the administrative law judge's ability to take advantage of electronic service methods and imposes an unnecessary expense. Accordingly, revised § 702.433(b) eliminates the certified mail requirement so as to broaden the means by which the administrative law judge may notify individuals of hearings regarding debarment.

20 CFR 703.2 Forms

Current § 703.2(a) provides that information sent by insurance carriers and self-insured employers to OWCP pursuant to Part 703 must be submitted on Forms specified by the Director. In order to facilitate the most efficient processing of Part 703 information, revised § 703.2(a) specifies that the forms must be submitted to OWCP in the manner it specifies.

20 CFR 703.113–703.120 and 703.502 Reporting Related to Insurance Coverage

This set of regulations governs how matters related to insurance coverage are reported to OWCP and the consequences of those reports. In the past, insurance companies reported issuance of policies and endorsements by filing a Form LS–570 (Carrier's Report of Issuance of Policy) in hard copy with the district director in whose compensation district the insured employer operated. These hard copy reports of insurance were retained in the compensation district because that was the district most likely to use the record. OWCP now stores insurance information electronically in a system maintained by the Division of Longshore and Harbor Workers' Compensation (DLHWC) in OWCP's national office. This system is accessible to the district offices. Thus, there is no continuing need for carriers to report insurance information to individual district directors.

To facilitate reporting of insurance information, OWCP began instituting an electronic system for such reports in 2009. *See* Notice from Chief, Branch of Financial Management, Insurance and Assessments (December 2, 2009) *http://www.regulations.gov* (docket folder for RIN 1240–AA09); Industry Notice No. 138 (January 3, 2012) *http://www.dol.gov/owcp/dlhwc/lsindustrynotices/industrynotice138.htm.* Many insurance companies now report coverage, including policy cancellations, to industry data collection organizations (*e.g.,* New York Compensation Rating Board, National Council on Compensation Insurance, Inc.) that, in turn, report the information to DLHWC on the carriers' behalf. DLHWC receives that information via a daily electronic data interchange with the data collection organizations and places it in a centralized electronic repository that the individual district directors can access immediately. It is common practice in the insurance industry to provide this sort of information electronically, and many carriers have been voluntarily reporting coverage under the Act and its extensions to DLHWC electronically for several years now. The system has proven to be efficient and preferable for both OWCP and the reporting carriers who use it. Centralized reporting also reduces the recordkeeping burden on the district offices, thereby freeing up resources for claims administration.

For these reasons, the revised rule eliminates those provisions that require insurance companies to report coverage to individual district directors. In addition, the revised rules are drafted broadly to accommodate future methods of electronic reporting that OWCP may choose to adopt. Although OWCP prefers receiving insurance information electronically, the revised rules do not require carriers to report electronically. Carriers can still fulfill their reporting obligations by submitting Form LS–570 to DLHWC.

Section 703.113 allows for a longshoremen's policy or endorsement to specify the particular vessel(s) to which it applies. It provides that the carrier shall send the report of issuance of a policy or endorsement that is required by § 703.116 to the district director for the compensation district where the vessel(s)' home port is located. To conform this regulation to the centralized reporting system, revised § 703.113 replaces references to the district director with references to DLHWC.

Section 703.114 provides that cancellation of a contract or policy of insurance will not be effective unless done in compliance with Section 36(b) of the Act, which requires that insurance providers send a notice of cancellation to the district director and the employer 30 days prior to the date that a policy termination is effective. *See* 33 U.S.C. 936(b). The Act also requires that the notice be in writing and given to the district director ''by delivering it to him or sending it by mail addressed to his office, and to the employer by delivering it to him or by sending it by mail addressed to him at his last known place of business.'' 33 U.S.C. 912(c); *see also* 33 U.S.C. 936(b).

The revised rule specifies the methods an insurer can use to give notice of cancellation. For notice to the district director, the revised rule allows insurers to report cancellations to DLHWC either in a manner prescribed under § 702.101(a) or in the same manner as they report coverage under § 703.116 (including, where applicable, through industry data collection organizations). Reporting through these established channels satisfies the statutory requirement that notice be delivered to the district director. For notice to the employer, the revised rule requires that the cancellation notice be sent in accordance with the methods set forth in § 702.101(b). Complying with § 702.101(b) satisfies the statutory requirement that the cancellation notice be delivered to the employer. Importantly, an electronic report made to DLHWC does not relieve the carrier of its obligation to also provide written notice of cancellation to the employer. Moreover, the revised rule retains the statutory requirement that notice to both DLHWC and the employer must be provided 30 days before the cancellation is intended to be effective.

Section 703.116, as currently written, requires insurance carriers to report all policies and endorsements issued by them to employers carrying on business within a compensation district to that particular district director. To conform this regulation to the centralized reporting system, revised § 703.116 replaces references to the district director with references to DLHWC. In addition, revised § 703.116 specifically acknowledges that reports made through an OWCP-authorized electronic system, such as an industry data collection organization, satisfy the carrier's reporting obligation. Instructions for submitting coverage information to DLHWC electronically will be posted on OWCP's Web site at *http://www.dol.gov/owcp/dlhwc/carrier.htm.*

Section 703.117 specifies that the report required by § 703.116 must be sent by the insurance carrier's home office or authorized agent. The regulation assumes that such reports will be made to the district director in the compensation district where the employer is located, and requires the carrier to tell the district director which agency is authorized to issue reports on its behalf. To conform this regulation to the centralized reporting system, revised § 703.117 replaces references to the district director with references to DLHWC.

Section 703.118 provides that all applicants for authority to write insurance under the Act shall be deemed to have agreed to accept full liability for the insured's obligations under the Act. The current regulation presumes that the district director for the compensation district where an

insured employer carries on operations will receive and accept the carrier's report of insurance. To conform this regulation to the centralized reporting system, revised § 703.118 replaces references to the district director with references to DLHWC.

Section 703.119 governs the situation where an employer that is carrying on operations covered by the Act in one compensation district plans to begin operations in a second. The regulation provides that the carrier may submit the report required by § 703.116 to the district director in the new compensation district before the employer has an address in the new district. Because carriers will no longer be expected to provide notice regarding insurance coverage to individual district directors, there is no longer any need for the procedure set forth in current § 703.119. Accordingly, the Department has deleted this section.

Section 703.120 provides that a separate report required by § 703.116 must be made for each employer that is covered by a policy. DLHWC is able to automatically extract employer-specific coverage information from most electronic reports that it receives, so this requirement is often unnecessary when coverage is reported electronically. Accordingly, revised § 703.120 is limited to reports made on Form LS–570 (Carrier's Report of Issuance of Policy.) The current regulation also presumes that the district director for the compensation district where an insured employer carries on operations will receive and accept the carrier's report of insurance. To conform this regulation to the centralized reporting system, revised § 703.120 replaces references to the district director with references to DLHWC.

Section 703.502 provides that district directors who receive a report of the issuance of a policy that is authorized by current § 703.119 shall file the report until they receive an address for the employer in the new compensation district, at which point they shall issue a certificate of compliance. The Department has deleted current § 703.119 because carriers will no longer be expected to provide notice regarding insurance coverage to individual district directors. Thus, there is no further need for the special procedure laid out in § 703.502. Accordingly, the Department has deleted this section.

V. Administrative Law Considerations

A. Information Collection Requirements (Subject to the Paperwork Reduction Act)

The Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.,* and its attendant regulations, 5 CFR part 1320, require that the Department consider the impact of paperwork and other information collection burdens imposed on the public. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the Office of Management and Budget (OMB) under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

This rule allows parties to voluntarily waive their statutory right to receive compensation orders by registered or certified mail and to instead receive them by email. *See* 20 CFR 703.349. To implement the waiver process, this rule imposes two new collections of information, OWCP Form LS–801, Waiver of Service by Registered or Certified Mail for Claimants and Authorized Representatives, and OWCP Form LS–802, Waiver of Service by Registered or Certified Mail for Employers and/or Insurance Carriers. The Department has submitted an Information Collection Request (ICR) for both of these new forms under the emergency procedures for review and clearance contained in 5 CFR 1320.13.

This rule does not materially change any other ICR with regard to the information collected, but does change the manner in which forms that collect information may be submitted. Instead of mandating the transmission of information by postal mail, the rule allows OWCP and private parties to use electronic and other commonly used communication methods. It also provides flexibility for OWCP to allow submission of information using future technologies.

The collection of information requirements are contained within ICRs assigned OMB control numbers: 1240–0003, 1240–0004, 1240–0005, 1240–0014, 1240–0025, 1240–0026, 1240–0029, 1240–0036, 1240–0040, 1240–0041, 1240–0042 and 1240–0043. The regulatory sections specifying the submission procedures are found in paragraphs: 20 CFR 702.111, 702.121, 702.162, 702.174, 702.175, 702.201, 702.202, 702.221, 702.234, 702.235, 702.236, 702.242, 702.251, 702.285, 702.317, 702.321, 702.407, 702.419, 703.116, 703.203, 703.204, 703.205, 703.209, 703.210, 703.212, 703.303 and 703.310.

Although the rule does not eliminate any current methods of submission for these collections, because its allowance of electronic submission will result in mailing cost savings (envelopes and postage), OWCP anticipates some savings for the public. Given the response rate for each of the existing collections, current combined mailing costs are estimated at $113,977. The Department anticipates a 13% rate of electronic submission, an accompanying reduction in postal mail submission, and a resulting cost savings of $14,817. In the future, as electronic transmission submission options increase and are used more frequently, this savings will likely increase. The Department has submitted a request for a non-substantive change for each existing ICR cited above in order to obtain approval for the changed cost estimate resulting from the availability of electronic submission methods.

The submitted ICRs for the two new collections imposed by this rule will be available for public inspection for at least thirty days under the ''Currently Under Review'' portion of the Information Collection Review section *reginfo.gov* Web site, available at: *http://www.reginfo.gov/public/do/PRAMain.* The Department will publish a separate notice in the **Federal Register** that will announce the result of the OMB reviews. Currently approved information collections are available for public inspection under the ''Current Inventory'' portion of the same Web site.

Request for Comments: As part of its continuing effort to reduce paperwork and respondent burden, the Department conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information. This program helps to ensure requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed. Comments on the information collection requirements may be submitted to the Department in the same manner as for any other portion of this rule.

In addition to having an opportunity to file comments with the agency, the PRA provides that an interested party may file comments on the information collection requirements in a direct final

rule directly with the Office of Management and Budget, at Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OWCP Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov*. Commenters are encouraged, but not required, to send a courtesy copy of any comments to the general addressee for this rulemaking. The OMB will consider all written comments that agency receives within 30 days of publication of this direct final rule in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention at least one of the control numbers mentioned in this rule.

The OMB and the Department are particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

The information collections in this rule may be summarized as follows:

1. Title of Collection: Employer's First Report of Injury or Occupational Disease, Employer's Supplementary Report of Accident or Occupational Illness

OMB Control Number: 1240–0003.
Total Estimated Number of Responses: 28,829.
Total Estimated Annual Time Burden: 7,208 hours.
Total Estimated Annual Other Costs Burden: $14,126.

2. Title of Collection: Exchange of Documents and Information

OMB Control Number: 1240–0004.
Total Estimated Number of Responses: 5,000.
Total Estimated Annual Time Burden: 83 hours.
Total Estimated Annual Other Costs Burden: $2,650.

3. Title of Collection: Securing Financial Obligations Under the Longshore and Harbor Workers' Compensation Act and Its Extensions

OMB Control Number: 1240–0005.
Total Estimated Number of Responses: 668.
Total Estimated Annual Time Burden: 454 hours.
Total Estimated Annual Other Costs Burden: $344.

4. Title of Collection: Regulations Governing the Administration of the Longshore and Harbor Workers' Compensation Act

OMB Control Number: 1240–0014.
Total Estimated Number of Responses: 130,036.
Total Estimated Annual Time Burden: 44,955 hours.
Total Estimated Annual Other Costs Burden: $46,866.

5. Title of Collection: Request for Earnings Information

OMB Control Number: 1240–0025.
Total Estimated Number of Responses: 1,100.
Total Estimated Annual Time Burden: 275 hours.
Total Estimated Annual Other Costs Burden: $528.

6. Title of Collection: Application for Continuation of Death Benefit for Student

OMB Control Number: 1240–0026.
Total Estimated Number of Responses: 20.
Total Estimated Annual Time Burden: 10 hours.
Total Estimated Annual Other Costs Burden: $10.

7. Title of Collection: Request for Examination and/or Treatment

OMB Control Number: 1240–0029.
Total Estimated Number of Responses: 96,000.
Total Estimated Annual Time Burden: 52,000 hours.
Total Estimated Annual Other Costs Burden: $2,088,960.

8. Title of Collection: Longshore and Harbor Workers' Compensation Act Pre-Hearing Statement

OMB Control Number: 1240–0036.
Total Estimated Number of Responses: 3,100.
Total Estimated Annual Time Burden: 527 hours.
Total Estimated Annual Other Costs Burden: $1,612.

9. Title of Collection: Certification of Funeral Expenses

OMB Control Number: 1240–0040.
Total Estimated Number of Responses: 75.
Total Estimated Annual Time Burden: 19 hours.
Total Estimated Annual Other Costs Burden: $39.

10. Title of Collection: Notice of Final Payment or Suspension of Compensation Benefits

OMB Control Number: 1240–0041.
Total Estimated Number of Responses: 21,000.
Total Estimated Annual Time Burden: 5,250 hours.
Total Estimated Annual Other Costs Burden: $16,590.

11. Title of Collection: Notice of Controversion of Right to Compensation

OMB Control Number: 1240–0042.
Total Estimated Number of Responses: 18,000.
Total Estimated Annual Time Burden: 4,500 hours.
Total Estimated Annual Other Costs Burden: $9,013.

12. Title of Collection: Payment of Compensation Without Award

OMB Control Number: 1240–0043.
Total Estimated Number of Responses: 16,800.
Total Estimated Annual Time Burden: 4,200 hours.
Total Estimated Annual Other Costs Burden: $8,736.

B. Executive Orders 12866 and 13563 (Regulatory Planning and Review)

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The Department has considered this rule with these principles in mind and has concluded that the regulated community will greatly benefit from this regulation.

This rule's greatest benefit is that it provides the Longshore Program and the affected public the flexibility to make greater use of technology as it exists today and as it may be developed in the future. In some instances, the current regulations restrict the means of

delivery or receipt when not required by the statute's terms. *See, e.g.,* 20 CFR 702.215 (notice effected by ''delivery by hand or mail''); 20 CFR 702.104(b) (case transfers must be accomplished by ''registered or certified mail''). Eliminating these restrictions where appropriate and consistent with the statute broadens available transmission methods. From the Department's view, this rule allows easier and more efficient transmission of critical documents and information to OWCP, and allows OWCP to take advantage of more efficient means of delivery to parties. And the regulated community, which has asked the Department to allow more modern transmission methods to be used, can use electronic technologies that they routinely employ when communicating with other entities.

All currently used methods of submitting documents remain available to OWCP, the parties, and the parties' representatives. OWCP will continue to accept documents delivered by hand or routine mail and the parties may communicate with each other in the same way. Thus, a party or representative may continue to send and receive claim-related documents and information in the same manner as it currently does. But the rule in many cases gives the parties additional transmission options.

In addition, allowing parties and representatives to waive their right to registered or certified mail service of compensation orders will expedite compensation payments. This is an important benefit to the rule: Faster delivery of compensation orders via electronic transmission will result in more expeditious payment of benefits to injured workers.

The Department has also considered whether the parties will realize any monetary benefits or incur any additional costs in light of this rule. The rule expands opportunities for parties and their representatives to submit and receive documents and does not require deviation from current practice. So the rule imposes no additional expense. To the contrary, the Department anticipates that the rule will provide some savings because an electronically transmitted document does not require postage or reproduction of multiple hard copies. Although difficult to quantify, the Department estimates that initial usage of electronic means of transmission will be approximately 13%, with increased usage possible in the future.

Finally, because this is not a ''significant'' rule within the meaning of Executive Order 12866, the Office of Management and Budget has not reviewed it prior to publication.

C. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531 *et seq.,* directs agencies to assess the effects of Federal Regulatory Actions on State, local, and tribal governments, and the private sector, ''other than to the extent that such regulations incorporate requirements specifically set forth in law.'' 2 U.S.C. 1531. For purposes of the Unfunded Mandates Reform Act, this rule does not include any Federal mandate that may result in increased expenditures by State, local, tribal governments, or increased expenditures by the private sector of more than $100,000,000.

D. Regulatory Flexibility Act and Executive Order 13272 (Proper Consideration of Small Entities in Agency Rulemaking)

The Regulatory Flexibility Act of 1980, as amended, 5 U.S.C. 601 *et seq.* (RFA), requires agencies to evaluate the potential impacts of their proposed and final rules on small businesses, small organizations, and small governmental jurisdictions and to prepare an analysis (called a ''regulatory flexibility analysis'') describing those impacts. *See* 5 U.S.C. 601, 603–604. But if the rule is not expected to ''have a significant economic impact on a substantial number of small entities[,]'' the RFA allows an agency to so certify in lieu of preparing the analysis. *See* 5 U.S.C. 605.

The Department has determined that a regulatory flexibility analysis under the RFA is not required for this rulemaking. Many Longshore employers and a handful of insurance carriers may be considered small entities within the meaning of the RFA. *See generally* 77 FR 19471–72 (March 30, 2012); 69 FR 12222–23 (March 15, 2004). But this rule will not have a significant economic impact on these entities for several reasons. First, the revisions do not impose mandatory change on the employers. Instead, employers may choose to transmit documents and related information in the same manner as they do under the current rules. Second, although the rules allow insurance companies to report the issuance of policies and endorsements electronically, these companies—virtually without exception—have been voluntarily reporting coverage in the manner the rule allows for several years. No change in their conduct will be required. Third, because the rule provides more flexibility for employers and insurers in transmitting documents and information, the Department anticipates that these entities could see some economic savings by having the freedom to choose the most cost-effective transmission method for their businesses.

Based on these facts, the Department certifies that this rule will not have a significant economic impact on a substantial number of small entities. Thus, a regulatory flexibility analysis is not required. The Department invites comments from members of the public who believe the regulations will have a significant economic impact on a substantial number of small Longshore employers or insurers. The Department has provided the Chief Counsel for Advocacy of the Small Business Administration with a copy of this certification. *See* 5 U.S.C. 605.

E. Executive Order 13132 (Federalism)

The Department has reviewed this rule in accordance with Executive Order 13132 regarding federalism, and has determined that it does not have ''federalism implications.'' E.O. 13132, 64 FR 43255 (August 4, 1999). The rule will not ''have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' *Id.*

F. Executive Order 12988 (Civil Justice Reform)

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

List of Subjects

20 CFR Part 702

Administrative practice and procedure, Claims, Health professions, Insurance companies, Longshore and harbor workers, Reporting and recordkeeping requirements, Workers' compensation.

20 CFR Part 703

Insurance companies, Longshore and harbor workers, Reporting and recordkeeping requirements, Workers' compensation.

For the reasons set forth in the preamble, the Department of Labor amends 20 CFR parts 702 and 703 as follows:

PART 702—ADMINISTRATION AND PROCEDURE

■ 1. The authority citation for part 702 is revised to read as follows:

Authority: 5 U.S.C. 301, and 8171 *et seq.;* 33 U.S.C. 901 *et seq.;* 42 U.S.C. 1651 *et seq.;* 43 U.S.C. 1333; Reorganization Plan No. 6 of 1950, 15 FR 3174, 64 Stat. 1263; Secretary's Order 10–2009, 74 FR 58834.

■ 2. Add § 702.101 to subpart A to read as follows:

§ 702.101 Exchange of documents and information.

(a) Except as otherwise required by the regulations in this subchapter, all documents and information sent to OWCP under this subchapter must be submitted—

(1) In hard copy by postal mail, commercial delivery service (such as Federal Express or United Parcel Service), or hand delivery;

(2) Electronically through an OWCP-authorized system; or

(3) As otherwise allowed by OWCP.

(b) Except as otherwise required by the regulations in this subchapter, all documents and information sent under this subchapter by OWCP to parties and their representatives or from any party or representative to another party or representative must be sent—

(1) In hard copy by postal mail, commercial delivery service (such as Federal Express or United Parcel Service), or hand delivery;

(2) Electronically by a reliable electronic method if the receiving party or representative agrees in writing to receive documents and information by that method; or

(3) Electronically through an OWCP-authorized system that provides service of documents on the parties and their representatives.

(c) Reliable electronic methods for delivering documents include, but are not limited to, email, facsimile and web portal.

(d) Any party or representative may revoke his or her agreement to receive documents and information electronically by giving written notice to OWCP, the party, or the representative with whom he or she had agreed to receive documents and information electronically, as appropriate.

(e) The provisions in paragraphs (a) through (d) of this section apply when parties are directed by the regulations in this subchapter to: Advise; apply; approve; authorize; demand; file; forward; furnish; give; give notice; inform; issue; make; notice, notify; provide; publish; receive; recommend; refer; release; report; request; respond; return; send; serve; service; submit; or transmit.

(f) Any reference in this subchapter to an application, copy, filing, form, letter, written notice, or written request includes both hard-copy and electronic documents.

(g) Any requirement in this subchapter that a document or information be submitted in writing, or that it be signed, executed, or certified does not preclude its submission or exchange electronically.

(h) Any reference in this subchapter to transmitting information to an entity's address may include that entity's electronic address or electronic portal.

(i) Any requirement in this subchapter that a document or information—

(1) Be sent to a specific district director means that the document or information should be sent to the physical or electronic address provided by OWCP for that district director; and

(2) Be filed by a district director in his or her office means that the document or information may be filed in a physical or electronic location specified by OWCP for that district director.

■ 3. Revise § 702.102 to read as follows:

§ 702.102 Establishment and modification of compensation districts, establishment of suboffices and jurisdictional areas.

(a) The Director has, pursuant to section 39(b) of the Longshore and Harbor Workers' Compensation Act, 33 U.S.C. 939(b), established compensation districts as required for improved administration or as otherwise determined by the Director (see 51 FR 4282, Feb. 3, 1986). The boundaries of the compensation districts may be modified at any time, and the Director will notify all interested parties directly of the modifications.

(b) As administrative exigencies from time to time may require, the Director may, by administrative order, establish special areas outside the continental United States, Alaska, and Hawaii, or change or modify any areas so established, notwithstanding their inclusion within an established compensation district. Such areas will be designated ''jurisdictional areas.'' The Director will also designate which of his district directors will be in charge thereof.

(c) To further aid in the efficient administration of the OWCP, the Director may from time to time establish suboffices within compensation districts or jurisdictional areas, and will designate a person to be in charge thereof.

■ 4. Revise § 702.103 to read as follows:

§ 702.103 Effect of establishment of suboffices and jurisdictional areas.

Whenever the Director establishes a suboffice or jurisdictional area, those reports, records, or other documents with respect to processing of claims that are required to be filed with the district director of the compensation district in which the injury or death occurred, may instead be required to be filed with the suboffice, or office established for the jurisdictional area.

■ 5. Revise § 702.104(b) to read as follows:

§ 702.104 Transfer of individual case file.

* * * * *

(b) The district director making the transfer may by letter or memorandum to the district director to whom the case is transferred give advice, comments, suggestions, or directions if appropriate to the particular case. All interested parties will be advised of the transfer.

■ 6. In § 702.174, revise the introductory text of paragraph (a), paragraph (b), and the introductory text of paragraph (d) to read as follows:

§ 702.174 Exemptions; necessary information.

(a) *Application.* Before any facility is exempt from coverage under the Act, the facility must apply for and receive a certificate of exemption from the Director or his/her designee. The application must be made by the owner of the facility; where the owner is a partnership it must be made by a partner and where a corporation by an officer of the corporation or the manager in charge of the facility for which an exemption is sought. The information submitted must include the following:

* * * * *

(b) *Action by the Director.* The Director or his/her designee must review the application within thirty (30) days of its receipt.

(1) Where the application is complete and shows that all requirements under § 702.173 are met, the Director must promptly notify the employer that certification has been approved and will be effective on the date specified. The employer is required to post notice of the exemption at a conspicuous location.

(2) Where the application is incomplete or does not substantiate that all requirements of section 3(d) of the Act, 33 U.S.C. 903(d), have been met, or evidence shows the facility is not eligible for exemption, the Director must promptly notify the employer by issuing a letter which details the reasons for the deficiency or the rejection. The employer/applicant may reapply for certification, correcting deficiencies and/or responding to the reasons for the Director's denial. The Director or his/her designee must issue a new decision within a reasonable time of reapplication following denial. Such action will be the final administrative review and is not appealable to the

Administrative Law Judge or the Benefits Review Board.

* * * * *

(d) *Action by the employer.* Immediately upon receipt of the certificate of exemption from coverage under the Act the employer must post:

* * * * *

■ 7. Revise § 702.203 to read as follows:

§ 702.203 Employer's report; how given.

(a) The employer must file its report of injury with the district director.

(b) If the employer sends its report of injury by U.S. postal mail or commercial delivery service, the report will be considered filed on the date that the employer mails the document or gives it to the commercial delivery service. If the employer sends its report of injury by a permissible electronic method, the report will be considered filed on the date that the employer completes all steps necessary for the transmission.

■ 8. Revise § 702.215 to read as follows:

§ 702.215 Notice; how given.

Notice must be effected by delivering it to the individual designated to receive such notices at the physical or electronic address designated by the employer. Notice may be given to the district director by submitting a copy of the form supplied by OWCP to the district director, or orally in person or by telephone.

■ 9. Revise § 702.224 to read as follows:

§ 702.224 Claims; notification of employer of filing by employee.

Within 10 days after the filing of a claim for compensation for injury or death under the Act, the district director must give written notice thereof to the employer or carrier.

■ 10. Revise § 702.234 to read as follows:

§ 702.234 Report by employer of commencement and suspension of payments.

Immediately upon making the first payment of compensation, and upon the suspension of payments once begun, the employer must notify the district director who is administering the claim of the commencement or suspension of payments, as the case may be.

■ 11. In § 702.243, revise paragraphs (a) and (b), the first two sentences of paragraph (c), the introductory text of paragraph (f), and paragraph (g) to read as follows:

§ 702.243 Settlement application; how submitted, how approved, how disapproved, criteria.

(a) When the parties to a claim for compensation, including survivor benefits and medical benefits, agree to a settlement they must submit a complete application to the adjudicator. The application must contain all the information outlined in § 702.242 and must be sent by certified mail with return receipt requested, commercial delivery service with tracking capability that provides reliable proof of delivery to the adjudicator, or electronically through an OWCP-authorized system. Failure to submit a complete application will toll the thirty day period mentioned in section 8(i) of the Act, 33 U.S.C. 908(i), until a complete application is received.

(b) The adjudicator must consider the settlement application within thirty days and either approve or disapprove the application. The liability of an employer/insurance carrier is not discharged until the settlement is specifically approved by a compensation order issued by the adjudicator. However, if the parties are represented by counsel, the settlement will be deemed approved unless specifically disapproved within thirty days after receipt of a complete application. This thirty day period does not begin until all the information described in § 702.242 has been submitted. The adjudicator will examine the settlement application within thirty days and must immediately serve on all parties notice of any deficiency. This notice must also indicate that the thirty day period will not commence until the deficiency is corrected.

(c) If the adjudicator disapproves a settlement application, the adjudicator must serve on all parties a written statement or order containing the reasons for disapproval. This statement must be served within thirty days of receipt of a complete application (as described in § 702.242) if the parties are represented by counsel. * * *

* * * * *

(f) When presented with a settlement, the adjudicator must review the application and determine whether, considering all of the circumstances, including, where appropriate, the probability of success if the case were formally litigated, the amount is adequate. The criteria for determining the adequacy of the settlement application will include, but not be limited to:

* * * * *

(g) In cases being paid pursuant to a final compensation order, where no substantive issues are in dispute, a settlement amount which does not equal the present value of future compensation payments commuted, computed at the discount rate specified below, must be considered inadequate unless the parties to the settlement show that the amount is adequate. The probability of the death of the beneficiary before the expiration of the period during which he or she is entitled to compensation will be determined according to the most current United States Life Table, as developed by the United States Department of Health and Human Services, which will be updated from time to time. The discount rate will be equal to the coupon issue yield equivalent (as determined by the Secretary of the Treasury) of the average accepted auction price for the last auction of 52 weeks U.S. Treasury Bills settled immediately prior to the date of the submission of the settlement application.

■ 12. Revise § 702.251 to read as follows:

§ 702.251 Employer's controversion of the right to compensation.

Where the employer controverts the right to compensation after notice or knowledge of the injury or death, or after receipt of a written claim, he must give notice thereof, stating the reasons for controverting the right to compensation, using the form prescribed by the Director. Such notice, or answer to the claim, must be filed with the district director within 14 days from the date the employer receives notice or has knowledge of the injury or death. A copy of the notice must also be given to the claimant.

■ 13. Revise § 702.261 to read as follows:

§ 702.261 Claimant's contest of actions taken by employer or carrier with respect to the claim.

Where the claimant contests an action by the employer or carrier reducing, suspending, or terminating benefits, including medical care, he should immediately notify the office of the district director who is administering the claim and set forth the facts pertinent to his complaint.

■ 14. In § 702.272, revise the last two sentences of paragraph (a) and paragraph (b) to read as follows:

§ 702.272 Informal recommendation by district director.

(a) * * * If the district director determines that no violation occurred he must notify the parties of his findings and the reasons for recommending that the complaint be denied. If the employer and employee accept the district director's recommendation, within 10 days it will be incorporated

in an order, to be filed and served in accordance with § 702.349.

(b) If the parties do not agree to the recommendation, the district director must, within 10 days after receipt of the rejection, prepare a memorandum summarizing the disagreement, send a copy to all interested parties, and within 14 days thereafter, refer the case to the Office of the Chief Administrative Law Judge for hearing pursuant to § 702.317.

■ 15. In § 702.281, revise the introductory text of paragraph (a) and the last sentence of paragraph (b) to read as follows:

§ 702.281 Third party action.

(a) Every person claiming benefits under this Act (or the representative) must promptly notify the employer and the district director when:

* * * * *

(b) * * * The approval must be on a form provided by OWCP and must be filed, within thirty days after the settlement is entered into, with the district director who is administering the claim.

■ 16. Revise § 702.315 to read as follows:

§ 702.315 Conclusion of conference; agreement on all matters with respect to the claim.

(a) Following an informal conference at which agreement is reached on all issues, the district director must (within 10 days after conclusion of the conference), embody the agreement in a memorandum or within 30 days issue a formal compensation order, to be filed and served in accordance with § 702.349. If either party requests that a formal compensation order be issued, the district director must, within 30 days of such request, prepare, file, and serve such order in accordance with § 702.349. Where the problem was of such nature that it was resolved by telephone discussion or by exchange of written correspondence, the district director must prepare a memorandum or order setting forth the terms agreed upon and notify the parties either by telephone or in writing, as appropriate. In either instance, when the employer or carrier has agreed to pay, reinstate or increase monetary compensation benefits, or to restore or appropriately change medical care benefits, such action must be commenced immediately upon becoming aware of the agreement, and without awaiting receipt of the memorandum or the formal compensation order.

(b) Where there are several conferences or discussions, the provisions of paragraph (a) of this section do not apply until the last conference. The district director must, however, prepare and place in his administrative file a short, succinct memorandum of each preceding conference or discussion.

■ 17. Revise § 702.317 to read as follows:

§ 702.317 Preparation and transfer of the case for hearing.

A case is prepared for transfer in the following manner:

(a) The district director will furnish each of the parties or their representatives with a copy of a prehearing statement form.

(b) Each party must, within 21 days after receipt of such form, complete it and return it to the district director and serve copies on all other parties. Extensions of time for good cause may be granted by the district director.

(c) Upon receipt of the completed forms, the district director, after checking them for completeness and after any further conferences that, in his or her opinion, are warranted, will transmit them to the Office of the Chief Administrative Law Judge by letter of transmittal together with all available evidence which the parties intend to submit at the hearings (exclusive of X-rays, slides and other materials not suitable for transmission which may be offered into evidence at the time of the hearing); the materials transmitted must not include any recommendations expressed or memoranda prepared by the district director pursuant to § 702.316.

(d) If the completed pre-hearing statement forms raise new or additional issues not previously considered by the district director or indicate that material evidence will be submitted that could reasonably have been made available to the district director before he or she prepared the last memorandum of conference, the district director will transfer the case to the Office of the Chief Administrative Law Judge only after having considered such issues or evaluated such evidence or both and having issued an additional memorandum of conference in conformance with § 702.316.

(e) If a party fails to complete or return his or her pre-hearing statement form within the time allowed, the district director may, at his or her discretion, transmit the case without that party's form. However, such transmittal must include a statement from the district director setting forth the circumstances causing the failure to include the form, and such party's failure to submit a pre-hearing statement form may, subject to rebuttal at the formal hearing, be considered by the administrative law judge, to the extent intransigence is relevant, in subsequent rulings on motions which may be made in the course of the formal hearing.

■ 18. Revise § 702.319 to read as follows:

§ 702.319 Obtaining documents from the administrative file for reintroduction at formal hearings.

Whenever any party considers any document in the administrative file essential to any further proceedings under the Act, it is the responsibility of such party to obtain such document from the district director and reintroduce it for the record before the administrative law judge. The type of document that may be obtained will be limited to documents previously submitted to the district director, including documents or forms with respect to notices, claims, controversions, contests, progress reports, medical services or supplies, etc. The work products of the district director or his staff will not be subject to retrieval. The procedure for obtaining documents will be for the requesting party to inform the district director in writing of the documents he wishes to obtain, specifying them with particularity. Upon receipt, the district director must promptly forward a copy of the requested materials to the requesting party. A copy of the letter of request and a statement of whether it has been satisfied must be kept in the case file.

■ 19. In § 702.321, revise paragraphs (a)(1), (b), and (c) to read as follows:

§ 702.321 Procedures for determining applicability of section 8(f) of the Act.

(a) *Application: filing, service, contents.* (1) An employer or insurance carrier which seeks to invoke the provisions of section 8(f) of the Act must request limitation of its liability and file a fully documented application with the district director. A fully documented application must contain a specific description of the pre-existing condition relied upon as constituting an existing permanent partial disability and the reasons for believing that the claimant's permanent disability after the injury would be less were it not for the pre-existing permanent partial disability or that the death would not have ensued but for that disability. These reasons must be supported by medical evidence as specified in this paragraph. The application must also contain the basis for the assertion that the pre-existing condition relied upon was manifest in the employer and documentary medical evidence relied upon in support of the request for section 8(f) relief. This

medical evidence must include, but not be limited to, a current medical report establishing the extent of all impairments and the date of maximum medical improvement. If the claimant has already reached maximum medical improvement, a report prepared at that time will satisfy the requirement for a current medical report. If the current disability is total, the medical report must explain why the disability is not due solely to the second injury. If the current disability is partial, the medical report must explain why the disability is not due solely to the second injury and why the resulting disability is materially and substantially greater than that which would have resulted from the subsequent injury alone. If the injury is loss of hearing, the pre-existing hearing loss must be documented by an audiogram which complies with the requirements of § 702.441. If the claim is for survivor's benefits, the medical report must establish that the death was not due solely to the second injury. Any other evidence considered necessary for consideration of the request for section 8(f) relief must be submitted when requested by the district director or Director.

* * * * *

(b) *Application: Time for filing.* (1) A request for section 8(f) relief should be made as soon as the permanency of the claimant's condition becomes known or is an issue in dispute. This could be when benefits are first paid for permanent disability, or at an informal conference held to discuss the permanency of the claimant's condition. Where the claim is for death benefits, the request should be made as soon as possible after the date of death. Along with the request for section 8(f) relief, the applicant must also submit all the supporting documentation required by this section, described in paragraph (a) of this section. Where possible, this documentation should accompany the request, but may be submitted separately, in which case the district director must, at the time of the request, fix a date for submission of the fully documented application. The date must be fixed as follows:

(i) Where notice is given to all parties that permanency will be an issue at an informal conference, the fully documented application must be submitted at or before the conference. For these purposes, notice means when the issue of permanency is noted on the form LS–141, Notice of Informal Conference. All parties are required to list issues reasonably anticipated to be discussed at the conference when the initial request for a conference is made and to notify all parties of additional issues which arise during the period before the conference is actually held.

(ii) Where the issue of permanency is first raised at the informal conference and could not have reasonably been anticipated by the parties prior to the conference, the district director must adjourn the conference and establish the date by which the fully documented application must be submitted and so notify the employer/carrier. The date will be set by the district director after reviewing the circumstances of the case.

(2) At the request of the employer or insurance carrier, and for good cause, the district director, at his/her discretion, may grant an extension of the date for submission of the fully documented application. In fixing the date for submission of the application under circumstances other than described above or in considering any request for an extension of the date for submitting the application, the district director must consider all the circumstances of the case, including but not limited to: Whether the claimant is being paid compensation and the hardship to the claimant of delaying referral of the case to the Office of Administrative Law Judges (OALJ); the complexity of the issues and the availability of medical and other evidence to the employer; the length of time the employer was or should have been aware that permanency is an issue; and, the reasons listed in support of the request. If the employer/carrier requested a specific date, the reasons for selection of that date will also be considered. Neither the date selected for submission of the fully documented application nor any extension therefrom can go beyond the date the case is referred to the OALJ for formal hearing.

(3) Where the claimant's condition has not reached maximum medical improvement and no claim for permanency is raised by the date the case is referred to the OALJ, an application need not be submitted to the district director to preserve the employer's right to later seek relief under section 8(f) of the Act. In all other cases, failure to submit a fully documented application by the date established by the district director will be an absolute defense to the liability of the special fund. This defense is an affirmative defense which must be raised and pleaded by the Director. The absolute defense will not be raised where permanency was not an issue before the district director. In all other cases, where permanency has been raised, the failure of an employer to submit a timely and fully documented application for section 8(f) relief will not prevent the district director, at his/her discretion, from considering the claim for compensation and transmitting the case for formal hearing. The failure of an employer to present a timely and fully documented application for section 8(f) relief may be excused only where the employer could not have reasonably anticipated the liability of the special fund prior to the consideration of the claim by the district director. Relief under section 8(f) is not available to an employer who fails to comply with section 32(a) of the Act, 33 U.S.C. 932(a).

(c) *Application: Approval, disapproval.* If all the evidence required by paragraph (a) of this section was submitted with the application for section 8(f) relief and the facts warrant relief under this section, the district director must award such relief after concurrence by the Associate Director, DLHWC, or his or her designee. If the district director or the Associate Director or his or her designee finds that the facts do not warrant relief under section 8(f) the district director must advise the employer of the grounds for the denial. The application for section 8(f) relief may then be considered by an administrative law judge. When a case is transmitted to the Office of Administrative Law Judges the district director must also attach a copy of the application for section 8(f) relief submitted by the employer, and notwithstanding § 702.317(c), the district director's denial of the application.

* * * * *

■ 20. Revise § 702.349 to read as follows:

§ 702.349 Formal hearings; filing and mailing of compensation orders; waiver of service; disposition of transcripts.

(a) An administrative law judge must, within 20 days after the official termination of the hearing, deliver by mail, or otherwise, to the district director that administered the claim, the transcript of the hearing, other documents or pleadings filed with him with respect to the claim, and his signed compensation order. Upon receipt thereof, the district director, being the official custodian of all records with respect to claims he administers, must formally date and file the transcript, pleadings, and compensation order in his office. Such filing must be accomplished by the close of business on the next succeeding working day, and the district director must, on the same day as the filing was accomplished, serve a copy of the compensation order on the parties and on the representatives of the parties, if

any. Service on the parties and their representatives must be made by certified mail unless a party has previously waived service by this method under paragraph (b) of this section.

(b) All parties and their representatives are entitled to be served with compensation orders via registered or certified mail. Parties and their representatives may waive this right and elect to be served with compensation orders electronically by filing the appropriate waiver form with the district director responsible for administering the claim. To waive service by registered or certified mail, employers, insurance carriers, and their representatives must file form LS–801 (Waiver of Service by Registered or Certified Mail for Employers and/or Insurance Carriers), and claimants and their representatives must file form LS–802 (Waiver of Service by Registered or Certified Mail for Claimants and/or Authorized Representatives). A signature on a waiver form represents a knowing and voluntary waiver of that party's or representative's right to receive compensation orders via registered or certified mail.

(1) Waiving parties and representatives must provide a valid electronic address on the waiver form.

(2) Parties and representatives must submit a separate waiver form for each case in which they intend to waive the right to certified or registered mail service.

(3) A representative may not sign a waiver form on a party's behalf.

(4) All compensation orders issued in a claim after receipt of the waiver form will be sent to the electronic address provided on the waiver form. Any changes to the address must be made by submitting another waiver form. Individuals may revoke their service waiver at any time by submitting a new waiver form that specifies that the service waiver is being revoked.

(5) If it appears that service in the manner selected by the individual has not been effective, the district director will serve the individual by certified mail.

■ 21. Revise § 702.372 to read as follows:

§ 702.372 Supplementary compensation orders.

(a) In any case in which the employer or insurance carrier is in default in the payment of compensation due under any award of compensation, for a period of 30 days after the compensation is due and payable, the person to whom such compensation is payable may, within 1 year after such default, apply in writing to the district director for a supplementary compensation order declaring the amount of the default. Upon receipt of such application, the district director will institute proceedings with respect to such application as if such application were an original claim for compensation, and the matter will be disposed of as provided for in § 702.315, or if agreement on the issue is not reached, then as in §§ 702.316 through 702.319.

(b) If, after disposition of the application as provided for in paragraph (a) of this section, a supplementary compensation order is entered declaring the amount of the default, which amount may be the whole of the award notwithstanding that only one or more installments is in default, a copy of such supplementary order must be filed and served in accordance with § 702.349. Thereafter, the applicant may obtain and file with the clerk of the Federal district court for the judicial district where the injury occurred or the district in which the employer has his principal place of business or maintains an office, a certified copy of said order and may seek enforcement thereof as provided for by section 18 of the Act, 33 U.S.C. 918.

■ 22. In § 702.432, revise the introductory text of paragraph (b), and paragraphs (b)(6) and (e) to read as follows:

§ 702.432 Debarment process.

* * * * *

(b) *Pertaining to health care providers and claims representatives.* If after appropriate investigation the Director determines that proceedings should be initiated, written notice thereof must be provided to the physician, health care provider or claims representative. Notice must contain the following:

* * * * *

(6) The name and address of the district director who will be responsible for receiving the answer from the physician, health care provider or claims representative.

* * * * *

(e) The Director must issue a decision in writing, and must send a copy of the decision to the physician, health care provider or claims representative. The decision must advise the physician, health care provider or claims representative of the right to request, within thirty (30) days of the date of an adverse decision, a formal hearing before an administrative law judge under the procedures set forth herein. The filing of such a request for hearing within the time specified will operate to stay the effectiveness of the decision to debar.

■ 23. In § 702.433, revise paragraphs (a), (b), (e) and (f) to read as follows:

§ 702.433 Requests for hearing.

(a) A request for hearing must be sent to the district director and contain a concise notice of the issues on which the physician, health care provider or claims representative desires to give evidence at the hearing with identification of witnesses and documents to be submitted at the hearing.

(b) If a request for hearing is timely received by the district director, the matter must be referred to the Chief Administrative Law Judge who must assign it for hearing with the assigned administrative law judge issuing a notice of hearing for the conduct of the hearing. A copy of the hearing notice must be served on the physician, health care provider or claims representative.

* * * * *

(e) The administrative law judge will issue a recommended decision after the termination of the hearing. The recommended decision must contain appropriate findings, conclusions and a recommended order and be forwarded, together with the record of the hearing, to the Administrative Review Board for a final decision. The recommended decision must be served upon all parties to the proceeding.

(f) Based upon a review of the record and the recommended decision of the administrative law judge, the Administrative Review Board will issue a final decision.

PART 703—INSURANCE REGULATIONS

■ 24. The authority citation for part 703 is revised to read as follows:

Authority: 5 U.S.C. 301, and 8171 *et seq.;* 33 U.S.C. 901 *et seq.;* 42 U.S.C. 1651 *et seq.;* 43 U.S.C. 1333; Reorganization Plan No. 6 of 1950, 15 FR 3174, 64 Stat. 1263; Secretary's Order 10–2009, 74 FR 58834.

■ 25. In § 703.2, revise the introductory text of paragraph (a) to read as follows:

§ 703.2 Forms.

(a) Any information required by the regulations in this part to be submitted to OWCP must be submitted on forms the Director authorizes from time to time for such purpose. Persons submitting forms may not modify the forms or use substitute forms without OWCP's approval. These forms must be submitted, sent, or filed in the manner prescribed by OWCP.

* * * * *

■ 26. Revise § 703.113 to read as follows:

§ 703.113 Marine insurance contracts.

A longshoremen's policy, or the longshoremen's endorsement provided for by § 703.109 for attachment to a marine policy, may specify the particular vessel or vessels in respect of which the policy applies and the address of the employer at the home port thereof. The report of the issuance of a policy or endorsement required by § 703.116 must be made to DLHWC and must show the name and address of the owner as well as the name or names of such vessel or vessels.

■ 27. Revise § 703.114 to read as follows:

§ 703.114 Notice of cancellation.

Cancellation of a contract or policy of insurance issued under authority of the Act will not become effective otherwise than as provided by 33 U.S.C. 936(b); 30 days before such cancellation is intended to be effective, notice of a proposed cancellation must be given to the district director and the employer in accordance with the provisions of 33 U.S.C. 912(c). The notice requirements of 33 U.S.C. 912(c) will be considered met when:

(a) Notice to the district director is given by a method specified in § 702.101(a) of this chapter or in the same manner that reports of issuance of policies and endorsements are reported under § 703.116; and

(b) Notice to the employer is given by a method specified in § 702.101(b) of this chapter.

■ 28. Revise § 703.116 to read as follows:

§ 703.116 Report by carrier of issuance of policy or endorsement.

Each carrier must report to DLHWC each policy and endorsement issued by it to an employer whose employees are engaging in work subject to the Act and its extensions. Such reports must be made in a manner prescribed by OWCP. Reports made to an OWCP-authorized intermediary, such as an industry data collection organization, satisfy this reporting requirement.

■ 29. Revise § 703.117 to read as follows:

§ 703.117 Report; by whom sent.

The report of issuance of a policy and endorsement provided for in § 703.116 or notice of cancellation provided for in § 703.114 must be sent by the home office of the carrier, except that any carrier may authorize its agency or agencies in any compensation district to make such reports, provided the carrier notifies DLHWC of the agencies so duly authorized.

■ 30. Revise § 703.118 to read as follows:

§ 703.118 Agreement to be bound by report.

Every applicant for the authority to write insurance under the provisions of this Act, will be deemed to have included in its application an agreement that the acceptance by DLHWC of a report of insurance, as provided for by § 703.116, binds the carrier to full liability for the obligations under this Act of the employer named in said report, and every certificate of authority to write insurance under this Act will be deemed to have been issued by the Office upon consideration of the carrier's agreement to become so bound. It will be no defense to this agreement that the carrier failed or delayed to issue the policy to the employer covered by this report.

§ 703.119 [Removed and Reserved]

■ 31. Remove and reserve § 703.119.

■ 32. Revise § 703.120 to read as follows:

§ 703.120 Name of one employer only in each report.

For policies that are reported to DLHWC on Form LS–570 (Carrier's Report of Issuance of Policy), a separate report of the issuance of a policy and endorsement, provided for by § 703.116, must be made for each employer covered by a policy. If a policy is issued insuring more than one employer, a separate form LS–570 for each employer so covered must be sent to DLHWC in the manner described in § 703.116, with the name of only one employer on each form.

§ 703.502 [Removed and Reserved]

■ 33. Remove and reserve § 703.502.

Signed at Washington, DC, this 25th day of February, 2015.

Leonard J. Howie III,

Director, Office of Workers' Compensation Programs.

[FR Doc. 2015–05103 Filed 3–11–15; 8:45 am]

BILLING CODE 4510–CR–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2015–0151]

Drawbridge Operation Regulation; Columbia River, Vancouver, WA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulations.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Burlington Northern Santa Fe (BNSF) Railway Bridge across the Columbia River, mile 105.6, at Vancouver, WA. This deviation is necessary to accommodate maintenance to replace movable rail joints. This deviation allows the bridge to remain in the closed position during maintenance activities.

DATES: This deviation is effective from 5 p.m. on April 27, 2015, until 9 a.m. on April 28, 2015.

ADDRESSES: The docket for this deviation, [USCG–2015–0151] is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Mr. Steven Fischer, Bridge Administrator, Thirteenth Coast Guard District; telephone 206–220–7282, email *d13-pf-d13bridges@uscg.mil.* If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: BNSF has requested that the BNSF Swing Bridge across the Columbia River, mile 105.6, remain closed to vessel traffic to install final components of a Washington State DOT funded program for passenger service. During this installation period, the swing span of the BNSF Railway Bridge across the Columbia River at Vancouver, WA, will be in the closed-to-navigation position, however, the span may be opened for emergency vessels responding to any calls. The

BNSF Swing Bridge, mile 105.6, provides 39 feet of vertical clearance above Columbia River Datum 0.0 while in the closed position. Vessels able to pass through the bridge in the closed positions may do so at anytime. The current operating schedule for the bridge is set out in 33 CFR 117.5. The normal operating schedule for the BNSF Swing Bridge states that the bridge must open promptly and fully on request. This deviation allows the swing span of the BNSF Railway Bridge across the Columbia River, mile 105.6, to remain in the closed-to-navigation position, and need not open for maritime traffic from 5 p.m. on April 27, 2015 until 9 a.m. on April 28, 2015. The bridge shall operate in accordance to 33 CFR 117.5 at all other times. Waterway usage on this part of the Columbia River includes vessels ranging from commercial tug and tow vessels to recreational pleasure craft including cabin cruisers and sailing vessels. The bridge can be opened for emergency vessels in response to a call, however, if an opening for emergencies is needed, an extension of this deviation will be required to complete the work. No immediate alternate route for vessels to pass is available on this part of the river. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessels can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: March 5, 2015.

Steven M. Fischer,

Bridge Administrator, Thirteenth Coast Guard District.

[FR Doc. 2015–05628 Filed 3–11–15; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 98

Mandatory Greenhouse Gas Reporting

CFR Correction

In Title 40 of the Code of Federal Regulations, Parts 96 to 99, revised as of July 1, 2014, on pages 696 through 698, in subpart I of part 98, tables I–5 through I–7 are corrected to read as follows:

TABLE I–5 TO SUBPART I OF PART 98—DEFAULT EMISSION FACTORS ($1–U_{ij}$) FOR GAS UTILIZATION RATES (U_{ij}) AND BY-PRODUCT FORMATION RATES (B_{ijk}) FOR MEMS MANUFACTURING

Process type factors	Process gas i											
	CF_4	C_2F_6	CHF_3	CH_2F_2	C_3F_8	$c-C_4F_8$	NF_3 Remote	NF_3	SF_6	C_4F_{6a}	C_5F_{8a}	$C_4F_8O_a$
Etch $1–U_i$	0.7	[1]0.4	[1]0.4	[1]0.06	NA	[1]0.2	NA	0.2	0.2	0.1	0.2	NA
Etch BCF_4	NA	[1]0.4	[1]0.07	[1]0.08	NA	0.2	NA	NA	NA	[1]0.3	0.2	NA
Etch BC_2F_6	NA	NA	NA	NA	NA	0.2	NA	NA	NA	[1]0.2	0.2	NA
CVD Chamber Cleaning $1–U_i$	0.9	0.6	NA	NA	0.4	0.1	0.02	0.2	NA	NA	0.1	0.1
CVD Chamber Cleaning BCF_4	NA	0.1	NA	NA	0.1	0.1	[2]0.02	[2]0.1	NA	NA	0.1	0.1
CVD Chamber Cleaning BC_3F_8	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	0.4

Notes: NA = Not applicable; i.e., there are no applicable default emission factor measurements for this gas. This does not necessarily imply that a particular gas is not used in or emitted from a particular process sub-type or process type.

[1] Estimate includes multi-gas etch processes.

[2] Estimate reflects presence of low-k, carbide and multi-gas etch processes that may contain a C-containing fluorinated GHG additive.

TABLE I–6 TO SUBPART I OF PART 98—DEFAULT EMISSION FACTORS ($1–U_{ij}$) FOR GAS UTILIZATION RATES (U_{ij}) AND BY-PRODUCT FORMATION RATES (B_{ijk}) FOR LCD MANUFACTURING

Process type factors	Process gas i								
	CF_4	C_2F_6	CHF_3	CH_2F_2	C_3F_8	$c-C_4F_8$	NF_3 Remote	NF_3	SF_6
Etch $1–U_i$	0.6	NA	0.2	NA	NA	0.1	NA	NA	0.3
Etch BCF_4	NA	NA	0.07	NA	NA	0.009	NA	NA	NA
Etch $BCHF_3$	NA	NA	NA	NA	NA	0.02	NA	NA	NA
Etch BC_2F_4	NA	NA	0.05	NA	NA	NA	NA	NA	NA
CVD Chamber Cleaning $1–U_i$	NA	NA	NA	NA	NA	NA	0.03	0.3	0.9

Notes: NA = Not applicable; i.e., there are no applicable default emission factor measurements for this gas. This does not necessarily imply that a particular gas is not used in or emitted from a particular process sub-type or process type.

TABLE I–7 TO SUBPART I OF PART 98—DEFAULT EMISSION FACTORS ($1–U_{ij}$) FOR GAS UTILIZATION RATES (U_{ij}) AND BY-PRODUCT FORMATION RATES (B_{ijk}) FOR PV MANUFACTURING

Process type factors	Process gas i								
	CF_4	C_2F_6	CHF_3	CH_2F_2	C_3F_8	$c-C_4F_8$	NF_3 Remote	NF_3	SF_6
Etch $1–U_i$	0.7	0.4	0.4	NA	NA	0.2	NA	NA	0.4
Etch BCF_4	NA	0.2	NA	NA	NA	0.1	NA	NA	NA
Etch BC_2F_6	NA	NA	NA	NA	NA	0.1	NA	NA	NA
CVD Chamber Cleaning $1–U_i$	NA	0.6	NA	NA	0.1	0.1	NA	0.3	0.4

TABLE I–7 TO SUBPART I OF PART 98—DEFAULT EMISSION FACTORS ($1–U_{ij}$) FOR GAS UTILIZATION RATES (U_{ij}) AND BY-PRODUCT FORMATION RATES (B_{ijk}) FOR PV MANUFACTURING—Continued

Process type factors	Process gas i								
	CF_4	C_2F_6	CHF_3	CH_2F_2	C_3F_8	$c-C_4F_8$	NF_3 Remote	NF_3	SF_6
CVD Chamber Cleaning BCF_4	NA	0.2	NA	NA	0.2	0.1	NA	NA	NA

Notes: NA = Not applicable; i.e., there are no applicable default emission factor measurements for this gas. This does not necessarily imply that a particular gas is not used in or emitted from a particular process sub-type or process type.

[FR Doc. 2015–05549 Filed 3–11–15; 8:45 am]

BILLING CODE 1505–01–D

AGENCY FOR INTERNATIONAL DEVELOPMENT

48 CFR Parts 709 and 752

RIN 0412–AA76

Incorporate Various Administrative Changes and Internal Policies in to the USAID Acquisition Regulation (AIDAR)

AGENCY: U.S. Agency for International Development.

ACTION: Direct final rule; Corrections.

SUMMARY: The U.S. Agency for International Development (USAID) is issuing corrections to FR Doc. 2014–26051; Incorporate Various Administrative Changes and Internal Policies in to the USAID Acquisition Regulation (AIDAR), that was published on December 16, 2014 (79 FR 74985).

DATES: Effective March 16, 2015.

FOR FURTHER INFORMATION CONTACT: Lyudmila Bond, Telephone: 202–567–4753 or Email: *lbond@usaid.gov.*

SUPPLEMENTARY INFORMATION:

Corrections

In rule FR Doc. 2014–26051 published in the **Federal Register** at 79 FR 74985, December 16, 2015, make the following corrections:

§ 709.403 [Corrected]

■ 1. On page 74992, in the definitions of ''Debarring official'' and ''Suspending Official'' in § 709.403, correct ''Senior Deputy Assistant Administrator, Bureau for Management'' to read ''Assistant Administrator, Bureau for Management, or designee as delegated in Agency policy found in ADS 103—Delegations of Authority''.

§ 752.7005 [Corrected]

On page 75002, § 752.7005(b)(1)(iv), remove the second sentence.

Authority: Sec. 621, Pub. L. 87–195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; and 3 CFR 1979 Comp., p. 435.

Aman S. Djahanbani,

Chief Acquisition Officer.

[FR Doc. 2015–05580 Filed 3–11–15; 8:45 am]

BILLING CODE 6116–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1809, 1815, 1816, 1817, 1829, 1823, 1827, 1828, 1831, 1832, 1834, 1837, 1841, 1842, 1846, 1849, 1851, and 1852

RIN 2700–AE01 and 2700–AE09

NASA Federal Acquisition Regulation Supplement

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: NASA is issuing a final rule amending the NASA Federal Acquisition Regulation Supplement (NFS) with the goal of eliminating unnecessary regulation, streamlining overly-burdensome regulation, clarifying language, and simplifying processes where possible.

DATES: Effective April 13, 2015.

FOR FURTHER INFORMATION CONTACT: Cynthia Boots, NASA, Office of Procurement, email: *cynthia.d.boots@nasa.gov,* or 202–358–1248.

SUPPLEMENTARY INFORMATION:

I. Background

The NASA FAR Supplement (NFS) is codified at 48 CFR part 1800. Periodically, NASA performs a comprehensive review and analysis of the regulation, makes updates and corrections, and reissues the NASA FAR Supplement. The last reissue was in 2004. The goal of the review and analysis is to reduce regulatory burden where justified and appropriate and make the NFS content and processes more efficient and effective, faster and simpler, in support of NASA's mission. Consistent with Executive Order (E.O.) 13563, Improving Regulations and Regulatory Review, NASA is currently reviewing and revising the NFS with an emphasis on streamlining it and reducing associated burdens. Due to the volume of the NFS, these revisions are being made in increments.

NASA published two proposed rules as the first two incremental steps to update and revise the NASA FAR Supplement: 78 FR 23199–23203, April 18, 2013, and 79 FR 57015–57032, September 24, 2014. Together, these two rules proposed regulatory changes to 19 Parts of the NFS. The two rules also advised the public that no regulatory changes were being made to an additional 13 NFS Parts.

This final rule finalizes these two proposed rules.

II. Discussion and Analysis

NASA reviewed the public comments in the development of the final rule. A discussion of the comments and the changes made to the rule as a result of those comments are provided as follows:

A. Summary of Significant Changes From the Proposed Rule

The definitions of ''counterfeit goods'' and ''legally authorized source'' at 1846.101 are deleted. NASA, in conjunction with the FAR Council, is working to develop and implement a definition of counterfeit part in the Federal Acquisition Regulation, which would also address the concept of ''legally authorized sources''. Consequently, the NFS will not have an independent definition of either ''counterfeit goods'' or ''legally authorized source''. Rather, use of the term counterfeit part in the NFS will be consistent with the FAR definition.

B. Analysis of Public Comments

Comment: In response to proposed rule #1, NASA received comments from three respondents. The three respondents suggested that the proposed definitions of ''counterfeit goods'' and ''legally authorized source'' were problematic in that they introduce inconsistencies with standard industry

usage of the terms and potential FAR definitions.

Response: The definitions of both terms have been deleted. NASA concurs that a Federal definition in the FAR is appropriate, and has been part of team working to implement FAR definitions. (Reference FAR Case 2013–002)

Comment: In response to proposed rule #2, NASA received comments from one respondent requesting that NASA delete 1852.227–14(c)(1)(iv) because it adds unnecessary notice and marking requirements.

Response: NASA revised Part 1827 to conform to recent FAR changes to Part 27, and 14 CFR 1245.100–117, but did not make significant changes to current coverage regarding NASA requirements related to data rights. The FAR clause at FAR 52.227–14(c)(1), Copyright, does not address the NASA-specific rights afforded NASA under the Space Act (51 U.S.C. 20135(b). Consequently, the notice and marking requirements at 1852.227–14 (c)(1)(iv) are appropriate and remain in the final rule.

Comment: In response to proposed rule # 2, NASA received comments from one respondent suggesting that 1852.227–88 lacked a prescription and rationale.

Response: Clause 1852.227–88 will be included in solicitations and contracts on a case-by-case basis dependent upon the Government-owned software provided under the contract. NASA will utilize the clause judiciously in order to reduce contract costs. Offerors will be reimbursed for any associated costs when the clause is utilized.

C. Technical Amendment

In proposed rule # 2, NASA notes an error in the publication and makes a technical correction in this final rule. At 1816.402.274(g)(3), the proposed rule should have stated a flat rate of 10% in lieu of a recommended rate of ''up to 15%'' for use when evaluating contractor performance related to compliance with subcontracting plans. Instead, the proposed rule retained the current, extraneous language ''up to'' before the 10% which is inappropriate. The final rule removes ''up to''.

III. Executive Orders 12866 and 13563

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

IV. Regulatory Flexibility Act

NASA certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* because it mainly clarifies or updates existing regulations. In several instances, this rule deletes existing requirements which eases the regulatory burden on all entities.

V. Paperwork Reduction Act

The proposed rule #1 included an application for clearance of a new information collection requirement that requires the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. Chapter 35). The collection is at 1852.215–77(c), Pre-proposal/pre-bid conference, wherein attendees at pre-proposal or pre-bid conferences will be required to submit personal identity information. NASA did not receive any comments on the information collection request.

Needs and Uses: This information collection requires contractors to supply personal identity information for attendees at pre-proposal conferences that are held at NASA facilities. The information includes, but is not limited to name, social security number, place of birth, and citizenship. NASA will utilize the information to perform security checks for entrance to NASA facilities. Without the collection of this information, NASA will be unable to permit entrance to NASA facilities for attendance at pre-proposal conferences.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Frequency: On occasion.

Approval of the information collection request from the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35) is expected concurrent with the final rule.

List of Subjects in 48 CFR Parts 1809, 1815, 1816, 1817, 1819, 1823, 1827, 1828, 1831, 1832, 1834, 1837, 1841, 1842, 1846, 1849, 1851, and 1852

Government procurement.

Cynthia D. Boots,

Alternate Federal Register Liaison.

Accordingly, 48 CFR parts 1809, 1815, 1816, 1817, 1819, 1823, 1827, 1828, 1831, 1832, 1834, 1837, 1841, 1842, 1846, 1849, 1951, and 1852 are amended as follows:

PART 1809—CONTRACTOR QUALIFICATIONS

■ 1. The authority citation for part 1809 continues to read as follows:

Authority: 51 U.S.C. 20113(a).

1809.206–70 and 1809.206–71 [Removed]

■ 2. Sections 1809.206–70 and 1809.206–71 are removed.

Subpart 1809.6 [Removed]

■ 3. Subpart 1809.6, consisting of section 1809.670, is removed.

PART 1815—CONTRACTING BY NEGOTIATION

■ 4. The authority citation for part 1815 continues to read as follows:

Authority: 51 U.S.C. 20113(a).

1815.403 [Amended]

■ 5. In section 1815.403, the section heading is amended by adding the word ''certified'' between the words ''Obtaining'' and ''cost''.

■ 6. Revise section 1815.403–170 to read as follows:

1815.403–170 Waivers of certified cost or pricing data.

(a) NASA has waived the requirement for the submission of certified cost or pricing data when contracting with the Canadian Commercial Corporation (CCC). This waiver applies to the CCC and its subcontractors. The CCC will provide assurance of the fairness and reasonableness of the proposed price. This assurance should be relied on; however, contracting officers shall ensure that the appropriate level of data other than certified cost or pricing data is submitted by subcontractors to support any required proposal analysis, including a technical analysis and a cost realism analysis. The CCC also will provide for follow-up audit activity to ensure that any excess profits are found and refunded to NASA.

(b) NASA has waived the requirement for the submission of certified cost or pricing data when contracting for Small

Business Innovation Research (SBIR) program Phase II contracts. However, contracting officers shall ensure that the appropriate level of data other than certified cost or pricing data is submitted to determine price reasonableness and cost realism.

PART 1816—TYPES OF CONTRACTS

■ 7. The authority citation for part 1816 continues to read as follows:

Authority: 51 U.S.C. 20113(a).

1816.307–70 [Amended]

■ 8. In section 1816.307–70, remove the last sentence in paragraph (c).

■ 9. In section 1816.402–270, paragraphs (a) through (d) are revised to read as follows:

1816.402–270 NASA technical performance incentives.

(a) Pursuant to the guidelines in 1816.402, NASA has determined that a performance incentive shall be included in all contracts that are based on performance-oriented documents (see FAR 11.101(a)), except those awarded under the commercial item procedures of FAR Part 12, where the primary deliverable(s) is (are) hardware with a total value (including options) greater than $25 million. Any exception to this requirement shall be approved in writing by the head of the contracting activity. Performance incentives may be included in supply and service contracts valued under $25 million, acquired under procedures other than Part 12, at the discretion of the contracting officer upon consideration of the guidelines in 1816.402. Performance incentives, which are objective and measure performance after delivery and acceptance, are separate from other incentives, such as cost or delivery incentives.

(b) When a performance incentive is used, it shall be structured to be both positive and negative based on performance after acceptance, unless the contract type requires complete contractor liability for product performance (*e.g.,* fixed price). In this latter case, a negative incentive is not required. In structuring the incentives, the contract shall establish a standard level of performance based on the salient performance requirement. This standard performance level is normally the contract's target level of performance. No performance incentive amount is earned at this standard performance level. Discrete units of measurement based on the same performance parameter shall be identified for performance above and, when a negative incentive is used, below the standard. Specific incentive amounts shall be associated with each performance level from maximum beneficial performance (maximum positive incentive) to, when a negative incentive is included, minimal beneficial performance or total failure (maximum negative incentive). The relationship between any given incentive, either positive or negative, and its associated unit of measurement should reflect the value to the Government of that level of performance. The contractor should not be rewarded for above-standard performance levels that are of no benefit to the Government.

(c) The final calculation of the performance incentive shall be done when performance, as defined in the contract, ceases or when the maximum positive incentive is reached. When performance ceases below the standard established in the contract and a negative incentive is included, the Government shall calculate the amount due and the contractor shall pay the Government that amount. Once performance exceeds the standard, the contractor may request payment of the incentive amount associated with a given level of performance, provided that such payments shall not be more frequent than monthly. When performance ceases above the standard level of performance, or when the maximum positive incentive is reached, the Government shall calculate the final performance incentive earned and unpaid and promptly remit it to the contractor.

(d) When the deliverable supply or service lends itself to multiple, meaningful measures of performance, multiple performance incentives may be established. When the contract requires the sequential delivery of several items (*e.g.,* multiple spacecraft), separate performance incentive structures may be established to parallel the sequential delivery and use of the deliverables.

* * * * *

1816.405–270 [Amended]

■ 10. In section 1816.405–270:

■ a. Remove paragraph (a);

■ b. In paragraph (b), remove the first sentence; and

■ c. Redesignate paragraphs (b), (c), and (d) as paragraphs (a), (b), and (c).

1816.405–272 [Amended]

■ 11. In section 1816.405–272, in paragraph (b), remove the word ''should'' in the last sentence and add in its place ''shall''.

1816.405–273 [Amended]

■ 12. In section 1816.405–273, in paragraph (a), remove the word ''often'' in the first sentence.

1816.405–274 [Amended]

■ 13. In section 1816.405–274, in paragraph (e)(3), add the word ''fee'' between the words ''award'' and ''shall'' in the second sentence and revise paragraph (g) to read as follows:

1816.405–274 Award fee evaluation factors.

* * * * *

(g)(1) The contractor's performance against the subcontracting plan incorporated in the contract shall be evaluated. Emphasis may be placed on the contractor's accomplishment of its goals for subcontracting with small business, small disadvantaged business, HUBZone small business, women-owned small business, veteran-owned small business, service-disabled veteran-owned small business concerns, and Historically Black Colleges and Universities—Minority Institutions (HBCU/MIs). The evaluation should consider both goals as a percentage of subcontracting dollars as well as a percentage of the total contract value.

(2) The contractor's achievements in subcontracting high technology efforts as well as the contractor's performance under the Mentor-Protégé Program, if applicable, may also be evaluated.

(3) The evaluation weight given to the contractor's performance against the considerations in paragraphs (g)(1) and (2) of this section shall be 10 percent of available award fee and shall be separate from all other factors.

* * * * *

■ 14. In section 1816.405–275;

■ a. Revise paragraph (a); and

■ b. In paragraph (b), the parenthetical reference at the end of the first sentence is revised to read ''(see FAR 16401(e)(3)(iv))''.

The revision reads as follows:

1816.405–275 Award fee evaluation rating.

(a) All award fee contracts shall utilize the adjectival rating categories and associated descriptions as well as the award fee pool available to be earned percentages for each adjectival rating category contained in FAR 16.401(e)(3)(iv). Contracting officers may supplement these descriptions with more specifics relative to their procurement but they cannot alter or delete the FAR adjectival rating descriptions.

* * * * *

■ 15. In section 1816.406–70, in paragraph (f), the last sentence is revised to read as follows:

1816.406–70 NASA contract clauses.

* * * * *

(f)* * * A clause substantially as stated at 1852.216–88 may be included in lower dollar value supply or service contracts at the discretion of the contracting officer.

PART 1817—SPECIAL CONTRACTING METHODS

■ 16–18. The authority citation for part 1817 continues to read as follows:

Authority: 51 U.S.C. 20113(a).

Subpart 1817.71 [Removed]

■ 19. Subpart 1817.71 is removed.

Subpart 1817.73 [Redesignated as Subpart 1817.70]

■ 20. Subpart 1817.73 is redesignated as subpart 1817.70.

PART 1819—SMALL BUSINESS PROGRAMS

■ 21. The authority citation for part 1819 continues to read as follows:

Authority: 51 U.S.C. 20113(a).

■ 22. In section 1819.201, the last sentence in paragraph in (a)(i) and paragraph (a)(ii) are revised to read as follows:

1819.201 General Policy.

(a)(i) * * * The participation of these entities is emphasized in high-technology areas where they have had low involvement level.

(a)(ii) NASA biennially negotiates Agency small business prime and subcontracting goals with the Small Business Administration pursuant to section 15(g) of the Small Business Act (15 U.S.C. 644). In addition, NASA has an annual goal of five percent for prime and subcontract awards to small disadvantaged businesses (SDBs) and women-owned small businesses (WOSBs), and a three percent goal for HUBZone and service-disabled, veteran-owned small business concerns.

* * * * *

■ 23. Section 1819.302 is revised to read as follows:

1819.302 Protesting a small business representation or rerepresentation.

(h) When the contracting officer determines in writing that an award must be made to protect the public interest, the contracting officer shall notify the Headquarters Office of Procurement, Program Operations Division, the Headquarters Office of Small Business Programs, and the SBA.

■ 24. In section 1819.708–70, paragraph (b) is revised to read as follows:

1819.708–70 NASA solicitation provision and contract clauses.

* * * * *

(b) The contracting officer shall insert the clause at 1852.219–75, Individual Subcontracts Reporting, in solicitations and contracts containing the clause at FAR 52.219–9, except for contracts covered by an approved commercial subcontracting plan.

■ 25. Section 1819.811–3 is added to read as follows:

1819.811–3 Contract clauses.

(a) The contracting officer shall insert the clause at 1852.219–11, Special 8(a) Contract Conditions, in contracts and purchase orders awarded directly to the 8(a) contractor when the acquisition is accomplished using the procedures of FAR 19.811–1(a) and (b).

(d) The contracting officer shall insert the clause at 1852.219–18, Notification of Competition Limited to Eligible 8(a) Concerns, in competitive solicitations and contracts when the acquisition is accomplished using the procedures of FAR 19.805.

(1) The clause at 1852.219–18 with Alternate I to the FAR clause at 52.219–18 will be used when competition is to be limited to 8(a) concerns within one or more specific SBA districts pursuant to FAR 19.804–2.

(2) The clause at 1852.219–18 with Alternate II to the FAR clause at 52.219–18 will be used when the acquisition is for a product in a class for which the Small Business Administration has waived the nonmanufacturer rule (see FAR 19.102(f)(4) and (5)).

(e) Follow the prescription at FAR 19.811–3(e).

Subpart 1819.10, 1819.70 and 1819.71 [Removed and Reserved]

■ 26. Subparts 1819.10, 1819.70, and 1819.71 are removed and reserved.

■ 27. In section 1819.7201, paragraph (a)(1) is revised to read as follows:

1819.7201 Scope of subpart.

(a) * * *

(1) Provide incentives to NASA contractors, performing under at least one active, approved subcontracting plan negotiated with NASA, to assist protégés in enhancing their capabilities to perform as viable NASA contractors, other Government contractors, and commercial suppliers on contract and subcontract requirements.

* * * * *

■ 28. Sections 1819.7202, 1819.7203, 1819.7204, and 1819.7205 are revised to read as follows:

1819.7202 Eligibility

(a) Eligibility of Mentors: To be eligible as a mentor, an entity must be—

(1) A large prime contractor performing with at least one approved subcontracting plan, other than a commercial plan, negotiated with NASA, pursuant to FAR Subpart 19.7, the Small Business Subcontracting Program. A contractor may apply to become a mentor if they currently are not performing under a NASA contract as long as they are currently performing another Federal agency contract with an approved subcontracting plan. The NASA mentor-protégé agreement, however, will not be approved until the mentor company is performing under a NASA contract with an approved subcontracting plan; and

(2) Eligible for receipt of Government contracts. An entity will not be approved for participation in the Program if, at the time of submission of the application to the Headquarters Office of Small Business Programs, the entity is currently debarred or suspended from contracting with the Federal Government pursuant to FAR Subpart 9.4, Debarment, Suspension, and Ineligibility.

(b) Eligibility of Protégés: To be eligible to participate as a protégé, an entity must be—

(1) Classified as a Small Disadvantaged Business (SDB), a small disadvantaged business, a women-owned small business, a historically underutilized business zone concern, a veteran-owned, service-disabled small business, a historically black college and university, or a minority institution. The protégé entity may also be an active NASA SBIR/STTR Phase II company, or an entity participating in the AbilityOne program.

(2) Eligible for the award of Federal contracts; and

(3) A small business according to the Small Business Administration (SBA) size standard for the North American Industry Classification System (NAICS) code that represents the contemplated supplies or services to be provided by the protégé to the mentor.

(c) A protégé firm may self-certify to a mentor firm that it meets the requirements set forth in paragraph (b) of this section. Mentors may rely in good faith on written representations by potential protégés that they meet the specified eligibility requirements.

1819.7203 Mentor-protégé advance payments

If advance payments are contemplated, the mentor must first have the advance payments approved the contracting officer in accordance

with FAR Subpart 32.4, Advance Payments for Non-commercial items.

1819.7204 Agreement submission and approval process.

(a) To participate in the Program, entities approved as mentors in accordance with 1819.7203, will submit a complete agreement package to the Contracting Officer who will forward the completed agreement package to the cognizant Small Business Specialist at the NASA Center. The submission package must include the following—

(1) A signed mentor-protégé agreement;

(2) A signed protégé application;

(3) The estimated cost of the technical assistance to be provided, broken out per year and per task, in a separate cost volume; and

(4) Additional information as may be requested by the NASA OSBP; and

(5) A signed letter of endorsement of the agreement by the contracting officer and the contracting officer representative.

(b) The mentor-protégé agreement must be approved by the Assistant Administrator, NASA OSBP, prior to the mentor incurring eligible costs for developmental assistance provided to the protégé.

(c) The cognizant NASA center will issue a contract modification, if justified, prior to the mentor incurring costs for developmental assistance to the protégé.

1819.7205 Award Fee Pilot Program.

(a) Mentors will be eligible to earn a separate award fee associated with the provision of developmental assistance to NASA SBIR/STTR Phase II Protégés only. The award fee will be assessed at the end of the Mentor-Protégé agreement period.

(b) The overall developmental assistance performance of NASA contractors, in promoting the use of small businesses as subcontractors, will be a required evaluation factor in award fee plans.

(c) Evaluation criteria to determine the award fee should include:

(1) Benefit of the agreement to NASA;

(2) Active participation in the Program;

(3) The amount and quality of developmental assistance provided;

(4) Subcontracts awarded to small businesses and others;

(5) Success of the protégés in increasing their business as a result of receiving developmental assistance; and

(6) Accomplishment of any other activity as related to the mentor-protégé relationship.

(d) The Award Fee Pilot Program is an addition to the credit agreement. Participants that are eligible for award fee may also receive credit under their individual contract's award fee plan.

1819.7206 through 1819.7211 [Removed and Reserved]

■ 29. Sections 1819.7206, 1819.7207, 1819.7208, 1819.7209, 1819.7210, and 1819.7211 are removed and reserved.

■ 30. In section 1819.7212, paragraph (e) is revised to read as follows:

1819.7212 Reporting requirements.

* * * * *

(e) The protégé semiannual report required by paragraph (d) must be submitted separately from the Mentor's semiannual report submission.

* * * * *

1819.7213 and 1819.7214 [Removed and Reserved]

■ 31. Remove and reserve sections 1819.7213 and 1819.7214.

1819.7301 [Amended]

■ 32. In section 1819.7301, add ''\, as amended.'' at the end of the first sentence.

■ 33. Amend section 1819.7302 by adding two sentences at the end of paragraphs (c), (d), and (e); and revising paragraph (f) to read as follows:

1819.7302 NASA contract clauses.

* * * * *

(c) * * * Occasionally, deviations from this requirement may be approved. Any deviations from this requirement shall be approved in writing by the contracting officer after coordination with the Agency SBIR Program Manager/Coordinator.

(d) * * * Occasionally, deviations from this requirement may be approved. Any deviations from this requirement shall be approved in writing by the contracting officer after coordination with the Agency SBIR Program Manager/Coordinator.

(e) * * * Occasionally, deviations from this requirement may be approved. Any deviations from this requirement shall be approved in writing by the contracting officer after coordination with the Agency SBIR Program Manager/Coordinator.

(f) Contracting officers shall insert the clause at 1852.219–85, Conditions for Final Payment—SBIR and STTR Contracts, in all Phase I and Phase II contract awarded under the Small Business Technology Transfer (STTR) Program and the Small Business Innovation Research (SBIR) Program established pursuant to Public Law 97–219 (The Small Business Innovation Development Act of 1982.)

PART 1823—ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

■ 34. The authority citation for part 1823 continues to read as follows:

Authority: 51 U.S.C. 20113(a).

Subpart 1823.10 [Removed]

■ 34. Subpart 1823.10 is removed.

■ 35. In Subpart 1823.71, the subpart heading and section 1823.7101 are revised to read as follows:

1823.71 Authorization for Radio Frequency Use.

1823.7101 Contract clause.

The contracting officer shall insert the clause at 1852.223–71, Authorization for radio Frequency Use, in solicitations and contracts calling for developing, producing, constructing, testing, or operating a device for which a radio frequency equipment authorization is required.

■ 36. Part 1827 is revised to read as follows:

PART 1827—PATENTS, DATA, AND COPYRIGHTS

Sec.
1827.000 Scope of part.

Subpart 1827.3—Patent Rights Under Government Contracts

1827.301 Definitions.
1827.302 Policy.
1827.303 Solicitation provisions and contract clauses.
1827.304 Procedures.
1827.304–1 General.
1827.304–2 Contracts placed by or for other Government agencies.
1827.304–3 Subcontracts.
1827.304–4 Appeals.
1827.305 Administration of the patent rights clauses.
1827.305–3 Securing invention rights acquired by the Government.

Subpart 1827.4—Rights in Data and Copyrights

1827.404 Basic rights in data clause.
1827.404–4 Contractor's release, publication, and use of data.
1827.409 Solicitation provisions and contract clauses.

Authority: 51 U.S.C. 20113(a).

1827.000 Scope of part.

This part prescribes NASA policies, procedures, and contract clauses pertaining to patents, data, and copyrights. The provisions of FAR Part 27 apply to NASA acquisitions unless specifically excepted in this part.

Subpart 1827.3—Patent Rights Under Government Contracts

1827.301 Definitions.

As used in this subpart—

Administrator means the Administrator of NASA or a duly authorized representative.

Reportable item means any invention, discovery, improvement, or innovation of the contractor, whether or not patentable or otherwise protectable under Title 35 of the United States Code, made in the performance of any work under any NASA contract or in the performance of any work that is reimbursable under any clause in any NASA contract providing for reimbursement of costs incurred before the effective date of the contract. Reportable items include, but are not limited to, new processes, machines, manufactures, and compositions of matter, and improvements to, or new applications of, existing processes, machines, manufactures, and compositions of matter. Reportable items also include new computer programs, and improvements to, or new applications of, existing computer programs, whether or not copyrightable or otherwise protectable under Title 17 of the United States Code.

Subject invention, in lieu of the definition in FAR 27.301, means any reportable item that is or may be patentable or otherwise protectable under Title 35 of the United States Code, or any novel variety of plant that is or may be protectable under the Plant Variety Protection Act (7 U.S.C. 2321, *et seq.*).

1827.302 Policy.

(a) *Introduction.* NASA policy with respect to any invention, discovery, improvement, or innovation made in the performance of work under any NASA contract or subcontract with other than a small business firm or a nonprofit organization and the allocation of related property rights is based upon Section 20135 of the National Aeronautics and Space Act (51 U.S.C. 20135) (the Act); and, to the extent consistent with this statute, the Presidential Memorandum on Government Patent Policy to the Heads of Executive Departments and Agencies, dated February 18, 1983, and Section 1(b)(4) of Executive Order 12591. NASA contractors subject to Section 20135 of the Act shall ensure the prompt reporting of reportable items in order to protect the Government's interest and to provide the widest practicable and appropriate dissemination, early utilization, expeditious development, and continued availability for the benefit of the scientific, industrial, and commercial communities and the general public.

(b) *Contractor right to elect title.* (1) For NASA contracts, the contractor right to elect title under the FAR only applies to contracts with small businesses and nonprofit organizations. For other business entities, see paragraph (b)(2)(v) of this section;

(2)(v) Under any NASA contract with other than a small business or nonprofit organization (*i.e.,* contracts subject to section 20135(b) of the Act), title to subject inventions vests in NASA when the determinations of section 20135(b)(1)(A) or (b)(1)(B) have been made. The Administrator may grant the contractor a waiver of title in accordance with 14 CFR part 1245.

(3) *Contractor petitions for waiver of title.* The Administrator may waive all or any part of the rights of the United States with respect to any invention or class of inventions made or which may be made in the performance of NASA contracts with other than a small business firm or a nonprofit organization if the Administrator determines that the interests of the United States will be served. The procedures and instructions for contractors to submit petitions for waiver of rights in subject inventions are provided in the NASA Patent Waiver Regulations, 14 CFR part 1245, subpart 1, *http://www.gpo.gov/fdsys/pkg/CFR-2012-title14-vol5/pdf/CFR-2012-title14-vol5-part1245.pdf.* Waiver may be requested in advance of contract award for any subject invention or class of subject inventions or during contract performance for individually identified subject inventions reported under the contract. For individual identified subject inventions, the petition shall identify each invention with particularity (*e.g.,* by NASA's assigned number to the Disclosure of Invention and New Technology report or by title and inventorship). For advance waivers, the petition shall identify the invention or class of inventions that the Contractor believes will be made under the contract and for which waiver is being requested. To meet the statutory standard of ''any invention or class of inventions,'' the petition must be directed to a single invention or to inventions directed to a particular process, machine, manufacture, or composition of matter, or to a narrowly-drawn, focused area of technology. When a waiver of title is granted, the contractor's right to title, the rights reserved by the Government, and other conditions and obligations of the waiver, such as requirements for reporting and filing patent applications on waived inventions, are provided in the NASA Patent Waiver Regulations, 14 CFR part 1245, subpart 1, and the Instrument of Waiver executed under those Regulations.

(c) *Government license.* For each subject invention made in the performance of work under a NASA contract with other than a small business firm or nonprofit organization and for which waiver of title has been granted, the Administrator shall reserve an irrevocable, nonexclusive, nontransferable, royalty-free license for the practice of such invention throughout the world by or on behalf of the United States or any foreign Government in accordance with any treaty or agreement of the United States.

(e) *Utilization reports.* For each subject invention made in the performance of work under a NASA contract with other than a small business firm or a nonprofit organization and for which waiver of title has been granted, the requirements for utilization reports shall be as set forth in the NASA Patent Waiver Regulations, 14 CFR part 1245, subpart 1, and the Instrument of Waiver executed under those Regulations.

(f) *March-in rights.* For each subject invention made in the performance of work under a NASA contract with other than a small business firm or a nonprofit organization and for which waiver of title has been granted, march-in rights shall be as set forth in the NASA Patent Waiver Regulations, 14 CFR part 1245, subpart 1, and the Instrument of Waiver executed under those Regulations.

(g) *Preference for United States industry.* For each subject invention made in the performance of work under a NASA contract with other than a small business firm or a nonprofit organization and for which waiver of title has been granted, waiver of the requirement for substantial manufacture in the United States shall be in accordance with Title 35 of the United States Code, section 204.

(i) *Minimum rights to contractor.* (1) For NASA contracts with other than a small business firm or a nonprofit organization, where title to any subject inventions vests in NASA, the contractor is normally granted, in accordance with the NASA Patent Waiver Regulations, 14 CFR 1245.108, a revocable, nonexclusive, royalty-free license in each patent application filed in any country and in any resulting patent. The license extends to any of the contractor's domestic subsidiaries and affiliates within the corporate structure, and includes the right to grant sublicenses of the same scope to the extent the contractor was legally obligated to do so at the time the

contract was awarded. The license and right are transferable only with the approval of the Administrator, except when transferred to the successor of that part of the contractor's business to which the invention pertains.

(2) The procedures for revoking or modifying the license to a contractor that is other than a small business firm or a nonprofit organization are described in 14 CFR 1245.108.

(k) *Awards.* It is the policy of NASA to consider for a monetary award, when referred to the NASA Inventions and Contributions Board in accordance with 14 CFR part 1240, subpart 1, any subject invention reported to NASA in accordance with this subpart, and for which an application for patent has been filed.

1827.303 Solicitation provisions and contract clauses.

(a)(1) The contracting officer shall insert the provision at 1852.227–84, Patent Rights Clauses, in solicitations for experimental, developmental, or research work to be performed in the United States when the eventual awardee may be a small business or a nonprofit organization.

(b)(1) When the clause at FAR 52.227–11 is included in a solicitation or contract, it shall be modified as set forth at 1852.227–11.

(i) To qualify for the clause at FAR 52.227–11, a prospective contractor shall be required to represent itself as either a small business firm or a nonprofit organization. If the contracting officer has reason to question the size or nonprofit status of the prospective contractor, the contracting officer will follow the procedures at FAR 27.304–1(a).

(iii) The contracting officer shall complete paragraph (j) of the clause at FAR 52.227–11 with the following: Communications and information submissions required by this clause will be made to the individuals identified in the clause at 1852.227–72, Designation of New Technology Representative and Patent Representative.

(iv) See also paragraph (d)(3) of this section.

(6) Alternate IV to 52.227–11 is not used in NASA contracts. See instead 1827.303(b)(1).

(7) The contracting officer shall consult with the center patent or intellectual property counsel regarding the use of Alternate V in contracts for the performance of services at a NASA installation when a contractor is directed to fulfill the Government's obligations under a Cooperative Research and Development Agreement (CRADA) authorized by 15 U.S.C. 3710a. Alternate V may be included in, or added to, the contract when it is contemplated that a Contractor will be directed to fulfill NASA's obligations under a CRADA, but should be added prior to the contractor performing work under the CRADA.

(d)(1) The contracting officer shall insert the clause at 1852.227–70, New Technology—Other than a Small Business Firm or Nonprofit Organization, in all NASA solicitations and contracts with other than a small business firm or a nonprofit organization (*i.e.,* those subject to section 21035(b) of the Act), if the contract is to be performed in the United States, and has as a purpose the performance of experimental, developmental, research, design, or engineering work. Contracts for any of the following purposes may be considered to involve the performance of work of the type described above (these examples are illustrative and not all inclusive):

(i) Conduct of basic or applied research.

(ii) Development, design, or manufacture for the first time of any machine, article of manufacture, or composition of matter to satisfy NASA's specifications or special requirements.

(iii) Development of any process or technique for attaining a NASA objective not readily attainable through the practice of a previously developed process or technique.

(iv) Testing of, evaluation of, or experimentation with a machine, process, concept, or technique to determine whether it is suitable or could be made suitable for a NASA objective.

(v) Construction work or architect-engineer services having as a purpose the performance of experimental, developmental, or research work or test and evaluation studies involving such work.

(vi) The operation of facilities or the coordination and direction of the work of others, if these activities involve performing work of any of the types described in paragraphs (i) through (v) of this section.

(2) The contracting officer shall insert the provision at 1852.227–71, Requests for Waiver of Rights to Inventions, in all solicitations that include the clause at 1852.227–70, New Technology—Other than a Small Business Firm or Nonprofit Organization (see paragraph (d)(1) of this section).

(3) The contracting officer shall insert the clause at 1852.227–72, Designation of New Technology Representative and Patent Representative, in all solicitations and contracts containing either of the clauses at FAR 52.227–11, Patent Rights—Ownership by the Contractor, or 1852.227–70, New Technology—Other than a Small Business Firm or Nonprofit Organization (see paragraph (d)(1) of this section). It may also be inserted, upon consultation with the center patent or intellectual property counsel, in solicitations and contracts using another patent rights clause. The center New Technology and Patent Representatives are identified at *http://prod.nais.nasa.gov/portals/pl/new_tech_pocs.html.*

(e)(1) When work is to be performed outside the United States by contractors that are not domestic firms, the clause at 1852.227–85, Invention Reporting and Rights—Foreign, shall be used unless the contracting officer determines, with concurrence of the center patent or intellectual property counsel, that the objectives of the contract would be better served by use of the clause at FAR 52.227–13, Patent Rights—Ownership by the Government. For this purpose, the contracting officer may presume that a contractor is not a domestic firm unless it is known that the firm is not foreign owned, controlled, or influenced. (See FAR 27.304–3 regarding subcontracts with U.S. firms.)

(2) When one of the conditions in FAR 27.303(e)(1)(i) through (iv) is met, the contracting officer shall consult with the center patent or intellectual property counsel to determine the appropriate clause.

1827.304 Procedures.

1827.304–1 General.

(b)(1) *Exceptions.* In any contract with other than a small business firm or nonprofit organization, the NASA Patent Waiver Regulations, 14 CFR part 1245, subpart 1, shall apply.

(c) *Greater rights determinations.* In any contract with other than a small business firm or a nonprofit organization and with respect to which advance waiver of rights has not been granted (see 1827.302(b)(3)), the contractor (or an employee-inventor of the contractor after consultation with the contractor) may request waiver of title to an individual identified subject invention pursuant to the NASA Patent Waiver Regulations, 14 CFR part 1245, subpart 1.

(d) *Retention of rights by inventor.* The NASA Patent Waiver Regulations, 14 CFR part 1245, subpart 1, apply for any invention made in the performance of work under any contract with other than a small business firm or a nonprofit organization.

(f) *Revocation or modification of contractor's minimum rights.* For contracts with other than a small business firm or a nonprofit organization, revocation or modification of the contractor's license rights in subject inventions made and reported under the contract shall be in accordance with 14 CFR 1245.108 (see 1827.302(i)(2)).

(g) *Exercise of march-in rights.* For contracts with other than a small business firm or a nonprofit organization, the procedures for the exercise of march-in rights shall be as set forth in the NASA Patent Waiver Regulations, 14 CFR part 1245, subpart 1.

(h) *Licenses and assignments under contracts with nonprofit organizations.* The Headquarters Agency Counsel for Intellectual Property (ACIP) is the approval authority for assignments. Contractor requests should be made to the Patent Representative designated in the clause at 1852.227–72 and forwarded, with recommendation of the Patent Representative, to the ACIP for approval.

1827.304–2 Contracts placed by or for other Government agencies.

(a)(3)(i) This subsection applies only to contracts placed by or for other agencies and not to task or delivery orders placed by or for other agencies against NASA Government-wide Acquisition Contracts (GWACs) or Multiple Agency Contracts (MACs).

(ii) When a contract is placed for another agency with a small business or nonprofit organization and the agency does not request the use of a specific patent rights clause, the contracting officer shall use the clause at FAR 52.227–11, Patent Rights—Ownership by the Contractor as modified by 1852.227–11 (see 1827.303(b)(1)).

(iii) When a contract is placed for another agency with other than a small business or nonprofit organization, the contracting officer, in accordance with Section 20135 of the Act, shall use the clause at 1852.227–70, New Technology—Other than a Small Business Firm or Nonprofit Organization (see 1827.303(d)(1).

(iv) When work is to be performed outside the United States by contractors that are not domestic firms, the contracting officer shall use one of the clause described in 1827.303(e)(1).

1827.304–3 Subcontracts.

(a) Unless otherwise authorized or directed by the contracting officer, contractors awarding subcontracts at any tier shall select and include in the subcontracts one of the clauses identified in subparagraphs (a)(1) or (2) of this section. At all tiers, the applicable clause identified below shall be modified to identify the parties as follows: references to the Government are not changed, and in all references to the Contractor the subcontractor is substituted for the Contractor so that the subcontractor has all rights and obligations of the Contractor in the clause.

(1) The clause at 1852.227–70, New Technology—Other than a Small Business Firm or Nonprofit Organization, shall be used in any subcontract with other than a small business firm or a nonprofit organization if a purpose of the subcontract is the performance of experimental, developmental, research, design, or engineering work of any of the types described in 1827.303(d)(1).

(2) The clause at FAR 52.227–11, Patent Rights—Ownership by the Contractor, modified by 1852.227–11 (see 1827.303(b)(1)), shall be used in any subcontract with a small business firm or a nonprofit organization if a purpose of the subcontract is the performance of experimental, developmental, or research work.

1827.304–4 Appeals.

FAR 27.304–4 shall apply unless otherwise provided in the NASA Patent Waiver Regulations, 14 CFR part 1245, subpart 1.

1827.305 Administration of the patent rights clauses.

1827.305–3 Securing invention rights acquired by the Government.

When the Government acquires the entire right to, title to, and interest in an invention under the clause at 1852.227–70, New Technology—Other than a Small Business Firm or Nonprofit Organization, a determination of title is to be made in accordance with section 20135(b) of the Act (51 U.S.C. 20135(b)), and reflected in appropriate instruments executed by NASA Administrator and forwarded to the contractor by the contracting officer.

Subpart 1827.4—Rights in Data and Copyrights

1827.404 Basic rights in data clause.

1827.404–4 Contractor's release, publication, and use of data.

(b)(1) NASA's intent is to ensure the most expeditious dissemination of computer software developed by it or its contractor. Accordingly, when the clause at FAR 52.227–14, Rights in Data—General, is modified by 1852.227–14 (see 1827.409(b)(1)), the contractor shall not assert claim to copyright, publish, or release to others computer software first produced in the performance of a contract without the contracting officer's prior written permission. The prohibition on ''release to others'' does not prohibit release to another Federal Agency for its use or its contractors' use, as long as any such release is consistent with any restrictive markings on the software. Any restrictive markings on the software shall take precedence over the aforementioned release. Any such release to a Federal Agency in accordance with this paragraph shall limit use to the Federal Agency or its contractors for Government purposes only.

(2) The contracting officer may, in consultation with the center patent or intellectual property counsel, grant the contractor permission to assert claim to copyright, publish, or release to others computer software first produced in the performance of a contract if:

(i) The contractor has identified an existing commercial computer software product line or proposes a new one and states a positive intention of incorporating identified computer software first produced under the contract into that line, either directly itself or through a licensee;

(ii) The contractor has identified an existing open source software project or proposes a new one and states a positive intention of incorporating identified computer software first produced under the contract into that project, or has been instructed by the Agency to incorporate software first produced under the contract into an open source software project or otherwise release the software as open source software;

(iii) The contractor has made, or will be required to make, substantial contributions to the development of the computer software by co-funding or by cost-sharing, or by contributing resources (including but not limited to agreement to provide continuing maintenance and update of the software at no cost for Governmental use); or

(iv) The concurrence of the Agency Counsel for Intellectual Property, or designee, is obtained.

(c)(1) The contractor's request for permission in accordance with 1827.404–4(b) may be made either before contract award or during contract performance.

(2)(i) If the basis for permitting the assertion under 1827.404–4(b)(2) is subsection (i), then the permission shall be granted by a contract modification prepared by the contracting officer in consultation with the Center patent or intellectual property counsel that contains appropriate assurances that the

computer software will be incorporated into an existing or proposed new commercial computer software product line within a specified reasonable time, with contingencies enabling the Government to obtain the right to distribute the software for commercial use, including the right to obtain assignment of copyright where applicable, in order to prevent the computer software from being suppressed or abandoned by the contractor.

(ii) If the basis for permitting the assertion under 1827.404–4(b)(2) is paragraph (b)(2)(ii), then the permission shall be granted by a contract modification prepared by the contracting officer in consultation with the Center patent or intellectual property counsel that contains appropriate assurances that the computer software will be incorporated into an existing or proposed new open source project within a specified reasonable time, with contingencies enabling the Government to obtain the right to distribute the software for open source development, including the right to obtain assignment of copyright where applicable, in order to prevent the computer software from being suppressed or abandoned by the contractor.

(iii) If the basis for permitting the assertion under 1827.404–4(b)(2) is paragraph (b)(2)(iii), then the permission shall be granted by a contract modification that contains appropriate assurances that the agreed contributions to the Government are fulfilled, with contingencies enabling the Government to obtain assignment of copyright if such contributions do not occur in order to prevent the computer software from being suppressed or abandoned by the contractor.

(iv) If the basis for permitting the assertion under 1827.404–4(b)(2) is paragraph (b)(2)(iv), then the permission shall be granted by a contract modification prepared by the contracting officer in consultation with the Center patent or intellectual property counsel that contains appropriate assurances as required by the Agency Counsel for Intellectual Property, or designee, including at the very least the right to obtain assignment of copyright in order to prevent the computer software from being suppressed or abandoned by the contractor.

(3) When any permission to copyright is granted, any copyright license retained by the Government shall be of the same scope as set forth in subparagraph (c)(1) of the clause at FAR 52.227–14 and without any obligation of confidentiality on the part of the Government unless, in accordance with 1827.404–4(b)(2)(iii), the contributions of the Contractor are considered ''substantial'' for the purposes of FAR 27.408 (*i.e.,* approximately 50 percent), in which case rights consistent with FAR 27.408 may be negotiated for the computer software in question.

(d) If the contractor has not been granted permission to assert claim to copyright, paragraph (d)(4)(ii) of the clause at FAR 52.227–14, Rights in Data—General (as modified by 1852.227–14) enables NASA to direct the contractor to assert claim to copyright in computer software first produced under the contract and to assign, or obtain the assignment of, such copyright to the Government or its designated assignee. The contracting officer may, in consultation with the center patent or intellectual property counsel, so direct the contractor in situations where copyright protection is considered necessary in furtherance of Agency mission objectives, needed to support specific Agency programs, or necessary to meet statutory requirements.

1827.409 Solicitation provisions and contract clauses.

(b)(1) When the clause at FAR 52.227–14, Rights in Data—General, is included in a solicitation or contract, it shall be modified as set forth at 1852.227–14. In contracts for basic or applied research to be performed solely by universities and colleges, the contracting officer shall consult with the center patent or intellectual property counsel regarding the addition of subparagraph (4) as set forth at 1852.227–14 to paragraph (d) of the clause at FAR 52.227–14 and they will consider the guidance provided at FAR 27.404–4.

(2) The contracting officer, with the concurrence of the center patent or intellectual property counsel, is the approval authority for use of Alternate I of the clause at FAR 52.227–14. An example of its use is where the principal purpose of the contract (such as a contract for basic or applied research) does not involve the development, use, or delivery of items, components, or processes that are intended to be acquired for use by or for the Government (either under the contract in question or under any anticipated follow-on contracts relating to the same subject matter).

(3) The contracting officer shall review the disclosure purposes listed in FAR 27.404–2(c)(1)(i) through (v) and, in consultation with the center patent or intellectual property counsel, determine which disclosure purposes apply based on the nature of the acquisition, and add them to paragraph (g)(3) of Alternate II of the clause at FAR 52.227–14, Rights in Data—General. If none apply, the CO shall insert ''none''. Additions to those specific purposes listed may be made only with the approval of the procurement officer and concurrence of the center patent or intellectual property counsel.

(4) The contracting officer shall consult with the center patent or intellectual property counsel regarding the acquisition of restricted computer software with greater or lesser rights than those set forth in Alternate III of the clause at FAR 52.227–14, Rights in Data—General. Where it is impractical to actually modify the notice of Alternate III, such greater or lesser rights may be indicated by express reference in a separate clause in the contract or by a collateral agreement that addresses the change in the restricted rights.

(5) The contracting officer, with the concurrence of the center patent or intellectual property counsel, is the approval authority for the use of Alternate IV in any contract other than a contract for basic or applied research to be performed solely by a college or university (but not for the management or operation of Government facilities). See the guidance at FAR 27.404–3(a)(3).

(d) The clause at 52.227–16, Additional Data Requirements, shall be used in all solicitations and contracts involving experimental, developmental, research, or demonstration work (other than basic or applied research to be performed under a contract solely by a university or college when the contract amount will be $500,000 or less), unless after consultation between the Contracting Officer and the center patent or intellectual property counsel a determination is made otherwise.

(h) Normally the clause at 52.227–20, Rights in Data—SBIR Program, is the only data rights clause used in SBIR contracts. However, if during the performance of an SBIR contract (Phase I, Phase II, or Phase III) the need arises for NASA to obtain delivery of limited rights data or restricted computer software as defined in the clause at FAR 52.227–20, and the contractor agrees to such delivery, the limited rights data or restricted computer software may be acquired by modification of the contract (for example, by adding the clause at FAR 52.227–14 with any appropriate Alternates and making it applicable only to the limited rights data or restricted computer software to be delivered), using the rights and related restrictions as set forth in FAR 27.404–2 as a guide.

(m)(1) The contracting officer, shall consult with the center patent or intellectual property counsel and the installation software release authority to determine when to use the clause at 1852.227–88, Government-furnished computer software and related technical data.

(2) The clause may be included in, or added to, the contract when it is contemplated that computer software and related technical data will be provided to the contractor as Government-furnished information for use in performing the contract.

PART 1828—BONDS AND INSURANCE

■ 37. The authority citation for part 1828 continues to read as follows:

Authority: 51 U.S.C. 20113(a).

Subpart 1828.1 [Removed]

■ 38. Remove subpart 1828.1.

■ 39. In section 1828.311–1, the introductory text is revised to read as follows:

1828.311–1 Contract clause.

The contracting officer shall insert the clause at FAR 52.228–7, Insurance—Liability to Third Persons, in solicitations and contracts, other than those for construction contracts and those for architect-engineer services, when a cost-reimbursement contract is contemplated unless—

* * * * *

PART 1831—CONTRACTOR COST PRINCIPLES AND PROCEDURES

■ 40. The authority citation for part 1831 continues to read as follows:

Authority: 51 U.S.C. 20113(a).

1831.205–671 [Amended]

■ 41. Section 1831.205–671 is amended by removing the phrase ''in excess of $500,000'' and replacing it with ''expected to exceed the threshold for requiring certified cost and pricing data as set forth in FAR 15.403–4.''

PART 1832—CONTRACT FINANCING

■ 42. The authority citation for part 1832 continues to read as follows:

Authority: 51 U.S.C. 20113(a).

■ 43. In section 1832.705–270, paragraph (a) is revised to read as follows:

1832.705–270 NASA clauses for limitation of cost or funds.

(a) The contracting officer shall insert the clause at 1852.232–77, Limitation of Funds (Fixed-Price Contract), in solicitations and contracts for fixed-price, incrementally-funded contracts or task orders.

* * * * *

1832.1110 [Amended]

■ 44. In section 1832.1110, remove and reserve paragraph (a).

PART 1834—MAJOR SYSTEM ACQUISITION

■ 45. The authority citation continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

■ 46. Amend section 1834.201 as follows:

■ a. In paragraph (a) introductory text, remove the word ''acquisitions'' in the first sentence and add in its place the word ''contracts''.

■ b. In paragraph (a)(3), add the phrase ''Earned Value Management'' before the acronym EVM and add parentheses around EVM.

■ c. In the first sentence of paragraph (b), remove the phrase ''earned value management'' and add in its place ''EVM'', and remove the phrase ''a schedule management system'' and add in its place ''an Integrated Master Schedule (IMS)''.

■ d. In paragraph (d), add the phrase ''and the applicable NASA Center EVM Focal Point (*http://evm.nasa.gov/council.html*)'' between ''office'' and ''in determining''.

■ e. In paragraph (e) remove ''American National Standards Institute/Electronics Industries Alliance Standard'' and the parentheses around the acronym ANSI/EIA.

■ f. Add paragraph (f).

The addition reads as follows:

1834.201 Policy.

* * * * *

(f) As a minimum, and in accordance with NPD 7120.5, requirements initiators shall ensure that EVMS monthly reports are included as a deliverable in the acquisition package provided to the procurement office for implementation into contracts where EVMS applies. Additionally, the acquisition package shall include a Contract Performance Report (CPR), IMS and a Work Breakdown Structure (WBS) and the appropriate data requirements descriptions (DRDs) for implementation into the contract.

1834.203–70 [Amended]

■ 47. Amend 1834.203–70 by removing ''1834.201(a)(3)'' and adding in its place ''1834.201(c)'' following 1834.201 in the first sentence.

PART 1837—SERVICE CONTRACTING

■ 48. The authority citation for part 1837 continues to read as follows:

Authority: 51 U.S.C. 20113(a).

1837.203–70, 1837.203–71, and 1837.203–72 [Removed]

■ 49. Sections 1837.203–70, 1837.203–71, and 1837.203–72 are removed.

PART 1841—ACQUISITION OF UTILITY SERVICES

■ 50. The authority citation for this section continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

Subpart 1841–5 [Removed and Reserved]

■ 51. Remove and reserve Subpart 1841.5.

PART 1842—CONTRACT ADMINISTRATION

■ 52. The authority citation for part 1842 continues to read as follows:

Authority: 51 U.S.C. 20113(a).

1842.271 [Removed]

■ 53. Section 1842.271 is removed.

PART 1846—QUALITY ASSURANCE

■ 54. The authority citation continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

■ 55. Add Subpart 1846.1 to read as follows:

Subpart—1846.1 General

Sec.
1846.102 Policy.

Subpart—1846.1 General

1846.102 Policy.

(f) See NPR 8735.2, Section 2.1, concerning quality assurance for critical acquisition items. Generally, the quality assurance requirements set forth in the NPR for critical acquisition items are not allowed under Part 12 procedures. See FAR 12.208.

■ 56. Section 1846.670–1 is revised to read as follows:

1846.670–1 General.

This subpart contains procedures and instructions for use of the DD Form 250, Material Inspection and Receiving Report (MIRR), (DD Form 250 series equivalents, and commercial shipping/packing lists used to document Government contract quality assurance (CQA).

■ 57. Section 1846.670–2 is revised to read as follows:

1846.670–2 Applicability.

(a) This subpart applies to supplies or services acquired by or for NASA when the clause at 1852.246–72, Material Inspection and Receiving Report, is included in the contract.

■ 58. Section 1846.670–3 is revised to read as follows:

1846.670–3 Use.

(a) The DD Form 250 is a multipurpose report used for—

(1) Providing evidence of CQA at origin or destination;

(2) Providing evidence of acceptance at origin or destination;

(3) Packing lists;

(4) Receiving;

(5) Shipping; and

(6) Contractor invoice support.

(b) Do not use MIRRs for shipments—

(1) By subcontractors, unless the subcontractor is shipping directly to the Government; or,

(2) Of contract inventory.

(c) The contractor prepares the DD Form 250, except for entries that an authorized Government representative is required to complete. The contractor shall furnish sufficient copies of the completed form, as directed by the Government Representative.

■ 59. Section 1846.670–5 is revised to read as follows:

1846.670–5 Forms.

An electronic copy of the DD Form 250 may be downloaded from the General Services Administration's Forms Library at *http://www.gsa.gov/portal/category/100000.*

■ 60. In section 1846.672–1, paragraphs (a)(1), (b), (c), (h), (j), (k), (r)(1) introductory text, (r)(1)(i), (r)(3), and (r)(4)(ii) and (xi) are revised to read as follows:

1846.672–1 Preparation Instructions.

(a) * * *

(1) Dates shall include nine spaces consisting of the four digits of the year, the first three letters of the month, and two digits for the date (*e.g.,* 2012SEP24).

* * *

(b) *Classified information.* Do not include classified information on the MIRR. MIRRs must not be classified.

(c) *Block 1—PROCUREMENT INSTRUMENT IDENTIFICATION (CONTRACT NUMBER).* Enter the ten-character, alpha-numeric procurement identifier of the contract.

* * * * *

(h) *Block 6—INVOICE.* The contractor may enter the invoice number and actual or estimated date on all copies of the MIRR. When the date is estimated, enter an ''E'' after the date. Do not correct MIRRs to reflect the actual date of invoice submission.

* * *

(j) *Block 8—ACCEPTANCE POINT.* Enter an ''S'' for origin or ''D'' for destination as specified in the contract as the point of acceptance.

(k) *Block 9—PRIME CONTRACTOR.* Enter the Commercial and Government Entity (CAGE) code and address.

* * * * *

(r) Block 16—STOCK/PART NO./DESCRIPTION. (1) Enter, as applicable, for each item, using single spacing between each line item, the following:

(i) The National Stock Number (NSN) or noncatalog number and, if applicable, prefix or suffix. When a number is not provided or it is necessary to supplement the number, include other identification such as the manufacturer's name or Federal Supply Code (as published in Cataloging Handbook H4–1), and part numbers. Additional part numbers may be shown in parentheses. Also enter the descriptive noun of the item nomenclature and, if provided, the Government-assigned management/material control code. In the case of equal-kind supply items, the first entry shall be the description without regard to kind (*e.g.,* ''Resistor''). Below this description, enter the contract item number in Block 15 and stock/part number followed by the size or type in Block 16.

* * * * *

(3) For all contracts administered by the Defense Contract Management Agency, with the exception of fast pay procedures, enter and complete the following:

Gross Shipping Wt.__(State weight in pounds only).

(4) * * *

(ii) When an NSN is required by, but not cited in, a contract and has not been furnished by the Government, shipment may be made at the direction of the contracting officer. Enter the authority for the shipment.

* * * * *

(xi) When test/evaluation results are a condition of acceptance and are not available before shipment, the following note shall be entered if the shipment is approved by the contracting officer: ''Note: Acceptance and payment are contingent upon receipt of approved test/evaluation results.'' The contracting officer will advise (A) the consignee of the results (approval/disapproval) and (B) the contractor to withhold invoicing pending attachment to its invoice of the approved test/evaluation results.

* * * * *

1846–672–5 [Removed]

■ 61a. Section 1846.672–5 is removed.

1846.672–6 and 1846.672–7 [Redesignated as 1846.672–5 and 1846.672–6]

■ 61b. Sections 1846–672–6 and 1846–672–7 are redesignated as 1846–672–5 and 1846–672–6.

■ 62. Section 1846.674 is revised to read as follows:

1846.674 Contract clause.

The contracting officer shall insert the clause at 1852.246–72, Material Inspection and Receiving Report, in solicitations and contracts when there will be separate and distinct deliverables, even if the deliverables are not separately priced. The clause is not required for—

(1) Contracts awarded using simplified acquisition procedures;

(2) Negotiated subsistence contracts; or

(3) Contracts for which the deliverable is a scientific or technical report. Insert number of copies and distribution instructions in paragraph (a).

PART 1851—USE OF GOVERNMENT SOURCES BY CONTRACTORS

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

Authority: 42 U.S.C. 2473(c)(1).

1851.102–70 [Removed]

■ 64. Remove section 1851.102–70.

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 65. The authority citation for part 1852 continues to read as follows:

Authority: 51 U.S.C. 20113(a).

1852.209–72 [Removed and Reserved]

■ 66. Remove and reserve section 1852.209–72.

■ 67. Section 1852.215.77 is amended by adding paragraphs (c), (d), and (e) to read as follows:

1852.215–77 Preproposal/Pre-Bid Conference.

* * * * *

PRE–PROPOSAL/PRE–BID CONFERENCE (MONTH/YEAR)

* * * * *

(c) Offerors, individuals, or interested parties who plan to attend the pre-proposal/pre-bid conference must provide the Contracting Officer in writing, at a minimum, full name of the attendee(s), identification of nationality (U.S. or specify other nation citizenship), Lawful Permanent Resident Numbers in the case of foreign nationals, affiliation and full office address/phone

number. Center-specific security requirements for this pre-proposal/pre-bid conference will be given to a company representative prior to the conference or will be identified in this solicitation as follows: (*fill-in*). Examples of specific identification information which may be required include state driver's license and social security number. Except for foreign nationals, the identification information must be provided at least (*fill-in*) working days in advance of the conference. This information shall be provided at least (*fill-in*) working days in advance of the conference for foreign nationals due to the longer badging and clearance processing time required. However, the Center reserves the right to determine foreign nationals may not be allowed on the Government site. The Government is not responsible for offerors' inability to obtain clearance within sufficient time to attend the conference. Due to space limitations, representation of any potential Offeror may not exceed (*fill-in)* company representatives/persons per Offeror. Any ''lobbying firm or lobbyist'' as defined in 2 U.S.C. 1602(9) and (10), or any Offeror represented by a lobbyist under the Lobbying Disclosure Act of 1995 shall be specifically identified.

(d) Visitors on NASA Centers are allowed to possess and use photographic equipment (including camera cell phones) and related materials EXCEPT IN CONTROLLED AREAS. Anyone desiring to use camera equipment during the conference should contact the Contracting Officer to determine if the site(s) to be visited is a controlled area.

(e) The Government will respond to questions regarding this procurement provided such questions have been received at least five (5) working days prior to the conference. Other questions will be answered at the conference or in writing at a later time. All questions, together with the Government's response, will be transmitted to all solicitation recipients via the government-wide point of entry (GPE). In addition, conference materials distributed at the preproposal/pre-bid conference will be made available to all potential offerors via the GPE using the NAIS Electronic Posting System.

(End of provision)

■ 68. Section 1852.215–81 is amended by:

■ a. Revising the chart in paragraph (a);

■ b. Adding a sentence at the end of paragraph (b); and

■ c. Revising paragraph (c).

The revisions and addition read as follows:

1852.215–81 Proposal Page Limitations.

(a) * * *

Proposal section (List each volume or section)	Page limit (Specify limit)	[Proposal subsection] (List each subsection)
		(e.g. Offeror's Subcontracting Plan should not exceed 20 pages)

(b) * * * Other limitations/instructions identified as follows: (*fill-in,* if there are other limitations/instructions).

(c) Identify any exclusions to the page limits that are excluded from the page counts specified in paragraph (a) of this provision (*e.g.* title pages, table of contents) as follows: (*fill-in*). In addition, the Cost section of your proposal is not page limited. However, this section is to be strictly limited to cost and price information. Information that can be construed as belonging in one of the other sections of the proposal will be so construed and counted against that section's page limitation.

* * * * *

(End of provision)

1852.216–88 [Amended]

■ 69. Section 1852.216–88 is amended by:

■ a. Removing the words ''hardware'' and ''delivered'' in paragraph (a) introductory text;

■ b. Removing the word ''hardware'' and the second sentence in paragraph (a)(1);

■ c. Removing the word ''hardware'' in paragraph (c);

■ d. Removing the word ''hardware'' in paragraph (d);

■ e. Removing the word ''hardware'' in paragraph (f); and

■ f. Adding the word ''descriptor'' in paragraph (g)(1) between ''numbers(s)'' and ''and/or nomenclature''.

1852.217–70 [Removed and Reserved]

■ 70. Remove and reserve section 1852.217–70.

■ 71. In the introductory text in section 1852.217–71, the reference 1817.7302(a) is revised to read as 1817.7002(a), and the last sentence in paragraph (e) is removed.

■ 72a. Section 1852.219–11 is added to read as follows:

1852.219–11 Special 8(a) Contract Conditions.

As prescribed in 1819.811–3(a), insert the following clause in lieu of 52.219–11:

SPECIAL 8(a) CONTRACT CONDITIONS (MONTH/YEAR)

(a) This contract is issued as a direct award between the contracting activity and the 8(a) contractor pursuant to a Partnership Agreement between the Small Business Administration (SBA) and the National Aeronautics and Space Administration. Accordingly, the SBA is not a signatory to this contract. SBA does retain responsibility for 8(a) certification, 8(a) eligibility determinations and related issues, and providing counseling and assistance to the 8(a) contractor under the 8(a) program. The cognizant SBA district office is:

_____

_____

_____

_____

(*insert name and address of cognizant SBA office*)

(b) The contracting activity is responsible for administering the contract and taking any action on behalf of the Government under the terms and conditions of the contract; provided, however, that the contracting activity shall give advance notice to the SBA before it issues a final notice terminating performance, either in whole or in part, under the contract. The contracting activity shall also coordinate with the SBA prior to processing any novation agreement. The contracting activity may assign contract administration functions to a contract administration office.

(c) The contractor agrees to notify the Contracting Officer, simultaneous with its notification to SBA (as required by SBA's 8(a) regulations), when the owner or owners upon whom 8(a) eligibility is based plan to relinquish ownership or control of the concern. Consistent with Section 407 of Public Law 100–656, transfer of ownership or control shall result in termination of the contract for convenience, unless SBA waives the requirement for termination prior to the actual relinquishing of ownership and control.

(End of clause)

■ 72b. Section 1852.219–18 is added to read as follows:

1852.219–18 Notification of Competition Limited to Eligible 8(a) Concerns.

As prescribed in 1819.811–3(d), insert the following clause:

NOTIFICATION OF COMPETITION LIMITED TO ELIGIBLE 8(A) CONCERNS (MONTH/YEAR)

(a) Offers are solicited only from small business concerns expressly certified by the Small Business Administration (SBA) for participation in the SBA's 8(a) Program and which meet the following criteria at the time of submission of offer—

(1) The Offeror is in conformance with the 8(a) support limitation set forth in its approved business plan; and

(2) The Offeror is in conformance with the Business Activity Targets set forth in its approved business plan or any remedial action directed by the SBA.

(b) By submission of its offer, the Offeror represents that it meets all of the criteria set forth in paragraph (a) of this clause.

(c) Any award resulting from this solicitation will be made directly by the

Contracting Officer to the successful 8(a) offeror selected through the evaluation criteria set forth in this solicitation.

(d)(1) *Agreement.* A small business concern submitting an offer in its own name shall furnish, in performing the contract, only end items manufactured or produced by small business concerns in the United States or its outlying areas. If this procurement is processed under simplified acquisition procedures and the total amount of this contract does not exceed $25,000, a small business concern may furnish the product of any domestic firm. This paragraph does not apply to construction or service contracts.

(2) The _____[*insert name of SBA's contractor*] will notify the_____[*insert name of contracting agency*] Contracting Officer in writing immediately upon entering an agreement (either oral or written) to transfer all or part of its stock or other ownership interest to any other party.

(End of clause)

1852–219–74 [Removed and Reserved]

■ 73. Remove and reserve section 1852.219–74.

■ 74. Section 1852.219–75 is revised to read as follows:

1852.219–75 Individual Subcontracting Reports.

As prescribed in 1819.708–70(b), insert the following clause:

INDIVIDUAL SUBCONTRACTING REPORTS (MONTH/YEAR)

When submitting Individual Subcontracting Reports in eSRS in accordance with FAR 52.219–9(l) (1), the contractor shall enter goals as a percentage of total contract value as well as a percentage of total subcontract dollars.

(End of clause)

1852–219–76 [Removed and Reserved]

■ 75. Remove and reserve section 1852.219–76.

1852–219–77 [Amended]

■ 76. In section 1852.219–77, (MAY 2009) is removed and (MONTH/YEAR) is added in its place, and remove the word ''certified'' in the second sentence of paragraph (b)(2).

■ 77. Section 1852.219–79 is amended by:

■ a. Removing the words ''(MAY 2009)'' are removed and adding in their place ''(MONTH/YEAR)'';

■ b. Revising in the second sentence of paragraph (a) ''NASA SBIR'' to read ''NASA SBIR/STTR''; and

■ c. Adding paragraph (b)(5).

The addition reads as follows:

1852.219–79 Mentor Requirements and Evaluation.

* * * * *

(b) * * *

(5) To what extent the mentor contributed to advancing the protégé's technical readiness level.

* * * * *

■ 78. Section 1852.223–71 is revised to read as follows:

1852.223–71 Authorization for Radio Frequency Use.

As prescribed in 1823.7101, insert the following clause:

AUTHORIZATION FOR RADIO FREQUENCY USE (MONTH/YEAR)

(a) The contractor or subcontractor shall obtain equipment authorization of use of radio frequencies required in support of this contract following the procedures in NPR 2570.1, NASA Radio Frequency (RF) Spectrum Management Manual.

(b) For any experimental, developmental, or operational equipment for which the appropriate equipment frequency authorization has not been made, the Contractor or subcontractor shall provide the technical and operating characteristics of the proposed electromagnetic radiating device to the NASA Center Facility Spectrum Manager during the initial planning, experimental, or developmental phase of contractual performance.

(c) This clause, including this paragraph (c), shall be included in all subcontracts that call for developing, producing, testing, or operating a device for which a radio frequency authorization is required.

(End of clause)

1852–223–73 [Amended]

■ 79. Section 1852.223–73 is amended as follows:

■ a. Remove (NOVEMBER 2004) and add (MONTH/YEAR) in its place.

■ b. In paragraph (a), the reference ''NPR 8715.3'' is revised to read ''NASA General Safety Program Requirements Manual, Appendix E''.

■ c. In Alternate, the reference ''NPR 8715.3'' is revised to read ''NASA General Safety Program Requirements Manual, Appendix E''.

■ 80. Section 1852.227–11 is revised to read as follows:

1852.227–11 Patent Rights—Ownership by the Contractor (DATE).

As prescribed at 1827.303(b)(1), modify the clause at FAR 52.227–11 by:

(1) Adding the following subparagraphs (5) and (6) to paragraph (c) of the basic clause;

(2) By adding the following subparagraph (iii) to paragraph (e)(1) of the basic clause;

(3) By using the following paragraph (j) in lieu of paragraph (j) of the basic clause; and

(4) By using the following subparagraph (2) in lieu of subparagraph (k)(2) of the basic clause:

(5) The Contractor may use whatever format is convenient to disclose subject inventions required in subparagraph (c)(1). NASA prefers that the contractor use either the electronic or paper version of NASA Form 1679, Disclosure of Invention and New Technology (Including Software) to disclose subject inventions. Both the electronic and paper versions of NASA Form 1679 may be accessed at the electronic New Technology Reporting Web site *http://invention.nasa.gov.*

(6) In addition to the above, the Contractor shall provide the New Technology Representative identified in this contract at 1852.227–72 the following:

(i) An interim new technology summary report every 12 months (or such longer period as the Contracting Officer may specify) from the date of the contract, listing all subject inventions required to be disclosed during the period or certifying that there were none.

(ii) A final new technology summary report, within 3 months after completion of the contracted work, listing all subject inventions or certifying that there were none.

(iii) Upon request, the filing date, serial number and title, a copy of the patent application, and patent number and issue date for any subject invention in any country in which the contractor has applied for patents.

(iv) An irrevocable power to inspect and make copies of the patent application file, by the Government, when a Federal Government employee is a co-inventor.

(End of addition)

(iii) The Contractor shall, through employee agreements or other suitable Contractor policy, require that its employees ''will assign and do hereby assign'' to the Contractor all right, title, and interest in any subject invention under this Contract.

(End of addition)

(j) For the purposes of this clause, communications between the Contractor and the Government shall be as specified in the NASA FAR Supplement at 1852.227–72, Designation of New Technology Representative and Patent Representative.

(End of addition)

(2) The Contractor shall include the clause in the NASA FAR Supplement at 1852.227–70, New Technology—Other than a Small Business Firm or Nonprofit Organization, suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental, research, design, or engineering work to be performed by other than a small business firm or nonprofit organization. At all tiers, the New Technology—Other than a Small Business Firm or Nonprofit Organization clause shall be modified to identify the parties as follows: references to the Government are not changed, and in all references to the Contractor the subcontractor is substituted for the Contractor so that the subcontractor has all rights and obligations of the Contractor in the clause.

(End of substitution)

■ 81. Section 1852.227–14 is revised to read as follows:

1852.227–14 Rights In Data—General (DATE).

As prescribed in 1827.409(b)(1), modify the clause at FAR 52.227–14 by: (1) adding the following subparagraph (iv) to paragraph (c)(1) of the basic clause; (2) by adding the following provision to the end of Alternate IV if used in lieu of paragraph (c)(1) of the basic clause; and (3) by adding subparagraph (4) to paragraph (d) of the basic clause:

(iv) The contractor shall mark each scientific and technical article based on or containing data first produced in the performance of this contract and submitted for publication in academic, technical or professional journals, symposia proceedings or similar works with a notice, similar in all material respects to the following, on the cover or first page of the article, reflecting the Government's non-exclusive worldwide license in the copyright.

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(End of Notice)

(End of addition)

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(End of Notice)

(End of addition)

(4)(i) The Contractor agrees not to assert claim to copyright, publish or release to others any computer software first produced in the performance of this contract unless the Contracting Officer authorizes through a contract modification.

(ii) The prohibition on ''release to others,'' as set forth in (d)(4)(i), does not prohibit release to another Federal Agency for its use or its contractors' use, as long as any such release is consistent with any restrictive markings on the software. Any restrictive markings on the software shall take precedence over the aforementioned release. Any release to a Federal Agency shall limit use to the Federal Agency or its contractors for Government purposes only. Any other release shall require the Contracting Officer's prior written permission.

(iii) If the Government desires to obtain copyright in computer software first produced in the performance of this contract and permission has not been granted as set forth in paragraph (d)(4)(i) of this clause, the Contracting Officer may direct the contractor to assert, or authorize the assertion of, a claim to copyright in such data and to assign, or obtain the assignment of, such copyright to the Government or its designated assignee.

(End of addition)

■ 82. Section 1852.227–70 is revised to read as follows:

1852.227–70 New Technology—Other than a Small Business Firm or Nonprofit Organization.

As prescribed in 1827.303(d)(1), insert the following clause:

NEW TECHNOLOGY (MONTH/YEAR)

(a) *Definitions.* As used in this clause—

''Administrator'' means the Administrator of the National Aeronautics and Space Administration (NASA) or duly authorized representative.

''Made'' means—

(1) When used in relation to any invention other than a plant variety, the conception or first actual reduction to practice of the invention; or

(2) When used in relation to a plant variety, that the Contractor has at least tentatively determined that the variety has been reproduced with recognized characteristics.

''Nonprofit organization'' means a domestic university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)), or any domestic nonprofit scientific or educational organization qualified under a State nonprofit organization statute.

''Practical application'' means to manufacture, in the case of a composition or product; to practice, in the case of a process or method; or to operate, in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

''Reportable item'' means any invention, discovery, improvement, or innovation of the contractor, whether or not patentable or otherwise protectable under Title 35 of the United States Code, made in the performance of any work under any NASA contract or in the performance of any work that is reimbursable under any clause in any NASA contract providing for reimbursement of costs incurred before the effective date of the contract. Reportable items include, but are not limited to, new processes, machines, manufactures, and compositions of matter, and improvements to, or new applications of, existing processes, machines, manufactures, and compositions of matter. Reportable items also include new computer programs, and improvements to, or new applications of, existing computer programs, whether or not copyrightable or otherwise protectible under Title 17 of the United States Code.

''Small business firm'' means a domestic small business concern as defined at 15 U.S.C. 632 and implementing regulations of the Administrator of the Small Business Administration. (For the purpose of this definition, the criteria and size standard adopted in the FAR Subpart 2.1 definitions for ''small business concern'' and for ''small business subcontractor'' will be used.)

''Subject invention'' means any reportable item which is or may be patentable or otherwise protectible under Title 35 of the United States Code, or any novel variety of plant that is or may be protectible under the Plant Variety Protection Act (7 U.S.C. 2321, *et seq.*).

(b) *Allocation of principal rights*—(1) *Presumption of title.* (i) Any reportable item that the Administrator considers to be a subject invention shall be presumed to have been made in the manner specified in paragraph (1)(A) or (1)(B) of Section 20135(b) of the National Aeronautics and Space Act (51 U.S.C. 20135(b)) (hereinafter ''the Act''), and the above presumption shall be conclusive unless at the time of reporting the reportable item in accordance with paragraph (e)(2) of this clause the Contractor submits to the Contracting Officer a written statement, containing supporting details, demonstrating that the reportable item was not made in the manner specified in the Act.

(ii) Regardless of whether title to a given subject invention would otherwise be subject to an advance waiver or is the subject of a petition for waiver as described in paragraph (b)(3) of this clause, the Contractor may nevertheless file the statement described in paragraph (b)(1)(i) of this clause. The Administrator will review the information furnished by the Contractor in any such statement and any other available information relating to the circumstances surrounding the making of the subject invention and will notify the Contractor whether the Administrator has determined that the subject invention was made in the manner specified in paragraph (1)(A) or (1)(B) of Section 20135(b) of the Act.

(2) *Property rights in subject inventions.* Each subject invention for which the presumption of paragraph (b)(1)(i) of this clause is conclusive or for which there has been a determination that it was made in the manner specified in paragraph (1)(A) or (1)(B) of Section 20135(b) of the Act shall be the exclusive property of the United States as represented by NASA unless the Administrator waives all or any part of the rights of the United States, as provided in paragraph (b)(3) of this clause.

(3) *Waiver of rights.* (i) Section 20135(g) of the Act provides for the promulgation of regulations by which the Administrator may waive all or any part of the rights of the United States with respect to any invention or class of inventions made or that may be made under conditions specified in paragraph (1)(A) or (1)(B) of Section 20135(b) of the Act. The promulgated NASA Patent Waiver Regulations, 14 CFR part 1245, subpart 1, provide procedures for the Contractor to submit petitions (requests) for waiver of rights and guidance for NASA in acting on petitions for such waiver of rights.

(ii) As provided in 14 CFR part 1245, subpart 1, the Contractor may petition, either prior to execution of the contract or within 30 days after execution of the contract, for advance waiver of rights to any invention or class of inventions that may be made under a contract. If such a petition is not submitted, or if after submission it is denied, the Contractor (or an employee inventor of the Contractor) may petition for waiver of rights to an identified subject invention within eight months of first disclosure of invention in accordance with paragraph (e)(2) of this clause, or within such longer period as may be authorized in accordance with 14 CFR 1245.105.

(c) Minimum rights reserved by the Government.

(1) With respect to each subject invention for which a waiver of rights has been granted, the Government reserves—

(i) An irrevocable, nonexclusive, nontransferable, royalty-free license for the practice of such invention throughout the world by or on behalf of the United States or any foreign government in accordance with any treaty or agreement with the United States; and

(ii) Such other rights as stated in 14 CFR 1245.107.

(2) Nothing contained in this paragraph (c) shall be considered to grant to the Government any rights with respect to any invention other than a subject invention.

(d) Minimum rights to the Contractor.

(1) The Contractor is hereby granted a revocable, nonexclusive, royalty-free license in each patent application filed in any country on a subject invention in which the Government has title and in any resulting patent, unless the Contractor fails to disclose the subject invention within the times specified in paragraph (e)(2) of this clause. The Contractor's license extends to its domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a party and includes the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. The license is transferable only with the approval of the Administrator except when transferred to the successor of that part of the Contractor's business to which the invention pertains.

(2) The Contractor's domestic license may be revoked or modified by the Administrator to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with 37 CFR part 404, Licensing of Government Owned Inventions. The Contractor's license will not be revoked in that field of use or the geographical areas in which the Contractor has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of the Administrator to the extent the Contractor, its licensees, or its domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(3) Before revoking or modifying the Contractor's license, the Contractor will be provided a written notice of the Administrator's intention to revoke or modify the license, and the Contractor will be allowed 30 days (or such other time as may be authorized by the Administrator for good cause shown) after the notice to show cause why the license should not be revoked or modified. The Contractor has the right to appeal to the Administrator any decision concerning the revocation or modification of its license.

(e) Contractor's obligations.

(1) The Contractor shall establish and maintain active and effective procedures to assure that reportable items are promptly identified and disclosed to Contractor personnel responsible for the administration of this New Technology—Other Than a Small Business Firm or Nonprofit Organization clause within six months of conception and/or first actual reduction to practice, whichever occurs first in the performance of work under this contract. These procedures shall include the maintenance of laboratory notebooks or equivalent records and other records as are reasonably necessary to document the conception and/or the first actual reduction to practice of the reportable items, and records that show that the procedures for identifying and disclosing reportable items are followed. Upon request, the Contractor shall furnish the Contracting Officer a description of such procedures for evaluation and for determination as to their effectiveness.

(2) The Contractor shall disclose in writing each reportable item to the Contracting Officer within two months after the inventor discloses it in writing to Contractor personnel responsible for the administration of this New Technology—Other Than a Small Business Firm or Nonprofit Organization clause or within six months after the Contractor becomes aware that a reportable item has been made, whichever is earlier, but in any event for subject inventions before any on sale, public use, or publication of such invention known to the Contractor. The disclosure to the agency shall identify the inventor(s) or innovator(s) and this contract under which the reportable item was made. It shall be sufficiently complete in technical detail to convey a clear understanding, to the extent known at the time of the disclosure, of the nature, purpose, operation, and physical, chemical, biological, or electrical characteristics of the reportable item. The disclosure shall also identify any publication, sale or offer for sale, or public use of any subject invention and whether a manuscript describing such invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to the agency, the Contractor will promptly notify the agency of the acceptance of any manuscript describing a subject invention for publication or of any sale, offer for sale, or public use planned by the Contractor for such invention.

(3) The Contractor may use whatever format is convenient to disclose reportable items required in subparagraph (e)(2). NASA prefers that the Contractor use either the electronic or paper version of NASA Form 1679, Disclosure of Invention and New Technology (including computer software) to disclose reportable items. Both the electronic and paper versions of NASA Form 1679 may be accessed at the electronic New Technology Reporting Web site *http://invention.nasa.gov.*

(4) The Contractor shall furnish the Contracting Officer the following:

(i) Interim new technology summary reports every 12 months (or such longer period as may be specified by the Contracting Officer) from the date of the contract, listing reportable items during that period, and certifying that all reportable items have been disclosed (or that there are no such inventions).

(ii) A final new technology summary report, within 3 months after completion of the contracted work, listing all reportable items or certifying that there were no such reportable items, and listing all subcontracts at any tier containing a patent rights clause or certifying that there were no such subcontracts.

(5) The Contractor agrees, upon written request of the Contracting Officer, to furnish additional technical and other information available to the Contractor as is necessary for the preparation of a patent application on a subject invention and for the prosecution of the patent application, and to execute all papers necessary to file patent applications on subject inventions and to establish the Government's rights in the subject inventions.

(6) The Contractor agrees, subject to paragraph 27.302(j) of the Federal Acquisition Regulation (FAR), that the Government may duplicate and disclose subject invention disclosures and all other reports and papers furnished or required to be furnished pursuant to this clause.

(f) Examination of records relating to inventions.

(1) The Contracting Officer or any authorized representative shall, until 3 years after final payment under this contract, have the right to examine any books (including laboratory notebooks), records, and

documents of the Contractor relating to the conception or first actual reduction to practice of inventions in the same field of technology as the work under this contract to determine whether—

(i) Any such inventions are subject inventions;

(ii) The Contractor has established and maintained the procedures required by paragraph (e)(1) of this clause; and

(iii) The Contractor and its inventors have complied with the procedures.

(2) If the Contracting Officer learns of an unreported Contractor invention that the Contracting Officer believes may be a subject invention, the Contracting Officer may require the Contractor to disclose the invention to the agency for a determination of ownership rights.

(3) Any examination of records under this paragraph will be subject to appropriate conditions to protect the confidentiality of the information involved.

(g) Withholding of payment (this paragraph does not apply to subcontracts).

(1) Any time before final payment under this contract, the Contracting Officer may, in the Government's interest, withhold payment until a reserve not exceeding $50,000 or 5 percent of the amount of this contract, whichever is less, shall have been set aside if, in the Contracting Officer's opinion, the Contractor fails to—

(i) Establish, maintain, and follow effective procedures for identifying and disclosing reportable items pursuant to paragraph (e)(1) of this clause;

(ii) Disclose any reportable items pursuant to paragraph (e)(2) of this clause;

(iii) Deliver acceptable interim new technology summary reports pursuant to paragraph (e)(4)(i) of this clause or a final new technology summary report pursuant to paragraph (e)(4) (ii) of this clause; or

(iv) Provide the information regarding subcontracts pursuant to paragraph (h)(4) of this clause.

(2) Such reserve or balance shall be withheld until the Contracting Officer has determined that the Contractor has rectified whatever deficiencies exist and has delivered all reports, disclosures, and other information required by this clause.

(3) Final payment under this contract shall not be made before the Contractor delivers to the Contracting Officer all disclosures of reportable items required by paragraph (e)(2) of this clause, and an acceptable final new technology summary report pursuant to paragraph (e)(4)(ii) of this clause.

(4) The Contracting Officer may decrease or increase the sums withheld up to the maximum authorized above. No amount shall be withheld under this paragraph while the amount specified by this paragraph is being withheld under other provisions of the contract. The withholding of any amount or the subsequent payment thereof shall not be construed as a waiver of any Government rights.

(h) Subcontracts.

(1) Unless otherwise authorized or directed by the Contracting Officer, the Contractor shall—

(i) Include this clause (suitably modified to identify the parties) in any subcontract hereunder (regardless of tier) with other than a small business firm or nonprofit organization for the performance of experimental, developmental, or research work; or

(ii) Include the clause at FAR 52.227–11, as modified by 1852.227–11, (suitably modified to identify the parties) in any subcontract hereunder (regardless of tier) with a small business firm or nonprofit organization for the performance of experimental, developmental, or research work; and

(iii) Modify the applicable clause in any subcontract hereunder (regardless of tier) to identify the parties as follows: references to the Government are not changed, and in all references to the Contractor, the subcontractor is substituted for the Contractor so that the subcontractor has all rights and obligations of the Contractor in the clause.

(2) In the event of a refusal by a prospective subcontractor to accept such a clause the Contractor—

(i) Shall promptly submit a written notice to the Contracting Officer setting forth the subcontractor's reasons for such refusal and other pertinent information that may expedite disposition of the matter; and

(ii) Shall not proceed with such subcontract without the written authorization of the Contracting Officer.

(3) In the case of subcontracts at any tier, the agency, subcontractor, and Contractor agree that the mutual obligations of the parties created by this clause constitute a contract between the subcontractor and NASA with respect to those matters covered by this clause.

(4) The Contractor shall promptly notify the Contracting Officer in writing upon the award of any subcontract hereunder (regardless of tier) by identifying the subcontractor, the applicable patent rights clause in the subcontract, the work to be performed under the subcontract, and the dates of award and estimated completion. Upon request of the Contracting Officer, the Contractor shall furnish a copy of such subcontract, and, no more frequently than annually, a listing of the subcontracts that have been awarded.

(5) The subcontractor will retain all rights provided for the Contractor in the clause of paragraph (h)(1)(i) or (ii) of this clause, whichever is included in the subcontract, and the Contractor will not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's subject inventions.

(i) Preference for United States industry. Unless provided otherwise, no Contractor that receives title to any subject invention and no assignee of any such Contractor shall grant to any person the exclusive right to use or sell any subject invention in the United States unless such person agrees that any products embodying the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement may be waived by the Administrator upon a showing by the Contractor or assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

(End of clause)

■ 83. Section 1852.227–71 is revised to read as follows:

1852.227–71 Requests for Waiver of Rights to Inventions.

As prescribed in 1827.303(d)(2), insert the following provision in all solicitations that include the clause at 1852.227–70, New Technology—Other than a Small Business Firm or Nonprofit Organization:

REQUESTS FOR WAIVER OF RIGHTS TO INVENTIONS (MONTH/YEAR)

(a) In accordance with Section 20135(g) of the National Aeronautics and Space Act (51 U.S.C. 20135(g)) (hereinafter ''the Act'') and the NASA Patent Waiver Regulations, 14 CFR part 1245, subpart 1, NASA may waive all or any part of the rights of the United States with respect to any invention or class of inventions made or that may be made under a NASA contract or subcontract with other than a small business firm or a domestic nonprofit organization if the Administrator determines that the interests of the United States will be served thereby. Waiver of rights in inventions made or that may be made under such NASA contract or subcontract may be requested at different time periods. Advance waiver of rights to any invention or class of inventions that may be made under a contract or subcontract may be requested prior to the execution of the contract or subcontract, or within 30 days after execution by the selected contractor (or such longer period as may be specified by the Contracting Officer). In addition, waiver of rights to an individually identified invention or to a class of inventions made and reported under a contract or subcontract may be requested, even though a request for an advance waiver was not made or, if made, was not granted.

(b) Each request for waiver of rights shall be by petition to the Administrator. No specific forms need be used, but the request should contain a positive statement that waiver of rights is being requested under the NASA Patent Waiver Regulations; a clear indication of whether the request is for an advance waiver or for a waiver of rights for an individually identified invention or class of inventions; whether foreign rights are also requested and, if so, the countries, and a citation of the specific section or sections of the regulations under which such rights are requested. For individually identified inventions or a class of inventions, the petition shall identify each invention with particularity (*e.g.,* by NASA's assigned number to the Disclosure of Invention and New Technology report or by title and inventorship). For advance waivers, the petition shall identify the invention or class of inventions that the Contractor believes will be made under the contract and for which waiver is being requested. To meet the statutory standard of ''any invention or class

of inventions,'' the petition must be directed to a single invention or to inventions directed to a particular process, machine, manufacture, or composition of matter, or to a narrowly-drawn, focused area of technology. Additionally, each petition shall include an identification of the petitioner; place of business and address; if petitioner is represented by counsel, the name, address and telephone number of the counsel; the name, address, and telephone number of the party with whom to communicate when the request is acted upon; the signature of the petitioner or authorized representative; and the date of signature. In general, waivers are granted in order to provide for the widest practicable dissemination of new technology resulting from NASA programs, and to promote early utilization, expeditious development, and continued availability of this new technology for commercial purposes and the public benefit. Thus, it is preferable that the petition also include a description of the Contractor's plan for commercializing the invention or class of inventions for which waiver is being requested (*e.g.,* identify specific fields of use).

(c) Petitions for advance waiver of rights should, preferably, be included with the proposal, or at least in advance of contract negotiations. Petitions for advance waiver, prior to contract execution, shall be submitted to the Contracting Officer. All other petitions shall be submitted to the Patent Representative designated in the contract.

(d) Petitions submitted with proposals selected for negotiation of a contract will be forwarded by the Contracting Officer to the installation Patent Counsel for processing and then to the Inventions and Contributions Board. The Board will consider these petitions and where the Board makes the findings to support the waiver, the Board will recommend to the Administrator that waiver be granted, and will notify the petitioner and the Contracting Officer of the Administrator's determination. The Contracting Officer will be informed by the Board whenever there is insufficient time or information or other reasons to permit a decision to be made without unduly delaying the execution of the contract. In the latter event, the petitioner will be so notified by the Contracting Officer. All other petitions will be processed by installation Patent Counsel and forwarded to the Board. The Board shall notify the petitioner of its action and if waiver is granted, the conditions, reservations, and obligations thereof will be included in the Instrument of Waiver. Whenever the Board notifies a petitioner of a recommendation adverse to, or different from, the waiver requested, the petitioner may request reconsideration under procedures set forth in the Regulations.

(End of provision)

■ 84. Section 1852.227–72 is revised to read as follows:

1852.227–72 Designation of New Technology Representative and Patent Representative.

As prescribed in 1827.303(d)(3), insert the following clause:

DESIGNATION OF NEW TECHNOLOGY REPRESENTATIVE AND PATENT REPRESENTATIVE (MONTH/YEAR)

(a) For purposes of administration of the clause of this contract entitled ''New Technology—Other than a Small Business Firm or Nonprofit Organization'' or ''Patent Rights—Ownership by the Contractor,'' whichever is included, the installation New Technology and Patent Representatives identified at *http://prod.nais.nasa.gov/portals/pl/new_tech_pocs.html* are hereby designated by the Contracting Officer to administer such clause for the appropriate installation:

(b) Disclosures of reportable items and of subject inventions, interim new technology summary reports, final new technology summary reports, utilization reports, and other reports required by the applicable ''New Technology'' or ''Patent Rights—Ownership by the Contractor'' clause, as well as any correspondence with respect to such matters, shall be directed to the New Technology Representative unless transmitted in response to correspondence or request from the Patent Representative. Inquiries or requests regarding disposition of rights, election of rights, or related matters shall be directed to the Patent Representative. This clause shall be included in any subcontract hereunder requiring a ''New Technology—Other than a Small Business Firm or Nonprofit Organization'' clause or ''Patent Rights—Ownership by the Contractor'' clause, unless otherwise authorized or directed by the Contracting Officer. The respective responsibilities and authorities of the aforementioned representatives are set forth in 1827.305–270 of the NASA FAR Supplement.

(End of clause)

■ 85. Section 1852.227–84 is revised to read as follows:

1852.227–84 Patent Rights Clauses.

As prescribed in 1827.303(a)(1), the contracting officer shall insert the following provision in solicitations for experimental, developmental, or research work to be performed in the United States when the eventual awardee may be a small business or a nonprofit organization:

PATENT RIGHTS CLAUSES (MONTH/YEAR)

This solicitation contains the patent rights clauses of FAR 52.227–11 (as modified by the NFS) and NFS 1852.227–70. If the contract resulting from this solicitation is awarded to a small business or nonprofit organization, the clause at NFS 1852.227–70 shall not apply. If the award is to other than a small business or nonprofit organization, the clause at FAR 52.227–11 shall not apply.

(End of Provision)

■ 86. Section 1852.227–85 is revised to read as follows:

1852.227–85 Invention Reporting and Rights—Foreign.

As prescribed in 1827.303(e)(1), insert the following clause:

INVENTION REPORTING AND RIGHTS—FOREIGN (MONTH/YEAR)

(a) As used in this clause, the term ''invention'' means any invention, discovery or improvement, and ''made'' means the conception or first actual demonstration that the invention is useful and operable.

(b) The Contractor shall report promptly to the Contracting Officer each invention made in the performance of work under this contract. The report of each such invention shall:

(1) Identify the inventor(s) by full name; and

(2) Include such full and complete technical information concerning the invention as is necessary to enable an understanding of the nature and operation thereof.

(c) The Contractor hereby grants to the Government of the United States of America as represented by the Administrator of the National Aeronautics and Space Administration the full right, title and interest in and to each such invention throughout the world, except for the foreign country in which this contract is to be performed. As to such foreign country, Contractor hereby grants to the Government of the United States of America as represented by the Administrator of the National Aeronautics and Space Administration an irrevocable, nontransferable, nonexclusive, royalty-free license to practice each such invention by or on behalf of the United States of America or any foreign government pursuant to any treaty or agreement with the United States of America, provided that Contractor within a reasonable time files a patent application in that foreign country for each such invention. Where Contractor does not elect to file such patent application for any such invention in that foreign country, full right, title and interest in and to such invention in that foreign country shall reside in the Government of the United States of America as represented by the Administrator of the National Aeronautics and Space Administration.

(d) The Contractor agrees to execute or to secure the execution of such legal instruments as may be necessary to confirm and to protect the rights granted by paragraph (c) of this clause, including papers incident to the filing and prosecution of patent applications.

(e) Upon completion of the contract work, and prior to final payment, Contractor shall submit to the Contracting Officer a final report listing all inventions required to be reported under this contract or certifying that no such inventions have been made.

(f) In each subcontract, the Contractor awards under this contract where the performance of research, experimental design, engineering, or developmental work is contemplated, the Contractor shall include this clause (suitably modified to substitute the subcontractor in place of the Contractor) and the name and address of the Contracting Officer.

(End of Clause)

■ 87. Section 1852.227–86 is revised to added to read as follows:

1852.227–86 Commercial Computer Software License.

As prescribed in 1827.409(g), insert the following clause:

COMMERCIAL COMPUTER SOFTWARE LICENSE (MONTH/YEAR)

(a) Any delivered commercial computer software (including documentation thereof) developed at private expense and claimed as proprietary shall be subject to the restricted rights in paragraph (d) of this clause. Where the vendor/contractor proposes its standard commercial software license, those applicable portions thereof consistent with Federal laws, standard industry practices, the Federal Acquisition Regulations (FAR) and the NASA FAR Supplement, including the restricted rights in paragraph (d) of this clause, are incorporated into and made a part of this purchase order/contract. Those portions of the vendor's/contractor's standard commercial license or lease agreement that conflict with Federal law (*e.g.,* indemnity provisions or choice of law provisions that specify other than Federal law) are not incorporated into and made a part of this purchase order/contract and do not apply to any computer software delivered under this purchase order/contract.

(b) If the vendor/contractor does not propose its standard commercial software license until after this purchase order/contract has been issued, or until at or after the time the computer software is delivered, such license shall nevertheless be deemed incorporated into and made a part of this purchase order/contract under the same terms and conditions as in paragraph (a) of this clause. For purposes of receiving updates, correction notices, consultation, and similar activities on the computer software, no document associated with the aforementioned activities shall alter the terms of this clause unless such document explicitly references this clause and an intent to amend this clause and is signed by the NASA Contracting Officer.

(c) The vendor's/contractor's acceptance is expressly limited to the terms and conditions of this purchase order/contract. If the specified computer software is shipped or delivered to NASA, it shall be understood that the vendor/contractor has unconditionally accepted the terms and conditions set forth in this clause, and that such terms and conditions (including the incorporated license) constitute the entire agreement between the parties concerning rights in the computer software.

(d) The following restricted rights shall apply:

(1) The commercial computer software may not be used, reproduced, or disclosed by the Government, or Government contractors or their subcontractors at any tier, except as provided below or otherwise expressly stated in the purchase order/contract.

(2) The commercial computer software may be—

(i) Used, or copied for use, in or with any computer owned or leased by, or on behalf of, the Government; provided, the software is not used, nor copied for use, in or with more than one computer simultaneously, unless otherwise permitted by the license incorporated under paragraphs (a) or (b) of this clause;

(ii) Reproduced for safekeeping (archives) or backup purposes;

(iii) Modified, adapted, or combined with other computer software, provided that the modified, combined, or adapted portions of the derivative software incorporating restricted computer software shall be subject to the same restricted rights; and

(iv) Disclosed and reproduced for use by Government contractors or their subcontractors in accordance with the restricted rights in paragraphs (d)(2)(i), (ii), and (iii) of this clause; provided they have the Government's permission to use the computer software and have also agreed to protect the computer software from unauthorized use and disclosure.

(3) If the incorporated vendor's/contractor's software license contains provisions or rights that are less restrictive than the restricted rights in paragraph (d)(2) of this clause, then the less restrictive provisions or rights shall prevail.

(4) If the computer software is otherwise available without disclosure restrictions, it is licensed to the Government, without disclosure restrictions, with the rights in paragraphs (d)(2) and (3) of this clause.

(5) The Contractor shall affix a notice substantially as follows to any commercial computer software delivered under this contract:

Notice—Notwithstanding any other lease or license agreement that may pertain to, or accompany the delivery of, this computer software, the rights of the Government regarding its use, reproduction and disclosure are set forth in Government Contract No. _____.

(End of clause)

■ 88. Section 1852.227–88 is added to read as follows:

1852.227–88 Government-furnished computer software and related technical data.

As prescribed in 1827.409(m), insert the following clause:

(a) *Definitions.* As used in this clause—

''*Government-furnished computer software''* or ''*GFCS''* means computer software:

(1) In the possession of, or directly acquired by, the Government whereby the Government has title or license rights thereto; and

(2) Subsequently furnished to the Contractor for performance of a Government contract.

''*Computer software,''* ''*data''* and ''*technical data''* have the meaning provided in the Federal Acquisition Regulations (FAR) Subpart 2.1—Definitions or the Rights in Data—General clause (FAR 52.227–14).

(b) The Government shall furnish to the Contractor the GFCS described in this contract or in writing by the Contracting Officer. The Government shall furnish any related technical data needed for the intended use of the GFCS.

(c) *Use of GFCS and related technical data.* The Contractor shall use the GFCS and related technical data, and any modified or enhanced versions thereof, only for performing work under this contract unless otherwise provided for in this contract or approved in writing by the Contracting Officer.

(1) The Contractor shall not, without the express written permission of the Contracting Officer, reproduce, distribute copies, prepare derivative works, perform publicly, display publicly, release, or disclose the GFCS or related technical data to any person except for the performance of work under this contract.

(2) The Contractor shall not modify or enhance the GFCS unless this contract specifically identifies the modifications and enhancements as work to be performed. If the GFCS is modified or enhanced pursuant to this contract, the Contractor shall provide to the Government the complete source code, if any, and all related documentation of the modified or enhanced GFCS.

(3) Allocation of rights associated with any GFCS or related technical data modified or enhanced under this contract shall be defined by the FAR Rights in Data clause(s) included in this contract (as modified by any applicable NASA FAR Supplement clauses). If no Rights in Data clause is included in this contract, then the FAR Rights in Data—General (52.227–14) as modified by the NASA FAR Supplement (1852.227–14) shall apply to all data first produced in the performance of this contract and all data delivered under this contract.

(4) The Contractor may provide the GFCS, and any modified or enhanced versions thereof, to subcontractors as necessary for the performance of work under this contract. Before release of the GFCS, and any modified or enhanced versions thereof, to such subcontractors (at any tier), the Contractor shall insert, or require the insertion of, this clause, including this paragraph (c)(4), suitably modified to identify the parties as follows: references to the Government are not changed, and in all references to the Contractor the subcontractor is substituted for the Contractor so that the subcontractor has all rights and obligations of the Contractor in the clause.

(d) The Government provides the GFCS in an ''AS–IS'' condition. The Government makes no warranty with respect to the serviceability and/or suitability of the GFCS for contract performance.

(e) The Contracting Officer may by written notice, at any time—

(1) Increase or decrease the amount of GFCS under this contract;

(2) Substitute other GFCS for the GFCS previously furnished, to be furnished, or to be acquired by the Contractor for the Government under this contract;

(3) Withdraw authority to use the GFCS or related technical data; or

(4) Instruct the Contractor to return or dispose of the GFCS and related technical data.

(f) *Title to or license rights in GFCS.* The Government shall retain title to or license rights in all GFCS. Title to or license rights in GFCS shall not be affected by its incorporation into or attachment to any data not owned by or licensed to the Government.

(g) *Waiver of Claims and Indemnification.* The Contractor agrees to waive any and all claims against the Government and shall indemnify and hold harmless the Government, its agents, and employees from every claim or liability, including attorney's fees, court costs, and expenses, arising out of, or in any way related to, the misuse or unauthorized modification, reproduction, release, performance, display, or disclosure of the GFCS and related technical data by the Contractor, a subcontractor, or by any person to whom the Contractor has released or disclosed such GFCS or related technical data.

(h) *Flow-down of Waiver of Claims and Indemnification.* In the event a contract includes this NASA FAR Supplement clause 1852.227–88, the Contractor shall include the foregoing clause 1852.227–88(g), suitably modified to identify the parties, in all subcontracts, regardless of tier, which involve use of the GFCS and/or related technical data in any way. At all tiers, the clause shall be modified to define GFCS as it is defined herein and to identify the parties as follows: references to the Government are not changed, and in all references to the Contractor the subcontractor is substituted for the Contractor so that the subcontractor has all rights and obligations of the Contractor in the clause. In subcontracts, at any tier, the Government, the subcontractor, and the Contractor agree that the mutual obligations of the parties created by this clause 1852.227–88 constitute a contract between the subcontractor and the Government with respect to the matters covered by the clause.

(End of clause)

1852.228–73 [Removed]

■ 89. Section 1852.228–73 is removed.

■ 90. In section 1852.231–71, paragraph (d) is revised to read as follows:

1852.231–71 Determination of Compensation Reasonableness.

* * * * *

DETERMINATION OF COMPENSATION REASONABLENESS (MONTH/YEAR)

* * * * *

(d) The offeror shall require all service subcontractors provide, as part of their proposal, the information identified in (a) through (c) of this provision for cost reimbursement or non-competitive fixed-price type subcontracts having a total potential value expected to exceed the threshold for requiring certified cost or pricing data as set forth in FAR 15.403–4.

(End of provision)

■ 91. In section 1852.232–70, paragraphs (a)(2) and (c)(3) are revised to read as follows:

1852.232–70 NASA Modification of FAR 52.232–12.

* * * * *

NASA Modification of FAR 52.232–12 (Month/Year)

(a) * * *

(2) In paragraph (m)(1), delete ''in the form prescribed by the administering office'' and substitute ''and Standard Form 425, Federal Financial Report.''

* * * * *

(c) * * *

(3) In paragraph (j)(1), insert between ''statements,'' and ''and'' ''together with Standard Form 425, Federal Financial Report''.

* * * * *

■ 92. Section 1852.234–1 is amended as follows:

■ a. Paragraph (a) is amended by adding the phrase ''(current version at time of solicitation)'' after the word ''Systems'' at the end of the paragraph.

■ b. Paragraph (b)(1)(iii) and paragraph (b)(1)(vii) are revised.

The revisions read as follows:

1852.234–1 Notice of Earned Value Management System.

(b) * * *

(1) * * *

(iii) Provide a matrix that correlates each guideline in ANSI/EIA 748 (current version at time of solicitation) to the corresponding process in the offeror's written management procedures;

* * * * *

(vii) If the value of the offeror's proposal, including options, is $50 million or more, provide a schedule of events leading up to formal validation and Government acceptance of the Contractor's EVMS. Guidance can be found in the] Department of Defense Earned Value Management Implementation Guide (*https://acc.dau.mil/CommunityBrowser.aspx?id=19557*) as well as in the National Defense Industrial Association (NDIA) Earned Value Management Systems Acceptance Guide (*http://www.ndia.org/divisions/divisions/procurement/pages/programsystemcommittee.aspx*).

* * * * *

■ 93. Section 1852.234–2 is amended as follows:

■ a. Paragraph (a)(2) is revised.

■ b. The first sentence in paragraph (b) is amended by removing the phrase ''cost/schedule control system'' and adding ''EVMS'' in its place;

■ c. Paragraph (c) is amended by adding a sentence at the end of the paragraph.

The revision and addition read as follows:

1852.234–2 Earned Value Management System.

(a) * * *

(2) Earned Value Management (EVM) procedures that provide for generation of timely, accurate, reliable, and traceable information for the Contract Performance Report (CPR) and the Integrated Master Schedule (IMS) required by the data requirements descriptions in the contract.

* * * * *

(c) * * * See the NASA IBR Handbook (*http://evm.nasa.gov/handbooks.html*) for guidance.

* * * * *

1852.237–72 and 1852.237–73 [Removed and Reserved]

■ 94. Sections 1852.237–72 and 1852.237–73 are removed.

1852.241–70 [Removed and Reserved]

■ 95. Remove and reserve section 1852.241–70.

1852.242–70 [Amended]

■ 96. Section 1852.242–70 is removed

■ 97. In section 1852.246–72, paragraph (a) is revised to read as follows:

1852.246–72 Material Inspection and Receiving Report.

* * * * *

(a) At the time of each delivery to the Government under this contract, the Contractor shall prepare and furnish a Material Inspection and Receiving Report (DD Form 250 series). The form(s) shall be prepared and distributed as follows:
((Insert number of copies and distribution instructions.) _____

* * * * *

(End of clause)

1852.249–72 [Removed]

■ 98. Section 1852.249–72 is removed.

[FR Doc. 2015–04228 Filed 3–11–15; 8:45 am]

BILLING CODE 7510–13–P

Proposed Rules

Federal Register
Vol. 80, No. 48
Thursday, March 12, 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 AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS–2014–0041]

RIN 0579–AE01

Importation of Orchids in Growing Media From Taiwan

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: We are reopening the comment period for our proposed rule that would amend the regulations governing the importation of plants and plant products to add orchid plants of the genus *Oncidium* from Taiwan to the list of plants that may be imported into the United States in an approved growing medium, subject to specified growing, inspection, and certification requirements. This action will allow interested persons additional time to prepare and submit comments.

DATES: The comment period for the proposed rule published on December 3, 2014 (79 FR 71703–71705) is reopened. We will consider all comments that we receive on or before March 18, 2015.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2014-0041.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2014–0041, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2014-0041* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Ms. Heather Coady, Regulatory Policy Specialist, Plants for Planting Policy, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737; (301) 851–2076.

SUPPLEMENTARY INFORMATION: On December 3, 2014, we published in the **Federal Register** (79 FR 71703–71705, Docket No. APHIS–2014–0041) a proposal to amend the regulations in 7 CFR 319.37–8(e) by adding *Oncidium* spp. from Taiwan to the list of plants established in an approved growing medium that may be imported into the United States.

Comments on the proposed rule were required to be received on or before February 2, 2015. We are reopening the comment period on Docket No. APHIS–2014–0041 for an additional 45 days. We will also accept all comments received between February 3, 2015 (the day after the close of the original comment period) and the date of this notice. This action will allow interested persons additional time to prepare and submit comments.

Authority: 7 U.S.C. 450, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

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

Kevin Shea

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2015–05659 Filed 3–11–15; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–0247; Directorate Identifier 2014–NM–178–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 777–200 and –300 series airplanes equipped with Rolls-Royce Trent 800 series engines. This proposed AD was prompted by a report of multiple cases of heat damage to the strut aft fairing heat shield primary seal, as well as heat and wear damage to the heat shield insulation blankets. This proposed AD would require repetitive inspections for heat damage to the strut aft fairing lower spar web structure (a flammable fluid zone barrier and fire wall) and heat shield primary seal, and heat and wear damage to heat shield insulation blankets; and related investigative and corrective actions if necessary. This proposed AD would also provide optional terminating action for the repetitive inspections. We are proposing this AD to detect and correct heat damage to the strut aft fairing lower spar web structure and heat shield primary seal, as well as heat and wear damage to the heat shield insulation blankets, which could lead to through-cracks in the aft fairing web structure and heating of the aft fairing web structure, and consequent uncontrolled fire in the aft fairing, fuel tank ignition or possible departure of the engine, and subsequent loss of the airplane.

DATES: We must receive comments on this proposed AD by April 27, 2015.

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

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

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

the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *https://www.regulations.gov* by searching and locating Docket No. FAA–2015–0247.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0247; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT:

Kevin Nguyen, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6501; fax: 425–917–6590; email: *kevin.nguyen@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2015–0247; Directorate Identifier 2014–NM–178–AD at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

We have received a report of multiple cases of heat damage to the strut aft fairing heat shield primary seals, as well as heat and wear damage to the heat shield insulation blankets. Improper design of the strut aft fairing #1 heat shield (a titanium pan casting) and #1 heat shield insulation blanket allows hot turbulent gas from the exhaust nozzle to wear and cause degradation of the front face of the #1 insulation blankets and flow into the heat shield cavity, the space or cavity between the heat shields and insulation blankets, and the strut aft fairing lower spar web structure. Continuous exposure to hot turbulent gas further damages the primary seal and #1 insulation blanket, increases the temperature in the heat shield cavity, and can damage all insulation blankets and lower web structure.

The insulation blankets are attached underneath the lower spar web structure and are intended to protect the web from hot exhaust gas. The insulation blankets were not originally designed to withstand additional hot gas exposure, and consequently are unable to adequately protect the lower web structure. The strut aft fairing lower spar web structure is made of aluminum and designed to be a flammable fluid zone barrier and firewall, as part of the aft fairing fire protection system.

Insufficient thermal protection and continuous exposure to hot gases and elevated temperatures can degrade the lower spar web structure material property. The heat-damaged web structures could become annealed and cracked from fatigue, compromising the firewall and allowing flammable fluids to leak onto the high-temperature heat shield, initiate a fire, and cause an uncontained fire in the aft fairing, potentially leading to fire in the wing tank. An uncontained fire in the aft fairing can weaken the diagonal brace and lower wing skin, which are primary structural elements that carry and support engine loads. This condition, if not corrected, could result in through-cracks in the aft fairing web structure and heating of the aft fairing web structure, and consequent uncontrolled fire in the aft fairing, fuel tank ignition or possible departure of the engine.

Related Service Information Under 1 CFR Part 51

We reviewed the following service information:

- Boeing Service Bulletin 777–54A0031, Revision 1, dated May 9, 2014.
- Boeing Service Bulletin 777–54–0030, dated May 27, 2014.

The service information describes procedures for repetitive inspections for heat damage to the strut aft fairing lower spar web structure (a flammable fluid zone barrier and fire wall) and heat shield primary seal, and heat and wear damage to heat shield insulation blankets; and related investigative and corrective actions. For information on the procedures and compliance times, see this service information. This service information is reasonably available; see **ADDRESSES** for ways to access this service information.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in the service information described previously.

The phrase ''related investigative actions'' is used in this proposed AD. ''Related investigative actions'' are follow-on actions that (1) are related to the primary actions, and (2) further investigate the nature of any condition found. Related investigative actions in an AD could include, for example, inspections.

The phrase ''corrective actions'' is used in this proposed AD. ''Corrective actions'' are actions that correct or address any condition found. Corrective actions in an AD could include, for example, repairs.

Costs of Compliance

We estimate that this proposed AD affects 57 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspections	40 work-hours × $85 per hour = $3,400 per inspection cycle.	$0	$3,400 per inspection cycle.	$193,800 per inspection cycle.

We estimate the following costs to do any necessary replacements that would be required based on the results of the proposed inspection. We have no way of determining the number of airplanes that might need these replacements:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Heat shield primary seal replacement	10 work-hours × $85 per hour = $850	$1,940	$2,790
Cracked or damaged parts replacement	110 work-hours × $85 per hour = $9,350	52,992	62,342

According to the manufacturer, some of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2015–0247; Directorate Identifier 2014–NM–178–AD.

(a) Comments Due Date

We must receive comments by April 27, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 777–200 and –300 series airplanes equipped with Rolls-Royce Trent 800 series engines, certificated in any category, as identified in Boeing Service Bulletin 777–54A0031, Revision 1, dated May 9, 2014.

(d) Subject

Air Transport Association (ATA) of America Code 54, Nacelles/Pylons.

(e) Unsafe Condition

This AD was prompted by reports of heat damage to the strut aft fairing heat shield primary seal, as well as heat and wear damage to the heat shield insulation blankets. We are issuing this AD to detect and correct heat damage to the strut aft fairing lower spar web structure (a flammable fluid zone barrier and fire wall) and heat shield primary seal, as well as heat and wear damage to the heat shield insulation blankets, which could lead to through-cracks in the aft fairing web structure and heating of the aft fairing web structure, and consequent uncontrolled fire in the aft fairing, fuel tank ignition or possible departure of the engine.

(f) Compliance

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

(g) Repetitive Inspections

At the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Service Bulletin 777–54A0031, Revision 1, dated May 9, 2014, except as required by paragraph (i) of this AD: Do the inspections specified in paragraphs (g)(1), (g)(2), and (g)(3) of this AD, and do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 777–54A0031, Revision 1, dated May 9, 2014. Do all applicable related investigative and corrective actions before further flight. Repeat the inspections specified in paragraphs (g)(1), (g)(2), and (g)(3) of this AD at the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Service Bulletin 777–54A0031, Revision 1, dated May 9, 2014.

(1) Do a detailed inspection for cracks and heat damage of the aft fairing lower spar upper surface.

(2) Do a conductivity inspection for heat damage of the aft fairing lower spar upper surface.

(3) Do a detailed inspection for wear of the heat shield primary seal.

(h) Optional Terminating Action

The concurrent accomplishment of the actions specified in paragraphs (h)(1) and (h)(2) of this AD terminates the requirements of paragraph (g) of this AD.

(1) Replacement of all heat shield insulation blankets (rub strips, heat shield pan casting, Velcro strips, aft fairing web drain sump, drain screen, and drain tubes, as applicable) in accordance with the Accomplishment Instructions of Boeing Service Bulletin 777–54–0030, dated May 27, 2014.

(2) A one-time detailed inspection for cracks and heat damage of the aft fairing lower spar upper surface, conductivity inspection for heat damage of the aft fairing lower spar upper surface, and detailed inspection for wear of heat shield primary seal, and all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 777–54A0031, Revision 1, dated May 9, 2014, provided all applicable

related investigative and corrective actions are done before further flight.

(i) Exception to Service Information Specifications

Where Boeing Service Bulletin 777–54A0031, Revision 1, dated May 9, 2014, specifies a compliance time ''After the Original Issue Date of this Service Bulletin,'' this AD requires compliance within the specified compliance time after the effective date of this AD.

(j) Credit for Previous Actions

This paragraph provides credit for the actions specified in paragraphs (g)(1), (g)(2), (g)(3) and (h)(2) of this AD, if those actions were performed before the effective date of this AD using Boeing Alert Service Bulletin 777–54A0031, dated June 7, 2013.

(k) Alternative Methods of Compliance (AMOCs)

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

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

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

(l) Related Information

(1) For more information about this AD, contact Kevin Nguyen, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6501; fax: 425–917–6590; email: *kevin.nguyen@faa.gov.*

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

Issued in Renton, Washington, on February 19, 2015.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–05032 Filed 3–11–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

20 CFR Parts 702 and 703

RIN 1240–AA09

Longshore and Harbor Workers' Compensation Act: Transmission of Documents and Information

AGENCY: Office of Workers' Compensation Programs, Labor.

ACTION: Notice of proposed rulemaking; request for comments.

SUMMARY: Parties to claims arising under the Longshore and Harbor Workers' Compensation Act and its extensions (LHWCA or Act) and entities required to have insurance pursuant to the Act frequently correspond with the Office of Workers' Compensation Programs (OWCP) and each other. The current regulations require that some of these communications be made in paper form via a specific delivery mechanism such as certified mail, U.S. mail or hand delivery. As technologies improve, other means of communication—including electronic methods—may be more efficient and cost-effective. Accordingly, this proposed rule would broaden the acceptable methods by which claimants, employers, and insurers can communicate with OWCP and each other.

DATES: Comments on this proposed rule must be received by midnight Eastern Standard Time on May 11, 2015.

ADDRESSES: You may submit written comments, identified by RIN number 1240–AA09, by any of the following methods.

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions on the Web site for submitting comments. To facilitate receipt and processing of comments, OWCP encourages interested parties to submit their comments electronically.
- *Fax:* (202) 693–1380 (this is not a toll-free number). Only comments of ten or fewer pages, including a Fax cover sheet and attachments, if any, will be accepted by Fax.
- *Regular Mail:* Division of Longshore and Harbor Workers' Compensation, Office of Workers' Compensation Programs, U.S. Department of Labor, Suite C–4319, 200 Constitution Avenue NW., Washington, DC 20210. The Department's receipt of U.S. mail may be significantly delayed due to security procedures. You must take this into consideration when preparing to meet the deadline for submitting comments.
- *Hand Delivery/Courier:* Division of Longshore and Harbor Workers' Compensation, Office of Workers' Compensation Programs, U.S. Department of Labor, Suite C–4319, 200 Constitution Avenue NW., Washington, DC 20210.

Instructions: All submissions received must include the agency name and the Regulatory Information Number (RIN) for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Antonio Rios, Director, Division of Longshore and Harbor Workers' Compensation, Office of Workers' Compensation Programs, U.S. Department of Labor, Suite C–4319, 200 Constitution Avenue NW., Washington, DC 20210. Telephone: (202) 693–0038 (this is not a toll-free number). TTY/TDD callers may dial toll-free 1–877–889–5627 for further information.

SUPPLEMENTARY INFORMATION:

I. Proposed Rule Published Concurrently With Companion Direct Final Rule

In the Final Rules section of this **Federal Register** edition, OWCP is simultaneously publishing an identical rule as a ''direct final'' rule. In direct final rulemaking, an agency publishes a direct final rule in the **Federal Register** with a statement that the rule will go into effect unless the agency receives significant adverse comment within a specified period. The agency concurrently publishes an identical proposed rule. If the agency receives no significant adverse comment in response to the direct final rule, the rule goes into effect. If the agency receives significant adverse comment, the agency withdraws the direct final rule and treats such comment as submissions on the proposed rule. An agency typically uses direct final rulemaking when it anticipates the rule will be non-controversial.

OWCP has determined that this rule, which modifies the existing regulations to facilitate the exchange of documents

and information, is suitable for direct final rulemaking. The rule expands the methods by which employers, claimants, insurers, and OWCP can transmit documents and information to each other; the rule does not eliminate current methods. Thus, OWCP does not expect to receive significant adverse comment on this rule.

By simultaneously publishing this proposed rule, notice-and-comment rulemaking will be expedited if OWCP receives significant adverse comment and withdraws the direct final rule. The proposed and direct final rules are substantively identical, and their respective comment periods run concurrently. OWCP will treat comment received on the proposed rule as comment regarding the companion direct final rule and vice versa. Thus, if OWCP receives significant adverse comment on either this proposed rule or the companion direct final rule, OWCP will publish a **Federal Register** notice withdrawing the direct final rule and will proceed with this proposed rule.

For purposes of the direct final rule, a significant adverse comment is one that explains: (1) Why the rule is inappropriate, including challenges to the rule's underlying premise or approach; or (2) why the direct final rule will be ineffective or unacceptable without a change. In determining whether a significant adverse comment necessitates withdrawal of the direct final rule, OWCP will consider whether the comment raises an issue serious enough to warrant a substantive response had it been submitted in a standard notice-and-comment process. A comment recommending an addition to the rule will not be considered significant and adverse unless the comment explains how the direct final rule would be ineffective without the addition.

OWCP requests comments on all issues related to this rule, including economic or other regulatory impacts of this rule on the regulated community. All interested parties should comment at this time because OWCP will not initiate an additional comment period on this proposed rule even if it withdraws the direct final rule.

II. Background of This Rulemaking

The LHWCA, 33 U.S.C. 901–950, establishes a comprehensive federal workers' compensation system for an employee's disability or death arising in the course of covered maritime employment. *Metropolitan Stevedore Co.* v. *Rambo*, 515 U.S. 291, 294 (1995). The Act's provisions have been extended to: (1) Contractors working on military bases or U.S. government contracts outside the United States (Defense Base Act, 42 U.S.C. 1651–54); (2) employees of nonappropriated fund instrumentalities (Nonappropriated Fund Instrumentalities Act, 5 U.S.C. 8171–73); (3) employees engaged in operations that extract natural resources from the outer continental shelf (Outer Continental Shelf Lands Act, 43 U.S.C. 1333(b)); and (4) private employees in the District of Columbia injured prior to July 26, 1982 (District of Columbia Workers' Compensation Act of May 17, 1928, Pub. L. 70–419 (formerly codified at 36 DC Code 501 *et seq.* (1973) (repealed 1979)). Consequently, the Act and its extensions cover a broad range of claims for injuries that occur throughout the United States and around the world.

The Department's regulations implementing the LHWCA and its extensions (20 CFR parts 701–704) currently contemplate that private parties and OWCP file and exchange documents only in paper form and, in some instances, require transmission via specific methods such as certified mail, U.S. mail, or hand delivery. Because many of these procedural rules were last amended in 1985 and 1986, *see* 51 FR 4270 (February 3, 1986); 50 FR 384 (January 3, 1985), they do not address whether the parties or OWCP may use electronic communication methods (*e.g.*, facsimile, email, web portal) or commercial delivery services (*e.g.*, United Parcel Service, Federal Express). These communication methods have now become ubiquitous and are routinely relied upon by individuals, businesses, and government agencies alike.

Recently, OWCP has been employing electronic technology to improve the program's administration. In 2009, OWCP began accepting reports of insurance coverage electronically. *See* Notice from Chief, Branch of Financial Management, Insurance and Assessments (December 2, 2009) *http://www.regulations.gov* (docket folder for RIN 1240–AA09); Industry Notice No. 138 (January 3, 2012) *http://www.dol.gov/owcp/dlhwc/lsindustrynotices/industrynotice138.htm.* In 2013, OWCP began creating electronic case files for all new LHWCA cases. *See* LHWCA Bulletin No. 14–03 (November 26, 2013), *http://www.dol.gov/owcp/dlhwc/LSBulletin14–03.pdf.* And in 2014, OWCP launched SEAPortal, a Web-based electronic portal that parties may use to submit case-specific documents to OWCP. *See* Industry Notice No. 148 (October 31, 2014), *http://www.dol.gov/owcp/dlhwc/lsindustrynotices/industrynotice148.pdf.* These advancements have enhanced claims administration within OWCP and the parties' ability to submit documents to OWCP. But they do not adequately expand the methods employers, claimants, insurers, and OWCP may use to transmit documents and information to each other.

Consistent with other workers' compensation schemes, the LHWCA provides ''limited liability for employers'' and ''certain, prompt recovery for employees.'' *Roberts* v. *Sea–Land Servs., Inc.,* __U.S. __, 132 S.Ct. 1350, 1354 (2012). These goals are advanced through efficient and effective communications between the private parties and OWCP. The Department thus proposes to revise the regulations to: (1) Remove bars to using electronic and other commonly used communication methods wherever possible; (2) provide flexibility for OWCP to allow the use of technological advances in the future; and (3) ensure that all parties remain adequately apprised of claim proceedings.

Because the proposed revisions are procedural in nature, the Department intends to apply the rules to all matters pending on the date the rule is effective as well as those that arise thereafter. This will not work a hardship on the private parties or their representatives since, as explained below, the revisions either codify current practice or broaden the methods by which documents and information may be transmitted.

III. Legal Basis for the Rule

Section 39(a) of the LHWCA, 33 U.S.C. 939(a), authorizes the Secretary of Labor to prescribe all rules and regulations necessary for the administration and enforcement of the Act and its extensions. The LHWCA also grants the Secretary authority to determine by regulation how certain statutory notice and filing requirements are met. *See* 33 U.S.C. 907(j)(1) (the Secretary is authorized to ''make rules and regulations and to establish procedures'' regarding debarment of physicians and health care providers under 33 U.S.C. 907(c)); 33 U.S.C. 912(c) (employer must notify employees of the official designated to receive notices of injury ''in a manner prescribed by the Secretary in regulations''); 33 U.S.C. 919(a) (claim for compensation may be filed ''in accordance with regulations prescribed by the Secretary''); 33 U.S.C. 919(b) (notice of claim to be made ''in accordance with regulations prescribed by the Secretary''); 33 U.S.C. 935 (''the Secretary shall by regulation provide for the discharge, by the carrier,'' of the employer's liabilities under the Act). The rules proposed below fall well

within these statutory grants of authority.

In developing these rules, the Department has also considered the principles underlying two additional statutes: The Government Paperwork Elimination Act (GPEA), 44 U.S.C. 3504, and the Electronic Signatures in Global and National Commerce Act (E–SIGN), 15 U.S.C. 7001 *et seq.* GPEA requires agencies, when practicable, to store documents electronically and to allow individuals and entities to communicate with agencies electronically. It also provides that electronic documents and signatures will not be denied legal effect merely because of their electronic form. Similarly, E–SIGN generally provides that electronic documents have the same legal effect as their hard copy counterparts and allows electronic records to be used in place of hard copy documents with appropriate safeguards. 15 U.S.C. 7001. Under E–SIGN, federal agencies retain the authority to specify the means by which they receive documents, 15 U.S.C. 7004(a), and to modify the disclosures required by Section 101(c), 15 U.S.C. 7001(c), under appropriate circumstances. The rules proposed below are consistent with and further the purposes of GPEA and E–SIGN.

IV. Proposed Rule

A. General Provisions

The Department is proposing several general revisions to advance the goals set forth in Executive Order 13563 (January 18, 2011). That Order states that regulations must be ''accessible, consistent, written in plain language, and easy to understand.'' 76 FR 3821; *see also* E.O. 12866, 58 FR 51735 (September 30, 1993) (''Each agency shall draft its regulations to be simple and easy to understand, with the goal of minimizing the potential for uncertainty and litigation arising from such uncertainty.''). Accordingly, the Department proposes to remove the imprecise term ''shall'' throughout those sections it is amending and substitute ''must,'' ''must not,'' ''will,'' or other situation-appropriate terms. These changes are designed to make the regulations clearer and more user-friendly. *See generally* Federal Plain Language Guidelines, *http://www.plainlanguage.gov/howto/guidelines.*

Executive Order 13563 also instructs agencies to review ''rules that may be outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them.'' As a result, the Department proposes to cease publication of two rules that are obsolete or unnecessary. These rules are set forth in the Section-by-Section Explanation below.

B. Section-by-Section Explanation

20 CFR 702.101 Exchange of documents and information.

This proposed section is new. It sets out general rules for transmitting documents and information that apply except when another rule or OWCP requires a specific form of communication.

Paragraph (a) specifies the methods by which documents and information must be sent to OWCP. Paragraph (a)(1) specifies that hard copy documents and information must be submitted by postal mail, commercial delivery service, or delivered by hand. Paragraph (a)(2) specifies that electronic documents and information must be submitted through an electronic system that has been authorized by OWCP. OWCP's SEAPortal is an example of such a system. Paragraph (a)(3) recognizes that occasions may arise where transmission methods other than those enumerated would be preferable and provides that additional methods may be used when allowed by OWCP.

Paragraph (b) specifies the methods by which documents and information must be sent from OWCP to parties and their representatives or exchanged between parties and party representatives. Paragraph (b)(1) specifies that hard copy documents must be sent or exchanged by postal mail, commercial delivery service, or hand delivery. Paragraph (b)(2) specifies that documents and information can be sent or exchanged electronically, but only if they are sent through a reliable method and the receiving party agrees in writing to accept electronic transmission by the particular method used. Requiring written confirmation protects all parties and representatives from misunderstandings about service and ensures that the recipient has the technology necessary to receive documents by the selected method. The Department does not intend that this process be overly formalistic; a letter, email or other writing memorializing the receiving party's agreement would be sufficient to satisfy the regulatory requirement. A party's agreement to receive documents or information electronically, although required before a sender can elect to use an electronic transmission method, does not obligate the sender to use an electronic transmission method. Finally, paragraph (b)(3) specifies that documents and information can be sent or exchanged through any OWCP-authorized electronic system that allows for service of documents. Although not currently available, this provision is added for use in the event OWCP adopts such a system in the future.

Paragraph (c) provides a non-exhaustive list of reliable electronic transmission methods.

Paragraph (d) specifies that parties or representatives who agree to receive documents electronically in accordance with paragraph (b)(2) can revoke their agreement by giving written notice to the person or entity with whom they initially agreed to receive documents electronically. For example, if a claimant's legal representative no longer wishes to receive documents electronically from the employer's attorney, the representative can revoke the agreement by simply notifying opposing counsel in writing. Similarly, if a *pro se* claimant initially agrees to receive documents electronically from OWCP, he or she may terminate that agreement by sending a letter or some other form of writing to OWCP. As with the procedure for agreeing to electronic service, the Department does not intend this procedure to be overly formalistic.

Paragraph (e) recognizes that the Longshore regulations use various terms to describe the process of exchanging documents and information with OWCP and between parties. It provides that paragraphs (a) through (d) apply when those terms are used.

Paragraph (f) clarifies that references to documents include both electronic and hard copy documents.

Paragraph (g) explains that a requirement that something be in writing, signed, certified, or executed does not presuppose that the document must be in hard copy.

Paragraph (h) states that an entity's address may include its electronic address or web portal.

Finally, paragraphs (i)(1) and (2) clarify that when a document must be sent to a particular district director's office or a district director must take an action with respect to a document in his or her office, the physical or electronic address or file location provided for that district director's office by OWCP rather than that district director's physical location controls. These provisions accommodate the Department's current and anticipated future plans to have most mail for district offices sent to a central mail receipt location and eventually to an electronic location and to handle documents in an electronic case file environment.

20 CFR 702.102 Establishment and modification of compensation districts, establishment of suboffices and jurisdictional areas.

Current § 702.102(a) explains that the Director has established compensation districts as required under the Act and specifies that the Director must notify interested parties ''by mail'' of changes to the compensation districts. Proposed § 701.102(a) removes the phrase ''by mail'' to broaden the methods by which the Director may notify interested parties of a change to the compensation districts.

20 CFR 702.103 Effect of establishment of suboffices and jurisdictional areas.

Current § 702.103 explains that the Director may require claims-related materials to be filed in suboffices. Proposed § 702.103 changes the phrase ''at the suboffice'' to ''with the suboffice'' to reflect that documents being filed with a suboffice will not necessarily be filed at that suboffice per se, but rather will be filed at the physical or electronic address provided by OWCP.

20 CFR 702.104 Transfer of individual case file.

Current § 702.104(b) provides that the district director who is transferring a case to a different district office may give advice, comments, or suggestions to the district director receiving the case. The regulation also specifies that the transfer must be made by registered or certified mail. District directors now have the capacity to transfer many cases by secure electronic means, or may prefer to use a commercial delivery service such as Federal Express or the United Parcel Service. Accordingly, proposed § 702.104 removes the requirement that cases be transferred by registered or certified mail to broaden the methods by which district directors may transfer cases between offices.

20 CFR 702.174 Exemptions; necessary information.

Current § 702.174(b)(1) provides that in cases where the Director approves an employer's application for an exemption from coverage under the Act, the Director shall notify the employer of its exemption by certified mail, return receipt requested. This non-statutory requirement limits the Director's ability to take advantage of other efficient means of service that may be less costly. Accordingly, proposed § 702.174(b)(1) removes the certified mail requirement to broaden the methods by which the Director may notify employers that their application for exemption has been approved. The proposed rule also includes a technical amendment to § 702.174(b)(2) to conform the language regarding notification of a denial of exempt status to the language in revised subsection (b)(1).

20 CFR 702.203 Employer's report; how given.

Current § 702.203 provides that employers must submit their injury reports by delivering or mailing an original and one copy to the office of the district director. The rule implements the statutory directive to employers to ''send to the Secretary a report'' of injury and ''a copy of such report'' to the district director within ten days of an employee's injury or death. 33 U.S.C. 930(a), (b). Although not reflected in the current regulation, the Act also provides that ''mailing'' a report ''in a stamped envelope'' within the ten-day time period satisfies the statute's requirements. 33 U.S.C. 930(d).

Proposed § 702.203 revises the current rule in two ways. First, proposed paragraph (a) eliminates the requirement that employers provide an original and a copy of their injury reports. OWCP has instituted a policy of storing documents electronically; thus, there is no continuing need to submit multiple copies of the same document. Instead, submission of one report to the district director will satisfy the employer's statutory obligation to notify both the Secretary and the district director. Second, proposed paragraph (b) modifies the current regulation to address what actions satisfy the ten-day time period for filing the injury report. Consistent with Section 30(d), proposed paragraph (b) specifies that when sent by U.S. postal mail, an employer's report of injury will be deemed filed on the date mailed. The proposed rule extends this same statutory concept—that an employer meets the reporting obligation when it sends the report, not when the report is received by OWCP—to commercial delivery services and electronic filings. Thus, the rule provides that the report will be considered filed on the date given to a commercial delivery service or, when sent by permissible electronic means, the date the employer completes all steps necessary for electronic delivery.

20 CFR 702.215 Notice; how given.

Current § 702.215 provides that an employee's notice of injury or survivor's notice of death must be given to the employer by hand delivery or by mail. It further provides that notice of an injury may be given to the district director by hand delivery, mail, orally in person, or by telephone. Proposed § 702.215 modifies the current section to allow the use of additional means of providing notice to the employer and to the district director.

For employer notice, the proposed rule allows an employee or survivor to provide notice at the physical or electronic address supplied by the employer. Using the broader ''physical'' address term encompasses the current hand and mail delivery, and expands it to other methods such as a commercial delivery service. And by allowing notice to be delivered to an electronic address, employers will be able to adopt electronic systems (*e.g.*, email, web portal) that may speed the injury reporting process. For district director notice, the proposed regulation provides that the employee's or survivor's notice of injury may be given to the district director by submitting the correct form. Using the word ''submitting'' brings this document within the general transmission rule set forth in proposed 20 CFR 702.101(a), thus implementing the statutory directive that notice be given to the district director ''by delivering it to him or sending it by mail addressed to his office.'' 33 U.S.C. 912(c). The proposed rule retains the option of reporting injuries to the district director either in person or by telephone.

20 CFR 702.224 Claims; notification of employer of filing by employee.

Current § 702.224 requires the district director to give the employer or insurance carrier written notice of claims for compensation served ''personally or by mail.'' This regulation implements the statutory requirement that the district director provide notice of claims to interested parties, which ''may be served personally upon the employer or other person, or sent to such employer or person by registered mail.'' 33 U.S.C. 919(b). Proposed § 702.224 deletes the current rule's reference to specific service methods. Using the phrase ''give notice'' brings the notice within the general transmission rule set forth in proposed 20 CFR 702.101(a), which allows for methods of service beyond mailing and what is traditionally considered personal service. Because the statute uses the permissive term ''may'' in addressing service methods for this notice and does not mandate any particular method, the revision to the proposed rule is also consistent with the statute.

20 CFR 702.234 Report by employer of commencement and suspension of payments.

Current § 702.234 provides that the employer shall immediately notify the district director having jurisdiction over the place where the injury or death occurred when it makes its first payment of compensation or suspends payment of compensation. The Department recognizes that cases are not always adjudicated by the district director who has jurisdiction over the place where the injury or death

occurred. For example, cases may be transferred to a district other than the district where the injury occurred if a worker moves his or her residence to a different compensation district. 20 CFR 702.104. Thus, proposed § 702.234 removes the reference to the district director having jurisdiction over the place where the injury or death occurred and instead directs the employer to notify the district director who is administering the claim.

20 CFR 702.243 Settlement application; how submitted, how approved, how disapproved, criteria.

Current § 702.243(a) requires that settlement applications be sent to the adjudicator by certified mail, return receipt requested, submitted in person, or sent by any other delivery service with proof of delivery to the adjudicator. The Department proposes a modification to this subsection that will explicitly allow parties to submit settlement applications via commercial delivery service with tracking capability or electronically through an OWCP-authorized system.

Current § 702.243(c) requires that when the adjudicator disapproves a settlement application, he or she must serve a disapproval letter or order on the parties by certified mail. This requirement both limits the adjudicator's ability to take advantage of more efficient means of service and imposes an unnecessary expense. Accordingly, the Department proposes to remove the requirement that notice be sent by certified mail in order to broaden the methods by which adjudicators may notify parties that their settlement applications have been disapproved.

20 CFR 702.251 Employer's controversion of the right to compensation.

Current § 702.251 requires that employers notify the district director of their election to controvert a claim by sending the ''original notice'' of controversion form to the district director and a copy to the claimant. By requiring the ''original'' form, the regulation implies that the employer must deliver a hard copy form bearing its authorized signature in ink. There is no statutory requirement that an employer submit an original form in that manner and requiring the employer to do so by regulation unduly limits the means by which the employer would otherwise be permitted to submit the form. For example, OWCP has instituted a policy of accepting case-related documents electronically through its web portal. Further, OWCP now scans and electronically stores the documents it receives, so the ''original'' document submitted by the employer would not be retained in hard copy. For these reasons, there is no need to require employers to send an ''original'' document to the district director. Thus, proposed § 702.251 omits the requirement that an original document be provided.

20 CFR 702.261 Claimant's contest of actions taken by employer or carrier with respect to the claim.

Current § 702.261 provides that a claimant who contests a reduction, termination, or suspension of benefits by the employer or carrier must notify the office of the district director having jurisdiction either in person or in writing and explain the basis for his or her complaint. Proposed § 702.101 specifies the methods by which the claimant can provide documents or information to OWCP, and there is no statutory requirement pertaining to claimants' contests of employer or carrier action that justifies treating transmission of this type of information differently. Accordingly, proposed § 702.261 eliminates the requirement that notice be given in person or in writing. In addition, the proposed rule substitutes the phrase ''the district director who is administering the claim'' for the phrase ''the district director having jurisdiction.'' As noted, claims are not always handled by the district director for the district where the injury or death occurred. *See* 20 CFR 702.104. To clarify the regulation, proposed § 702.234 directs the claimant to notify the district director who is administering the claim when he or she wishes to contest the employer's or carrier's actions.

20 CFR 702.272 Informal recommendation by district director.

Current § 702.272 concerns informal recommendations by the district director regarding claims of improper discharge or discrimination against employees who seek compensation under the Act or testify in a compensation claim under the Act. Paragraph (a) provides that where the employee and employer agree to the district director's recommendation, that recommendation shall be incorporated into an order and mailed to the parties. The Department proposes to remove the reference to service by mail and instead indicate that service should be accomplished under the same procedures that govern service of compensation orders under § 702.349.

Current § 702.272(b) provides that where the parties do not agree to the district director's recommendation, the director must ''mail'' a memorandum to the parties that summarizes the disagreement. This requirement precludes the Director from using other methods of service. Accordingly, the Department proposes to delete the word ''mail'' and replace it with the word ''send'' so that delivery of the memorandum is governed by the general rule in proposed § 702.101.

20 CFR 702.281 Third party action.

Current § 702.281(b) provides that in order for an employee to settle a claim with a third party for an amount less than the employee would receive under the Act, the employee must first receive prior written approval from the employer and the employer's carrier. That approval must be filed with the district director with jurisdiction where the injury occurred. As noted, claims are not always handled by the district director for the district where the injury or death occurred. *See* 20 CFR 702.104. Thus, proposed § 702.281(b) directs that the approval be filed with the district director who is administering the claim.

20 CFR 702.315 Conclusion of conference; agreement on all matters with respect to the claim.

Current § 702.315(a) provides that when an informal conference results in a formal compensation order, the order must be ''filed and mailed in accordance with § 702.349.'' This rule also provides that when the problem considered is resolved by telephone or by exchange of written correspondence, the parties shall be notified by the same method through which agreement was reached, and the district director will also issue a memorandum or order setting forth the agreed terms. Proposed § 702.315(a) revises the rule in two ways. First, the proposed rule substitutes the phrase ''filed and served'' for ''filed and mailed'' to conform the language to the proposed addition of § 702.349(b), which would allow parties and their representatives to waive registered and certified mail service of compensation orders. Second, to allow more flexibility, proposed § 702.315(a) eliminates the requirement that the district director use the same method to communicate the results of the conference but preserves the authority to communicate those results by telephone.

20 CFR 702.317 Preparation and transfer of the case for hearing.

Current § 702.317 provides rules for transferring a case from the district director's office to the Office of Administrative Law Judges (OALJ) for hearing. When the district director receives pre-hearing statement forms from the parties and determines that no further conferences will help resolve the dispute, § 702.317(c) instructs the district director to transmit the pre-hearing statements, a transmittal letter, and certain other evidence to OALJ.

Paragraph (c) excepts from this requirement materials ''not suitable for mailing.'' To avoid any implication that these documents must be mailed between the district director and OALJ rather than transmitted by some other method (*e.g.,* commercial delivery service, electronically), the Department proposes to substitute the term ''transmission'' for ''mailing'' in paragraph (c).

20 CFR 702.319 Obtaining documents from the administrative file for reintroduction at formal hearings.

Current § 702.319 provides that upon receipt of a request for a document from the administrative file, the district director shall give the original document to the requester and retain a copy in the file. OWCP has instituted a policy of storing documents electronically rendering it unable to send requesters original documents. A properly reproduced copy of the electronically stored document can be used in adjudicative proceedings. *See United States* v. *Hampton,* 464 F.3d 687, 690 (7th Cir. 2006) (holding that copies of documents are admissible to the same extent as the original documents unless there is an issue with the authenticity of the original); *United States* v. *Georgalis,* 631 F.2d 1199, 1205 (5th Cir. 1980) (''A duplicate may be admitted into evidence unless . . . there is a genuine issue as to the authenticity of the unintroduced original, or as to the trustworthiness of the duplicate. . .''). Accordingly, proposed § 702.319 specifies that the district director will send a copy of the requested document(s) to the requester and retain a copy of the record request and a statement of whether it has been satisfied in the administrative file.

20 CFR 702.321 Procedures for determining applicability of section 8(f) of the Act.

Current § 702.321(a)(1) requires employers or carriers who file applications under Section 8(f) of the Act to file those applications in duplicate. As OWCP has instituted a policy of storing documents electronically, there is no continuing need to file multiple copies of the same document. Accordingly, the Department proposes to delete this requirement from § 702.321(a)(1). The Department also proposes eliminating the mid-paragraph numbering in this provision. This technical change is made to conform to the current formatting rules of the Office of the Federal Register.

20 CFR 702.349 Formal hearings; filing and mailing of compensation orders; disposition of transcripts.

Current § 702.349 provides that at the conclusion of the administrative hearing, the administrative law judge shall deliver the administrative record ''by mail or otherwise'' to the district director that had original jurisdiction over the case. As noted above, cases are not always administered by the district director who has ''original'' jurisdiction over the controversy. For example, cases may be transferred to a district other than the district where the injury occurred if a worker moves his or her residence to a different compensation district. *See* 20 CFR 702.104. Thus, the Department proposes removing the reference to the district director that had original jurisdiction and instead directing the administrative law judge to forward the record to the district director who administered the case.

The proposed rule makes two additional revisions to the existing language designed to accommodate transmission of decisions and case records electronically between OWCP and the Office of Administrative Law Judges. First, the proposed rule eliminates the language that the case record be sent to the district director ''together with'' a signed compensation order. Currently, the Office of Administrative Law Judges does not always transmit the full case record at the same time as the compensation order. Moreover, OWCP also anticipates that, as an intermediate step to transitioning to a full electronic case file environment, a system may be adopted for administrative law judge decisions to be transmitted electronically to OWCP for filing and service. Second, the proposed rule eliminates reference to the ''original'' compensation order in anticipation of future expansion of the electronic case file system. The term ''original'' implies that the district director must file a paper copy of a compensation order. This process may not be required in a full electronic case file environment.

The Department also proposes adding a new paragraph (b) to this section that allows parties and their representatives to receive compensation orders by other service methods in cases where they explicitly waive service by registered or certified mail. Under Section 19(e) of the Act, 33 U.S.C. 919(e), all parties have the right to be served with a compensation order via registered or certified mail (at OWCP's option). By practice, OWCP has extended this service to the parties' representatives. *See* 20 CFR 702.349. Service via registered or certified mail has many benefits, but unlike electronic service, it cannot be accomplished immediately. Several days will generally elapse between the date that an order is mailed by the district director and the date the parties receive it. Some parties and their representatives have requested that the Department begin serving compensation orders immediately by electronic means.

The right to registered or certified mail service of compensation orders is a personal right that is conveyed by the Act. But there is no indication in the Act that the right to registered or certified mail service cannot be waived, *contra* 33 U.S.C. 915(b), 916, and it is generally presumed that statutory rights can be knowingly and voluntarily waived. *See New York* v. *Hill,* 528 U.S. 110, 114 (2000). Accordingly, proposed § 702.349(b) institutes a procedure allowing parties and their representatives who are entitled to registered or certified mail service to waive their right to such service. The waiver applies only to service of compensation orders and does not extend to other documents or information transmitted by OWCP.

Proposed § 702.349(b) provides that a party or their representative can waive registered or certified mail service of compensation orders by filing the appropriate form with the district director that is administering the party's case. Waivers will only be accepted if they are submitted on the proper form, and a separate form must be submitted for each party or representative. Paragraph (b) emphasizes that submission of a completed form constitutes a knowing and voluntary waiver of registered or certified mail service.

Proposed § 702.349(b)(1)–(b)(5) flesh out important details related to the waiver of service by registered or certified mail. Paragraph (b)(1) provides that all parties and representatives must provide a valid electronic address on the waiver form for the service waiver to be effective.

Proposed paragraph (b)(2) provides that parties and their representatives must submit a separate waiver form for each case in which they intend to waive service. Although it is common for certain employers, carriers, and attorneys to have an interest in several Longshore Act cases pending at the same time, the district director will not accept blanket service waivers. This will ensure that the party or representative has in fact waived registered or certified mail service in the particular case. Similarly, proposed paragraph (b)(3) prohibits a party's representative from signing the waiver form on the party's behalf. Instead, to ensure that waivers are knowing and voluntary, the parties themselves must sign the waiver forms.

Proposed paragraph (b)(4) provides that all compensation orders issued after the service waiver form is received will

be served in accordance with the instructions on the form provided by the party or representative. This includes supplementary compensation orders and orders on modification. This paragraph also specifies that individuals must submit another waiver form to change their service address or to revoke the waiver.

Finally, proposed paragraph (b)(5) provides that the district director will serve parties and their representatives by certified mail despite the existence of a waiver form if there is some problem with the service method selected. Thus, for example, the district director will effect service by certified or registered mail if he or she receives an error message when trying to serve a party or representative via email.

20 CFR 702.372 Supplementary compensation orders.

Current § 702.372(b) requires that supplementary compensation orders declaring amounts of compensation in default be served by certified mail on the parties and their representatives. This provision implements Section 18(a) of the Act, which requires that supplementary orders ''be filed in the same manner as the compensation order.'' 33 U.S.C. 918(a). As discussed above, Section 19(e) of the Act requires that compensation orders be filed in the office of the district director, and then served by registered or certified mail. 33 U.S.C. 919(e). The Department proposes redrafting § 702.372(b) to incorporate the filing provisions found in proposed § 702.349. This revision will clarify that supplementary compensation orders must be treated like any other compensation order for purposes of filing and service. In addition, by cross-referencing § 702.349, the Department intends to extend the provisions allowing voluntary waiver of registered or certified mail service in proposed § 702.349(b) to supplementary compensation orders.

20 CFR 702.432 Debarment process.

Current § 702.432(b) provides that when the Director determines that debarment proceedings are appropriate against a physician, health care provider or claims representative, he or she will notify the individual by certified mail, return receipt requested. Similarly, current § 702.432(e) requires that the Director send a copy of his or her decision regarding debarment to the individual by certified mail, return receipt requested. This method of service is not required by the statute in either instance. And requiring certified mail service both limits the Director's ability to take advantage of electronic means of service and imposes an unnecessary expense. Accordingly, to broaden the methods by which the Director may notify individuals of debarment proceedings and decisions rendered in them, the Department proposes removing the requirement that notice be sent by certified mail with return receipt requested from paragraphs (b) and (e).

20 CFR 702.433 Requests for hearing.

Current § 702.433(b) requires that the administrative law judge who will conduct a hearing regarding debarment serve a copy of a notice of hearing on the individual who may be subject to debarment via certified mail, return receipt requested. This method of service is not required by the statute, and it both limits the administrative law judge's ability to take advantage of electronic service methods and imposes an unnecessary expense. Accordingly, proposed § 702.433(b) eliminates the certified mail requirement so as to broaden the means by which the administrative law judge may notify individuals of hearings regarding debarment.

20 CFR 703.2 Forms.

Current § 703.2(a) provides that information sent by insurance carriers and self-insured employers to OWCP pursuant to Part 703 must be submitted on Forms specified by the Director. In order to facilitate the most efficient processing of Part 703 information, proposed § 703.2(a) specifies that the forms must be submitted to OWCP in the manner it specifies.

20 CFR 703.113–703.120 and 703.502 Reporting related to insurance coverage.

This set of regulations governs how matters related to insurance coverage are reported to OWCP and the consequences of those reports. In the past, insurance companies reported issuance of policies and endorsements by filing a Form LS–570 (Carrier's Report of Issuance of Policy) in hard copy with the district director in whose compensation district the insured employer operated. These hard copy reports of insurance were retained in the compensation district because that was the district most likely to use the record. OWCP now stores insurance information electronically in a system maintained by the *Division of Longshore and Harbor Workers' Compensation (DLHWC) in OWCP's national office. This system* is accessible to the district offices. Thus, there is no continuing need for carriers to report insurance information to individual district directors.

To facilitate reporting of insurance information, OWCP began instituting an electronic system for such reports in 2009. *See* Notice from Chief, Branch of Financial Management, Insurance and Assessments (December 2, 2009) *http://www.regulations.gov* (docket folder for RIN 1240–AA09); Industry Notice No. 138 (January 3, 2012) *http://www.dol.gov/owcp/dlhwc/lsindustrynotices/industrynotice138.htm.* Many insurance companies now report coverage, including policy cancellations, to industry data collection organizations (*e.g.*, New York Compensation Rating Board, National Council on Compensation Insurance, Inc.) that, in turn, report the information to DLHWC on the carriers' behalf. DLHWC receives that information via a daily electronic data interchange with the data collection organizations and places it in a centralized electronic repository that the individual district directors can access immediately. It is common practice in the insurance industry to provide this sort of information electronically, and many carriers have been voluntarily reporting coverage under the Act and its extensions to DLHWC electronically for several years now. The system has proven to be efficient and preferable for both OWCP and the reporting carriers who use it. Centralized reporting also reduces the recordkeeping burden on the district offices, thereby freeing up resources for claims administration.

For these reasons, the proposed rule eliminates those provisions that require insurance companies to report coverage to individual district directors. In addition, the proposed rules are drafted broadly to accommodate future methods of electronic reporting that OWCP may choose to adopt. Although OWCP prefers receiving insurance information electronically, the proposed rules do not require carriers to report electronically. Carriers can still fulfill their reporting obligations by submitting Form LS–570 to DLHWC.

Section 703.113 allows for a longshoremen's policy or endorsement to specify the particular vessel(s) to which it applies. It provides that the carrier shall send the report of issuance of a policy or endorsement that is required by § 703.116 to the district director for the compensation district where the vessel(s)' home port is located. To conform this regulation to the centralized reporting system, proposed § 703.113 replaces references to the district director with references to DLHWC.

Section 703.114 provides that cancellation of a contract or policy of insurance will not be effective unless done in compliance with Section 36(b) of the Act, which requires that insurance providers send a notice of cancellation to the district director and

the employer 30 days prior to the date that a policy termination is effective. *See* 33 U.S.C. 936(b). The Act also requires that the notice be in writing and given to the district director ''by delivering it to him or sending it by mail addressed to his office, and to the employer by delivering it to him or by sending it by mail addressed to him at his last known place of business.'' 33 U.S.C. 912(c); *see also* 33 U.S.C. 936(b).

The proposed rule specifies the methods an insurer can use to give notice of cancellation. For notice to the district director, the proposed rule allows insurers to report cancellations to DLHWC either in a manner prescribed under proposed § 702.101(a) or in the same manner as they report coverage under § 703.116 (including, where applicable, through industry data collection organizations). Reporting through these established channels satisfies the statutory requirement that notice be delivered to the district director. For notice to the employer, the proposed rule requires that the cancellation notice be sent in accordance with the methods set forth in proposed § 702.101(b). Complying with proposed § 702.101(b) satisfies the statutory requirement that the cancellation notice be delivered to the employer. Importantly, an electronic report made to DLHWC does not relieve the carrier of its obligation to also provide written notice of cancellation to the employer. Moreover, the proposed rule retains the statutory requirement that notice to both DLHWC and the employer must be provided 30 days before the cancellation is intended to be effective.

Section 703.116, as currently written, requires insurance carriers to report all policies and endorsements issued by them to employers carrying on business within a compensation district to that particular district director. To conform this regulation to the centralized reporting system, proposed § 703.116 replaces references to the district director with references to DLHWC. In addition, proposed § 703.116 specifically acknowledges that reports made through an OWCP-authorized electronic system, such as an industry data collection organization, satisfy the carrier's reporting obligation. Instructions for submitting coverage information to DLHWC electronically will be posted on OWCP's Web site at *http://www.dol.gov/owcp/dlhwc/carrier.htm.*

Section 703.117 specifies that the report required by § 703.116 must be sent by the insurance carrier's home office or authorized agent. The regulation assumes that such reports will be made to the district director in the compensation district where the employer is located, and requires the carrier to tell the district director which agency is authorized to issue reports on its behalf. To conform this regulation to the centralized reporting system, proposed § 703.117 replaces references to the district director with references to DLHWC.

Section 703.118 provides that all applicants for authority to write insurance under the Act shall be deemed to have agreed to accept full liability for the insured's obligations under the Act. The current regulation presumes that the district director for the compensation district where an insured employer carries on operations will receive and accept the carrier's report of insurance. To conform this regulation to the centralized reporting system, proposed § 703.118 replaces references to the district director with references to DLHWC.

Section 703.119 governs the situation where an employer that is carrying on operations covered by the Act in one compensation district plans to begin operations in a second. The regulation provides that the carrier may submit the report required by § 703.116 to the district director in the new compensation district before the employer has an address in the new district. Because carriers will no longer be expected to provide notice regarding insurance coverage to individual district directors, there is no longer any need for the procedure set forth in current § 703.119. Accordingly, the Department proposes deleting this section.

Section 703.120 provides that a separate report required by § 703.116 must be made for each employer that is covered by a policy. DLHWC is able to automatically extract employer-specific coverage information from most electronic reports that it receives, so this requirement is often unnecessary when coverage is reported electronically. Accordingly, proposed § 703.120 is limited to reports made on Form LS–570 (Carrier's Report of Issuance of Policy.) The current regulation also presumes that the district director for the compensation district where an insured employer carries on operations will receive and accept the carrier's report of insurance. To conform this regulation to the centralized reporting system, proposed § 703.120 replaces references to the district director with references to DLHWC.

Section 703.502 provides that district directors who receive a report of the issuance of a policy that is authorized by current § 703.119 shall file the report until they receive an address for the employer in the new compensation district, at which point they shall issue a certificate of compliance. The Department is deleting current § 703.119 because carriers will no longer be expected to provide notice regarding insurance coverage to individual district directors. Thus, there is no further need for the special procedure laid out in § 703.502. Accordingly, the Department proposes deleting this section.

V. Administrative Law Considerations

A. Information Collection Requirements (Subject to the Paperwork Reduction Act)

The Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.,* and its attendant regulations, 5 CFR part 1320, require that the Department consider the impact of paperwork and other information collection burdens imposed on the public. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the Office of Management and Budget (OMB) under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

If adopted in final, the Transmission of Documents and Information Rule will allow parties to voluntarily waive their statutory right to receive compensation orders by registered or certified mail and to instead receive them by email. *See* 20 CFR 703.349. To implement the waiver process, this rule imposes two new collections of information, OWCP Form LS–801, Waiver of Service by Registered or Certified Mail for Claimants and Authorized Representatives, and OWCP Form LS–802, Waiver of Service by Registered or Certified Mail for Employers and/or Insurance Carriers. The Department has submitted an Information Collection Request (ICR) for both of these new forms under the emergency procedures for review and clearance contained in 5 CFR 1320.13.

The Transmission of Documents and Information Rule does not materially change any other ICR with regard to the information collected, but does change the manner in which forms that collect information may be submitted. Instead of mandating the transmission of information by postal mail, the rule allows OWCP and private parties to use electronic and other commonly used

communication methods. It also provides flexibility for OWCP to allow submission of information using future technologies.

The collection of information requirements are contained within ICRs assigned OMB control numbers: 1240–0003, 1240–0004, 1240–0005, 1240–0014, 1240–0025, 1240–0026, 1240–0029, 1240–0036, 1240–0040, 1240–0041, 1240–0042 and 1240–0043. The regulatory sections specifying the submission procedures are found in paragraphs: 20 CFR 702.111, 702.121, 702.162, 702.174, 702.175, 702.201, 702.202, 702.221, 702.234, 702.235, 702.236, 702.242, 702.251, 702.285, 702.317, 702.321, 702.407, 702.419, 703.116, 703.203, 703.204, 703.205, 703.209, 703.210, 703.212, 703.303 and 703.310.

Although the rule does not eliminate any current methods of submission for these collections, because its allowance of electronic submission will result in mailing cost savings (envelopes and postage), OWCP anticipates some savings for the public. Given the response rate for each of the existing collections, current combined mailing costs are estimated at $113,977. Once the rule becomes final, the Department anticipates a 13% rate of electronic submission, an accompanying reduction in postal mail submission, and a resulting cost savings of $14,817. In the future, as electronic transmission submission options increase and are used more frequently, this savings will likely increase. The Department has submitted a request for a non-substantive change for each existing ICR cited above in order to obtain approval for the changed cost estimate resulting from the availability of electronic submission methods.

The submitted ICRs for the two new collections imposed by this rule will be available for public inspection for at least thirty days under the ''Currently Under Review'' portion of the Information Collection Review section *reginfo.gov* Web site, available at: *http://www.reginfo.gov/public/do/PRAMain.* The Department will publish a separate notice in the **Federal Register** that will announce the result of the OMB reviews. Currently approved information collections are available for public inspection under the ''Current Inventory'' portion of the same Web site.

Request for Comments: As part of its continuing effort to reduce paperwork and respondent burden, the Department conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information. This program helps to ensure requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed. Comments on the information collection requirements may be submitted to the Department in the same manner as for any other portion of this rule.

In addition to having an opportunity to file comments with the agency, the PRA provides that an interested party may file comments on the information collection requirements in a proposed rule directly with the Office of Management and Budget, at Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OWCP Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments to the general addressee for this rulemaking. The OMB will consider all written comments that agency receives within 30 days of publication of this NPRM in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention at least one of the control numbers mentioned in this rule.

The OMB and the Department are particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

The information collections in this rule may be summarized as follows:

1. Title of Collection: Employer's First Report of Injury or Occupational Disease, Employer's Supplementary Report of Accident or Occupational Illness

OMB Control Number: 1240–0003.
Total Estimated Number of Responses: 28,829.
Total Estimated Annual Time Burden: 7,208 hours.
Total Estimated Annual Other Costs Burden: $14,126.

2. Title of Collection: Exchange of Documents and Information

OMB Control Number: 1240–0004.
Total Estimated Number of Responses: 5,000.
Total Estimated Annual Time Burden: 83 hours.
Total Estimated Annual Other Costs Burden: $2,650.

3. Title of Collection: Securing Financial Obligations Under the Longshore and Harbor Workers' Compensation Act and Its Extensions

OMB Control Number: 1240–0005.
Total Estimated Number of Responses: 668.
Total Estimated Annual Time Burden: 454 hours.
Total Estimated Annual Other Costs Burden: $344.

4. Title of Collection: Regulations Governing the Administration of the Longshore and Harbor Workers' Compensation Act

OMB Control Number: 1240–0014.
Total Estimated Number of Responses: 130,036.
Total Estimated Annual Time Burden: 44,955 hours.
Total Estimated Annual Other Costs Burden: $46,866.

5. Title of Collection: Request for Earnings Information

OMB Control Number: 1240–0025.
Total Estimated Number of Responses: 1,100.
Total Estimated Annual Time Burden: 275 hours.
Total Estimated Annual Other Costs Burden: $528.

6. Title of Collection: Application for Continuation of Death Benefit for Student

OMB Control Number: 1240–0026.
Total Estimated Number of Responses: 20.
Total Estimated Annual Time Burden: 10 hours.
Total Estimated Annual Other Costs Burden: $10.

7. Title of Collection: Request for Examination and/or Treatment

OMB Control Number: 1240–0029.
Total Estimated Number of Responses: 96,000.
Total Estimated Annual Time Burden: 52,000 hours.
Total Estimated Annual Other Costs Burden: $2,088,960.

8. Title of Collection: Longshore and Harbor Workers' Compensation Act Pre-Hearing Statement

OMB Control Number: 1240–0036.
Total Estimated Number of Responses: 3,100.
Total Estimated Annual Time Burden: 527 hours.
Total Estimated Annual Other Costs Burden: $1,612.

9. Title of Collection: Certification of Funeral Expenses

OMB Control Number: 1240–0040.
Total Estimated Number of Responses: 75.
Total Estimated Annual Time Burden: 19 hours.
Total Estimated Annual Other Costs Burden: $39.

10. Title of Collection: Notice of Final Payment or Suspension of Compensation Benefits

OMB Control Number: 1240–0041.
Total Estimated Number of Responses: 21,000.
Total Estimated Annual Time Burden: 5,250 hours.
Total Estimated Annual Other Costs Burden: $16,590.

11. Title of Collection: Notice of Controversion of Right to Compensation

OMB Control Number: 1240–0042.
Total Estimated Number of Responses: 18,000.
Total Estimated Annual Time Burden: 4,500 hours.
Total Estimated Annual Other Costs Burden: $9,013.

12. Title of Collection: Payment of Compensation Without Award

OMB Control Number: 1240–0043.
Total Estimated Number of Responses: 16,800.
Total Estimated Annual Time Burden: 4,200 hours.
Total Estimated Annual Other Costs Burden: $8,736.

B. Executive Orders 12866 and 13563 (Regulatory Planning and Review)

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The Department has considered this proposed rule with these principles in mind and has concluded that the regulated community will greatly benefit from this regulation.

This rule's greatest benefit is that it provides the Longshore Program and the affected public the flexibility to make greater use of technology as it exists today and as it may be developed in the future. In some instances, the current regulations restrict the means of delivery or receipt when not required by the statute's terms. *See, e.g.,* 20 CFR 702.215 (notice effected by ''delivery by hand or mail''); 20 CFR 702.104(b) (case transfers must be accomplished by ''registered or certified mail''). Eliminating these restrictions where appropriate and consistent with the statute will broaden available transmission methods. From the Department's view, this rule will allow easier and more efficient transmission of critical documents and information to OWCP, and allow OWCP to take advantage of more efficient means of delivery to parties. And the regulated community, which has asked the Department to allow more modern transmission methods to be used, will be able to use electronic technologies that they routinely employ when communicating with other entities.

All currently used methods of submitting documents will remain available to OWCP, the parties, and the parties' representatives. OWCP will continue to accept documents delivered by hand or routine mail and the parties may communicate with each other in the same way. Thus, a party or representative may continue to send and receive claim-related documents and information in the same manner as it currently does. But the rule will in many cases give the parties additional transmission options.

In addition, allowing parties and representatives to waive their right to registered or certified mail service of compensation orders will expedite compensation payments. This is an important benefit to the proposed rule: Faster delivery of compensation orders via electronic transmission will result in more expeditious payment of benefits to injured workers.

The Department has also considered whether the parties will realize any monetary benefits or incur any additional costs in light of this rule. The rule expands opportunities for parties and their representatives to submit and receive documents and does not require deviation from current practice. So the rule imposes no additional expense. To the contrary, the Department anticipates that the rule will provide some savings because an electronically transmitted document does not require postage or reproduction of multiple hard copies. Although difficult to quantify, the Department estimates that initial usage of electronic means of transmission will be approximately 13%, with increased usage possible in the future.

Finally, because this is not a ''significant'' rule within the meaning of Executive Order 12866, the Office of Management and Budget has not reviewed it prior to publication.

C. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531 *et seq.,* directs agencies to assess the effects of Federal Regulatory Actions on State, local, and tribal governments, and the private sector, ''other than to the extent that such regulations incorporate requirements specifically set forth in law.'' 2 U.S.C. 1531. For purposes of the Unfunded Mandates Reform Act, this proposed rule does not include any Federal mandate that may result in increased expenditures by State, local, tribal governments, or increased expenditures by the private sector of more than $100,000,000.

D. Regulatory Flexibility Act and Executive Order 13272 (Proper Consideration of Small Entities in Agency Rulemaking)

The Regulatory Flexibility Act of 1980, as amended, 5 U.S.C. 601 *et seq.* (RFA), requires agencies to evaluate the potential impacts of their proposed and final rules on small businesses, small organizations, and small governmental jurisdictions and to prepare an analysis (called a ''regulatory flexibility analysis'') describing those impacts. *See* 5 U.S.C. 601, 603–604. But if the rule is not expected to ''have a significant economic impact on a substantial number of small entities[,]'' the RFA allows an agency to so certify in lieu of preparing the analysis. *See* 5 U.S.C. 605.

The Department has determined that a regulatory flexibility analysis under the RFA is not required for this rulemaking. Many Longshore employers and a handful of insurance carriers may be considered small entities within the meaning of the RFA. *See generally* 77 FR 19471–72 (March 30, 2012); 69 FR

12222–23 (March 15, 2004). But this rule, if adopted, will not have a significant economic impact on these entities for several reasons. First, the revisions do not impose mandatory change on the employers. Instead, employers may choose to transmit documents and related information in the same manner as they do under the current rules. Second, although the proposed rules allow insurance companies to report the issuance of policies and endorsements electronically, these companies—virtually without exception—have been voluntarily reporting coverage in the manner the proposed rule allows for several years. No change in their conduct will be required. Third, because the proposed rule provides more flexibility for employers and insurers in transmitting documents and information, the Department anticipates that these entities could see some economic savings by having the freedom to choose the most cost-effective transmission method for their businesses.

Based on these facts, the Department certifies that this rule will not have a significant economic impact on a substantial number of small entities. Thus, a regulatory flexibility analysis is not required. The Department invites comments from members of the public who believe the regulations will have a significant economic impact on a substantial number of small Longshore employers or insurers. The Department has provided the Chief Counsel for Advocacy of the Small Business Administration with a copy of this certification. *See* 5 U.S.C. 605.

E. Executive Order 13132 (Federalism)

The Department has reviewed this proposed rule in accordance with Executive Order 13132 regarding federalism, and has determined that it does not have ''federalism implications.'' E.O. 13132, 64 FR 43255 (August 4, 1999). The proposed rule will not ''have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' *Id.*

F. Executive Order 12988 (Civil Justice Reform)

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

List of Subjects

20 CFR Part 702

Administrative practice and procedure, Claims, Health professions, Insurance companies, Longshore and harbor workers, Reporting and recordkeeping requirements, Workers' compensation.

20 CFR Part 703

Insurance companies, Longshore and harbor workers, Reporting and recordkeeping requirements, Workers' compensation.

For the reasons set forth in the preamble, the Department of Labor proposes to amend 20 CFR parts 702 and 703 as follows:

PART 702—ADMINISTRATION AND PROCEDURE

■ 1. The authority citation for part 702 is revised to read as follows:

Authority: 5 U.S.C. 301, and 8171 *et seq.;* 33 U.S.C. 901 *et seq.;* 42 U.S.C. 1651 *et seq.;* 43 U.S.C. 1333; Reorganization Plan No. 6 of 1950, 15 FR 3174, 64 Stat. 1263; Secretary's Order 10–2009, 74 FR 58834.

■ 2. Add § 702.101 to subpart A to read as follows:

§ 702.101 Exchange of documents and information.

(a) Except as otherwise required by the regulations in this subchapter, all documents and information sent to OWCP under this subchapter must be submitted—

(1) In hard copy by postal mail, commercial delivery service (such as Federal Express or United Parcel Service), or hand delivery;

(2) Electronically through an OWCP-authorized system; or

(3) As otherwise allowed by OWCP.

(b) Except as otherwise required by the regulations in this subchapter, all documents and information sent under this subchapter by OWCP to parties and their representatives or from any party or representative to another party or representative must be sent—

(1) In hard copy by postal mail, commercial delivery service (such as Federal Express or United Parcel Service), or hand delivery;

(2) Electronically by a reliable electronic method if the receiving party or representative agrees in writing to receive documents and information by that method; or

(3) Electronically through an OWCP-authorized system that provides service of documents on the parties and their representatives.

(c) Reliable electronic methods for delivering documents include, but are not limited to, email, facsimile and Web portal.

(d) Any party or representative may revoke his or her agreement to receive documents and information electronically by giving written notice to OWCP, the party, or the representative with whom he or she had agreed to receive documents and information electronically, as appropriate.

(e) The provisions in paragraphs (a) through (d) of this section apply when parties are directed by the regulations in this subchapter to: Advise; apply; approve; authorize; demand; file; forward; furnish; give; give notice; inform; issue; make; notice, notify; provide; publish; receive; recommend; refer; release; report; request; respond; return; send; serve; service; submit; or transmit.

(f) Any reference in this subchapter to an application, copy, filing, form, letter, written notice, or written request includes both hard-copy and electronic documents.

(g) Any requirement in this subchapter that a document or information be submitted in writing, or that it be signed, executed, or certified does not preclude its submission or exchange electronically.

(h) Any reference in this subchapter to transmitting information to an entity's address may include that entity's electronic address or electronic portal.

(i) Any requirement in this subchapter that a document or information—

(1) Be sent to a specific district director means that the document or information should be sent to the physical or electronic address provided by OWCP for that district director; and

(2) Be filed by a district director in his or her office means that the document or information may be filed in a physical or electronic location specified by OWCP for that district director.

■ 3. Revise § 702.102 to read as follows:

§ 702.102 Establishment and modification of compensation districts, establishment of suboffices and jurisdictional areas.

(a) The Director has, pursuant to section 39(b) of the Longshore and Harbor Workers' Compensation Act, 33 U.S.C. 939(b), established compensation districts as required for improved administration or as otherwise determined by the Director (see 51 FR 4282, Feb. 3, 1986). The boundaries of the compensation districts may be modified at any time, and the Director will notify all interested parties directly of the modifications.

(b) As administrative exigencies from time to time may require, the Director may, by administrative order, establish

special areas outside the continental United States, Alaska, and Hawaii, or change or modify any areas so established, notwithstanding their inclusion within an established compensation district. Such areas will be designated ''jurisdictional areas.'' The Director will also designate which of his district directors will be in charge thereof.

(c) To further aid in the efficient administration of the OWCP, the Director may from time to time establish suboffices within compensation districts or jurisdictional areas, and will designate a person to be in charge thereof.

■ 4. Revise § 702.103 to read as follows:

§ 702.103 Effect of establishment of suboffices and jurisdictional areas.

Whenever the Director establishes a suboffice or jurisdictional area, those reports, records, or other documents with respect to processing of claims that are required to be filed with the district director of the compensation district in which the injury or death occurred, may instead be required to be filed with the suboffice, or office established for the jurisdictional area.

■ 5. Revise § 702.104(b) to read as follows:

§ 702.104 Transfer of individual case file.

* * * * *

(b) The district director making the transfer may by letter or memorandum to the district director to whom the case is transferred give advice, comments, suggestions, or directions if appropriate to the particular case. All interested parties will be advised of the transfer.

■ 6. In § 702.174, revise the introductory text of paragraph (a), paragraph (b), and the introductory text of paragraph (d) to read as follows:

§ 702.174 Exemptions; necessary information.

(a) *Application.* Before any facility is exempt from coverage under the Act, the facility must apply for and receive a certificate of exemption from the Director or his/her designee. The application must be made by the owner of the facility; where the owner is a partnership it must be made by a partner and where a corporation by an officer of the corporation or the manager in charge of the facility for which an exemption is sought. The information submitted must include the following:

* * * * *

(b) *Action by the Director.* The Director or his/her designee must review the application within thirty (30) days of its receipt.

(1) Where the application is complete and shows that all requirements under § 702.173 are met, the Director must promptly notify the employer that certification has been approved and will be effective on the date specified. The employer is required to post notice of the exemption at a conspicuous location.

(2) Where the application is incomplete or does not substantiate that all requirements of section 3(d) of the Act, 33 U.S.C. 903(d), have been met, or evidence shows the facility is not eligible for exemption, the Director must promptly notify the employer by issuing a letter which details the reasons for the deficiency or the rejection. The employer/applicant may reapply for certification, correcting deficiencies and/or responding to the reasons for the Director's denial. The Director or his/her designee must issue a new decision within a reasonable time of reapplication following denial. Such action will be the final administrative review and is not appealable to the Administrative Law Judge or the Benefits Review Board.

* * * * *

(d) *Action by the employer.* Immediately upon receipt of the certificate of exemption from coverage under the Act the employer must post:

* * * * *

■ 7. Revise § 702.203 to read as follows:

§ 702.203 Employer's report; how given.

(a) The employer must file its report of injury with the district director.

(b) If the employer sends its report of injury by U.S. postal mail or commercial delivery service, the report will be considered filed on the date that the employer mails the document or gives it to the commercial delivery service. If the employer sends its report of injury by a permissible electronic method, the report will be considered filed on the date that the employer completes all steps necessary for the transmission.

■ 8. Revise § 702.215 to read as follows:

§ 702.215 Notice; how given.

Notice must be effected by delivering it to the individual designated to receive such notices at the physical or electronic address designated by the employer. Notice may be given to the district director by submitting a copy of the form supplied by OWCP to the district director, or orally in person or by telephone.

■ 9. Revise § 702.224 to read as follows:

§ 702.224 Claims; notification of employer of filing by employee.

Within 10 days after the filing of a claim for compensation for injury or death under the Act, the district director must give written notice thereof to the employer or carrier.

■ 10. Revise § 702.234 to read as follows:

§ 702.234 Report by employer of commencement and suspension of payments.

Immediately upon making the first payment of compensation, and upon the suspension of payments once begun, the employer must notify the district director who is administering the claim of the commencement or suspension of payments, as the case may be.

■ 11. In § 702.243, revise paragraphs (a) and (b), the first two sentences of paragraph (c), the introductory text of paragraph (f), and paragraph (g) to read as follows:

§ 702.243 Settlement application; how submitted, how approved, how disapproved, criteria.

(a) When the parties to a claim for compensation, including survivor benefits and medical benefits, agree to a settlement they must submit a complete application to the adjudicator. The application must contain all the information outlined in § 702.242 and must be sent by certified mail with return receipt requested, commercial delivery service with tracking capability that provides reliable proof of delivery to the adjudicator, or electronically through an OWCP-authorized system. Failure to submit a complete application will toll the thirty day period mentioned in section 8(i) of the Act, 33 U.S.C. 908(i), until a complete application is received.

(b) The adjudicator must consider the settlement application within thirty days and either approve or disapprove the application. The liability of an employer/insurance carrier is not discharged until the settlement is specifically approved by a compensation order issued by the adjudicator. However, if the parties are represented by counsel, the settlement will be deemed approved unless specifically disapproved within thirty days after receipt of a complete application. This thirty day period does not begin until all the information described in § 702.242 has been submitted. The adjudicator will examine the settlement application within thirty days and must immediately serve on all parties notice of any deficiency. This notice must also indicate that the thirty day period will not commence until the deficiency is corrected.

(c) If the adjudicator disapproves a settlement application, the adjudicator must serve on all parties a written

statement or order containing the reasons for disapproval. This statement must be served within thirty days of receipt of a complete application (as described in § 702.242) if the parties are represented by counsel. * * *

* * * * *

(f) When presented with a settlement, the adjudicator must review the application and determine whether, considering all of the circumstances, including, where appropriate, the probability of success if the case were formally litigated, the amount is adequate. The criteria for determining the adequacy of the settlement application will include, but not be limited to:

* * * * *

(g) In cases being paid pursuant to a final compensation order, where no substantive issues are in dispute, a settlement amount which does not equal the present value of future compensation payments commuted, computed at the discount rate specified below, must be considered inadequate unless the parties to the settlement show that the amount is adequate. The probability of the death of the beneficiary before the expiration of the period during which he or she is entitled to compensation will be determined according to the most current United States Life Table, as developed by the United States Department of Health and Human Services, which will be updated from time to time. The discount rate will be equal to the coupon issue yield equivalent (as determined by the Secretary of the Treasury) of the average accepted auction price for the last auction of 52 weeks U.S. Treasury Bills settled immediately prior to the date of the submission of the settlement application.

■ 12. Revise § 702.251 to read as follows:

§ 702.251 Employer's controversion of the right to compensation.

Where the employer controverts the right to compensation after notice or knowledge of the injury or death, or after receipt of a written claim, he must give notice thereof, stating the reasons for controverting the right to compensation, using the form prescribed by the Director. Such notice, or answer to the claim, must be filed with the district director within 14 days from the date the employer receives notice or has knowledge of the injury or death. A copy of the notice must also be given to the claimant.

■ 13. Revise § 702.261 to read as follows:

§ 702.261 Claimant's contest of actions taken by employer or carrier with respect to the claim.

Where the claimant contests an action by the employer or carrier reducing, suspending, or terminating benefits, including medical care, he should immediately notify the office of the district director who is administering the claim and set forth the facts pertinent to his complaint.

■ 14. In § 702.272, revise the last two sentences of paragraph (a) and paragraph (b) to read as follows:

§ 702.272 Informal recommendation by district director.

(a) * * * If the district director determines that no violation occurred he must notify the parties of his findings and the reasons for recommending that the complaint be denied. If the employer and employee accept the district director's recommendation, within 10 days it will be incorporated in an order, to be filed and served in accordance with § 702.349.

(b) If the parties do not agree to the recommendation, the district director must, within 10 days after receipt of the rejection, prepare a memorandum summarizing the disagreement, send a copy to all interested parties, and within 14 days thereafter, refer the case to the Office of the Chief Administrative Law Judge for hearing pursuant to § 702.317.

■ 15. In § 702.281, revise the introductory text of paragraph (a) and the last sentence of paragraph (b) to read as follows:

§ 702.281 Third party action.

(a) Every person claiming benefits under this Act (or the representative) must promptly notify the employer and the district director when:

* * * * *

(b) * * * The approval must be on a form provided by OWCP and must be filed, within thirty days after the settlement is entered into, with the district director who is administering the claim.

■ 16. Revise § 702.315 to read as follows:

§ 702.315 Conclusion of conference; agreement on all matters with respect to the claim.

(a) Following an informal conference at which agreement is reached on all issues, the district director must (within 10 days after conclusion of the conference), embody the agreement in a memorandum or within 30 days issue a formal compensation order, to be filed and served in accordance with § 702.349. If either party requests that a formal compensation order be issued, the district director must, within 30 days of such request, prepare, file, and serve such order in accordance with § 702.349. Where the problem was of such nature that it was resolved by telephone discussion or by exchange of written correspondence, the district director must prepare a memorandum or order setting forth the terms agreed upon and notify the parties either by telephone or in writing, as appropriate. In either instance, when the employer or carrier has agreed to pay, reinstate or increase monetary compensation benefits, or to restore or appropriately change medical care benefits, such action must be commenced immediately upon becoming aware of the agreement, and without awaiting receipt of the memorandum or the formal compensation order.

(b) Where there are several conferences or discussions, the provisions of paragraph (a) of this section do not apply until the last conference. The district director must, however, prepare and place in his administrative file a short, succinct memorandum of each preceding conference or discussion.

■ 17. Revise § 702.317 to read as follows:

§ 702.317 Preparation and transfer of the case for hearing.

A case is prepared for transfer in the following manner:

(a) The district director will furnish each of the parties or their representatives with a copy of a prehearing statement form.

(b) Each party must, within 21 days after receipt of such form, complete it and return it to the district director and serve copies on all other parties. Extensions of time for good cause may be granted by the district director.

(c) Upon receipt of the completed forms, the district director, after checking them for completeness and after any further conferences that, in his or her opinion, are warranted, will transmit them to the Office of the Chief Administrative Law Judge by letter of transmittal together with all available evidence which the parties intend to submit at the hearings (exclusive of X-rays, slides and other materials not suitable for transmission which may be offered into evidence at the time of the hearing); the materials transmitted must not include any recommendations expressed or memoranda prepared by the district director pursuant to § 702.316.

(d) If the completed pre-hearing statement forms raise new or additional issues not previously considered by the district director or indicate that material

evidence will be submitted that could reasonably have been made available to the district director before he or she prepared the last memorandum of conference, the district director will transfer the case to the Office of the Chief Administrative Law Judge only after having considered such issues or evaluated such evidence or both and having issued an additional memorandum of conference in conformance with § 702.316.

(e) If a party fails to complete or return his or her pre-hearing statement form within the time allowed, the district director may, at his or her discretion, transmit the case without that party's form. However, such transmittal must include a statement from the district director setting forth the circumstances causing the failure to include the form, and such party's failure to submit a pre-hearing statement form may, subject to rebuttal at the formal hearing, be considered by the administrative law judge, to the extent intransigence is relevant, in subsequent rulings on motions which may be made in the course of the formal hearing.

■ 18. Revise § 702.319 to read as follows:

§ 702.319 Obtaining documents from the administrative file for reintroduction at formal hearings.

Whenever any party considers any document in the administrative file essential to any further proceedings under the Act, it is the responsibility of such party to obtain such document from the district director and reintroduce it for the record before the administrative law judge. The type of document that may be obtained will be limited to documents previously submitted to the district director, including documents or forms with respect to notices, claims, controversions, contests, progress reports, medical services or supplies, etc. The work products of the district director or his staff will not be subject to retrieval. The procedure for obtaining documents will be for the requesting party to inform the district director in writing of the documents he wishes to obtain, specifying them with particularity. Upon receipt, the district director must promptly forward a copy of the requested materials to the requesting party. A copy of the letter of request and a statement of whether it has been satisfied must be kept in the case file.

■ 19. In § 702.321, revise paragraphs (a)(1), (b), and (c) to read as follows:

§ 702.321 Procedures for determining applicability of section 8(f) of the Act.

(a) *Application: Filing, service, contents.* (1) An employer or insurance carrier which seeks to invoke the provisions of section 8(f) of the Act must request limitation of its liability and file a fully documented application with the district director. A fully documented application must contain a specific description of the pre-existing condition relied upon as constituting an existing permanent partial disability and the reasons for believing that the claimant's permanent disability after the injury would be less were it not for the pre-existing permanent partial disability or that the death would not have ensued but for that disability. These reasons must be supported by medical evidence as specified in this paragraph. The application must also contain the basis for the assertion that the pre-existing condition relied upon was manifest in the employer and documentary medical evidence relied upon in support of the request for section 8(f) relief. This medical evidence must include, but not be limited to, a current medical report establishing the extent of all impairments and the date of maximum medical improvement. If the claimant has already reached maximum medical improvement, a report prepared at that time will satisfy the requirement for a current medical report. If the current disability is total, the medical report must explain why the disability is not due solely to the second injury. If the current disability is partial, the medical report must explain why the disability is not due solely to the second injury and why the resulting disability is materially and substantially greater than that which would have resulted from the subsequent injury alone. If the injury is loss of hearing, the pre-existing hearing loss must be documented by an audiogram which complies with the requirements of § 702.441. If the claim is for survivor's benefits, the medical report must establish that the death was not due solely to the second injury. Any other evidence considered necessary for consideration of the request for section 8(f) relief must be submitted when requested by the district director or Director.

* * * * *

(b) *Application: Time for filing.* (1) A request for section 8(f) relief should be made as soon as the permanency of the claimant's condition becomes known or is an issue in dispute. This could be when benefits are first paid for permanent disability, or at an informal conference held to discuss the permanency of the claimant's condition. Where the claim is for death benefits, the request should be made as soon as possible after the date of death. Along with the request for section 8(f) relief, the applicant must also submit all the supporting documentation required by this section, described in paragraph (a) of this section. Where possible, this documentation should accompany the request, but may be submitted separately, in which case the district director must, at the time of the request, fix a date for submission of the fully documented application. The date must be fixed as follows:

(i) Where notice is given to all parties that permanency will be an issue at an informal conference, the fully documented application must be submitted at or before the conference. For these purposes, notice means when the issue of permanency is noted on the form LS–141, Notice of Informal Conference. All parties are required to list issues reasonably anticipated to be discussed at the conference when the initial request for a conference is made and to notify all parties of additional issues which arise during the period before the conference is actually held.

(ii) Where the issue of permanency is first raised at the informal conference and could not have reasonably been anticipated by the parties prior to the conference, the district director must adjourn the conference and establish the date by which the fully documented application must be submitted and so notify the employer/carrier. The date will be set by the district director after reviewing the circumstances of the case.

(2) At the request of the employer or insurance carrier, and for good cause, the district director, at his/her discretion, may grant an extension of the date for submission of the fully documented application. In fixing the date for submission of the application under circumstances other than described above or in considering any request for an extension of the date for submitting the application, the district director must consider all the circumstances of the case, including but not limited to: Whether the claimant is being paid compensation and the hardship to the claimant of delaying referral of the case to the Office of Administrative Law Judges (OALJ); the complexity of the issues and the availability of medical and other evidence to the employer; the length of time the employer was or should have been aware that permanency is an issue; and, the reasons listed in support of the request. If the employer/carrier requested a specific date, the reasons for selection of that date will also be considered. Neither the date selected for

submission of the fully documented application nor any extension therefrom can go beyond the date the case is referred to the OALJ for formal hearing.

(3) Where the claimant's condition has not reached maximum medical improvement and no claim for permanency is raised by the date the case is referred to the OALJ, an application need not be submitted to the district director to preserve the employer's right to later seek relief under section 8(f) of the Act. In all other cases, failure to submit a fully documented application by the date established by the district director will be an absolute defense to the liability of the special fund. This defense is an affirmative defense which must be raised and pleaded by the Director. The absolute defense will not be raised where permanency was not an issue before the district director. In all other cases, where permanency has been raised, the failure of an employer to submit a timely and fully documented application for section 8(f) relief will not prevent the district director, at his/her discretion, from considering the claim for compensation and transmitting the case for formal hearing. The failure of an employer to present a timely and fully documented application for section 8(f) relief may be excused only where the employer could not have reasonably anticipated the liability of the special fund prior to the consideration of the claim by the district director. Relief under section 8(f) is not available to an employer who fails to comply with section 32(a) of the Act, 33 U.S.C. 932(a).

(c) *Application: Approval, disapproval.* If all the evidence required by paragraph (a) of this section was submitted with the application for section 8(f) relief and the facts warrant relief under this section, the district director must award such relief after concurrence by the Associate Director, DLHWC, or his or her designee. If the district director or the Associate Director or his or her designee finds that the facts do not warrant relief under section 8(f) the district director must advise the employer of the grounds for the denial. The application for section 8(f) relief may then be considered by an administrative law judge. When a case is transmitted to the Office of Administrative Law Judges the district director must also attach a copy of the application for section 8(f) relief submitted by the employer, and notwithstanding § 702.317(c), the district director's denial of the application.

* * * * *

■ 20. Revise § 702.349 to read as follows:

§ 702.349 Formal hearings; filing and mailing of compensation orders; waiver of service; disposition of transcripts.

(a) An administrative law judge must, within 20 days after the official termination of the hearing, deliver by mail, or otherwise, to the district director that administered the claim, the transcript of the hearing, other documents or pleadings filed with him with respect to the claim, and his signed compensation order. Upon receipt thereof, the district director, being the official custodian of all records with respect to claims he administers, must formally date and file the transcript, pleadings, and compensation order in his office. Such filing must be accomplished by the close of business on the next succeeding working day, and the district director must, on the same day as the filing was accomplished, serve a copy of the compensation order on the parties and on the representatives of the parties, if any. Service on the parties and their representatives must be made by certified mail unless a party has previously waived service by this method under paragraph (b) of this section.

(b) All parties and their representatives are entitled to be served with compensation orders via registered or certified mail. Parties and their representatives may waive this right and elect to be served with compensation orders electronically by filing the appropriate waiver form with the district director responsible for administering the claim. To waive service by registered or certified mail, employers, insurance carriers, and their representatives must file form LS–801 (Waiver of Service by Registered or Certified Mail for Employers and/or Insurance Carriers), and claimants and their representatives must file form LS–802 (Waiver of Service by Registered or Certified Mail for Claimants and/or Authorized Representatives). A signature on a waiver form represents a knowing and voluntary waiver of that party's or representative's right to receive compensation orders via registered or certified mail.

(1) Waiving parties and representatives must provide a valid electronic address on the waiver form.

(2) Parties and representatives must submit a separate waiver form for each case in which they intend to waive the right to certified or registered mail service.

(3) A representative may not sign a waiver form on a party's behalf.

(4) All compensation orders issued in a claim after receipt of the waiver form will be sent to the electronic address provided on the waiver form. Any changes to the address must be made by submitting another waiver form. Individuals may revoke their service waiver at any time by submitting a new waiver form that specifies that the service waiver is being revoked.

(5) If it appears that service in the manner selected by the individual has not been effective, the district director will serve the individual by certified mail.

■ 21. Revise § 702.372 to read as follows:

§ 702.372 Supplementary compensation orders.

(a) In any case in which the employer or insurance carrier is in default in the payment of compensation due under any award of compensation, for a period of 30 days after the compensation is due and payable, the person to whom such compensation is payable may, within 1 year after such default, apply in writing to the district director for a supplementary compensation order declaring the amount of the default. Upon receipt of such application, the district director will institute proceedings with respect to such application as if such application were an original claim for compensation, and the matter will be disposed of as provided for in § 702.315, or if agreement on the issue is not reached, then as in §§ 702.316 through 702.319.

(b) If, after disposition of the application as provided for in paragraph (a) of this section, a supplementary compensation order is entered declaring the amount of the default, which amount may be the whole of the award notwithstanding that only one or more installments is in default, a copy of such supplementary order must be filed and served in accordance with § 702.349. Thereafter, the applicant may obtain and file with the clerk of the Federal district court for the judicial district where the injury occurred or the district in which the employer has his principal place of business or maintains an office, a certified copy of said order and may seek enforcement thereof as provided for by section 18 of the Act, 33 U.S.C. 918.

■ 22. In § 702.432, revise the introductory text of paragraph (b), and paragraphs (b)(6) and (e) to read as follows:

§ 702.432 Debarment process.

* * * * *

(b) *Pertaining to health care providers and claims representatives.* If after

appropriate investigation the Director determines that proceedings should be initiated, written notice thereof must be provided to the physician, health care provider or claims representative. Notice must contain the following:

* * * * *

(6) The name and address of the district director who will be responsible for receiving the answer from the physician, health care provider or claims representative.

* * * * *

(e) The Director must issue a decision in writing, and must send a copy of the decision to the physician, health care provider or claims representative. The decision must advise the physician, health care provider or claims representative of the right to request, within thirty (30) days of the date of an adverse decision, a formal hearing before an administrative law judge under the procedures set forth herein. The filing of such a request for hearing within the time specified will operate to stay the effectiveness of the decision to debar.

■ 23. In § 702.433, revise paragraphs (a), (b), (e) and (f) to read as follows:

§ 702.433 Requests for hearing.

(a) A request for hearing must be sent to the district director and contain a concise notice of the issues on which the physician, health care provider or claims representative desires to give evidence at the hearing with identification of witnesses and documents to be submitted at the hearing.

(b) If a request for hearing is timely received by the district director, the matter must be referred to the Chief Administrative Law Judge who must assign it for hearing with the assigned administrative law judge issuing a notice of hearing for the conduct of the hearing. A copy of the hearing notice must be served on the physician, health care provider or claims representative.

* * * * *

(e) The administrative law judge will issue a recommended decision after the termination of the hearing. The recommended decision must contain appropriate findings, conclusions and a recommended order and be forwarded, together with the record of the hearing, to the Administrative Review Board for a final decision. The recommended decision must be served upon all parties to the proceeding.

(f) Based upon a review of the record and the recommended decision of the administrative law judge, the Administrative Review Board will issue a final decision.

PART 703—INSURANCE REGULATIONS

■ 24. The authority citation for part 703 is revised to read as follows:

Authority: 5 U.S.C. 301, and 8171 *et seq.;* 33 U.S.C. 901 *et seq.;* 42 U.S.C. 1651 *et seq.;* 43 U.S.C. 1333; Reorganization Plan No. 6 of 1950, 15 FR 3174, 64 Stat. 1263; Secretary's Order 10–2009, 74 FR 58834.

■ 25. In § 703.2, revise the introductory text of paragraph (a) to read as follows:

§ 703.2 Forms.

(a) Any information required by the regulations in this part to be submitted to OWCP must be submitted on forms the Director authorizes from time to time for such purpose. Persons submitting forms may not modify the forms or use substitute forms without OWCP's approval. These forms must be submitted, sent, or filed in the manner prescribed by OWCP.

* * * * *

■ 26. Revise § 703.113 to read as follows:

§ 703.113 Marine insurance contracts.

A longshoremen's policy, or the longshoremen's endorsement provided for by § 703.109 for attachment to a marine policy, may specify the particular vessel or vessels in respect of which the policy applies and the address of the employer at the home port thereof. The report of the issuance of a policy or endorsement required by § 703.116 must be made to DLHWC and must show the name and address of the owner as well as the name or names of such vessel or vessels.

■ 27. Revise § 703.114 to read as follows:

§ 703.114 Notice of cancellation.

Cancellation of a contract or policy of insurance issued under authority of the Act will not become effective otherwise than as provided by 33 U.S.C. 936(b); 30 days before such cancellation is intended to be effective, notice of a proposed cancellation must be given to the district director and the employer in accordance with the provisions of 33 U.S.C. 912(c). The notice requirements of 33 U.S.C. 912(c) will be considered met when:

(a) Notice to the district director is given by a method specified in § 702.101(a) of this chapter or in the same manner that reports of issuance of policies and endorsements are reported under § 703.116; and

(b) Notice to the employer is given by a method specified in § 702.101(b) of this chapter.

■ 28. Revise § 703.116 to read as follows:

§ 703.116 Report by carrier of issuance of policy or endorsement.

Each carrier must report to DLHWC each policy and endorsement issued by it to an employer whose employees are engaging in work subject to the Act and its extensions. Such reports must be made in a manner prescribed by OWCP. Reports made to an OWCP-authorized intermediary, such as an industry data collection organization, satisfy this reporting requirement.

■ 29. Revise § 703.117 to read as follows:

§ 703.117 Report; by whom sent.

The report of issuance of a policy and endorsement provided for in § 703.116 or notice of cancellation provided for in § 703.114 must be sent by the home office of the carrier, except that any carrier may authorize its agency or agencies in any compensation district to make such reports, provided the carrier notifies DLHWC of the agencies so duly authorized.

■ 30. Revise § 703.118 to read as follows:

§ 703.118 Agreement to be bound by report.

Every applicant for the authority to write insurance under the provisions of this Act, will be deemed to have included in its application an agreement that the acceptance by DLHWC of a report of insurance, as provided for by § 703.116, binds the carrier to full liability for the obligations under this Act of the employer named in said report, and every certificate of authority to write insurance under this Act will be deemed to have been issued by the Office upon consideration of the carrier's agreement to become so bound. It will be no defense to this agreement that the carrier failed or delayed to issue the policy to the employer covered by this report.

§ 703.119 [Removed and Reserved]

■ 31. Remove and reserve § 703.119.

■ 32. Revise § 703.120 to read as follows:

§ 703.120 Name of one employer only in each report.

For policies that are reported to DLHWC on Form LS–570 (Carrier's Report of Issuance of Policy), a separate report of the issuance of a policy and endorsement, provided for by § 703.116, must be made for each employer covered by a policy. If a policy is issued insuring more than one employer, a separate form LS–570 for each employer so covered must be sent to DLHWC in the manner described in § 703.116, with the name of only one employer on each form.

§ 703.502 [Removed and Reserved]

■ 33. Remove and reserve § 703.502.

Signed at Washington, DC, this 25th day of February, 2015.

Leonard J. Howie III,

Director, Office of Workers' Compensation Programs.

[FR Doc. 2015–05100 Filed 3–11–15; 8:45 am]

BILLING CODE 4510–CR–P

Notices

Federal Register

Vol. 80, No. 48

Thursday, March 12, 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

Food Safety and Inspection Service

RIN 0583–AD39

[Docket Number FSIS–2015–0006]

Effective Date for Foreign Inspection Certificate Requirements

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: The Food Safety and Inspection Service (FSIS) is extending the effective date for foreign inspection certificate requirements to March 18, 2015, to ensure that countries have sufficient time to adjust to the new requirements for additional product information.

DATES: Compliance date: Foreign Inspection certificate requirements: March 18, 2015.

FOR FURTHER INFORMATION CONTACT: For further information contact Dan Engeljohn, Assistant Administrator, Office of Policy and Program Development, FSIS, U.S. Department of Agriculture, 1400 Independence Avenue SW., Washington, DC 20250–3700, (202) 205–0495.

SUPPLEMENTARY INFORMATION:

Background

On September 19, 2014, FSIS published a final rule, ''Electronic Import Inspection Application and Certification of Imported Products and Foreign Establishments; Amendments to Facilitate the Public Health Information System (PHIS) and Other Changes to Import Inspection Regulations'' (79 FR 56220). The final rule amended the meat, poultry, and egg products import regulations to provide for the Agency's Public Health Information System (PHIS) Import Component. The rule also removed from the regulations the discontinued ''streamlined'' import inspection procedures for Canadian product and required Sanitation Standard Operating Procedures (SOPs) at official import inspection establishments. In addition, the rule amended the regulations to delete overly prescriptive formatting and narrative requirements for foreign inspection certificates and to make the certificate requirements the same for imported meat, poultry, and egg products. The Agency also proposed to require additional information on the foreign inspection certificate so it would have complete foreign product information.

The effective date of the final rule was November 18, 2014. However, to ensure that foreign countries have sufficient time to adjust to the new requirements for certifying the additional product information on foreign inspection certificates, FSIS will allow countries to continue using existing inspection certificates until March 18, 2015. FSIS announced the March 18, 2015, effective date for foreign inspection certificates in a Constituent Update that published on October 31, 2014 (*http://www.fsis.usda.gov/wps/portal/fsis/newsroom/meetings/newsletters/constituent-updates/archive/2014/ConstUpdate103114*). In addition, in a letter issued to foreign countries, the Agency advised that it would allow countries to continue using existing foreign inspection certificates until March 18, 2015 (*http://www.fsis.usda.gov/wps/wcm/connect/3c9c0fa4-fa3c-4ae1-bfb0–0286623009f2/Import-Rule-Letter-to-Foreign-Gov.pdf?MOD=AJPERES.*

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication on-line through the FSIS Web page located at: *http://www.fsis.usda.gov/federal-register.*

FSIS also will make copies of this publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The Update is available on the FSIS Web page. Through the Web page, FSIS is able to provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: *http://www.fsis.usda.gov/subscribe.* Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

USDA Non-Discrimination Statement

No agency, officer, or employee of the USDA shall, on the grounds of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, or political beliefs, exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States under any program or activity conducted by the USDA.

How to File a Complaint of Discrimination

To file a complaint of discrimination, complete the USDA Program Discrimination Complaint Form, which may be accessed online at *http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf,* or write a letter signed by you or your authorized representative.

Send your completed complaint form or letter to USDA by mail, fax, or email:

Mail: U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW., Washington, DC 20250–9410.

Fax: (202) 690–7442.

Email: program.intake@usda.gov.

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.), should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Done, at Washington, DC on: March 9, 2015.

Alfred V. Almanza,

Acting Administrator.

[FR Doc. 2015–05670 Filed 3–11–15; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Office of Tribal Relations; Council for Native American Farming and Ranching

AGENCY: Office of Tribal Relations, USDA.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a forthcoming meeting of The Council for Native American Farming and Ranching (CNAFR) a public advisory committee of the Office of Tribal Relations (OTR). Notice of the meetings are provided in accordance with section 10(a)(2) of the Federal Advisory Committee Act, as amended, (5 U.S.C. Appendix 2). This will be the third meeting of the 2014–2016 CNAFR term and will consist of, but is not limited to: a public comment period; updates on USDA programs and activities; and discussion of committee priorities. This meeting will be open to the public.

DATES: The meeting will be held on March 25th from 2:00 p.m. to 5:30 p.m. and March 26th from 1:30 p.m. to 5:30 p.m. and March 27th from 8:30 a.m. to 4:30 p.m. The meeting will be open to the public. Note that a period for public comment will be held on March 25, 2015, from 2:30 p.m. to 5:00 p.m.

ADDRESSES: The meeting and public comment period will be held at the Hilton Garden Inn Oklahoma City Bricktown, 328 East Sheridan Avenue, Oklahoma City, Oklahoma 73104 in the Cimarron-Red River Combo Room.

Written Comments: Written comments may be submitted to: John Lowery, Designated Federal Officer, Office of Tribal Relations (OTR), 1400 Independence Ave. SW., Whitten Bldg., 500–A, Washington, DC 20250; by Fax: (202) 720–1058; or by email: *John.Lowery@osec.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Questions should be directed to John Lowery, Designated Federal Officer, Office of Tribal (OTR), 1400 Independence Ave. SW., Whitten Bldg., 500A, Washington, DC 20250; by Fax: (202) 720–1058 or email: *John.Lowery@osec.usda.gov.*

SUPPLEMENTARY INFORMATION: In accordance with the provisions of the Federal Advisory Committee Act (FACA) as amended (5 U.S.C. App. 2), USDA established an advisory council for Native American farmers and ranchers. The CNAFR is a discretionary advisory committee established under the authority of the Secretary of Agriculture, in furtherance of the settlement agreement in *Keepseagle* v. *Vilsack* that was granted final approval by the District Court for the District of Columbia on April 28, 2011.

The CNAFR will operate under the provisions of the FACA and report to the Secretary of Agriculture. The purpose of the CNAFR is (1) to advise the Secretary of Agriculture on issues related to the participation of Native American farmers and ranchers in USDA farm loan programs; (2) to transmit recommendations concerning any changes to FSA regulations or internal guidance or other measures that would eliminate barriers to program participation for Native American farmers and ranchers; (3) to examine methods of maximizing the number of new farming and ranching opportunities created through the farm loan program through enhanced extension and financial literacy services; (4) to examine methods of encouraging intergovernmental cooperation to mitigate the effects of land tenure and probate issues on the delivery of USDA farm loan programs; (5) to evaluate other methods of creating new farming or ranching opportunities for Native American producers; and (6) to address other related issues as deemed appropriate.

The Secretary of Agriculture selected a diverse group of members representing a broad spectrum of persons interested in providing solutions to the challenges of the aforementioned purposes. Equal opportunity practices were considered in all appointments to the CNAFR in accordance with USDA policies. The Secretary selected the members in September 2014. Interested persons may present views, orally or in writing, on issues relating to agenda topics before the CNAFR.

Written submissions may be submitted to the contact person on or before March 20, 2015. Oral presentations from the public will be scheduled between approximately 2:30 p.m. to 5:00 p.m. on March 25th. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the issue they wish to present and the names and addresses of proposed participants by March 25, 2015. All oral presentations will be given three (3) to five (5) minutes depending on the number of participants.

OTR will also make meeting room and all agenda topics available to the public via the OTR Web site: *http://www.usda.gov/tribalrelations* no later than 10 business days before the meeting and at the meeting. In addition, the minutes from the meeting will be posted on the OTR Web site. OTR welcomes the attendance of the public at the CNAFR meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact John Lowery, at least 10 business days in advance of the meeting.

Leslie Wheelock,

Director, Office of Tribal Relations.

[FR Doc. 2015–05643 Filed 3–11–15; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Document Number AMS–NOP–15–0002; NOP–15–02]

Notice of Meeting of the National Organic Standards Board

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, (5 U.S.C. App.), the Agricultural Marketing Service (AMS) is announcing an upcoming meeting of the National Organic Standards Board (NOSB). Written public comments are invited in advance of the meeting, and the meeting will include scheduled time for oral comments from the public.

DATES: The meeting will be held April 27–30, 2015, from 8:30 a.m. to 6 p.m. each day. The deadline to submit written public comments and sign up for oral public comments is Tuesday, April 7, 2015.

ADDRESSES: The meeting will take place at the San Diego Marriott La Jolla, 4240 La Jolla Village Drive, La Jolla, CA 92037–1407, (858) 587–1414. Information and instructions pertaining to the meeting are posted at the following web address: *http://www.ams.usda.gov/NOSBMeetings.*

FOR FURTHER INFORMATION CONTACT: For printed materials or additional information, write to Ms. Michelle Arsenault, Special Assistant, National Organic Standards Board, USDA–AMS–NOP, 1400 Independence Ave. SW., Room 2648–So., Mail Stop 0268, Washington, DC 20250–0268; Phone: (202) 720–3252; Email: *nosb@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: The NOSB makes recommendations about whether substances should be allowed or prohibited in organic production and/or handling, assists in the development of standards for organic production, and

advises the Secretary on other aspects of the implementation of the Organic Foods Production Act (7 U.S.C. 6501–6522). The NOSB currently has six subcommittees working on various aspects of the Organic Program. The subcommittees are: Compliance, Accreditation, and Certification; Crops; Handling; Livestock; Materials/Genetically Modified Organisms; and Policy Development. The primary purpose of NOSB meetings is to provide an opportunity for the organic community to give input on proposed NOSB recommendations and discussion items. The meetings also allow the NOSB to receive updates from the USDA AMS National Organic Program (NOP) on issues pertaining to organic agriculture. The meeting will be open to the public. The meeting agenda, NOSB proposals and discussion documents, instructions for submitting and viewing public comments, and instructions for requesting a time slot for oral comments are available on the AMS Web site at *http://www.ams.usda.gov/NOSBMeetings.* The discussion documents and proposals encompass a wide range of topics, including: substances petitioned to the National List of Allowed and Prohibited Substances (National List), substances on the National List that require NOSB review before their 2016 and 2017 sunset dates, updates from working groups on technical issues, and amendments to guidance on organic policies. This meeting will serve as the NOSB's final review of substances that have a sunset date in 2016. This review will fulfill the NOSB's responsibilities described in the Organic Foods Production Act's sunset provision (section 2118(e)).

Public Comments: Written public comments will be accepted through Tuesday, April 7, 2015 via *www.regulations.gov.* Comments received after that date may not be reviewed by the NOSB before the meeting. AMS strongly prefers comments to be submitted electronically; however, written comments may also be submitted by Tuesday, April 7, 2014 via mail to Ms. Michelle Arsenault, Special Assistant, National Organic Standards Board, USDA–AMS–NOP, 1400 Independence Ave. SW., Room 2648–S, Mail Stop 0268, Washington, DC 20250–0268. Instructions for viewing all comments are posted at *www.regulations.gov* and *http://www.ams.usda.gov/NOSBMeetings.*

The NOSB has scheduled time for oral comments from the public, and will accommodate as many individuals and organizations as possible during these sessions. Individuals and organizations wishing to make oral presentations at the meeting must pre-register to request one time slot by visiting *http://www.ams.usda.gov/NOSBMeetings* or by calling (202) 720–0081. The deadline to sign up for an oral public comment slot is Tuesday, April 7, 2014. All persons making oral presentations should also provide their comments in advance through the written comment process. Written submissions may contain supplemental information other than that presented in the oral presentation. Persons submitting written comments at the meeting are asked to provide two hard copies.

Meeting Accommodations: The meeting hotel is ADA Compliant, and the USDA provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in this public meeting, please notify Michelle Arsenault at *michelle.arsenault@ams.usda.gov* or (202) 720–0081. Determinations for reasonable accommodation will be made on a case-by-case basis.

Dated: March 9, 2015.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2015–05664 Filed 3–11–15; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2015–0001]

Notice of Availability of a Pest Risk Analysis for the Importation of Fresh Cranberries From Chile Into the Continental United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability.

SUMMARY: We are advising the public that we have prepared a pest risk analysis that evaluates the risks associated with importation of fresh cranberry fruit from Chile into the continental United States. Based on the analysis, we have determined that the application of one or more designated phytosanitary measures will be sufficient to mitigate the risks of introducing or disseminating plant pests or noxious weeds via the importation of fresh cranberries from Chile. We are making the pest risk analysis available to the public for review and comment.

DATES: We will consider all comments that we receive on or before May 11, 2015.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2015-0001.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2015–0001, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2015-0001* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Mr. Nick Van Gorden, Regulatory Policy Specialist, Regulatory Coordination and Compliance, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737–1231; (301) 851–2326.

SUPPLEMENTARY INFORMATION: Under the regulations in ''Subpart–Fruits and Vegetables'' (7 CFR 319.56–1 through 319.56–71, referred to below as the regulations), the Animal and Plant Health Inspection Service (APHIS) prohibits or restricts the importation of fruits and vegetables into the United States from certain parts of the world to prevent plant pests from being introduced into or disseminated within the United States.

Section 319.56–4 contains a performance-based process for approving the importation of certain fruits and vegetables that, based on the findings of a pest risk analysis, can be safely imported subject to one or more of the five designated phytosanitary measures listed in paragraph (b) of that section.

APHIS received a request from the national plant protection organization (NPPO) of Chile to allow the importation of fresh cranberry fruit into the continental United States. As part of our evaluation of Chile's request, we have prepared a pest risk assessment (PRA) to identify pests of quarantine significance that could follow the pathway of importation into the continental United States from Chile. Based on the PRA, a risk management document (RMD) was prepared to

identify phytosanitary measures that could be applied to the cranberries to mitigate the pest risk. We have concluded that fresh cranberry fruit can be safely imported from Chile to the continental United States using one or more of the five designated phytosanitary measures listed in § 319.56–4(b). These measures are:

- The cranberries must be imported as commercial consignments only;
- Each consignment of cranberries must be accompanied by a phytosanitary certificate issued by the NPPO of Chile; and
- Each consignment of cranberries is subject to inspection upon arrival at the port of entry to the United States.

Therefore, in accordance with § 319.56–4(c), we are announcing the availability of our PRA and RMD for public review and comment. The documents may be viewed on the Regulations.gov Web site or in our reading room (see **ADDRESSES** above for a link to Regulations.gov and information on the location and hours of the reading room). You may request paper copies of the PRA and RMD by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the subject of the analysis you wish to review when requesting copies.

After reviewing any comments we receive, we will announce our decision regarding the import status of fresh cranberry fruit from Chile in a subsequent notice. If the overall conclusions of our analysis and the Administrator's determination of risk remain unchanged following our consideration of the comments, then we will authorize the importation of fresh cranberry fruit from Chile into the continental United States subject to the requirements specified in the RMD.

Authority: 7 U.S.C. 450, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

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

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2015–05656 Filed 3–11–15; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Proposed New Fee Site: Federal Lands Recreation Enhancement Act

AGENCY: Humboldt-Toiyabe National Forest, Forest Service, USDA.

ACTION: Notice of proposed fee increase.

SUMMARY: The Humboldt-Toiyabe National Forest, Bridgeport Ranger District is proposing to increase the fee for Christmas tree permits from $5.00 to $10.00 per tag (ie. an individual Christmas tree). This is a proposed fee, and a final determination will be based upon further analysis of the proposal and public comment. Funds from fees would be used for the continued operation, visitor services, maps, and law enforcement while issuing and enforcing Christmas Tree permits.

DATES: Comments will be accepted through May 30, 2015. Increased fees would likely begin in November 2015.

ADDRESSES: Jamie Fields, Recreation and Wilderness Program Manager, Humboldt-Toiyabe National Forest, 1200 Franklin Way, Sparks Nevada 89431.

FOR FURTHER INFORMATION CONTACT: Jamie Fields, Recreation Fee Coordinator, 775–352–1254. Information about proposed fee changes can also be found on the Humboldt-Toiyabe National Forest Web site: *http://www.fs.usda.gov/htnf.*

SUPPLEMENTARY INFORMATION: The Federal Recreation Lands Enhancement Act (Title VII, Pub. L. 108–447) directed the Secretary of Agriculture to publish a six month advance notice in the **Federal Register** whenever new recreation fee areas are established.

Once public involvement is complete, the fee increases will be reviewed by a Recreation Resource Advisory Committee prior to a final decision and implementation.

Dated: March 3, 2015.

Bill Dunkelberger,

Forest Supervisor.

[FR Doc. 2015–05618 Filed 3–11–15; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–023, C–560–829]

Certain Uncoated Paper From the People's Republic of China and Indonesia: Postponement of Preliminary Determinations in the Countervailing Duty Investigations

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

FOR FURTHER INFORMATION CONTACT: Joy Zhang (PRC) at (202) 482–1168, or Kate Johnson at (202) 482–4929 (Indonesia), AD/CVD Operations, Enforcement and Compliance, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On February 10, 2015, the Department of Commerce (the Department) initiated the countervailing duty (CVD) investigations of certain uncoated paper from the People's Republic of China (PRC) and Indonesia.[1] Currently, the preliminary determinations are due no later than April 16, 2015.

Postponement of Due Date for the Preliminary Determinations

Section 703(b)(1) of the Tariff Act of 1930, as amended (the Act), requires the Department to issue the preliminary determination in a CVD investigation within 65 days after the date on which the Department initiated the investigation. However, if the petitioner makes a timely request for a postponement, section 703(c)(1)(A) of the Act allows the Department to postpone making the preliminary determination until no later than 130 days after the date on which the administering authority initiated the investigation.

On February 23, 2015, the petitioners[2] in the investigation of certain uncoated paper from Indonesia timely requested that the deadline for the preliminary determination in that case be postponed in accordance with 19 CFR 351.205(e), citing the number and nature of subsidy programs under investigation. Similarly, on February 26, 2015, the petitioners in the investigation of certain uncoated paper from the PRC timely requested that the deadline for the preliminary determination in that case be postponed in accordance with 19 CFR 351.205(e), in order for the Department to have sufficient time to receive, analyze, and comment on the questionnaire responses of the mandatory respondents prior to the preliminary determination. Therefore, in accordance with section 703(c)(1)(A) of the Act, we are fully postponing the due date for the preliminary determinations to no later than 130 days after the day on which the investigations were initiated. However,

[1] *See Certain Uncoated Paper From the People's Republic of China and Indonesia: Initiation of Countervailing Duty Investigations,* 80 FR 8598 (February 18, 2015).

[2] The petitioners are United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union; Domtar Corporation; Finch Paper LLC; P.H. Glatfelter Company; and Packaging Corporation of America (*see* February 23 and February 26, 2015, letters on the record of these investigations).

as that date falls on a Saturday (*i.e.,* June 20, 2015), the deadline for completion of the preliminary determinations is now June 22, 2015, the next business day.

This notice is issued and published pursuant to section 703(c)(2) of the Act and 19 CFR 351.205(f)(l).

Dated: March 4, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2015–05699 Filed 3–11–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

U.S. Education Mission to Western Europe; Portugal, Spain, United Kingdom, France (Optional)

September 21–25, 2015.

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: The United States (U.S.) Department of Commerce, International Trade Administration, is organizing an education mission to Portugal, Spain, United Kingdom (UK) with an optional stop to France. The Department of Commerce is partnering with the Department of State's EducationUSA Advising Centers in Portugal, Spain, and France and the Fulbright Commission in the UK to connect schools directly with potential students at fairs and provide market insight. The mission coincides with two popular European student fairs; Fulbright UK's College Day and the Council of International Schools (CIS) Paris fair. The mission schedule allows schools to consider attending these fairs as they are an additional opportunity to directly interact with potential students. However, participation is not required and registration and fees for both fairs is handled directly by the organizer and is at their discretion. This trade mission emphasizes U.S. higher education, focusing on undergraduate programs and community colleges. Institutions seeking to participate should be accredited by a recognized accreditation body listed in Council for Higher Education Accreditation (CHEA) or Accrediting Council for Education and Training (ACCET), in the Association of Specialized and Professional Accreditors (ASPA), or any accrediting body recognized by the U.S. Department of Education.

Mission Scenario

Participation in the mission will include the following:

- Pre-travel briefings/webinars
- U.S. Embassy/consulate and industry briefings
- Reception with Ambassador or other high ranking official (if available)
- Student Fairs and local visits (see itinerary)
- Some transportation
- Optional stop in Paris with student workshop EducationUSA, presentations.

Proposed Mission Schedule—September 21–25, 2015

Lisbon, Portugal—September 21, 2015

Sunday, September 20, 2015
—Arrive in Lisbon, Portugal and check into hotel

Monday, September 21, 2015 Lisbon, Portugal
9:00 a.m. Briefing with U.S. and Foreign Commercial Service and Public Affairs (Transportation to U.S. Embassy provided)
10:30 a.m. One-on-One meetings (U.S. Embassy)
12:30 p.m. Working Lunch (U.S. Embassy)
2:00 p.m. Site Visit
6:00 p.m. Education Fair organized by EducationUSA (Transportion provided)

Madrid, Spain

Tuesday, September 22, 2015
8:00 a.m. Depart Lisbon, Portugal for Madrid, Spain (transportation from hotel to airport in Lisbon and from airport to hotel in Madrid provided)
11:30 a.m. Briefing (Hotel)
1:45 p.m. Working Lunch (Hotel)
3:00 p.m. One-to-One Meetings (Hotel)
5:30 p.m. EducationUSA fair (International Center School)

Barcelona, Spain

Wednesday, September 23, 2015
8:00 a.m. Travel to Barcelona (transport from hotel to train station provided in Madrid and from train station to hotel in Barcelona) (Recommended: High-speed train arrive 10:40), Hotel Check-in
11:45 a.m. One-to-One mtgs
4:00 p.m. EducationUSA Fair
8:00 p.m. Consulate General No Host event or networking

London, United Kingdom

Thursday, Sept 24
8:00 a.m. Depart Barcelona (Transportation from hotel to airport provided)
10:00 a.m. Arrive in London, UK (travel on own to hotel and to U.S. Embassy)
12:00 a.m. Working Lunch (U.S. Embassy)
1:00 p.m. Round Table Discussion with UK Industry Partners (U.S. Embassy)
2:30 p.m. Briefings with CS, Consular, Public Affairs (U.S. Embassy)
5:00 p.m. No host Dinner or free time

Friday, Sept 25
9:00 a.m. Arrive at U.S. Embassy, Travel to Site visit to local sixth form college (transportation provided)
12:30 p.m. Official End of Mission

** From here participants may continue on own itinerary back to U.S. or other destinations, attend one or both of the following fairs, and/or continue on to optional stop in France on their own.**

Optional Fairs With Separate Registration in UK and France

Friday, September 25–Saturday, September 26, 2015
Fulbright UK's Annual College Days (Earl's Court Conference Center London, UK)

Sunday, September 27, 2015
CIS Fair (Hotel Renaissance Paris, France)

Paris, France (Optional Stop)

Monday, September 28, 2015
9:00 a.m. Breakfast Briefing with U.S. and Foreign Commercial Service and Public Affairs (George Marshall Center)
11:00 a.m. One-on-One meetings (George Marshall Center)
12:30 p.m. Lunch
1:30 p.m. Resume Meetings
5:00 p.m. EducationUSA Student Workshop (George Marshall Center)

Tuesday, September 29, 2015
—Departure to USA

This mission will seek to connect U.S. higher education institutions to potential students and university/institution partners in Western Europe. The mission will include student fairs organized by EducationUSA, individualized meetings in the selected markets, U.S. Embassy briefings, site visits, and networking events. Lisbon, Madrid, Barcelona, London, and Paris are the cities targeted for recruiting students to the United States.

Mission Goals

The goals of the U.S. Education Mission to Europe are: (1) To help participants gain market exposure and to introduce participants to the vibrant

European market in the cities of Lisbon, Madrid, Barcelona, London, and Paris; (2) to help participants assess current and future business prospects by establishing valuable contacts with prospective students and educational institutions/partners; and (3) to help participants develop market knowledge and relationships leading to student recruitment and potential partnerships.

Participation Requirements

All parties interested in participating in the mission to Europe must submit a complete application package for consideration to the U.S. Department of Commerce. All applicants will be evaluated on their ability to meet certain conditions and best satisfy the selection criteria as outlined below. The mission will open on a rolling basis to a minimum of 13 and a maximum of 15 appropriately accredited U.S. educational institutions. Both U.S. educational institutions already recruiting students and developing partnerships in the region and those who are new to recruiting and developing partnerships in the region may apply.

Selection Criteria for Participation

- Consistency of the applicant's goals and objectives with the stated scope of the mission.
- Applicant's potential for doing business in Western Europe, including the likelihood of service exports (education)/knowledge transfer resulting from the mission.

Referrals from political organizations and any documents containing references to partisan political activities (including political contributions) will be removed from an applicant's submission and will not be considered during the selection process.

Conditions for Participation

An applicant must submit a timely, completed, and signed mission application with supplemental application materials, including adequate information on course offerings, primary market objectives, and goals for participation. The institution must have appropriate accreditation as specified above. The institution must be represented at the student fair by an employee. No agents will be allowed to represent a school on the mission or participate at the student fair. Agents will also not be allowed into the fairs to solicit new partnerships. If the Department of Commerce receives an incomplete application, the Department may reject the application, request additional information, or take the lack of information into account when evaluating the applications.

Participants must travel to stops in Portugal, Spain, United Kingdom on the mission. France is the only optional stop.

Each applicant must certify that the services it seeks to export through the mission are either produced in the United States, or, if not, marketed under the name of a U.S. firm and have at least 51 percent U.S. content of the value of the service.

Fees and Expenses

After an institution has been selected to participate on the mission, a payment to the Department of Commerce in the form of a participation fee is required. The participation fee is $2,895 for one principal representative from each non-profit educational institution or educational institution with less than 500 employees and $2,927 for for-profit universities with over 500 employees.[1] An institution can choose to participate in the optional stop in France for an additional $1,009 for one principal representative from each non-profit educational institution or educational institution with less than 500 employees and $1,026 for for-profit universities with over 500 employees. The fee for each additional representative is $500. Expenses for lodging, some meals, incidentals, and all travel (except transportation previously noted) will be the responsibility of each mission participant. The U.S. Department of Commerce can facilitate government rates in some hotels.

Timeframe for Recruitment and Applications

Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the Commerce Department trade mission calendar (*http://export.gov/industry/education/*) and other Internet Web sites, press releases to general and trade media, direct mail, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows. Recruitment for the mission will begin immediately and conclude no later than July 1, 2015. Applications for the mission will be accepted on a rolling basis. Applications received after July 1, 2015, will be considered only if space and scheduling constraints permit.

Contact Information

U.S. Export Assistance Centers

Ms. Amy Freedman, Cleveland USEAC, 216–522–4737, International Trade Specialist, *amy.freedman@trade.gov.*

Ms. Jennifer Moll, Detroit USEAC, 313–212–8693, Senior International Trade Specialist, *Jennifer.Moll@trade.gov.*

Mrs. Gabriela Zelaya, San Jose USEAC, 408–535–2757, ext. 107, International Trade Specialist, *Gabriela.Zelaya@trade.gov.*

U.S. and Foreign Commercial Service in Europe

Ms. Janee Pierre-Louis, France, 33 (0)1 43 12 70 87, Commercial Officer, *Janee.Pierre-Louis@trade.gov.*

Ms. Isabelle Singletary, France, [33] (0)1 43 12 70 63, Commercial Information Mgmt Specialist, *Isabelle.Singletary@trade.gov.*

Mr. Pedro Ferreira, Portugal, [351] (21) 770–2572, Senior Commercial Specialist, Lisbon, *Pedro.Ferreira@trade.gov.*

Mr. Jesus Garcia, Spain, 34–91–3081578, Senior Commercial Specialist, *Jesus.Garcia@trade.gov.*

Mrs. Chrystal Denys, United Kingdom, 44 20 7894 0432, Commercial Specialist, *Chrystal.Denys@trade.gov.*

Frank Spector,

Trade Programs & Strategic Partnerships.

[FR Doc. 2015–05594 Filed 3–11–15; 8:45 am]

BILLING CODE 3510–DR–P

[1] An SME is defined as a firm with 500 or fewer employees or that otherwise qualifies as a small business under SBA regulations (see *http://www.sba.gov/services/contractingopportunities/sizestandardstopics/index.html*). Parent companies, affiliates, and subsidiaries will be considered when determining business size. Non-profit educational institutions will be considered SMEs for purposes of this guidance. The dual pricing reflects the Commercial Service's user fee schedule that became effective May 1, 2008 (see *http://www.export.gov/newsletter/march2008/initiatives.html* for additional information).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–020, A–274–806]

Melamine From the People's Republic of China and Trinidad and Tobago: Postponement of Preliminary Determinations of Antidumping Duty Investigations

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

DATES: Effective March 12, 2015.

FOR FURTHER INFORMATION CONTACT: Paul Stolz (People's Republic of China) and Laurel LaCivita (Trinidad and Tobago), AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th

Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4474 and (202) 482–4243, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 2, 2014, the Department of Commerce (''Department'') initiated antidumping duty investigations on melamine from the People's Republic of China (''PRC'') and Trinidad and Tobago.[1] Section 733(b)(1)(A) of the Tariff Act of 1930, as amended (''the Act''), and 19 CFR 351.205(b)(1) state that the Department will make a preliminary determination no later than 140 days after the date of the initiation. The current deadline for the preliminary determinations of these investigations is no later than April 21, 2015.

Postponement of Preliminary Determination

On February 25, 2015, Cornerstone Chemical Company (''Petitioner''), made timely requests, pursuant to 19 CFR 351.205(e), for postponement of the preliminary determinations, in order to facilitate the Department's analysis of respondents' questionnaire responses and interested parties' surrogate value data submissions, to resolve other outstanding issues, and to issue any necessary supplemental questionnaires. Because there are no compelling reasons to deny the requests, in accordance with section 733(c)(1)(A) of the Act, the Department is postponing the deadline for the preliminary determinations by 50 days.

For the reasons stated above, the Department, in accordance with section 733(c)(1)(A) of the Act, is postponing the deadline for the preliminary determinations to no later than 190 days after the date on which the Department initiated these investigations. Therefore, the new deadline for the preliminary determinations is June 10, 2015. In accordance with section 735(a)(1) of the Act, the deadline for the final determinations of these investigations will continue to be 75 days after the date of the preliminary determinations, unless postponed at a later date.

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f)(1).

[1] *See Melamine from the People's Republic of China and Trinidad and Tobago: Initiation of Less-Than-Fair-Value Investigations,* 79 FR 73037 (December 9, 2014).

Dated: March 4, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2015–05697 Filed 3–11–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD817

Gulf of Mexico Fishery Management Council (Council); Public Meeting

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

ACTION: Notice of public meetings.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will hold meetings of the: Administrative Policy and Budget Committees, Law Enforcement, Data Collection, Gulf SEDAR, Sustainable Fisheries/Ecosystem, Mackerel, Spiny Lobster, Reef Fish and Shrimp Management Committees; in conjunction with a meeting of the Full Council. The Council will also hold a formal public comment session.

DATES: The Council meetings will be held from 8:30 a.m. on Monday, March 30 until 3:45 p.m. on Thursday, April 2, 2015.

ADDRESSES:

Meeting address: The meetings will be held at the Golden Nugget Hotel, located at 151 Beach Boulevard, Biloxi, MS 39530.

Council address: Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, FL 33607.

FOR FURTHER INFORMATION CONTACT: Mr. Douglas Gregory, Executive Director, Gulf of Mexico Fishery Management Council; telephone: (813) 348–1630; fax: (813) 348–1711; email: *doug.gregory@gulfcouncil.org*

SUPPLEMENTARY INFORMATION: The items of discussion for each individual management committee agenda are as follows:

Administrative Policy/Budget Administrative Committees Agenda, Monday, March 30, 2015, 8:30 a.m.–10 a.m.

- Review Draft Revisions to SOPPs
- Review 2015 Budget

Law Enforcement Management Committee Agenda, Monday, March 30, 2015, 10 a.m.–10:45 a.m.

- Law Enforcement Advisory Panel (LEAP) Report

Data Collection Management Committee Agenda, Monday, March 30, 2015, 10:45 a.m.–12 noon

- Scoping/Options Paper for Electronic Charter Boat Reporting Recommendations

Gulf SEDAR Management Committee Agenda, Monday, March 30, 2015, 1:30 p.m.–2 p.m.

- SEDAR Schedule Review

Sustainable Fisheries/Ecosystem Management Committee Agenda, Monday, March 30, 2015, 2 p.m.–3:30 p.m.

- NOAA Climate Change Strategy
- National Standard 1 Proposed Revisions
- Final Action on Decal Requirement for Charter Vessels and Headboats
- Ecosystem Scientific and Statistical Committee (SSC) Report

Mackerel Management Committee Agenda, Monday, March 30, 2015, 3:30 p.m.–4:30 p.m.

- Options Paper for *Mackerel* Gillnet Framework Action Spiny Lobster Management Committee Agenda, Monday, March 30, 2015, 4:30 p.m.–5 p.m.
- *Lobster* SSC recommendations

– Recess –

Reef Fish Management Committee Agenda, Tuesday, March 31, 2015, 8:30 a.m.–11:30 a.m. and 1 p.m. until 5 p.m.

- Recreational *Red Snapper* Season Projections
- Presentation on the Headboat Collaborative Program
- Options Paper for Gag Annual Catch Limit (ACL), Annual Catch Target (ACT) and Seasons
- Final Action on *Greater Amberjack* Framework Action
- Scoping Summaries on Amendment 36—*Red Snapper* Individual Fishing Quota (IFQ) Modifications
- Draft Amendment 28—*Red Snapper* Allocation
- Draft Amendment 39—Regional Management of Recreational *Red Snapper*
- Joint South Florida Management Options
- Hogfish Overfishing Limits (OFL) and Acceptable Biological Catch (ABC)
- Charge to the Reef Fish Headboat Advisory Panel (AP)
- Other Reef Fish (SSC) Report

– Recess –

Shrimp Management Committee Agenda, Wednesday, April 1, 2015, 8:30 a.m.–10 a.m.

- Biological Review of the Texas Closure
- Summary of Shrimp Advisory Panel Meeting
- Report on Penaeid Shrimp Maximum Sustainable Yield Acceptable Biological Catch Rule Workshop
- Update on Shrimp Amendment 15
- Scoping document for Shrimp Amendment 17
- Shrimp SSC Summary Report

Council Session Agenda, Wednesday, April 1, 2015, 10:15 a.m.–5 p.m.

10:15 a.m.–10:25 a.m.: Call to Order and Introductions, Adoption of Agenda and Approval of Minutes

10:25 a.m.–11:30 a.m.: (CLOSED SESSION) Advisory Panel Appointments

1 p.m.–3 p.m.: The Council will receive presentations on Mandatory Safety Exams for All Commercial Fishing Vessels, Notice of Intent for a Draft EIS for Expansion of Flower Garden Banks National Marine Sanctuary, and Draft Environmental Assessment for Amendment 6 to the Highly Migratory Species Fishery Management Plan (FMP).

3 p.m.–5 p.m.: The Council will receive public testimony on Final Action on *Greater Amberjack* Framework Action, Final Action on *Shrimp* Amendment 15 and Final Action on Eliminating Charter Vessel/Headboat Decal Requirement; open public comment period regarding other fishery issues or concerns.

– Recess –

Council Session Agenda, Thursday, April 2, 2015, 8:30 a.m.–3:45 p.m.

8:30 a.m.–9 a.m.: The Council will review and vote on Exempted Fishing Permits (EFPs), if any.

9 a.m.–12 noon: The Council will receive committee reports from the Administrative Policy/Budget, Law Enforcement, Data Collection, Gulf SEDAR, Sustainable Fisheries/Ecosystem, Mackerel and Shrimp Management Committees.

1:30 p.m.–3:15 p.m.: The Council will continue to receive committee reports from the Spiny Lobster and Reef Fish Management Committees.

3:15 p.m.–3:45 p.m.: The Council will review Other Business.

– Adjourn –

The Agenda is subject to change, and the latest version will be posted on the Council's file server, which can be accessed by going to the Council Web site at *http://www.gulfcouncil.org* and clicking on FTP Server under Quick Links. For meeting materials see folder ''Briefing Books/Briefing Book 2015–03'' on Gulf Council file server. The username and password are both ''gulfguest''. The meetings will be Webcast over the internet. A link to the Webcast will be available on the Council's Web site, *http://www.gulfcouncil.org.*

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kathy Pereira at the Council Office (see **ADDRESSES**), at least 5 working days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: March 6, 2015.

Tracey L. Thompson,

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

[FR Doc. 2015–05588 Filed 3–11–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–887]

Tetrahydrofurfuryl Alcohol From the People's Republic of China: Final Results of the Second Expedited Sunset Review of the Antidumping Duty Order

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

SUMMARY: As a result of this sunset review, the Department of Commerce (''Department'') finds that revocation of the antidumping duty order on tetrahydrofurfuryl alcohol (''THFA'') from the People's Republic of China (''PRC'') would be likely to lead to continuation or recurrence of dumping. The magnitude of the dumping margins likely to prevail is indicated in the ''Final Results of the Sunset Review'' section of this notice.

DATES: *Effective Date:* March 12, 2015.

FOR FURTHER INFORMATION CONTACT: Paul Stolz; AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: 202–482–4474.

SUPPLEMENTARY INFORMATION:

Background

On November 3, 2014, the Department initiated a sunset review of the antidumping duty order on THFA from the PRC pursuant to section 751(c) of the Tariff Act of 1930, as amended (''Act'').[1] On November 6, 2014, Penn A Kem LLC (''PAK''), the petitioner in the THFA investigation, timely notified the Department that it intended to participate in the sunset review claiming domestic interested party status under 19 CFR 351.102(b)(29)(v) and section 771(9)(C) of the Act, as a domestic producer of THFA.[2] The Department then received a complete substantive response filed by PAK on December 2, 2014, within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).[3] The Department did not receive any responses from any respondent interested parties. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), we conducted an expedited (120-day) sunset review of the *Order.* As a result of this sunset review, the Department finds that revocation of the *Order* would likely lead to continuation or recurrence of dumping, at the levels indicated in the ''Final Results of the Sunset Review'' section of this notice, *infra.*

Scope of the Order

The product covered by this order is THFA (C5H10O2). THFA, a primary

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[1] *See Initiation of Five-year (''Sunset'') Review,* 79 FR 65186 (November 3, 2014) (''*Sunset Initiation''*); *see also Notice of Antidumping Duty Order: Tetrahydrofurfuryl Alcohol From the People's Republic of China,* 69 FR 47911 (August 6, 2004) (''*Order''*).

[2] *See* PAK's letter, ''Sunset Review (Second Review) of the Antidumping Duty Order on Tetrahydrofurfuryl Alcohol From the People's Republic of China: Domestic Interested Party Notification of Intent to Participate,'' dated November 6, 2014; *see also* 19 CFR 351.218(d)(1)(i).

[3] *See* PAK's letter, ''Sunset Review (Second Review) of the Antidumping Duty Order on Tetrahydrofurfuryl Alcohol From the People's Republic of China: Substantive Response to Notice of Initiation,'' dated December 2, 2014.

alcohol, is a clear, water white to pale yellow liquid. THFA is a member of the heterocyclic compounds known as furans and is miscible with water and soluble in many common organic solvents. THFA is currently classifiable in the Harmonized Tariff Schedules of the United States (''HTSUS'') under subheading 2932.13.00.00. Although the HTSUS subheadings are provided for convenience and for customs purposes, the Department's written description of the merchandise subject to the order is dispositive.

Analysis of Comments Received

A complete discussion of all issues raised in this sunset review is provided in the accompanying Issues and Decision Memorandum, which is hereby adopted by this notice.[4] The issues discussed in the Issues and Decision Memorandum include the likelihood of continuation or recurrence of dumping and the magnitude of the margins of dumping likely to prevail if the order were revoked. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''ACCESS'').[5] 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 at *http://enforcement.trade.gov/frn/.* The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

Final Results of the Sunset Review

Pursuant to sections 751(c)(1) and 752(c)(1) and (3) of the Act, the Department determines that revocation of the *Order* would be likely to lead to continuation or recurrence of dumping at weighted-average dumping margins up to 136.86 percent.

Notification Regarding Administrative Protective Orders

This notice also serves as the only reminder to parties subject to administrative protective orders (''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 order 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 the results and notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act and 19 CFR 351.218.

Dated: March 3, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2015–05713 Filed 3–11–15; 8:45 am]

BILLING CODE 3510–DS–P

[4] *See* the Department's 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 Second Sunset Review of the Antidumping Duty Order on Tetrahydrofurfuryl Alcohol From the People's Republic of China,'' dated concurrently with this notice.

[5] 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

United States Patent and Trademark Office

[Docket No. PTO–P–2015–0009]

Grant of Interim Extension of the Term of U.S. Patent No. 5,610,059; Monovalent Lawsonia Intracellularis Bacterin Vaccine

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice of Interim Patent Term Extension.

SUMMARY: The United States Patent and Trademark Office has issued an order granting interim extension under 35 U.S.C. 156(d)(5) for a one-year interim extension of the term of U.S. Patent No. 5,610,059.

FOR FURTHER INFORMATION CONTACT: Mary C. Till by telephone at (571) 272–7755; by mail marked to her attention and addressed to the Commissioner for Patents, Mail Stop Hatch-Waxman PTE, P.O. Box 1450, Alexandria, VA 22313–1450; by fax marked to her attention at (571) 273–7755; or by email to *Mary.Till@uspto.gov.*

SUPPLEMENTARY INFORMATION: Section 156 of Title 35, United States Code, generally provides that the term of a patent may be extended for a period of up to five years if the patent claims a product, or a method of making or using a product, that has been subject to certain defined regulatory review, and that the patent may be extended for interim periods of up to one year if the regulatory review is anticipated to extend beyond the expiration date of the patent.

On January 15, 2015, the Arizona Board of Regents, on behalf of the University of Arizona, the patent owner of record, timely filed a second application under 35 U.S.C. 156(d)(5) for an interim extension of the term of U.S. Patent No. 5,610,059. The patent claims the veterinary biological product monovalent *Lawsonia intracellularis* bacterin vaccine. The original application indicates that Intervet, a licensee of the patent owner, submitted two Product License Applications (PLA) to the United States Department of Agriculture (USDA). In a letter dated April 12, 2011, USDA acknowledged receipt of the PLA for a multi-valent vaccine and assigned the vaccine product code 49L5.RO. In a letter dated December 22, 2011, USDA acknowledged receipt of a PLA for a monovalent vaccine of *Lawsonia intracellularis* bacterin and assigned the vaccine product code 2799.20.

Review of the application indicates that, except for permission to market or use the product commercially, the subject patent would be eligible for an extension of the patent term under 35 U.S.C. 156, and that the patent should be extended for one year as required by 35 U.S.C. 156(d)(5)(B). Because the regulatory review period will continue beyond the extended expiration date of the patent, March 11, 2015, interim extension of the patent term under 35 U.S.C. 156(d)(5) is appropriate.

An interim extension under 35 U.S.C. 156(d)(5) of the term of U.S. Patent No. 5,610,059 is granted for a period of one year from the extended expiration date of the patent.

Dated: March 2, 2015.

Andrew Hirshfeld,

Deputy Commissioner for Patent Examination Policy, United States Patent and Trademark Office.

[FR Doc. 2015–05581 Filed 3–11–15; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–941, C–570–942]

Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Continuation of Antidumping Duty Order and Countervailing Duty Order

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

SUMMARY: As a result of the determinations by the Department of Commerce (the Department) and the International Trade Commission (the ITC) in their five-year (sunset) reviews that revocation of the antidumping (AD) order on certain kitchen appliance shelving and racks (kitchen racks) from the People's Republic of China (PRC) would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, the Department is publishing a notice of continuation of the AD order. As a result of the determinations by the Department and the ITC that revocation of the countervailing duty (CVD) order on kitchen racks from the PRC would likely lead to a continuation or recurrence of a countervailable subsidy and material injury to an industry in the United States, the Department is publishing a notice of continuation of the CVD order.

DATES: March 12, 2015.

FOR FURTHER INFORMATION CONTACT: Irene Gorelik, AD/CVD Operations, Office V (AD Order), or Mary Kolberg, AD/CVD Operations, Office I (CVD Order), Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–6905 or (202) 482–1785, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published its *Final AD Determination* and *Final CVD Determination* on kitchen racks from the PRC on July 24, 2009, and July 27, 2009, respectively.[1] On August 1, 2014, the Department initiated the first five-year (sunset) reviews of the *AD Order* and *CVD Order,* pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).[2] As a result of its reviews, the Department determined that revocation of the AD order would likely lead to a continuation or recurrence of dumping and that revocation of the CVD order on kitchen racks from the PRC would likely lead to a continuation or recurrence of a countervailable subsidy. Therefore, the Department notified the ITC of the magnitude of the margins likely to prevail should the AD order be revoked, and the net countervailable subsidy rates likely to prevail should the CVD order be revoked.[3] On February 27, 2015, the ITC published its determination, pursuant to section 751(c) of the Act, that revocation of the AD Order and the CVD Order on kitchen racks from the PRC would likely lead to a continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[4]

Scope of the Order

The merchandise covered by these orders consists of shelving and racks for refrigerators, freezers, combined refrigerator-freezers, other refrigerating or freezing equipment, cooking stoves, ranges, and ovens. Certain kitchen appliance shelving and racks are defined as shelving, baskets, racks (with or without extension slides, which are carbon or stainless steel hardware devices that are connected to shelving, baskets, or racks to enable sliding), side racks (which are welded wire support structures for oven racks that attach to the interior walls of an oven cavity that does not include support ribs as a design feature), and sub-frames (which are welded wire support structures that interface with formed support ribs inside an oven cavity to support oven rack assemblies utilizing extension slides) with the following dimensions:

- Shelving and racks with dimensions ranging from 3 inches by 5 inches by 0.10 inch to 28 inches by 34 inches by 6 inches; or
- Baskets with dimensions ranging from 2 inches by 4 inches by 3 inches to 28 inches by 34 inches by 16 inches; or
- Side racks from 6 inches by 8 inches by 0.10 inch to 16 inches by 30 inches by 4 inches; or
- Sub-frames from 6 inches by 10 inches by 0.10 inch to 28 inches by 34 inches by 6 inches.

The subject merchandise is comprised of carbon or stainless steel wire ranging in thickness from 0.050 inch to 0.500 inch and may include sheet metal of either carbon or stainless steel ranging in thickness from 0.020 inch to 0.20 inch. The subject merchandise may be coated or uncoated and may be formed and/or welded. Excluded from the scope of the order is shelving in which the support surface is glass.

The merchandise subject to these orders is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) statistical reporting numbers 8418.99.80.50, 7321.90.50.00, 7321.90.60.40, 7321.90.60.90, 8418.99.80.60, 8419.90.95.20, 8516.90.80.00, and 8516.90.80.10. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

Continuation of the Orders

As a result of the determinations by the Department and the ITC that revocation of the AD order would likely lead to a continuation or recurrence of dumping and that revociation of the CVD order would likely lead to continuation or recurrence of a countervailable subsidy and material injury to an industry in the United States, pursuant to Section 751(d)(2) of the Act, the Department hereby orders the continuation of the AD and CVD orders on kitchen racks from the PRC. U.S. Customs and Border Protection will continue to collect AD and CVD cash deposits at the rates in effect at the time of entry for all imports of subject merchandise.

The effective date of the continuation of the AD and CVD orders will be the date of publication in the **Federal Register** of this notice of continuation. Pursuant to section 751(c)(2) of the Act, the Department intends to initiate the next five-year review of the AD order and CVD order not later than 30 days prior to the fifth anniversary effective date of the continuation.

These five-year sunset reviews and this notice are in accordance with section 751(c) of the Act and published pursuant to section 777(i)(1) of the Act and 19 CFR 351.218(f)(4).

[1] *See Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 74 FR 36656 (July 24, 2009) (*Final AD Determination*); *see also Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Final Affirmative Countervailing Duty Determination,* 74 FR 37012 (July 27, 2009) (*Final CVD Determination*).

[2] *See Initiation of Five-Year ("Sunset") Review,* 79 FR 44743 (August 1, 2014).

[3] *See Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Final Results of Expedited First Sunset Review of the Antidumping Duty Order,* 79 FR 67423 (November 13, 2014) and accompanying Issues and Decision Memorandum; *see also Certain Kitchen Appliance Shelving and Racks From China: Final Results of Expedited Sunset Review of the Countervailing Duty Order,* 79 FR 73029 (December 9, 2014) and accompanying Issues and Decision Memorandum.

[4] *See Certain Kitchen Appliance Shelving and Racks From China: Determination* (Investigation Nos. 701–TA–458 and 731–TA–1154 (Review)), 80 FR 10713 (February 27, 2015).

Dated: March 6, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2015–05711 Filed 3–11–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD794

Pacific Fishery Management Council; Nearshore Species' Assessment Workshop

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

ACTION: Notice of public workshop.

SUMMARY: The Pacific Fishery Management Council (Pacific Council) will sponsor a nearshore species assessment workshop to evaluate catch data and proposed catch-per-unit-effort (CPUE) indices for 2015 west coast groundfish stock assessments for black rockfish, China rockfish, and kelp greenling off Oregon. The Nearshore Species Assessment Workshop is open to the public.

DATES: The Nearshore Species Assessment Workshop will commence at 1 p.m. PT, Tuesday, March 31, 2015 and will continue through 5:30 p.m. or as necessary to complete business for the day. The workshop will continue on Wednesday, April 1, 2015 and Thursday, April 2, 2015 beginning at 8:30 a.m. and ending at 5:30 p.m. each day, or as necessary to complete business.

ADDRESSES: The Nearshore Species Assessment Workshop will be held at the Sheraton Portland Airport Hotel, 8235 NE Airport Way, Portland, OR 97220; telephone: (503) 281–2500. The workshop will be held in the Cascade A/B Room on March 31 and April 1, and will move to the Garden A/B Room on April 2.

Council address: Pacific Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Mr. John DeVore, Pacific Council; telephone: (503) 820–2413.

SUPPLEMENTARY INFORMATION: The purpose of the Nearshore Species Assessment Workshop is to evaluate available catch and effort data proposed for developing CPUE indices to inform 2015 groundfish stock assessments for black and China rockfish, as well as the population of kelp greenling off Oregon. Recommendations regarding the data available for use in developing CPUE indices for black rockfish, China rockfish, and kelp greenling will be forwarded to Stock Assessment Teams that will be conducting the assessments for their consideration in preparing these assessments scheduled for formal review later in 2015. Other data and approaches to assessing the abundance and productivity of west coast black rockfish, China rockfish, and kelp greenling may also be discussed at the Nearshore Species Assessment Workshop. No management actions will be decided in this workshop.

Although non-emergency issues not identified in the workshop agenda may come before the workshop participants for discussion, those issues may not be the subject of formal action during this workshop. Formal action at the workshop will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the workshop participants' intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for auxiliary aids should be directed to Mr. Kris Kleinschmidt at (503) 820–2425 at least 5 days prior to the workshop date.

Dated: March 6, 2015.

Tracey L. Thompson,

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

[FR Doc. 2015–05586 Filed 3–11–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD804

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Ecosystem Based Fishery Management Committee to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Monday, March 30, 2015 at 1 p.m. and Tuesday, March 31, 2015 at 8:30 a.m.

ADDRESSES: The meeting will be held at the Holiday Inn by the Bay, 88 Spring Street, Portland, ME 04101; telephone: (207) 775–2311; fax: (207) 772–4017

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Oversight Committee will evaluate available procedures to develop and implement Ecosystem Based Fisheries Management (EBFM) policy, based on a staff discussion document. To provide feedback to the EBFM Plan Development Team, the committee will discuss progress on developing scientific advice on modifying the Atlantic herring Acceptable Biological Catch control rule in Draft Amendment 8 to account for forage considerations and herring's role in the ecosystem. Finally, the committee will develop a letter commenting on NOAA Fisheries Draft Climate Strategy (documents available at *http://www.nefmc.org/library/briefing-on-noaa-fisheries-draft-climate-science-strategy*).

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: March 6, 2015.

Tracey L. Thompson,

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

[FR Doc. 2015–05587 Filed 3–11–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

International Trade Administration

Education Mission to Central America; March 16–19, 2015

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Amendment.

SUMMARY: The United States Department of Commerce, International Trade Administration is amending the Notice published at 79 FR 34287, June 16, 2014, for the education mission to El Salvador and Honduras, with an optional stop in Nicaragua, from March 16–19, 2015 to revise the mission description from executive-led to non-executive led.

FOR FURTHER INFORMATION CONTACT:

U.S. Export Assistance Center Silicon Valley, Gabriela Zelaya, International Trade Specialist, Tel: 408–535–2757, ext. 107, Email: *gabriela.zelaya@trade.gov.*

Laura Gimenez, Commercial Officer, El Salvador, Tel: (011–503) 2501–3221, Email: *laura.gimenez@trade.gov.*

Aileen Nandi, Commercial Officer, El Salvador, Tel: (408) 535–2757, ext. 102, Email: *aileen.nandi@trade.gov.*

U.S. Export Assistance Center Lexington, Sara Moreno, International Trade Specialist, Tel: 859–225–7001, Email: *sara.moreno@trade.gov.*

Frank Spector,

International Trade Specialist.

[FR Doc. 2015–05595 Filed 3–11–15; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Guantanamo Bay to Dania Beach Submarine Fiber Optic Cable System (GTMO SFOC); Environmental Assessment (EA)/Finding of No Significant Impact (FONSI)

AGENCY: U.S. Defense Information Systems Agency, DoD.

ACTION: Notice of availability.

SUMMARY: The Defense Information Systems Agency (DISA) is announcing that it has prepared an Environmental Assessment (EA) and issued a Finding of No Significant Impact (FONSI) relating to DISA's evaluation of the Proposed Action and Alternatives to installing Submarine Fiber Optic Cable (SFOC) for communication purposes between the DISN Facilities at Miami FL and U.S. Naval Station Guantanamo Bay, Cuba (GTMO) in order to supply high Bandwidth to DoD activities at GTMO. This SFOC will improve long-haul communications between the continental U.S. (CONUS) and GTMO. The FONSI reports the studies that prove that there will be no significant environmental impact from the installation of this SFOC. This notice announces the availability of the final EA and FONSI to concerned agencies and the public.

ADDRESSES: Requests to receive a copy of the EA or FONSI should be mailed to Defense Information Systems Agency, Public Affairs Officer, P.O. Box 549, Ft. Meade, MD 20755–0549. Arrangements must be made in advance to pick the documents, due to facility security requirements.

FOR FURTHER INFORMATION CONTACT: DISA Public Affairs at 301–225–8100 or disa.meade.SPI.mbx.disa-pao or DISA, P.O. box 549, Ft. Meade, MD 20755–0549.

SUPPLEMENTARY INFORMATION:

Background: Pursuant to the Council on Environmental Quality (CEQ) regulations for implementing the procedural provisions of the National Environmental Policy Act (NEPA; 40 Code of Federal Regulations [CFR] parts 1500–1508) and 32 CFR part 188, Environmental Effects in the United States of DoD Actions, the U.S. Defense Information Systems Agency (DISA) prepared an Environmental Assessment (EA) to analyze the installation of a submarine fiber optic cable connecting the Defense Information System Network (DISN) node located at Guantanamo Bay (GTMO), Cuba to the DISN node located in Miami, FL. The DISA is a Department of Defense (DoD) combat support agency under the direction, authority and control of the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence (ASD [C31]).

The Guantanamo Bay to Dania Beach Submarine Fiber Optic Cable System involves two existing, shore-based U.S. naval facilities where the GTMO SFOC will be landed end-to-end. On the CONUS end, the cable will be landed at the U.S. Navy's South Florida Ocean Measurement Facility (SFOMF) at Dania Beach, Florida; from there, the GTMO SFOC will span the entirety of Florida's Territorial Waters (3 nautical miles [nm]), extending through the U.S. Territorial Sea (12 nm) and Contiguous Zone (24 nm), with the majority of the cable system passing through a combination of the U.S. Exclusive Economic Zone (EEZ), the Bahamian EEZ, and the Cuban EEZ to the nearshore landing at the American Naval Station Guantanamo Bay (NAVSTAGTMO). The DISA will lease commercial dark fiber to facilitate the terrestrial connection between SFOMF and the Network Access Point (NAP) of the Americas in Miami, Florida to provide DISN node-to-node connection.

Purpose and Need: The purpose of the Proposed Action is to improve long-haul communications between the continental U.S. (CONUS) and GTMO. Long-haul communications requirements at GTMO are currently provided by commercial satellite services. A Submarine Fiber Optic Cable (SFOC) provides significantly more bandwidth than satellite services, exhibits very low latency, and is not subject to adverse atmospheric conditions, such as severe weather (for example, tropical rain storms and hurricanes). Therefore, the SFOC will increase the level and reliability of communication service between CONUS and GTMO. The attached EA and this FONSI were prepared in compliance with the NEPA (42 U.S.C. 4321–4347), CEQ regulations for implementing the procedural provisions of the NEPA (40 Code of Federal Regulations [CFR] parts 1500–1508), and 32 CFR part 188, Environmental Effects in the United States of DoD Actions. The attached EA considers all potential impacts of the Proposed Action and Alternatives, including the No Action Alternative. This Finding of No Significant Impact (FONSI) summarizes the DISA's evaluation of the Proposed Action and Alternatives.

Alternatives Considered: Dania Beach, Florida Nearshore Cable Route Alternatives—Two action alternatives were analyzed for the nearshore installation route proposed at Dania Beach, Florida within the 12 nm limit of NEPA applicability. Of these two alternatives, Alternative 2 (Preferred) involving the bundling of the GTMO SFOC to the existing CS–125 cable that has been installed through the nearshore coral reef tracks was selected. This alternative provides the greatest degree of natural resource protection as it is co-located through a corridor that has previously received environmental agency clearances.

Guantanamo Bay, Cuba Nearshore Cable Route Alternatives—Of the three alternatives considered, Alternative 3 (Glass Beach) was selected as the preferred landing site which contains an existing concrete landing station supporting two subaqueous utility lines and communication infrastructure coming ashore at this location. Co-locating the GTMO SFOC cable within this existing corridor provides the greatest degree of environmental impact

avoidance and minimization within the nearshore environment.

Deepwater Cable Route Alternatives—Three deepwater route alternatives with a common divergence point outside the U.S. were evaluated as part of the route planning process. These alternatives were not analyzed with respect to impacts on the human or natural environment because the DISA determined that the action of a one time, direct-laid SFOC system on the seabed has been demonstrated in past project actions at SFOMF and worldwide to ordinarily have only a minor, localized, and transient effect on the environment. Therefore, the action lacks the potential to cause significant harm to the environment outside the U.S. and meets the exemption requirement (E2.3.3.1.1) to prepare environmental documentation under Executive Order (E.O.) 12114, Environmental Effects Abroad of Major Federal Actions.

No Action Alternative—The No Action Alternative would be not to proceed with the GTMO SFOC system project linking NAVSTAGTMO at Guantanamo Bay, Cuba with the SFOMF facility at Dania Beach, Florida. NAVSTAGTMO would continue to operate with existing satellite communication capabilities which would not meet the operational need for reliability and additional bandwidth.

Conclusion: The GTMO SFOC EA was prepared and evaluated pursuant to NEPA, CEQ regulations at 40 CFR parts 1500–1508, and 32 CFR part 188. It has been concluded that, based on the analyses presented in the GTMO SFOC EA, the DISA has determined that no significant direct, indirect, or cumulative impacts would occur as a result of the Proposed Action. Therefore, no further study under NEPA is required, and a FONSI is thus warranted. In addition, the Proposed Action lacks the potential to cause significant harm to the environment outside the U.S. and thus is exempt from further environmental analyses under Executive Order 12114. Accordingly, the DISA approved the installation and operation of the GTMO SFOC.

Dated: March 9, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2015–05638 Filed 3–11–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number 2015–0013]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement; Requests for Equitable Adjustment

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

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. DoD invites comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

The Office of Management and Budget (OMB) has approved this information collection for use through August 31, 2015. DoD proposes that OMB extend its approval for use for three additional years.

DATES: DoD will consider all comments received by May 11, 2015.

ADDRESSES: You may submit comments, identified by OMB Control Number 0704–0397, using any of the following methods:

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

○ Email: *osd.dfars@mail.mil.* Include OMB Control Number 0704–0397 in the subject line of the message.

○ Fax: 571–372–6094.

○ Mail: Defense Acquisition Regulations System, Attn: Ms. Jennifer Hawes, OUSD(AT&L)DPAP(DARS), 3060 Defense Pentagon, Room 3B941, Washington, DC 20301–3060.

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

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer Hawes, at (571) 372–6115.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) part 243, Contract Modifications, and the related clause at DFARS 252.243–7002; OMB Control Number 0704–0397.

Needs and Uses: The information collection required by the clause at DFARS 252.243–7002, Requests for Equitable Adjustment, implements 10 U.S.C. 2410(a). DoD contracting officers and auditors use this information to evaluate contractor requests for equitable adjustments to contracts.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Annual Burden Hours: 2,483.

Number of Respondents: 328.

Responses Per Respondent: 1.6, approximately.

Annual Responses: 520.

Average Burden Per Response: 4.8 hours, approximately.

Frequency: On occasion.

Summary of Information Collection

The clause at DFARS 252.243–7002, Requests for Equitable Adjustment, is prescribed at DFARS 243.205–71 for use in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items that are estimated to exceed the simplified acquisition threshold. The clause requires contractors to certify that requests for equitable adjustment that exceed the simplified acquisition threshold are made in good faith and that the supporting data are accurate and complete. The clause also requires contractors to fully disclose all facts relevant to the requests for adjustment.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

[FR Doc. 2015–05639 Filed 3–11–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

U.S. Air Force Scientific Advisory Board; Notice of Meeting

AGENCY: Air Force Scientific Advisory Board, Department of the Air Force, DOD.

ACTION: Meeting notice.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, the Department of Defense announces that the United States Air Force (USAF) Scientific Advisory Board (SAB) Spring Board meeting will take place on 21 April 2015 at the 552nd Air Control Wing Auditorium, located in building 282, Tinker Air Force Base, Oklahoma City 73145. The meeting will occur from 7:30 a.m.–11:30 a.m. on Tuesday, 21 April 2015. The session that will be open to the *general public* will be held from 7:30 a.m. to 8:00 a.m. on 21 April 2015. The purpose of this Air Force Scientific Advisory Board quarterly meeting is to conduct a mid-term review of FY15 SAB studies, which consist of: (1) Cyber Vulnerabilities of Embedded Systems on Air And Space Systems, (2) Enhanced Utility of Unmanned Air Vehicles In Contested and Denied Environments, (3) Utility of Quantum Systems for the Air Force. In accordance with 5 U.S.C. 552b, as amended, and 41 CFR 102–3.155, a number of sessions of the USAF SAB Spring Board meeting will be closed to the public because they will discuss classified information and matters covered by section 5 U.S.C. 552b(c)(1).

Any member of the public that wishes to attend this meeting or provide input to the USAF SAB must contact the Designated Federal Officer at the phone number or email address listed below at least five working days prior to the meeting date. Please ensure that you submit your written statement in accordance with 41 CFR 102–3.140(c) and section 10(a)(3) of the Federal Advisory Committee Act. Statements being submitted in response to the agenda mentioned in this notice must be received by the Designated Federal Officer at the address listed below at least five calendar days prior to the meeting commencement date. The Designated Federal Officer will review all timely submissions and respond to them prior to the start of the meeting identified in this noice. Written statements received after this date may not be considered by the USAF SAB until the next scheduled meeting.

FOR FURTHER INFORMATION CONTACT: The USAF SAB meeting organizer, Major Mike Rigoni at, *michael.j.rigoni.mil@mail.mil* or 240–612–5504, United States Air Force Scientific Advisory Board, 1500 West Perimeter Road, Ste. #3300, Joint Base Andrews, MD 20762.

Henry Williams Jr.,

Acting Air Force Federal Register Liaison Officer, DAF.

[FR Doc. 2015–05616 Filed 3–11–15; 8:45 am]

BILLING CODE 5001–10–P

DEPARTMENT OF EDUCATION

Application for New Awards; Evaluation of State Education Programs and Policies Grant Program

AGENCY: Institute of Education Sciences, Department of Education.

ACTION: Notice.

Overview Information

Evaluation of State Education Programs and Policies Grant Program.

Notice inviting applications for new awards for fiscal year (FY) 2015.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.305E.

Dates:

Request for Applications Available: On or before March 12, 2015.

Applications Available: April 16, 2015.

Deadline for Notice of Intent to Apply: April 16, 2015.

Deadline for Transmittal of Applications: June 10, 2015.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the Evaluation of State Education Programs and Policies Grant Program is to support rigorous evaluations of education programs and policies implemented by State educational agencies (SEAs) that have important implications for improving student education outcomes. These evaluations are to be carried out by partnerships between research institutions and SEAs.

The National Center for Education Research (NCER), a center within the Institute of Education Sciences (IES), will hold a competition for the Evaluation of State Education Programs and Policies Grant Program. Under this competition, NCER will consider only applications that propose to evaluate State programs and policies (or components of these programs and policies) that fit within one of the three following categories:

- College- and Career-Ready Standards and Assessments.
- Identification and Improvement of the Lowest-Performing Schools and/or Schools with the Greatest Achievement Gaps.
- Teacher and Principal Evaluation and Support Systems.

Program Authority: 20 U.S.C. 9501 *et seq.*

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 77, 81, 82, 84, 86, 97, 98, and 99. In addition, the regulations in 34 CFR part 75 are applicable, except for the provisions in 34 CFR 75.100, 75.101(b), 75.102, 75.103, 75.105, 75.109(a), 75.200, 75.201, 75.209, 75.210, 75.211, 75.217(a)–(c), 75.219, 75.220, 75.221, 75.222, and 75.230.

(b) The OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended in 2 CFR part 3474.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $5 million for FY 2015.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2016 from the list of unfunded applicants from this competition.

Estimated Range of Awards: $2 to $5 million for the entire project period of up to 60 months.

Maximum Award: The maximum total award is $5 million for the entire project period of up to 60 months. We will reject any application that proposes more than $1 million for each 12-month budget period of the grant.

Estimated Number of Awards: The number of awards made will depend on the quality of the applications received for that competition and the availability of funds.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months based on performance.

III. Eligibility Information

1. *Eligible Applicants:* Research partnerships involving at least one

research institution and at least one SEA. The partnership must choose one principal investigator from either the research institution or the SEA to have overall responsibility for the administration of the award. Applicants that have the ability and capacity to conduct scientifically valid research are eligible to apply as the research institution partner. These include, but are not limited to, nonprofit and for-profit organizations and public and private agencies and institutions, such as colleges and universities. An SEA is the agency primarily responsible for the State supervision of elementary schools and secondary schools. See 20 U.S.C. 9601 (which incorporates by reference the definition of SEA set out in section 9101 of the Elementary and Secondary Education Act of 1965, as amended, 20 U.S.C. 7801). Partnerships can include multiple research institutions and/or multiple SEAs if justified by research complementarities and shared interest in the program or policy to evaluated.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

IV. Application and Submission Information

1. *Request for Applications (RFA) and Other Information:* Information regarding program and application requirements for the competition, including selection criteria, requirements concerning the content of an application, and review procedures will be contained in the NCER RFA, which will be available on the IES Web site at: *http://ies.ed.gov/funding/.*

We intend to hold a Webinar designed to provide technical assistance to interested applicants. Information will also be provided on the IES Web site at: *http://ies.ed.gov/funding.*

Individuals with disabilities can obtain a copy of the RFA and application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting the person or team listed under *Accessible Format* in section VIII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application are in the RFA for the specific competition. The forms that must be submitted are in the application package for the specific competition.

Letter of Intent to Apply: April 16, 2015.

We ask potential applicants to submit a letter of intent. We use the information in the letters of intent to identify the expertise needed for the scientific review panels and to secure a sufficient number of reviewers. For this reason, letters of intent are optional but strongly encouraged. We request that letters of intent be submitted using the link at: *https://iesreview.ed.gov/.*

Eligible entities that do not provide this notification may still apply for funding.

3. *Submission Dates and Times:*

Request for Applications Available: On or before March 12, 2015.

Application Package Available: April 16, 2015.

Deadline for Notice of Intent to Apply: April 16, 2015.

Deadline for Transmittal of Applications: June 10, 2015.

Applications for grants under this competition must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 7. *Other Submission Requirements* of this notice.

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 competition is not subject to Executive Order 12372 and the regulations in CFR part 79.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM) (formerly the Central Contractor Registry (CCR)), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet. A DUNS number can be created within one to two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow 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, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/web/grants/register.html.*

7. *Other Submission Requirements:* Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the Evaluation of State Education Programs and Policies Grant Program competition, CFDA number 84.305E, 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 Evaluation of State Education Programs and Policies competition at *www.Grants.gov.* You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.,* search for 84.305, not 84.305E).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted, and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *www.G5.gov.*
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: the Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- You must upload any narrative sections and all other attachments to your application as files in a PDF (Portable Document) read-only, non-modifiable format. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF or submit a password-protected file, we will not review that material.
- Your electronic application must comply with any page-limit requirements described in the RFA for your application.
- After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).
- We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that the problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

- You do not have access to the Internet; or
- You do not have the capacity to upload large documents to the Grants.gov system; *and*
- No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day

before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Ellie Pelaez, U.S. Department of Education, 555 New Jersey Avenue NW., Room 600e, Washington, DC 20208. FAX: (202) 219–1466.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.305E), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number: 84.305E), 550 12th Street SW., Room 7039, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 10 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are provided in the RFA.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Special Conditions:* Under 2 CFR 3474.10, the Secretary may impose special conditions and, in appropriate circumstances, high-risk 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 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Grant Administration:* Applicants should budget to attend an annual three-day meeting for project directors to be held in Washington, DC.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

5. *Performance Measures:* To evaluate the overall success of its education research grant program, IES annually assesses the percentage of projects that result in peer-reviewed publications, the

number of newly developed or modified interventions with evidence of promise for improving student education outcomes, and the number of Institute-supported interventions with evidence of efficacy in improving student outcomes including student academic outcomes and social and behavioral competencies. Student academic outcomes include learning and achievement in core academic content areas (reading, writing, math, and science) and outcomes that reflect students' successful progression through the education system (*e.g.,* course and grade completion; high school graduation and dropout; postsecondary enrollment, progress, and completion). Social and behavioral competencies include social skills, attitudes, and behaviors that may be important to student's academic and post-academic success.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: whether a grantee has made substantial progress in meeting the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, whether the grantee has met the performance targets in the grantee's approved application. In making a continuation grant, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contacts

FOR FURTHER INFORMATION CONTACT: Dr. Allen Ruby, U.S. Department of Education, 555 New Jersey Avenue NW., Room 610e, Washington, DC 20208, or by email: *Allen.Ruby@ed.gov.*

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

VIII. Other Information

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

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

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

Dated: March 9, 2015.

Sue Betka,

Acting Director, Institute of Education Sciences.

[FR Doc. 2015–05693 Filed 3–11–15; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Statewide Longitudinal Data Systems Program

AGENCY: Institute of Education Sciences, Department of Education.

ACTION: Notice.

Overview Information

Statewide Longitudinal Data Systems Program.

Notice inviting applications for new awards for fiscal year (FY) 2015.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.372A.

Dates:

Request for Applications Available: March 12, 2015.

Application Package Available: March 19, 2015.

Deadline for Transmittal of Letters of Intent: April 13, 2015.

Dates of Informational Meetings: The Institute of Education Sciences (IES) intends to hold webinars designed to provide technical assistance to interested applicants. Detailed information regarding these webinars will be provided on IES' Web site at *http://ies.ed.gov/funding.*

Deadline for Transmittal of Applications: June 10, 2015.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The Statewide Longitudinal Data Systems Program awards grants to State educational agencies (SEAs) to design, develop, and implement Statewide longitudinal data systems to efficiently and accurately manage, analyze, disaggregate, and use individual student data. The Department's long-term goal in operating the program is to help all States create comprehensive P–20W (early learning through workforce) systems that foster the generation and use of accurate and timely data, support analysis and informed decision-making at all levels of the education system, increase the efficiency with which data may be analyzed to support the continuous improvement of education services and outcomes, facilitate research to improve student academic achievement and close achievement gaps, support education accountability systems, and simplify the processes used by SEAs to make education data transparent through Federal and public reporting.

Priorities: Over the past decade, States have made a great deal of progress in developing Statewide longitudinal data systems, most of them with the assistance of SLDS Program funds. This competition will focus on enhancing States' capacity to use those systems to identify problems and drive improvement efforts. States may apply for funds to address up to two of the priority data use cases described in this section. SEAs may apply for grants selecting up to two of the following data use priorities:

(1) Financial Equity and Return on Investment;

(2) Educator Talent Management;

(3) Early Learning;

(4) College and Career;

(5) Evaluation and Research; or

(6) Instructional Support.

Grants will not be made available to support ongoing maintenance of data systems. Use of data supported by these grants must be in accordance with the Family Educational Rights and Privacy Act, as well as any other applicable Federal and State laws or regulations concerning the confidentiality of individual records.

An SEA may submit only one application under this competition.

Program Authority: 20 U.S.C. 9607.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 77, 82, 84, 97, 98, and 99. (b) The OMB Guidelines to Agencies on Governmentwide Debarment and

Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended in 2 CFR part 3474. In addition, the regulations in 34 CFR part 75 are applicable, except for the provisions in 34 CFR 75.100, 75.101(b), 75.102, 75.103, 75.105, 75.109(a), 75.200, 75.201, 75.209, 75.210, 75.211, 75.217(a)–(c), 75.219, 75.220, 75.221, 75.222, and 75.230.

II. Award Information

Type of Award: Cooperative agreements.

Estimated Available Funds: $27,000,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2016 from the list of unfunded applicants from this competition.

Estimated Range of Awards: $1,000,000 to $7,000,000 for the entire project period. The size of the individual grants will depend on the scope of the projects proposed.

Maximum Award: We will reject any application that proposes a budget exceeding $7,000,000 (up to $3,500,000 per priority) for the entire project period of 48 months.

The Director of IES may change the maximum amount through a notice published in the **Federal Register**.

Estimated Number of Awards: The number of awards made under this competition will depend upon the quality of the applications received and the level of funding requested.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 48 months.

III. Eligibility Information

1. *Eligible Applicants:* Eligible applicants are limited to SEAs. An SEA is the agency primarily responsible for the State supervision of elementary schools and secondary schools. See 20 U.S.C. 9601 (which incorporates by reference the definition of SEA set out in section 9101 of the Elementary and Secondary Education Act of 1965, as amended (ESEA), 20 U.S.C. 7801). The SEAs of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands are eligible.

2. a. *Cost Sharing or Matching:* This competition does not require cost sharing or matching.

b. *Supplement-Not-Supplant:* The Educational Technical Assistance Act of 2002 requires that funds made available under this grant program be used to supplement, and not supplant, other State or local funds used for developing or using State data systems.

IV. Application and Submission Information

1. *Request for Applications:* Information regarding program and application requirements for this competition will be contained in the Request for Applications, which will be available on March 12, 2015, at the following Web site: *http://ies.ed.gov/funding/.*

Individuals with disabilities can obtain a copy of the Request for Applications and the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disk) by contacting he person listed under For Further Information Contact in section VII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application are in the Request for Applications. The forms that must be submitted are in the application package for this competition.

Letter of Intent to Apply: April 13, 2015.

We ask potential applicants to submit a letter of intent, indicating the Priority or Priorities under which the State intends to apply for funding. We use the information in the letters of intent to identify the expertise needed for the scientific review panels and to secure a sufficient number of reviewers. For this reason, letters of intent are optional but strongly encouraged. We request that letters of intent be submitted using the link at: *https://iesreview.ed.gov/.*

Eligible entities that do not provide this notification may still apply for funding.

3. *Submission Dates and Times:*

Request for Applications Available: March 12, 2015.

Application Package Available: March 19, 2015.

Deadline for Transmittal of Letters of Intent to Apply: April 13, 2015.

Dates of Informational Meetings: We intend to hold webinars designed to provide technical assistance to interested applicants. Detailed information regarding these meetings will be provided on the IES Web site at *http://ies.ed.gov/funding.*

Deadline for Transmittal of Applications: June 10, 2015.

Applications for grants under this competition must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery 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 competition is not subject to Executive Order 12372 and the regulations in CFR part 79.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the Applicable Regulations section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—-

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM) (formerly the Central Contractor Registry (CCR)), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet. A DUNS number can be created within one to two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow 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, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/web/grants/register.html.*

7. *Other Submission Requirements:* Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the Statewide Longitudinal Data Systems competition, CFDA number 84.372A, 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 Statewide Longitudinal Data Systems competition at *www.Grants.gov.* You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.,* search for 84.372, not 84.372A).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *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.
- Your electronic application must comply with any page-limit requirements described in this notice.
- After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).
- We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing

instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

- You do not have access to the Internet; or
- You do not have the capacity to upload large documents to the Grants.gov system; and
- No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevent you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Ellie Pelaez, U.S. Department of Education, 555 New Jersey Avenue NW., Room 600e, Washington, DC 20208–5530. FAX: (202) 219–1466.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.372A), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.372A), 550 12th Street SW., Room 7039, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 10 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* Information regarding selection criteria and review procedures for this competition will be provided in the Request for Applications.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

4. *Special Conditions:* Under 2 CFR 3474.10, the Secretary may impose special conditions and, in appropriate circumstances, high-risk 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 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html*.

4. *Performance Measures:* To evaluate the overall success of this program, the Department has established three performance measures that assess progress toward our strategic goal of ensuring that data are available to inform educational decisions by supporting States' development and implementation of Statewide longitudinal data systems. The Department measures: (1) The number of States that link K–12 data with early childhood data; (2) the number of States that link K–12 data with postsecondary data; and (3) the number of States that link K–12 and postsecondary data with workforce data. In addition, grantees will be expected to report in their annual and final performance reports on their progress in achieving the project objectives proposed in their grant applications and on the status of their development and implementation of a Statewide longitudinal data system.

5. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in meeting the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application. In making a continuation grant, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Nancy Sharkey, U.S. Department of Education, National Center for Education Statistics, 1990 K Street NW., Room 9101, Washington, DC 20006–5651. Telephone: (202) 502–7494 or by email: *Nancy.Sharkey@ed.gov*.

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

Individuals with disabilities can obtain a copy of the application package in an accessible format (*e.g.*, braille, large print, audiotape, or compact disc) by contacting the program contact person listed in this section.

VIII. Other Information

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

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

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

Dated: March 9, 2015.

Sue Betka,

Acting Director, Institute of Education Sciences.

[FR Doc. 2015–05682 Filed 3–11–15; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD04–4–002]

Panel Member List for Hydropower Licensing Study Dispute Resolution; Notice Requesting Applications for Panel Member List for Hydropower Licensing Study Dispute Resolution

This notice requests applications from those interested in being listed as potential panel members to assist in the Federal Energy Regulatory Commission's (Commission) study dispute resolution process for the integrated licensing process of hydropower projects.

Background

The Commission's integrated licensing process (ILP) regulations pertaining to hydroelectric licensing under the Federal Power Act encourages informal resolution of study disagreements. In cases where this is not successful, a formal study dispute resolution process is available for state and federal agencies or Indian tribes with mandatory conditioning authority.[1]

The ILP provides that the disputed study must be submitted to a dispute resolution panel consisting of a person from Commission staff, a person from the agency or Indian tribe referring the dispute to the Commission, and a third person selected by the other two panelists from a pre-established list of persons with expertise in the disputed resource area.[2] The third panel member (TPM) will serve without compensation, except for certain allowable travel expenses to be borne by the Commission.

The role of the panel members is to make a finding, with respect to each disputed study request, on the extent to which each study criteria set forth in the

[1] See § 5.14 of the final rule, which may be viewed on the Commission's Web site at *http://www.access.gpo.gov/nara/cfr/waisidx_06/18cfr5_06.html*.

[2] These persons must not be otherwise involved with the proceeding.

regulations is or is not met,[3] and why. The panel will then make a recommendation to the Director of the Office of Energy Projects based on the panel's findings.

TPMs can only be selected from a list of qualified persons (TPM List) that is developed and maintained by the Commission. This notice seeks additional members for the TPM list, which was originally compiled in 2004 and 2010. Current members of the TPM list do not need to reapply, but are encouraged to update their resumes. Each qualified panel member will be listed by area(s) and sub-area(s) of technical expertise, for example Fisheries Resources—instream flow. The TPM list and qualifications will be available to the public on the Commission's Web site. All individuals submitting their applications to the Commission for consideration must meet the Commission's qualifications.

Application Contents

The applicant should describe in detail his/her qualifications in items 1–4 listed below.

1. Technical expertise, including education and experience in each resource area and sub-area for which the applicant wishes to be considered:

- Aquatic Resources
  - ○ water quality
  - ○ instream flows
  - ○ fish passage
  - ○ species specialists
  - 1. bull trout
  - 2. pacific salmon
  - 3. Atlantic salmon and cluepeids
  - 4. bass
  - 5. lamprey
  - 6. sturgeon
  - ○ macroinvertebrates
  - ○ threatened and endangered species
  - ○ general
- Terrestrial Resources
  - ○ wildlife biology
  - ○ botany
  - ○ wetlands ecology
  - ○ threatened and endangered species
  - ○ general
- Cultural Resources
  - ○ architectural history
  - ○ archeology
  - ○ Indian tribes
- Recreational Resources
  - ○ whitewater boating
  - ○ instream flows
  - ○ general
- Land use
  - ○ shoreline management
  - ○ general
- Aesthetics
  - ○ noise
  - ○ dark sky/nighttime artificial lighting
  - ○ aesthetic instream flows
  - ○ general
- Geology
  - ○ geomorphology
  - ○ erosion
  - ○ general
- Socio-economics
- Engineering
  - ○ civil engineering
    - ▪ hydrology
    - ▪ structural
  - ○ hydraulic engineering
  - ○ electrical engineering
  - ○ general

2. Knowledge of the effects of construction and operation of hydroelectric projects.

3. Working knowledge of laws relevant to expertise, such as: the Fish and Wildlife Coordination Act, the Endangered Species Act, the Clean Water Act, the Coastal Zone Management Act, the Wild and Scenic Rivers Act, the Federal Power Act, or other applicable laws.

4. Ability to promote constructive communication about a disputed study.

How To Submit Applications

Applicants must submit their applications along with the names and contact information of three references. Applications will be evaluated as they are received, and each applicant will be individually notified of the Commission's decision.

DATES: Applications are requested by July 1, 2015 in order to prepare for an expected increase in ILP work load over the next several years. However, the application period will remain open indefinitely to maintain a current listing of potential applicants.

ADDRESSES: Applications must be filed electronically via the Internet. See the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link. Applications should reference ''DOCKET No. AD04–4–002, NOTICE REQUESTING APPLICATIONS FOR PANEL MEMBER LIST FOR HYDROPOWER LICENSING STUDY DISPUTE RESOLUTION''.

Other Information: Complete individual contact information must be provided.

FOR FURTHER INFORMATION CONTACT: David Turner, Federal Energy Regulatory Commission, Office of Energy Projects, 888 First Street NE ., Washington, DC 20426, (202) 502–6091, *David.Turner@ferc.gov*.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–05389 Filed 3–11–15; 8:45 am]

BILLING CODE 6717–01–P

[3] See § 5.9 of the final rule.

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2006–0971; FRL–9923–72–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; National Volatile Organic Compound Emission Standards for Architectural Coatings (Renewal)

Correction

In notice document 2015–04017 appearing on pages 10480–10481 in the issue of February 26, 2015 make the following correction:

On page 10481, in the first column, under the **DATES** heading, in the second line, ''March 9, 2015'' should read ''March 30, 2015''.

[FR Doc. C1–2015–04017 Filed 3–11–15; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2009–1017; FRL–9923–27]

Notice of Receipt of Requests To Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is issuing a notice of receipt of requests by registrants to voluntarily cancel certain pesticide registrations. EPA intends to grant these requests at the close of the comment period for this announcement unless the Agency receives substantive comments within the comment period that would merit its further review of the requests, or unless the registrants withdraw its requests. If these requests are granted, any sale, distribution, or use of products listed in this notice will be permitted after the registrations has been cancelled only if such sale, distribution, or use is consistent with the terms as described in the final order.

DATES: Comments must be received on or before April 13, 2015.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2009–1017, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI)

or other information whose disclosure is restricted by statute.

• *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.

Submit written withdrawal request by mail to: Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001. ATTN: Janeese Hackley.

• *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Janeese Hackley, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 605–1523; email address: *hackley.janeese@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

II. What action is the Agency taking?

This notice announces receipt by the Agency of requests from registrants to cancel 47 pesticide products registered under FIFRA section 3 (7 U.S.C. 136a) or 24(c) (7 U.S.C. 136v(c)). These registrations are listed in sequence by registration number (or company number and 24(c) number) in Table 1 of this unit.

Unless the Agency determines that there are substantive comments that warrant further review of the requests or the registrants withdraw their requests, EPA intends to issue an order in the **Federal Register** canceling all of the affected registrations.

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Product name	Chemical name
000279–09556	Intruder Residual Cylinder with Cyfluthrin	Piperonyl butoxide, Pyrethrins, and Cyfluthrin.
000769–00881	Pratt 25–5 ULV Mosquito Adulticide Concentrate.	Pyrethrins and Piperonyl butoxide.
002693–00214	Micron Extra P-Blue	Tolylfluanid and Cuprous oxide.
002693–00215	Ultra P-Blue	Cuprous oxide and Tolylfluanid.
002724–00779	Permethrin Plus Home and Carpet Spray	Permethrin, MGK 264, and Pyriproxyfen.
004787–00043	Malathion Technical	Malathion.
004787–00046	Atrapa 8E	Malathion.
005382–00046	Chlorite Plus CD–2	Sodium chlorite.
005481–00350	Metam Sodium	Metam sodium.
005481–00418	Metam Sodium Soil Fumigant For All Crops	Metam sodium.
005481–00420	AMVAC Metam	Metam sodium.
005481–00446	Metacide 42	Metam sodium.
007969–00081	Pyramin DF Herbicide	Pyrazon.
007969–00108	Pyramin Super Herbicide	Pyrazon.
010088–00097	Insect Repellent Towel	MGK–264, MGK 326, and Diethyl toluamide.
010163–00174	Fireban Fire Ant Insecticide	Phosmet.
010163–00224	Ambush 0.5% Bait	Permethrin.
011603–00045	Nitrapyrin Technical	Nitrapyrin.
021164–00003	DURA KLOR	Sodium chlorite.
021164–00005	AKTA KLOR 80	Sodium chlorite.
035559–00002	Diesel STA–BIL	1,3,2-Dioxaborinane, 2,2′-((1-methyl-1,3-propanediyl) bis(oxy))bis(4-methyl- and 1,3,2-Dioxaborinane, 2,2′-oxybis(4,4,6-trimethyl-.
042750–00259	Glufosinate-Ammonium TGAI	Glufosinate-Ammonium.
047158–00002	Synergy 201	Poly(oxy-1,2-ethanediyl(dimethylimino)-1,2-ethanediyl (dimethylimino)-1,2-ethanediyl dichloride).
059639–00028	Orthene Tree and Ornamental Spray	Acephate.
059639–00086	Orthene 90 WSP	Acephate.
059639–00089	Orthene 75 WSP (Insecticide in a Water Soluble Bag).	Acephate.
062190–00028	Chemonite Part B	Cuprous oxide.
065217–00001	Biobor JF	1,3,2-Dioxaborinane, 2,2′-((1-methyl-1,3-propanediyl)bis(oxy))bis(4-methyl- and 1,3,2-Dioxaborinane, 2,2′oxybis(4,4,6-trimethyl-.

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Product name	Chemical name
066222–00108	Bromoxynil and Atrazine Herbicide	Atrazine and Bromoxynil octanoate.
066222–00119	Bromoxynil 2EC Herbicide	Bromoxynil octanoate.
066222–00120	Bromoxynil and MCPA Herbicide	MCPA, 2-ethylhexyl ester and Bromoxynil octanoate.
069361–00029	Pendim Weed and Feed	Pendimethalin.
069361–00030	Pendimethalin Technical	Pendimethalin.
069361–00031	Pendim 3.3 EC Herbicide	Pendimethalin.
069361–00032	Pendim H_2O Herbicide	Pendimethalin.
069461–00002	Revablue	Poly(oxy-1,2 ethanediyl(dimethylimino)-1,2-ethanediyl(dimethylimino)-1,2-ethanediyl dichloride).
071368–00070	Bromoxynil Technical	Bromoxynil.
071368–00071	Bromox Octanoic Acid Technical	Bromoxynil octanoate.
071995–00003	Kleeraway Grass & Weed Killer 2	Sodium acifluorfen and Glyphosate-isopropylammonium.
073801–00001	Deltamethrin Technical	Deltamethrin.
073801–00003	Sulfentrazone Technical	Sulfentrazone.
073801–00004	Deltamethrin 4.75% SC	Deltamethrin.
089118–00001	VCP–01 10WG	Bifenthrin.
CA–090010	Ethrel Brand Ethephon Plant Regulator	Ethephon.
HI–840004	AMCHEM Ethrel Pineapple Growth Regulator	Ethephon.
MA–090002	B–CAP 35 Antimicrobial Agent	Hydrogen peroxide.
PA–080004	B–CAP 50 Antimicrobial Agent	Hydrogen peroxide.

Table 2 of this unit includes the names and addresses of record for all registrants of the products in Table 1 of this unit, in sequence by EPA company number. This number corresponds to the first part of the EPA registration numbers of the products listed in this unit.

TABLE 2—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA company No.	Company name and address
279	FMC Corp. Agricultural Products Group, 1735 Market Street, RM 1978, Philadelphia, PA 19103.
769	Value Gardens Supply, LLC, Agent: AllPro Vector Group, 640 Griswold Street, Suite 200, Northville, MI 48167.
2693	AkzoNobel, Agent: International Paint, LLC, 2270 Morris Ave. Union, NJ 07083.
2724	Wellmark International, 1501 E. Woodfield Road, Suite 200 West, Schaumburg, IL 60173.
4787	Cheminova A/S, Agent: Cheminova, Inc., 1600 Wilson Blvd., Suite 700, Arlington, VA 22209.
5382, 21164	Basic Chemicals Company, LLC, 5005 LBJ Freeway, Dallas, TX 75244.
5481	AMVAC Chemical Corporation, 4695 MacArthur Court, Suite 1200, Newport Beach, CA 926601706.
7969	BASF Corporation, 26 Davis Drive, P.O. Box 13528, Research Triangle Park, NC 27709–3528.
10088	Athea Laboratories, Inc., P.O. Box 240014, Milwaukee, WI 53224.
10163	Gowan Company, P.O. Box 5569, Yuma, AZ 85366.
11603	ADAMA, Agent: MANA, Inc., 3120 Highwoods Blvd, Suite 100, Raleigh, NC 27604.
35559	Gold Eagle Co., Agent: Delta Analytical Corp., 12510 Prosperity Drive, Suite 160, Silver Spring, MD 20904.
42750	Albaugh, LLC, P.O. Box 2127, Valdosta, GA 31604–2127.
47158	Industrial Water Consulting, Inc., P.O. Box 36238, Indianapolis, IN 46236.
59639	Valent U.S.A. Corporation, 1600 Riviera Avenue, Suite 200, Walnut Creek, CA 94596.
62190	Arch Wood Protection, Inc., 360 Interstate North Parkway, Suite 450, Atlanta, GA 30339.
65217	Hammonds Fuel Additives, Inc., Agent: Delta Analytical Corp., 12510 Prosperity Drive, Suite 160, Silver Spring, MD 20904.
66222	Makhteshim Agan of North America, Inc., 3120 Highwoods Blvd., Suite 100, Raleigh, NC 27604.
69361	Repar Corporation, Agent: Mandava Associates, LLC, 1050 Conn. Ave. NW., Suite 1000, Washington, DC 20036.
69461	Laboratoire Pareva, Agent: Technology Sciences Group, Inc., 1150 18th Street NW., Suite 1000, Washington, DC 20036.
71368	Nufarm, Inc., Agent: Nufarm Americans, Inc., 4020 Aerial Center Parkway, Suite 101, Morrisville, NC 27560.
71995	Monsanto Company, 1300 I Street NW., Suite 450 East, Washington, DC 20005.
73801	Tagos Chemicals India, LTD, Agent: Biologic, Inc., 115 Obtuse Hill Road, Brookfield, CT 06804.
89118	Vive CorpProtection, Inc., Agent: OMC Ag Consulting, 828 Tanglewood Ln., East Lansing, MI 48823.
CA–090010, HI–840004	Bayer CropScience, LP, 2 T.W. Alexander Drive, P.O. Box 12014, Research Triangle Park, NC 27709.
MA–090002, PA–080004	PeroxyChem, LLC, 2005 Market Street, Suite 3200, Philadelphia, PA 19103.

III. What is the Agency's authority for taking this action?

Section 6(f)(1) of FIFRA (7 U.S.C. 136d(f)(1)) provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**.

Section 6(f)(1)(B) of FIFRA (7 U.S.C. 136d(f)(1)(B)) requires that before acting on a request for voluntary cancellation, EPA must provide a 30-day public comment period on the request for voluntary cancellation or use

termination. In addition, FIFRA section 6(f)(1)(C) (7 U.S.C. 136d(f)(1)(C)) requires that EPA provide a 180-day comment period on a request for voluntary cancellation or termination of any minor agricultural use before granting the request, unless:

1. The registrants request a waiver of the comment period, or

2. The EPA Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment.

The registrants in Table 2 of Unit II. have requested that EPA waive the 180-day comment period. Accordingly, EPA will provide a 30-day comment period on the proposed requests.

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation should submit such withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. If the products have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling.

V. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products that are currently in the United States and that were packaged, labeled, and released for shipment prior to the effective date of the cancellation action.

A. For Products (069361–00030, 073801–00003, and 089118–00001)

The registrants have indicated to the Agency via written response that there are no existing stocks because no production has ever occurred. Therefore, no existing stocks date is necessary. Registrants will be prohibited from selling or distributing the pesticides identified in Table 1 of Unit II. upon cancellation of the product, except for export consistent with FIFRA section 17 (7 U.S.C. 136o) or for proper disposal. In addition, because no production has ever occurred, EPA believes that persons other than the registrant will have no existing stocks to sell, distribute, or legally use.

B. For the Product (010163–00174)

The registrant has indicated to the Agency via written response that they will not sell or distribute any existing stocks, after December 31, 2014, and as of that date will no longer have any current stock. Therefore, no existing stocks date is necessary. Registrants will be prohibited from selling or distributing the pesticides identified in Table 1 of Unit II. upon cancellation of the product, except for export consistent with FIFRA section 17 (7 U.S.C. 136o) or for proper disposal. Persons other than registrants will generally be allowed to sell, distribute, or use existing stocks until such stocks are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled product.

C. For All Other Products Identified in Table 1 of Unit II.

Because the Agency has identified no significant potential risk concerns associated with these pesticide products, upon cancellation of the products identified in Table 1 of Unit II., EPA anticipates allowing registrants to sell and distribute existing stocks of these products for 1 year after publication of the Cancellation Order in the **Federal Register**. Thereafter, registrants will be prohibited from selling or distributing the pesticides identified in Table 1 of Unit II., except for export consistent with FIFRA section 17 (7 U.S.C. 136o) or for proper disposal. Persons other than registrants will generally be allowed to sell, distribute, or use existing stocks until such stocks are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled products.

Authority: 7 U.S.C. 136 *et seq.*

Dated: February 27, 2015.

Richard P. Keigwin, Jr.,

Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2015–05640 Filed 3–11–15; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK OF THE UNITED STATES

[Public Notice: 2015–0006]

Application for Final Commitment for a Long-Term Loan or Financial Guarantee in Excess of $100 Million: AP088967XX

AGENCY: Export-Import Bank of the United States.

ACTION: Notice.

SUMMARY: This Notice is to inform the public, in accordance with Section 3(c)(10) of the Charter of the Export-Import Bank of the United States (''Ex-Im Bank''), that Ex-Im Bank has received an application for final commitment for a long-term loan or financial guarantee in excess of $100 million (as calculated in accordance with Section 3(c)(10) of the Charter).

Comments received within the comment period specified below will be presented to the Ex-Im Bank Board of Directors prior to final action on this Transaction. Comments received will be made available to the public.

DATES: Comments must be received on or before April 6, 2015 to be assured of consideration before final consideration of the transaction by the Board of Directors of Ex-Im Bank.

ADDRESSES: Comments may be submitted through Regulations.gov at *WWW.REGULATIONS.GOV.* To submit a comment, enter *[EIB–2015–0006]* under the heading ''Enter Keyword or ID'' and select Search. Follow the instructions provided at the Submit a Comment screen. Please include your name, company name (if any) and [EIB–2015–0006] on any attached document.

Reference: AP088967XX.

Purpose and Use

Brief description of the purpose of the transaction: To support the export of U.S.-manufactured commercial aircraft to Turkey.

Brief non-proprietary description of the anticipated use of the items being exported: To be used for passenger air service within Turkey and between Turkey and other countries. To the extent that Ex-Im Bank is reasonably aware, the items being exported are not expected to produce exports or provide services in competition with the exportation of goods or provision of services by a United States industry.

Parties

Principal Suppliers: The Boeing Company.

Obligor: Güneş Ekspres Havacilik A.Ş.

Guarantor(s): N/A.

Description of Items Being Exported

Boeing 737 aircraft.

Information on Decision: Information on the final decision for this transaction will be available in the ''Summary Minutes of Meetings of Board of Directors'' on *http://exim.gov/newsandevents/boardmeetings/board/.*

Confidential Information: Please note that this notice does not include confidential or proprietary business information; information which, if disclosed, would violate the Trade Secrets Act; or information which would jeopardize jobs in the United States by supplying information that

competitors could use to compete with companies in the United States.

Lloyd Ellis,

Program Specialist, Office of the General Counsel.

[FR Doc. 2015–05615 Filed 3–11–15; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 6, 2015.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309:

1. *Community & Southern Holdings, Inc.,* Atlanta, Georgia; to acquire 100 percent of the voting shares Community Business Bank, Cumming, Georgia.

2. *First Commercial Bancshares, Inc.,* Jackson, Mississippi; to acquire 100 percent of the voting shares of Desoto County Bank, Horn Lake, Mississippi.

B. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Southeast Bancshares, Inc.,* Chanute, Kansas; to acquire 100 percent of the voting shares of First National Bank of Howard, Howard, Kansas.

C. Federal Reserve Bank of Dallas (Robert L. Triplett III, Senior Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *A.N.B. Holding Company, Ltd.,* Terrell, Texas; to acquire no more than 38 percent of the voting shares of The ANB Corporation, Terrell, Texas, and thereby indirectly acquire voting shares of The American National Bank of Texas, Terrell, Texas, Lakeside Bancshares, Inc., and Lakeside National Bank, both in Rockwall, Texas.

Board of Governors of the Federal Reserve System, March 9, 2015.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2015–05642 Filed 3–11–15; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of January 27–28, 2015

In accordance with Section 271.25 of its rules regarding availability of information (12 CFR part 271), there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on January 27–28, 2015.[1]

Consistent with its statutory mandate, the Federal Open Market Committee seeks monetary and financial conditions that will foster maximum employment and price stability. In particular, the Committee seeks conditions in reserve markets consistent with federal funds trading in a range from 0 to ¼ percent. The Committee directs the Desk to undertake open market operations as necessary to maintain such conditions. The Committee directs the Desk to maintain its policy of rolling over maturing Treasury securities into new issues and its policy of reinvesting principal payments on all agency debt and agency mortgage-backed securities in agency mortgage-backed securities. The Committee also directs the Desk to engage in dollar roll and coupon swap transactions as necessary to facilitate settlement of the Federal Reserve's agency mortgage-backed securities transactions. The System Open Market Account manager and the secretary will keep the Committee informed of ongoing developments regarding the System's balance sheet that could affect the attainment over time of the Committee's objectives of maximum employment and price stability.

By order of the Federal Open Market Committee, March 3, 2015.

Thomas Laubach,

Secretary, Federal Open Market Committee.

[FR Doc. 2015–05694 Filed 3–11–15; 8:45 am]

BILLING CODE 6210–01–P

[1] Copies of the Minutes of the Federal Open Market Committee at its meeting held on January 27–28, 2015, which includes the domestic policy directive issued at the meeting, are available upon request to the Board of Governors of the Federal Reserve System, Washington, DC 20551. The minutes are published in the Federal Reserve Bulletin and in the Board's Annual Report.

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 27, 2015.

A. Federal Reserve Bank of New York (Ivan Hurwitz, Vice President) 33 Liberty Street, New York, New York 10045–0001:

1. *Basswood Capital Management, LLC, New York, New York, and various funds it operates, and Matthew Lindenbaum and Bennett Lindenbaum, both of New York, New York, and various other family members and family related trusts;* to collectively acquire voting shares of Bridge Bancorp, Inc., and thereby indirectly acquire voting shares of The Bridgehampton National Bank, both in Bridgehampton, New York.

B. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Capital Z Partners Centrue AIV, L.P., Capital Z Partners III GP, L.P., Capital Z Partners III GP, Ltd., Capital Z Partners Management, LLC, Bradley E. Cooper, all of New York, New York, and Robert A. Spass,* Westfield, New Jersey; to acquire voting shares of Centrue Financial Corporation, Ottawa, Illinois, and thereby indirectly acquire voting

shares of Centrue Bank, Streator, Illinois.

C. Federal Reserve Bank of San Francisco (Gerald C. Tsai, Director, Applications and Enforcement) 101 Market Street, San Francisco, California 94105–1579:

1. *Castle Creek Capital Partners IV, LP, and individuals or entities that directly or indirectly control Castle Creek Capital Partners IV, LP including Castle Creek Capital IV LLC, Castle Creek Advisors IV LLC, JME Advisory Corp., Legions IV Corp., Mikesell Advisory Corp., Pietrzak Advisory Corp., John M. Eggemeyer, III, Mark G. Merlo, J. Mikesell Thomas and John T. Pietrzak,* all of Rancho Santa Fe, California; to acquire voting shares of First NBC Bank Holding Company, and thereby indirectly acquire voting shares of First NBC Bank, both in New Orleans, Louisiana.

2. *Castle Creek Capital Partners IV, LP, and individuals or entities that directly or indirectly control Castle Creek Capital Partners IV, LP, including Castle Creek Capital IV LLC, Castle Creek Advisors IV LLC, JME Advisory Corp., Legions IV Corp., Mikesell Advisory Corp., Pietrzak Advisory Corp., John M. Eggemeyer, III, Mark G. Merlo, J. Mikesell Thomas and John T. Pietrzak,* all of Rancho Santa Fe, California; to acquire voting shares of Heritage Oaks Bancorp, and thereby indirectly acquire voting shares of Heritage Oaks Bank, both in Paso Robles, California.

Board of Governors of the Federal Reserve System, March 9, 2015.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2015–05641 Filed 3–11–15; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act (PRA), pursuant to 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320 Appendix A.1. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before May 11, 2015.

ADDRESSES: You may submit comments, identified by *FR 2502q, FR 2835, or FR 3033p* by any of the following methods:

- *Agency Web site: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: regs.comments@federalreserve.gov.* Include OMB number in the subject line of the message.
- *FAX:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Robert deV. Frierson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room MP–500 of the Board's Martin Building (20th and C Streets NW.) between 9:00 a.m. and 5:00 p.m. on weekdays.

Additionally, commenters may send a copy of their comments to the OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235 725 17th Street NW., Washington, DC 20503 or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, once approved. These documents will also be made available on the Federal Reserve Board's public Web site at: *http://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Acting Clearance Officer—Mark Tokarski—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Request for Comment on Information Collection Proposals

The following information collections, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collections, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

Proposal to approve under OMB delegated authority the extension for three years, with revision, of the following reports:

1. *Report title:* Quarterly Report of Assets and Liabilities of Large Foreign Offices of U.S. Banks.

Agency form number: FR 2502q.

OMB control number: 7100–0079.

Frequency: Quarterly.

Reporters: Major foreign branches and banking subsidiaries of U.S. depository institutions that are located in the Caribbean or the United Kingdom.

Estimated annual reporting hours: 124 hours.

Estimated average hours per response: 1 hour.

Number of respondents: 31.

General description of report: This information collection is required (12 U.S.C. 248(a)(2), 461, 602, and 625).

Abstract: U.S. commercial banks, bank holding companies, including financial holding companies, and banking Edge and agreement corporations (U.S. banks) are required to file this reporting form for their large branches and banking subsidiaries that are located in the United Kingdom or the Caribbean. The FR 2502q collects, for each reporting office, claims on and liabilities to residents of individual countries as of each quarter-end. The data are used to construct a piece of the flow of funds data that are compiled by the Federal Reserve.

Current Actions: The Federal Reserve proposes to significantly revise the FR 2502q report form by eliminating most of the geographic information collected on the form. Specifically, staff proposes to delete all individual countries from the form, except for the United States. As a result, the body of the form would consist of two rows, with assets and liabilities reported for customers in the United States and for ''Total, all areas,'' the latter being simply total assets and liabilities of the reporting offices. The retention of these two rows allows the continued used of the report to better understand how banks use their offices in the Caribbean and the United Kingdom as conduits for funds to or from outside the United States. The memoranda section would be retained without changes, allowing its continued use in flow of funds data.

The Federal Reserve also proposes to clarify in the instructions that (1) a reporter should begin filing the report for a branch or subsidiary as of the report date when the branch or subsidiary meets the reporting criteria, and (2) for subsidiaries, the report should be filed on a parent only basis.

With the elimination of geographic detail from the report, the Federal Reserve would discontinue the E.11 Statistical Release, the ''Geographical Distribution of Assets and Liabilities of Major Foreign Branches and Subsidiaries of U.S. Banks,'' which publishes aggregate data from the FR 2502q.

Given the greatly reduced detail in the report, individual reports will no longer be considered confidential unless comments are received providing a reasonable rationale for continued confidentiality.

2. *Report title:* Quarterly Report of Interest Rates on Selected Direct Consumer Installment Loans and Quarterly Report of Credit Card Plans.[1]

Agency form number: FR 2835; FR 2835a.

OMB control number: 7100–0085.

Frequency: Quarterly.

Reporters: Commercial banks.

Estimated annual reporting hours: FR 2835: 176 hours; FR 2835a: 100 hours.

Estimated average hours per response: FR 2835: .29 hours; FR 2835a: .50 hours.

Number of respondents: FR 2835: 150; FR 2835a: 50.

General description of report: These information collections are authorized by Sections 2A, 11, and 12A of the Federal Reserve Act and are voluntary (12 U.S.C. 225a, 248(a)(2), 263, 348a and 353–359). Information requested on the FR 2835 is not confidential and respondents are made aware that information reported is made available to the public. Aggregate information collected on the FR 2835a is not considered confidential; however, individual respondent data is considered confidential under section (b)(4) of the Freedom of Information Act. (5 U.S.C. 552(b)(4)).

Abstract: The FR 2835 collects information from a sample of commercial banks on interest rates charged on loans for new vehicles and loans for other consumer goods and personal expenses. The data are used for the analysis of household financial conditions.

The FR 2835a collects information on two measures of credit card interest rates from a sample of commercial banks with $1 billion or more in credit card receivables and a representative group of smaller issuers. The data are used to analyze the credit card market and draw implications for the household sector.

Current Actions: The Federal Reserve proposes to revise the FR 2835 by adding a data item to collect information on new (72-month) automobile loans. This change is motivated by the need to better understand market developments, such as the growing popularity of the 72-month maturity.

3. *Report title:* Census of Finance Companies.

Agency form number: FR 3033p.

OMB control number: 7100–0277.

Frequency: Every five years.

Reporters: Domestic finance companies.

Estimated annual reporting hours: 8,000 hours.

Estimated average hours per response: .5 hours.

Number of respondents: 16,000.

General description of report: This information collection is authorized by law (12 U.S.C. 225a, 263, 348a, and 353–359) and is voluntary. Individual responses are exempt from disclosure pursuant to section (b)(4) of the Freedom of Information Act (5 U.S.C. 552).

Abstract: The Census of Finance Companies is a simple screening survey, which would be sent in June 2015 to all companies that meet criteria developed to identify the potential universe of domestic finance companies. An accurate census is required to form a representative sample of finance companies, to which the more detailed Survey of Finance Companies would be sent. The census would gather limited information including total assets, areas of specialization, and information on the corporate structure of the companies. The Federal Reserve has identified approximately 40,000 firms to which the census would be sent.

Current Actions: The Federal Reserve proposes to increase the respondent panel size, revise the survey to collect information needed to determine whether a company meets the FR 3033 definition of a finance company, solicit information on the types of credit or financing that a company offers, and make minor modifications to the survey design.

Board of Governors of the Federal Reserve System, March 9, 2015.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

[FR Doc. 2015–05632 Filed 3–11–15; 8:45 am]

BILLING CODE 6210–01–P

[1] This family of reports also contains the voluntary Automobile Finance Company Report (FR 2512), which has fewer than 10 respondents and does not require an OMB control number. The Federal Reserve also proposes to discontinue the FR 2512.

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0221; Docket 2015–0001; Sequence 3]

Civilian Board of Contract Appeals; Information Collection; Civilian Board of Contract Appeals Rules of Procedure (GSA Form 9534 Civilian Board of Contract Appeals Subpoena; Form 4 Government Certificate of Finality; Form 5 Appellant/Applicant Certificate of Finality)

AGENCY: Civilian Board of Contract Appeals, GSA.

ACTION: Notice of request for comments regarding a reinstatement to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the

Regulatory Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement regarding the Civilian Board of Contract Appeals (CBCA) Rules of Procedure.

DATES: Submit comments on or before: May 11, 2015.

ADDRESSES: Submit comments identified by Information Collection IC 3090–0221, Civilian Board of Contract Appeals Rules of Procedure, by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB Control number 3090–0221. Select the link ''Comment Now'' that corresponds with ''Information Collection IC 3090–0221, Civilian Board of Contract Appeals Rules of Procedure''. Follow the instructions provided on the screen. Please include your name, company name (if any), and ''Information Collection 3090–0221, Civilian Board of Contract Appeals Rules of Procedure'' on your attached document.
- *Fax:* 202–501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405. ATTN: Hada Flowers/IC 3090–0221, Civilian Board of Contract Appeals Rules of Procedure.

Instructions: Please submit comments only and cite Information Collection 3090–0221, Civilian Board of Contract Appeals Rules of Procedure, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: J. Gregory Parks, Chief Counsel, Civilian Board of Contract Appeals, 1800 F Street NW., Washington, DC 20405, telephone 202–606–8800 or via email to *Greg.Parks@cbca.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

The CBCA requires the information collected in order to conduct proceedings in contract appeals and petitions, and cost applications. Parties include those persons or entities filing appeals, petitions, cost applications, and government agencies.

B. Annual Reporting Burden

Respondents: 85.
Responses per Respondent: 1.
Hours per Response: .1.
Total Burden Hours: 9.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 3090–0221, Civilian Board of Contract Appeals Rules of Procedure, in all correspondence.

Dated: March 4, 2015.

Sonny Hashmi,

Chief Information Officer.

[FR Doc. 2015–05671 Filed 3–11–15; 8:45 am]

BILLING CODE 6820–AL–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0027; Docket 2015–0001; Sequence 1]

General Services Administration Acquisition Regulation; Information Collection; Contract Administration, Quality Assurance (GSA Form 1678 and GSA Form 308)

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Notice of request for comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the General Services Administration will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement regarding contract administration, and quality assurance.

DATES: Submit comments on or before: May 11, 2015.

FOR FURTHER INFORMATION CONTACT: Ms. Dana Munson, Procurement Analyst, General Services Acquisition Policy Division, at 202–357–9652 or via email to *dana.munson@gsa.gov.*

ADDRESSES: Submit comments identified by Information Collection 3090–0027, Contract Administration and Quality Assurance (GSA Form 1678 and GSA Form 308), by any of the following methods:

- Regulations.gov: *http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB Control number 3090–0027. Select the link ''Comment Now'' that corresponds with ''Information Collection 3090–0027, Contract Administration and Quality Assurance (GSA Form 1678 and GSA Form 308)''. Follow the instructions on the screen. Please include your name, company name (if any), and ''Information Collection 3090–0027, Contract Administration and Quality Assurance (GSA Form 1678 and GSA Form 308)'', on your attached document.
- Fax: 202–501–4067.
- Mail: General Services Administration, Regulatory Secretariat (MVCB), 1800 F Street NW., Washington, DC 20406. ATTN: Ms. Hada Flowers/IC 3090–0027, Contract Administration and Quality Assurance (GSA Form 1678 and GSA Form 308).

Instructions: Please submit comments only and cite Information Collection 3090–0027, Contract Administration and Quality Assurance (GSA Form 1678 and GSA Form 308), in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

SUPPLEMENTARY INFORMATION:

A. Purpose

Under certain contracts, because of reliance on contractor inspection in lieu of Government inspection, GSA's Federal Acquisition Service (FAS) requires documentation from its contractors to effectively monitor contractor performance and ensure that it will be able to take timely action should that performance be deficient.

B. Annual Reporting Burden

Respondents: 4,604.
Responses per Respondent: 24.
Hours per Response: .07.
Total Burden Hours: 7,735.

C. Public Comment

Public comments are particularly invited on: Whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate and based on valid assumptions and methodology; and ways to enhance the quality, utility, and clarity of the information to be collected.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVCB), 1800 F Street NW., Washington, DC 20406, telephone 202–501–4755. Please cite OMB Control No. 3090–0027, Contract Administration, Quality Assurance (GSA Form 1678, and GSA Form 308), in all correspondence.

Dated: March 3, 2015.

Jeffrey A. Koses,

Director, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2015–05667 Filed 3–11–15; 8:45 am]

BILLING CODE 6820–61–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0248; Docket 2015–0001; Sequence 5]

General Services Administration Acquisition Regulation; Information Collection; Solicitation Provisions and Contract Clauses; Placement of Orders Clause; and Ordering Information Clause

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement regarding solicitation provisions and contract clauses, placement of orders clause, and ordering information clause.

DATES: Submit comments on or before: May 11, 2015.

FOR FURTHER INFORMATION CONTACT: Christina Mullins, Procurement Analyst, General Services Acquisition Policy Division, GSA, by phone at 202–969–4066 or by email at *christina.mullins@gsa.gov.*

ADDRESSES: Submit comments identified by Information Collection 3090–0248, Solicitation Provisions and Contract Clauses, Placement of Orders Clause, and, Ordering Information Clause, by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for Information Collection 3090–0248. Select the link ''Comment Now'' that corresponds with ''Information Collection 3090–0248, Solicitation Provisions and Contract Clauses, Placement of Orders Clause, and Ordering Information Clause''. Follow the instructions on the screen. Please include your name, company name (if any), and ''Information Collection 3090–0248, Solicitation Provisions and Contract Clauses, Placement of Orders Clause, and Ordering Information Clause'' on your attached document.
- *Fax:* 202–501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405. ATTN: Ms. Hada Flowers/IC 3090–0248, Solicitation Provisions and Contract Clauses; Placement of Orders Clause; and Ordering Information Clause.

Instructions: Please submit comments only and cite Information Collection 3090–0248, Solicitation Provisions and Contract Clauses, Placement of Orders Clause, and Ordering Information Clause, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

SUPPLEMENTARY INFORMATION:

A. Purpose

The General Services Administration (GSA) has various mission responsibilities related to the acquisition and provision of the Federal Acquisition Service's (FAS's) Stock, Special Order, and Schedules Programs. These mission responsibilities generate requirements that are realized through the solicitation and award of various types of FAS contracts. Individual solicitations and resulting contracts may impose unique information collection and reporting requirements on contractors, not required by regulation, but necessary to evaluate particular program accomplishments and measure success in meeting program objectives. As such, GSAR 516.506, Solicitation provision and clauses, specifically directs contracting officers to insert 552.216–72, Placement of Orders, when the contract authorizes FAS and other activities to issue delivery or task orders and 552.216–73, Ordering Information, directs the Offeror to elect to receive orders placed by FAS by either facsimile transmission or computer-to-computer Electronic Data Interchange (EDI).

B. Annual Reporting Burden

Respondents: 7,143.
Responses per Respondent: 1.
Annual Responses: 7,143.
Hours per Response: .25.
Total Burden Hours: 1,786.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate and based on valid assumptions and methodology; and ways to enhance the quality, utility, and clarity of the information to be collected.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 3090–0248, Solicitation Provisions and Contract Clauses, Placement of Orders Clause, and Ordering Information Clause, in all correspondence.

Dated: March 9, 2015.

Jeffrey A. Koses,

Director, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2015–05666 Filed 3–11–15; 8:45 am]

BILLING CODE 6820–61–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–00XX; Docket No. 2015–0001; Sequence No. 6]

Information Collection; OMB Control No. 3090–00XX; Wireless Telecommunications Industry Application

AGENCY: Public Buildings Service, General Services Administration (GSA).

ACTION: Notice of request for public comments regarding a new Office of Management and Budget (OMB) information clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), GSA will be submitting to OMB a request to review and approve a new Information Collection Request (ICR) regarding the Wireless Telecommunications Industry Application. The ICR also requests categorizing this form as a common form, meaning that GSA will only request approval for its own use of the form, rather than aggregating the burden estimate across all Federal Agencies using this form.

DATES: Submit comments on or before May 11, 2015.

ADDRESSES: Submit comments identified by Information Collection

3090–00XX by any of the following methods:

• *Regulations.gov: http://www.regulations.gov.*

Submit comments via the Federal eRulemaking portal by searching for Information Collection 3090–00XX. Select the link ''Comment Now'' that corresponds with ''Information Collection 3090–00xx; Wireless Telecommunications Industry Application.'' Follow the instructions provided on the screen. Please include your name, company name (if any), and ''Information Collection 3090–00XX; Wireless Telecommunications Industry Application'' on your attached document.

• *Fax:* 202–501–4067.

• *Mail:* General Services Administration, Regulatory Secretariat (MVCB), 1800 F Street NW., Washington, DC 20405. ATTN: Ms. Flowers/IC 3090–00XX.

Instructions: Please submit comments only and cite Information Collection 3090–00XX; Wireless Telecommunications Industry Application, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Ann Hillier, National Outlease Program Manager, PBS, GSA, at telephone 202–208–6139, or via email to *maryann.hillier@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

The purpose of this application is to streamline the business information collection process to accelerate the approval process between the Federal Government and a commercial wireless telecommunications industry company wishing to install a wireless antenna on a Federal asset for the expansion of the company's wireless network. Federal executive agencies with landholding authority, such as Veterans Affairs, Department of Interior, and Department of Homeland Security, will likely use this form as well.

B. Annual Reporting Burden

Respondents: 20.
Responses per Respondent: 1.
Total Response Hours: 20.
Hours per Response: 1.
Total Burden Hours: 20.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate and based on valid assumptions and methodology; ways to enhance the quality, utility and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond through the use of appropriate technological collection techniques or other forms of information technology.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVCB), 1800 F Street NW., Room 4041, Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 3090–00XX, Wireless Telecommunications Industry Application, in all correspondence.

Dated: March 4, 2015.

Sonny Hashmi,

Chief Information Officer, U.S. General Services Administration.

[FR Doc. 2015–05678 Filed 3–11–15; 8:45 am]

BILLING CODE 6820–14–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0142; Docket 2014–0055; Sequence 31]

Federal Acquisition Regulation; Submission for OMB Review; Past Performance Information

AGENCY: Department of Defense (DOD), General Services. Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning past performance information. A request for public comments was published in the **Federal Register** at 79 FR 68683, November 18, 2014. Five comments were received.

DATES: Submit comments on or before April 13, 2015.

ADDRESSES: Submit comments identified by Information Collection 9000–0142, Past Performance Information, by any of the following methods:

• Regulations.gov: *http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB control number 9000–0142. Select the link ''Comment Now'' that corresponds with ''Information Collection 9000–0142, Past Performance Information.'' Follow the instructions provided on the screen. Please include your name, company name (if any), and ''Information Collection 9000–0142, Past Performance Information,'' on your attached document.

• Fax: 202–501–4067.

• Mail: General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405. ATTN: Ms. Flowers/IC 9000–0142, Past Performance Information.

Instructions: Please submit comments only and cite ''Information Collection 9000–0142, Past Performance Information'', in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis E. Glover, Sr., Procurement Analyst, Acquisition Policy Division, at GSA 202–501–1448 or email *curtis.glover@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

Past performance information regarding a contractor's actions under previously awarded contracts is relevant information for future source selection purposes. The information collection requirements at FAR 15.304 and 42.15 remains the same; however, the public burden has been adjusted downward. Specifically, the estimated number of responses used to calculate the burden have been reduced based on data available in the Federal Procurement Data System (FPDS) and the Contractor Performance Assessment Reporting System (CPARS) for Fiscal Year (FY) 2014.

B. Analysis of Public Comments

Two respondents submitted five public comments on the extension of the previously approved information collection. The analysis of the public comments is summarized as follows:

Comment: The respondent commented on a Federal Aviation

Administration's Notice of Proposed Rule Making in regards to the ''Flight Simulation Training Device Qualification Standards for Extended Envelope and Adverse Weather Event Training Tasks.''

Response: The respondent's comments are outside the scope of this information collection.

Comment: The respondent commented that the Agency's estimate of two hours per response underestimates the hours it takes for contractors to respond to source selection requirements related to past performance.

Response: Two hours is the average amount of time to read and prepare information on a company's past performance for source selection purposes. The estimate considered the amount of time a simple or standard disclosure might require in response to non-complex solicitations, in some cases by businesses with limited experience, as well as the time that might be required for a very complex disclosure by a major corporation. In addition, the estimated burden hours include only projected hours for those actions which a company would not undertake in the normal course of business. Maintaining information and references on work they have performed in the past are considered actions undertaken in the normal course of business.

Comment: The respondent commented that the Agency's methodology for preparing burden estimates is faulty resulting in unrealistically low estimates, which sets unreasonable expectations for turnaround time and disguises the true cost of the responses.

Response: The burden estimate is prepared taking into consideration the necessary criteria in OMB guidance for estimating the paperwork burden put on the entity submitting the information. For example, consideration is given to an entity reviewing instructions; using technology to collect, process, and disclose information; adjusting existing practices to comply with requirements; searching data sources; completing and reviewing the response; and transmitting or disclosing information.

Careful consideration went into assessing the estimated burden hours for this collection, and the collection requirements at FAR 15.304 and 42.15 remains the same. There is no change to the estimated number of hours per response associated with this request for extension; rather, the estimated number of responses was reduced based on data available FPDS and CPARS regarding awards in FY 2014.

Comment: In the past, including in connection with FAR Case 2007–006, the Agency both acknowledged that the initial estimate was unrealistically low while also defending the methodology that it used to develop the unrealistic estimate.

Response: Serious consideration is given, during the open comment period, to all comments received and adjustments are made to the paperwork burden estimate based on reasonable considerations provide by the public. This is evidenced, as the respondent notes, in FAR Case 2007–006 where an adjustment was made from the total preparation hours from three to sixty. This change was made considering particularly the hours that would be required for review within the company, prior to release to the Government.

Comment: The respondent commented that granting the extension would violate at least the spirit of the Paperwork Reduction Act.

Response: The Paperwork Reduction Act (PRA) was designed to improve the quality and use of Federal information to strengthen decision-making, accountability, and openness in government and society. Central to this process is the solicitation of comments from the public. This process incorporates an enumerated specification of targeted information and provides interested parties a meaningful opportunity for comment on the relevant compliance cost. This process has led to decreases in the overall collective burden of compliance for the information collection requirement in regards to the public. Based on OMB estimates, in FY 2010, the public spent 8.8 billion hours responding to information collections. This was a decrease of one billion hours, or ten percent from the previous FY. In effect, the collective burden of compliance for the public is going down as the Government publishes rules that make the process less complex, more transparent, and reduce the cost of Federal regulations.

C. Annual Reporting Burden

a. Responses during Source Selection.
Respondents: 27,734.
Responses per Respondent: 4.
Annual Responses: 110,936.
Hours per Response: 2.
Total Burden Hours: 221,872.
b. Responses in CPARS.
Respondents: 177,396.
Responses per Respondent: 1.
Annual Responses: 177,396.
Hours per Response: 2.
Total Burden Hours: 354,792.
c. *Total annual burden:* 576,664 Hours.

D. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

E. Obtaining Copies of Proposals

Requesters may obtain a copy of the information collection documents from the 1800 F Street NW., Washington, DC 20405, telephone 202–501–4755.

Please cite OMB Control No. 9000–0142, Past Performance Information, in all correspondence.

Dated: March 4, 2015.

Edward Loeb,

Acting Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2015–05673 Filed 3–11–15; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute Amended; Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Institute Special Emphasis Panel, March 11, 2015 02:00 p.m. to March 11, 2015, 04:00 p.m., National Cancer Institute Shady Grove, 9609 Medical Center Drive, Rockville, MD, 20850 which was published in the **Federal Register** on December 16, 2014, 79 FR 74734.

The meeting notice is amended to change the meeting date from March 11, 2015 to April 08, 2015, and the Contact Person from Dr. Robert Bird to Dr. Sergei Radaev, Telephone Number: 240–276–6466. The location remains the same; however, the room has changed to 7W114. The meeting is closed to the public.

Dated: March 6, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–05567 Filed 3–11–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Neuroblastomas, Glioblastomas, and Multiple Sclerosis and Viruses.

Date: April 2, 2015.

Time: 10:00 a.m. to 11:30 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Samuel C Edwards, Ph.D., IRG CHIEF, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5210, MSC 7846, Bethesda, MD 20892, (301) 435–1246, *edwardss@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA–14–011: 4D Nucleome Network Data Coordination and Integration Center (U01).

Date: April 9, 2015.

Time: 11:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Mark Caprara, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5156, MSC 7844, Bethesda, MD 20892, 301–435–1042, *capraramg@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Reproductive Biology.

Date: April 10, 2015.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Michael Knecht, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6176, MSC 7892, Bethesda, MD 20892, (301) 435–1046, *knechtm@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 6, 2015.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–05566 Filed 3–11–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: HHS–OS–0990—New–60D]

Agency Information Collection Activities; Proposed Collection; Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, announces plans to submit a new Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, OS seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on the ICR must be received on or before May 11, 2015.

ADDRESSES: Submit your comments to *Information.CollectionClearance@hhs.gov* or by calling (202) 690–6162.

FOR FURTHER INFORMATION CONTACT: Information Collection Clearance staff, *Information.CollectionClearance@hhs.gov* or (202) 690–6162.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the document identifier HHS–OS–0990—New–60D for reference.

Information Collection Request Title: Privacy and Security Capacity Assessment of the Title X Network.

Abstract: The Office of the Assistant Secretary for Health Office of Population Affairs, (OPA) is requesting an approval by Office of Management and Budget (OMB) for a new information collection (Privacy and Security Capacity Assessment) which seeks to collect feedback from the Title X network regarding Title X grantees' and service sites' current privacy and security capabilities for health information exchange. This voluntary form will be administered at most annually and enable the Title X network to share important information to critically inform OPA's development of Family Planning Annual Report (FPAR 2.0), as well as identify any training assistance and inform guidance that OPA may offer in the future. OPA will solicit feedback from Title X agencies to advise our work on privacy and security, and proposes to make this data collection form available for up to 3 years so that OPA can accept feedback from the network regarding any changes or trends that might alter our approach to privacy and security as we proceed through the design and build process for the planned FPAR 2.0 data repository.

Likely Respondents: Title X Grantees, Sub recipients, and Service Sites.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Data Element Survey	818	1	20/60	273
Total	818	1	20/60	273

OPA specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques

or other forms of information technology to minimize the information collection burden.

Terry S. Clark,

Deputy Information Collection Clearance Officer.

[FR Doc. 2015–05619 Filed 3–11–15; 8:45 am]

BILLING CODE 4150–28–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces a meeting for the initial review of applications in response to [(FOA) GH15–001, Conducting Public Health Research in Kenya, Funding Opportunity Announcement.

Time and Date: 12:00 p.m.—5:00 p.m., April 1, 2015 (Closed).

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters for Discussion: The meeting will include the initial review, discussion, and evaluation of applications received in response to ''Conducting Public Health Research in Kenya, FOA GH15–001''.

Contact Person for More Information: Hylan Shoob, Scientific Review Officer, Center for Global Health (CGH) Science Office, CGH, CDC, 1600 Clifton Road, NE., Mailstop D–69, Atlanta, Georgia 30033, Telephone: (404) 639–4796.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2015–05577 Filed 3–11–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–0001]

2015 Parenteral Drug Association/Food and Drug Administration Joint Conference

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public conference.

The Food and Drug Administration (FDA), is announcing a public conference, to be held in co-sponsorship with the Parenteral Drug Association (PDA), entitled ''Mission Possible: Patient-Focused Manufacturing, Quality, and Regulatory Solutions.'' The conference will cover current issues affecting the industry as well as explore strategies to facilitate the development and continuous improvement of safe and effective medical products. The conference establishes a unique forum to discuss the foundations, emerging technologies, and innovations in regulatory science, as well as the current quality and compliance areas of concerns. Meeting participants will hear from FDA and industry speakers about the requirements and best practices to consider while implementing robust quality systems in order to deliver the best quality product.

Date and Time: The public conference will be held on September 28, 2015, from 7 a.m. to 7:30 p.m.; September 29, 2015, from 7 a.m. to 9:30 p.m.; and September 30, 2015, from 7 a.m. to 12:30 p.m.

Location: The public conference will be held at the Renaissance Washington Hotel, 999 Ninth Street NW., Washington, DC 20001, 202–898–9000, FAX: 202–289–0947.

Contact: Wanda Neal, Parenteral Drug Association, PDA Global Headquarters, Bethesda Towers, 4350 East West Hwy., Suite 150, Bethesda, MD 20814, 301–656–5900, ext. 111, FAX: 301–986–1093, email: *info@pda.org*; or Ken Nolan, Office of Communications, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993, 301–796–8629, email: *kenneth.nolan@fda.hhs.gov.*

Accommodations: Attendees are responsible for their own accommodations. To make reservations, contact the Renaissance Washington Hotel (see *Location*) and reference ''the 2015 PDA/FDA Joint Regulatory Conference'' to receive the PDA group rate. Room rates are: Single: $305 plus 14.5 percent State and local taxes. Requests will be processed on a first-come, first-served basis.

Registration: Attendees are encouraged to register at their earliest convenience. The PDA registration fees cover the cost of facilities, materials, and refreshments. Seats are limited; please submit your registration as soon as possible. Conference space will be filled in order of receipt of registration. Those accepted for the conference will receive confirmation. Registration will close after the conference is filled. Onsite registration will be available on a space available basis beginning at 1 p.m. on September 27, 2015, and at 7 a.m. from September 28 through 30, 2015. The cost of registration is as follows:

COST OF REGISTRATION

Affiliation	Before July 19, 2015	July 19–August 18, 2015	After August 18, 2015
Premier Package (Includes Conference and Workshop Registration)			
Member	$3,240	$3,490	$3,740
Nonmember	3,599	3,849	4,099
Conference Only			
Member	1,895	2,095	2,295
Nonmember	2,154	2,354	2,554
Government/Health Authority Member	700	700	700
Government/Health Authority Nonmember*	800	800	800
Academic Member	700	700	700
Academic Nonmember*	800	800	800

COST OF REGISTRATION—Continued

Affiliation	Before July 19, 2015	July 19–August 18, 2015	After August 18, 2015
Student Member	280	280	280
Student Nonmember*	310	310	310

* For this member type, online registration is not available and must be faxed in.

Please visit PDA's Web site: *www.pda.org/pdafda2015* to confirm the prevailing registration fees. (FDA has verified the Web site address, but FDA is not responsible for any subsequent changes to the Web site after this document publishes in the **Federal Register**.)

If you need special accommodations due to a disability, please contact Wanda Neal (see *Contact*), at least 7 days in advance of the conference.

Registration Instructions: To register, please submit your name, affiliation, mailing address, telephone, fax number, and email address, along with a check or money order payable to ''PDA.'' Mail to: PDA, Global Headquarters, Bethesda Towers, 4350 East West Hwy., Suite 150, Bethesda, MD 20814. To register via the Internet, go to PDA's Web site: *www.pda.org/pdafda2015.*

The registrar will also accept payment by major credit cards (VISA/American Express/MasterCard only). For more information on the meeting, or for questions on registration, contact PDA (see *Contact*).

Transcripts: As soon as a transcript is available, it can be obtained in either hardcopy or on CD–ROM, after submission of a Freedom of Information request. Written requests are to be sent to Division of Freedom of Information (ELEM–1029), Food and Drug Administration, 12420 Parklawn Dr., Element Bldg., Rockville, MD 20857.

SUPPLEMENTARY INFORMATION: The PDA/FDA Joint Regulatory Conference offers the unique opportunity for participants to join FDA representatives and industry experts in face-to-face dialogues. Each year, FDA speakers provide updates on current efforts affecting the development of global regulatory strategies, while industry professionals from pharmaceutical companies present case studies on how they employ global strategies in their daily processes.

Through a series of sessions and meetings, the conference will provide participants with the opportunity to hear directly from FDA experts and representatives of global regulatory authorities on best practices, including:

- Product Quality
- Data Integrity
- Breakthrough Therapies
- Regulatory Challenges and Opportunities
- Lifecycle Management
- Clinically Relevant Specifications
- Food and Drug Administration Safety and Innovation Act
- Quality Metrics/Quality Culture
- Manufacturing of the Future With Submissions
- Continuous Verification and Validation
- Continuous Manufacturing
- ''Fishbowl'' Role Play
- Quality Systems
- Contract Manufacturing Organizations
- Maturity of Quality Systems
- Investigations
- Case Studies for Quality
- Quality Submissions
- Prescription Drug User Fee Act
- Risk-Based Control Strategies
- Supply Chain
- Quality Risk Management Systems
- Drug Shortages
- Customer Complaint Reviews and Trending
- Human Factors
- Office of Pharmaceutical Quality and Program Alignment Group
- Patient Perspective
- Compliance Update
- Center Initiatives—Regulatory Submission Update

To help ensure the quality of FDA-regulated products, the workshop helps to achieve objectives set forth in section 406 of the FDA Modernization Act of 1997 (21 U.S.C. 393), which includes working closely with stakeholders and maximizing the availability and clarity of information to stakeholders and the public. The workshop also is consistent with the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), as outreach activities by government agencies to small businesses.

Dated: March 4, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–05513 Filed 3–11–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0253]

Agency Information Collection Activities; Proposed Collection; Comment Request; Postmarketing Adverse Drug Experience Reporting and Recordkeeping Biological Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection provisions of FDA's postmarketing adverse drug experience reporting and recordkeeping requirements.

DATES: Submit either electronic or written comments on the collection of information by May 11, 2015.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov.* Submit written comments on the collection of information to the Division of Dockets Management (HFA 305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal

Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Postmarketing Adverse Drug Experience Reporting (OMB Control Number 0910–0230)—(Extension)

Sections 201, 502, 505, and 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 352, 355, and 371) require that marketed drugs be safe and effective. In order to know whether drugs that are not safe and effective are on the market, FDA must be promptly informed of adverse experiences associated with the use of marketed drugs. In order to help ensure this, FDA issued regulations at §§ 310.305 and 314.80 (21 CFR 310.305 and 314.80) to impose reporting and recordkeeping requirements on the drug industry that would enable FDA to take the action necessary to protect the public health from adverse drug experiences.

All applicants who have received marketing approval of drug products are required to report to FDA serious, unexpected adverse drug experiences (''15-day Alert reports''), as well as follow up reports (§ 314.80(c)(1)). This includes reports of all foreign or domestic adverse experiences as well as those based on information from applicable scientific literature and certain reports from postmarketing studies. Section 314.80(c)(1)(iii) pertains to such reports submitted by non-applicants.

Under § 314.80(c)(2), applicants must provide periodic reports of adverse drug experiences. A periodic report includes, for the reporting interval, reports of serious, expected adverse drug experiences and all nonserious adverse drug experiences and an index of these reports, a narrative summary and analysis of adverse drug experiences, an analysis of the 15-day Alert reports submitted during the reporting interval, and a history of actions taken because of adverse drug experiences. Under § 314.80(i), applicants must keep for 10 years records of all adverse drug experience reports known to the applicant.

For marketed prescription drug products without approved new drug applications or abbreviated new drug applications, manufacturers, packers, and distributors are required to report to FDA serious, unexpected adverse drug experiences as well as follow-up reports (§ 310.305(c)). Section 310.305(c)(5) pertains to the submission of follow-up reports to reports forwarded to the manufacturers, packers, and distributors by FDA. Under § 310.305(f), each manufacturer, packer, and distributor shall maintain for 10 years records of all adverse drug experiences required to be reported.

The primary purpose of FDA's adverse drug experience reporting system is to enable identification of signals for potentially serious safety problems with marketed drugs. Although premarket testing discloses a general safety profile of a new drug's comparatively common adverse effects, the larger and more diverse patient populations exposed to the marketed drug provide the opportunity to collect information on rare, latent, and long-term effects. Signals are obtained from a variety of sources, including reports from patients, treating physicians, foreign regulatory agencies, and clinical investigators. Information derived from the adverse drug experience reporting system contributes directly to increased public health protection because the information enables FDA to make important changes to the product's labeling (such as adding a new warning), decisions about risk evaluation and mitigation strategies or the need for postmarket studies or clinical trials, and when necessary, to initiate removal of a drug from the market.

Respondents to this collection of information are manufacturers, packers, distributors, and applicants. The following estimates are based on FDA's knowledge of adverse drug experience reporting, including the time needed to prepare the reports, and the number of reports submitted to the Agency.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1] [2]

21 CFR section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
310.305(c)(5)	3	1	3	1	3
314.80(c)(1)(iii)	5	1	5	1	5
314.80(c)(2)	724	19.33	13,996	60	839,760
Total					839,768

[1] The reporting burden for § 310.305(c)(1), (c)(2), and (c)(3), and § 314.80(c)(1)(i) and (c)(1)(ii) is covered under OMB Control No. 0910–0291.
[2] The capital costs or operating and maintenance costs associated with this collection of information are approximately $25,000 annually.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1] [2]

21 CFR section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
310.305(f)	25	1	25	16	400
314.80(i)	724	508	367,959	16	5,887,344
Total					5,887,744

[1] There are no capital costs or operating costs associated with this collection of information.
[2] There are maintenance costs of approximately $22,000 annually.

Dated: March 6, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–05591 Filed 3–11–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces a meeting for the initial review of applications in response to DP15–007, Effectiveness of Teen Pregnancy Prevention Programs Designed Specifically for Young Males.

Time and Date: 9:00 a.m.—6:00 p.m., April 7–9, 2015 (Closed).

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters for Discussion: The meeting will include the initial review, discussion, and evaluation of applications received in response to ''Effectiveness of Teen Pregnancy Prevention Programs Designed Specifically for Young Males'', DP15–007.

Contact Person for More Information: M. Chris Langub, Ph.D., Scientific Review Officer, CDC, 4770 Buford Highway, NE., Mailstop F–80, Atlanta, Georgia 30341, Telephone: (770) 488–3585, *EEO6@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office Centers for Disease Control and Prevention.

[FR Doc. 2015–05575 Filed 3–11–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: HHS–OS–0990—New–60D]

Agency Information Collection Activities; Proposed Collection; Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, announces plans to submit a new Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, OS seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on the ICR must be received on or before May 11, 2015.

ADDRESSES: Submit your comments to *Information.CollectionClearance@hhs.gov* or by calling (202) 690–6162.

FOR FURTHER INFORMATION CONTACT: Information Collection Clearance staff, *Information.CollectionClearance@hhs.gov* or (202) 690–6162.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the document identifier HHS–OS–0990—New–60D for reference.

Information Collection Request Title: HHS Entrepreneurs-in-Residence Program (EIR).

Abstract: The HHS IDEA Lab, in the Immediate Office of the Secretary, is requesting an approval by Office of Management and Budget (OMB) on a new information collection, which is critical to the success of the HHS EIR program, and identifies private sector entrepreneurs with unique skill sets not available in government to join HHS for a year to work on critical initiatives. The information collection for the HHS EIR custom form management system involves obtaining candidate resumes and responses to short essay questions specifically designed to determine whether entrepreneurs have the knowledge, skills and abilities to successfully complete HHS EIR projects in the government context and mentor existing government staff to acquire new, entrepreneurial skills.

Likely Respondents: The candidate pools, targeted for the HHS EIR program are serial private sector entrepreneurs with no prior federal government experience.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
HHS EIR Application	150	1	1	150
Total	150	1	1	150

OS specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Terry S. Clark,

Deputy Information Collection Clearance Officer.

[FR Doc. 2015–05624 Filed 3–11–15; 8:45 am]

BILLING CODE 4150–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI Omnibus R03 & R21 SEP–12.

Date: April 30, 2015.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Dona Love, Ph.D. Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, 9609 Medical Center Drive, Room 7W236, Bethesda, MD 20850, 240–276–5264, *donalove@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Omnibus SEP–10.

Date: April 30, 2015.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W602, Rockville, MD 20850, (Telephone Conference Call).

Contact Person: Delia Tang, Ph.D., Scientific Review Officer, Research Program Review Branch, Division of Extramural Activities, National Cancer Institute, 9609 Medical Center Drive, Room 7W602, Bethesda, MD 20892, 240–276–6456, *tangd@.mail.nih.gov.*

Information is also available on the Institute's/Center's home page: *http://deainfo.nci.nih.gov/advisory/sep/sep.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: March 6, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–05568 Filed 3–11–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces a meeting for the initial review of applications in response to (FOA) DP15–005, Evaluation of a Stepped Care Approach for Perinatal Depression Treatment in Obstetrics and Gynecology Clinics.

Time and Date: 10:00 a.m.–6:00 p.m., April 1, 2015 (Closed).

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6), title 5 U.S. C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Pub. L. 92–463.

Matters for Discussion: The meeting will include the initial review, discussion, and evaluation of applications received in response to ''Evaluation of a Stepped Care Approach for Perinatal Depression Treatment in Obstetrics and Gynecology Clinics'', DP15–005.

Contact Person for More Information: M. Chris Langub, Ph.D., Scientific Review Officer, CDC, 4770 Buford Highway NE., Mailstop F–80, Atlanta, Georgia 30341, Telephone: (770) 488–3585, *EEO6@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2015–05574 Filed 3–11–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces a meeting for the initial review of applications in response to (FOA) DP15–009, Improving Surveillance and Prevention of Epilepsy Burden in U.S. Communities.

Time and Date: 10:00 a.m.—6:00 p.m., March 31, 2015 (Closed).

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters for Discussion: The meeting will include the initial review, discussion, and evaluation of applications received in response to ''Improving Surveillance and Prevention of Epilepsy Burden in US Communities'', DP15–009.

Contact Person for More Information: M. Chris Langub, Ph.D., Scientific Review Officer, CDC, 4770 Buford Highway, NE., Mailstop F–80, Atlanta, Georgia 30341, Telephone: (770) 488–3585, *EEO6@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and

Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2015–05576 Filed 3–11–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60-Day Comment Request Web-Based Resource for Youth About Clinical Research (NHLBI)

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Heart, Lung and Blood Institute (NHLBI), National Institutes of Health (NIH), will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

To Submit Comments and For Further Information: To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Ms. Victoria Pemberton, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Dr., Room 8102, MSC 7940, Bethesda, MD 20892–7940, or call non-toll-free number 301–435–0510, or Email your request, including your address to *pembertonv@nhlbi.nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

DATES: *Comment Due Date:* Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Proposed Collection: Web-based Resource for Youth about Clinical Research (NHLBI), 0925-New, National Heart, Lung, and Blood Institute (NHLBI), National Institutes of Health (NIH).

Need and Use of Information Collection: The purpose and use of the information collection for this project is to develop a comprehensive web-based resource for youth with chronic illnesses or diseases that will attempt to increase knowledge, self-efficacy, and positive attitudes towards participation in various clinical trials and research. As a result of the proposed web-based resource, the knowledge gained from developing and testing this web-based resource will ultimately help equip youth to make informed decisions about clinical research and increase motivation to participate in that research. In addition, the knowledge gained will be invaluable to the field of clinical research given the need for more clinical trials with youth. Specifically, the proposed web-based resource will be an interactive, multimedia, developmentally appropriate resource for youth to be educated about pediatric clinical trials. The resource will be developed for youth aged 8 to 14 years. The theme of ''investigative cyber-reporting'' will be used throughout and will include youth making a series of decisions about different aspects of participating in clinical research studies. Youth will be tasked with the responsibility of learning all they can about clinical research trials in order to facilitate their knowledge and decision-making processes. Language typically used in journalism and design elements reminiscent of journalism will be incorporated into the content, design, and layout of the resource. There are three main components that will comprise the web-based resource. These include an interactive leaning module, full length video testimonials, and an electronic comic book. The benefits and necessities for this particular research on pediatric clinical trials are congruent with NHLBI's research goals and mission statement: Attempting to assist in the enhancement of the health of individuals so that they can live longer and more fulfilling lives. The current lack of knowledge surrounding pediatric clinical trials can be dangerous and unhealthy towards the lives of youth, becoming a large public health need.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 164.

ESTIMATES OF HOUR BURDEN

Form name	Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hour
Individual Interview Questionnaire	Individual Interviews Study	9	1	2	18
One-to-One Evaluation Questionnaire.	One-to-One Evaluation Study	5	1	2	10
Pre-Post Study Questionnaire	Pre-Post Feedback Study	34	1	4	136

Dated: February 23, 2015.

Lynn Susulske,

NHLBI Project Clearance Liaison, National Institutes of Health.

[FR Doc. 2015–05592 Filed 3–11–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[AAK6006201 156A2100DD AOR3B3030.999900]

Draft Environmental Impact Statement for the Proposed Pokagon Band of Potawatomi Indians Fee-to-Trust Transfer for Tribal Village and Casino, City of South Bend, St. Joseph County, Indiana

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Availability.

SUMMARY: This notice advises the public that the Bureau of Indian Affairs (BIA), in cooperation with the Pokagon Band of Potawatomi Indians (Tribe), intends to file a draft environmental impact statement (DEIS) with the U.S. Environmental Protection Agency (EPA) for the Tribe's application requesting a fee-to-trust transfer of land located within the municipal limits of the City of South Bend, Indiana, for the construction of a tribal housing, government facilities, and a Class III gaming facility. This notice also announces that the DEIS is available for public review and that a public hearing will be held to receive comments.

DATES: The date of the public meeting will be announced at least 15 days in advance through a notice in the South Bend Tribune and on the following Web site: *www.pokagonsouthbendeis.com.* Written comments on the DEIS must arrive within 45 days after EPA publishes its Notice of Availability in the **Federal Register.**

ADDRESSES: The public hearing will be held at the South Bend Century Center, 120 S. St. Joseph Street, South Bend, IN 46601. You may send comments to Mr. Scott Doig, Environmental Protection Specialist, Midwest Regional Office, Bureau of Indian Affairs, 5600 West American Blvd. Suite 500, Bloomington, MN 55437 or via email to *Scott.Doig@bia.gov.* See the **SUPPLEMENTARY INFORMATION** section of this notice for addresses where the DEIS is available for review.

FOR FURTHER INFORMATION CONTACT: Mr. Scott Doig, Environmental Protection Specialist, at (612) 725–4514.

SUPPLEMENTARY INFORMATION: Compliance with the National Environmental Policy Act (NEPA) and public review of the DEIS are part of the administrative process for the evaluation of the Tribe's application under the Pokagon Restoration Act, 25 U.S.C. 1300j *et seq.,* and the Department's land-into-trust regulations at 25 CFR part 151. Under the Council on Environmental Quality National Environmental Policy Act (NEPA) regulations (40 CFR 1506.10), the publication of the Notice of Availability by the EPA in the **Federal Register** initiates the 45-day public comment period.

The Tribe has requested that the Secretary of the Interior accept in trust status for the benefit of the Tribe certain real property consisting of 18 parcels of land totaling 165.81 acres, more or less, that are located in within the municipal limits of the City of South Bend in St. Joseph County, Indiana. The purpose of the proposed action is to improve access to essential tribal government services, and provide housing, employment opportunities, and economic development for the tribal community residing in northern Indiana. The Tribe proposes to develop 44 housing units, a multi-purpose facility, health service and other tribal government facilities. The Tribe also proposes to develop a Class III gaming facility with a hotel, restaurants, meeting space, and a parking garage.

The BIA held a public scoping meeting on September 27, 2012. Alternatives considered in the DEIS include: (1) Preferred alternative—South Bend tribal housing government facilities and casino, (2) Elkhart site with same uses as the preferred alternative, (3) South Bend site with government facilities and commercial development, and (4) no action. Environmental issues addressed in the DEIS include land resources, water resources, air quality, biological resources, cultural resources, socioeconomic conditions, resource use, public services, noise, hazardous materials, visual resources, environmental justice, cumulative effects, indirect effects, unavoidable adverse effects, and mitigation.

Directions for Submitting Comments: Please include your name, return address and the title ''DEIS Comments, Pokagon Tribal project'' on the first page of your written comments.

Locations where the DEIS is Available for Review: The DEIS will be available at the South Bend Public Library, main branch-304 S. Main St., South Bend, IN 46601, and the Elkhart Public Library main branch-300 S 2nd St, Elkhart, IN 46516. An electronic version of the DEIS can be viewed at the following Web site: *www.pokagonsouthbendeis.com.*

If you would like to obtain a compact disc copy of the DEIS, please provide your name and address in writing or by voicemail to Scott Doig. His contact information is listed in the **ADDRESSES** section of this notice. Individual paper copies of the DEIS will be provided only upon payment of applicable printing expenses by the requestor for the number of copies requested.

Public Comment Availability: Comments, including names and addresses of respondents, will be available for public review at the BIA address shown in the **ADDRESSES** section, during regular business hours, 8:00 a.m. to 4:30 p.m., Monday through Friday, except holidays. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask in your comment that your personal identifying information be withheld from public review, BIA cannot guarantee that this will occur.

Authority: This notice is published in accordance with section 1503.1 of the Council of Environmental Quality regulations (40 CFR 1500 *et seq.*) and the Department of the Interior Regulations (43 CFR part 46) implementing the procedural requirements of the NEPA (42 U.S.C. 4321 *et seq.*), and in accordance with the exercise of authority delegated to the Assistant Secretary—Indian Affairs by part 209 of the Department Manual.

Dated: March 3, 2015.

Kevin K. Washburn,

Assistant Secretary—Indian Affairs.

[FR Doc. 2015–05573 Filed 3–11–15; 8:45 am]

BILLING CODE 4337–2A–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[15X.LLAZ956000.L14400000.BJ0000. LXSSA225000.241A]

Notice of filing of plats of survey; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plats of survey; Arizona.

SUMMARY: The plats of survey of the described lands were officially filed in the Arizona State Office, Bureau of Land Management, Phoenix, Arizona, on dates indicated.

SUPPLEMENTARY INFORMATION:

The Gila and Salt River Meridian, Arizona

The plat representing the dependent resurvey of portions of Mineral Survey No. 1787, unsurveyed Township 15 North, Range 2 East, accepted October 17, 2014, and officially filed October 20, 2014, for Group 1124, Arizona.

This plat was prepared at the request of the United States Forest Service.

The plat representing the dependent resurvey of a portion of the subdivisional lines, the subdivision of section 14, and the survey of a portion of the meanders of the left bank of the Verde River in section 14, Township 14 North, Range 4 East, accepted February 13, 2015, and officially filed February 13, 2015, for Group 1138, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs.

The plat representing the dependent resurvey of a portion of the south boundary, and a portion of the 1966 meanders of the right bank of the Verde River in section 32, and the subdivision of section 32, and the survey of the meanders of the thread of the present natural channel of the Verde River in front of lot 6, section 32, Township 14 North, Range 5 East, accepted February 13, 2015, and officially filed February 17, 2015, for Group 1137, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs.

The plat representing the dependent resurvey of a portion of the subdivisional lines, and metes-and-bounds surveys, partially surveyed Township 11 North, Range 11 East, accepted December 11, 2014, and officially filed December 16, 2014, for Group 1130, Arizona.

This plat was prepared at the request of the United States Forest Service.

The plat representing the amended protraction diagram of partially surveyed Township 11 North, Range 11 East, accepted December 11, 2014, and officially filed December 16, 2014.

This plat was prepared at the request of the Bureau of Land Management.

The plat representing the dependent resurvey of the east boundary of Township 24 North, Range 21 East, the survey of the south boundary and the subdivisional lines, and the subdivision of certain sections, Township 24 North, Range 22 East, accepted January 23, 2015, and officially filed January 26, 2015, for Group 1126, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs.

The plat representing the dependent resurvey of a portion of the north boundary, a portion of the subdivisional lines, a portion of the subdivision lines within sections 11 and 14, the subdivision of sections 3 and 10, Township 5 North, Range 30 East, accepted February 20, 2015, and officially filed February 24, 2015, for Group 1108, Arizona.

This plat was prepared at the request of the United States Forest Service.

The plat representing the dependent resurvey of a portion of the subdivisional lines, and a metes-and-bounds survey in section 28, Township 13 North, Range 4 West, accepted February 20, 2015, and officially filed February 24, 2015, for Group 1140, Arizona.

This plat was prepared at the request of the Bureau of Land Management.

The plat representing the subdivision of section 23, and the metes-and-bounds survey of the center line of certain existing roads within the southeast quarter of the northwest quarter, and the northeast quarter of the southwest quarter of section 23, Township 18 North, Range 13 West, accepted January 6, 2015, and officially filed January 7, 2015, for Group No. 1131, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs.

The plat representing the dependent resurvey of a portion of the west and north boundaries, a portion of the subdivisional lines and a portion of Homestead Entry Survey No. 263, and the subdivision of sections 5 and 6, Township 10 South, Range 16 East, accepted December 11, 2014, and officially filed December 12, 2014, for Group 1109, Arizona.

This plat was prepared at the request of the United States Forest Service.

The plat representing the dependent resurvey of a portion of the west boundary and a portion of the subdivisional lines, and the subdivision of sections 31 and 32, Township 17 South, Range 19 East, accepted December 9, 2014, and officially filed December 10, 2014, for Group 1115, Arizona.

This plat was prepared at the request of the United States Forest Service.

The plat representing the dependent resurvey of a portion of the subdivisional lines, and the subdivision of section 29, Township 6 South, Range 28 East, accepted October 17, 2014, and officially filed October 20, 2014, for Group 1134, Arizona.

This plat was prepared at the request of the Bureau of Land Management.

A person or party who wishes to protest against any of these surveys must file a written protest with the Arizona State Director, Bureau of Land Management, stating that they wish to protest.

A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the protest is filed.

FOR FURTHER INFORMATION CONTACT: These plats will be available for inspection in the Arizona State Office, Bureau of Land Management, One North Central Avenue, Suite 800, Phoenix, Arizona 85004–4427. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

Gerald T. Davis,

Chief Cadastral Surveyor of Arizona.

[FR Doc. 2015–05572 Filed 3–11–15; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[15XL1109AF LLWO260000 L10600000.PC0000 LXSINASR0000]

Proposed Collection of Information on Wild Horses and Burros; Request for Comments

AGENCY: Bureau of Land Management, Interior.

ACTION: 60-day notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act, the Bureau of Land Management (BLM) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below, and invites public comments on the proposed IC.

DATES: Please submit comments on the proposed information collection by May 11, 2015.

ADDRESSES: Comments may be submitted by mail, fax, or electronic mail. Mail: U.S. Department of the Interior, Bureau of Land Management, 1849 C Street NW., Room 2134LM, Attention: Jean Sonneman, Washington, DC 20240. Fax: to Jean Sonneman at 202–245–0050. Electronic mail: *Jean_Sonneman@blm.gov*. Please indicate ''Attn: 1004–NEW'' regardless of the form of your comments.

FOR FURTHER INFORMATION CONTACT: Sarah Bohl at (202) 912–7263. Persons who use a telecommunication device for the deaf may call the Federal

Information Relay Service on 1–800–877–8339, to contact Ms. Bohl. You may contact Ms. Bohl to obtain a copy, at no cost, of the draft discussion guides for the focus groups and in-depth interviews described in this 60-day notice. You may also contact Ms. Bohl to obtain a copy, at no cost, of the regulations that authorize this collection of information.

SUPPLEMENTARY INFORMATION:

I. Proposed Information Collection

Title: Knowledge and Values Study Regarding the Management of Wild Horses and Burros.

OMB Control Number: 1004–NEW.

Frequency: On occasion.

Respondents' obligation: Voluntary.

Abstract: The BLM protects and manages wild horses and burros that roam Western public rangelands, under the authority of the Wild Free-Roaming Horses and Burros Act (Act), 16 U.S.C. 1331–1340. The Act requires that wild horses and burros be managed in a manner that is designed to achieve and maintain a thriving natural ecological balance on the public lands. 16 U.S.C. 1333(a). Stakeholders and the general public hold a variety of views on how wild horses and burros should be managed. The BLM has determined that conducting focus groups, in-depth interviews, and a national survey will lead to a better understanding of public perceptions, values, and preferences regarding the management of wild horses and burros on public rangelands.

After reviewing public comments and making appropriate revisions, the BLM will include the discussion guides in a request for OMB approval. Upon receiving OMB approval, the BLM will conduct the focus groups and in-depth interviews. The results of focus groups and in-depth interviews will be used to help design a national survey, which will be the second and final phase of the research.

The BLM will prepare a draft of the national survey and publish a second 60-day notice and invite public comments on the draft national survey. After reviewing public comments and making appropriate revisions, the BLM will include the national survey in a request for OMB approval. Upon receiving OMB approval, the BLM will conduct the national survey.

Need and Proposed Use: The proposed research was recommended by the National Research Council of the National Academy of Sciences in a 2013 report, *Using Science to Improve the BLM Wild Horse and Burro Program: A Way Forward*. Conducting the focus groups and in-depth interviews will enable the researchers to characterize the range of preferences that exist for wild horse and burro management. The national survey will then assess the distribution of these preferences across the larger population. The research results will assist the BLM to more effectively manage wild horses and burros by providing information to:

- Help evaluate the benefits and costs of competing rangeland uses and various management options;
- Help identify areas of common ground and opportunities for collaboration with stakeholder groups; and
- Communicate more effectively with the public and with stakeholder groups.

Description of Respondents: The BLM intends to survey a variety of respondents for this project by conducting focus groups, in-depth interviews, and a nationally representative survey. For the focus groups and in-depth interviews, the primary respondents will be individuals belonging to a variety of organizations that have previously lobbied, commented on program policy or activities, or have otherwise sought influence with the BLM in regard to its wild horse and burro program. Representatives of wild horse and burro advocacy groups, domestic horse owners, wild horse adopters, the Western livestock grazing community, environmental conservationists, hunters, and public land managers will be included. Nine focus groups across three locations around the country and up to 12 in-depth interviews will be conducted with individuals from these groups. Focus group participants will be recruited by BLM's research contractor through a variety of approaches tailored to the communities participating in the discussions. In addition, four focus groups (spread across two locations) will be conducted with the general public to explore public understanding of various terms and issues involved in wild horse and burro management so that the questionnaire for the national survey can effectively communicate the relevant topics.

II. Estimated Reporting and Recordkeeping Burden

The estimated reporting burden for this collection is 142 responses and 272 hours. There will be no non-hour burdens. The following table details the individual components and estimated hour burdens of this collection.

Activity	Estimated number of respondents	Estimated number of responses per respondent	Completion time per response	Total burden hours
Focus Groups	130 (13 groups)	1	120 mins	15,600 mins/260 hrs.
In-depth Interviews	12	1	60 mins	720 mins/12 hrs.
Totals	142			272 hrs.

III. Request for Comments

OMB regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act (44 U.S.C. 3501–3521), require that interested members of the public and affected agencies be provided an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d) and 1320.12(a)). The BLM will request that the OMB approve this information collection activity for a 3-year term.

Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany the BLM's submission of the information collection requests to OMB.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may

be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Jean Sonneman,

Information Collection Clearance Officer, Bureau of Land Management.

[FR Doc. 2015–05623 Filed 3–11–15; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[145A21000DDAAK3000000/ A0T00000.00000]

Tohono O'odham Nation of Arizona's Title 21—Liquor, Chapter 1—Alcoholic Beverage Licensing and Control (Chapter)

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes the amendment to the Tohono O'odham Nation's Title 21—Liquor, Chapter 1—Alcoholic Beverage Licensing and Control (Chapter). This Chapter amends the existing Chapter 1—Alcoholic Beverages Licensing and Control Ordinance, Ordinance No. 05–82, enacted by the Papago Tribal Council, which was published in the **Federal Register** on October 27, 1982 (47 FR 47687).

DATES: *Effective Date:* This code shall become effective 30 days after March 12, 2015.

FOR FURTHER INFORMATION CONTACT: Sharlot Johnson, Tribal Government Services Officer, Western Regional Office, Bureau of Indian Affairs, 2600 North Central Avenue, Phoenix, AZ 85004, Telephone: (602) 379–6786, Fax: (602) 379–379–4100; or Laurel Iron Cloud, Chief, Division of Tribal Government Services, Office of Indian Services, Bureau of Indian Affairs, 1849 C Street NW., MS–4513–MIB, Washington, DC 20240, Telephone (202) 513–7641.

SUPPLEMENTARY INFORMATION: Pursuant to the Act of August 15, 1953, Public Law 83–277, 67 Stat. 586, 18 U.S. C. 1161, as interpreted by the Supreme Court in *Rice* v. *Rehner,* 463 U.S. 713 (1983), the Secretary of the Interior shall certify and publish in the **Federal Register** notice of adopted liquor ordinances for the purpose of regulating liquor transactions in Indian country. On January 16, 2015, the Tohono O'odham Legislative Council of the Tohono O'odham Nation duly adopted the amendments to the Nation's Title 21—Liquor, Chapter 1—Alcoholic Beverage Licensing and Control (Chapter) by Resolution NO. 15–015. This **Federal Register** Notice amends and supersedes the Alcoholic Beverages Licensing and Control Ordinance No. 05–82, enacted by the Papago Tribal Council, published in the **Federal Register** on October 27, 1982 (47 FR 47687).

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs. I certify that the Legislative Council of the Tohono O'odham Nation of Arizona duly adopted this amendment to the Nation's Title 21—Liquor, Chapter 1—Alcoholic Beverage Licensing and Control (Chapter) on January 16, 2015.

Dated: March 6, 2015.

Kevin Washburn,

Assistant Secretary—Indian Affairs.

The Tohono O'odham Nation's Title 21—Liquor, Chapter 1—Alcoholic Beverage Licensing and Control (Chapter), as amended, shall read as follows:

TITLE 21—LIQUOR

CHAPTER 1—ALCOHOLIC BEVERAGES LICENSING AND CONTROL

Statement of Purpose: A chapter alternatively prohibiting or sanctioning and licensing the introduction, sale, possession and consumption of alcoholic beverages within the exterior boundaries of the Tohono O'odham Reservation, Arizona.

ARTICLE I—TITLE; INTERPRETATION; PROHIBITION; DISTRICT OPTION; SANCTION

Section 1101 Short Title

This chapter may be cited as 21 T.O.C. Chapter 1—Alcoholic Beverages Licensing and Control.

Section 1102 Interpretation

This chapter shall be deemed an exercise of the police power of the Tohono O'odham Nation for the protection of the public welfare, health peace and morals of the people of the Tohono O'odham Reservation and all provisions of this chapter shall be liberally construed for the accomplishment of this purpose.

Section 1103 Prohibition

The introduction, sale, possession and consumption of spirituous liquor within the exterior boundaries of the Tohono O'odham Reservation in violation of the federal Indian liquor laws, 18 U.S. C. 1154 and 1156, or in violation of the Criminal Code of the Tohono O'odham Nation is prohibited, except within the exterior boundaries of any of the twelve (12) Districts of the Tohono O'odham Nation which have, in accordance with the provisions of Section 1104 of this Article, sanctioned the introduction, sale, possession and consumption of spirituous liquor within the District in conformity with this chapter.

Section 1104 District Option

Each of the 12 Districts of the Tohono O'odham Nation are empowered to sanction the introduction, sale, possession and consumption of spirituous liquor within the exterior boundaries of the District in conformity with this chapter as follows:

District Council: The District Council may by action of a majority of its members sanction the introduction, sale, possession and consumption of spirituous liquor within the exterior boundaries of the District. The action of the District Council shall be memorialized by formal resolution and shall be submitted to the Tohono O'odham Legislative Council for approval. Upon approval of the resolution by the Legislative Council, the introduction, sale, possession and consumption of spirituous liquor in conformity with this chapter shall be lawful within the exterior boundaries of the District.

(A) Election: The question of whether a District should sanction the introduction, sale, possession and consumption of spirituous liquor within the exterior boundaries of the District in conformity with this chapter shall be put to a referendum vote of the registered voters of the District upon receipt by the Tohono O'odham Election Board (1) of a resolution of the District Council requesting such referendum election, or (2) of a petition of registered voters of the District requesting such referendum election signed by at least ten per cent of the number of voters voting for candidates for the office of Representative to the Legislative Council from the District at the last general election of the Tohono O'odham Nation. Upon receipt of a petition the Election Board shall determine whether a sufficient number of registered voters from the District have signed the petition. If the resolution or valid petition is received by the Election Board within 180 days prior to the

general election of the Tohono O'odham Nation, the referendum ballot shall be submitted to the voters at the general election. If the resolution or petition is received by the Board at any other time, it shall conduct a special referendum election in the District within ninety days of receipt of the resolution or valid petition in conformity with the Uniform Election Chapter on a date designated by the District Council. The referendum ballot shall contain the following question:

''Shall the introduction, sale, possession and consumption of spirituous liquor be made lawful within the exterior boundaries of this District in conformity with the Alcoholic Beverages Licensing and Control Chapter of the Tohono O'odham Nation?''

The registered voters of the District shall vote on said question, those in favor voting ''Yes'' on their ballots and those opposed ''No'', and the Election Board shall determine the number of votes cast for and against the referendum measure, and shall issue and post its Certificate of Election Results in conformity with the Uniform Election Chapter. If a majority of the votes cast was in favor of the referendum measure, the Legislative Council shall at its next meeting issue its certificate of election and the introduction, sale, possession and consumption of spirituous liquor in conformity with this chapter shall thereafter be lawful within the exterior boundaries of the District.

Section 1105 Sanction

The introduction, sale, possession and consumption of spirituous liquor shall be lawful within the exterior boundaries of any of the twelve (12) Districts of the Tohono O'odham Reservation which have, in accordance with the provisions of Section 1104 of this Article, sanctioned the introduction, sale, possession and consumption of spirituous liquor within their respective Districts in conformity with this chapter. The federal Indian liquor laws shall, however, remain applicable to any act or transaction which is not in conformity with this chapter. Violations of this chapter by any person may be subject to federal prosecution as well as legal action in the Tohono O'odham Judicial Courts.

ARTICLE II—DEFINITIONS

In this chapter, unless the context otherwise requires:

(A) ''Beer'' means any beverage obtained by the alcoholic fermentation, infusion or decoction of barley, malt, hops, or other ingredients not drinkable, or any combination of them.

(B) ''Broken package'' means any container of spirituous liquor on which the United States tax seal has been broken or removed, or from which the cap, cork or seal placed thereupon by the manufacturer has been removed.

(C) ''Commission'' means the liquor licenses and control commission of the Tohono O'odham Nation.

(D) ''Election days'' means the biennial primary election for the nomination of United States, state, county and precinct officers, a special election called pursuant to Section 1, Article 21 of the Constitution of the State of Arizona, the biennial general election of the State of Arizona, and the biennial primary or general elections and any special elections of the Tohono O'odham Nation, and any Secretarial election called pursuant to Section 16 of the Indian Reorganization Act of June 18, 1934, as amended.

(E) ''License'' or ''Tribal License'' means a license issued pursuant to the provisions of this chapter.

(F) ''Licensee'' or ''Tribal licensee'' means a person who has been issued a license pursuant to the provisions of this chapter.

(G) ''Off-sale retailer'' means any person operating an established general merchandise or retail store selling groceries and commodities other than spirituous liquors and engaged in the sale of spirituous liquors only in the original package, to be taken away from the store premises and to be consumed off the premises.

(H) ''On-sale retailer'' means any person operating an establishment where spirituous liquors are sold in the original container for consumption on or off the premises and in individual portions for consumption on the premises.

(I) ''Person'' includes partnership, associations, company or corporation, as well as a natural person.

(J) ''Premises'' or ''Licensed premises'' means the area from which the licensee is authorized to sell, dispense or serve spirituous liquors under the provisions of the license.

(K) ''Sanctioning District'' means any of the twelve (12) Districts of the Tohono O'odham Reservation which have sanctioned the introduction, sale, possession and consumption of spirituous liquor within the District in conformity with this chapter, in accordance with the provisions of Section 1104 of Article I of this chapter.

(L) ''Sell'' includes soliciting or receiving an order for, keeping or exposing for sale, delivering for value, peddling, keeping with intent to sell and trafficking in.

(M) ''Spirituous liquor'' includes alcohol, brandy, whiskey, rum, tequila, mescal, gin, wine, porter, ale, beer, any malt liquor, malt beverage, absinthe or compound or mixture of any of them, or of any of them with any vegetable or other substance, alcohol bitters, bitters containing alcohol, and any liquid mixture or preparation, whether patented or otherwise, which produces intoxication, fruits preserved in ardent spirits, and beverages containing more than 1/2 of 1 per cent of alcohol by volume.

(N) ''Wines'' means the product obtained by the fermentation of grapes or other agricultural products containing natural or added sugar or any such alcoholic beverage fortified with grape brandy and containing not more than 24 per cent of alcohol by volume.

ARTICLE III—UNLAWFUL ACTS

It is unlawful within the exterior boundaries of a sanctioning District:

Section 1301 For a person to have in his possession or custody or under his control a still or distilling apparatus, and any mash, wort or wash, for distillation or for the production of spirits or alcohol, and any still, distilling apparatus, mash, wort, wash or finished product produced therefrom found on or within the exterior boundaries of the Tohono O'odham Reservation shall be forfeited to the Tohono O'odham Nation, and shall forthwith be destroyed by the Tohono O'odham Police.

Section 1302 For a person to buy for resale, sell or deal in spirituous liquors on or within the exterior boundaries of a sanctioning District, without first having procured a valid license issued by the commission or otherwise first complying with the provisions of this chapter.

Section 1303 For any person, except the commission, to import spirituous liquors into the Tohono O'odham Reservation from a foreign country unless:

(A) such person is over 21 years of age.

(B) such person has been physically within such foreign country immediately prior to such importation and such importation coincides with his return from such foreign country.

(C) the amount of spirituous liquor imported does not exceed the amount permitted under federal law to be imported duty free in any period of thirty-one days.

Section 1304 For a person to take or solicit orders for spirituous liquors, except from or through the Tohono

O'odham liquor licenses and control commission, or in accordance with any regulation of such commission.

Section 1305 For a licensee, or an officer or employee of a Tohono O'odham Liquor Store, to employ a person under the age of nineteen (19) years to manufacture, sell or dispose of spirituous liquors. The provisions of this paragraph shall not prohibit the employment by an off-sale retailer of persons who are at least sixteen years of age to check out, if supervised by a person on the premises who is at least nineteen years of age, package or carry merchandise, including spirituous liquor, in unbroken packages, for the convenience of the customer of the employer, if the employer sells primarily merchandise other than spirituous liquor.

Section 1306 Except as provided in Sections 1305 and 1309, for a licensee, or an officer or employee of a Tohono O'odham Liquor Store, or any other person to sell, furnish, dispose of, give, or cause to be sold, furnished, disposed of or given, to any person under the age of 21 years, or for a person under the age of 21 years to buy, receive, have in his possession or consume spirituous liquors. This paragraph shall not prohibit the employment of an off-sale retailer of persons who are at least sixteen years of age to check out, if supervised by a person on the premises who is at least nineteen years of age, package or carry merchandise, including spirituous liquor, in unbroken packages, for the convenience of the customer of the employer, if the employer sells primarily merchandise other than spirituous liquor. It shall be the responsibility of the licensee or the manager of a Tohono O'odham Liquor Store, or their employees, and of anyone acting in their behalf to ascertain that the purchaser, acquirer or consumer of any intoxicating beverage, either by the drink or by the bottle or other container, is 21 years of age or older.

Section 1307 For a person under 21 years of age to offer or present to a licensee or their employees, or to officers of employees of a Tohono Liquor Store, or to other persons a fraudulent or false certificate of birth or other written evidence of age which is not actually his own, or to otherwise misrepresent his age for the purpose of inducing such licensee, manager or employee or other person to sell, give, serve or furnish spirituous liquors contrary to law.

Section 1308 To influence or attempt to influence the sale, giving or serving of spirituous liquor to a person under 21 years of age by misrepresenting the age of such person or to order, request, receive or procure spirituous liquor from any licensee, employee or other person for the purpose of selling, giving or serving it to a person under 21 years of age.

Section 1309 For an on-sale licensee to employ a person under the age of 21 years in any capacity connected with the handling of spirituous liquors.

Section 1310 For a licensee or an employee of a Tohono O'odham Liquor Store, when engaged in waiting on or serving customers, to consume spirituous liquor or remain on or about the premises while in an intoxicated or disorderly condition.

Section 1311 For an employee of a licensee or of a Tohono O'odham Liquor Store, during his working hours or in connection with his employment, to give or purchase for any other person, accept a gift of, purchase for himself or consume spirituous liquor.

Section 1312 For licensee or an employee thereof, or for a Tohono O'odham Liquor Store (except as in this chapter otherwise provided), or for any other person to sell or offer to sell, directly or indirectly, or to sanction the sale on credit of spirituous liquor, or to give, lend or advance money or anything of value to any person for the purpose of purchasing or bartering for, spirituous liquor, except that sales of spirituous liquor consumed on the licensed premises may be included on bills rendered to registered guests in hotels and motels, and spirituous liquor sales for on-premises consumption only in connection with a served meal may be made a part of charges to patrons of bona fide restaurants whose credit is based upon standard bona fide credit cards.

Section 1313 For a licensee or a Tohono O'odham Liquor Store, or an employee thereof, or for any person to serve, sell, or furnish spirituous liquor to an intoxicated or disorderly person, or for a licensee or a Tohono O'odham Liquor Store, or employee thereof, to allow or permit an intoxicated or disorderly person to come into or remain on or about his premises.

Section 1314 For a licensee or a Tohono O'odham Liquor Store, or an employee thereof, to sell, dispose of, deliver, or give spirituous liquor to a person, or allow a person to consume spirituous liquors on his premises during hours polling places are open for voting on election days, or between the hours of 1:00 o'clock a.m. and 6:00 o'clock a.m. on weekdays and 1:00 o'clock a.m. and 12:00 o'clock noon Sundays.

Section 1315 For an off-sale retailer or a Tohono O'odham Liquor Store retailer to sell spirituous liquors except in the original container or to permit spirituous liquor to be consumed on the premises.

Section 1316 For an on-sale retail licensee to employ a person for the purpose of soliciting the purchase of spirituous liquors by patrons of the establishment for themselves, on a percentage basis or otherwise. No licensee shall serve employees or allow a patron of the establishment to give spirituous liquor to, or to purchase liquor for or drink liquor with, any employee.

Section 1317 For a person to consume spirituous liquor from a broken package in a public place, thoroughfare or gathering. This paragraph shall not apply to sale of spirituous liquors on the premises of and by an on-sale retail licensee. This paragraph shall also not apply to a person consuming beer from a broken package in a public recreation area, at a community feast house, park or meeting place pursuant to the customs of the community, or on private property with permission of the owner or lessor or on the walkways surrounding such private property.

Section 1318 For a person to have in his possession or to transport spirituous liquor which is manufactured in a distillery, winery, brewery, or rectifying plant contrary to the laws of the United States.

ARTICLE IV—LIQUOR LICENSES AND CONTROL COMMISSION

Section 1401 Appointment of members; terms; payment

There is created the liquor licenses and control commission which shall consist of three members appointed by the Legislative Council. Of the members first appointed, one shall be appointed for a term of three years, one for a term of two years, and one for a term of one year from the date of his appointment and until his successor shall have been appointed and qualified. Thereafter, all appointments shall be for terms of three years or until successors are appointed or qualified. No member of the commission, or any officer or employee of the commission shall be financially interested, directly or indirectly, in any business licensed to deal in spirituous liquor. The Legislative Council may remove any member of the commission for cause. The members of the commission shall appoint from among their membership a chairman and vice chairman, who shall serve at the pleasure of the commission. The majority of the commission shall constitute a quorum, but no decision of the commission on any matter shall be

valid unless made upon the concurrence of the majority of the members. Members of the commission shall be entitled to receive, upon presentation of proper vouchers, such per diem and mileage payments as the Legislative Council shall from time to time establish for its standing committees, boards and commissions.

Section 1402 General powers of commission

The commission shall have the following powers and duties:

(A) To buy, import or have in its possession for sale, and sell spirituous liquor in the manner set forth in this chapter.

(B) To have control and supervision of the purchase, importation, transportation and sale of spirituous liquor in accordance with the provisions of this chapter, and to fix the wholesale and retail prices at which spirituous liquors are to be sold at Tohono O'odham Liquor Stores: Provided, that in fixing the sales prices, the commission shall not give any preference or make any discriminations as to classes, brands or otherwise, except where special sales are deemed necessary to remove unsaleable merchandise, or except where the addition of a service or handling charge to the fixed sales price of any merchandise in the same comparable price bracket, regardless of class, brand or otherwise is, in the opinion of the commission, required for the efficient operation of the Tohono O'odham store system.

(C) To determine the villages in sanctioning Districts within which Tohono O'odham Liquor Stores shall be established and locations of the stores within such villages.

(D) To grant, issue, suspend and revoke all licenses authorized to be issued under this chapter and the regulations of the commission.

(E) By regulation to require on-sale retailers to engage and provide security guards where deemed necessary by the commission to enforce the provisions of this chapter.

(F) To acquire, lease, furnish and equip such buildings, rooms or other accommodations as shall be required for the operation of this chapter.

(G) To appoint, fix the compensation and define the powers and duties of such managers, officers, clerks and other employees as shall be required for the operation of this chapter.

(H) To determine the nature, form and capacity of all packages and original containers to be used for containing spirituous liquor.

(I) Without in any way limiting or being limited by the foregoing, to do all such things and perform all such acts as are deemed necessary or advisable for the purpose of carrying into effect the provisions of this chapter and the regulations made thereunder.

(J) Issue administrative rulings in response to a written inquiry from licensees or applicants regarding the application of this chapter. The inquiries shall state with specificity the facts involved in the question. The rulings shall be determinative of subsequent treatment of the matter and may be relied upon by the licensee or applicant until a regulation related to the subject of the inquiry is adopted. Any ruling remains in effect until a regulation related to the subject of the inquiry is adopted.

(K) From time to time, to make such regulations not inconsistent with this chapter as it may deem necessary for the efficient administration of this chapter. The commission shall cause such regulations to be published and disseminated throughout the Tohono O'odham Reservation in such manner as it shall deem necessary and advisable. Such regulations adopted by the commission shall have the same force as if they formed a part of this chapter.

(L) To investigate, whenever any person complains, or when the commission is aware that there is reasonable grounds to believe that spirituous liquor is being sold on premises not licensed under the provisions of this chapter. If the investigation produces evidence of the unlawful sale of spirituous liquor or of any other violation of the provisions of this chapter, the commission shall cause the prosecution of the person or persons believed to have been liable for the unlawful acts.

Section 1403 Specific subjects on which commission may adopt regulations

Subject to the provisions of this chapter and without limiting the general power conferred by the preceding section, the commission may make regulations regarding:

(A) The equipment and management of Tohono O'odham Liquor Stores and warehouses in which spirituous liquor is kept or sold, and the books and records to be kept therein.

(B) The duties and conduct of the officers and employees of the commission.

(C) The purchase as provided in this chapter of spirituous liquor, and its supply to Tohono O'odham Liquor Stores.

(D) The classes, varieties and brands of spirituous liquor to be kept and sold in Tohono O'odham Liquor Stores.

(E) The issuing and distribution of price lists for the various classes, varieties or brands of spirituous liquor kept for sale by the commission under this chapter.

(F) Forms to be used for the purposes of this chapter.

(G) The issuance of licenses and the conduct, management, sanitation and equipment of licensed premises.

(H) The place and manner of depositing the receipts of Tohono O'odham Liquor Stores and the transmission of balances to the Treasurer of the Tohono O'odham Nation.

ARTICLE V—TOHONO O'ODHAM LIQUOR STORES

Section 1501 Commission to establish Tohono O'odham Liquor Stores

The commission shall establish, equip, operate and maintain, at such places throughout the Tohono O'odham Reservation as it shall deem essential and advisable, stores to be known as ''Tohono O'odham Liquor Stores'' and warehouses and other merchandising facilities for the sale of spirituous liquors in accordance with the provisions of regulations made under this chapter. A Tohono O'odham warehouse and wholesale store shall be located on the Tohono O'odham Reservation in a place designated by the commission. When the commission shall have determined upon the location of a liquor store in any village within a sanctioning District, it shall give notice of such location by posting such notice for a period of at least thirty days following its determination in a conspicuous place on the outside of the premises in which the proposed store is to operate or, in the event that a new structure is to be built, in a similarly visible location. The notice shall be in such form, of such size and containing such provisions as the commission may require by its regulations. If, prior to the last day of such posted notice, ten or more persons residing within a one-half mile radius from such location, or the Village Council of the village within which such store is to be located, shall file a protest with the District Council of the District averring that the location is objectionable because of its proximity to a church, a school, or to a private residence, the District Council shall forthwith hold a hearing affording an opportunity to the protestants and to the commission to present evidence. The District Council shall render its decision immediately upon the conclusions of

the testimony and from the decision there shall be no appeal. If the District Council shall determine that the proposed location is undesirable for the reasons set forth in the protest, the commission shall abandon it and find another location.

The commission may acquire or lease any rooms, buildings, warehouses or other merchandising facilities, and may purchase equipment and appointments necessary to carry out the provisions of this chapter.

Section 1502 Selection of Personnel

Officers and employees of the commission, except as herein provided, shall be appointed and employed in accordance with the employment practices and policies of the Tohono O'odham Nation.

Section 1503 Appointment of Superintendent and Managers of Tohono O'odham Liquor Stores

The commission shall appoint a person who shall serve at the discretion of the commission; shall be the chief administrative officer of the commission and shall be known as the ''superintendent'' of liquor licenses and control. He shall be responsible for carrying out the administrative provisions of this chapter and of the regulations adopted by the commission under this chapter. Every Tohono O'odham Liquor Store and/or commission warehouse or merchandising facility shall be under the supervision of a person appointed by the commission who shall be known as the ''manager'' and who shall, under direction of the commission, be responsible for carrying out the provisions of this chapter and the regulations adopted by the commission under this chapter as far as they relate to the conduct of such store, warehouse or facility. The superintendent may act as manager of such store, warehouse and/or facility.

Section 1504 Sales by Tohono O'odham Liquor Stores

(A) Every Tohono O'odham Liquor Store shall keep in stock for sale such classes, varieties and brands of spirituous liquors as the commission shall prescribe.

(B) Every Tohono O'odham Liquor Store shall sell spirituous liquors to Tribal licensees, licensed under this chapter, at standard wholesale discount prices established by the commission. All other sales by such stores shall be at retail prices. No liquor shall be sold except for cash, except that the commission may by regulation authorize the acceptance of checks for liquor sold at wholesale. The commission shall have the power to designate certain stores for wholesale or retail exclusively.

Section 1505 Working Capital

The net profits of the commission shall be general revenue of the Tohono O'odham Nation. The commission is authorized to keep and have on hand a stock of spirituous liquor for sale, the value of which, computed on less carload price quotations f.o.b. warehouse filed by spirituous liquor vendors, shall not at any time exceed the amount of working capital authorized. The maximum permanent working capital of the commission is established at $200,000.00 and permanent advances up to this amount may be authorized by the Chairman of the Legislative Council upon recommendation of the commission with the approval of the Treasurer of the Nation. At any time the total working capital exceeds the amount necessary to provide a turnover of stock approximately eight times annually, the Chairman, upon recommendation of the Treasurer of the Nation, may authorize the return of such excess to the general fund of the Tohono O'odham Nation.

Section 1506 Audits

It shall be the duty of the Treasurer of the Nation to make or cause to be made such audits as may be necessary in connection with the administration of the financial affairs of the commission and the Tohono O'odham Liquor Stores operated and maintained by the commission.

Section 1507 Tribal Taxes

Subject to the provision relating to wholesale sales contained in subsection (B) of Section 1504 above, the commission shall sell spirituous liquors at a price to be determined by the commission, which price shall include any luxury or transaction privilege or other taxes, levied and imposed by the Tohono O'odham Nation. All net revenue derived from such taxes shall be deposited to the credit of the general fund of the Tohono O'odham Nation.

ARTICLE VI—LICENSES AND REGULATIONS

Section 1601 Authority to issue liquor licenses

Subject to the provisions of this chapter and regulations made thereunder, the commission shall have the authority to issue on-sale and off-sale retailers' licenses for any premises kept or operated by any person licensed to operate a general merchandise or retail store, a restaurant, bar, motel or hotel within a sanctioning District on the Tohono O'odham Reservation.

Section 1602 Application procedure

Every applicant for a spirituous liquor license, or for the transfer of an existing license to himself or to another premises not then licensed, shall make application therefor on a form prescribed or furnished by the commission in duplicate, and shall file one copy with the commission and the other with the District Council of the sanctioning District where the applicant desires to do business. The applicant shall also post notice of his application (in such form, of such size and containing such provisions as the commission may require by its regulations) in a conspicuous place on the outside of the premises in which he proposes to do business, or, in the event that a new structure is to be built, in a similar visible location, with a statement requiring a person who is a resident of the age of nineteen years or more residing, owning or leasing property within a one-half radius from such location and who is opposed to such application, to file a written protest with the District Council within thirty (30) days after the date of posting. Proof of posting such notice shall be filed with the District Council and with the commission. The District Council shall then hold a hearing affording an opportunity to any protestants and the applicant to present evidence. The District Council shall render its decision and from this decision there shall be no appeal. If the District Council should recommend approval of the application, it shall file a copy of the Resolution certifying such approval with the commission and the commission shall set the application for hearing by the commission. The commission shall consider the application and any other facts relating to the qualifications of the applicant and shall approve or disapprove each application within one hundred and twenty (120) days after filing of the application.

Section 1603 Qualifications of spirituous liquor licensees

(A) Every licensee shall, if required, have a valid Federal license to trade with Indians pursuant to Part 140, Title 25, Code of Federal Regulations.

(B) No corporation shall receive or hold a license except through a designated agent who shall be a natural person. Upon the death, resignation or discharge of such agent, the license shall be assigned forthwith to another qualified agent selected by the corporation.

(C) Every licensee, whether Indian or non-Indian, shall be subject to the civil jurisdiction of the Tohono O'odham Judicial Courts, and every non-Indian applicant for a license shall file his written consent to such jurisdiction with his application.

(D) No person who holds, either by appointment or election, any public office which involves the duty to enforce any of the penal laws of the United States or of the Tohono O'odham Nation shall be issued a license, nor shall such person have any interest, directly or indirectly, in such license.

(E) No license shall be issued to any person who, within one (1) year prior to application therefor, has violated any provision of a spirituous liquor license theretofore issued or has had a license revoked.

Section 1604 Application for licenses

(A) Every applicant for a spirituous liquor license, or for the transfer of an existing license to himself or to another premises not then licensed shall file written application with the commission in such form and containing such information as the commission shall from time to time prescribe, which shall be accompanied by an application fee of fifty dollars ($50) and the prescribed license or transfer fee. Every such application shall contain a description of that part of the general merchandise or retail store, the restaurant, bar, motel or hotel for which the applicant desires a license and shall set forth such other material information, description or plan of that part of the store, restaurant, bar, motel or hotel where it is proposed to keep and sell liquor as may be required by the commission. No licensee shall alter or change the physical arrangement of the licensed premises so as to encompass greater space or the use of different or additional entrances, openings or accommodations than the space, entrance or entrances, openings or accommodations offered to the public at the time of issuance of licensee's license or a prior written approval of the licensed premises, without first having filed with the commission floor plans and diagrams completely disclosing the proposed physical alterations of the licensed premises and shall have secured the written approval thereof by the commission. This requirement shall apply to any person to person transfer of the licensed premises.

(B) Each application shall be signed and verified by oath or affirmation by the owner, if a natural person, or, in the case of an association, by a member of partner thereof, or, in the case of a corporation, by its designated agent who shall hold the license for the corporation.

(C) If the applicant is an association, the application shall set forth the names and addresses of the persons constituting the association, and of a corporation, the names and addresses of the principal officers and of the persons owning ten per cent (10%) or more of the corporation. Each application shall state whether the applicant or any of the foregoing persons were in the past five years convicted of a felony.

(D) If any false statement is intentionally made in any part of the application, the applicant shall be deemed to be in violation of this chapter and shall be subject to the penalties provided in this chapter.

Section 1605 Licenses; contents; transfers

(A) The licenses shall be to sell or deal in spirituous liquors only at the place and in the manner provided therein, and a separate license shall be issued for each specific business, each license specifying:

(1) The particular spirituous liquors which the licensee is authorized to sell or deal in.

(2) The place of business for which issued.

(3) The purpose for which the liquors may be sold.

(B) A spirituous liquor license shall be transferable as to any permitted location within the same sanctioning District, provided such transfer meets the requirements of an original application. A spirituous liquor license may be transferred to a person qualified to be a licensee, provided such transfer is pursuant to either a judicial decree, a bona fide sale of the entire business and stock in trade, or such bona fide transactions as may be provided by regulations of the commission and that such transfer meets the requirements of an original application. Any change in ownership of the business of a licensee, directly or indirectly, as defined by commission regulations, shall be deemed a transfer and shall comply with this section.

(C) All applications for transfer pursuant to subsection (B) of this section shall be filed and determined in accordance with the provisions of section 1602 and 1604 of this Article.

(D) No spirituous liquor license shall be assigned, transferred or sold, except as provided in this section. No spirituous liquor license shall be leased or subleased.

(E) A license which is not used by the licensee for a period in excess of six (6) months shall expire, except that the commission may grant additional time if, in its judgment, the licensee is in good faith attempting to comply with this section.

Section 1606 Issuance of licenses; regulatory provisions; revocation

(A) The commission shall issue a spirituous liquor license only after satisfactory showing of the capability, qualifications and reliability of the applicant, and that the public convenience required, and that the best interest of the community will be satisfactorily served by the issuance.

(B) The commission may issue on-sale retailer licenses:

(1) To any hotel or motel within a sanctioning District on the Tohono O'odham Reservation which has in conjunction therewith a bar or restaurant;

(2) To any restaurant within a sanctioning District of the Tohono O'odham Reservation which is regularly open for serving meals to guests for compensation and has suitable kitchen facilities connected therewith for keeping, cooking and preparing foods required for ordinary meals; and

(3) To any bar within a sanctioning District of the Tohono O'odham Reservation operated by responsible persons which is regularly open for serving spirituous liquors to guests for compensation and where no food is sold and no other business is carried on except the sale of cigarettes and tobacco products.

The holder of an on-sale retailer license may sell and serve spirituous liquors in individual portions only for consumption on the licensed premises, and he may sell such liquors in original containers for consumption both on or off the licensed premises.

The holder of an on-sale retailer license may not sell or deal in spirituous liquors unless he has complied with the regulations of the commission requiring such licensee to provide security guards duly approved by the commission as being of good moral character and commissioned to enforce the provisions of this chapter on or about the licensed premises.

(C) The commission may issue off-sale retailer licenses to any general merchandise or retail store within a sanctioning District of the Tohono O'odham Reservation operated by responsible persons which is regularly open for selling groceries and commodities other than spirituous liquors to customers for compensation.

The holder of an off-sale retailer license may sell spirituous liquors only in the original package to be taken away from the licensed premises and to be consumed off of the premises.

(D) In addition to other grounds prescribed in this chapter upon which a license may be revoked, the commission may revoke a license in any case where in its judgment the licensee ceased to operate a hotel, motel, restaurant, bar or general merchandise or retail store, as prescribed in subsections (B) and (C) of this section.

Section 1607 Licensing premises near school building or church

Unless written approval is first obtained from the governing body of a school or church, no spirituous liquor license shall be issued for any building whose exterior walls are within three hundred horizontal feet of a school or church building in which classes or services are regularly conducted.

Section 1608 License fees

(A) A fee shall accompany an application for an original license or transfer of a license, or in case of renewal, shall be paid in advance. Every license shall expire on December 30 of each year. An application fee for an original license or the transfer of a license shall be fifty ($50) dollars, which shall be retained by the commission.

(B) Issuance fees for original licenses shall be:

(1) On-sale retailer's license to sell all spirituous liquor by individual portions and in original containers—Seven hundred fifty dollars ($750).

(2) On-sale retailer's license to sell wine and beer by individual portions and in the original containers—One hundred dollars ($100).

(3) On-sale retailer's license to sell beer by individual portions and in original containers—One hundred dollars ($100).

(4) Off-sale retailer's license to sell all spirituous liquors—Five hundred dollars ($500).

(5) Off-sale retailer's license to sell wine and beer—One hundred fifty dollars ($150).

(6) Off-sale retailer's license to sell beer—One hundred dollars ($100).

(C) If a license is issued on or after July 1 in any year, one-half of the annual license fee shall be charged.

(D) The annual fees for licenses shall be:

(1) On-sale retailer's license to sell all spirituous liquors by individual portions and in original containers—One hundred fifty dollars ($150).

(2) One-sale retailer's license to sell wine and beer by individual portions and in original containers—Seventy five dollars ($75).

(3) On-sale retailer's license to sell beer by individual portions and in original containers—Twenty five dollars ($25).

(4) Off-sale retailer's license to sell all spirituous liquors—Fifty dollars ($50).

(5) Off-sale retailer's license to sell wine and beer—Fifty dollars ($50).

(6) Off-sale retailer's license to sell beer—Twenty-five dollars ($25).

(E) Transfer fees from person to person and from place to place for licenses transferred pursuant to subsection (B) of Section 1605 shall be one-half of the fees prescribed in subsection (B) above.

Section 1609 Revocation or suspension of license

(A) The commission may suspend or revoke any license issued hereunder for cause and upon a hearing, with notice mailed to the licensee by registered mail at least ten (10) days prior to such hearing. Cause shall mean the failure to pay prescribed license fees and taxes as they become due; the failure of an on-sale retailer licensee to provide a security officer to enforce the provisions of this chapter on or about the licensed premises as prescribed is subsection (B) of Section 1606; the transfer or attempted transfer of the license without the prior written approval of the commission; the violation or non-compliance with any provision of this chapter or of the regulations enacted thereunder.

(B) Any decision of the commission in any matter shall be final, unless any person aggrieved, or a village or District Council, within thirty (30) days after receiving notice of the decision of the commission, appeals to the Legislative Council. The Legislative Council may affirm the decision of the commission, remand the matter for further proceedings before the commission or reverse or modify the decision if it finds that the objection of the person aggrieved is well taken. The decision of the Legislative Council on all matters shall be final.

ARTICLE VII—EXEMPTIONS; VIOLATIONS; PENALTIES; JURISDICTION

Section 1701 Exemptions

(A) The provisions of this chapter shall not apply to drug stores or hospitals within sanctioning Districts selling or dispensing spirituous liquors upon prescription; to the production, consumption, sale, furnishing or possession of spirituous liquors within sanctioning Districts for scientific, sacramental, religious, medicinal or mechanical purposes; or to the production, consumption, sale, furnishing or possession within sanctioning Districts of wine produced according to Tribal custom from the fermentation of the fruit of the saguaro, cereus giganteus.

(B) The provisions of Article III, Sections 1302, 1304, 1305, 1306, 1309, 1311, 1312, and 1314 of this chapter shall not apply to the Tohono O'odham Gaming Enterprise with respect to its sale of spirituous liquors in the original container and individual portions for consumption on the premises of facilities operated by the Gaming Enterprise within a sanctioning District. If the Gaming Enterprise sells spirituous liquors, it shall do so in conformity with the laws of the State of Arizona applicable to any State-issued license held by the Gaming Enterprise.

Section 1702 Violations

(A) Any person who violates any provision of Article III of this chapter shall be guilty of a criminal offense punishable by a fine of not more than five hundred dollars ($500), or by imprisonment in the Tribal jail for not more than six (6) months, or both.

(B) Any person who violates any other provision of this chapter, or any lawful regulation or ruling of the commission made pursuant thereto, shall be liable for a civil penalty of not more than five hundred dollars ($500), plus court costs, per violation.

(C) Any licensee violating any provision of this chapter may, in addition to the penalties prescribed in subsection (A) and (B) above and to the penalties prescribed by the federal Indian liquor laws, 18 U.S.C. 1154 and 1156, have his license suspended by the commission.

Section 1703 Jurisdiction

The Tohono O'odham Judicial Courts shall have jurisdiction over all violations of this chapter and may, in addition to the penalties prescribed in Section 1702 above, grant such other relief as is necessary and proper for the enforcement of this chapter, including but not limited to injunctive relief against acts in violation of this chapter. Nothing, however, in this chapter shall be construed to authorize or require the criminal trial and punishment of non-Indians except to the extent allowed by any applicable present or future Act of Congress or any applicable federal court decision.

ARTICLE VIII—CONTRABAND; SEIZURE; FORFEITURE

Section 1801 Seizure

All spirituous liquors within the exterior boundaries of the Tohono O'odham Reservation held, owned, or possessed by any person or licensee

operating in violation of the provisions of this chapter, or of any regulations made thereunder, or of any other law of the Tohono O'odham Nation relating to the manufacture, introduction, sale, possession and consumption of spirituous liquors are hereby declared to be contraband and subject to forfeiture to the Nation. Upon presentation of a sworn affidavit the Judge of the Tohono O'odham Judicial Court shall issue an order directing the Tohono O'odham Police to seize contraband liquor within this Reservation and deliver it to the commission. A copy of the court order shall be delivered to the person from whom the property was seized or shall be posted at the place where the property was seized.

Section 1802 Hearing

Within three weeks following the seizure of the contraband a hearing shall be held in the Tohono O'odham Judicial Court, at which time the person from whom the property was seized shall be given an opportunity to present evidence in defense of his or her activities.

Section 1803 Notice of Hearing

Notice of the hearing of at least ten (10) days shall be given to the person from whom the property was seized if known. If the person is unknown, notice of the hearing shall be posted at the place where the contraband was seized and at such other public places on the Reservation as may be directed by the Judge. The notice shall describe the property seized, and the time, place and cause of seizure and give the name and place of residence, if known, of the person from whom the property was seized.

Section 1804 Judgment of Forfeiture—Disposition of Proceeds of Property

If upon the hearing the evidence warrants, or if no person appears as claimant, the Tohono O'odham Judicial Court shall thereupon enter a judgment of forfeiture, and order such articles sold or destroyed forthwith, and the proceeds of any sale shall become general revenue of the Tohono O'odham Nation.

ARTICLE IX—NUISANCE; ABATEMENT

Section 1901 Declaration of Nuisance

Any room, house, building, vehicle, structure, or other place where spirituous liquor is sold, manufactured, given away, furnished, or otherwise disposed of in violation of the provisions of this chapter or any regulations made thereunder, or of any other law of the Tohono O'odham Nation relating to the manufacture, introduction, sale, possession and consumption of spirituous liquor, and all property kept in and used in maintaining such place, are hereby declared to be a public nuisance.

Section 1902 Abatement of Nuisance

The commission shall institute and maintain an action in the Tohono O'odham Judicial Courts in the name of the Nation to abate and perpetually enjoin any nuisance declared under this chapter. The plaintiff shall not be required to give bond in this action. Restraining orders, temporary injunctions, and permanent injunctions may be granted in the cause as in other injunction proceedings, and upon final judgment against the defendant, the Court may also order the room, house, building, vehicle, structure, or place closed for a period of up to one (1) year or until the owner, lessee, tenant or occupant thereof shall give bond of sufficient surety to be approved by the Court in the sum of not less than One Thousand Dollars ($1,000.00), payable to the Nation and conditioned that spirituous liquor will not be thereafter manufactured, kept, sold, given away, furnished, or otherwise disposed of in violation of the provisions of this chapter or any other applicable Tribal law. If any condition of the bond be violated, the whole amount may be recovered as a penalty for the use of the Nation. Any action taken under this section shall be in addition to any other penalties provided in this chapter.

ARTICLE X—CONFLICTING CHAPTERS; AMENDMENTS

Section 11001 Conflicting Ordinances and Resolutions

All resolutions and ordinances of the Tohono O'odham Nation, including but not restricted to Section 18, Chapter 5 of the Law and Order Code of the Papago Tribe, heretofore enacted prohibiting the sale, introduction, possession or consumption of spirituous liquors on or within the exterior boundaries of the Tohono O'odham Reservation shall have no further legal force or effect within the exterior boundaries of sanctioning Districts, but shall have full force and effect on or within the exterior boundaries of the Districts which have not sanctioned the introduction, sale, possession and consumption of spirituous liquor in accordance with the provisions of Section 1104 of Article I of this chapter.

Section 11002 Amendments

This chapter may hereby be amended by resolution of the Tohono O'odham Legislative Council approved by the Secretary of the Interior or his authorized representative.

[FR Doc. 2015–05695 Filed 3–11–15; 8:45 am]

BILLING CODE 4310–4J–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–1014, 1016, and 1017 (Second Review)]

Polyvinyl Alcohol From China, Japan, and Korea; Revised Schedule for Full Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

DATES: Effective Date: March 5, 2015.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION: Effective November 13, 2014, the Commission established a schedule for the conduct of the subject full five-year reviews (79 FR 69127, November 20, 2014). The Commission revised its schedule effective January 28, 2015 (80 FR 6546, February 5, 2015). On March 4, 2015, counsel for the domestic interested parties filed a request that the Commission cancel the hearing. Counsel indicated a willingness to submit written testimony and responses to any Commission questions in lieu of an actual hearing and, in the alternative, counsel submitted a list of witnesses who would appear at the hearing. No other party filed a timely request to appear at the hearing. Consequently, the public hearing in connection with these reviews, scheduled to begin at 9:30 a.m. on March 10, 2015, at the U.S. International Trade Commission Building, is cancelled. The Commission determined that no earlier announcement of this cancellation was possible. Parties to these reviews should respond to any written questions posed

by the Commission in their posthearing briefs, which are due to be filed on March 18, 2015.

For further information concerning these reviews see the Commission's notices cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: March 6, 2015.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2015–05599 Filed 3–11–15; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–15–008]

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: March 19, 2015 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: none.
2. Minutes.
3. Ratification List.
4. Vote in Inv. Nos. 704–TA–1 and 734–TA–1 (Review) (Sugar from Mexico). The Commission is currently scheduled to complete and file its determinations on March 24, 2015; views of the Commission are currently scheduled to be completed and filed on April 3, 2015.
5. Vote in Inv. No. 731–TA–1046 (Second Review) (Tetrahydrofurfuryl Alcohol from China). The Commission is currently scheduled to complete and file its determination and views of the Commission on April 3, 2015.
6. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: March 9, 2015.

By order of the Commission.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2015–05732 Filed 3–10–15; 11:15 am]

BILLING CODE 7020–02–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Hearing of the Judicial Conference Advisory Committee on Rules of Appellate Procedure

AGENCY: Judicial Conference of the United States, Advisory Committee on Rules of Appellate Procedure.

ACTION: Revised Notice of Proposed Amendments and Open Hearing.

Federal Register Citation of Previous Announcements: 79FR 48250, 79FR 72702 and 80FR 41.

Please note: The public hearing on the amendments to the Appellate Rules and Forms previously scheduled in Washington, DC for March 6, 2015, was canceled due to weather conditions. That public hearing has been rescheduled for April 1, 2015, at 10:00 a.m. in the Mecham Center of the Thurgood Marshall Federal Judiciary Building, One Columbus Circle NE., Washington, DC 20544.

SUMMARY: The Advisory Committee on Rules of Appellate Procedure has proposed amendments to the following rules and forms:

Appellate Rules 4, 5, 21, 25, 26, 27, 28.1, 29, 32, 35, and 40, and Forms 1, 5, 6, and New Form 7.

Written comments and suggestions with respect to the proposed amendments were accepted from August 15, 2014 through February 17, 2015. In accordance with established procedures, all comments submitted are available for public inspection and can be found along with the text of the proposed rules amendments and the accompanying Committee Notes at the United States Federal Courts' Web site at *http://www.uscourts.gov/rulesandpolicies/rules/proposed-amendments.aspx.*

FOR FURTHER INFORMATION CONTACT: Rebecca A. Womeldorf, Secretary, Committee on Rules of Practice and Procedure of the Judicial Conference of the United States, Thurgood Marshall Federal Judiciary Building, One Columbus Circle NE., Suite 7–240, Washington, DC 20544, Telephone (202) 502–1820.

Dated: March 6, 2015.

Rebecca A. Womeldorf,

Rules Committee Officer, Rules Committee Support Office.

[FR Doc. 2015–05598 Filed 3–11–15; 8:45 am]

BILLING CODE 2210–55–P

DEPARTMENT OF JUSTICE

Community Oriented Policing Services; Public Teleconference With the President's Task Force on 21st Century Policing Discussing Final Report

AGENCY: Community Oriented Policing Services, Justice.

ACTION: Notice of meeting.

SUMMARY: On December 18, 2014, President Barack Obama signed an Executive Order titled ''Establishment of the President's Task Force on 21st Century Policing'' establishing the President's Task Force on 21st Century Policing (''Task Force''). The Task Force seeks to identify best practices and make recommendations to the President on how policing practices can promote effective crime reduction while building public trust and examine, among other issues, how to foster strong, collaborative relationships between local law enforcement and the communities they protect. This publication announces a tentative public teleconference.

The tentative meeting agenda is as follows:

Call to Order
Discussion of Final Report
Conclusion

DATES: The tentative teleconference is Friday, March 27, 2015 from 9:00 a.m. to 5:00 p.m. Eastern Standard Time.

For disability access please call 1–800–888–8888 (TTY users call via Relay).

ADDRESSES: The tentative meeting will be held by teleconference only. To access the conference line, please call 1–866–906–7447 and, when prompted, enter access code 8072024#.

FOR FURTHER INFORMATION CONTACT: Director, Ronald L. Davis, 202–514–4229 or *PolicingTaskForce@usdoj.gov.*

Address all comments concerning this notice to *PolicingTaskForce@usdoj.gov.*

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing Addresses

Information on how to provide written comments will be posted to *www.cops.usdoj.gov/PolicingTaskForce.* Because the schedule is tentative, amendments to this notice will not be published in the **Federal Register**.

However, changes to the schedule will be posted on the Task Force Web site located at *www.cops.usdoj.gov/PolicingTaskForce.*

Availability of Meeting Materials: The agenda and other materials in support of the teleconference will be available on the Task Force Web site at *www.cops.usdoj.gov/PolicingTaskForce* in advance of a confirmed teleconference.

Charlotte Grzebien,

General Counsel.

[FR Doc. 2015–05655 Filed 3–11–15; 8:45 a.m.]

BILLING CODE 4410–AT–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—AllSeen Alliance, Inc.

Notice is hereby given that, on February 9, 2015, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), AllSeen Alliance, Inc. (''AllSeen Alliance'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, GeoPal Solutions, Dublin, IRELAND; Powertech Industrial Co., Ltd., New Taipei City, TAIWAN; Modacom Co., Ltd., Seoul, REPUBLIC OF KOREA; LG Uplus Corporation, Seoul, REPUBLIC OF KOREA; Euronics International, Hoofddorp, THE NETHERLANDS; Hubble Connected Limited, Victoria, British Columbia, CANADA; TCL Corporation, Guangdong, PEOPLE'S REPUBLIC OF CHINA; HOUZE Advanced Building Science, Houston, TX; Honeywell International, Golden Valley, MN; Shenzhen H&T Home Online Network Technology Co., Ltd., Shenzhen, PEOPLE'S REPUBLIC OF CHINA; Blackloud, Inc., Irvine, CA; DAWON DNS Co., Ltd., Gyeonggi-do, REPUBLIC OF KOREA; Domos Labs, Oslo, NORWAY; Helium Systems, Inc., San Francisco, CA; Lumen Cache, McCordsville, IN; Playtabase, Minneapolis, MN; wot.io., New York, NY; Openmind Networks, Inc., Mountain View, CA; Taiwan Intelligent Home, Tainan City, TAIWAN; M/s Personal Air Quality Systems Pvt Ltd., Karnataka, INDIA; Lhings, Barcelona, SPAIN; Connectuity, Louisville, KY; and iiNet Limited, Perth, AUSTRALIA, have been added as parties to this venture.

Also DoubleTwist Corporation, San Francisco, CA; Moxtreme Corporation, Saratoga, CA; Wilocity, Sunnyvale, CA; Revolv Inc., Boulder, CO; and Shaspa GmbH, Boeblingen, GERMANY, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and AllSeen Alliance intends to file additional written notifications disclosing all changes in membership.

On January 29, 2014, AllSeen Alliance filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on March 4, 2014 (79 FR 12223).

The last notification was filed with the Department on November 24, 2014. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on December 23, 2014 (79 FR 77038).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2015–05662 Filed 3–11–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993 —Vehicle Infrastructure Integration Consortium

Notice is hereby given that, on February 5, 2015, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Vehicle Infrastructure Consortium (''VIIC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Chrysler Group LLC has changed its name to FCA US LLC, Auburn Hills, MI.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and VIIC intends to file additional written notifications disclosing all changes in membership.

On May 1, 2006, VIIC filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on June 2, 2006 (71 FR 32128).

The last notification was filed with the Department on October 17, 2013. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on December 6, 2013 (78 FR 73565).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2015–05669 Filed 3–11–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—DVD Copy Control Association

Notice is hereby given that, on February 6, 2015, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), DVD Copy Control Association (''DVD CCA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Azend Group Corporation, Chino, CA, has been added as a party to this venture.

Also, AMZ Midia Industrial S/A, Barueri, Brazil; AVT International Limited, Kowloon, Hong Kong-China; Bang & Olufsen A/S, Struer, Denmark; Diamondking Inc., Chino, CA; DVS Korea Company, Sungnam-si, Kyunggi-do, Republic of Korea; Eclipse Data Technologies, Pleasanton, CA; Hitachi Ltd., Tokyo, JAPAN; Hong Kong ASA Multimedia Co., Ltd., Kowloon, Hong Kong-China; Korea Mikasa Corporation, Seoul, Republic of Korea; Marubun Corporation, Tokyo, Japan; MediaCore, Inc., Gyeonggi-Do, Republic of Korea; and Ngai Lik Digital Limited, Kowloon, Hong Kong-China, have withdrawn as parties to this venture.

In addition, the following members have changed their names: Entertainment Distribution Company GmbH to EDC GmbH, Langenhagen,

Germany; KDG to Media Industry, Sainte-Marguerite, France; and Silicon Application Company Limited to Silicon Application Corp., Shenzhen, People's Republic of China.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and DVD CCA intends to file additional written notifications disclosing all changes in membership.

On April 11, 2001, DVD CCA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on August 3, 2001 (66 FR 40727).

The last notification was filed with the Department on September 4, 2014. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on September 30, 2014 (79 FR 58806).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2015–05665 Filed 3–11–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decrees Under the Comprehensive Environmental Response, Compensation, and Liability Act

On March 3, 2015 the Department of Justice filed one complaint and lodged two proposed Consent Decrees with the United States District Court for the Central District of California pertaining to the Puente Valley Operable Unit of the San Gabriel Valley Superfund Site, Area 4, Los Angeles County, California, (''PVOU''). The complaint and first proposed Consent Decree were filed contemporaneously in the matter of *United States* v. *Hill Brothers Chemical Company,* Civil Action No. 2:15–cv–1545 JFW (PLAx). The second proposed Consent Decree resolves the lawsuit entitled *United States* v. *Richard A. Mancino and Yolanda E. Mancino, as Individuals and as Trustees for The Mancino Trust,* Civil Action No. 12–cv–07513 CJC (MANx). The Mancino lawsuit was initiated with a complaint filed with the court on August 31, 2012.

The Consent Decrees resolve claims under Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9607 related to releases and threatened releases of hazardous substances at the PVOU. The Consent Decrees contain a covenant not to sue for past and certain future costs and response work at the Site under Sections 106 and 107 of CERCLA and Section 7003 of RCRA. The Mancino Consent Decree resolves claims against Richard A. and Yolanda Mancino as individuals and as trustees of the Mancino Trust, and recovers $180,000 in response costs. The Hill Consent Decree resolves claims against Hill Brothers Chemical Company, and recovers $135,000 in response costs.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Richard A. and Yolanda Mancino, et al.,* D.J. Ref. No. 90–11–2–354/28 and/or *United States* v. *Hill Brothers Chemical Company.,* D.J. Ref. No. 90–11–2–354/35. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Under section 7003(d) of RCRA, a commenter may request an opportunity for a public meeting in the affected area.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $8.25 (25 cents per page reproduction cost) for the Mancino Consent Decree and/or $8.00 for the Hill Consent Decree, payable to the United States Treasury.

Henry S. Friedman,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2015–05593 Filed 3–11–15; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Local Area Unemployment Statistics Program

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Bureau of Labor and Statistics (BLS) sponsored information collection request (ICR) revision titled, ''Local Area Unemployment Statistics Program,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before April 13, 2015.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201411-1220-001* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov*.

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–BLS, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov*. Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov*.

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This ICR seeks approval under the PRA for revisions to the Local Area Unemployment Statistics (LAUS) program information collection. The BLS has the statutory responsibility of collecting and publishing monthly information on employment, the average wage received, and the hours worked by area and industry. The LAUS program develops residency-based employment and unemployment statistics through a cooperative Federal-State program that uses employment and unemployment inputs available in State agencies. State agencies prepare monthly estimates and transmit them to the BLS for validation and publication. This information collection has been classified as a revision, because of a redesign to improve the methodology for the program. In addition, certain forms to be cleared under this ICR have undergone minor changes. The BLS Authorizing Statute authorizes this collection. *See* 29 U.S.C. 1 and 2.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1220–0017. The current approval is scheduled to expire on March 31, 2015; however, the DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see related notices published in the **Federal Register** on September 10, 2014 (79 FR 53787), and October 28, 2014 (79 FR 64217).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1220–0017. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Agency: DOL–BLS.

Title of Collection: Local Area Unemployment Statistics Program.

OMB Control Number: 1220–0017.

Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Respondents: 52.

Total Estimated Number of Responses: 96,869.

Total Estimated Annual Time Burden: 144,994 hours.

Total Estimated Annual Other Costs Burden: $0.

Dated: March 6, 2015.

Authority: 44 U.S.C. 3507(a)(1)(D).

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2015–05627 Filed 3–11–15; 8:45 am]

BILLING CODE 4510–24–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (15–011)]

NASA Applied Sciences Advisory Committee Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Applied Sciences Advisory Committee. The meeting will be held for the purpose of soliciting, from the scientific community and other persons, scientific and technical information relevant to program planning.

DATES: Monday, March 30, 2015, 1:00 p.m. to 4:00 p.m., EDT.

FOR FURTHER INFORMATION CONTACT: Mr. Peter Meister, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–1557, fax (202) 358–4118, or *peter.g.meister@nasa.gov.*

SUPPLEMENTARY INFORMATION: This meeting will be available telephonically and by WebEx. Any interested person may call the USA toll free conference number 844–467–4685, pass code 635480, to participate in the meeting by telephone. The WebEx link is *https://nasa.webex.com,* meeting number 997 419 756, passcode @March30.

The agenda for the meeting includes the following topics:

—Applied Sciences Program Update
—Applied Science Budget Briefing
—Missions and Applications

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Harmony R. Myers,

Acting Advisory Committee Management Offcer, National Aeronautics and Space Administration.

[FR Doc. 2015–05653 Filed 3–11–15; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Mathematical and Physical Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

NAME: Advisory Committee for Mathematical and Physical Sciences (#66).

DATE/TIME: April 3, 2015: 10:00 a.m.–1:00 p.m.

PLACE: National Science Foundation, Room 1235, Stafford I Building, 4201 Wilson Blvd., Arlington, VA 22230.

To help facilitate your entry into the building, contact Sara Dwyer (*sdwyer@nsf.gov*). Your request should be received on or prior to March 27, 2015.

Virtual attendance will be supported. For detailed instructions, visit the meeting Web site at *http://www.nsf.gov/events/event_summ.jsp?cntn_id=134132&org=MPS.*

TYPE OF MEETING: Open, Virtual.

CONTACT PERSON: Eduardo Misawa, National Science Foundation, 4201

Wilson Boulevard, Suite 1005, Arlington, Virginia 22230, 703–292–5353 and Tiffany Sweat, National Science Foundation, 4201 Wilson Boulevard, Suite 1005, Arlington, Virginia 22230, 703–292–4934.

MINUTES: Meeting minutes and other information may be obtained from the Staff Associate and MPSAC Designated Federal Officer at the above address or the Web site at *http://www.nsf.gov/mps/advisory.jsp.*

PURPOSE OF MEETING: To study data, programs, policies, and other information pertinent to the National Science Foundation and to provide advice and recommendations concerning research in mathematics and physical sciences.

Agenda

State of the Directorate for Mathematical and Physical Sciences (MPS): FY15–FY16 Budgets
Report from the Committee of Visitors for the Division of Physics
Report from the Committee of Visitors for the Division of Astronomical Sciences

Dated: March 4, 2015.

Suzanne Plimpton,

Acting Committee Management Officer.

[FR Doc. 2015–05614 Filed 3–11–15; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

Meeting of the Advisory Committee on Reactor Safeguards Subcommittee on Power Uprates

The Advisory Committee on Reactor Safeguards (ACRS) Subcommittee on Power Uprates will hold a meeting on March 17, 2015, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The meeting will be open to public attendance with the exception of a portion that may be closed to protect information that is propriety pursuant to 5 U.S.C. 552b(c)(4). The agenda for the subject meeting shall be as follows:

Tuesday, March 17, 2015—8:30 a.m. until 5:00 p.m.

The Subcommittee will review the Grand Gulf Maximum Extended Load Line Limit Analysis plus (MELLLA+) license amendment request and associated safety evaluation report. The Subcommittee will hear presentations by and hold discussions with the licensee, (Entergy Operations, Inc.), the NRC staff, and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Weidong Wang (Telephone 301–415–6279 or Email: *Weidong.Wang@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on November 8, 2013 (78 CFR 67205–67206).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the Web site cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, MD. After registering with security, please contact Mr. Theron Brown (Telephone 240–888–9835) to be escorted to the meeting room.

Dated: March 4, 2015.

Mark L. Banks,

Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2015–05658 Filed 3–11–15; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2015–0051]

Department of Energy; Yucca Mountain, Nye County, Nevada

AGENCY: Nuclear Regulatory Commission.

ACTION: Intent to prepare a supplement to a final supplemental environmental impact statement.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is informing the public of its intent to prepare a supplement to the U.S. Department of Energy's (DOE's) ''Final Environmental Impact Statement for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada'' (February 2002), and its ''Final Supplemental Environmental Impact Statement for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada'' (July 2008). The NRC staff determined in September 2008 that it is practicable to adopt, with further supplementation, the DOE's environmental impact statements (EISs). The NRC staff concluded that the EISs did not address adequately all of the repository-related impacts on groundwater or from surface discharges of groundwater.

DATES: March 12, 2015.

ADDRESSES: Please refer to Docket ID NRC–2015–0051 when contacting the NRC for further information about the supplement. You may obtain publicly-available information using any of the following methods:

- NRC's Agencywide Documents Access and Management System (ADAMS): You may obtain publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents''* and then select ''*Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.
- NRC's PDR: You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Christine Pineda, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Telephone: 301–287–0758; Email: *YMEIS_Supplement@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Nuclear Waste Policy Act (NWPA) of 1982, as amended, specifies that in the United States, spent nuclear fuel and high-level radioactive waste will be disposed of in a deep geologic repository. Amendments to the NWPA in 1987 identified Yucca Mountain, Nevada, as the single candidate site for characterization as a potential geologic repository. As described in the NWPA, Section 114(f), the DOE prepared a final EIS related to the construction, operation, and closure of a potential geologic repository for high-level radioactive waste at Yucca Mountain, Nevada in February 2002 pursuant to requirements of the National Environmental Policy Act of 1969 (NEPA). The EIS accompanied the Secretary of Energy's site recommendation to the President on February 14, 2002. In July 2002, Congress passed and the President signed a joint resolution designating Yucca Mountain as the site for development of a geologic repository. In October 2006, the DOE announced its intent to prepare a supplemental EIS to update the 2002 EIS. The DOE published a final supplemental EIS on June 16, 2008. In accordance with NWPA, Section 114(f)(5), the NRC is to adopt the DOE's EIS to ''the extent practicable.'' The NRC staff reviewed the DOE's EISs and found that it is practicable for the NRC to adopt them, with further supplementation (see the NRC staff's Adoption Determination Report, dated September 5, 2008, and available in ADAMS at Accession No. ML082420342). The NRC staff concluded that the EISs did not adequately address all of the repository-related impacts on groundwater, or from surface discharges of groundwater. The NRC staff therefore requested that the DOE prepare an EIS supplement. The DOE initially stated that it would prepare a supplement, but later declined to prepare the supplement. Instead, the DOE prepared a technical analysis, ''Analysis of Postclosure Groundwater Impacts for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada'' (ADAMS Accession No. ML092150328). In 2014, the DOE updated this report (ADAMS Accession No. ML14303A399). The NRC staff will consider these reports in preparing the supplement.

The supplement will provide additional information about the proposed repository's impacts on groundwater and from surface discharges of groundwater. More specifically, the supplement will describe the extent of the volcanic-alluvial aquifer, particularly those parts that could become contaminated, and how water (and potential contaminants) can leave the flow system. In addition, the supplement will provide an analysis of the cumulative amount of radiological and non-radiological contaminants that can be reasonably expected to enter the aquifer from the repository, and the amount that can be reasonably expected to remain over time. The supplement will provide estimates of contamination in the groundwater, given potential accumulation of radiological and non-radiological contaminants. The supplement also will provide a discussion of the impacts on soils and surface materials from the processes involved in surface discharges of contaminated groundwater. A description of locations of potential natural discharge of contaminated groundwater for present and expected future wetter periods will be included, as will a description of the physical processes at surface discharge locations that can affect accumulation, concentration, and potential remobilization of groundwater-borne contaminants. Finally, the supplement will provide estimates of the amounts of contaminants that could be deposited at or near the surface and describe their potential environmental impacts.

II. Schedule

The NRC staff intends to issue the draft supplement in the late summer of 2015 and announce the availability of the supplement in the **Federal Register**, via email distribution, in a press release, on the NRC's Web site, and in media in Nevada. A public comment period will start upon publication of the NRC's Notice of Availability in the **Federal Register**. During the public comment period, the NRC plans to a public meeting at NRC headquarters in Rockville, Maryland, two public meetings in Nevada, and a public conference call.

All meetings will be transcribed. The meeting at NRC headquarters will be webcast and accessible via a conference line. The NRC staff plans to publish the final supplement 12 to 15 months after issuing this notice.

Dated at Rockville, Maryland, this 2nd day of March 2015.

For the Nuclear Regulatory Commission.

Josephine Piccone,

Director, Yucca Mountain Directorate, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2015–05578 Filed 3–11–15; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–293; NRC–2015–0053]

Entergy Nuclear Operations, Inc., Pilgrim Nuclear Power Station

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment application; opportunity to comment, request a hearing, and petition for leave to intervene; order.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Renewed Facility Operating License No. DPR–35, issued to Entergy Nuclear Operations, Inc., for operation of the Pilgrim Nuclear Power Station. The proposed amendment would modify the Safety Limit Minimum Critical Power Ratio from ≥ 1.08 to ≥ 1.10 for two recirculation loop operation and from ≥ 1.11 to ≥ 1.12 for single loop operation.

DATES: Submit comments by April 13, 2015. A request for a hearing must be filed by May 11, 2015. Any potential party as defined in § 2.1 of Title 10 of the *Code of Federal Regulations* (10 CFR) who believes access to Sensitive Unclassified Non-Safeguards Information is necessary to respond to this notice must request document access by March 23, 2015.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0053. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- Mail comments to: Cindy Bladey, Office of Administration, Mail Stop: OWFN–12 H08, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments,

see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Nadiyah Morgan, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–1016, email: *Nadiyah.Morgan@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2015–0053 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0053.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents''* and then select ''*Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in the **SUPPLEMENTARY INFORMATION** section.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2015–0053 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at *http://www.regulations.gov* as well as entering the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Introduction

The NRC is considering issuance of an amendment to Renewed Facility Operating License No. DPR–35, issued to Entergy Nuclear Operations, Inc., the licensee, for operation of the Pilgrim Nuclear Power Station, located in Plymouth, Massachusetts.

By letter dated December 10, 2014 (ADAMS Accession No. ML14349A495 and ML14349A496), as supplemented by letter dated February 13, 2015 (ADAMS Accession No. ML15050A245), the licensee submitted an application for a license amendment request. The proposed amendment would modify the Safety Limit Minimum Critical Power Ratio (SLMCPR) from ≥1.08 to ≥1.10 for two recirculation loop operation and from ≥1.11 to ≥1.12 for single loop operation.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the license amendment request involves no significant hazards consideration. Under the NRC's regulations in 50.92(c), this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed SLMCPR, and its use to determine the Operating Cycle 21 thermal limits, have been derived using NRC approved methods specified in the Reference section of the Technical Specification Bases Section for 2.0 SAFETY LIMITS. These methods do not change the method of operating the plant and have no effect on the probability of an accident initiating event or transient.

The basis of the SLMCPR is to ensure no mechanistic fuel damage is calculated to occur if the limit is not violated. The new SLMCPR preserves the margin to transition boiling, and the probability of fuel damage is not increased.

Therefore, the proposed changes to Technical Specifications do not involve an increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes result only from the analysis for the Cycle 21 core reload using methods described in NEDE24011 P–A (GESTAR II). These methods have been reviewed and approved by the NRC, do not involve any new or unapproved method for operating the facility, and do not involve any facility modifications. No new initiating events or transients result from these changes.

Therefore, the proposed changes to technical specifications do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

The margin of safety as defined in the TS [Technical Specification] bases will remain the same. The new SLMCPR was derived using NRC approved methods which are in accordance with the current fuel design and licensing criteria. The SLMCPR remains high enough to ensure that greater than 99.9% of all fuel rods in the core will avoid transition boiling if the limit is not violated, thereby preserving the fuel cladding integrity.

Therefore, the proposed changes to technical specifications do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the license amendment request involves a no significant hazards consideration.

The Commission is seeking public comments on this proposed determination that the license amendment request involves no significant hazards consideration. Any comments received by April 13, 2015, will be considered in making any final determination. You may submit comments using any of the methods discussed under the **ADDRESSES** section of this document.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day notice period if the Commission concludes the amendment involves no

significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

III. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this **Federal Register** notice, any person whose interest may be affected by this proceeding and who desires to participate as a party in the proceeding must file a written request for hearing or a petition for leave to intervene specifying the contentions which the person seeks to have litigated in the hearing with respect to the license amendment request. Requests for hearing and petitions for leave to intervene shall be filed in accordance with the NRC's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/.*

As required by 10 CFR 2.309, a request for hearing or petition for leave to intervene must set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The hearing request or petition must specifically explain the reasons why intervention should be permitted, with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The hearing request or petition must also include the specific contentions that the requestor/petitioner seeks to have litigated at the proceeding.

For each contention, the requestor/petitioner must provide a specific statement of the issue of law or fact to be raised or controverted, as well as a brief explanation of the basis for the contention. Additionally, the requestor/petitioner must demonstrate that the issue raised by each contention is within the scope of the proceeding and is material to the findings that the NRC must make to support the granting of a license amendment in response to the application. The hearing request or petition must also include a concise statement of the alleged facts or expert opinion that support the contention and on which the requestor/petitioner intends to rely at the hearing, together with references to those specific sources and documents. The hearing request or petition must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact, including references to specific portions of the application for amendment that the petitioner disputes and the supporting reasons for each dispute. If the requestor/petitioner believes that the application for amendment fails to contain information on a relevant matter as required by law, the requestor/petitioner must identify each failure and the supporting reasons for the requestor's/petitioner's belief. Each contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who does not satisfy these requirements for at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that person's admitted contentions, including the opportunity to present evidence and to submit a cross-examination plan for cross-examination of witnesses, consistent with NRC regulations, policies, and procedures. The Atomic Safety and Licensing Board will set the time and place for any prehearing conferences and evidentiary hearings, and the appropriate notices will be provided.

Hearing requests or petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Requests for hearing, petitions for leave to intervene, and motions for leave to file new or amended contentions that are filed after the 60-day deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i)-(iii).

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of any amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

IV. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-

issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* System requirements for accessing the E-Submittal server are detailed in the NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. However, a request to intervene will require including information on local residence in order to demonstrate a proximity assertion of interest in the proceeding. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Non-timely filings will not be entertained absent a determination by the presiding officer that the petition or request should be granted or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(iii).

Attorney for licensee: Ms. Jeanne Cho, Assistant General Counsel, Entergy Nuclear Operations, Inc., 440 Hamilton Avenue, White Plains, New York 10601.

NRC Branch Chief: Benjamin G. Beasley.

Pilgrim Nuclear Power Station, Plymouth County, Massachusetts Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing SUNSI.

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI is necessary to respond to this notice may request such access. A ''potential party'' is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI submitted later than 10 days after publication of this notice will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requester shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission,

11555 Rockville Pike, Rockville, Maryland 20852. The email address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *OGCmailcenter@nrc.gov,* respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1); and

(3) The identity of the individual or entity requesting access to SUNSI and the requester's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly-available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention.

D. Based on an evaluation of the information submitted under paragraph C.(3) the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order[2] setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

F. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI must be filed by the requestor no later than 25 days after the requestor is granted access to that information. However, if more than 25 days remain between the date the petitioner is granted access to the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline. This provision does not extend the time for filing a request for a hearing and petition to intervene, which must comply with the requirements of 10 CFR 2.309.

G. Review of Denials of Access.

(1) If the request for access to SUNSI is denied by the NRC staff after a determination on standing and need for access, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) The requester may challenge the NRC staff's adverse determination by filing a challenge within 5 days of receipt of that determination with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an administrative law judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) officer if that officer has been designated to rule on information access issues.

H. Review of Grants of Access. A party other than the requester may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed with the Chief Administrative Judge within 5 days of the notification by the NRC staff of its grant of access.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[3]

I. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR part 2. Attachment 1 to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.

Dated at Rockville, Maryland, this 6th day of March, 2015.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

Attachment 1—General Target Schedule for Processing and Resolving Requests for Access to Sensitive Unclassified Non-Safeguards Information in This Proceeding

Day	Event/Activity
0	Publication of **Federal Register** notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) with information: Supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding.
60	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; and (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's ''E-Filing Rule,'' the initial request to access SUNSI under these procedures should be submitted as described in this paragraph.

[2] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

[3] Requesters should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI request submitted to the NRC staff under these procedures.

ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION IN THIS PROCEEDING—Continued

Day	Event/Activity
20	U.S. Nuclear Regulatory Commission (NRC) staff informs the requester of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. (NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents).
25	If NRC staff finds no ''need'' or no likelihood of standing, the deadline for petitioner/requester to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds ''need'' for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
A	If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI.
A + 60	(Answer receipt +7) Petitioner/Intervener reply to answers.
>A + 60	Decision on contention admission.

[FR Doc. 2015–05679 Filed 3–11–15; 8:45 am]
BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 52–046; NRC–2015–0021]

Korea Hydro and Nuclear Power Co., Ltd., and Korea Electric Power Corporation

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of docketing.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has determined that Korea Hydro and Nuclear Power Co., Ltd. (KHNP) and Korea Electric Power Corporation (KEPCO) have submitted information for a standard design certification of the APR1400 Standard Plant Design that is acceptable for docketing. The docket number established is 52–046.

DATES: March 12, 2015.

ADDRESSES: Please refer to Docket ID NRC–2015–0021 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0021. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC'S Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''*Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that the document is referenced. The application is available in ADAMS under Accession No. ML15006A037.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Jeffrey Ciocco, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC, 20555–0001; telephone: 301–415–6391; email: *Jeff.Ciocco@nrc.gov.*

SUPPLEMENTARY INFORMATION: By letter dated December 23, 2014, KHNP and KEPCO filed with the NRC, pursuant to Section 103 of the Atomic Energy Act and part 52 of Title 10 of the *Code of Federal Regulations* (10 CFR), ''Licenses, Certifications, and Approvals for Nuclear Power Plants,'' an application for standard design certification of the APR1400 Standard Plant Design. A notice of receipt for this application was previously published in the **Federal Register** on February 3, 2015 (80 FR 5792).

The APR1400 stands for Advanced Power Reactor with a 1,400 megawatts electrical power and two-loop pressurized water reactor, developed in the Republic of Korea. According to the applicant, based on the self-reliant technologies and experiences from the design, construction, operation and maintenance of the Optimized Power Reactor 1000 (OPR1000), the APR1400 adopts advanced design features to enhance plant safety, economical efficiency, and convenience of operation and maintenance. The APR1400 application includes the entire power generation complex, except those elements and features considered site-specific.

The NRC staff has determined that KHNP and KEPCO have submitted information in accordance with 10 CFR

part 2, ''Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders,'' and 10 CFR part 52 that is acceptable for docketing. The docket number established for this application is 52–046.

The NRC staff will perform a detailed technical review of the design certification application. Docketing of the design certification application does not preclude the NRC from requesting additional information from the applicant as the review proceeds, nor does it predict whether the NRC will grant or deny the application. A notice related to the rulemaking pursuant to 10 CFR 52.51 for design certification, including provisions for participation of the public and other parties, will be the subject of a subsequent **Federal Register** notice.

Dated at Rockville, Maryland, this 3rd day of March, 2015.

For the Nuclear Regulatory Commission.

Jeffrey A. Ciocco,

Senior Project Manager, Licensing Branch 2, Division of New Reactor Licensing, Office of New Reactors.

[FR Doc. 2015–05579 Filed 3–11–15; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–608; NRC–2013–0053]

SHINE Medical Technologies, Inc.; Notice of Hearing, Opportunity To Intervene, Order Imposing Procedures

AGENCY: Nuclear Regulatory Commission.

ACTION: Construction permit application; hearing, opportunity to petition for leave to intervene; order imposing procedures for access to Sensitive Unclassified Non-Safeguards Information (SUNSI).

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has received a construction permit application from SHINE Medical Technologies, Inc. (SHINE), for approval of a proposed medical radioisotope production facility for the production of molybdenum-99 (Mo-99) at a site located in Janesville, Wisconsin. The NRC is currently conducting a detailed technical review of the construction permit application. If the construction permit application is approved, the applicant would be authorized to construct its proposed medical radioisotope production facility in accordance with the provisions of the construction permit.

DATES: A petition for leave to intervene must be filed by May 11, 2015.

ADDRESSES: Please refer to Docket Number 50–608 or Docket ID NRC–2013–0053 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents''* and then select ''*Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Steven Lynch, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1524, email: *Steven.Lynch@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

By letters dated March 26, 2013 (ADAMS Accession No. ML13088A192), and May 31, 2013 (ADAMS Accession No. ML13172A361), and supplemented by letter dated September 25, 2013 (ADAMS Accession No. ML13269A378), SHINE requested approval of a construction permit application for a medical radioisotope production facility (ADAMS Accession No. ML13172A324). SHINE's medical radioisotope production facility would include an irradiation facility and a radioisotope production facility collocated in a single building. The irradiation facility would consist of accelerator-driven subcritical operating assemblies used for the irradiation of a uranium solution to produce molybdenum-99 and other fission products. The radioisotope production facility would consist of hot cell structures used for the extraction of radioisotopes. Part one of the application was accepted for docketing on June 25, 2013 (78 FR 39342). The second and final portion of SHINE's two-part construction permit application, as supplemented, was accepted for docketing on December 2, 2013 (78 FR 73897). The docket number established for this application is 50–608.

The NRC is considering issuance of a construction permit to SHINE for construction of the SHINE medical radioisotope production facility, to be located in Rock County, Wisconsin.

II. Hearing

Pursuant to the Atomic Energy Act of 1954, as amended, and parts 2 and 50 of Title 10 of the *Code of Federal Regulations* (10 CFR), ''Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders,'' and ''Domestic Licensing of Production and Utilization Facilities,'' notice is hereby given that a hearing will be held, at a time and place to be set in the future by the Commission or designated by the Atomic Safety and Licensing Board (Board).

The hearing on the application for a construction permit filed by SHINE pursuant to 10 CFR part 50 will be conducted by a Board that will be designated by the Chief Judge of the Atomic Safety and Licensing Board Panel or will be conducted by the Commission. Notice as to the membership of the Board will be published in the **Federal Register** at a later date. The NRC staff will complete a detailed technical review of the application and will document its findings in a safety evaluation report. The Commission will refer a copy of the application to the Advisory Committee on Reactor Safeguards (ACRS) in accordance with 10 CFR 50.58, ''Hearings and Report of the Advisory Committee on Reactor Safeguards,'' and the ACRS will report on those portions of the application that concern safety. The NRC staff will also complete an environmental review of the application and will document its findings in an environmental impact statement in accordance with the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in 10 CFR part 51.

III. Opportunity To Petition for Leave To Intervene

Within 60 days after the date of publication of this **Federal Register** notice, any person whose interest may be affected by this proceeding and who desires to participate as a party in this proceeding must file a written petition for leave to intervene with respect to issuance of the construction permit to SHINE in accordance with the NRC's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested

person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/.*

As required by 10 CFR 2.309, a petition for leave to intervene must set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition must specifically explain the reasons why intervention should be permitted, with particular reference to the following general requirements: (1) the name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest. The petition must also include the specific contentions that the petitioner seeks to have litigated at the proceeding.

For each contention, the petitioner must provide a specific statement of the issue of law or fact to be raised or controverted, as well as a brief explanation of the basis for the contention. Additionally, the petitioner must demonstrate that the issue raised by each contention is within the scope of the proceeding and is material to the findings that the NRC must make to support the issuance of the construction permit in response to the application. The petition must also include a concise statement of the alleged facts or expert opinion that support the contention and on which the petitioner intends to rely at the hearing, together with references to those specific sources and documents. The petition must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the licensing action under consideration. Each contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who does not satisfy these requirements for at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that person's admitted contentions, including the opportunity to present evidence and to submit a cross-examination plan for cross-examination of witnesses, consistent with NRC regulations, policies, and procedures. The Atomic Safety and Licensing Board will set the time and place for any prehearing conferences and evidentiary hearings, and the appropriate notices will be provided.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Petitions for leave to intervene and motions for leave to file new or amended contentions that are filed after the 60-day deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i)–(iii).

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission by May 11, 2015. The petition must be filed in accordance with the filing instructions in the ''Electronic Submission (E-Filing)'' section of this document, and should meet the requirements for petitions for leave to intervene set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally-recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may also have the opportunity to participate under 10 CFR 2.315(c).

Any person who files a motion pursuant to 10 CFR 2.323 must consult with counsel for the applicant and counsel for the NRC staff. Counsel for the applicant is Paul Bessette, *pbessette@morganlewis.com,* 202–739–5796. Counsel for the NRC staff in this proceeding is Mitzi Young, *Mitzi.Young@nrc.gov,* 301–415–3830.

Any person who does not wish, or is not qualified, to become a party to the proceeding may, in the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of position on the issues, but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission by May 11, 2015.

IV. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to request: (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* System requirements for accessing the E-Submittal server are detailed in the NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to

offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. However, a request to intervene will require including information on local residence in order to demonstrate a proximity assertion of interest in the proceeding. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submissions.

V. Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing SUNSI.

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI is necessary to respond to this notice may request such access. A ''potential party'' is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI submitted later than 10 days after publication of this notice will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requester shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The email address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *OGCmailcenter@nrc.gov,* respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1); and

(3) The identity of the individual or entity requesting access to SUNSI and the requester's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly-available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention.

D. Based on an evaluation of the information submitted under paragraph C.(3) above, the NRC staff will determine within 10 days of receipt of the request whether:

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's ''E-Filing Rule,'' the initial request to access SUNSI under these procedures should be submitted as described in this paragraph.

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order [2] setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

F. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI must be filed by the requestor no later than 25 days after the requestor is granted access to that information. However, if more than 25 days remain between the date the petitioner is granted access to the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline. This provision does not extend the time for filing a request for a hearing and petition to intervene, which must comply with the requirements of 10 CFR 2.309.

G. Review of Denials of Access.

(1) If the request for access to SUNSI is denied by the NRC staff after a determination on standing and need for access, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) The requester may challenge the NRC staff's adverse determination by filing a challenge within 5 days of receipt of that determination with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an administrative law judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) officer if that officer has been designated to rule on information access issues.

H. Review of Grants of Access. A party other than the requester may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed with the Chief Administrative Judge within 5 days of the notification by the NRC staff of its grant of access.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[3]

I. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR part 2. Attachment 1 to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.

Dated at Rockville, Maryland, this 4th of March, 2015.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION IN THIS PROCEEDING

Day	Event/Activity
0	Publication of **Federal Register** notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) with information: Supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding.
60	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; and (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 petitioner reply).
20	U.S. Nuclear Regulatory Commission (NRC) staff informs the requester of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. (NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents).
25	If NRC staff finds no "need" or no likelihood of standing, the deadline for petitioner/requester to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds "need" for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
A	If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.

[2] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

[3] Requesters should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI request submitted to the NRC staff under these procedures.

ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION IN THIS PROCEEDING—Continued

Day	Event/Activity
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.

[FR Doc. 2015–05672 Filed 3–11–15; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2015–34 and CP2015–45; Order No. 2384]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning an addition of Priority Mail Contract 114 to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* March 16, 2015.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

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

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Notice of Commission Action
III. Ordering Paragraphs

I. Introduction

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.,* the Postal Service filed a formal request and associated supporting information to add Priority Mail Contract 114 to the competitive product list.[1]

The Postal Service contemporaneously filed a redacted contract related to the proposed new product under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. *Id.* Attachment B.

To support its Request, the Postal Service filed a copy of the contract, a copy of the Governors' Decision authorizing the product, proposed changes to the Mail Classification Schedule, a Statement of Supporting Justification, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

II. Notice of Commission Action

The Commission establishes Docket Nos. MC2015–34 and CP2015–45 to consider the Request pertaining to the proposed Priority Mail Contract 114 product and the related contract, respectively.

The Commission invites comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than March 16, 2015. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Kenneth R. Moeller to serve as Public Representative in these dockets.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2015–34 and CP2015–45 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, Kenneth R. Moeller is appointed to serve as an officer of the Commission to represent the interests of the general public in these proceedings (Public Representative).

3. Comments are due no later than March 16, 2015.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2015–05636 Filed 3–11–15; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2015–36 and CP2015–47; Order No. 2382]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning an addition of Priority Mail Contract 116 to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* March 13, 2015.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

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

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Notice of Commission Action
III. Ordering Paragraphs

I. Introduction

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.,* the Postal Service filed a formal request and associated supporting information to

[1] Request of the United States Postal Service to Add Priority Mail Contract 114 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, March 4, 2015 (Request).

add Priority Mail Contract 116 to the competitive product list.[1]

The Postal Service contemporaneously filed a redacted contract related to the proposed new product under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. *Id.* Attachment B.

To support its Request, the Postal Service filed a copy of the contract, a copy of the Governors' Decision authorizing the product, proposed changes to the Mail Classification Schedule, a Statement of Supporting Justification, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

II. Notice of Commission Action

The Commission establishes Docket Nos. MC2015–36 and CP2015–47 to consider the Request pertaining to the proposed Priority Mail Contract 116 product and the related contract, respectively.

The Commission invites comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than March 13, 2015. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Curtis E. Kidd to serve as Public Representative in these dockets.

III. Ordering Paragraphs

It is ordered:

1 The Commission establishes Docket Nos. MC2015–36 and CP2015–47 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, Curtis E. Kidd is appointed to serve as an officer of the Commission to represent the interests of the general public in these proceedings (Public Representative).

3. Comments are due no later than March 13, 2015.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Ruth Ann Abrams,

Acting Secretary.

[FR Doc. 2015–05585 Filed 3–11–15; 8:45 am]

BILLING CODE 7710–FW–P

[1] Request of the United States Postal Service to Add Priority Mail Contract 116 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, March 4, 2015 (Request).

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2015–40 and CP2015–51; Order No. 2379]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning an addition of Priority Mail Contract 120 to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* March 17, 2015.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

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

SUPPLEMENTARY INFORMATION:

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I. Introduction
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I. Introduction

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.,* the Postal Service filed a formal request and associated supporting information to add Priority Mail Contract 120 to the competitive product list.[1]

The Postal Service contemporaneously filed a redacted contract related to the proposed new product under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. *Id.* Attachment B.

To support its Request, the Postal Service filed a copy of the contract, a copy of the Governors' Decision authorizing the product, proposed changes to the Mail Classification Schedule, a Statement of Supporting Justification, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

[1] Request of the United States Postal Service to Add Priority Mail Contract 120 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, March 4, 2015 (Request).

II. Notice of Commission Action

The Commission establishes Docket Nos. MC2015–40 and CP2015–51 to consider the Request pertaining to the proposed Priority Mail Contract 120 product and the related contract, respectively.

The Commission invites comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than March 17, 2015. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Kenneth R. Moeller to serve as Public Representative in these dockets.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2015–40 and CP2015–51 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, Kenneth R. Moeller is appointed to serve as an officer of the Commission to represent the interests of the general public in these proceedings (Public Representative).

3. Comments are due no later than March 17, 2015.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Ruth Ann Abrams,

Acting Secretary.

[FR Doc. 2015–05582 Filed 3–11–15; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2015–39 and CP2015–50; Order No. 2381]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning an addition of Priority Mail Contract 119 to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* March 13, 2015.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit

comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

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

SUPPLEMENTARY INFORMATION:

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I. Introduction
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I. Introduction

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.,* the Postal Service filed a formal request and associated supporting information to add Priority Mail Contract 119 to the competitive product list.[1]

The Postal Service contemporaneously filed a redacted contract related to the proposed new product under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. *Id.* Attachment B.

To support its Request, the Postal Service filed a copy of the contract, a copy of the Governors' Decision authorizing the product, proposed changes to the Mail Classification Schedule, a Statement of Supporting Justification, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

II. Notice of Commission Action

The Commission establishes Docket Nos. MC2015–39 and CP2015–50 to consider the Request pertaining to the proposed Priority Mail Contract 119 product and the related contract, respectively.

The Commission invites comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than March 13, 2015. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Curtis E. Kidd to serve as Public Representative in these dockets.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2015–39 and CP2015–50 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, Curtis E. Kidd is appointed to serve as an officer of the Commission to represent the interests of the general public in these proceedings (Public Representative).

3. Comments are due no later than March 13, 2015.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Ruth Ann Abrams,

Acting Secretary.

[FR Doc. 2015–05584 Filed 3–11–15; 8:45 am]

BILLING CODE 7710–FW–P

[1] Request of the United States Postal Service to Add Priority Mail Contract 119 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, March 4, 2015 (Request).

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2015–38 and CP2015–49; Order No. 2383]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning an addition of Priority Mail Contract 118 to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* March 18, 2015.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

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

SUPPLEMENTARY INFORMATION:

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I. Introduction
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I. Introduction

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.,* the Postal Service filed a formal request and associated supporting information to add Priority Mail Contract 118 to the competitive product list.[1]

The Postal Service contemporaneously filed a redacted contract related to the proposed new product under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. *Id.* Attachment B.

To support its Request, the Postal Service filed a copy of the contract, a copy of the Governors' Decision authorizing the product, proposed changes to the Mail Classification Schedule, a Statement of Supporting Justification, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

II. Notice of Commission Action

The Commission establishes Docket Nos. MC2015–38 and CP2015–49 to consider the Request pertaining to the proposed Priority Mail Contract 118 product and the related contract, respectively.

The Commission invites comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than March 18, 2015. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints James F. Callow to serve as Public Representative in these dockets.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2015–38 and CP2015–49 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, James F. Callow is appointed to serve as an officer of the Commission to represent the interests of the general public in these proceedings (Public Representative).

3. Comments are due no later than March 18, 2015.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2015–05617 Filed 3–11–15; 8:45 am]

BILLING CODE 7710–FW–P

[1] Request of the United States Postal Service to Add Priority Mail Contract 118 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, March 4, 2015 (Request).

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2015–37 and CP2015–48; Order No. 2380]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning an addition of Priority Mail Contract 117 to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* March 16, 2015.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

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

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Notice of Commission Action
III. Ordering Paragraphs

I. Introduction

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.,* the Postal Service filed a formal request and associated supporting information to add Priority Mail Contract 117 to the competitive product list.[1]

The Postal Service contemporaneously filed a redacted contract related to the proposed new product under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. *Id.* Attachment B.

To support its Request, the Postal Service filed a copy of the contract, a copy of the Governors' Decision authorizing the product, proposed changes to the Mail Classification Schedule, a Statement of Supporting Justification, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

II. Notice of Commission Action

The Commission establishes Docket Nos. MC2015–37 and CP2015–48 to consider the Request pertaining to the proposed Priority Mail Contract 117 product and the related contract, respectively.

The Commission invites comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than March 16, 2015. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Kenneth R. Moeller to serve as Public Representative in these dockets.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2015–37 and CP2015–48 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, Kenneth R. Moeller is appointed to serve as an officer of the Commission to represent the interests of the general public in these proceedings (Public Representative).

3. Comments are due no later than March 16, 2015.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Ruth Ann Abrams,

Acting Secretary.

[FR Doc. 2015–05583 Filed 3–11–15; 8:45 am]

BILLING CODE 7710–FW–P

[1] Request of the United States Postal Service to Add Priority Mail Contract 117 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, March 4, 2015 (Request).

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* March 12, 2015.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on March 4, 2015, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 115 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2015–35, CP2015–46.

Stanley F. Mires,

Attorney, Federal Requirements.

[FR Doc. 2015–05630 Filed 3–11–15; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* March 12, 2015.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on March 4, 2015, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 117 to Competitive Product List.* Documents are available at *www.prc.gov*, Docket Nos. MC2015–37, CP2015–48.

Stanley F. Mires,

Attorney, Federal Requirements.

[FR Doc. 2015–05621 Filed 3–11–15; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* March 12, 2015.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on March 4, 2015, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority*

Mail Contract 119 to Competitive Product List. Documents are available at *www.prc.gov,* Docket Nos. MC2015–39, CP2015–50.

Stanley F. Mires,

Attorney, Federal Requirements.

[FR Doc. 2015–05609 Filed 3–11–15; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* March 12, 2015.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on March 4, 2015, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 118 to Competitive Product List.* Documents are available at *www.prc.gov*, Docket Nos. MC2015–38, CP2015–49.

Stanley F. Mires,

Attorney, Federal Requirements.

[FR Doc. 2015–05610 Filed 3–11–15; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* March 12, 2015.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on March 4, 2015, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 116 to Competitive Product List.* Documents are available at *www.prc.gov*, Docket Nos. MC2015–36, CP2015–47.

Stanley F. Mires,

Attorney, Federal Requirements.

[FR Doc. 2015–05635 Filed 3–11–15; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* March 12, 2015.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on March 4, 2015, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 120 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2015–40, CP2015–51.

Stanley F. Mires,

Attorney, Federal Requirements.

[FR Doc. 2015–05597 Filed 3–11–15; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* March 12, 2015.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on March 4, 2015, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 114 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2015–34, CP2015–45.

Stanley F. Mires,

Attorney, Federal Requirements.

[FR Doc. 2015–05622 Filed 3–11–15; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74450; File No. SR–BATS–2015–17]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 11.13, Order Execution, To Delete References to the ROLF Routing Option, Which Routed Order to LavaFlow ECN

March 6, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 20, 2015, BATS Exchange, Inc. (the ''Exchange'' or ''BATS'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange filed a proposal to amend Rule 11.13, Order Execution, to delete references to the ROLF routing option, which routed order to LavaFlow ECN.

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 11.13, Order Execution, to delete references under subparagraphs (a)(3)(H) and (a)(3)(M) to the ROLF routing option, which routed to LavaFlow ECN. These changes are being proposed in response to LavaFlow ECN ceasing market operations on Friday, January 30, 2015. Under Rule 11.13(a)(3)(M), an order utilizing the ROLF routing option first checked the System [5] for available shares and was then routed to the LavaFlow ECN. If shares remained unexecuted after being routed, they were cancelled, unless otherwise instructed by the User.[6] In addition, under Rule 11.13(a)(3)(H), a User was able to couple the Post to Away routing option and ROLF routing option. The grouping of the Post to Away and ROLF routing options instructed the System to route and post the order on LavaFlow ECN. As of February 2, 2015, the Exchange, via BATS Trading, the Exchange's affiliated routing broker-dealer, was no longer able to route orders to LavaFlow ECN because it ceased operations. As a result, the Exchange no longer offers the ROLF routing option nor permit it to be coupled with a Post to Away routing option. Therefore, the Exchange proposes to delete the ROLF routing option under Rule 11.13(a)(3)(M) as well as a reference to the ROLF routing option under Rule 11.13(a)(3)(H).

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [7] in general, and furthers the objectives of Section 6(b)(5) of the Act [8] in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange does not believe that this proposal will permit unfair discrimination among customers, brokers, or dealers because the ROLF routing option will no longer be available to all Users. The proposed change is in response to LavaFlow ECN ceasing market operations on Friday, January 30, 2015. As of February 2, 2015, the Exchange, via BATS Trading, was no longer able to route orders to LavaFlow ECN and, therefore, proposes to delete references to the ROLF routing option under Rules 11.13(a)(3)(H) and (a)(3)(M). The proposal is intended to make the Exchange's rules clearer and less confusing for investors by eliminating a routing option that is no longer available; thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposal will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issues but rather avoid investor confusion by eliminating a routing option that is no longer made available by the Exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has been filed by the Exchange as a ''non-controversial'' rule change pursuant to Section 19(b)(3)(A)(i) of the Act [9] and subparagraph (f)(6) of Rule 19b–4 thereunder.[10] Consequently, because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [11] and subparagraph (f)(6) of Rule 19b–4 thereunder.[12]

A proposed rule change filed under Rule 19b–4(f)(6) [13] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so the Exchange may clarify its rules in a timely manner by eliminating a rule that accounts for a service the Exchange does not provide, thereby avoiding potential investor confusion during the operative delay period. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the Exchange to clarify its rules in a timely manner and avoid potential investor confusion. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative upon filing with the Commission.[15]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the

[5] Exchange Rule 1.5(aa) defines ''System'' as ''the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away.''

[6] The term ''User'' is defined as ''any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3.'' *See* Exchange Rule 1.5(cc).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A)(i).

[10] 17 CFR 240.19b–4(f)(6).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BATS–2015–17 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–BATS–2015–17. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BATS–2015–17 and should be submitted on or before April 2, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2015–05603 Filed 3–11–15; 8:45 am]

BILLING CODE 8011–01–P

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74449; File No. SR–ICC–2015–001]

Self-Regulatory Organizations; ICE Clear Credit LLC; Order Approving Proposed Rule Change To Revise ICC End-of-Day Price Discovery Policies and Procedures

March 6, 2015.

I. Introduction

On January 5, 2015 ICE Clear Credit LLC (''ICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change SR–ICC–2015–001 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder.[2] The proposed rule change was published for comment in the **Federal Register** on January 21, 2015.[3] The Commission did not receive any comments. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description of the Proposed Rule Change

ICC proposed revising its End-of-Day Price Discovery Policies and Procedures to incorporate enhancements to its price discovery process. ICC currently utilizes a ''cross and lock'' algorithm as part of its price discovery process. Under this algorithm, standardized bids and offers derived from Clearing Participant (''CP'') submissions are matched by sorting them from highest to lowest and lowest to highest levels, respectively. This sorting process pairs the CP submitting the highest bid price with the CP submitting the lowest offer price, the CP submitting the second highest bid price with the CP submitting the second-lowest offer price, and so on. The algorithm then identifies crossed and/or locked markets. Crossed markets are the CP pairs generated by the sorting and ranking process for which the bid price of one CP is above the offer price of the matched CP. The algorithm identifies locked markets, where the bid and the offer are equal, in a similar fashion.

Whenever there are crossed and/or locked matched markets, the algorithm applies a set of rules designed to identify standardized submissions that are ''obvious errors.'' The algorithm sets a high bid threshold equal to the preliminary end-of-day (''EOD'') level plus one EOD bid offer width (''BOW''), and a low offer threshold equal to the preliminary EOD level minus one EOD BOW. The algorithm considers a CP's standardized submission to be an ''obvious error'' if the bid is higher than the high bid threshold, or the offer is lower than the low offer threshold.

CP pairs identified by the algorithm as crossed or locked markets are required from time to time, under the End-of-Day Price Discovery Policies and Procedures, to enter into cleared trades with each other as part of the ICC EOD price discovery process (''Firm Trade''). Currently, ICC excludes standardized submissions it identifies as obvious errors from Firm Trades and does not use these submissions in its determination of published EOD levels.

ICC has proposed to include all standardized submissions, including those classified as obvious errors, in the process of determining Firm Trades. Further, ICC asserts that it will effectively execute its current EOD algorithm twice, initially in the same way it does today, by eliminating obvious errors, to generate the final EOD levels, and again, without excluding obvious errors, to generate Firm Trades and reversing transactions.

To limit the potential exposure created through Firm Trades that include a bid or offer from an obvious error submission, ICC proposes to adjust trade prices, where appropriate, to fall within a predefined band on either side of the EOD price such that the potential profit or loss (''P/L'') realized by unwinding the trade at the EOD level is capped.

To prevent CPs from receiving Firm Trades with large P/L impact in Index instruments that are less actively traded, and therefore more difficult and/or more expensive to manage the associated risk, ICC proposes to have the ability to automatically generate reversing transactions at the EOD level for specific Index instruments (*i.e.,* for specific index risk sub-factors as defined by specific combinations of index/sub-index and series) based on liquidity. Currently, reversing transactions are only available for Single Name instruments. ICC represents that there are no changes to ICC's Clearing Rules as a result of these changes.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 34–74053 (Jan. 14, 2015), 80 FR 2985 (January 21, 2015) (File No. SR–ICC–2015–001).

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act[4] directs the Commission to approve a proposed rule change of a self-regulatory organization if the Commission finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such self-regulatory organization. Section 17A(b)(3)(F) of the Act[5] requires, among other things, that the rules of a clearing agency are designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible and, in general, to protect investors and the public interest.

The Commission finds that ICC's proposed revisions to its End-of-Day Price Discovery Policies and Procedures is consistent with the requirements of Section 17A of the Act[6] and regulations thereunder applicable to it, including the standards under Rule 17Ad–22.[7] The proposed rule change is designed to enhance ICC's price discovery process by including all price submissions (including those classified as obvious errors) in the process of determining Firm Trades, thereby reducing price submissions that may be classified as obvious errors. In addition, the proposed rule change would adjust the trading prices of Firm Trades that include a bid or offer classified as an obvious error to fall within a predefined range on either side of the EOD price, thereby limiting CPs' potential P/L exposure to obvious errors from the risk management perspective, while holding them accountable for their price submissions. Finally, the proposed rule change would assist CPs in unwinding Firm Trades in certain index products by generating reversing trades at the EOD level based on liquidity. The Commission believes that the proposal is therefore designed to promote the prompt and accurate clearance and settlement of securities transactions and derivative agreements, contracts and transactions cleared by ICC, consistent with Section 17A(b)(3)(F) of the Act.[8]

[4] 15 U.S.C. 78s(b)(2)(C).

[5] 15 U.S.C. 78q–1(b)(3)(F).

[6] 15 U.S.C. 78q–1.

[7] 17 CFR 240.17Ad–22.

[8] 15 U.S.C. 78q–1(b)(3)(F).

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act[9] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule change (SR–ICC–2015–001) be, and hereby is, approved.[11]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2015–05602 Filed 3–11–15; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78q–1.

[10] 15 U.S.C. 78s(b)(2).

[11] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74455; File No. SR–NYSEMKT–2015–14]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Pilot Period for the Exchange's Retail Liquidity Program, Which Is Currently Scheduled To Expire on March 31, 2015, Until September 30, 2015

March 6, 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 27, 2015, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the pilot period for the Exchange's Retail Liquidity Program (the ''Retail Liquidity Program'' or the ''Program''), which is currently scheduled to expire on March 31, 2015, until September 30, 2015. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to extend the pilot period of the Retail Liquidity Program,[3] currently scheduled to expire on March 31, 2015, until September 30, 2015.

Background

In July 2012, the Commission approved the Retail Liquidity Program on a pilot basis.[4] The Program is designed to attract retail order flow to the Exchange, and allows such order flow to receive potential price improvement. The Program is currently limited to trades occurring at prices equal to or greater than $1.00 per share. Under the Program, Retail Liquidity Providers (''RLPs'') are able to provide potential price improvement in the form of a non-displayed order that is priced better than the Exchange's best protected bid or offer (''PBBO''), called a Retail Price Improvement Order (''RPI''). When there is an RPI in a particular security, the Exchange disseminates an indicator, known as the Retail Liquidity Identifier, indicating that such interest exists. Retail Member Organizations (''RMOs'') can submit a Retail Order to the Exchange, which would interact, to the extent possible, with available contra-side RPIs.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 72625 (July 16, 2014), 79 FR 42566 (July 22, 2014) (SR–NYSEMKT–2014–60).

[4] *See* Securities Exchange Act Release No. 67347 (July 3, 2012), 77 FR 40673 (July 10, 2012) (''RLP Approval Order'') (SR–NYSEAmex–2011–84).

The Retail Liquidity Program was approved by the Commission on a pilot basis. Pursuant to NYSE MKT Rule 107C(m)—Equities, the pilot period for the Program is scheduled to end on March 31, 2015.

Proposal To Extend the Operation of the Program

The Exchange established the Retail Liquidity Program in an attempt to attract retail order flow to the Exchange by potentially providing price improvement to such order flow. The Exchange believes that the Program promotes competition for retail order flow by allowing Exchange members to submit RPIs to interact with Retail Orders. Such competition has the ability to promote efficiency by facilitating the price discovery process and generating additional investor interest in trading securities, thereby promoting capital formation. The Exchange believes that extending the pilot is appropriate because it will allow the Exchange and the Commission additional time to analyze data regarding the Program that the Exchange has committed to provide.[5] As such, the Exchange believes that it is appropriate to extend the current operation of the Program.[6] Through this filing, the Exchange seeks to amend NYSE MKT Rule 107C(m)—Equities and extend the current pilot period of the Program until September 30, 2015.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5),[8] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that extending the pilot period for the Retail Liquidity Program is consistent with these principles because the Program is reasonably designed to attract retail order flow to the exchange environment, while helping to ensure that retail investors benefit from the better price that liquidity providers are willing to give their orders. Additionally, as previously stated, the competition promoted by the Program may facilitate the price discovery process and potentially generate additional investor interest in trading securities. The extension of the pilot period will allow the Commission and the Exchange to continue to monitor the Program for its potential effects on public price discovery, and on the broader market structure.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change simply extends an established pilot program for an additional six months, thus allowing the Retail Liquidity Program to enhance competition for retail order flow and contribute to the public price discovery process.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[11] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[12] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[13] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEMKT–2015–14 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–NYSEMKT–2015–14. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such

[5] *See id.* at 40681.

[6] Concurrently with this filing, the Exchange has submitted a request for an extension of the exemption under Regulation NMS Rule 612 previously granted by the Commission that permits it to accept and rank the undisplayed RPIs. *See* Letter from Martha Redding, Senior Counsel, NYSE Group, Inc. to Brent J. Fields, Secretary, Securities and Exchange Commission, dated February 27, 2015.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] 15 U.S.C. 78s(b)(2)(B).

filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2015–14, and should be submitted on or before April 2, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2015–05607 Filed 3–11–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74453; File No. SR–Phlx–2015–10]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 1082.02 and .03

March 6, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 23, 2015, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 1082.02 and .03, as described below.

The text of the proposed rule change is below. Proposed new language is italicized. Proposed deletions are in brackets.

* * * * *

Rule 1082. Firm Quotations

(a)–(d) No change.

.01 No change.

.02 *Locked Markets.* In the event that an SQT, RSQT, and/or specialist's electronically submitted quotations interact with the electronically submitted quotations of other SQTs, RSQTs and/or the specialist, resulting in the dissemination of a ''locked'' quotation (*e.g.,* $1.00 bid—1.00 offer), the [following shall occur:

(a) The Exchange will disseminate the locked market and both quotations will be deemed ''firm'' disseminated market quotations;

(b) A ''counting period'' not to exceed .25 of one second will begin during which SQTs, RSQTs and/or specialists whose quotations are locked may eliminate the locked market. Provided, however, that in accordance with subparagraph (a) above, such SQT, RSQT and/or specialist shall be obligated to execute orders at their disseminated quotation. The duration of the counting period will be established by the Exchange, will be the same for all options traded on the Exchange, and will not exceed .25 of one second. The duration of the counting period will be published in an Options Trader Alert, which will be available on the Exchange's Web site.

During the counting period SQTs and specialists located in the Crowd Area in which the option that is the subject of the locked market is traded will continue to be obligated to respond to Floor Brokers as set forth in Rule 1014, Commentary .05(c), and will continue to be obligated for one contract in open outcry to other SQTs, non-SQT ROTs, and specialists. If at the end of the counting period the quotations remain locked, the] locked quotations will automatically execute against each other in accordance with the allocation algorithm set forth in Rule 1014(g)(vii).

[The quotation that is locked may be executed by an order during the counting period.]

.03 *Crossed Markets.* The Exchange will not disseminate an internally crossed market (*e.g.,* $1.10 bid, 1.00 offer). If an SQT, RSQT or specialist electronically submits a quotation [in a Streaming Quote Option] (''incoming quotation'') that would cross an existing quotation (''existing quotation''), the Exchange will[: (i)] Change the incoming quotation such that it locks the existing quotation and automatically execute the locked quotations against each other in accordance with the allocation algorithm set forth in Rule 1014(g)(vii).

[; (ii) send a notice to the SQT, RSQT or specialist that submitted the existing quotation indicating that its quotation was crossed; and (iii) send a notice to the specialist, SQT or RSQT that submitted the incoming quotation, indicating that its quotation crossed the existing quotation and was changed. Such a locked market shall be handled in accordance with Commentary .01 above. During the counting period, if the existing quotation is cancelled subsequent to the time the incoming quotation is changed, the incoming quotation will automatically be restored to its original terms.]

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposal is to amend two commentaries to Rule 1082 because the timers no longer operate. Rule 1082.02 currently addresses what occurs when a Streaming Quote Trader's (''SQT''), Remote SQT's (''RSQT''), and/or specialist's electronically submitted quotations interact with the electronically submitted quotations of other SQTs, RSQTs and/or the specialist. Under this provision, the Exchange disseminates the resulting locked market and both quotations are deemed ''firm'' disseminated market quotations. Furthermore, a counting period not to exceed .25 of one second may begin during which SQTs, RSQTs and/or specialists whose quotations are locked may eliminate the locked market, provided, however, that such SQT, RSQT and/or specialist shall nevertheless be obligated to execute orders at that price. The rule provides that the duration of the counting period is established by the Exchange, will be the same for all options traded on the Exchange and will not exceed .25 of one second.[3] In March 2010, the Exchange reduced this counting period to zero, which is within the range contemplated by the rule (does not exceed .25 of one

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The duration of the counting period is the same for all options traded on the Exchange and is published in an Options Trader Alert, which is available on the Exchange's Web site.

second).[4] The result is that any such locking quotations trade immediately with no delay. Accordingly, the Exchange is proposing to amend Rule 1080.02 to reflect this.

Similarly, Rule 1082.03 currently addresses what occurs when an SQT's, RSQT's, and/or specialist's electronically submitted quotations cross the electronically submitted quotations of other SQTs, RSQTs and/or the specialist. Under the rule, the resulting crossed market is not disseminated, but rather the incoming crossing quotation is changed such that it locks the existing quotation and the crossing SQT, RSQT or specialist is notified thereof. The specialist, SQT or RSQT that submitted the existing quotation is notified that the quotation was crossed. The locked market is disseminated for the time of the counting period. In March 2010, the Exchange reduced this counting period to zero as well. The result is that any such crossing quotations trade immediately with no delay at the locked price.[5] Accordingly, the Exchange is proposing to amend Rule 1080.02 [sic] to reflect this. As part of deleting the counting period respecting crossed quotations, the Exchange is also eliminating the notice to the SQT, RSQT or specialist that submitted the existing quotation indicating that its quotation was crossed as well as the notice to the specialist, SQT or RSQT that submitted the incoming quotation indicating that its quotation crossed the existing quotation, because such notice is no longer necessary. The purpose of the notice was to inform the SQT, RSQT or specialist of the counting period in case the SQT, RSQT or specialist sought to update the quotation; now that an automatic execution occurs, the quotation cannot be updated because a trade will already have occurred.

The Exchange believes that eliminating the counting period in both situations is appropriate because it results in an immediate execution; it also eliminates potential firm quote concerns respecting those quotations during the counting period.

Noting that the counting periods have been set to zero, the Exchange eliminated the counting period from its system altogether and is now updating its rule to reflect that. The Exchange believes that its electronic quoting participants (SQTs, RSQTs and specialists) benefit from an immediate execution, because they have certainty of what has executed right away and can determine how to update their quotes afterwards.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[6] in general, and furthers the objectives of Section 6(b)(5) of the Act[7] in particular, in that it is designed to promote just and equitable principles of trade and protect investors and the public interest by permitting locking and crossing quotations to trade immediately, without a delay. Specifically, such immediate execution without a delay timer should help the market operate more efficiently. Moreover, market making participants can submit new quotes to the marketplace more quickly after such executions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In fact, the immediate executions under this proposal should help the Exchange compete with other exchanges. With respect to intra-market competition among specialists, SQTs and RSQTs, such competition should be enhanced, because their respective quotations execute immediately, without a delay.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6)(iii) thereunder.[11]

A proposed rule change filed under Rule 19b–4(f)(6)[12] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[13] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative immediately upon filing. The Commission previously recognized that continued locking and crossing of the market can negatively impact market quality.[14] The Commission notes that the Exchange's proposal is designed to trade locked or crossed quotations without delay. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because such waiver would allow the Exchange to implement a rule that would provide for the immediate execution of locked or crossed markets. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[15]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule

[4] *See http://www.nasdaqtrader.com/MicroNews.aspx?id=OTA2010-16*

[5] *Id.*

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(6).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6)(iii).

[14] *See* Securities Exchange Act Release No. 34–43863 (August 23, 2002), 67 FR 55897, 55900 n.37 (August 30, 2002) (SR–NASD–2002–56).

[15] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2015–10 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2015–10. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2015–10, and should be submitted on or before April 2, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2015–05605 Filed 3–11–15; 8:45 am]

BILLING CODE 8011–01–P

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74451; File No. SR–BYX–2015–14]

Self-Regulatory Organizations; BATS Y-Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 11.13, Order Execution, To Delete References to the ROLF Routing Option, Which Routed Orders to LavaFlow ECN

March 6, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 23, 2015, BATS Y-Exchange, Inc. (the ''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange filed a proposal to amend Rule 11.13, Order Execution, to delete references to the ROLF routing option, which routed orders to LavaFlow ECN.

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 11.13, Order Execution, to delete references under subparagraphs (a)(3)(H) and (a)(3)(M) to the ROLF routing option, which routed to LavaFlow ECN. These changes are being proposed in response to LavaFlow ECN ceasing market operations on Friday, January 30, 2015. Under Rule 11.13(a)(3)(M), an order utilizing the ROLF routing option first checked the System[5] for available shares and was then routed to the LavaFlow ECN. If shares remained unexecuted after being routed, they were cancelled, unless otherwise instructed by the User.[6] In addition, under Rule 11.13(a)(3)(H), a User was able to couple the Post to Away routing option and ROLF routing option. The grouping of the Post to Away and ROLF routing options instructed the System to route and post the order on LavaFlow ECN. As of February 2, 2015, the Exchange, via BATS Trading, the Exchange's affiliated routing broker-dealer, was no longer able to route orders to LavaFlow ECN because it ceased operations. As a result, the Exchange no longer offers the ROLF routing option nor permit it to be coupled with a Post to Away routing option. Therefore, the Exchange proposes to delete the ROLF routing option under Rule 11.13(a)(3)(M) as well as a reference to the ROLF routing option under Rule 11.13(a)(3)(H).

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[7] in general, and furthers the objectives of Section 6(b)(5) of the Act[8] in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

[5] Exchange Rule 1.5(aa) defines ''System'' as ''the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away.''

[6] The term ''User'' is defined as ''any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3.'' *See* Exchange Rule 1.5(cc).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

general, to protect investors and the public interest. The Exchange does not believe that this proposal will permit unfair discrimination among customers, brokers, or dealers because the ROLF routing option will no longer be available to all Users. The proposed change is in response to LavaFlow ECN ceasing market operations on Friday, January 30, 2015. As of February 2, 2015, the Exchange, via BATS Trading, was no longer able to route orders to LavaFlow ECN and, therefore, proposes to delete references to the ROLF routing option under Rules 11.13(a)(3)(H) and (a)(3)(M). The proposal is intended to make the Exchange's rules clearer and less confusing for investors by eliminating a routing option that is no longer available; thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposal will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issues but rather avoid investor confusion by eliminating a routing option that is no longer made available by the Exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has been filed by the Exchange as a ''non-controversial'' rule change pursuant to Section 19(b)(3)(A)(i) of the Act [9] and subparagraph (f)(6) of Rule 19b–4 thereunder.[10] Consequently, because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [11] and subparagraph (f)(6) of Rule 19b–4 thereunder.[12]

A proposed rule change filed under Rule 19b–4(f)(6) [13] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so the Exchange may clarify its rules in a timely manner by eliminating a rule that accounts for a service the Exchange does not provide, thereby avoiding potential investor confusion during the operative delay period. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the Exchange to clarify its rules in a timely manner and avoid potential investor confusion. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative upon filing with the Commission.[15]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BYX–2015–14 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–BYX–2015–14. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BYX–2015–14 and should be submitted on or before April 2, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2015–05604 Filed 3–11–15; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78s(b)(3)(A)(i).

[10] 17 CFR 240.19b–4(f)(6).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235–0503, SEC File No. 270–446]

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:
Form N–6.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

The title for the collection of information is ''Form N–6 (17 CFR 239.17c and 274.11d) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) and under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) registration statement of separate accounts organized as unit investment trusts that offer variable life insurance policies.'' Form N–6 is the form used by insurance company separate accounts organized as unit investment trusts that offer variable life insurance contracts to register as investment companies under the Investment Company Act of 1940 and/or to register their securities under the Securities Act of 1933. The primary purpose of the registration process is to provide disclosure of financial and other information to investors and potential investors for the purpose of evaluating an investment in a security. Form N–6 also requires separate accounts organized as unit investment trusts that offer variable life insurance policies to provide investors with a prospectus and a statement of additional information (''SAI'') covering essential information about the separate account when it makes an initial or additional offering of its securities.

The Commission estimates that approximately 472 registration statements (396 post-effective amendments plus 76 initial registration statements) are filed on Form N–6 annually. The estimated hour burden per portfolio for preparing and filing an initial registration statement on Form N–6 is 770.25 hours. The estimated annual hour burden for preparing and filing initial registration statements is 58,539 hours (76 initial registration statements annually times 770.25 hours per registration statement). The Commission estimates that the hour burden for preparing and filing a post-effective amendment on Form N–6 is 67.5 hours. The total annual hour burden for preparing and filing post-effective amendments is 26,730 hours (396 post-effective amendments annually times 67.5 hours per amendment). The frequency of response is annual. The total annual hour burden for Form N–6, therefore, is estimated to be 85,269 hours (58,539 hours for initial registration statements plus 26,730 hours for post-effective amendments).

The Commission estimates that the cost burden for preparing an initial Form N–6 filing is $24,169 per portfolio and the current cost burden for preparing a post-effective amendment to a previously effective registration statement is $8,788 per portfolio. The Commission estimates that, on an annual basis, 76 portfolios will be referenced in an initial Form N–6 and 396 portfolios will be referenced in a post-effective amendment of Form N–6. Thus, the total cost burden allocated to Form N–6 would be $5,316,892.

The information collection requirements imposed by Form N–6 are mandatory. Responses to the collection of information will not be kept confidential. Estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms. 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 control number.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, C/O Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549; or send an email to: *PRA_Mailbox@sec.gov.*

Dated: March 6, 2015.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2015–05601 Filed 3–11–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:
Rule 15g–5, SEC File No. 270–348, OMB Control No. 3235–0394.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 15g–5—Disclosure of Compensation to Associated Persons in Connection with Penny Stock Transactions—(17 CFR 240.15g–5) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 15g–5 requires brokers and dealers to disclose to customers the amount of compensation to be received by their sales agents in connection with penny stock transactions. The purpose of the rule is to increase the level of disclosure to investors concerning penny stocks generally and specific penny stock transactions.

The Commission estimates that approximately 221 broker-dealers will spend an average of 87 hours annually to comply with the rule. Thus, the total compliance burden is approximately 19,245 burden-hours per year.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of

information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to *PRA_Mailbox@sec.gov.*

Dated: March 6, 2015.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2015–05600 Filed 3–11–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74454; File No. SR–NYSE–2015–10]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Pilot Period for the Exchange's Retail Liquidity Program Which Is Currently Scheduled To Expire on March 31, 2015, Until September 30, 2015

March 6, 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 27, 2015, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the pilot period for the Exchange's Retail Liquidity Program (the ''Retail Liquidity Program'' or the ''Program''), which is currently scheduled to expire on March 31, 2015, until September 30, 2015. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to extend the pilot period of the Retail Liquidity Program,[3] currently scheduled to expire on March 31, 2015, until September 30, 2015.

Background

In July 2012, the Commission approved the Retail Liquidity Program on a pilot basis.[4] The Program is designed to attract retail order flow to the Exchange, and allows such order flow to receive potential price improvement. The Program is currently limited to trades occurring at prices equal to or greater than $1.00 per share. Under the Program, Retail Liquidity Providers (''RLPs'') are able to provide potential price improvement in the form of a non-displayed order that is priced better than the Exchange's best protected bid or offer (''PBBO''), called a Retail Price Improvement Order (''RPI''). When there is an RPI in a particular security, the Exchange disseminates an indicator, known as the Retail Liquidity Identifier, indicating that such interest exists. Retail Member Organizations (''RMOs'') can submit a Retail Order to the Exchange, which would interact, to the extent possible, with available contra-side RPIs.

The Retail Liquidity Program was approved by the Commission on a pilot basis. Pursuant to NYSE Rule 107C(m), the pilot period for the Program is scheduled to end on March 31, 2015.

Proposal To Extend the Operation of the Program

The Exchange established the Retail Liquidity Program in an attempt to attract retail order flow to the Exchange by potentially providing price improvement to such order flow. The Exchange believes that the Program promotes competition for retail order flow by allowing Exchange members to submit RPIs to interact with Retail Orders. Such competition has the ability to promote efficiency by facilitating the price discovery process and generating additional investor interest in trading securities, thereby promoting capital formation. The Exchange believes that extending the pilot is appropriate because it will allow the Exchange and the Commission additional time to analyze data regarding the Program that the Exchange has committed to provide.[5] As such, the Exchange believes that it is appropriate to extend the current operation of the Program.[6] Through this filing, the Exchange seeks to amend NYSE Rule 107C(m) and extend the current pilot period of the Program until September 30, 2015.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5),[8] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that extending the pilot period for the Retail Liquidity Program is consistent with these principles because the Program is reasonably designed to attract retail order flow to the exchange environment, while helping to ensure that retail investors benefit from the better price that liquidity providers are willing to give their orders. Additionally, as previously stated, the competition promoted by the Program may facilitate the price discovery

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 72629 (July 16, 2014), 79 FR 42564 (July 22, 2014) (NYSE–2014–35).

[4] *See* Securities Exchange Act Release No. 67347 (July 3, 2012), 77 FR 40673 (July 10, 2012) (''RLP Approval Order'') (SR–NYSE–2011–55).

[5] *See id.* at 40681.

[6] Concurrently with this filing, the Exchange has submitted a request for an extension of the exemption under Regulation NMS Rule 612 previously granted by the Commission that permits it to accept and rank the undisplayed RPIs. *See* Letter from Martha Redding, Senior Counsel, NYSE Group, Inc. to Brent J. Fields, Secretary, Securities and Exchange Commission, dated February 27, 2015.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

process and potentially generate additional investor interest in trading securities. The extension of the pilot period will allow the Commission and the Exchange to continue to monitor the Program for its potential effects on public price discovery, and on the broader market structure.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change simply extends an established pilot program for an additional six months, thus allowing the Retail Liquidity Program to enhance competition for retail order flow and contribute to the public price discovery process.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [9] and Rule 19b–4(f)(6) thereunder.[10] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [11] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[12] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [13] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2015–10 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2015–10. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2015–10, and should be submitted on or before April 2, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2015–05606 Filed 3–11–15; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] 15 U.S.C. 78s(b)(2)(B).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 74456; File No. SR–ICC–2015–002]

Self-Regulatory Organizations; ICE Clear Credit LLC; Order Approving Proposed Rule Change To Revise the ICC Treasury Operations Policies and Procedures

March 6, 2015.

I. Introduction

On January 6, 2015 ICE Clear Credit LLC (''ICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change SR–ICC–2015–002 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder.[2] The proposed rule change was published for comment in the **Federal Register** on January 23, 2015.[3] The Commission did not receive any comments. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description of the Proposed Rule Change

ICC has proposed revising its Treasury Operations Policies and Procedures to provide for the use of a Federal Reserve Account, to provide for the use of a committed repurchase (''repo'') facility and to provide for USD and Euro investment guidelines for use by outside investment managers.

ICC has stated that it has applied for a Federal Reserve Account to hold both USD cash and US Treasuries and that, in its application, it requested separate accounts for house origin funds and customer origin funds. ICC has represented that, if it is approved for a

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 34–74084 (Jan. 16, 2015), 80 FR 3691 (January 23, 2015) (File No. SR–ICC–2015–002).

single account origin, it will utilize the Federal Reserve Accounts to hold house collateral, and customer collateral will continue to be held in commercial banks. ICC has represented that, if it is approved for an additional account origin, it will utilize the second origin to hold customer collateral at the Federal Reserve.

ICC proposes to use the Federal Reserve Account(s) as a depository account, in which cash will be consolidated on a daily basis and held overnight. ICC will continue using its commercial bank accounts for Clearing Participant money movements, and the net excess/deficit will be deposited to/withdrawn from the Federal Reserve cash Account as necessary. ICC proposes to use a Federal Reserve securities Account as a custody account to hold US Treasuries deposited by Clearing Participants with ICC's commercial banks.

Additionally, ICC has proposed revising its Treasury Operations Policies and Procedures to provide for use of a committed repo facility. ICC represents that it has established a committed repo facility that will allow ICC to consider US Treasury securities deposited at ICC as an additional qualifying liquidity resource, and the facility can be used to convert US Treasuries into cash when the sale of pledged securities needed for liquidity cannot be settled on a timely or same-day basis. Specifically, ICC represents that the facility is to be used to generate temporary liquidity through the sale and agreement to repurchase securities pledged by ICC Clearing Participants to satisfy their Initial Margin and Guaranty Fund requirements. According to ICC, the facility will include counterparties that are banks and/or broker dealers (which may include ICC Clearing Participants and/or their affiliates) that each provide a committed repo line to ICC, and committed repo will be subject to a haircut which will be the greater of 5% or the haircut that central banks employ for repo transactions using the same or similar purchased securities.

Under ICC's proposal, the committed repo facility can be used on an open or overnight basis. The open repo will be closed as soon as the ICC Treasury Department (''ICC Treasury'') can facilitate the sale and settlement of the securities involved in the repo transaction. USD repo will be settled delivery versus payment (''DVP'') on a bilateral basis. In order to initiate a committed repo transaction, ICC Treasury can send an email to the counterparty with a list of the securities that will be delivered. The counterparty will reply confirming the trade and providing the ''purchase amount'' of the repo transaction. The purchase amount will be equal to the mark-to-market (''MTM'') of the securities less the haircut. The repo details will then be sent to ICC's custodian for settlement. ICC Treasury will monitor bank activity to ensure settlement is complete. Once ICC Treasury has arranged for the ultimate sale of the securities involved in the repo transaction, it will close-out the repo transaction(s).

Finally, ICC has proposed revising its Treasury Operations Policies and Procedures to provide for the engagement of outside investment managers to invest guaranty fund and margin cash pursuant to ICC's USD and Euro investment guidelines. ICC has proposed extending its current investment guidelines set forth in in the ICC Treasury Operations Policies and Procedures to apply to outside investment managers. ICC represents that its cash investment guidelines for USD and Euro cash provide for the investment of cash in overnight reverse repo with high quality sovereign debt as collateral. Under ICC's proposal, if the investment manager cannot place 100% of the allocated cash in overnight reverse repo, the investment guidelines permit the investment manager to make backup investments in term reverse repo and direct investment in high quality sovereign debt. With respect to Euro cash, ICC proposes that investment in reverse repo transactions and non-US sovereign debt will be utilized only with respect to house origin cash, and shall not be utilized with respect to customer origin cash pursuant to Commodity Futures Trading Commission regulations. ICC's proposed USD investment guidelines provide for use by outside investment managers with respect to USD cash that is not otherwise invested pursuant to the ICC Treasury Operations Policies and Procedures. ICC represents that these revisions to the Treasury Operations Policies and Procedures do not require any operational changes.

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act [4] directs the Commission to approve a proposed rule change of a self-regulatory organization if the Commission finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such self-regulatory organization. Section 17A(b)(3)(F) of the Act [5] requires, among other things, that the rules of a clearing agency are designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible and, in general, to protect investors and the public interest.

The Commission finds that ICC's proposed revisions to its Treasury Operations Policies & Procedures is consistent with the requirements of Section 17A of the Act [6] and regulations thereunder applicable to it, including the standards under Rule 17Ad–22.[7] The proposed rule change is designed to facilitate use of Federal Reserve accounts, authorize an additional liquidity resource and authorize use of an outside investment manager to invest guaranty fund and margin cash pursuant to ICC's investment guidelines. The Commission believes that the proposal is designed to promote the prompt and accurate clearance and settlement of securities transactions and derivative agreements, contracts and transactions cleared by ICC, assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible and, in general, to protect investors and the public interest, consistent with Section 17A(b)(3)(F) of the Act.[8] Further, the Commission believes that the proposal is reasonably designed to enhance ICC's ability to hold assets in a manner that minimizes risk of loss or of delay in its access to them and invest assets with minimal credit, market and liquidity risks, consistent with Rule 17Ad–22(d)(3).[9]

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act [10] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[11] that the proposed rule change (SR–ICC–2015–002) be, and hereby is, approved.[12]

[4] 15 U.S.C. 78s(b)(2)(C).

[5] 15 U.S.C. 78q–1(b)(3)(F).

[6] 15 U.S.C. 78q–1.

[7] 17 CFR 240.17Ad–22.

[8] 15 U.S.C. 78q–1(b)(3)(F).

[9] 17 CFR 240.17Ad–22(d)(3).

[10] 15 U.S.C. 78q–1.

[11] 15 U.S.C. 78s(b)(2).

[12] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2015–05608 Filed 3–11–15; 8:45 am]

BILLING CODE 8011–01–P

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31498; 812–14417]

American Beacon NextShares Trust, et al.; Notice of Application

March 6, 2015.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (a)(2) of the Act, and under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act.

Applicants: American Beacon NextShares Trust (the ''Trust''), American Beacon Advisors, Inc. (the ''Manager'') and Foreside Fund Services, LLC (the ''Distributor'').

Summary of Application: Applicants request an order (''Order'') that permits: (a) Actively managed series of certain open-end management investment companies to issue shares (''Shares'') redeemable in large aggregations only (''Creation Units''); (b) secondary market transactions in Shares to occur at the next-determined net asset value plus or minus a market-determined premium or discount that may vary during the trading day; (c) certain series to pay redemption proceeds, under certain circumstances, more than seven days from the tender of Shares for redemption; (d) certain affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of Creation Units; (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the series to acquire Shares; and (f) certain series to create and redeem Shares in kind in a master-feeder structure. The Order would incorporate by reference terms and conditions of a previous order granting the same relief sought by applicants, as that order may be amended from time to time (''Reference Order'').[1]

Filing Dates: The application was filed on January 15, 2015, and amended on February 23, 2015.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on March 31, 2015, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: The Commission: Brent J. Fields, Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicants: American Beacon NextShares Trust and American Beacon Advisors, Inc., 220 East Las Colinas Blvd., Suite 1200, Irving, TX 75039, and Foreside Fund Services, LLC, Three Canal Plaza, Suite 100, Portland, ME 04101.

FOR FURTHER INFORMATION CONTACT: Jean E. Minarick, Senior Counsel, or Daniele Marchesani, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants

1. The Trust will be registered as an open-end management investment company under the Act and is a business trust organized under the laws of Massachusetts. Applicants seek relief with respect to five Funds (as defined below, and those Funds, the ''Initial Funds''). The portfolio positions of each Fund will consist of securities and other assets selected and managed by its Manager or Subadviser (as defined below) to pursue the Fund's investment objective.

2. The Manager, a Delaware corporation, will be the investment manager to the Initial Funds. A Manager (as defined below) will serve as investment manager to each Fund. The Manager is, and any other Manager will be, registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act''). The Manager and the Trust may retain one or more subadvisers (each a ''Subadviser'') to manage the portfolios of the Funds. Any Subadviser will be registered, or not subject to registration, under the Advisers Act.

3. The Distributor is a Delaware limited liability company and a broker-dealer registered under the Securities Exchange Act of 1934 and will act as the principal underwriter of Shares of the Funds. Applicants request that the requested relief apply to any distributor of Shares, whether affiliated or unaffiliated with the Manager (included in the term ''Distributor''). Any Distributor will comply with the terms and conditions of the Order.

Applicants' Requested Exemptive Relief

4. Applicants seek the requested Order under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act. The requested Order would permit applicants to offer exchange-traded managed funds. Because the relief requested is the same as the relief granted by the Commission under the Reference Order and because the Manager has entered into, or anticipates entering into, a licensing agreement with Eaton Vance Management, or an affiliate thereof in order to offer exchange-traded managed funds,[2] the Order would incorporate by reference the terms and conditions of the Reference Order.

5. Applicants request that the Order apply to the Initial Funds and to any other existing or future open-end management investment company or series thereof that: (a) Is advised by the Manager or any entity controlling, controlled by, or under common control

[1] Eaton Vance Management, *et al.,* Investment Company Act Rel. Nos. 31333 (Nov. 6, 2014) (notice) and 31361 (Dec. 2, 2014) (order).

[2] Eaton Vance Management has obtained patents with respect to certain aspects of the Funds' method of operation as exchange-traded managed funds.

with the Manager (any such entity included in the term ''Manager''); (b) operates as an exchange-traded managed fund as described in the Reference Order; and (c) complies with the terms and conditions of the Order and of the Reference Order, which is incorporated by reference herein (each such company or series and Initial Fund, a ''Fund'').[3]

6. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment company and the general purposes of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors.

7. Applicants submit that for the reasons stated in the Reference Order: (1) With respect to the relief requested pursuant to section 6(c) of the Act, the relief is appropriate, in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act; (2) with respect to the relief request pursuant to section 17(b) of the Act, the proposed transactions are reasonable and fair and do not involve overreaching on the part of any person concerned, are consistent with the policies of each registered investment company concerned and consistent with the general purposes of the Act; and (3) with respect to the relief requested pursuant to section 12(d)(1)(J) of the Act, the relief is consistent with the public interest and the protection of investors.

[3] All entities that currently intend to rely on the Order are named as applicants. Any other entity that relies on the Order in the future will comply with the terms and conditions of the Order and of the Reference Order, which is incorporated by reference herein.

By the Division of Investment Management, pursuant to delegated authority.

Brent J. Fields,

Secretary.

[FR Doc. 2015–05596 Filed 3–11–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74452; File No. SR–OCC–2015–02]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Approving Proposed Rule Change Concerning a Proposed Capital Plan for Raising Additional Capital That Would Support The Options Clearing Corporation's Function as a Systemically Important Financial Market Utility

March 6, 2015.

On January 14, 2015, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change SR–OCC–2015–02 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder.[2] The proposed rule change was published for comment in the **Federal Register** on January 30, 2015.[3] The Commission received seventeen comment letters on OCC's proposal from OCC and seven other commenters or groups.[4] This order approves the proposed rule change.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4. OCC also filed proposals in this proposed rule change as an advance notice under Section 806(e)(1) of the Payment, Clearing, and Settlement Supervision Act of 2010 (''Payment, Clearing and Settlement Supervision Act''). 12 U.S.C. 5465(e)(1). On February 26, 2015, the Commission issued a notice of no objection to the advance notice filing. *See* Exchange Act Release No. 74387 (February 26, 2015) (SR–OCC–2014–813).

[3] Securities Exchange Act Release No. 74136 (January 26, 2015), 80 FR 5171 (January 30, 2015) (SR–OCC–2015–02). As the Commission noted in the notice of filing of the proposed rule change, OCC stated that the purpose of this proposal is, in part, to facilitate compliance with proposed Commission rules and address Principle 15 of the Principles for Financial Market Infrastructures (''PFMIs''). The proposed Commission rules are pending. *See* Securities Exchange Act Release No. 71699 (March 12, 2014), 79 FR 29508 (May 22, 2014) (S7–03–14). Therefore, the Commission has evaluated this proposed rule change under the Act and the rules currently in force thereunder. *See* Securities Exchange Act Release No. 74136 (January 26, 2015), 80 FR 5171 (January 30, 2015) (SR–OCC–2015–02).

[4] *See* Letter from Eric Swanson, General Counsel & Secretary, BATS Global Markets, Inc., (February 19, 2015) (''BATS Letter I''); Letter from Tony McCormick, Chief Executive Officer, BOX Options Exchange, (February 19, 2015) (''BOX Letter I''); Letter from Howard L. Kramer on behalf of Belvedere Trading, CTC Trading Group, IMC Financial Markets, Integral Derivatives, Susquehanna Investment Group, and Wolverine Trading, (February 20, 2015) (''MM Letter''); Letter from Ellen Greene, Managing Director, Financial Services Operations, SIFMA, (February 20, 2015) (''SIFMA Letter''); Letter from James E. Brown, General Counsel, OCC, (February 23, 2015) (responding to BATS Letter and BOX Letter) (''OCC Letter I''); Letter from James E. Brown, General Counsel, OCC, (February 23, 2015) (responding to MM Letter) (''OCC Letter II''); Letter from Barbara J. Comly, Executive Vice President, General Counsel & Corporate Secretary, Miami International Securities Exchange, LLC (February 24, 2015) (''MIAX Letter I''); Letter from James E. Brown, General Counsel, OCC, (February 24, 2015) (responding to SIFMA Letter) (''OCC Letter III''); Letter from John A. McCarthy, General Counsel, KCG Holdings, Inc., (February 26, 2015) (''KCG Letter I''); Letter from Eric Swanson, General Counsel and Secretary, BATS Global Markets, Inc., (February 27, 2015) (''BATS Letter II''); Letter from John A. McCarthy, General Counsel, KCG Holdings, Inc., (February 27, 2015) (''KCG Letter II''); Letter from Richard J. McDonald, Chief Regulatory Counsel, Susquehanna International Group, LLP, (February 27, 2015), (''SIG Letter I''); Letter from Barbara J. Comly, Executive Vice President, General Counsel & Corporate Secretary, Miami International Securities Exchange, LLC (March 1, 2015) (''MIAX Letter II''); Letter from James E. Brown, General Counsel, OCC, (March 2, 2015) (''OCC Letter IV''); Letter from Eric Swanson, General Counsel and Secretary, BATS Global Markets, Inc. (March 3, 2015)(''BATS Letter III''); and Letter from Tony McCormick, Chief Executive Officer, BOX Options Exchange, (March 3, 2015) (''BOX Letter II''); Letter from Brian Sopinsky, General Counsel, Susquehanna International Group, LLP, (March 4, 2015) (''SIG Letter II''). Since the proposal was filed as both an advance notice and proposed rule change, the Commission considered all comments received on the proposal, regardless of whether the comments were submitted to the proposed rule change or advance notice. *See* comments on the advance notice (File No. SR–OCC–2014–813), *http://www.sec.gov/comments/sr-occ-2014-813/occ2014813.shtml* and comments on the proposed rule change (File No. SR–OCC–2015–02), *http://www.sec.gov/comments/sr-occ-2015-02/occ201502.shtml*. In its evaluation of the proposed rule change, the Commission assessed whether the proposal was consistent with the requirements of the Act and the applicable rules and regulations thereunder.

I. Description

OCC is amending its By-Laws and other governing documents, and adopting certain policies, for the purpose of implementing a plan for raising additional capital (''Capital Plan'') under which the options exchanges that own equity in OCC (''Stockholder Exchanges'' or ''Stockholders'') will make an additional capital contribution and commit to replenishment capital (''Replenishment Capital'') in circumstances discussed below, and will receive, among other things, the right to receive dividends from OCC. In addition to the new capital contribution and Replenishment Capital commitment, the main features of the Capital Plan include: (i) A policy establishing OCC's clearing fees at a level that would be sufficient to cover OCC's estimated operating expenses

plus a ''Business Risk Buffer'' as described below (''Fee Policy''), (ii) a policy establishing the amount of the annual refund to clearing members of OCC's fees (''Refund Policy''), and (iii) a policy for calculating the amount of dividends to be paid to the Stockholder Exchanges (''Dividend Policy''). OCC states that it intends to implement the Capital Plan on or after February 27, 2015, subject to all necessary regulatory approvals.

OCC states that it is implementing this Capital Plan, in part, to increase significantly its capital in connection with being designated systemically important by the Financial Stability Oversight Council pursuant to the Payment, Clearing and Settlement Supervision Act. The Capital Plan calls for an infusion of substantial additional equity capital by the Stockholder Exchanges to be made on or about February 27, 2015, subject to regulatory approval, that when added to retained earnings accumulated by OCC in 2014 will significantly increase OCC's capital levels as compared to historical levels. Additionally, the Capital Plan includes the Replenishment Capital commitment, which will provide OCC with access to additional equity contributions by the Stockholder Exchanges should OCC's equity fall close to or below the amount that OCC determines to be appropriate to support its business and manage business risk.

A. Background

OCC is a clearing agency registered with the Commission and is also a derivatives clearing organization (''DCO'') regulated in its capacity as such by the Commodity Futures Trading Commission. OCC is a Delaware business corporation and is owned equally by the Stockholder Exchanges—five national securities exchanges for which OCC provides clearing services.[5] In addition, OCC provides clearing services for seven other national securities exchanges that trade options (''Non-Stockholder Exchanges''). In its capacity as a DCO, OCC provides clearing services to four futures exchanges.

According to OCC, it has devoted substantial efforts during the past year to: (1) Develop a 5-year forward looking model of expenses; (2) quantify maximum recovery and wind-down costs under OCC's recovery and wind-down plan; (3) assess and quantify OCC's operational and business risks; (4) model projected capital accumulation taking into account varying assumptions concerning business conditions, fee levels, buffer margin levels and refunds; and (5) develop an effective mechanism that provides OCC access to replenishment capital in the event of losses. Incorporating the results of those efforts, the amendments to its By-Laws and other governing documents are intended to allow OCC to implement the Capital Plan and thereby provide OCC with the means to increase its shareholders' equity.

B. OCC's Projected Capital Requirement

As described in detail below, OCC will annually determine a target capital requirement consisting of (i) a baseline capital requirement equal to the greatest of (x) six months operating expenses for the following year, (y) the maximum cost of the recovery scenario from OCC's recovery and wind-down plan, and (z) the cost to OCC of winding down operations as set forth in the recovery and wind-down plan (''Baseline Capital Requirement''), plus (ii) a target capital buffer linked to plausible loss scenarios from operational risk, business risk and pension risk (''Target Capital Buffer'') (collectively, ''Target Capital Requirement''). OCC determined that for 2015, the appropriate Target Capital Requirement is $247 million, reflecting a Baseline Capital Requirement of $117 million, which is equal to six months of projected operating expenses, plus a Target Capital Buffer of $130 million. This Target Capital Buffer is designed to provide a significant capital cushion to offset potential business losses.

According to OCC, it had total shareholders' equity of approximately $25 million as of December 31, 2013.[6] OCC is adding additional capital of $222 million to meet its 2015 Target Capital Requirement. OCC determined that a viable plan for Replenishment Capital should provide for a replenishment capital amount that would give OCC access to additional capital as needed up to a maximum of the Baseline Capital Requirement (''Replenishment Capital Amount'').[7] Therefore, OCC's Capital Plan will include the following in order to provide OCC in 2015 with ready access to approximately $364 million in equity capital:

Baseline Capital Requirement	$117,000,000
Target Capital Buffer	130,000,000
Target Capital Requirement	247,000,000
Replenishment Capital Amount	117,000,000
Total OCC Capital Resources	364,000,000

C. Procedures Followed in Order To Determine Capital Requirement

According to OCC, various measures were used in determining the appropriate level of capital. An outside consultant conducted a ''bottom-up'' analysis of OCC's risks and quantified the appropriate amount of capital to be held against each risk. The analysis was comprehensive across risk types, including credit, market, pension, operational, and business risk. Based on internal operational risk scenarios and loss modeling at the 99% confidence level, OCC's operational risk was quantified at $226 million and pension risk at $21 million, resulting in the total Target Capital Requirement of $247 million. Business risk was addressed by taking into consideration OCC's ability to fully offset potential revenue volatility and manage business risk to zero by adjusting the levels at which fees and refunds are set and by adopting a Business Risk Buffer of 25% when setting fees. Other risks, such as counterparty risk and on-balance sheet credit and market risk, were considered to be immaterial for purposes of requiring additional capital based on means available to OCC to address those risks that did not require use of OCC's capital. As discussed in more detail below in the context of OCC's Fee Policy, the Business Risk Buffer of 25% can be achieved by setting OCC's fees at a level intended to achieve target annual revenue that will result in a 25% buffer for the year after paying all operating expenses.

Additionally, OCC determined that its maximum recovery costs will be $100 million and projected wind-down costs would be $73 million. OCC projected its expenses for 2015 will be $234 million, so that six months projected expenses are $234 million/2 = $117 million. The greater of recovery or wind-down costs, and six months of operating expenses is $117 million, and thus serves as OCC's Baseline Capital Requirement. According to OCC, it then computed the appropriate amount of a Target Capital Buffer from operational risk, business risk, and pension risk, resulting in a

[5] The Stockholder Exchanges are: Chicago Board Options Exchange, Incorporated; International Securities Exchange, LLC; NASDAQ OMX PHLX LLC; NYSE MKT LLC; and NYSE Arca, Inc.

[6] *See* OCC 2013 Annual Report, Financial Statements, Statements of Financial Condition, available on OCC's Web site, *http://optionsclearing.com/components/docs/about/annual-reports/occ_2013_annual_report.pdf.*

[7] The obligation to provide Replenishment Capital will be capped at $200 million, which OCC projects will sufficiently account for increases in its capital requirements for the foreseeable future.

determination that the current Target Capital Buffer should be $130 million. Thus, the Target Capital Requirement will be $117 million + $130 million = $247 million.

D. Overview of, and Basis for, OCC's Proposal To Acquire Additional Equity Capital

According to OCC, in order to meet its Target Capital Requirement, and after consideration of alternatives, OCC's Board of Directors approved a proposal [8] from OCC's Stockholder Exchanges pursuant to which OCC would meet its Target Capital Requirement of $247 million in early 2015 as follows:

Shareholders' Equity as of 1/1/2014	$ 25,000,000
Shareholders Equity Accumulated Through Retained Earnings [9]	72,000,000
Additional Contribution from Stockholder Exchanges	150,000,000
Target Capital Requirement	247,000,000
Replenishment Capital Amount	117,000,000
Total OCC Capital Resources	364,000,000

The additional contribution by the Stockholder Exchanges will be made in respect of their Class B Common Stock on a *pro rata* basis.[10] The Stockholder Exchanges also have committed to provide additional equity capital up to the Replenishment Capital Amount, which is currently $117 million, in the event Replenishment Capital is needed. While the Replenishment Capital Amount will increase as the Baseline Capital Requirement increases, it will be capped at a total of $200 million that could be outstanding at any point in time. OCC estimates that the Baseline Capital Requirement will not exceed $200 million before 2022. If the limit is approached, OCC will revise the Capital Plan as needed to address future needs. In consideration for their capital contributions and replenishment commitments, the Stockholder Exchanges will receive dividends as described in the Dividend Policy discussed below for so long as they remain Stockholders and maintain their contributed capital and commitment to replenish capital up to the Replenishment Capital Amount, subject to the previously mentioned $200 million cap.

E. Fee, Refund, and Dividend Policies

Upon reaching the Target Capital Requirement, the Capital Plan and the proposed Fee Policy will require OCC to set its fees at a level that utilizes a Business Risk Buffer of 25%. The purpose of this Business Risk Buffer is to ensure that OCC accumulates sufficient capital to cover unexpected fluctuations in operating expenses, business capital needs, and regulatory capital requirements. Furthermore, the Capital Plan requires OCC to maintain Fee, Refund, and Dividend Policies, described in more detail below, which are designed to ensure that OCC's shareholders' equity remains well above the Baseline Capital Requirement.

The required Business Risk Buffer target net income margin of 25% is below OCC's 10-year historical pre-refund average buffer of 31%. The target will remain 25% so long as OCC's shareholders' equity remains above the Target Capital Requirement amount. According to OCC, the projected reduction in net income margin from OCC's actual historical 10-year average of 31% to the new target of 25% reflects OCC's commitment to continue to operate as an industry utility and ensuring that market participants benefit from OCC's operational efficiencies in the future. This reduction will permit OCC to charge lower fees to market participants rather than maximize refunds to clearing members and dividend distributions to Stockholder Exchanges. According to OCC, it will review its fee schedule on a quarterly basis to manage revenue as closely to this target as possible. For example, if the Business Risk Buffer is materially above 25% after the first quarter of a particular year, OCC may decrease fees for the remainder of the year, and conversely if the Business Risk Buffer realized in practice is materially below 25% after the first quarter, OCC may increase fees for the remainder of the year.[11]

The Capital Plan will allow OCC to refund approximately $40 million from 2014 fees to clearing members in 2015 and to reduce fees in an amount to be determined by OCC's Board of Directors, effective in the second quarter of 2015. OCC will endeavor to provide clearing members with no less than 60-day notice in advance of when the changes to fee levels will become effective, particularly those that result in increases to fee levels. No dividends will be declared until December 2015, and no dividends will be paid until 2016.

Changes to the Fee, Refund, or Dividend Policies will require the affirmative vote of two-thirds of the directors then in office and approval of the shareholders of all of OCC's outstanding Class B Common Stock.[12] The formulas for determining the amount of refunds and dividends under the Refund and Dividend Policies, respectively, which are described in more detail below, assume that refunds are tax-deductible but dividends are not. The Refund and Dividend Policies each will provide that in the event that refunds payable under the Refund Policy are not tax deductible, the policies will be amended to restore the relative economic benefits between the recipients of the refunds and the Stockholder Exchanges.

1. Fee Policy

Under the Fee Policy, in setting fees each year, OCC will calculate an annual revenue target based on a forward twelve months expense forecast divided by the difference between one and the Business Risk Buffer of 25% (*i.e.,* OCC will divide the expense forecast by .75). Establishing a Business Risk Buffer at 25% will allow OCC to set fees, and to manage the risk that such fees may generate less revenue than expected due to lower-than-expected trading volume or other factors, or that expenses may be higher than projected. The Fee Policy also will include provisions from

[8] On December 18, 2014, OCC's Board of Directors voted to approve OCC's Capital Plan. At the time of the vote, OCC's Board of Directors was comprised of 18 directors—five Stockholder Exchanges, three public directors, one management director, and nine clearing member directors.

[9] According to OCC, ''the $72 million is after giving effect to the approximately $40 million refund'' expected to be made in early 2015 for activities in 2014. Securities Exchange Act Release No. 74136 (January 26, 2015), 80 FR 5171 (January 30, 2015) (SR–OCC–2015–02).

[10] The pro rata basis is based on the Stockholder Exchanges' interest in OCC. Currently, each Stockholder Exchange owns 20% of OCC.

[11] If OCC's fee schedule needs to be changed in order to achieve the 25% Business Risk Buffer, OCC will file a proposed rule change seeking approval of the revised fee schedule.

[12] Each Stockholder Exchange owns the same amount of Class A common stock and Class B common stock. Class B common stock is entitled to receive dividends, whereas Class A common stock is not. Class A common stock is entitled to vote for Member Directors, whereas Class B common stock is entitled to vote for the Management Director and Public Directors. Upon the liquidation of OCC, the assets available for distribution to shareholders will be distributed as follows: Holders of Class A common stock and Class B common stock will be first paid the par value of their shares. Next, each holder of Class B common stock will receive a distribution of $1 million. Next, an amount equal to OCC's shareholders' equity at December 31, 1998 of $22,902,094, minus the distributions described above, will be distributed to those holders who acquired their Class B common stock before December 31, 1998. Finally, any remaining shareholders' equity will be distributed equally to all holders of Class B common stock. For more information, *see* OCC's 2014 financial statements available at *http://www.theocc.com/components/docs/about/annual-reports/occ_2014_annual_report.pdf.*

existing Article IX, Section 9 of the By-Laws, which provide that the fee schedule also may include additional amounts necessary to (i) maintain such reserves as are deemed reasonably necessary by OCC's Board of Directors to provide facilities for the conduct of OCC's business and to conduct development and capital planning activities in connection with OCC's services to the options exchanges, clearing members, and the general public, and (ii) accumulate such additional surplus as the Board may deem advisable to permit OCC to meet its obligations to clearing members and the general public.

However, OCC states that these provisions will be invoked only in extraordinary circumstances and to the extent that the Board of Directors has determined that the required amount of such additional reserves or additional surplus will exceed the full amount that is expected to be accumulated through the Business Risk Buffer (prior to payment of refunds or dividends) so OCC's fees ordinarily will be based on its projected expenses and the Business Risk Buffer of 25%.

Under the Capital Plan, OCC will use the following formula to calculate its annual revenue target as follows: Annual Revenue Target = Forward 12 Months Expense Forecast/(1–.25). Because OCC's clearing fee schedules typically reflect different rates for different categories of transactions, fee projections will include projections as to relative volume in each such category. The clearing fee schedule therefore will be set to achieve a blended or average rate per contract that is projected to be sufficient, when multiplied by total projected contract volume, to achieve the Annual Revenue Target. Under extraordinary circumstances, OCC will add any amount determined to be necessary for additional reserves or surplus and divide the resulting number by the projected contract volume to determine the applicable average fee per cleared contract needed to achieve the additional amounts required. OCC will notify clearing members of the fees OCC determines it will apply for any particular period by describing the change in an information memorandum distributed to all clearing members and will file any change to its fee schedule with the Commission pursuant to its obligations under Section 19(b)(1) of the Act.[13]

2. Refund Policy

Under the Refund Policy, except at a time when Replenishment Capital is outstanding as described below, OCC will declare a refund to clearing members in December of each year, beginning in 2015, in an amount equal to 50% of the excess, if any, of (i) the pre-tax income for the year in which the refund is declared over (ii) the sum of (x) the amount of pre-tax income after the refund necessary to produce after-tax income for such year sufficient to maintain shareholders' equity at the Target Capital Requirement for the following year plus (y) the amount of pre-tax income after the refund necessary to fund any additional reserves or additional surplus not already included in the Target Capital Requirement. Such refund will be paid in the year following the declaration after the issuance of OCC's audited financial statements, provided that (i) the payment does not result in total shareholders' equity falling below the Target Capital Requirement, and (ii) such payment is otherwise permitted by applicable Delaware law and federal laws and regulations. OCC will not be able to pay a refund on a particular date unless dividends are paid on the same date.

If Replenishment Capital has been contributed and remains outstanding, OCC will not pay refunds until such time as the Target Capital Requirement is restored through the accumulation of retained earnings. Refunds in accordance with the Refund Policy will resume once the Target Capital Requirement is restored and all Replenishment Capital is repaid in full, provided that the restoration of the Target Capital Requirement and the repayment of Replenishment Capital occurred within 24 months of the issuance date of the Replenishment Capital. If any Replenishment Capital has not been repaid in full or shareholders' equity has not been restored to the Target Capital Requirement within 24 months, OCC will no longer pay refunds to clearing members, even if the Target Capital Requirement is restored and all Replenishment Capital is repaid at a later date.

3. Dividend Policy

The Dividend Policy provides that, except at a time when Replenishment Capital is outstanding as described below, OCC will declare a dividend on its Class B Common Stock in December of each year in an aggregate amount equal to the excess, if any, of (i) after-tax income for the year, after application of the Refund Policy (unless the Refund Policy has been eliminated, in which case the refunds shall be deemed to be $0) over (ii) the sum of (A) the amount required to be retained in order to maintain total shareholders' equity at the Target Capital Requirement for the following year, plus (B) the amount of any additional reserves or additional surplus not already included in the Target Capital Requirement. Such dividend will be paid in the year following the declaration after the issuance of OCC's audited financial statements, provided that (i) the payment does not result in total shareholders' equity falling below the Target Capital Requirement, and (ii) such payment is otherwise permitted by applicable Delaware law and federal laws and regulations. If Replenishment Capital has been contributed and remains outstanding, OCC will not pay dividends until such time as the Target Capital Requirement is restored.

F. Replenishment Capital Plan

OCC also is establishing a Replenishment Capital Plan whereby OCC's Stockholder Exchanges are obligated to provide on a *pro rata* basis[14] a committed amount of Replenishment Capital should OCC's total shareholders' equity fall below the ''hard trigger,'' described below. The aggregate committed amount for all five Stockholder Exchanges in the form of Replenishment Capital that could be accessed at any time will be capped at the excess of (i) the lesser of (A) the Baseline Capital Requirement, which is currently $117 million, at the time of the relevant funding or (B) $200 million, over (ii) amounts of outstanding Replenishment Capital (''Cap Formula''). The $200 million figure in the Cap Formula accounts for projected growth in the Baseline Capital Requirement for the foreseeable future.

The commitment to provide Replenishment Capital will not be limited by time, but rather only by the Cap Formula. Replenishment Capital will be called in whole or in part after the occurrence of a ''hard trigger'' event described below. If the Baseline Capital

[13] The Commission notes that future changes to OCC's fee schedule as well as future changes to the Fee Policy, Refund Policy, and Dividend Policy, are subject to Section 19(b)(1) of the Act and Section 806(e) of the Payment, Clearing, and Settlement Supervision Act, as applicable, both of which require OCC to submit appropriate regulatory filings with the Commission provide an opportunity for public comment, and require the Commission to review and ultimately disapprove, object to, or require modification or rescission, as applicable, if the changes do not meet regulatory requirements. *See* 15 U.S.C. 78s(b)(1); 12 U.S.C. 805(e); 17 CFR 240.19b–4(n).

[14] The pro rata basis is based on the Stockholder Exchanges' interest in OCC. Currently, each Stockholder Exchange owns 20% of OCC.

Requirement approaches or exceeds $200 million, OCC's Board of Directors may consider, as part of its regular, periodic review of the Replenishment Capital Plan, alternative arrangements to obtain replenishment capital in excess of the $200 million committed under the Replenishment Capital Plan. In addition, the Refund Policy and the Dividend Policy provide that, in the absence of obtaining any such alternative arrangements, the amount of the difference will be subtracted from amounts that would otherwise be available for the payment of refunds and dividends. Replenishment Capital contributed to OCC under the Replenishment Capital Plan will take the form of a new class of common stock (''Class C Common Stock'') of OCC to be issued to the Stockholder Exchanges solely in exchange for Replenishment Capital contributions.

The Replenishment Capital Plan is a component of OCC's overall Capital Plan. In implementing the Replenishment Capital Plan, OCC's management will monitor OCC's levels of shareholders' equity to identify certain triggers, or reduced capital levels, that might require action. OCC has identified two key triggers—a ''soft trigger'' and a ''hard trigger''—and proposes that OCC will take certain steps upon the occurrence of either.

The ''soft trigger'' for re-evaluating OCC's capital will occur if OCC's shareholders' equity falls below the sum of (i) the Baseline Capital Requirement and (ii) 75% of the Target Capital Buffer. The soft trigger will be a warning sign that OCC's capital has fallen to a level that requires attention and responsive action to prevent it from falling to unacceptable levels. Upon a breach of the soft trigger, OCC's senior management and OCC's Board of Directors will review alternatives to increasing capital, and take appropriate action as necessary, including increasing fees or decreasing expenses, to restore shareholders' equity to the Target Capital Requirement.

The ''hard trigger'' for making a mandatory Replenishment Capital call will occur if shareholders' equity falls below 125% of the Baseline Capital Requirement (''Hard Trigger Threshold''). OCC considers that a breach of the Hard Trigger Threshold is a sign that significant corrective action, with a more immediate impact than increasing fees or decreasing expenses, should be taken to increase OCC's capital, either as part of a recovery plan or a wind down plan for OCC's business. Based on current numbers, OCC's shareholders' equity will have to fall more than $100 million below the fully funded capital amount described above in order to breach the Hard Trigger Threshold. As a result, OCC views the breach of the Hard Trigger Threshold as unlikely and occurring only as a result of a significant, unexpected event. In the event of such breach, OCC's Board of Directors must determine whether to attempt a recovery, a wind-down of OCC's operations, or a sale or similar transaction, subject in each case to any necessary Stockholder consent. If the Board of Directors decides to wind-down OCC's operations, OCC will access the Replenishment Capital in an amount sufficient to fund the wind-down, as determined by the Board of Directors, and subject to the Cap Formula. If the Board of Directors decides to attempt a recovery of OCC's capital and business, OCC will access the Replenishment Capital in an amount sufficient to return shareholders' equity to an amount equal to $20 million above the Hard Trigger Threshold subject to the Cap Formula described above.

While Replenishment Capital is outstanding, no refunds or dividends will be paid and, if any Replenishment Capital remains outstanding for more than 24 months or the Target Capital Requirement is not restored during that period, changes to how OCC calculates refunds and dividends may be necessary (as described in more detail above in OCC's Refund Policy and Dividend Policy). In addition, while Replenishment Capital is outstanding, OCC first will utilize the entire amount of available funds to repurchase, on a *pro rata* basis from each Stockholder Exchange, to the extent permitted by applicable Delaware and federal law and regulations, outstanding shares of Class C Common Stock as soon as practicable after completion of the financial statements following the end of each calendar quarter at a price equal to the original amount paid for such shares, plus an additional ''gross up'' amount to compensate the Stockholder Exchanges for taxes on dividend income (if any) that they may have to recognize as a result of such repurchase.[15] For this purpose, ''Available Funds'' will equal, as of the end of any calendar quarter, the excess, if any, of (x) shareholders' equity over (y) the Minimum Replenishment Level. The ''Minimum Replenishment Level'' will mean $20 million above the Hard Trigger Threshold, so that OCC's shareholders' equity will remain at or above the Minimum Replenishment Level after giving effect to the repurchase. Furthermore, under the Dividend and Refund Policies, refunds and dividends will be suspended until such time as the Target Capital Requirement is restored.

G. Amendments to Governing Documents

In order to implement the Capital Plan, OCC is amending its By-Laws and Restated Certificate of Incorporation and amending and restating its Stockholders Agreement.

1. Amendments to By-Laws

OCC is amending its By-Laws in order to implement the Capital Plan. Specifically, OCC is amending the definition of Equity Exchange in Article I, Section 1 to take into account the potential ownership of Class C Common Stock by the Stockholder Exchanges.

Article II, Section 3 is being amended to change the definition of quorum such that a majority of outstanding common stock entitled to vote at a meeting of Stockholders either in person or by proxy will constitute a quorum for any such meeting of the Stockholders. In addition, OCC is amending Article II, Section 5 to allow for the potential issuance of Class C Common Stock, which will not have voting rights except as required by applicable law.

Article VIIA, Section 2, is being amended to (i) provide for the potential issuance of Class C Common Stock in consideration for Replenishment Capital provided by Stockholder Exchanges, (ii) permit, consistent with the amendments to the Stockholders Agreement, the transfer of shares of common stock to another Stockholder, and (iii) reflect the right of other Stockholders, consistent with the amendments to the Stockholders Agreement, to purchase the shares of common stock of another Stockholder. Article VIIA, Section 3, is amended to conform to the changes to Article VIIA, Section 2.

OCC is amending Article VIII, Section 5(d), to require that a Board decision to utilize OCC's retained earnings to compensate for a loss or deficiency to the Clearing Fund will require unanimous consent from the holders of Class A Common Stock and Class B Common Stock.[16] This amendment is intended to protect Stockholder Exchanges from an action taken without their consent that could increase their likelihood of being required to provide Replenishment Capital. Similarly, Article XI, Section 1 is amended to account for the possible issuance of the

[15] According to OCC, based on current federal tax rates, if the full amount of the payment is classified as a dividend and the recipient is entitled to a dividends received deduction, this gross up is estimated to be approximately 12% of the payment.

[16] *See supra* note 12.

non-voting Class C Common Stock consistent with the Restated Certificate of Incorporation as discussed below, and to require unanimous Stockholder approval for any future amendments to the new provision of Article VIII, Section 5(d) described above.

Article IX, Section 9, is being amended in three ways. First, the concept of the Business Risk Buffer will be incorporated into Article IX, Section 9(a). Second, Article IX, Section 9, is amended to provide that OCC only will add amounts for reserves and surpluses in addition to the Business Risk Buffer in extraordinary circumstances and only to the extent that the Board of Directors has determined that the required amount of additional reserves and surplus is expected to exceed the full amount that is anticipated to be accumulated through the Business Risk Buffer prior to payment of refunds and dividends. Third, Article IX, Section 9, is being amended to expressly reference the potential payment of dividends in accordance with the Dividend Policy.

2. Amendments to Restated Certificate of Incorporation

OCC is amending its Restated Certificate of Incorporation in order to implement the Capital Plan. Article IV is amended in multiple locations to (i) reduce the number of authorized shares of Class A Common Stock and Class B Common Stock to the number of shares currently outstanding, and the number of series of Class B Common Stock, to reflect the fact that there are only five Stockholder Exchanges, (ii) eliminate a provision under which additional shares of Class A Common Stock and Class B Common Stock could be authorized in certain circumstances without a separate vote of each series of Class B Common Stock, (iii) create Class C Common Stock as non-voting stock, (iv) set a par value for Class C Common Stock of $1,000 per share, (v) provide for distribution upon a liquidation or dissolution of OCC to holders of Class A, Class B, and Class C Common Stock, *pro rata* on a *pari passu* basis, the amount of the par value of their shares, and (vi) remove restrictions on the transfer of shares of Class B Common Stock to more than one entity in order to address the possible exercise by another Stockholder of its right of first refusal under the Amended and Restated Stockholders Agreement. Additionally, Article IV is amended to make clear that the prohibition on OCC's creating or issuing rights or options to purchase OCC stock set forth in Article IV will not restrict the ability of OCC to enter into the Replenishment Capital Plan. Finally, technical changes will be made to Article VI in connection with the creation of Class C Common Stock as non-voting stock.

3. Amendments to Stockholders Agreement

OCC is amending its Stockholders Agreement to make technical changes relating to the additional contributions of capital to be made by the Stockholder Exchanges under the Capital Plan and the potential issuance of Class C Common Shares. In part, the amendments to the Stockholders Agreement will provide Stockholders with a secondary right of refusal to be exercised if a Stockholder wished to sell its shares and OCC chose not to exercise its existing right of first refusal to purchase those shares. OCC considers this change necessary because after the additional contributions of capital by the Stockholder Exchanges under the Capital Plan, shares of Class B Common Stock will be significantly more valuable, making it less likely that OCC will be able to exercise its right of first refusal. OCC believes that providing the non-selling Stockholder Exchanges with a secondary right of first refusal will increase the chances that a selling Stockholder Exchange will find a purchaser for its shares from among OCC's existing owners. Because OCC's Stockholders Agreement already has been amended several other times, for convenience OCC is proposing to amend and restate the Stockholders Agreement to incorporate all previous amendments and the new amendments into a single comprehensive agreement.

Each of the amendments to the Stockholders Agreement is described below, in the order they appear in the agreement. OCC is making a technical amendment to Section 1 of the Stockholders Agreement to refer to the definitions of Class A Common Stock, Class B Common Stock, and Class C Common Stock in the Restated Certificate of Incorporation and By-Laws. OCC is amending Section 3 to delete an obsolete reference to a plan relating to OCC's original reorganization into a common clearing facility for all options exchanges.

OCC is amending Section 5(a) to add a reference to the procedures for Stockholder Exchanges to acquire shares pursuant to their secondary rights of first refusal in certain situations that will be set out in amended Section 10(e). OCC is amending Section 5(b) providing that the Stockholder Exchanges may not sell or transfer less than all of their shares without the consent of OCC. OCC seeks to prevent a partial sale by a Stockholder Exchange of a portion of its shares of Class A Common Stock, Class B Common Stock, or Class C Common Stock to avoid difficulties that could arise for OCC if, as a result of a partial sale, voting rights, dividend rights, and replenishment capital were spread across Stockholder Exchanges on a non *pro rata* basis. Section 5(b) will further clarify that if OCC consented to a partial sale, the Stockholder Exchanges' rights of first refusal still will apply, and that a Stockholder Exchange could sell shares of Class C Common Stock to OCC without selling its shares of Class A Common Stock and Class B Common Stock.

OCC is amending Section 6(a) to provide Stockholders, upon the non-exercise of OCC's right of first refusal, a secondary right of first refusal to purchase shares of other Stockholders in certain circumstances discussed above, and to establish procedures governing the exercise of this right. Section 6(b) is amended to explicitly state that OCC can assign its rights under the Stockholders Agreement to purchase shares of a Stockholder Exchange in the event of such Stockholder Exchange's bankruptcy or insolvency, and to create an exception from the right of first refusal for transfers to certain affiliates of a Stockholder that meet the exchange eligibility requirements set forth in the By-Laws. Section 6(c) is amended to make any transfer or encumbrance of shares in violation of the Stockholders Agreement, either voluntarily or by operation of law, void. Section 6(d) is amended to explicitly state that OCC can assign its rights under the Stockholders Agreement to repurchase shares of any Stockholder that ceases to be qualified to participate in OCC pursuant to the By-Laws. The revised Section 6(c) takes the place of current Section 6(e), which is deleted. Section 6(e) currently provides that such a pledge or transfer will automatically be deemed to create a transfer of the shares to OCC.

OCC is making conforming amendments to Section 6(f), Section 6(g), Section 7, and Section 8 to provide for the new Stockholder Exchange right of first refusal. OCC is deleting Section 9 to remove the right of Stockholders to require OCC to purchase their shares of stock.

OCC is amending Section 10(a) of the Stockholders Agreement to provide that the purchase price paid upon exercise of purchase rights by OCC or the Stockholder Exchanges will be equal to the lowest of (i) the book value of the shares to be purchased, (ii) the total capital contribution of the selling Stockholder and (iii) in the case of exercise of a right of first refusal, the

price originally offered for such shares. OCC is making other technical amendments to Sections 10(a), 10(b) and 10(c) of the Stockholders Agreement concerning the purchase price formula, procedures, and timing for OCC's repurchase rights of shares (or, if applicable, the purchase of a Stockholder's shares by another Stockholder) pursuant to the terms of the Stockholders Agreement. Section 10(d) is amended such that any consideration to be paid by OCC upon the exercise of a right of first refusal will be subordinated to all other claims of all other creditors of OCC, and to prohibit OCC from declaring or paying any dividends, acquiring for value any shares of stock or distributing assets to any Stockholder Exchange, except with regard to required purchases or redemptions of shares of Class C Common Stock or payments of dividends in accordance with the Dividend Policy. OCC is amending current Section 10(e) by moving its provisions addressing the subordination of payments by OCC and non-payment of dividends under certain circumstances into Section 10(d) as discussed above. OCC proposes technical amendments to current Section 10(g) concerning the process under which OCC would acquire shares upon exercise of its right of first refusal and will redesignate Section 10(g) as Section 10(e). OCC also is moving technical provisions of the current Section 10(f) concerning the payment of such shares into Section 10(e). Section 10(f) will then be amended to address procedures for Stockholders that exercise their right of first refusal.

Section 11 of the Stockholders Agreement is being amended in order to make a Stockholder's right to transfer shares dependent upon the non-exercise of OCC's and other Stockholders' right of first refusal to the purchase of such Stockholder's shares. Additionally, Section 11 will be amended to provide that the transfer of a Stockholder's shares under that section will not be effective without the transferee's assuming the rights and obligations under the Stockholders Agreement, certain joinders to the Stockholders Agreement and other agreements between OCC and Stockholders.

Section 14(a) is being amended to make reference to the Stockholders Agreement. Section 14(b) will be amended to make a technical change relating to the legend on OCC's stock certificates. OCC is amending Section 15 to update the mailing addresses of the Stockholder Exchanges for written notices and formal communications. Section 16(c) is being amended to clarify that a Stockholder Exchange will be able to assign its rights under the Stockholders Agreement only to a party to whom it will be permitted to transfer its shares.

In addition, Section 16(c) is being amended to provide that OCC may only assign its repurchase rights under Section 6(b) or Section 6(d) of the Stockholders Agreement. OCC will be able to assign such rights with respect to all or a portion of the shares of stock owned by a Stockholder Exchange, and will be required to provide the non-selling Stockholder Exchanges with a right of first refusal in connection with any such contemplated assignment comparable to the secondary right of first refusal applicable with respect to a voluntary sale by a Stockholder Exchange and described above. Sections 16(f) and 16(g) is being amended to effectuate the amendment and restatement of the existing Stockholders Agreement.

II. Summary of Comment Letters

The Commission received seventeen comment letters in total.[17] Thirteen comment letters were received from seven commenters on OCC's proposal.[18] OCC submitted four letters responding to the issues raised by the commenters.[19] Four of the commenters generally supported OCC's need to raise additional capital[20] though all seven commenters opposed how the Capital Plan proposed to raise the additional capital.[21]

Four of the commenters set forth arguments that the OCC proposal is inconsistent with Section 17A(b)(3)(I) of the Act because it imposes a burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act.[22] These commenters stated that the OCC proposal places the Stockholder Exchanges at a competitive advantage because they would be able to use dividend payments to offset operating costs, which would enable them to provide trading and execution services at lower prices than their non-Stockholder counterparts.[23] One commenter highlighted that, of the seven non-Stockholder Exchanges, only MIAX, BATS, and BOX are not affiliates of the Stockholder Exchanges.[24] Further, the same commenter offered that, should the subsidized fees be reduced to a level that could not be sustained by non-affiliated exchanges, the ability of such non-affiliated exchanges to provide services to investors and the public could be affected.[25] Additionally, two of the commenters stated that the extent of this competitive advantage was unknown, because the dollar amounts associated with dividend payments were redacted from the publicly-available filing.[26] One commenter argued that the Stockholder Exchanges would be able to subsidize the costs they provide to their members through an excessive rate of return (estimated at 16% to 18% or more).[27] This commenter noted that this rate is far above market rates, especially considering the commenter's view that the risk associated with the investment is low.[28] The commenter further argued that dividends are unlikely to be changed or discontinued because to do so would require the unanimous vote of the Stockholder Exchanges.[29]

In response, OCC expressly stated that the proposal would not impose any burden on competition.[30] OCC further stated that the dividend payments—if any are declared—should not be viewed simply as additional revenue for subsidizing the costs of services provided, but as fair compensation to the Stockholder Exchanges for their substantial capital contributions, limited ''upside'' and future risks under the Capital Plan.[31] OCC also stated that the Stockholder Exchanges are receiving only what the Board of Directors—with the assistance of financial advisors and in the exercise of its business judgment—considered to be fair and in the best interests of OCC, in light of the nature of the Stockholder Exchanges' capital investments and the risks inherent in their funded and unfunded capital commitments.[32] Additionally, OCC noted that its proposal sufficiently describe the considerations that went into setting the specific terms of the Capital Plan, including the Fee, Refund, and Dividend Policies.[33]

One commenter raised the issue that the OCC proposal is inconsistent with Section 17A(b)(3)(D) of the Act because the fees and charges under the proposal

[17] *See supra* note 4.

[18] *Id.*

[19] *Id.*

[20] *See* BOX Letter I; SIFMA Letter; MM Letter; and KCG Letter I.

[21] *See* BOX Letter I; SIFMA Letter; BATS Letter I and II; MM Letter; MIAX Letter I and II; KCG Letter I and II; and SIG Letters I and II.

[22] *See* BATS Letter I and II; BOX Letter I; MIAX Letter I and II; and MM Letter.

[23] *Id.*

[24] *See* MIAX Letter II.

[25] *Id.*

[26] *See* BATS Letter I and MIAX Letter I.

[27] *See* BATS Letter II.

[28] *Id.*

[29] *Id.*

[30] *See* OCC Letter I and IV.

[31] *Id.*

[32] *Id.*

[33] *See* OCC Letter I.

are neither equitable nor reasonable.[34] The commenter expressed concern that: (i) The Dividend Policy creates a conflict of interest for the Stockholder Exchanges that could influence future fees; [35] and (ii) OCC should not increase its budget ''without the ability of market participants, who ultimately finance OCC through transaction fees, to be assured that OCC (as the only clearing agency for U.S. listed options) continues to operate with the public marketplace foremost in mind.'' [36]

In response, OCC noted that any changes to its fee schedule require a rule filing with the Commission, subject to the applicable standards of the Act.[37] Further, OCC noted that change to the Refund, Dividend, and Fee Policies are all subject to Commission review and approval, and this process affords clearing members the opportunity to object to any changes in those policies.[38] Additionally, the annual budget is established by vote of a simple majority, which requires broad support of public and/or clearing member directors.[39]

Four commenters took issue with OCC's request for accelerated effectiveness.[40] One reason these commenters argued this request should be denied is because the Commission's proposed Regulation 17Ad–22(e)(15) is still under consideration and has yet to be adopted.[41] One letter stated that OCC already has the capital on hand to comply with the proposed regulation, so there is no urgency as portrayed in the OCC proposal and in OCC's responses to prior comments.[42] Further, the Capital Plan, they argue, presents several important policy issues that require additional time for debate and further details.[43] On March 2, 2015, OCC responded that this point was moot because an approval no longer requires acceleration given that the minimum period of 30 days from the date of the filing without acceleration has passed.[44]

Six commenters expressed concern that the Capital Plan converts OCC from a so-called traditional industry utility model to a for-profit model that maximizes returns for the Stockholder Exchanges.[45] Under this model, OCC set transaction fees to cover its operational costs plus some reasonable excess for unforeseen expenses or drops in revenue, and refunded the excess back to its members through rebates.[46] Under the proposal, refunds to members and their customers will be limited to 50% of the excess fees, with the remainder of after-tax income being designated as dividend payments for the Stockholder Exchanges.[47] In calculating the excess fees available for a refund, the proposal further reduces the amount available by deducting amounts needed to fund increases in OCC's capital requirements.[48] The commenters asserted that the approach thus abandons the industry utility model in favor of a profit-maximizing structure that prioritizes dividends and enhances the future returns of the Stockholder Exchanges at the expense of members and participants.[49]

In its response, OCC disagreed and contended that the proposal is consistent with the industry utility model because it effectively refunds 100% of the excess funds not paid to fund capital requirements or replenishment commitments of the Stockholder Exchanges.[50] Additionally, OCC asserted that it is a mischaracterization to describe the proposal as a departure from the industry utility model because the proposal allows for the Board of Directors to make adjustments to fees based on expenses, volumes, and revenues if projections for the remainder of the calendar year show that either: (i) Fee levels will be higher than projected or (ii) operating expenses are lower than budgeted, thereby allowing market participants to take advantage of lower fees.[51]

Six commenters stated that the OCC proposal failed to adequately discuss the viability of alternative means of raising capital,[52] such as raising capital from third-party investors, or from clearing members, which would offer non-equity owner exchanges the opportunity to become Stockholders so that they may also participate with respect to dividends.[53] Two commenters specified that they were not invited to participate in the proposal process, nor were they aware of the proposal until it was filed with the Commission.[54] One commenter stated that it would have offered to provide equity capital to the OCC at a rate of return significantly less than what the existing Stockholder Exchanges would receive under the proposed plan.[55] Another commenter suggested a specific alternative known as a ''Payer-Asset'' account, whereby excess fee revenue would be escrowed to a payer asset account that would not be an asset of the Stockholder Exchanges, but rather would be property of the market participants.[56] Excess fees from the account would be returned to market participants through rebates, and, in the event of the dissolution of OCC, the account would be distributed to the investors as opposed to the Stockholder

[34] *See* MM Letter.

[35] ''If the SEC allows the five owners to monetize OCC in this fashion, the conflicts of interest will diminish the prospect that OCC will perform efficiently to keep transaction fees low and operating expense under control. [. . .] Given the potential of the dividend to increase with the size of OCC's budget, we are concerned where transaction fees may go in the future.'' MM Letter at 13.

[36] *See* MM Letter at 5.

[37] *See* OCC Letter II. The Commission notes that future changes to OCC's fee schedule as well as future changes to the Fee Policy, Refund Policy, and Dividend Policy, are subject to Section 19(b)(1) of the Act and Section 806(e) of the Payment, Clearing, and Settlement Supervision Act, as applicable, both of which require OCC to submit appropriate regulatory filings with the Commission provide an opportunity for public comment, and require the Commission to review and ultimately disapprove, object to, or require modification or rescission, as applicable, if the changes do not meet regulatory requirements. *See* 15 U.S.C. 78s(b)(1); 12 U.S.C. 805(e); 17 CFR 240.19b–4(n).

[38] *Id.*

[39] *Id.* Five of the current 20 director positions on OCC's Board of Directors are held by representatives of the five Stockholder Exchanges: Chicago Board Options Exchange, Inc.; International Securities Exchange, LLC; NASDAQ OMX PHLX LLC; NYSE MKT LLC; and NYSE Arca, Inc.

[40] *See* BATS Letter I; MIAX Letter I and II; KCG Letter I; and SIG Letter I.

[41] *See* BATS Letter I; MIAX Letter I and II; KCG Letter I; and SIG Letter I. As the Commission noted in the notice of filing of the proposed rule change, OCC stated that the purpose of this proposal is, in part, to facilitate compliance with proposed Commission rules and address Principle 15 of the PFMIs. The proposed Commission rules are pending. *See* Securities Exchange Act Release No. 71699 (March 12, 2014), 79 FR 29508 (May 22, 2014) (S7–03–14). Therefore, the Commission has evaluated this proposed rule change under the Act and the rules currently in force thereunder. *See* Securities Exchange Act Release No. 74136 (January 26, 2015), 80 FR 5171 (January 30, 2015) (SR–OCC–2015–02). *See also supra* note 3.

[42] *See* SIG Letter I. *See also supra* note 3.

[43] *See* MIAX Letter I and MM Letter. *See also supra* note 3.

[44] *See* OCC Letter IV. Pursuant to Section 19(b)(2)(C)(iii), the Commission may not approve a proposed rule change earlier than 30 days after the date of publication unless the Commission finds good cause for doing so and publishes the reason for the finding (referred to as ''accelerated'' approval). The Commission notes that the statutory time period for approval prior to the thirtieth day has passed. *See* 15 U.S.C. 78s(b)(2)(C)(iii).

[45] *See* SIFMA Letter; BATS Letter I; BOX Letter I; MM Letter; SIG Letter II; and KCG Letter I.

[46] *See* SIFMA Letter; BATS Letter I; MM Letter; and KCG Letter I.

[47] *See* SIFMA Letter and KCG Letter I.

[48] *Id.*

[49] *Id.;* BATS Letter I.

[50] *See* OCC Letter I.

[51] *See* OCC Letter II.

[52] *See* BATS Letter I and II; MIAX Letter I and II; MM Letter; SIFMA Letter; SIG Letter II; and KCG Letter I.

[53] *See* BATS Letter I and II; MIAX Letter I and II; MM Letter; SIFMA Letter; and KCG Letter I.

[54] *See* BATS Letter II and III; and BOX Letter II.

[55] *See* BATS Letter II.

[56] *See* MM Letter.

Exchanges.[57] Because of disputes regarding the process, one commenter suggested a 60-day hold on the approval, so that any party with a superior financial proposal may be given the opportunity to present such plan to OCC.[58]

OCC responded to these commenters by stating that the Board of Directors considered potential alternatives, engaging in a nearly year-long process in which it analyzed a wide range of alternative methods to increase capital before determining that the Capital Plan was the most viable and in the best interests of OCC.[59] OCC also stated that an escrow fund would not be an asset of OCC, and therefore may not constitute liquid net assets funded by equity.[60]

One commenter argued that the Replenishment Capital Plan is more of a loan than equity capital and that the Replenishment Capital Plan is structured such that the likelihood of it ever being called is very low.[61] That commenter also argued that the new reserve capital structure creates a conflict of interest in OCC's budget because it would unjustly enrich the five Stockholder Exchanges and create a conflict in the performance of their positions on OCC's Board of Directors.[62]

OCC countered the first contention by stating that the Replenishment Capital will be equity capital because: (i) It will be listed on the balance sheet as stockholders' equity; (ii) it will be funded in exchange for the issuance of Class C common stock; (iii) it will be treated as equity for tax purposes; and, most importantly, (iv) the holders of the Class C common stock will be subordinated to those creditors of OCC in the event of any bankruptcy or liquidation.[63] In addition, OCC stated that even though the Replenishment Capital is not intended to remain outstanding indefinitely, there is no legal requirement that it be repurchased and it is far from assured, given the circumstances under which it would be funded, that it ever would be repurchased.[64]

As to the assertion regarding conflicts, OCC responded that the proposal's terms require the ongoing participation and assent of the industry representatives on the Board of Directors.[65] Additionally, changes to each of the OCC Fee, Dividend, and Refund Policies all require an affirmative vote of two-thirds of the Board of Directors as well as the approval of each of the Stockholder Exchanges.[66] OCC further noted that in order to adopt an annual budget, there must be a majority vote of the Board of Directors, thus requiring support and approval from both public directors and member directors.[67]

Four commenters suggested that there were multiple governance issues involved with the Board of Directors' approval of the OCC proposal, including that OCC failed to follow its own By-Laws or internal policies.[68] For example, two commenters stated that, at the time of the vote, OCC only had three public directors instead of five as required by OCC By-Laws, and that the vacancies for these positions were not filled until after the vote on the Capital Plan.[69] Further, these same commenters took issue with whether the Capital Plan was approved by a ''majority,'' because of the nine clearing members, one did not attend, one abstained, four voted in favor, and three voted against.[70] These commenters argued that an abstention should be counted as a ''no'' vote, which would mean that a vote of the member directors was evenly split.[71] Two commenters contended that because this Capital Plan is a matter of competitive significance, OCC failed to follow its By-Laws as well as representations it made to the Commission in adopting those By-Laws, by not promptly informing non-Stockholder Exchanges of the Capital Plan.[72] These commenters raised the concern that had non-Stockholder Exchanges been promptly informed of this matter, they would have had a right by request to make presentations regarding the Capital Plan to the OCC Board of Directors or appropriate committee of the board.[73]

OCC responded that the proposed Capital Plan was properly approved in accordance with OCC's By-Laws.[74] Specifically, OCC articulated that its Capital Plan received the affirmative vote of two-thirds of the directors ''then in office,'' which is the relevant standard under OCC's By-Laws.[75]

Commenters further took issue with the vote approving the Capital Plan because interested directors generally recuse themselves from interested party transactions, and the five Stockholder Exchanges failed to recuse themselves from either the deliberations or the vote, despite having a significant economic interest in the outcome of the vote.[76] One commenter stated that the Stockholder Exchanges also should have recused themselves under OCC's own conflict of interest policy, and that their failure to do so should invalidate the vote approving the proposal.[77]

OCC responded that the approval of the Capital Plan did not require any of its directors to recuse themselves.[78] OCC cited to both its By-Laws and Delaware law to support its position. Specifically, OCC stated that under Delaware law, a decision is not improper simply because directors participating in the decision had an interest in the decision.[79] OCC noted that, in accordance with Delaware General Corporation Law, all material facts were disclosed and known to its Board of Directors prior to its good faith approval of the proposed Capital Plan.[80] OCC further stated that its Board of Directors satisfied OCC's By-Laws in approving the Capital Plan, namely the requirements set forth in Article XI, Section 1 of its By-Laws, which requires ''the affirmative vote of two-thirds majority of the directors then in office (and not less than a majority of the number of directors fixed by the By-Laws).''[81]

In addition, three commenters suggested that because the Capital Plan raises significant issues, at a minimum, it should not be subject to delegation to Commission staff for approval, and instead should be referred for full review and consideration by the Commissioners.[82]

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act[83] directs the Commission to approve a proposed rule change of a self-regulatory organization if the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules

[57] *Id.*
[58] *See* MIAX Letter II.
[59] *See* OCC Letter I.
[60] *See* OCC Letter II.
[61] *See* MM Letter.
[62] *Id.*
[63] *See* OCC Letter II.
[64] *Id.*
[65] *Id.*
[66] *Id.*
[67] *Id.*
[68] *See* MIAX Letter II; BATS Letter II and III; BOX Letter II; and SIG Letter I.
[69] *See* MIAX Letter II and BATS Letter II.
[70] *Id.*
[71] *Id.*
[72] *See* BATS Letter III and BOX Letter II.
[73] *Id.*
[74] *See* OCC Letter IV.
[75] *Id.*
[76] *See* MIAX Letter II; BATS Letter II; and SIG Letters I and II.
[77] *See* SIG Letter I.
[78] *See* OCC Letter IV.
[79] *See* OCC Letter IV (citing to Section 144, Delaware General Corporation Law).
[80] *Id.*
[81] *Id.*
[82] *See* BATS Letter II; KCG Letter II; and SIG Letter I.
[83] 15 U.S.C. 78s(b)(2)(C).

and regulations thereunder applicable to such organization.

After carefully considering OCC's proposal, the comments received, and OCC's responses thereto, the Commission finds that OCC's proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a registered clearing agency.[84] In particular, the Commission finds that the Capital Plan is consistent with the following provisions of the Act: (i) Section 17A(b)(3)(A);[85] (ii) Section 17A(b)(3)(F);[86] (iii) Section 17A(b)(3)(D);[87] and (iv) Section 17A(b)(3)(I),[88] as described below.

The Commission recognizes that commenters did not support the Capital Plan. The Commission, however, must approve a proposed rule change if it finds that the proposed rule change is consistent with the requirements of the Act and the applicable rules and regulations thereunder. Although the commenters raised a number of substantive points, the Commission was not persuaded that these concerns render OCC's Capital Plan inconsistent with the Act and the applicable rules and regulations thereunder.

In particular, the Commission finds that the Capital Plan is consistent with Section 17A(b)(3)(A) of the Act,[89] which requires, in part, that a registered clearing agency is so organized and has the capacity to be able to facilitate the prompt and accurate clearance and settlement of securities transactions, and to safeguard securities and funds in its custody and control, or for which it is responsible. OCC's proposed rule change is consistent with these requirements because the Capital Plan is designed to ensure that OCC can continue to promptly and accurately clear and settle securities transactions, and assure the safeguarding of securities and funds which are in the custody or control of OCC or for which it is responsible even if it suffers significant operational losses. The Capital Plan is designed to provide OCC with sufficient capital and an ability to replenish capital in the event such capital falls below certain levels, which in turn further positions OCC to remain sufficiently capitalized at all times.

The Commission also finds that the Capital Plan is consistent with Section 17A(b)(3)(F) of the Act,[90] which requires, in part, that the rules of a registered clearing agency are designed to promote the prompt and accurate clearance and settlement of securities transactions, and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible. OCC's Capital Plan is consistent with these requirements because OCC is amending its By-Laws and other governing documents to adopt certain policies for the purpose of implementing the Capital Plan, which, as described above, is designed to ensure that OCC can continue to promptly and accurately clear and settle securities transactions, and assure the safeguarding of securities and funds which are in the custody or control of OCC or for which it is responsible even if it suffers significant operational losses.

In addition, the Commission finds that the Capital Plan is consistent with Section 17A(b)(3)(D) of the Act,[91] which requires that the rules of a registered clearing agency provide for the equitable allocation of reasonable dues, fees, and other charges among its participants. One commenter contended that the Capital Plan is inconsistent with this provision.[92] This commenter's concerns were focused on possible future fees.[93] Specifically, the commenter expressed concern that: (i) The Dividend Policy creates a conflict of interest for the Stockholder Exchanges that could influence future fees;[94] and (ii) OCC should not increase its budget ''without the ability of market participants, who ultimately finance OCC through transaction fees, to be assured that OCC (as the only clearing agency for U.S. listed options) continues to operate with the public marketplace foremost in mind.''[95] Neither of these concerns about possible future fees convinces the Commission that the Capital Plan is inconsistent with providing for the equitable allocation of reasonable dues, fees, and other charges among its participants.[96]

Future changes to OCC's fee schedule as well as future changes to the Fee Policy, Refund Policy, and Dividend Policy, are subject to Section 19(b)(1) of the Act[97] and Section 806(e) of the Payment, Clearing, and Settlement Supervision Act,[98] as applicable, both of which require OCC to (i) submit appropriate regulatory filings with the Commission,[99] (ii) provide an opportunity for public comment,[100] and (iii) require the Commission to review and ultimately disapprove,[101] object to,[102] or require modification or rescission,[103] as applicable, if these future proposed changes do not meet regulatory requirements. OCC recognizes this.[104]

Moreover, the Capital Plan is consistent with providing for the equitable allocation of reasonable dues, fees, and other charges among its participants in the following ways. The Fee Policy provides for the Business Risk Buffer, which is designed to ensure that fees will be sufficient to cover projected operating expenses. The Refund Policy and Dividend Policy both allow for refunds of fees or payment of dividends, respectively, only to the extent that the distribution of which would allow OCC to maintain shareholders' equity at the Target

[84] As the Commission noted in the notice of filing of the proposed rule change, OCC stated that the purpose of this proposal is, in part, to facilitate compliance with proposed Commission rules and address Principle 15 of the PFMIs. The proposed Commission rules are pending. *See* Securities Exchange Act Release No. 71699 (March 12, 2014), 79 FR 29508 (May 22, 2014) (S7–03–14). As such, the possibility of future Commission rulemaking is immaterial to both OCC's justification for the Capital Plan and to our analysis. Therefore, the Commission has evaluated this proposed rule change under the Act and the rules currently in force thereunder. *See* Securities Exchange Act Release No. 74136 (January 26, 2015), 80 FR 5171 (January 30, 2015) (SR–OCC–2015–02).

[85] 15 U.S.C. 78q–1(b)(3)(A).

[86] 15 U.S.C. 78q–1(b)(3)(F).

[87] 15 U.S.C. 78q–1(b)(3)(D).

[88] 15 U.S.C. 78q–1(b)(3)(I).

[89] 15 U.S.C. 78q–1(b)(3)(A).

[90] 15 U.S.C. 78q–1(b)(3)(F).

[91] 15 U.S.C. 78q–1(b)(3)(D).

[92] *See* MM Letter at 13.

[93] *See* MM Letter.

[94] ''If the SEC allows the five owners to monetize OCC in this fashion, the conflict of interest will diminish the prospect that OCC will perform efficiently to keep transaction fees low and operating expense under control. [. . .] Given the potential of the dividend to increase with the size of OCC's budget, we are concerned where transaction fees may go in the future.'' MM Letter at 13.

[95] MM Letter at 5.

[96] In order to address the concern that the conflict of interest will diminish the prospect that OCC will perform efficiently to keep transaction fees low and operation expenses under control, OCC stated in response that higher operating expenses will result in an increased Target Capital Requirement, which will require additional capital contributions to be withheld from both dividends and refunds. Thus, OCC argues, an increase in operating expenses results in larger cumulative capital contributions from the Stockholder Exchanges. If an increase in the Business Risk Buffer does result in an increase in dividends, the larger cumulative capital contributions will have the effect of reducing any increase in the rate of return that would otherwise result from the increase in dividends. *See* OCC Letter II. In addition, OCC also contends that it would be necessary for the exchange directors to obtain additional support either from public directors or member directors or a combination of the two in order to approve a budget with increased expenses. *See* OCC Letter I.

[97] 15 U.S.C. 78s(b)(1).

[98] 12 U.S.C. 805(e).

[99] *See* 15 U.S.C. 78s(b)(1); 12 U.S.C. 805(e); and 17 CFR 240.19b–4(n).

[100] *See* 15 U.S.C. 78s(b)(1) and 17 CFR 240.19b–4(n).

[101] *See* 15 U.S.C. 78s(b)(2)(C)(ii).

[102] *See* 12 U.S.C. 5465(e)(1)(F).

[103] *See* 12 U.S.C. 5465(e)(2)(D).

[104] *See* OCC Letter II at 11.

Capital Requirement. The Refund Policy and Dividend Policy also prohibit refunds and dividends when Class C Common Stock is outstanding under the Replenishment Capital Plan, and OCC is in the process of rebuilding its capital base. In addition, the Replenishment Capital Plan establishes a mandatory mechanism for the contribution of additional capital by OCC's Stockholder Exchanges in the event capital falls below desired levels. Together, these features of the Capital Plan help ensure that OCC maintains levels of capital sufficient to allow it to absorb substantial business losses and meet its ongoing obligations as a critical component of the national system for clearance and settlement, which in turn helps reduce OCC's overall level of risk, while also being consistent with Section 17A(b)(3)(D) of the Act.[105]

The Commission finds the Capital Plan is consistent with Section 17A(b)(3)(I) of the Act,[106] which requires that the rules of a registered clearing agency do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Commission recognizes that four commenters set forth arguments that the Capital Plan is inconsistent with this provision because the Capital Plan does not address the competitive burden on non-Stockholder Exchanges.[107] More specifically, these commenters argue that the Capital Plan places the Stockholder Exchanges at a competitive advantage over the non-Stockholder Exchanges because they would be able to use dividend payments to offset operating costs, which would in turn enable them to provide trading and execution services at lower prices than their non-Stockholder counterparts.[108] Another commenter stated that the rate of return is excessive, far above market rates, and does not reflect the low risk of the investment.[109] As further discussed below, the Commission is not persuaded by these arguments.

As determined by OCC's Board of Directors, the Stockholder Exchanges have agreed to make a substantial equity contribution to ensure OCC has sufficient capital immediately and have agreed to commit to a replenishment capital contribution should OCC's capital fall below specified levels. OCC considers that the dividends are being paid to Stockholder Exchanges to compensate the Stockholder Exchanges for bearing the risk of the loss of their capital contributions, both in the near term and in the future, should OCC need to replenish those funds. These contributions and potential contributions are considerable and remain at risk when outstanding. As such, OCC considers the dividends not to be windfall profits or an extra refund, as some commenters contend, but rather a plan to direct cash flows to those entities that put their capital at risk. The Stockholder Exchanges are contributing their own capital, and bearing the risk of that contribution, as such, the dividends serve as compensation for bearing that risk.

Further, the cost of that capital investment and the rate of return that will be paid to the Stockholder Exchanges were determined to be fair and in the best interests of OCC by OCC's Board of Directors, which has representation from the Stockholder Exchanges, clearing members, and independent directors, and in consultation with outside financial advisors. OCC has represented that the Board of Directors determined, in its exercise of business judgment and in compliance with its governance provisions and its responsibilities under Delaware corporate laws, that the dividends were fair and in the best interests of OCC, particularly in light of the nature of the investment and the risks inherent in the funded and unfunded capital commitments by the Stockholder Exchanges.

We understand that in a perfect capital market, the dividend would compensate Stockholder Exchanges exactly for the risk borne by the capital contribution (*i.e.,* the rate of return exactly equals OCC's cost of capital). Further, we acknowledge that a dividend that does not accurately reflect the true risk of the investment may result in a burden on competition on one group versus another. The magnitude and incidence of the burden depends on whether the dividend payment is high or low relative to the true cost of the capital. OCC is a unique entity and not publicly traded. As such, determining accurate rates on the cost of capital is subjective. Absent available market prices for OCC's equity shares, OCC's Board of Directors must use its judgment to determine the appropriate or competitive rate of return and the dividend policy that appropriately reflects the risk of the Stockholder Exchanges' equity investment.

Given the critical role OCC plays in the U.S. options market and its designation as a systemically important financial market utility, the Commission believes that it is both necessary and appropriate for OCC to obtain and retain sufficient capital to ensure its ongoing operations in the event of substantial business losses. While the precise magnitude and incidence of any burden that exists in this case is necessarily subjective, the Commission believes that, even if OCC's Capital Plan may result in some burden on competition, such a burden is necessary and appropriate in furtherance in the purposes of the Act given the importance of OCC's ongoing operations to the U.S. options market and the role of the Capital Plan in assuring its ability to facilitate the clearance and settlement of securities transactions in a wide range of market conditions. For these reasons, the Commission believes OCC's Capital Plan, as approved by its Board of Directors in the exercise of its business judgment, is consistent with OCC's obligations under Section 17A(b)(3)(I) of the Act.[110]

Several commenters raised concerns that OCC's Capital Plan was not approved in accordance with OCC's By-Laws due to vacancies on the Board, that certain Board directors (*i.e.,* Stockholder Exchanges) were ''interested parties'' and therefore should have recused themselves from any decision to approve or disapprove OCC's proposal, and OCC failed to promptly inform non-Stockholder Exchanges of the proposed change.[111] As indicated in OCC's response letter,[112] OCC represents that OCC and its Board of Directors have conducted its business in conformity with applicable state laws and its own By-Laws.[113] The Commission has no basis to dispute OCC's position on this matter. For these reasons, the Commission believes OCC's Capital Plan, as approved, is consistent with OCC's obligations under the Act.[114]

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act [115] and the rules and regulations thereunder.

[105] 15 U.S.C. 78q–1(b)(3)(D).

[106] 15 U.S.C. 78q–1(b)(3)(I).

[107] *See* BATS Letter I and II; BOX Letter I; MIAX Letter I and II; and MM Letter.

[108] *Id.*

[109] *See* BATS Letter II.

[110] 15 U.S.C. 78q–1(b)(3)(I).

[111] *See* MIAX Letter II; BATS Letter II and III; SIG Letter I; and BOX Letter II.

[112] *See* OCC Letter IV.

[113] *See* OCC Letter IV (citing to Section 144, Delaware General Corporation Law). Subsequently, OCC confirmed that OCC and its Board of Directors conducted its business in conformity with its By-Laws identified in the comment letters cited in note 111.

[114] 15 U.S.C. 78q–1(b)(3).

[115] In approving this proposed rule change, the Commission has considered the proposed rule's

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[116] that the proposed rule change (File No. SR–OCC–2015–02) be, and it hereby is, approved as of the date of this notice or the date of an order by the Commission authorizing OCC to implement OCC's advance notice proposal that is consistent with this proposed rule change (File No. SR–OCC–2014–813), whichever is later.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[117]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2015–05556 Filed 3–11–15; 8:45 am]

BILLING CODE 8011–01–P

impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[116] 15 U.S.C. 78s(b)(2).

[117] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

Driver Qualifications; Regulatory Guidance Concerning the Use of Computerized Employer Notification Systems for the Annual Inquiry and Review of Driving Records

AGENCY: Federal Motor Carrier Safety Administration.

ACTION: Notice of regulatory guidance.

SUMMARY: FMCSA provides regulatory guidance concerning the use of State-operated employer notification systems (ENS) for the annual inquiry and review of driving records required by 49 CFR 391.25. The guidance explains the use of State-operated ENS that provide motor carriers with a department of motor vehicle report for every State in which the driver held either an operator's license, a commercial driver's license (CDL), or permit when a driver is enrolled in the system. Many State driver licensing agencies (SDLAs) provide ENS that either automatically update requestors (push-system) on license status, crashes and convictions of laws or regulations governing the operation of motor vehicles or allow the requestor to regularly query the record (pull-system) for this information. The use of these systems to check the driving record, at least annually, satisfies the requirement for an annual review of each driver's record. This includes when a third-party is used to accumulate the records for a motor carrier. This revises the Agency guidance issued in 2003 that referenced to a specific third-party vendor.

DATES: This guidance is effective March 12, 2015.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas L. Yager, Chief, Driver and Carrier Operations Division, Office of Bus and Truck Standards and Operations, 1200 New Jersey Ave. SE., Washington, DC 20590, Telephone 202–366–4325, Email: *MCPSD@dot.gov*.

SUPPLEMENTARY INFORMATION:

Legal Basis

The Secretary of Transportation has statutory authority to set minimum standards for commercial motor vehicle safety. These minimum standards must ensure that: (1) CMVs are maintained, equipped, loaded, and operated safely; (2) the responsibilities imposed on operators of CMVs do not impair their ability to operate the vehicles safely; (3) the physical condition of CMV operators is adequate to enable them to operate the vehicles safely; (4) the operation of CMVs does not have a deleterious effect on the physical condition of the operators; and (5) an operator of a commercial motor vehicle is not coerced by a motor carrier, shipper, receiver, or transportation intermediary to operate a commercial motor vehicle in violation of a regulation (49 U.S.C. 31136(a)(1)–(5), as amended). The Secretary also has broad power in carrying out motor carrier safety statutes and regulations to ''prescribe recordkeeping and reporting requirements'' and to ''perform other acts the Secretary considers appropriate'' (49 U.S.C. 31133(a)(8) and (10)).

The Administrator of FMCSA has been delegated authority under 49 CFR 1.87(f) to carry out the functions vested in the Secretary of Transportation by 49 U.S.C. chapter 311, subchapters I, III and IV, relating to commercial motor vehicle programs and safety regulation.

Background

On January 13, 2003, FMCSA issued a letter to a company providing regulatory guidance concerning the use of computerized employer notification systems for the annual inquiry and review of driving records required by 49 CFR 391.25. The guidance explained that the use of a specific third-party computerized ENS that provides motor carriers with a department of motor vehicle report for every State in which the driver held either an operator's license, a CDL, or permit when a driver is enrolled in the system, and provides an update anytime the State licensing agency enters new information about license status, crashes and convictions of laws or regulations governing the operation of motor vehicles satisfies the requirement for an annual review of each driver's record. However, the guidance referenced a specific vendor providing such services to the motor carrier industry.

The regulatory guidance issued to the specific company was subsequently posted to FMCSA's Web site as question #4 to 49 CFR 391.25 (See *http://www.fmcsa.dot.gov/regulations/title49/section/391.25?guidance*). The 2003 guidance reads as follows:

Question 4: Does the use of a third-party computerized system that provides motor carriers with a complete department of motor vehicle report for every State in which the driver held a commercial motor vehicle operator's license or permit when a driver is enrolled in the system, and then automatically provides an update anytime the State licensing agency enters new information on the driving record, satisfy the requirements of § 391.25?

Guidance: Yes. Since motor carriers would be provided with a complete department of motor vehicle report for every State in which the driver held a commercial motor vehicle operator's license or permit when a driver is enrolled in the system, and then provided with an update any time the State licensing agency enters new information on the driving record, the requirements of § 391.25(a) would be satisfied. When the motor carrier manager reviews the information on the driving record, and the License Monitor system records the identity of the manager who conducted the review, the requirements of § 391.25(b) and (c) would be satisfied.

With regard to the requirement that the response from each State agency, and a note identifying the person who performed the review, may be maintained in the driver's qualification files, motor carriers may satisfy the record keeping requirement by using computerized records in accordance with 49 CFR 390.31. Section [390.31] allows all records that do not require signatures to be maintained through the use of computer technology provided the motor carrier can produce, upon demand, a computer printout of the required data. Therefore, motor carriers using an automated computer system would not be required to maintain paper copies of the driving records, or a note identifying the person who performed the review, in each individual driver qualification file provided a computer printout can be produced upon demand of a Federal or State enforcement official.

Because the guidance made reference to one vendor, License Monitor, it was not considered helpful by some in the industry for motor carriers using systems other than the one operated by License Monitor. The American Trucking Associations raised the issue with FMCSA and the Agency agrees that the guidance should be revised to provide generic guidance rather than vendor-specific guidance. In addition, since 2003, several SDLAs have implemented ENS systems that provide the driver record information to employers.

FMCSA's Decision

In consideration of the above, FMCSA has determined that the current regulatory guidance should be revised to make clear that any State-operated ENS may be used to satisfy the requirements of 49 CFR 391.25, even if the information is accumulated by a third party. The FMCSA revises Question 4 to 49 CFR 391.25 to read as follows:

Qualification of Drivers, Annual Inquiry and Review of Driving Record; Regulatory Guidance for 49 CFR 391.25

Question 4: Does the use of an employer notification system that provides motor carriers with a department of motor vehicle report for every State in which the driver held either an operator's license, a commercial driver's license (CDL), or permit when a driver is enrolled in the system and provides information about license status, crashes and convictions of laws or regulations governing the operation of motor vehicles on the driving record satisfy the requirement for an annual review of each driver's record?

Guidance: Yes. Since motor carriers would be provided with a department of motor vehicle report for every State in which the driver held a commercial motor vehicle operator's license or permit when a driver is enrolled in the system and the State licensing agency includes information about crashes and convictions of laws or regulations governing the operation of motor vehicles on the driving record, the requirements of § 391.25(a) would be satisfied. Generally, the requirements of § 391.25(b) and (c) would be satisfied if the employer notification system records the identity of the motor carrier's representative who conducted the review when the carrier's representative reviews the information on the driving record.

The use of an employer notification system would meet the requirements if either the motor carrier automatically receives updates from the State (push-system) or can regularly access the system to check for updates (pull-system), as long as the check occurs at least once per year. In addition, receipt of these reports meets the requirement for the annual check even if it is provided to the motor carrier by a third-party.

With regard to the requirement that the response from each State agency, and a note identifying the person who performed the review, may be maintained in the driver's qualification files, motor carriers may satisfy the recordkeeping requirement by using computerized records in accordance with FMCSA's Regulatory Guidance Concerning Electronic Documents and Signatures, 75 FR 411, January 4, 2011. Therefore, motor carriers using an automated employer notification computer system would not be required to maintain paper copies of the driving records, or a note identifying the person who performed the review, in each individual driver qualification file provided documentation consistent with FMCSA's January 4, 2011, guidance can be produced upon demand of a Federal or State enforcement official.

Issued on: March 2, 2015.

T.F. Scott Darling, III,

Acting Administrator.

[FR Doc. 2015–05645 Filed 3–11–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (formerly Subpart Q) during the Week Ending January 10, 2015

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 302.201 *et. seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: DOT–OST–2015–0003.

Date Filed: January 8, 2015.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: January 29, 2015.

Description: Application of Air Caledonie International S.A. (Aircalin), requesting a foreign air carrier permit and exemption authorizing it to provide scheduled and charter foreign air transportation of persons, property and mail from any point or points behind New Caledonia, via any point or points in New Caledonia and any intermediate points, to any point or points in the United States.

Barbara J. Hairston,

Supervisory Dockets Officer, Docket Operations, Federal Register Liaison.

[FR Doc. 2015–05629 Filed 3–11–15; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–1998–4334; FMCSA–2000–7006; FMCSA–2000–8398; FMCSA–2005–20027]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 4 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective April 5, 2015. Comments must be received on or before April 13, 2015.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA–1998–4334; FMCSA–2000–7006; FMCSA–2000–8398; FMCSA–2005–20027], using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

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

• *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

• *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Charles A. Horan, III, Director, Carrier, Driver and Vehicle Safety Standards, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

II. Exemption Decision

This notice addresses 4 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 4 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are: Richard D. Carlson (MN); Robert P. Conrad, Sr. (MD); Donald P. Dodson, Jr. (WV); Ralph A. Thompson (KY).

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

III. Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 4 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (63 FR 66226; 64 FR 16517; 65 FR 20245; 65 FR 57230; 65 FR 78256; 66 FR 16311; 66 FR 17994; 67 FR 57266; 68 FR 13360; 68 FR 15037; 69 FR 52741; 70 FR 2701; 70 FR 12265; 70 FR 14747; 70 FR 16887; 72 FR 12665; 74 FR 9329; 76 FR 15360; 78 FR 16035). Each of these 4 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements.

These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

IV. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–1998–4334; FMCSA–2000–7006; FMCSA–2000–8398; FMCSA–2005–20027), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, got to *http://www.regulations.gov* and put the docket number, ''FMCSA–1998–4334; FMCSA–2000–7006; FMCSA–2000–8398; FMCSA–2005–20027'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. 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. FMCSA will consider all comments and material received during the comment period and may change this notice based on your comments.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* and in the search box insert the docket number, ''FMCSA–1998–4334; FMCSA–2000–7006; FMCSA–2000–8398; FMCSA–2005–20027'' in the ''Keyword'' box and click ''Search.'' Next, click ''Open Docket Folder'' button choose the document listed to review. 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 DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Issued On: March 2, 2015.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2015–05258 Filed 3–11–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending January 24, 2015

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 302.201 *et seq.*).

The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: DOT–OST–2007–0066.

Date Filed: January 20, 2015.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: February 10, 2015.

Description: Application of Hainan Airlines Co., Ltd. (''Hainan Airlines'') requesting an amendment to Hainan Airlines' foreign air carrier permit to enable it to engage in scheduled foreign air transportation of persons, property and mail between (i) Beijing, People's Republic of China (PEK), on the one hand, and San Jose, California (SJC), on the other hand, and (ii) Shanghai, People's Republic of China (PVG), on the one hand, and Seattle, Washington (SEA), on the other hand. Hainan Airlines also requests exemption authority to the extent necessary so that it may exercise the rights requested in this application prior to the issuance of an amended foreign air carrier permit.

Barbara J. Hairston,

Supervisory Dockets Officer, Docket Operations, Federal Register Liaison.

[FR Doc. 2015–05626 Filed 3–11–15; 8:45 am]

BILLING CODE 4910–9x–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (formerly Subpart Q) During the Week Ending January 17, 2015

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 302. 201 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: DOT–OST–2007–0066.

Date Filed: January 14, 2015.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: Feburary 4, 2015.

Description: Application of Hainan Airlines Co., Ltd. (''Hainan Airlines'') requesting that the Department amend its foreign air carrier permit to enable Hainan Airlines to engage in scheduled air transportation of persons, property and mail between Shanghai, People's Republic of China (PVG), on the one hand, and Boston, Massachusetts (BOS), on the other hand. Hainan Airlines also requests exemption authority to the extent necessary so that it may exercise the rights requested in this application prior to the issuance of an amended foreign air carrier permit.

Barbara J. Hairston,

Supervisory Dockets Officer, Docket Operations, Federal Register Liaison.

[FR Doc. 2015–05625 Filed 3–11–15; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

[Docket No. TTB–2015–0001]

Proposed Information Collections; Comment Request (No. 51)

AGENCY: Alcohol and Tobacco Tax and Trade Bureau (TTB); Treasury.

ACTION: Notice and request for comments.

SUMMARY: As part of our continuing effort to reduce paperwork and respondent burden, and as required by the Paperwork Reduction Act of 1995, we invite comments on the proposed or continuing information collections listed below in this notice.

DATES: We must receive your written comments on or before May 11, 2015.

ADDRESSES: As described below, you may send comments on the information collections listed in this document using the ''Regulations.gov'' online comment form for this document, or you may send written comments via U.S. mail or hand delivery. TTB no longer accepts public comments via email or fax.

- *http://www.regulations.gov:* Use the comment form for this document posted within Docket No. TTB–2015–0001 on ''Regulations.gov,'' the Federal e-rulemaking portal, to submit comments via the Internet;
- *U.S. Mail:* Michael Hoover, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005.
- *Hand Delivery/Courier in Lieu of Mail:* Michael Hoover, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Suite 200–E, Washington, DC 20005.

Please submit separate comments for each specific information collection listed in this document. You must reference the information collection's title, form or recordkeeping requirement

number, and OMB number (if any) in your comment.

You may view copies of this document, the information collections listed in it and any associated instructions, and all comments received in response to this document within Docket No. TTB–2015–0001 at *http://www.regulations.gov.* A link to that docket is posted on the TTB Web site at *http://www.ttb.gov/forms/comment-on-form.shtml.* You may also obtain paper copies of this document, the information collections described in it and any associated instructions, and any comments received in response to this document by contacting Michael Hoover at the addresses or telephone number shown below.

FOR FURTHER INFORMATION CONTACT: Michael Hoover, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; telephone 202–453–1039, ext. 135; or email *informationcollections@ttb.gov* (please *do not* submit comments on this notice to this email address).

SUPPLEMENTARY INFORMATION:

Request for Comments

The Department of the Treasury and its Alcohol and Tobacco Tax and Trade Bureau (TTB), as part of their continuing effort to reduce paperwork and respondent burden, invite the general public and other Federal agencies to comment on the proposed or continuing information collections listed below in this notice, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Comments submitted in response to this notice will be included or summarized in our request for Office of Management and Budget (OMB) approval of the relevant information collection. All comments are part of the public record and subject to disclosure. Please do not include any confidential or inappropriate material in your comments.

We invite comments on: (a) Whether this information collection is necessary for the proper performance of the agency's functions, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the information collection's burden; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the information collection's burden on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide the requested information.

Information Collections Open for Comment

Currently, we are seeking comments on the following forms, recordkeeping requirements, or questionnaires:

Title: Personnel Questionnaire—Alcohol and Tobacco Products.

OMB Number: 1513–0002.

TTB Form Number: TTB F 5000.9.

Abstract: The information that TTB requests on TTB F 5000.9, Personnel Questionnaire—Alcohol and Tobacco Products, is used along with other information TTB collects on its permit application forms to determine whether or not an applicant for an alcohol or tobacco permit meets the minimum qualifications for such permits under Federal law. TTB F 5000.9 asks for information regarding the applicant and his or her residence, the applicant's business background, the sources of funds for the proposed business, and the applicant's criminal record, among other things. TTB may deny permits to unqualified applicants.

Current Actions: TTB is submitting this collection as a revision. TTB is removing from the form a duplicative question regarding previous names used by the applicant. TTB also is updating the number of respondents and the total annual burden hours to reflect an increase in the number of respondents.

Type of Review: Revision of a currently approved collection.

Affected Public: Businesses or other for-profits.

Estimated Number of Respondents: 34,850.

Estimated Total Annual Burden Hours: 64,334.

Title: Claim for Drawback of Tax on Tobacco Products, Cigarette Papers, and Cigarette Tubes.

OMB Control Number: 1513–0026.

TTB Form Numbers: TTB F 5620.7.

Abstract: Respondents use TTB F 5620.7 to document the export of, and to claim drawback of the Federal excise tax paid on, tobacco products, cigarette papers, and cigarette tubes exported to a foreign county, Puerto Rico, or the Virgin Islands after taxpayment.

Current Actions: TTB is submitting this collection as a revision. The form remains unchanged. However, we are updating the number of respondents and the total annual burden hours to reflect a decrease in the number of respondents.

Type of Review: Revision of a currently approved collection.

Affected Public: Businesses or other for-profits.

Estimated Number of Respondents: 50.

Estimated Total Annual Burden Hours: 25.

Title: Excise Tax Return—Alcohol and Tobacco Products (Puerto Rico).

OMB Number: 1513–0090.

TTB Form Number: TTB F 5000.25.

Abstract: Businesses in Puerto Rico report their Federal excise tax liability on distilled spirits, wine, beer, tobacco products, and cigarette papers and tubes on TTB F 5000.25. TTB uses this form to identify the taxpayer and to determine the amount and type of taxes due and paid.

Current Actions: TTB is submitting this collection as a revision. TTB is revising the form to remove an obsolete reference to large cigar statistical classes. TTB also is updating the number of respondents and the total annual burden hours to reflect a decrease in the number of respondents.

Type of Review: Revision of a currently approved collection.

Affected Public: Businesses or other for-profits.

Estimated Number of Respondents: 22.

Estimated Total Annual Burden Hours: 198.

Title: Alcohol Special (Occupational) Tax Registration and Return; Alcohol Dealer Registration (For Use On and After July 1, 2008); and Special Tax Registration and Return—Tobacco.

OMB Number: 1513–0112.

TTB Form Number: TTB F 5630.5a, 5630.5d, and 5630.5t.

Abstract: Chapter 52 of the Internal Revenue Code (26 U.S.C.) requires tobacco products manufacturers, cigarette papers and tubes manufacturers, and tobacco product export warehouse proprietors to register for and pay special (occupational) tax (SOT). TTB F 5630.5t is used for registration and tax payment for such businesses. With regard to alcohol, in 2005, section 11125 of Public Law 109–59 permanently repealed, effective July 1, 2008, the SOT on all alcohol dealers required by Chapter 51 of the Internal Revenue Code (26 U.S.C.). However, the registration requirement for such entities remains in force. TTB F 5630.5a is a tax return/registration for persons already in business who failed to register or pay SOT on or before June 30, 2008, and TTB F 5630.5d is used to register alcohol dealers on and after July 1, 2008.

Current Actions: TTB is submitting this information collection as a revision. The three forms remain unchanged. However, we are updating the number of respondents and the total annual burden hours to reflect a decrease in the number of respondents.

Type of Review: Revision of a currently approved collection.

Affected Public: Businesses or other for-profits, not-for-profits, and individuals or households.

Estimated Number of Respondents: 8,350.

Estimated Total Annual Burden Hours: 3,480.

Dated: March 9, 2015.

Amy R. Greenberg,

Director, Regulations and Rulings Division.

[FR Doc. 2015–05657 Filed 3–11–15; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 56

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 56, Notice Concerning Fiduciary Relationship.

DATES: Written comments should be received on or before May 11, 2015 to be assured of consideration.

ADDRESSES: Direct all written comments to Christie A. Preston, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Notice Concerning Fiduciary Relationship.

OMB Number: 1545–0013.

Form Number: 56.

Abstract: Form 56 is used to inform the IRS that a person is acting for another person in a fiduciary capacity so that the IRS may mail tax notices to the fiduciary concerning the person for whom he/she is acting. The data is used to ensure that the fiduciary relationship is established or terminated and to mail or discontinue mailing designated tax notices to the fiduciary.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and individuals or households.

Estimated Number of Respondents: 25,000.

Estimated Time per Respondent: 1 hr. 41 min.

Estimated Total Annual Burden Hours: 292,800.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 25, 2015.

Christie A. Preston,

IRS Reports Clearance Officer.

[FR Doc. 2015–05663 Filed 3–11–15; 8:45 am]

BILLING CODE 4830–01–P

U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION

Notice of Open Public Hearing

AGENCY: U.S.-China Economic and Security Review Commission.

ACTION: Notice of open public hearing—March 18, 2015, Washington, DC.

SUMMARY: Notice is hereby given of the following hearing of the U.S.-China Economic and Security Review Commission.

Name: William A. Reinsch, Chairman of the U.S.-China Economic and Security Review Commission. The Commission is mandated by Congress to investigate, assess, and report to Congress annually on ''the national security implications of the economic relationship between the United States and the People's Republic of China.'' Pursuant to this mandate, the Commission will hold a public hearing in Washington, DC on March 18, 2015, ''Looking West: China and Central Asia.''

Background: This is the third public hearing the Commission will hold during its 2015 report cycle to collect input from academic, industry, and government experts on national security implications of the U.S. bilateral trade and economic relationship with China. The hearing seeks to examine the drivers of China's engagement with Central Asia, its impacts on regional economic security and stability, and its implications for U.S. policy objectives in the region. The hearing will be co-chaired by Vice Chairman Dennis Shea and Commissioner Katherine Tobin Ph.D. Any interested party may file a written statement by March 18, 2015, by mailing to the contact below. A portion of each panel will include a question and answer period between the Commissioners and the witnesses.

Location, Date and Time: Room: TBA. Wednesday, February 18, 2015, Time TBA. A detailed agenda for the hearing will be posted to the Commission's Web site at *www.uscc.gov.* Also, please check our Web site for possible changes to the hearing schedule. Reservations are not required to attend the hearing.

FOR FURTHER INFORMATION CONTACT: Any member of the public seeking further information concerning the hearing should contact Reed Eckhold, 444 North Capitol Street NW., Suite 602, Washington DC 20001; phone: 202–624–1496, or via email at *reckhold@uscc.gov.* Reservations are not required to attend the hearing.

Authority: Congress created the U.S.-China Economic and Security Review Commission in 2000 in the National Defense Authorization Act (Pub. L. 106–398), as amended by Division P of the Consolidated Appropriations Resolution, 2003 (Pub. L. 108–7), as amended by Public Law 109–108 (November 22, 2005), as amended by Public Law 113–291 (December 19, 2014).

Dated: March 6, 2015.

Michael Danis,

Executive Director, U.S.-China Economic and Security Review Commission.

[FR Doc. 2015–05620 Filed 3–11–15; 8:45 am]

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Part II

Department of Commerce

National Oceanic and Atmospheric Administration

15 CFR Part 922

Expansion of Gulf of the Farallones and Cordell Bank National Marine Sanctuaries, and Regulatory Changes; Final Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

[Docket No. 130405335–4999–02]

RIN 0648–BD18

Expansion of Gulf of the Farallones and Cordell Bank National Marine Sanctuaries, and Regulatory Changes

AGENCY: Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Final rule.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) is expanding the boundaries of Gulf of the Farallones National Marine Sanctuary (GFNMS) and Cordell Bank National Marine Sanctuary (CBNMS) to an area north and west of their current boundaries. As part of this action, NOAA is revising the terms of designation, management plans, and regulations for these two sanctuaries.

DATES: *Effective Date:* Pursuant to section 304(b) of the National Marine Sanctuaries Act (NMSA) (16 U.S.C. 1434(b)), the revised designations and regulations shall take effect and become final after the close of a review period of forty-five days of continuous session of Congress beginning on March 12, 2015. Additional information regarding the effective date for this final rule is contained in the ''Background'' section, below. NOAA will publish an announcement of the effective date of the final regulations in the **Federal Register**.

ADDRESSES: Copies of the final environmental impact statement (FEIS) described in this rule and the record of decision (ROD) are available upon request to Maria Brown, Superintendent, Gulf of the Farallones National Marine Sanctuary, 991 Marine Drive, The Presidio, San Francisco, CA 94129. Copies of the FEIS, final management plans, and the final rule can also be viewed or downloaded at *http://farallones.noaa.gov/manage/expansion_cbgf.html*.

FOR FURTHER INFORMATION CONTACT: Maria Brown at *Maria.Brown@noaa.gov* or 415–561–6622; or Dan Howard at *Dan.Howard@noaa.gov* or 415–663–0314.

SUPPLEMENTARY INFORMATION:

I. Background

A. Effective Date

This rule postpones for 6 months the effective date for the discharge requirements in both expansion areas with regard to U.S. Coast Guard activities. In the course of this rule making NOAA learned from Coast Guard that the discharge regulations had the potential to impair the operations of Coast Guard vessels and air craft conducting law enforcement, search and rescue training and other statutorily mandated activities in Gulf of the Farallones and Cordell Bank national marine sanctuaries. The USCG supports national marine sanctuary management by providing routine surveillance and dedicated law enforcement of the national marine sanctuaries. It does so concurrently with other Coast Guard operations, which include those relating to homeland security, search and rescue, regulatory program enforcement (such as vessel air pollution low sulfur fuel program requirements, fisheries management, oil spill response, marine living resource protection), vessel traffic management, and drug interdiction. Coast Guard training involving use of force and search and rescue drills require expenditure of ammunition or pyrotechnics (''live fire training''). Additionally, some vessels used by the Coast Guard in both sanctuaries have limited capacity to store sewage, and that may impact Coast Guard's capability to conduct extended, necessary operations in the expansion areas. Accordingly, to ensure that this rule does not undermine Coast Guard's ability to perform its duties, NOAA is postponing for 6 months the date when the discharge requirements will become effective with regard to Coast Guard operations. During this time, NOAA will consider how to address Coast Guard's concerns and will consider, among other things, whether to exempt certain Coast Guard activities in both sanctuaries similar to existing exemptions provided for Department of Defense activities (15 CFR 922.82(b) and 922.112(c)). The 6-month postponement will begin at the time the regulations for the expansion areas become effective. As noted above, NOAA will publish a notice when the regulations promulgated by this rule become effective and will include in that notice the date when the postponement of the effective date for Coast Guard activities ends. The public, other federal agencies, and interested stakeholders will be given an opportunity to comment on various alternatives that are being considered. This will include the opportunity to review any proposed rule and related environmental analyses.

B. GFNMS Background

NOAA designated GFNMS in 1981 to protect and preserve a unique and fragile ecological community, including the largest seabird colony in the contiguous United States and diverse and abundant marine mammals. GFNMS is located along and offshore California's north-central coast, west of northern San Mateo, San Francisco, Marin and southern Sonoma Counties. GFNMS was previously composed of approximately 1,282 square miles (968 square nautical miles (sq. nmi)) of offshore waters extending out to and around the Farallon Islands, nearshore waters (up to the mean high water line unless otherwise specified) from Bodega Head to Rocky Point in Marin, and the submerged lands beneath these waters. The Farallon Islands lie along the outer edge of the continental shelf, between 15 and 22 miles (13 and 19 nmi) southwest of Point Reyes and approximately 30 miles (26 nmi) due west of San Francisco. In addition to sandy beaches, small coves, and offshore stacks, GFNMS includes open bays (Bodega Bay, Drakes Bay) and enclosed bays or estuaries (Bolinas Lagoon, Tomales Bay, Estero Americano, and Estero de San Antonio). GFNMS is located within the California current, and its waters are characterized by wind-driven upwelling, localized eddies, counter-current gyres, high nutrient supply, and high levels of phytoplankton. As a result of this action, GFNMS is being expanded to a total of 3,295 square miles (2,488 sq. nmi).

B. CBNMS Background

NOAA designated CBNMS in 1989 to protect and preserve the extraordinary ecosystem, including invertebrates, marine birds, mammals, and other natural resources, of Cordell Bank and its surrounding waters. CBNMS is located offshore of California's north-central coast, west of Marin County. CBNMS previously protected an area of approximately 529 square miles (399 sq. nmi). The main feature of the sanctuary is Cordell Bank (Bank), an offshore granite bank located on the edge of the continental shelf, about 49 miles (43 nmi) northwest of the Golden Gate Bridge and 23 miles (20 nmi) west of the Point Reyes lighthouse. CBNMS is entirely offshore and shares its southern and eastern boundary with GFNMS. Similar to GFNMS, CBNMS is located in a major coastal upwelling system. The combination of oceanic conditions and undersea topography provides for a

highly productive environment in a discrete offshore area. Prevailing currents push nutrients from upwelling southward along the coast, moving nutrients and other prey over the upper levels of the Bank. The vertical relief and hard substrate of the Bank provide benthic habitat with near-shore characteristics in an open ocean environment. The combination of algae and sedentary animals typical of nearshore waters in close proximity to open ocean species like blue whales and albatross creates a rare mix of species and a unique biological community at CBNMS. As a result of this action, CBNMS is being expanded to a total of 1,286 square miles (971 sq. nmi).

C. Purpose and Need for Action

The purpose of NOAA's action is to add national marine sanctuary protections to the globally significant coastal upwelling center originating off of Point Arena, which is the source of nutrient-rich upwelled waters that flow into GFNMS and CBNMS via wind-driven currents. NOAA's action expands the boundaries of GFNMS and CBNMS north and west of the sanctuaries' original boundaries to extend regulatory protections and management programs to the nationally significant marine resources and habitats of the waters and submerged lands offshore of San Mateo, San Francisco, Marin, Sonoma and Mendocino Counties.

The National Marine Sanctuaries Act (NMSA) (16 U.S.C. 1431 *et seq.*) gives NOAA the authority to expand national marine sanctuaries to meet the purposes and policies of the NMSA, including:

- ''. . . to provide authority for comprehensive and coordinated conservation and management of these marine areas [national marine sanctuaries], and activities affecting them, in a manner which complements existing regulatory authorities (16 U.S.C. 1431(b)(2)); [and]
- to maintain the natural biological communities in the national marine sanctuaries, and to protect, and, where appropriate, restore and enhance natural habitats, populations and ecological processes . . .'' (16 U.S.C. 1431(b)(3)).

The NMSA also requires NOAA to periodically review and evaluate progress in implementing the management plan and goals for each national marine sanctuary. The management plans and regulations must be revised as necessary to fulfill the purposes and policies of the NMSA (16 U.S.C. 1434(e)) to ensure that each sanctuary continues to best conserve, protect, and enhance their nationally significant living and cultural resources.

In addition to expanding the boundaries of GFNMS and CBNMS, NOAA's action revises the sanctuaries' management plans and modifies the sanctuaries' regulations. Together these changes provide comprehensive management and protection of the nationally significant resources of the area, while facilitating uses compatible with resource protection. The regulatory changes are described in detail below in the ''Summary of the Regulatory Amendments.''

The expansion area, from the upwelling off the Point Arena coast and the waters south to GFNMS and CBNMS, is ecologically connected to the current sanctuaries. The upwelled water, rich with nutrients, largely originates offshore of Point Arena and flows south. It is the regional ecosystem driver for productivity in coastal waters of north-central California. The area supports a rich marine food web made up of many species of algae, invertebrates, fish, birds, and marine mammals. Some species are transitory, travelling hundreds, thousands or tens of thousands of miles to the region, such as endangered blue whales, albatross, shearwaters, white and salmon sharks, while others live year round in the sanctuaries, such as Dungeness crab, sponges, other benthic invertebrates, salmon, many species of rockfish and flatfish, and harbor seals and harbor porpoises. Of note, the largest assemblage of breeding seabirds in the contiguous United States is at the Farallon Islands, and each year their breeding success depends on a healthy and productive marine ecosystem to allow breeding adults and fledgling young to feed and flourish. Given that these sensitive resources are particularly susceptible to damage from human activities, expanding CBNMS and GFNMS conserves and protects critical resources by preventing or reducing human-caused impacts such as marine pollution, and wildlife and seabed disturbance.

In addition, this action protects significant submerged cultural resources and historical properties, as defined by the National Historic Preservation Act, 16 U.S.C. 470, *et seq.,* and its regulations (historical properties include among other things: Artifacts, records, remains related to or located in the properties of traditional religious and cultural importance to an Indian tribe and that meet the National Register criteria). Several state and federal laws exist that provide some degree of protection of historical resources, but the State of California regulations only extend 3 nautical miles offshore, and existing federal regulations do not provide comprehensive protection of these resources. Records document over 200 vessel and aircraft losses between 1820 and 1961 along California's north-central coast from Bodega Head north to Point Arena. Submerged archaeological remnants related to a number of former doghole ports are likely to exist in the area. Doghole ports were small ports on the Pacific Coast between Central California and Southern Oregon that operated from the mid-1800s until 1939. Such archaeological remnants could include landings, wire, trapeze loading chutes and offshore moorings.

While there is no documentation of submerged Native American human settlements in the boundary expansion area, some may exist there, since Coast Miwok and Pomo peoples have lived and harvested the resources of this abundant marine landscape for thousands of years. Sea level rise at the end of the last great Ice Age inundated a large area that was likely used by these peoples when it was dry land.

D. History of the Boundary Expansion

In 2001, NOAA received public comment during a review of the GFNMS and CBNMS management plans requesting that both sanctuaries be expanded north and west. Since 2003, sanctuary advisory councils for both national marine sanctuaries have regularly discussed and supported boundary expansion northward and westward at advisory council meetings, which are open to the public. In addition to the public and advisory council input, legislation was proposed several times between 2004 and 2011 by then-Representative Lynn Woolsey, Senator Barbara Boxer, and cosponsors, to expand and protect GFNMS and CBNMS, but was never passed by Congress. In general, interest in expanding CBNMS and GFNMS has stemmed principally from a desire to protect the biologically rich underwater habitat of the expansion area and the important upwelling current originating off Point Arena.

The sanctuary advisory councils formally expressed support for the proposed boundary expansion in four resolutions prior to NOAA issuing the proposed rule in April 2014. The GFNMS advisory council passed three separate resolutions on April 19 and December 13, 2007, and November 11, 2011, supporting sanctuary boundary expansion. On September 19, 2007, the CBNMS advisory council passed a resolution supporting protection for Bodega Canyon via proposed legislation.

As a result of the public interest in boundary expansion, in 2008 NOAA included actions to consider a future

boundary expansion in the revised management plans for CBNMS and GFNMS. The management plans indicate NOAA would develop a framework to evaluate boundary alternatives, with public input. Some of the recommended criteria included consideration of boundary changes that would: Be inclusive of and ensure the maintenance of the area's natural ecosystem, including its contribution to biological productivity; be biogeographically representative; facilitate, to the extent compatible with the primary objective of resource protection, public and private uses of the marine resources; and provide additional comprehensive and coordinated management of the area.

NOAA, in compliance with Section 304(e) of the NMSA, conducted public scoping from December 21, 2012, to March 1, 2013 (77 FR 75601), to identify issues associated with a proposed expansion. In January and February 2013 NOAA held three public scoping meetings in Bodega Bay, Point Arena and Gualala. These public meetings were attended by several hundred people. NOAA received more than 300 written submissions, along with the oral comments received during the three public scoping meetings, which are posted under docket number NOAA–NOS–2012–0228 on *www.regulations.gov*.

NOAA analyzed comments received during this process and considered them in the draft environmental impact statement accompanying the proposed rule (79 FR 20982), with analysis of the proposed action and four alternatives. Scoping revealed wide support for the protection of areas offshore Sonoma and southern Mendocino Counties. Some commenters also suggested the protection of areas further north and south of the proposed expansion or other alternate boundary configurations for GFNMS and CBNMS. Whereas some commenters were opposed to expanding the sanctuaries or specific sanctuary regulations, there was generally strong support for extending existing sanctuary regulations to the proposed expanded area, including prohibitions on oil and gas development. Many commenters also indicated opposition to any regulations of fishing under the NMSA. Other comments focused on: Operation of motorized personal watercraft (MPWC) in the expanded portions of GFNMS; protection of wildlife from human disturbance; and future development of alternative energy and aquaculture.

During the development of the proposed action, it became clear that an extension of all existing GFNMS and CBNMS regulations to the respective expansion areas would not meet NOAA's goals of providing resource protection and facilitating compatible uses. Therefore, NOAA proposed to extend some of the existing GFNMS and CBNMS regulations to the proposed expansion area without any changes, amend some of the existing regulations that would apply to both the existing sanctuaries and the proposed expansion area, and add some new regulations.

The DEIS was made available for public comment on April 4, 2014, and the proposed rule was published in the **Federal Register** (79 FR 20982) on April 14, 2014. NOAA solicited public comments until June 30, 2014, and held four public hearings in Sausalito (May 22), Point Arena (June 16), Gualala (June 17) and Bodega Bay, CA (June 18). NOAA received about 1,000 individual comments, including letters, online submissions on *www.regulations.gov*, and oral testimonies at public hearings. In addition, both CBNMS and GFNMS sanctuary advisory councils provided comments to NOAA on the proposed action (see *http://farallones.noaa.gov/manage/sac_actions.html*). All public comments are available for public viewing at *www.regulations.gov* (search for docket number NOAA–NOS–2012–0228). The comments and NOAA's responses are summarized below.

II. Revisions to the Sanctuary Terms of Designation

Section 304(a)(4) of the NMSA requires that the terms of designation for national marine sanctuaries include: (1) The geographic area included within the Sanctuary; (2) the characteristics of the area that give it conservation, recreational, ecological, historical, research, educational, or esthetic value; and (3) the types of activities subject to regulation by NOAA to protect those characteristics. This section also specifies that the terms of the designation may be modified only by the same procedures by which the original designation is made.

To implement this action, NOAA is changing the GFNMS and CBNMS terms of designation, which were last published in the **Federal Register** on February 19, 2015 (80 FR 8778) for GFNMS and on November 20, 2008 (73 FR 70488) for CBNMS.

A. Revisions to the GFNMS Terms of Designation

NOAA is revising the GFNMS terms of designation to:

1. Update the title by adding ''Terms of,'' removing ''Document'' and making minor technical changes.

2. Modify the geographical description of the sanctuary in the preamble.

3. Modify Article I ''Effect of Designation'' by referring to Gulf of the Farallones National Marine Sanctuary.

4. Modify Article II ''Description of the Area'' by updating the description of the size of the sanctuary and describing the proposed new boundary for the sanctuary.

5. Modify Article III ''Characteristics of the Area That Give It Particular Value'' by updating the description of the nationally significant characteristics of the area to include the globally significant coastal upwelling area.

6. Modify Article IV ''Scope of Regulation'' by updating section 1, subsection a, by replacing ''hydrocarbon operations'' with a more complete description of oil and gas activities; adding ''minerals'' to what had been ''hydrocarbon operations''; by clarifying the actual activities related to cultural and historical resources that are prohibited; and adding a new subsection i, ''Interfering with an investigation, search, seizure, or disposition of seized property in connection with enforcement of the Act or Sanctuary regulations.''

7. Modify Article V ''Relation to Other Regulatory Programs'' by updating section 1 to replace the term ''mariculture'' with the term ''aquaculture'' and replacing ''seabed'' with the term ''submerged lands'' used throughout the terms of designation and regulations; by updating section 3 to include the dates of designation and expansion used for certification; and adding ''In addition, a permit or authorization may not be issued under any circumstances for exploring for, developing or producing oil, gas, or minerals within the Sanctuary.''

The revised terms of designation read as follows:

REVISED TERMS OF DESIGNATION FOR GULF OF THE FARALLONES NATIONAL MARINE SANCTUARY

Preamble

Under the authority of Title III of the Marine Protection, Research and Sanctuaries Act of 1972, Public Law 92–532 (the Act), the waters and submerged lands along the Coast of California to the 39th parallel, between Manchester Beach in Mendocino County and Rocky Point in Marin County and surrounding the Farallon Islands and Noonday Rock along the northern coast of California, are hereby designated a National Marine Sanctuary for the purposes of preserving and protecting this unique and fragile ecological community.

Article I. Effect of Designation

Within the area described in Article II, the Act authorizes the promulgation of such

regulations as are reasonable and necessary to protect the values of Gulf of the Farallones National Marine Sanctuary (the Sanctuary). Section 1 of Article IV of these Terms of Designation lists activities of the types that are either to be regulated on the effective date of final rulemaking or may have to be regulated at some later date in order to protect Sanctuary resources and qualities. Listing does not necessarily mean that a type of activity will be regulated; however, if a type of activity is not listed it may not be regulated, except on an emergency basis, unless section 1 of Article IV is amended to include the type of activity by the same procedures by which the original designation was made.

Article II. Description of the Area

The Sanctuary consists of an area of the waters and the submerged lands thereunder adjacent to the coast of California of approximately 2,488 square nautical miles (sq. nmi). The boundary extends seaward to a distance of 30 nmi west from the mainland at Manchester Beach and extends south approximately 45 nmi to the northwestern corner of Cordell Bank National Marine Sanctuary (CBNMS), and extends approximately 38 nmi east along the northern boundary of CBNMS, approximately 6 nmi west of Bodega Head. The boundary extends from Bodega Bay to Point Reyes and 12 nmi west from the Farallon Islands and Noonday Rock, and includes the intervening waters and submerged lands. The Sanctuary includes Bolinas Lagoon, Tomales Bay, Estero de San Antonio (to the tide gate at Valley Ford-Franklin School Road) and Estero Americano (to the bridge at Valley Ford-Estero Road), as well as Bodega Bay, but does not include Bodega Harbor, the Salmon Creek Estuary, the Russian River Estuary, the Gualala River Estuary, Arena Cove or the Garcia River Estuary. The precise boundaries are defined by regulation.

Article III. Characteristics of the Area That Give It Particular Value

The Sanctuary encompasses a globally significant coastal upwelling center that includes a rich and diverse marine ecosystem and a wide variety of marine habitats, including habitat for over 36 species of marine mammals. Rookeries for over half of California's nesting marine bird populations and nesting areas for at least 12 of 16 known U.S. nesting marine bird species are found within the boundaries. Abundant populations of fish and shellfish are also found within the Sanctuary. The Sanctuary also has one of the largest seasonal concentrations of adult white sharks (*Carcharodon carcharias*) in the world. The area adjacent to and offshore of Point Arena, due to seasonal winds, currents and oceanography, drives one of the most prominent and persistent upwelling centers in the world, supporting the productivity of the sanctuary. The nutrient-rich water carried down coast by currents promotes thriving nearshore kelp forests, productive commercial and recreational fisheries, and diverse wildlife assemblages. Large predators, such as white sharks, sea lions, killer whales, and baleen whales, travel from thousands of miles away to feed in these productive waters. Rocky shores along the Marin, Sonoma and Mendocino County coastlines are largely undisturbed, and teem with crustaceans, algae, fish and birds.

Article IV. Scope of Regulation

Section 1. Activities Subject to Regulation

The following activities are subject to regulation, including prohibition, as may be necessary to ensure the management, protection, and preservation of the conservation, recreational, ecological, historical, cultural, archeological, scientific, educational, and aesthetic resources and qualities of this area:

a. Exploring for, developing or producing oil, gas, or minerals within the Sanctuary;

b. Discharging or depositing any substance within or from beyond the boundary of the Sanctuary;

c. Drilling into, dredging, or otherwise altering the submerged lands of the Sanctuary; or constructing, placing, or abandoning any structure, material, or other matter on or in the submerged lands of the Sanctuary;

d. Taking, removing, moving, collecting, possessing, injuring, destroying or causing the loss of, or attempting to take, remove, move, injure, destroy or cause the loss of a cultural or historical resources;

e. Introducing or otherwise releasing from within or into the Sanctuary an introduced species;

f. Taking or possessing any marine mammal, marine reptile, or bird within or above the Sanctuary except as permitted by the Marine Mammal Protection Act, Endangered Species Act, and Migratory Bird Treaty Act;

g. Attracting or approaching any animal;

h. Operating a vessel (*i.e.,* watercraft of any description) within the Sanctuary; and

i. Interfering with an investigation, search, seizure, or disposition of seized property in connection with enforcement of the Act or Sanctuary regulations.

Section 2. Consistency With International Law

The regulations governing the activities listed in section 1 of this Article will apply to foreign flag vessels and persons not citizens of the United States only to the extent consistent with recognized principles of international law, including treaties and international agreements to which the United States is signatory.

Section 3. Emergency Regulations

Where necessary to prevent or minimize the destruction of, loss of, or injury to a Sanctuary resource or quality, or minimize the imminent risk of such destruction, loss, or injury, any and all activities, including those not listed in section 1 of this Article, are subject to immediate temporary regulation, including prohibition.

Article V. Relation to Other Regulatory Programs

Section 1. Fishing and Waterfowl Hunting

The regulation of fishing, including fishing for shellfish and invertebrates, and waterfowl hunting, is not authorized under Article IV. However, fishing vessels may be regulated with respect to vessel operations in accordance with Article IV, section 1, paragraphs (b) and (h), and aquaculture activities involving alterations of or construction on the submerged lands, or introduction or release of introduced species by aquaculture activities, can be regulated in accordance with Article IV, section 1, paragraph (c) and (e). All regulatory programs pertaining to fishing, and to waterfowl hunting, including regulations promulgated under the California Fish and Game Code and Fishery Management Plans promulgated under the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.,* will remain in effect, and all permits, licenses, and other authorizations issued pursuant thereto will be valid within the Sanctuary unless authorizing any activity prohibited by any regulation implementing Article IV.

The term ''fishing'' as used in this Article includes aquaculture.

Section 2. Defense Activities

The regulation of activities listed in Article IV shall not prohibit any Department of Defense activity that is essential for national defense or because of emergency. Such activities shall be consistent with the regulations to the maximum extent practicable.

Section 3. Other Programs

All applicable regulatory programs will remain in effect, and all permits, licenses, approvals, and other authorizations issued after January 16, 1981, with respect to activities conducted within the original Sanctuary boundary and after the effective date of the expansion of the Sanctuary with respect to activities conducted within the expansion area will be valid within the Sanctuary unless authorizing any activity prohibited by any regulation implementing Article IV. No valid lease, permit, license, approval or other authorization for activities in the expansion area of the Sanctuary issued by any federal, State, or local authority of competent jurisdiction and in effect on the effective date of the expansion may be terminated by the Secretary of Commerce or by his or her designee, provided the holder of such authorization complies with the certification procedures established by Sanctuary regulations. In addition, the Secretary may not under any circumstances issue a permit or authorization for exploring for, developing or producing oil, gas, or minerals within the Sanctuary.

Article VI. Alterations to This Designation

The terms of designation, as defined under section 304(a) of the Act, may be modified only by the same procedures by which the original designation is made, including public hearings, consultation with interested Federal, State, and local agencies, review by the appropriate Congressional committees and Governor of the State of California, and approval by the Secretary of Commerce or designee.

[END OF TERMS OF DESIGNATION]

C. Revisions to the CBNMS Terms of Designation

NOAA is revising the CBNMS terms of designation to:

1. Update the title by adding ''Terms of'' and removing ''Document.''
2. Modify the geographical description in the preamble by adding ''Bodega Canyon'' and ''submerged lands'' and making minor technical changes.
3. Modify Article I ''Effect of Designation'' by making minor technical changes.
4. Modify Article II ''Description of the Area'' by updating the description of the size of the sanctuary and describing the proposed new boundary for the sanctuary.
5. Modify Article III ''Characteristics of the Area That Give It Particular Value'' by updating the description of the nationally significant characteristics of the area to include Bodega Canyon and the additional area in the sanctuary.
6. Modify Article IV ''Scope of Regulation'' by updating section 1, subsection c, by replacing ''hydrocarbon operations'' with a more complete description of oil and gas activities, and adding ''minerals''; by clarifying the actual activities related to cultural and historical resources that are prohibited; and by adding a new subsection i ''Interfering with an investigation, search, seizure, or disposition of seized property in connection with enforcement of the Act or Sanctuary regulations.''
7. Modify Article V ''Relation to Other Regulatory Programs'' by updating section 3 to include the dates of designation and expansion used for certification and by adding ''In addition, a permit or authorization may not be issued under any circumstances for exploring for, developing or producing oil, gas, or minerals within the Sanctuary.''

The revised CBNMS terms of designation read as follows:

TERMS OF DESIGNATION FOR CORDELL BANK NATIONAL MARINE SANCTUARY

Preamble

Under the authority of Title III of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 16 U.S.C. 1431 *et seq.* (the ''Act''), Cordell Bank, Bodega Canyon, and their surrounding waters and submerged lands offshore northern California, as described in Article II, are hereby designated as Cordell Bank National Marine Sanctuary (the Sanctuary) for the purpose of protecting and conserving that special, discrete, highly productive marine area and ensuring the continued availability of the conservation, ecological, research, educational, aesthetic, historical, and recreational resources therein.

Article 1. Effect of Designation

The Sanctuary was designated on May 24, 1989 (54 FR 22417). Section 308 of the National Marine Sanctuaries Act, 16 U.S.C. 1431 *et seq.* (NMSA), authorizes the issuance of such regulations as are necessary to implement the designation, including managing, protecting and conserving the conservation, recreational, ecological, historical, cultural, archeological, scientific, educational, and aesthetic resources and qualities of the Sanctuary. Section 1 of Article IV of these Terms of Designation lists activities of the types that are either to be regulated on the effective date of final rulemaking or may have to be regulated at some later date in order to protect Sanctuary resources and qualities. Listing does not necessarily mean that a type of activity will be regulated; however, if a type of activity is not listed it may not be regulated, except on an emergency basis, unless Section 1 of Article IV is amended to include the type of activity by the same procedures by which the original designation was made.

Article II. Description of the Area

The Sanctuary consists of an approximately 971 square nautical mile (sq. nmi) area of marine waters and the submerged lands thereunder encompassed by a northern boundary that begins approximately 6 nmi west of Bodega Head in Sonoma County, California and extends west approximately 38 nmi, coterminous with the boundary of the Gulf of the Farallones National Marine Sanctuary (GFNMS). From that point, the western boundary of the Sanctuary extends south approximately 34 nmi. From that point, the southern boundary of the Sanctuary continues east 15 nmi, where it intersects the GFNMS boundary. The eastern boundary of the Sanctuary is coterminous with the GFNMS boundary, and is a series of straight lines connecting in sequence, back to the beginning point. The precise boundaries are set forth in the regulations.

Article III. Characteristics of the Area That Give It Particular Value

Cordell Bank (Bank) and Bodega Canyon are characterized by a combination of oceanic conditions and undersea topography that provides for a highly productive environment in a discrete, well-defined area. The Sanctuary may contain historical resources of national significance. The Bank consists of a series of steep-sided ridges and narrow pinnacles rising from the edge of the continental shelf. The Bank is 300–400 feet (91–122 meters) deep at the base and ascends to within 115 feet (35 meters) of the surface at its shallowest point. Bodega Canyon is about 12 miles (10.8 nmi) long and is over 5,000 feet (1,524 m) deep. The seasonal upwelling of nutrient-rich bottom waters and wide depth ranges in the vicinity have led to a unique association of subtidal and oceanic species. The vigorous biological community flourishing at Cordell Bank and Bodega Canyon includes an exceptional assortment of invertebrates, fishes, marine mammals and seabirds. Predators travel from thousands of miles away to feed in these productive waters.

Article IV. Scope of Regulation

Section 1. Activities Subject to Regulation

The following activities are subject to regulation, including prohibition, as may be necessary to ensure the management, protection, and preservation of the conservation, recreational, ecological, historical, cultural, archeological, scientific, educational, and aesthetic resources and qualities of this area:

a. Depositing or discharging any material or substance;

b. Removing, taking, or injuring or attempting to remove, take, or injure benthic invertebrates or algae located on the Bank or on or within the line representing the 50 fathom isobath surrounding the Bank;

c. Exploring for, developing or producing oil, gas or minerals within the Sanctuary;

d. Anchoring on the Bank or on or within the line representing the 50 fathom contour surrounding the Bank;

e. Taking, removing, moving, collecting, possessing, injuring or causing the loss of, or attempting to take, remove, move, collect, injure or cause the loss of a cultural or historical resource;

f. Drilling into, dredging, or otherwise altering the submerged lands of the Sanctuary; or constructing, placing, or abandoning any structure, material, or other matter on or in the submerged lands of the Sanctuary;

g. Taking or possessing any marine mammal, marine reptile, or bird except as permitted under the Marine Mammal Protection Act, Endangered Species Act or Migratory Bird Treaty Act;

h. Introducing or otherwise releasing from within or into the Sanctuary an introduced species; and

i. Interfering with an investigation, search, seizure, or disposition of seized property in connection with enforcement of the Act or Sanctuary regulations.

Section 2. Consistency With International Law

The regulations governing activities listed in Section 1 of this Article shall apply to foreign flag vessels and foreign persons only to the extent consistent with generally recognized principles of international law, and in accordance with treaties, conventions, and other agreements to which the United States is a party.

Section 3. Emergency Regulations

Where necessary to prevent or minimize the destruction of, loss of, or injury to a Sanctuary resource or quality, or minimize the imminent risk of such destruction, loss, or injury, any and all activities, including those not listed in Section 1 of this Article, are subject to immediate temporary regulation, including prohibition, within the limits of the Act on an emergency basis for a period not to exceed 120 days.

Article V. Relation to Other Regulatory Programs

Section 1. Fishing

The regulation of fishing is not authorized under Article IV. All regulatory programs pertaining to fishing, including Fishery

Management Plans promulgated under the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.* (''Magnuson-Stevens Act''), shall remain in effect. All permits, licenses, approvals, and other authorizations issued pursuant to the Magnuson-Stevens Act shall be valid within the Sanctuary. However, all fishing vessels are subject to regulation under Article IV with respect to discharges and anchoring.

Section 2. Defense Activities

The regulation of activities listed in Article IV shall not prohibit any Department of Defense (DOD) activities that are necessary for national defense. All such activities being carried out by DOD within the Sanctuary on the effective date of designation shall be exempt from any prohibitions contained in the Sanctuary regulations. Additional DOD activities initiated after the effective date of designation that are necessary for national defense will be exempted after consultation between the Department of Commerce and DOD. DOD activities not necessary for national defense, such as routine exercises and vessel operations, shall be subject to all prohibitions contained in the Sanctuary regulations.

Section 3. Other Programs

All applicable regulatory programs shall remain in effect, and all permits, licenses, approvals, and other authorizations issued after July 31, 1989, with respect to activities conducted within the original Sanctuary boundary and after the effective date of the expansion of the Sanctuary with respect to activities conducted within the expansion area pursuant to those programs shall be valid unless prohibited by regulations implementing Article IV. In addition, the Secretary may not under any circumstances issue a permit or authorization for exploring for, developing or producing oil, gas, or minerals within the Sanctuary.

Article VI. Alterations to This Designation

The terms of designation, as defined under section 304(a) of the Act, may be modified only by the same procedures by which the original designation is made, including public hearings, consultation with interested Federal, State, and local agencies, review by the appropriate Congressional committees, and approval by the Secretary of Commerce or designee.

[END OF TERMS OF DESIGNATION]

III. Summary of Regulatory Amendments

With this action, NOAA is:

—Modifying the GFNMS and CBNMS boundary descriptions and coordinates;

—Applying certain existing prohibitions to the expansion areas;

—Amending certain existing prohibitions that apply in the original and expanded areas; and

—Adding new prohibitions.

Specific regulatory language for each of the two sanctuaries can be found at the end of this document.

A. Summary of Boundary Modifications

NOAA is modifying the boundary of GFNMS by extending it northward to the 39th parallel, just north of Point Arena in Mendocino County, in order to include the coastal waters and submerged lands north of the original sanctuary, and extending the boundary seaward to the continental slope to approximately the 10,000-foot (1,667-fathom) depth contour. The combined expanded boundary increases the size of the sanctuary from approximately 1,282 square miles (968 square nautical miles) to approximately 3,295 square miles (2,488 square nautical miles). The expanded area extends shoreward to the mean high water line, including restored wetlands, but does not include Salmon Creek Estuary, the Russian River Estuary, the Gualala River Estuary, Arena Cove or the Garcia River Estuary. The southern boundary and portions of the western boundary of GFNMS are coterminous with CBNMS. A map of the expanded sanctuary is available online at *http://farallones.noaa.gov/manage/expansion_cbgf.html*.

NOAA is increasing the size of CBNMS from approximately 529 square miles (399 square nautical miles) to 1,286 square miles (971 square nautical miles), by including the waters and submerged lands north and west of the original sanctuary. The revised boundary for CBNMS includes Bodega Canyon, a significant bathymetric feature that contributes directly to the biological productivity of the existing sanctuary ecosystem. Submarine canyons support deep water communities and affect local and regional water circulation patterns. The eastern and northern boundaries of CBNMS are coterminous with GFNMS.

NOAA has also made minor technical changes to the textual descriptions and point locations of the No-Anchoring Seagrass Protection Zones in the Tomales Bay area of GFNMS. NOAA converted metric values (hectares and meters) to nautical miles and miles to be consistent with the rest of the document. All zones with a shoreline component to their boundary are now described in language that complies with current ONMS conventions for boundary descriptions. In addition to modifying the text, the index numbers of some coordinate pairs were reordered and some coordinates were modified to accommodate the edited text. NOAA has made no change to the existing zone locations or areas, except that the boundary coordinates of Seagrass Protection Zone 5 were modified slightly to better align with GFNMS boundaries. Therefore, this final rule corrects minor errors and incorporates these changes without significantly altering the size or location of the seagrass protection zones.

B. Summary of Existing Regulations Extended to the Expansion Areas

NOAA is extending the following prohibitions and exemptions from the original sanctuaries to the expansion areas.

• Prohibition on Certain Discharges (GFNMS and CBNMS)

Generally, discharging or depositing any material or other matter from within or into the sanctuary is prohibited in GFNMS and CBNMS with the following exceptions for all vessels including cruise ships: discharge of clean vessel engine cooling water, clean vessel generator cooling water, clean bilge water, anchor wash, and vessel engine or generator exhaust. All vessels other than cruise ships are also allowed to discharge or deposit within or into the sanctuary: fish, fish parts, chumming materials or bait as part of lawful fishing activities; clean effluent generated incidental to vessel use and generated by a Type I or II marine sanitation device; and clean vessel deck wash down. Note that the discharge prohibition applies not only to discharges and deposits originating in the sanctuary (*e.g.,* from vessels in the sanctuary), but also from discharges and deposits occurring above the sanctuaries.

The prohibition against discharge/deposit originating outside the sanctuary boundaries that subsequently enter and injure a sanctuary resource and quality is also being applied in the expansion areas, subject to the same exceptions described above for discharges within or into the sanctuary.

• Prohibition on the Take and Possession of Certain Species (GFNMS and CBNMS)

NOAA extends the prohibition on the taking or possession of any marine mammal, sea turtle or bird within or above the sanctuary unless it is authorized by the Marine Mammal Protection Act, as amended, (MMPA; 16 U.S.C. 1361 *et seq.*), Endangered Species Act, as amended, (ESA), 16 U.S.C. 1531 *et seq.,* Migratory Bird Treaty Act, as amended, (MBTA), 16 U.S.C. 703 *et seq.,* or any regulation, as amended, promulgated under the MMPA, ESA, or MBTA. This regulation under the NMSA provides an important and additional deterrent for violations of existing laws designed to protect marine mammals, birds, or sea turtles, than that provided by those other laws alone. It

does not apply to activities (including a federally or state-approved fishery) that have been authorized under the MMPA, ESA, MBTA or implementing regulations.

Therefore, under this regulation, if the National Marine Fisheries Service (NMFS) or the United States Fish and Wildlife Service (USFWS) issues a permit for, or otherwise authorizes, the take of a marine mammal, bird, or sea turtle, the permitted or authorized taking is allowed under this rule and would not require an additional sanctuary permit unless the activity also violates another provision of the sanctuary's regulations. The intent of this regulation is to enhance the protection of the diverse and vital marine mammal, bird, and sea turtle populations of the sanctuaries. This area-specific focus is complementary to efforts of other resource protection agencies.

• Prohibition on the Introduction of Introduced Species (GFNMS and CBNMS)

Since 2008, it has been unlawful to introduce or release an introduced species in the federal waters of both sanctuaries. Through a separate rulemaking, NOAA recently published a final rule prohibiting the introduction of an introduced species into the state waters within the original boundary of GFNMS (80 FR 8778). With this final rule, NOAA extends this prohibition on introducing an introduced species into the expanded areas of both GFNMS and CBNMS, subject to existing exceptions for catch and release of striped bass (*Morone saxatilis*) and for any aquaculture project conducted within Tomales Bay (in GFNMS) consistent with a permit, lease or license issued by the State of California.

• Prohibition on Construction on and Alteration of the Submerged Lands (GFNMS and CBNMS)

NOAA extends to the GFNMS expansion area the prohibition on constructing any structure other than a navigation aid on or in the submerged lands of the sanctuary; placing or abandoning any structure on or in the submerged lands of the sanctuary; or drilling into, dredging, or otherwise altering the submerged lands of the sanctuary in any way. This prohibition includes four exceptions: (1) Anchoring vessels; (2) while conducting lawful fishing activities; (3) routine maintenance and construction of docks and piers on Tomales Bay; or (4) aquaculture activities conducted pursuant to a valid lease, permit, license or other authorization issued by the State of California. In addition, GFNMS regulations at 15 CFR 922.84 state that permitted activities existing prior to the expansion of the sanctuary may be allowed to continue through the process of certification described below.

For CBNMS, NOAA extends to the expansion area the existing regulation in the sanctuary beyond the line representing the 50-fathom isobath surrounding Cordell Bank, which prohibits drilling into, dredging, or otherwise altering the submerged lands; or constructing, placing or abandoning any structure, material or matter on the submerged lands of the sanctuary. This prohibition includes two exceptions: (1) Anchoring vessels; and (2) while conducting lawful fishing.

• Prohibition on the Disturbance of Historic Resources (GFNMS)

NOAA extends to the expansion area for GFNMS the existing prohibition on possessing, moving, removing, or injuring, or attempting to possess, move, remove or injure a sanctuary historical resource in the sanctuary. This regulation provides added protection to fragile, finite, and non-renewable resources so they may be studied, and appropriate information may be made available for the benefit of the public. The term ''historical resource'' is defined in ONMS program-wide regulations as any resource possessing historical, cultural, archaeological or paleontological significance, including sites, contextual information, structures, districts, and objects significantly associated with or representative of earlier people, cultures, maritime heritage, and human activities and events. As defined in the National Historic Preservation Act, as amended, and NOAA national marine sanctuary regulations, (15 CFR 922.3), historical resources include ''submerged cultural resources,'' and ''historical properties.'' This rule prohibits the possession of a sanctuary historical resource regardless of whether it is possessed within or outside the sanctuary. For example, this rule makes it unlawful to possess anywhere an artifact that was unlawfully taken from a shipwreck in GFNMS.

• Prohibition on White Shark Attraction (GFNMS)

NOAA extends to the GFNMS expansion area the existing prohibition on attracting a white shark anywhere within the sanctuary. The intent of this regulation is to prevent harm or behavioral disturbance to white sharks, which are one of the key predators in the GFNMS ecosystem.

• Prohibition on the Desertion of Vessels (GFNMS)

NOAA extends to the GFNMS expansion area the existing prohibition on deserting a vessel aground, at anchor, or adrift in the sanctuary. Deserting a vessel increases the likelihood of a calamitous event or the risk of sinking, which could result in the discharge of harmful toxins, chemicals or oils into the marine environment, reducing water quality and impacting biological resources and habitats. In addition, the vessel itself and its materials on board can damage habitat. As defined in the regulations, the term ''deserting'' includes leaving a vessel at anchor when its condition creates potential for a grounding, discharge, or deposit; and the owner/operator fails to secure the vessel in a timely manner.

NOAA also is extending to the GFNMS expansion area the prohibition on leaving harmful matter aboard a grounded or deserted vessel in the GFNMS. Once a vessel is grounded or deserted, there is a high risk of discharge/deposit of harmful matter into the marine environment. Harmful matter aboard a deserted vessel also poses a threat to water quality. The prohibition implemented by this rule is intended to reduce or avoid harm to sanctuary resources and qualities from potential deposit or leakage of hazardous or other harmful matter from a vessel.

• Prohibition on Oil, Gas, or Minerals Exploration (CBNMS)

NOAA extends to the expansion area for CBNMS the existing prohibition on exploring for, developing or producing oil, gas, or minerals.

• Exemption for Department of Defense Activities (GFNMS and CBNMS)

NOAA extends to the GFNMS and CBNMS expansion areas each sanctuary's existing exemption for DOD activities necessary for national defense. The activities may be conducted in these areas, provided such activities were conducted by DOD on or prior to the effective date of the expansions. DOD activities necessary for national defense initiated after the effective date could be exempted after consultation with the sanctuary superintendent, with authority delegated from the ONMS Director. In CBNMS, DOD activities not necessary for national defense, such as routine exercises and vessel operations, are subject to all prohibitions listed in the CBNMS regulations.

• Exemption for Emergencies (GFNMS and CBNMS)

NOAA extends to the GFNMS and CBNMS expansion areas the existing exemption for activities necessary to respond to an emergency threatening life, property, or the environment from sanctuary regulations.

• Exemption for Permitted Activities (GFNMS and CBNMS)

NOAA extends to the expanded area for both sanctuaries the exemption for activities permitted by the sanctuary superintendent, with authority delegated from the ONMS Director, in accordance with the permit issuance criteria found in 15 CFR 922.48, 15 CFR 922.83 (GFNMS) and 15 CFR 922.113 (CBNMS). It is important to note that permits will only be available for activities that would otherwise be prohibited by the regulations at 15 CFR 922.82(a)(2) through (a)(9) and (a)(11) through (a)(16) for GFNMS, and at 15 CFR 922.112(a)(2) through (a)(7) for CBNMS. No permit may be issued for activities that violate: 15 CFR 922.82(a)(1) (GFNMS) and 15 CFR 922.112(a)(1) (CBNMS), which prohibit the exploration for, development, or production of oil, gas or minerals within the sanctuary; 15 CFR 922.82(a)(10) (GFNMS) and 15 CFR 922.112(a)(8), which prohibit the introduction of an introduced species; and 15 CFR 922.82(a)(17) (GFNMS) and 15 CFR 922.112(a)(9) (CBNMS), which prohibit interference with an enforcement action. A sanctuary superintendent may issue a sanctuary permit to: (1) Further research or monitoring related to sanctuary resources and qualities; (2) further the educational value of the sanctuary; (3) further salvage or recovery operations; or (4) assist in managing the sanctuary.

• Issuance of Emergency Regulations (GFNMS and CBNMS)

The terms of designation for both sanctuaries include the authority for NOAA to issue regulations on an emergency basis to prevent immediate, serious and irreversible damage to sanctuary resources. In GFNMS, emergency regulations would be issued under national marine sanctuary system regulations at 15 CFR 922.44. In CBNMS, emergency regulations would be issued under site regulations at 15 CFR 922.112(d).

C. Summary of Amendments to Existing Regulations

With this rule, NOAA is amending the following regulations and applying them throughout the sanctuaries, including in the expansion areas.

• New Exemption for Graywater Discharges (GFNMS and CBNMS)

With the final rule, NOAA is including an additional exemption to allow the discharge/deposit of graywater, as defined by section 312 of the Federal Water Pollution Control Act (FWPCA), by vessels less than 300 GRT, or vessels 300 GRT or greater without sufficient holding tank capacity to hold graywater while within the sanctuary. This new exception does not apply to cruise ships. This modification recognizes the large area of the combined boundaries (and the difficulty some vessels may have to hold graywater while transiting the sanctuary), and now allows certain vessels to discharge clean graywater within the existing and expanded sanctuaries. Note that vessels greater than 300 GRT with holding capacity are still prohibited from discharging graywater anywhere in the sanctuary.

The graywater exemption also applies to the prohibition on a discharge/deposit originating outside the sanctuary boundaries that subsequently enters and injures a sanctuary resource or quality. Vessels less than 300 GRT or a vessel 300 GRT or greater without sufficient holding capacity for graywater are exempt from this ''enter and injure'' prohibition.

• Prohibition on Oil, Gas, or Minerals Exploration (GFNMS)

NOAA is extending the existing GFNMS prohibitions on oil and gas exploration, development, and production to the expanded area, with the following modifications:

1. NOAA is amending the current GFNMS regulation to also prohibit exploring for, developing, or producing minerals within the existing and expanded GFNMS boundary to be consistent with the adjacent CBNMS and Monterey Bay National Marine Sanctuary. No commercial exploration, development, or production of minerals is currently conducted, nor is such activity anticipated in the near future.

2. NOAA is removing the GFNMS exception for laying pipelines related to hydrocarbon operations adjacent to the sanctuary. There are no existing or proposed oil or gas pipelines in the vicinity and no currently planned or reasonably foreseeable oil or gas leases or development projects that would necessitate pipelines.

• Prohibition on Operating MPWC (GFNMS)

GFNMS regulations in the original sanctuary prohibit the operation of all MPWC, except for emergency search and rescue missions or law enforcement operations (other than routine training activities) carried out by the National Park Service, U.S. Coast Guard, Fire or Police Departments or other Federal, State or local jurisdictions.

This final rule does not change the prohibition on the operation of MPWC within the original sanctuary boundary and does not change the definition of MPWC. During the comment period, NOAA received a wide range of comments from the public regarding whether and how MPWCs should be regulated in the expansion area. As a result of the breadth and diversity of comments, NOAA is not extending the MPWC prohibition to the GFNMS expanded area from the southernmost tip of Bodega Head (the parallel at 38.29800 degrees North Latitude) and to the northern boundary near Point Arena so that it may consider the issue in more depth through a separate process, which will include public input, once the expansion of the sanctuary is final. Use of MPWC in most of the GFNMS expansion area will remain unregulated by NOAA at this time.

• Prohibition on Low Flying Aircraft in Designated Zones (GFNMS)

GFNMS regulations prohibit disturbing marine mammals or seabirds by flying motorized aircraft at less than 1,000 feet over the waters within one nautical mile of the Farallon Islands, Bolinas Lagoon, or any Area of Special Biological Significance (ASBS, see description below), except to transport persons or supplies to or from the Farallon Islands or for enforcement purposes. NOAA presumes that a failure to maintain a minimum altitude of 1,000 feet above ground level over such waters disturbs marine mammals or seabirds. NOAA is amending this regulation as follows: (1) Changing the name of all zones where this prohibition is applied to Special Wildlife Protection Zones (SWPZs); (2) changing the shape of these zones from round to polygon; (3) clarifying that the exception for transporting persons or supplies to or from Southeast Farallon Island is limited to transports authorized by the U.S. Fish and Wildlife Service, Farallon National Wildlife Refuge; and (4) adding two new SWPZs (where the low overflight restriction applies) in the GFNMS expansion area. The combined area for all seven SWPZs covers 2.77% of sanctuary waters (approximately 91.5 square miles). Each of these four changes is described in more detail below. NOAA provides the boundaries of the SWPZs as an appendix to the regulations. A map of the various zones designated in this rule can be viewed

online at *http://farallones.noaa.gov/manage/expansion_cbgf.html*.

1. NOAA is deleting the definition of ASBS in GFNMS regulations (although those areas are still designated by the state of California for water quality purposes and their status under State law remains unaffected by this rule). ASBS, as adopted by California's State Water Resources Control Board, are designated to protect water quality based on the presence of certain species or biological communities that, because of their value or fragility, deserve special protection. Within the original GFNMS boundaries, ASBS coincided with areas of high concentrations and/or biological diversity of breeding pinnipeds and birds and, as such, provided the rationale for NOAA's overflight restrictions. However, ASBS in the GFNMS expansion area are not in locations with high concentrations of breeding pinnipeds or birds.

Therefore, NOAA has added a definition for Special Wildlife Protection Zones (SWPZ) and is no longer utilizing the references to Bird Rock ASBS (at Tomales Point), Point Reyes Headlands ASBS, Double Point ASBS, Duxbury Reef ASBS, Bolinas Lagoon and the waters around the Farallon Islands. Instead, NOAA is renaming and redefining these areas as SWPZs. NOAA is also designating two new SWPZs in the GFNMS expansion area where breeding birds and pinnipeds aggregate and would benefit from overflight restrictions. Within these SWPZs, disturbing seabirds or marine mammals by flying motorized aircraft at less than 1000 feet over the waters (except when transiting SWPZs to transport authorized persons or supplies to or from Southeast Farallon Island authorized by the U.S. Fish and Wildlife Service, Farallon National Wildlife Refuge, or for enforcement purposes) is prohibited. Failure to maintain a minimum altitude of 1000 feet above ground level over such waters is presumed to disturb marine mammals or seabirds. This presumption of disturbance could be overcome by contrary evidence that disturbance did not, in fact, occur (*e.g.,* evidence that no marine mammals or seabirds were present in the area at the time of the low overflight).

2. With this rule NOAA is also changing the shape of the zones from circles to polygons to improve the compliance with regulations that apply in the zones and has delineated boundaries around known points, islands and landmarks. These five SWPZs—Tomales Point, Point Reyes, Duxbury Reef-Bolinas Lagoon, and two zones at the Farallon Islands—remain similar in size and location to the original low overflight restriction areas (Bird Rock ASBS, Point Reyes Headlands ASBS, Double Point ASBS, Duxbury Reef ASBS, Bolinas Lagoon and the waters around the Farallon Islands). The new SWPZs result in a slight increase in zone size for some areas and a decrease in size in other areas. NOAA believes the small changes in size to these zones add little to no additional flight time for aircraft and therefore result in a negligible change of operations for low flying aircrafts above the existing sanctuary. A detailed description of each of the zones may be found in the FEIS section 3.2.

3. The final rule clarifies that the exemption for low overflight restriction at SWPZ 6 applies specifically to persons authorized by the U.S. Fish and Wildlife Service and Farallon National Wildlife Refuge to allow transiting Zone 6 to transport authorized persons or supplies to or from Southeast Farallon Island, or for enforcement purposes.

4. This rule is creating two new SWPZs in the GFNMS expansion area. Low overflight restriction regulations will apply to the two new SWPZs. The first zone extends south along the coast from Havens Neck in Mendocino County approximately 10 miles to Del Mar Point in Sonoma County. The size of this zone is approximately 10.5 square miles. The second zone extends south along the coast from Windermere Point, north of the Russian River in Sonoma County, approximately 14 miles to Duncan's Point. The size of the zone is approximately 21.4 square miles. The overflight restrictions for these two new zones, consistent with those of the SPWZs within the original GFNMS boundaries, are intended to protect high concentrations of breeding pinnipeds and birds from certain human activities that could harm these sensitive resources.

• Prohibition on Cargo Vessels in Designated Areas (GFNMS)

NOAA is amending the regulation that prohibits cargo vessels from transiting closer than two nautical miles from the Farallon Islands, Bolinas Lagoon, or any ASBS. As previously explained, these areas are now renamed SWPZs. Restricting the distance that cargo vessels may approach SWPZs is intended to prevent wildlife disturbance and minimize the risk of oil spills in these areas. For the five cargo vessel prohibition zones in the original sanctuary boundaries, NOAA is changing the shape from circles to polygons to improve the compliance with this regulation and to facilitate enforcement. Although a cargo vessel prohibition zone currently exists at the Middle Farallon Island, NOAA is now removing it because the International Maritime Organization amended the San Francisco Traffic Separation Scheme to route vessel traffic farther away from the Farallon Islands, virtually eliminating the potential for cargo vessels to transit the area between those islands. Because SWPZs extend one mile seaward from land and because the cargo vessel restriction zones would extend one additional mile beyond SWPZs, this rule creates a two nautical mile cargo vessel restriction zone. Thus, the overall size and location of the new zones will not significantly differ from the existing areas, resulting in a negligible change for transiting cargo vessels.

In addition, NOAA is adding two new cargo prohibition zones in the expansion area that extend one nautical mile beyond each of the two newly designated SWPZs. Operating any vessel engaged in the trade of carrying cargo is prohibited in the zones. The combined area of the new cargo vessel zones in the expansion area is approximately 61.7 square miles. These two new zones are inshore of known cargo vessel traffic routes; therefore NOAA does not expect them to interfere significantly with current cargo vessel traffic. NOAA provides the boundaries of the cargo vessel restriction zones as an appendix to the regulations. A map of the various zones designated with this rule is available online at *http://farallones.noaa.gov/manage/expansion_cbgf.html*.

• Prohibition on White Shark Approach (GFNMS)

This final rule modifies the locations where approaching a white shark is prohibited at the Farallon Islands. NOAA originally prohibited approaching within 50 meters of a white shark within two nautical miles of the Farallon Islands to prevent harassment and to reduce wildlife disturbance to white sharks. The rule removes the approach prohibition around Middle Farallon Island because NOAA no longer considers the waters around that island as a location of primary food source for white sharks. NOAA is maintaining the zones off North and Southeast Farallon Islands and reconfiguring those zones to polygon shapes to improve compliance. NOAA provides the boundaries of the prohibition zones as an appendix to the regulations. As now revised, the combined area of the two new white shark protection zones is approximately 47.7 square miles, which reduces the total size of the prohibition area by approximately 4.5 square miles. NOAA

believes this change in boundaries will result in a negligible change for researchers and tourism operators in the existing sanctuary and the reconfiguration of zones will result in more effective resource protection.

• Procedures To Certify Certain Activities [GFNMS]

NOAA is amending the explanation of the procedure by which preexisting leases, permits, licenses, or approvals for activities in the expansion area and in existence on the effective date of the sanctuary expansion may be certified (see 15 CFR 922.84). NOAA clarifies that the certification process will only apply to activities in the expansion area, defines the application process, including limiting the duration of time for the application submittal process, and establishes criteria for the certification approval process. The certification process is developed as part of a separate mandate under the NMSA and is unrelated to the authorization process proposed by NOAA in the proposed rule.

D. Summary of New Regulations

NOAA is implementing the following new prohibitions and exemptions for the existing and expanded sanctuary area.

• Prohibition on Interference With an Investigation (GFNMS and CBNMS)

NOAA is adding new regulations that apply in the original and expanded areas of GFNMS and CBNMS. The regulations prohibit interfering with, obstructing, delaying, or preventing an investigation, search or seizure in connection with an enforcement action related to the National Marine Sanctuaries Act (NMSA; 16 U.S.C. 1431 *et seq.*). For better compliance with sanctuary regulations, this regulation codifies an existing mandate from the NMSA (16 U.S.C. 1436).

• Prohibition on the Disturbance of Historic Resources (CBNMS)

NOAA is adding a new regulation to the existing and expanded CBNMS boundary prohibiting disturbance of, or attempts to disturb, a sanctuary historical resource within CBNMS (this prohibition already exists within GFNMS). This new prohibition helps protect fragile, finite, and non-renewable historical resources so they may be studied, and appropriate information may be made available for the benefit of the public. This rule also prohibits the possession of a sanctuary historical resource, and provides for comprehensive protection of sanctuary resources by making it illegal to possess historical resources in any geographic location. For example, under this regulation it is unlawful for anyone to possess an artifact taken from a shipwreck in CBNMS, even if the artifact is no longer in the sanctuary.

IV. Changes From Proposed to Final Rule

Based on public comments received between April 14 and June 30, 2014, as well as internal deliberations and interagency consultation, NOAA has made the following changes to its proposed rule. NOAA has revised the FEIS accordingly.

1. Authorization Authority for CBNMS and GFNMS

In the proposed rule, NOAA proposed adding to the GFNMS and CBNMS regulations the authority for ONMS to consider an otherwise prohibited activity if such activity is specifically authorized by any valid Federal, State, or local lease, permit, license, approval, or other authorization (''authorization authority''). While NOAA believes authorization authority is a valuable tool for managing certain coastal and marine uses within national marine sanctuaries, the agency has removed this proposal in response to the wide range of concerns expressed by the public during the comment period. NOAA is not amending the regulations at 15 CFR 922.49 (ONMS regulations), 15 CFR 922.82(e) (GFNMS regulations) or 15 CFR 922.112(d) (CBNMS regulations) that would have given GFNMS and CBNMS authorization authority. NOAA intends to initiate a separate process that will include public input on the topic of authorization authority for GFNMS and CBNMS after the finalization of this expansion rule.

2. Certification of Existing Uses

Because of the possibility that preexisting activities that are permitted by other federal or state agencies might be occurring within the GFNMS expanded area that would otherwise be prohibited by GFNMS regulations, NOAA is clarifying the language at 15 CFR 922.84 describing the process by which it can certify existing permitted activities within the expansion area. In compliance with the NMSA, GFNMS regulations at 15 CFR 922.84 state that certification is the process by which permitted activities existing prior to the expansion of the sanctuary that violate sanctuary prohibitions may be allowed to continue, provided certain conditions are met. The certification process only applies to activities in the GFNMS expanded area. Applications for certifying permitted existing uses must be received by NOAA within 90 days of the effective date of this final rule. In the proposed rule, the time period when an application for certifying permitted existing uses should be received was 60 days. However, to ensure sufficient time for outreach and for any potential party affected to prepare an application, NOAA has extended the time period to 90 days.

3. Description of the Area for GFNMS

NOAA has made a small change to its proposed estimate of the area for GFNMS, changing it from 3,297 square miles (2,490 square nautical miles) to 3,295 square miles (2,488 square nautical miles), due to the following factors: Change of boundaries at Arena Cove (described below); use of an updated NOAA shoreline map; and the exclusion of offshore rocks and islands that are above the mean high water line. In addition, NOAA removed the reference to Giacomini Wetland in the description of the sanctuary that was included in the proposed rule. The reference generated confusion regarding the areal extent of Tomales Bay that is within the sanctuary. NOAA was not proposing to change the GFNMS boundary in Tomales Bay. The addition of Giacomini Wetland to the GFNMS boundary occurred as a result of the migration of the Mean High Water Line in Tomales Bay when the Waldo Giacomini Ranch was converted into a wetland through the Giacomini Wetland Restoration Project. The purpose of previously listing its inclusion in the current boundary description was to inform the public that since the last official boundary area calculation, which was conducted in 2007, GFNMS waters have since migrated into the Giacomini Wetland and those waters overlap with National Park Service property. However, it is not necessary to include the wetland as part of the boundary description, so the specific reference to Giacomini Wetland is removed from the final boundary description in order to avoid confusion.

4. Arena Cove

After careful consideration of all comments, NOAA has adjusted the sanctuary boundary to exclude a larger area of Arena Cove than originally proposed. The final boundary for Arena Cove is approximately 900 feet from the end of the harbor pier, which excludes all of the current harbor moorings within the cove and allows for expansion of pier and harbor operations. The final boundary is drawn at a line that connects two points on each side of the cove. NOAA rejected one suggestion to align the boundary with the existing

buoy at the edge of the harbor, given the buoy is not a fixed location and would require use of latitude/longitude coordinates for boundary identification (which is less effective for compliance and enforcement purposes). This change at Arena Cove decreases the size of the expanded sanctuary by approximately one tenth of a square nautical mile.

5. MPWC Use

In the proposed rule, NOAA had proposed restricting use of MPWCs to specific zones in the GFNMS expansion area. As proposed, MPWCs would have been prohibited in most of the area. However, due to the range of comments in support of, in opposition to, and suggesting change to the MPWC regulations in the proposed rule, NOAA has removed its proposal for MPWC use zones from this final action. NOAA has concluded that addressing the various, divergent public comments and the issues that were raised regarding MPWC regulations in the expansion area is not feasible at this time. As a result, MPWCs are not regulated in most of the expansion area, from the southernmost tip of Bodega Head (the parallel at 38.29800 degrees North Latitude) to the northern boundary near Point Arena, with this rulemaking, but will continue to be prohibited (with exceptions) in the existing GFNMS boundaries, including Bodega Bay.

Furthermore, because NOAA is removing its former MPWC proposal in this final action, the proposed requirement of a GPS unit for all MPWCs is also being removed from this final rule. The existing definition of MPWC will remain unchanged and continue to apply in the original area of GFNMS. NOAA intends to initiate a separate public process on the topic of MPWC for GFNMS after the finalization of this expansion rule to receive additional public input and information on this issue.

6. Special Wildlife Protection Zone (SWPZ) Definition

Given the confusion of public comments over the types of activities that would be regulated within SWPZs, this final rule revises the proposed definition of SWPZs at 15 CFR 922.81 in order to clarify its intent. This change clarifies that SWPZs are defined areas susceptible to human disturbances. Specific prohibitions for transiting cargo vessels, low flying aircraft and vessels approaching white sharks within these zones apply to the SWPZs. NOAA is also clarifying that SWPZs do not include pinniped and bird resting and foraging areas. The definition is purposefully limited to breeding pinnipeds, and, at this time, is not intended to address other marine mammals such as whales and dolphins. The definition has also been modified from ''seabirds'' to ''birds'' to include all breeding birds (*e.g.* oyster catchers) that may be susceptible to human disturbance from low flying aircraft and transiting cargo vessels along the sanctuary shoreline.

7. Overflight Exception for SWPZ 6

In its proposed rule, NOAA recommended the following exception for SWPZ 6: ''. . . transiting Zone 6 to transport authorized persons or supplies to or from Southeast Farallon Island or for enforcement purposes.'' Based on comments submitted by the Department of the Interior, NOAA is clarifying that this exception applies specifically to persons authorized by the U.S. Fish and Wildlife Service and Farallon National Wildlife Refuge. The exception for enforcement purposes remains unchanged.

8. Use of the Term ''Mariculture''

NOAA has historically used the term ''mariculture'' in the original GFNMS terms of designation and regulations. However, the term ''aquaculture'' has now become more widely used to describe the same activities as those described as ''mariculture,'' is used by other national marine sanctuaries (including the adjacent Monterey Bay NMS), and is the term used in NOAA's 2011 policy on aquaculture. With this final rule, NOAA replaces the term ''mariculture'' with ''aquaculture'' in the GFNMS regulations. This is a technical change that does not have any effect on the types of activities subject to NOAA regulation.

9. Separate Rulemaking on Introduced Species

NOAA has been conducting a separate rulemaking on regulations relating to the introduction of introduced species in GFNMS and MBNMS. That rulemaking, completed prior to this final rule, amends regulations and terms of designation for GFNMS. Accordingly, this final rule includes this new regulatory language that had not yet been promulgated when the proposed rule for boundary expansion was published. Changes include the actual regulatory prohibition in § 922.82(a)(10), a reference to the boundary of Tomales Bay added as appendix D to the subpart, and a new § 922.85 regarding a memorandum of agreement between NOAA and state agencies describing how the agencies will consult on any future review of aquaculture projects in Tomales Bay. These changes are not part of this action, but were subject to public review in that separate rulemaking and are presented as part of the current regulations that now apply in GFNMS.

10. Boundary Coordinates

NOAA is providing exact boundary coordinates for the regulations that prohibit transit of cargo vessels and approaching a white shark, whereas in the proposed rule the areas were only defined by specifying a one-mile radius around SWPZs.

11. Cultural Resources Within the Terms of Designation for CBNMS and GFNMS

The existing terms of designation for both GFNMS and CBNMS describing activities subject to regulation included the general term ''activities regarding cultural and historical resources.'' Consistent with the regulations already in place for both sanctuaries and with the terms of designation for the adjacent Monterey Bay National Marine Sanctuary, NOAA has clarified the activities subject to regulation related to cultural resources are in fact: Taking, removing, moving, collecting, possessing, injuring or causing the loss of, or attempting to take, remove, move, collect, injure or cause the loss of cultural or historical resources.

12. Permits for Oil, Gas, and Minerals Within the Terms of Designation for CBNMS and GFNMS

In the proposed rule, NOAA proposed placing the following phrase in the GFNMS and CBNMS terms of designation Article IV, Section 1: ''In addition, the Secretary may not under any circumstances issue a permit or authorization for exploring for, developing or producing oil, gas, or minerals within the Sanctuary.'' NOAA has determined that this phrase is better placed in the terms of designation Article V, Section 3 for both sanctuaries, with slight modification, to read as follows: ''In addition, a permit or authorization may not be issued under any circumstances for exploring for, developing or producing oil, gas, or minerals within the Sanctuary.''

V. Response to Comments

NOAA received over 1,000 comments on the DEIS, proposed rule and GFNMS and CBNMS draft revised management plans during the April 14 to June 30, 2014 public review period. Comments were received via mail, submissions on the *regulations.gov* Web site and oral testimony at four public meetings.

NOAA summarized the comments according to the content of the statement or question put forward in

written statements or oral testimony regarding the proposed action and alternatives. NOAA also made changes to the DEIS, proposed rule and CBNMS and GFNMS management plans in response to the comments, where appropriate, including updates to data where the comments affect the impact analysis or are relevant to the sanctuary action plans. Several technical or editorial comments on the DEIS and management plans, and comments merely pointing out a mistake or missing information were addressed directly in the body of the documents in question, without a separate response being presented by NOAA.

Overall, there was strong support for the proposed sanctuary boundary expansion and the proposed actions for increasing protection of marine resources. Most comments focused on the regulatory aspects of the proposed action, including concerns about the proposed authorization authority, motorized personal watercraft use, and the proposed Special Wildlife Protection Zones. Boundary issues were focused primarily on the inclusion of estuaries and river mouths and on extending the boundaries to include the entire Mendocino coastline. Numerous comments requested modifications to the draft revised sanctuary management plans to strengthen resource protection. Each of these issues is addressed below.

Comments were grouped into categories, starting with more general issues, followed by specific issue comments, most of which correspond to the EIS issue area topics (*e.g.,* biological resources, fishing, oil and gas facilities, military uses, etc.). For most topics, there are numerous sub-categories or issues, under which several comments may have been combined.

General Support and Opposition of Proposed Sanctuary Expansion

Support for Sanctuary Expansion

Comment: Many comments voiced support for the proposed expansion of sanctuary boundaries and encouraged NOAA to proceed with the expansion process.

Response: Comment noted.

Opposition to Sanctuary Expansion

Comment: Some of the comments stated opposition to the overall sanctuary expansion process for various reasons.

Response: Comment noted.

Authorization Authority

Comment: NOAA should remove its proposal to provide GFNMS and CBNMS with the authority to authorize the permits of other agencies for activities that would otherwise be prohibited within the sanctuaries because it would allow activities in conflict with marine resource protection.

Response: Due to issues raised regarding authorizations in comments received during the public review period, NOAA has removed authorization authority from the final regulations for both sanctuaries. However, NOAA believes authorization authority could be a valuable tool in managing several types of uses that currently occur in the proposed expansion area or may be proposed in the future in the expanded sanctuaries. NOAA intends to conduct a separate process with sanctuary advisory councils and public input to consider authorization authority after this rule is finalized.

Comment: NOAA should narrow or otherwise limit the list of uses that could be approved through the authorization process, such as sewage discharges.

Response: NOAA intends to conduct a separate public process to consider authorization authority after this rule is finalized. As part of this process, NOAA will consider which activities could be potentially considered for an authorization.

Comment: NOAA should move forward with authorization authority, because it may be useful for considering activities with minimum impacts and for improving consultation with other agencies.

Response: NOAA originally proposed adding authorization authority at both sanctuaries because it has proven to be a useful and necessary regulatory tool at other sanctuaries similar in size and scope to GFNMS and CBNMS. As described in the responses above, NOAA will rely on a separate process to work with communities, including other agencies, on the need for and benefits of extending authorization authority to GFNMS and CBNMS.

Boundaries

Western Boundaries of CBNMS and GFNMS

Comment: NOAA should make minor adjustments to the proposed western boundaries: they are highly angular and may not consistently reflect actual wildlife activity.

Response: The western, northern, and southern boundaries of the expanded CBNMS and GFNMS correspond to specified points of latitude and longitude primarily for purposes of enforcement and education. Many species of marine mammals, fish, birds and invertebrates inhabit the waters and submerged lands in the proposed expanded sanctuaries and it would be difficult to design boundaries to reflect specific wildlife activity. In addition, the proposed western boundaries meet the purpose for the action by containing most of the source waters of CBNMS and GFNMS stemming from the upwelling cell originating off Point Arena. As such, NOAA is not changing the expanded western boundaries of CBNMS and GFNMS as described.

Expand GFNMS To Include Portions of the MBNMS Boundary

Comment: NOAA should include a portion of the Marin County coastline to Point Bonita; or the entire Marin County coastline; or the northern region of MBNMS from Año Nuevo to the current GFNMS boundary at Rocky Point to reflect the oceanographic boundaries of GFNMS and improve conservation and management over these waters.

Response: Expanding the GFNMS boundary to include waters adjacent to the southern portion of Marin County outside of the current MBNMS boundary, or the waters adjacent to the Marin County or San Mateo County coast within MBNMS, is outside the scope of this proposed action. GFNMS has administrative jurisdiction over the northern portion of MBNMS, from the San Mateo/Santa Cruz County line northward to the existing boundary between the two sanctuaries, including the waters adjacent to southern Marin County and most of San Mateo County. MBNMS remains the lead for water quality issues in this area. NOAA is satisfied with the effectiveness of the management framework at this time.

Expand CBNMS and GFNMS in Other Configurations or Size

Comment: NOAA should design CBNMS and GFNMS boundaries in other configurations than the proposed action or alternatives.

Response: NOAA believes the boundary configuration best meets the stated purpose of the proposed action to protect upwelling off Point Arena and waters flowing south from it to CBNMS and GFNMS.

Comment: NOAA should expand CBNMS and GFNMS boundaries even farther north to include other communities interested in protecting areas through a national marine sanctuary.

Response: The purpose of this action is to protect the upwelling cell originating off Point Arena. NOAA believes the northern boundary of GFNMS properly encompasses the area

oceanographically and ecologically. However, NOAA has recently developed a process for communities to nominate areas for consideration as a national marine sanctuary as described online at *http://www.nominate.noaa.gov/*. Any community group interested in additional protection for nearby coastal waters can consider that process.

Arena Cove Boundary

Comment: NOAA should exclude a larger area of Arena Cove than what was proposed in order to lessen impacts of regulations on current human uses in the cove, such as moorings.

Response: After careful consideration of all comments, NOAA has adjusted the sanctuary boundary to exclude all of Arena Cove. Thus, the final boundary excludes all of the current harbor moorings as well as all basic pier and harbor operations immediately west of the end of the pier. Other activities, such as discharges from fireworks, will not be regulated by GFNMS, provided the discharges fall within the area of Arena Cove that is not included in the sanctuary. The final boundary excludes Arena Cove shoreward of a line that connects the two points on the northwest and southeast sides of the cove. The boundary is shown in Figure 3.2—16 in the FEIS.

Comment: NOAA should include all of Arena Cove, because without sanctuary protection, incompatible uses such as oil and gas facilities may be permitted within and adjacent to the cove.

Response: With this final rule, oil and gas exploration and development is prohibited in the expansion area, including areas adjacent to Arena Cove. Although sanctuary regulations do not apply in Arena Cove, there are state regulations and restrictions that prohibit oil and gas development in state waters, which include Arena Cove. Therefore, given the small area excluded in Arena Cove, and the presence of other existing regulations in adjacent waters, NOAA believes it is unlikely that oil and gas facilities would be constructed in Arena Cove.

Giacomini Wetland and Overlap With National Park Service (NPS) Boundaries

Comment: NOAA should clarify the extent of the overlap between sanctuary waters and the Giacomini Wetland, as well as any jurisdictional conflict with the NPS.

Response: NOAA was not proposing a change to the GFNMS boundary in Tomales Bay. By mentioning the Giacomini Wetland in the description of the sanctuary, the proposed rule generated some confusion regarding the areal extent of GFNMS in Tomales Bay. The addition of Giacomini Wetland to the GFNMS boundary occurred as a result of the migration of the mean high water line in Tomales Bay when the Waldo Giacomini Ranch was converted into a wetland through the Giacomini Wetland Restoration Project. The purpose of listing its inclusion in the proposed boundary description was to inform the public that since the last official boundary area calculation in 2007, GFNMS waters have since migrated into the Giacomini Wetland and those waters overlap with NPS property. However, it is not necessary to list this area in the boundary description since the mean high water line is the official boundary of the sanctuary in that location, so the specific reference to Giacomini Wetland has been removed from the boundary description in the final rule.

GFNMS boundaries currently overlap with the NPS in Tomales Bay on the east and south shores. The GFNMS boundary does not affect the NPS' authority to extend its boundaries into the sanctuary. As a routine matter, NOAA coordinates its management efforts with NPS and any potential future conflicts that may arise would be addressed through this coordination.

Inclusion of Estuaries and Russian River Mouth

Comment: NOAA should include the Russian River Estuary, Salmon Creek Estuary, Gualala River Estuary, and the Garcia River Estuary to the mean high water line, in the expanded sanctuary.

Response: In this rule, NOAA is only extending the GFNMS boundary to mean high water and outside of river mouths and estuaries. The revised GFNMS management plan includes an activity requesting the Sanctuary Advisory Council to provide recommendations on the possible inclusion of coastal estuaries in the sanctuary.

Comment: NOAA should clarify that the Russian River Estuary Management Project, which is managed by the Sonoma County Water Agency, is outside the proposed boundaries of the GFNMS and CBNMS expansion.

Response: NOAA confirms the new GFNMS boundaries are outside those of the Russian River Estuary Management Project. A map showing sanctuary boundaries is available for download in the ''management section'' on the GFNMS Web site: *http://farallones.noaa.gov/manage/expansion_cbgf.html*.

Comment: NOAA should add a coordinate between Points 37 and 38 to further clarify the proposed boundary expansion at the mouth of the Russian River.

Response: A new coordinate at the Russian River is not necessary. When a national marine sanctuary does not include a certain estuary, NOAA identifies the boundary as crossing the mouth of the river or creek in a straight line that intersects the mean high water line on each side. This straight line is defined by two points, one on either side of the river or creek. A third point is not necessary unless the line has multiple segments.

Purpose and Need for Proposed Expansion/Regulations

Comment: NOAA should explain why it aims to protect only one upwelling area when the upwelling phenomenon occurs throughout the coastline along California, Oregon and Washington.

Response: The upwelling cell originating at Point Arena, which is strongly linked with the sanctuary waters to the south, is distinctly different and is largely separate from other upwelling cells to the north. Including other upwelling cells to the north or south of the existing CBNMS and GFNMS would not support the purpose and need for this proposed action, because there is less ecological connection between those upwelling cells and the waters of CBNMS and GFNMS. Additional information is provided in Sections 2.1 and 2.2 of the FEIS.

Comment: NOAA should elaborate on how sanctuary expansion would offer more protection to resources in the upwelling zone. There are both negative and beneficial effects of the proposed action, and there does not appear to be adequate analysis of a net benefit beyond existing protections such as the State-designated marine protected areas (MPAs).

Response: NOAA's regulations do not duplicate those of the state MPAs (which primarily restrict fishing), but rather complement them. Sanctuary regulations, as well as its research and education programs, collectively provide additional protection for resources in the upwelling zone. Examples of regulations that provide additional protection include prohibitions on oil and gas exploration, discharges of harmful matter, and altering the submerged lands.

The analysis in the FEIS finds that none of the alternatives would result in a significant adverse impact on any of the marine resources or uses in the existing CBNMS or GFNMS or expansion areas of the two sanctuaries. NOAA identified substantial benefits to physical resources, biology and cultural

and maritime heritage resources as a result of habitat qualities maintained or improved, with negligible costs to businesses in the commercial and recreational fishing industry. For a summary of benefits, see FEIS Section 4.11.2.

Sanctuary Regulations

Existing Regulations Alternative

Comment: NOAA should adopt the Existing Regulations alternative as the preferred alternative rather than the proposed action, in order to be consistent with bills proposed in the past by then-Representative Lynn Woolsey and Senator Barbara Boxer.

Response: The administrative process to expand a national marine sanctuary under the authority of the National Marine Sanctuaries Act (NMSA) requires NOAA to examine current agency authorities and management regimes and consider the results of agency and tribal consultations, and public input. When developing the DEIS for the expansion proposals, NOAA determined that modifications to existing regulations would better address and protect sanctuary resources in both the existing and expanded sanctuary boundaries. NOAA believes the regulatory modifications are important in ensuring protection of marine resources and balancing uses consistent with resource protection within sanctuary waters. Furthermore, modifications to existing regulations would bring consistency with regulations in other national marine sanctuaries. Some modifications to existing regulations, such as removing the exemption for constructing an oil and gas pipeline across GFNMS, received considerable public support. NOAA intends to conduct separate public review processes for those proposed actions that require more public deliberation, such as the inclusion of rivers and estuaries. NOAA's final action meets the overall intent of the proposed legislation from former Representative Woolsey and Senator Boxer.

Separate Regulations Amendment Process

Comment: NOAA should consider any change to sanctuary regulations through a separate process after the geographic expansion becomes final, particularly for the proposed authorization of certain prohibited activities and the motorized personal watercraft (MPWC) regulations.

Response: When developing the DEIS for the expansion proposals, NOAA determined that modifications to existing regulations would better address and protect sanctuary resources in both the existing and expanded sanctuary boundaries. After this rule is finalized, NOAA intends to carry out a separate public review process to address authorization authority and the use of MPWC in the expansion area. Other potential changes to sanctuary regulations could be considered as well.

National Regulations Concern

Comment: In their January 2013 proposed national regulations, NOAA did not adequately describe the set of criteria by which NOAA would determine whether an authorization is granted for an activity otherwise prohibited in a national marine sanctuary.

Response: As noted above, NOAA is not including authorization authority in this final rule, but intends to consider it in a subsequent, separate action. Comments on NOAA's January 2013, rulemaking are outside the scope of this proposed action.

Other Regulations

Comment: NOAA should connect sanctuary-specific regulations with regulations from other environmental statutes in order to more effectively protect land, water and air.

Response: Several regulations for both GFNMS and CBNMS already include specific references to other resource agencies, such as the discharge regulation (Environmental Protection Agency), the regulation prohibiting take of certain species (NMFS), and the introduced species regulation (State of California). Additionally, one of the mandates of the NMSA is to ''develop and implement coordinated plans for the protection and management of these areas with appropriate Federal agencies, State and local governments, Native American tribes and organizations, [. . .]'' (16 U.S.C. 1431(b)(7)). For this final rule, NOAA consulted with a variety of agencies that share jurisdiction over the resources in the waters of the national marine sanctuaries (see Appendix F in FEIS). These consultations were designed not only to ensure seamless coordination among agencies, but also to explore opportunities for further aligning agency efforts to maximize the conservation goals of the sanctuary expansion. NOAA will continue to engage other agencies through direct consultation and participation on the sanctuary advisory councils.

Recreational or Commercial Use Zones

Comment: NOAA should consider the development of marine zones in order to allow for some submarine cable activities or yet to be determined future recreational and/or commercial uses.

Response: NOAA is not aware of any upcoming proposals to lay cables through the sanctuary and believes the establishment of such cable zones to be premature. However, the maintenance of any existing cables would qualify for a certification of pre-existing authorizations or rights in accordance with national regulations at 15 CFR 922.47 and GFNMS regulations at 15 CFR 922.84. If new marine zones were warranted for future commercial or recreational activities, NOAA could then initiate a separate public process to consider those actions.

Restrict Vessel Speed

Comment: NOAA should consider regulating vessel speed as the primary means for reducing lethal vessel collisions with whales and for reducing chronic exposure of whales to underwater engine and propeller noise.

Response: NOAA is in the process of investigating Dynamic Management Areas (DMAs) as a way to address ship speed in the shipping lanes at the approaches to San Francisco Bay. DMAs were recommended in the CBNMS and GFNMS advisory councils' joint working group report, *Vessel Strikes and Acoustic Impacts.* A first step is to request voluntary speed restrictions for vessels transiting shipping lanes at the entrance of San Francisco Bay when there is a high concentration of whales. NOAA began implementing this approach in 2014, by requesting vessels to slow-down to ten knots or less in one of three lanes with the highest concentration of whales at the approach to San Francisco Bay. NOAA has also begun implementing a whale sighting network along the west coast to help build a robust monitoring program. Therefore, NOAA is not promulgating new regulations on vessel speed in GFNMS or CBNMS at this time. For a list of current actions to reduce risk of ship strikes to whales conducted by CBNMS, GFNMS, and other national marine sanctuaries on the west coast see the Web site *http://sanctuaries.noaa.gov/protect/shipstrike/research.html*.

Emergency Regulation of Activities

Comment: In a separate regulatory process NOAA should add a clause for regulating an activity on an emergency basis for no more than 120 days in GFNMS.

Response: The terms of designation for GFNMS already allow NOAA to adopt immediate temporary regulation, including prohibition, where necessary

to protect sanctuary resources (Article 4, Section 3). To date, NOAA has not adopted an emergency regulation for GFNMS, but it has the authority to do so, should the need arise in the future. CBNMS and MBNMS have this same authority.

Harmful Matter Definition

Comment: NOAA should define harmful matter, and add introduced species (including non-native terrestrial species such as rodents) in that definition.

Response: Harmful matter and introduced species are already defined at 15 CFR 922.81 for GFNMS and 922.111 for CBNMS. NOAA is addressing matters related to introduced species in GFNMS in a separate rulemaking. See comment below for additional information regarding introduced species.

Introduced Species

Comment: NOAA should not allow exotic species to be brought into the California marine environment via aquaculture, and should ban offshore finfish aquaculture.

Response: NOAA does not expressly prohibit aquaculture in GFNMS or CBNMS. However, any proposed aquaculture project in the sanctuaries may be subject to several existing prohibitions: Constructing on or altering the submerged lands; discharging any matter or material; and introducing introduced species into the sanctuary (see also response to comment ''Aquaculture'' in the Fishing section). NOAA recently finalized a prohibition on introduced species in the state's waters of the GFNMS. With this final rule, NOAA extends that prohibition all areas within GFNMS, with exceptions for shellfish aquaculture in Tomales Bay and the catch and release of striped bass.

Air Quality and Climate Change

Climate Change Benefits on Wildlife

Comment: NOAA should better describe the proposed action's potential benefits to wildlife from reducing the effects of climate change. The proposed expansion of the sanctuary could result in further habitat protection from human disturbance, which could help counter increased stress in wildlife due to climate change.

Response: NOAA analyzes the beneficial effects of the GFNMS and CBNMS regulations on biological resources in the FEIS (see Section 4.3.4), including positive direct and indirect impacts from prohibiting harmful activities. Although it is likely these benefits would help offset impacts of climate change on wildlife, the extent of the benefit is not currently quantifiable. Text has been added to the FEIS to note potential benefits related to offsetting climate change impacts on wildlife.

Comment: With the expansion of the sanctuaries, NOAA should conduct more research on climate change such as ocean acidification.

Response: The management plans for both CBNMS and GFNMS contain Conservation Science Action Plans, which include goals to increase knowledge and understanding of the sanctuaries' ecosystem, develop new and continue ongoing research and monitoring programs to identify and address specific resource management issues, and encourage information exchange and cooperation. Both sanctuaries participated in development of the Ocean Acidification Action Plan for national marine sanctuaries of the west coast. The plan has numerous research recommendations for studying ocean acidification. The report is available at: *http://sanctuaries.noaa.gov/about/westcoast.html#oa.*

Biological Resources

Abalone Protection

Comment: NOAA and the California Department of Fish and Wildlife (CDFW) should work cooperatively to ensure adequate abalone protection.

Response: CDFW is the state agency responsible for managing abalone stocks. NOAA will continue partnering with the state on a range of resource protection issues in the GFNMS and CBNMS expansion areas, including protection of red abalone habitat and populations, as well as recovery of the endangered black abalone.

Endocrine Disruption

Comment: NOAA and other institutions should address problems related to endocrine disruption and other pollutants.

Response: The Water Quality Action Plan in the GFNMS management plan references threats from pharmaceuticals and other chemicals that can act as endocrine disruptors and outlines activities to address this issue.

Marine Life Protection

Comment: NOAA should state unequivocally that wildlife must not be disturbed and marine life should not be taken. The expanded sanctuaries and their wildlife should be protected forever.

Response: Wildlife protection within national marine sanctuaries is an important priority for NOAA. This final rule extends to the expansion areas sanctuary regulations that protect a variety of species, biological communities, and habitats, including a prohibition on the take of marine mammals, birds and turtles except when permitted under the Marine Mammal Protection Act and Endangered Species Act. These two laws are implemented by NMFS and USFWS. NOAA is also designating low overflight prohibition areas and cargo vessel restriction areas in the GFNMS expansion area to provide added protection for breeding birds and breeding pinnipeds, as well as promulgating specific regulations to protect white sharks. NOAA believes this management framework represents a proactive approach to fulfilling the resource conservation mandate of the NMSA.

Noise

Comment: NOAA should study the effects of noise on marine mammals and other animals, ensure that noise levels not found in nature do not stress marine mammals and other species, and prohibit sonar testing if it exceeds safe levels.

Response: NOAA is studying the issue of noise impacts on sanctuary resources. NOAA has also responded to the GFNMS advisory council regarding its recommendations about the joint GFNMS and CBNMS advisory council working group report, *Vessel Strikes and Acoustic Impacts.* In addition, CBNMS and GFNMS management plans outline activities to monitor and address noise in the GFNMS Wildlife Disturbance Action Plan and the CBNMS Ecosystems Protection Action Plan. Sanctuary regulations prohibit the disturbance of marine mammals, birds and turtles except when permitted under the Marine Mammal Protection Act (MMPA) and Endangered Species Act (ESA).

With respect to sonar testing, section 304(d) of the NMSA provides for consultation with other federal agencies if their actions have the likelihood to injure sanctuary resources. NOAA has previously used this mechanism in consultations to minimize impacts of noise on marine mammals and other species. NOAA believes these tools provide a proactive approach to resource conservation and that an explicit prohibition on sonar testing is unwarranted at this time.

Ship Strikes and Noise Impacts on Wildlife

Comment: NOAA should implement all recommendations from the CBNMS and GFNMS advisory councils' report

Vessel Strikes and Acoustic Impacts. Those recommendations will adequately address significant ship strike and underwater acoustic impact concerns.

Response: NOAA has reviewed *Vessel Strikes and Acoustic Impacts* and has already begun to implement some of the recommended actions to reduce impacts on marine mammals. The revised management plan for CBNMS specifically lists as an activity to implement the recommendations from this report, while the revised management plans for both sanctuaries have several general activities (monitoring, education and outreach, collaborations) related to addressing the issue of ship strikes and noise on whales (also see previous responses to comment above). Current actions being taken can be found in the document ''GFNMS Response to the Report'' and can be downloaded at: *http://farallones.noaa.gov/eco/vesselstrikes/welcome.html*. All of these recommended actions, originally developed for the existing sanctuaries, apply in the expansion areas.

Protect Assets

Comment: NOAA needs to protect and preserve our human assets over extractive assets.

Response: Comment noted. Per the NMSA, NOAA regulates a number of extractive activities within national marine sanctuaries that have negative effects on sanctuary resources. At the same time, NOAA facilitates uses of the national marine sanctuaries compatible with resource protection. As such, NOAA works to best conserve all the assets of the national marine sanctuary system.

Special Wildlife Protection Zones and Associated Regulations

Special Wildlife Protection Zone (SWPZ) Definition and Scope of Regulations

Comment: NOAA should revise the definition of SWPZs to clarify their intent.

Response: NOAA has clarified in the final rule that SWPZs are located in areas susceptible to human disturbances, and that SWPZs do not include pinniped and marine bird resting and foraging areas. The definition is purposefully limited to breeding pinnipeds rather than marine mammal hotspots, and, at this time, is not intended to address other marine mammals such as whales and dolphins. The definition has also been modified from ''seabirds'' to ''birds'' to include all breeding birds (*e.g.* oyster catchers) that may be susceptible to human disturbance from low flying aircraft and transiting cargo vessels along the sanctuary shoreline.

Comment: NOAA should better articulate what would be regulated within SWPZs.

Response: 15 CFR 922.82 (prohibited or otherwise regulated activities) describes the prohibitions and exceptions for each SWPZ. The project description (Section 3.2) in the FEIS has been updated to better clarify the scope of the SWPZ definition and the prohibitions that use the SWPZ definition. Prohibitions that apply to the SWPZ are limited to GFNMS.

Comment: NOAA should clarify how the sanctuary will coordinate with the State of California on State Special Closures in regards to SWPZs to avoid duplication of efforts and/or confusion.

Response: Prohibitions that apply to SWPZs are limited to transiting cargo vessels, low flying aircraft, and approaching white sharks. The regulations are not intended to address disturbance from other human uses. The State of California established Special Closures in the original GFNMS area that prohibit access by watercraft in waters adjacent to designated seabird breeding areas and marine mammal breeding and haul-out sites. Therefore, both types of special areas complement each other for the purpose of marine conservation by focusing on different human uses. However, the special closures exist only under state law and are not part of the GFNMS regulations. NOAA will continue to work closely with the State of California to educate the public on wildlife disturbance issues and focus outreach on preventing human caused disturbance to wildlife.

Comment: NOAA should move forward with the removal of Areas of Special Biological Significance (ASBS) as a defined area within sanctuary regulations.

Response: NOAA agrees. The final rule includes removal of references to ASBS and other area names for purposes of sanctuary regulations. State-designated ASBS will still exist under state laws and regulations. NOAA is now designating SWPZs because it believes they will be more easily understood by sanctuary users.

Comment: NOAA should establish on-the-water, year-round or seasonal closures for vessels at Fish Rocks, Haven's Neck, Gualala Pt., the Pt. Arena Peninsula, Bodega Rock, and Gull Rock to reduce wildlife disturbance. NOAA should also consider additional sanctuary protections to waters contiguous with the NPS Phillip Burton Wilderness area.

Response: NOAA is not establishing this type of closure with this final rule. However, sanctuary regulations include prohibitions on taking or harassing certain species of wildlife, including marine mammals, sea turtles and birds (see 15 CFR 922.82) which help protect all wildlife throughout GFNMS, not just in specific zones. As stated above, the State of California established ''Special Closure'' zones within GFNMS waters to protect wildlife from watercraft, and which also support wildlife conservation. NOAA, in partnership with the Seabird Protection Network, will continue to collaborate with other agencies and organizations to monitor human use and educate target audiences (*e.g.* pilots, boaters and humans on foot) about preventing human-caused impacts on marine wildlife. In addition, the Resource Protection Action Plan within the GFNMS management plan has been modified to include additional activities to identify and address habitats that are known to be ''special areas of concern,'' including developing a sanctuary policy on areas adjacent to NPS Wilderness Areas.

Comment: In 15 CFR 922.82, when referring to the exception for SWPZ 6, NOAA should make changes as follows: 1) ''Authorized persons or supplies'' should be defined and limited to the U.S. Fish and Wildlife Service, Farallon National Wildlife Refuge; 2) Authorized law enforcement should be defined; and 3) Search and rescue should be excepted.

Response: NOAA has revised the final rule to limit ''authorized persons'' to the U.S. Fish and Wildlife Service, Farallon National Wildlife Refuge. NOAA is not further defining authorized law enforcement, because the current text under the enforcement section in the NMSA (Sec. 307 [16 U.S.C. 1437]) has been effective in the past. There is an existing exception to this regulation for search and rescue in accordance with 15 CFR 922.82(c), for activities necessary to respond to an emergency threatening life, property, or the environment, consistent with regulations in many other national marine sanctuaries.

Mapping Zones

Comment: NOAA should include in the FEIS better maps of the SWPZs; and maps that depict other zones and state marine protected areas (MPAs).

Response: NOAA has developed a separate map of the proposed boundaries of all area-based GFNMS and CBNMS regulations, including SWPZs, which is available for download on the GFNMS Web site: *http://farallones.noaa.gov/manage/expansion_cbgf.html*. NOAA does not regulate

state-designated MPAs, and thus adding these zones to the map could create confusion about NOAA's jurisdiction and the scope of this action, including the scope and definition of SWPZs. Therefore, the map shows only GFNMS and CBNMS boundaries and regulations.

Opposition to Special Wildlife Protection Zone 3

Comment: NOAA should not expand SWPZ 3 into Tomales Bay. There is no possibility of cargo ships entering into Tomales Bay due to a lack of deep water, and there is no documentation of low flying aircraft in the area within that part of Tomales Bay; therefore this designation is unwarranted.

Response: SWPZ 3 does not extend throughout Tomales Bay. The area contained within SWPZ 3 is already part of a State Area of Special Biological Significance (ASBS), and in 1981 NOAA established additional federal regulations for ASBS in the sanctuary to protect breeding birds and pinnipeds in the area from disturbance from low flying aircraft and transiting cargo vessels. NOAA is changing the term ASBS to SWPZs (see FEIS Section 3.2).

Overflight Regulations: Reconfigure Proposed SWPZ and Develop New Zones

Comment: NOAA should add overflight regulations to protect pinnipeds and marine birds in Tomales Bay, Pt. Resistance, Bodega Rock/Head, the spits at Drakes Estero, Devil's Slide Rock and the shoals near the Farallones, harbor seal pupping areas South of Del Mar Landing State Marine Reserve area, and Tidepool Beach, Shell Beach and Green Cove at The Sea Ranch.

Response: NOAA has updated the GFNMS management plan with an action requesting a GFNMS advisory council working group to assess the need for additional low overflight zones throughout the entire sanctuary. Comments provided during this rulemaking process will be considered in any future zoning actions taken by the sanctuary. The revised management plan does not include a list of specific areas for future zoning, but NOAA recognizes that areas surrounding The Sea Ranch, Tomales Bay, and Devil's Slide Rock may be ''special areas of concern'' within the revised boundaries of GFNMS.

Comment: NOAA should conduct a literature review regarding seabird protection and low overflights.

Response: NOAA used the best available science in support of the low overflight prohibitions in the GFNMS expansion area. Any future process that considers low overflight zones in GFNMS would include a literature review of bird breeding areas adjacent to sanctuary waters, and a review of data regarding impacts on birds from low overflights.

Overflight Regulations: Minimum Altitudes

Comment: NOAA should extend the 1,000 feet minimum altitude of overflight regulation areas to also include adjacent land areas.

Response: NOAA's authority to protect marine life by restricting overflights only applies to the waters of the sanctuaries, including waters around islands and sea stacks within specified zones of the sanctuaries.

Comment: NOAA should raise the minimum altitude for overflight regulations. A 1,000 foot ceiling over the waters would only be approximately 660 feet above the highest point of Southeast Farallon Islands, for example. Thus, the 1,000 foot overflight protection for wildlife ''hotspots'' is inadequate. In addition, the 1,000 foot overflight limit is also inconsistent with other federal authorities, such as NPS (5,000 ft.) and FAA (2,000 ft.) protections, and the Olympic Coast National Marine Sanctuary's overflight regulations.

Response: Monitoring data in central California has shown that an overflight height of 1,000 feet above ground level (AGL) has proven to be an adequate buffer in minimizing disturbance to breeding pinnipeds and birds within the jurisdiction of the sanctuary, by reducing disturbance by 96%. NOAA considers this information, coming from the specific region where GFNMS is located, most relevant to protecting the resources of the sanctuary. While NOAA considered overflight management practices in other national marine sanctuaries or other protected areas in the development of this regulation, it believes that, other things being equal, location-specific data is more relevant and should be given greater weight than practices designed for different ecosystems.

Comment: NOAA should not include overflight regulations in the expanded area, because the restrictions place pilots and passengers at risk with the fog and marginal weather in this area.

Response: NOAA has determined that overflight regulations in the expanded area are necessary to prevent disturbance to breeding birds and pinnipeds. Therefore, the final rule maintains the previously existing altitude restrictions within the existing sanctuary areas, and adds two new zones with the same altitude restrictions in the expansion area. During the development of this rule, NOAA determined that pilots have several options if weather conditions are such that maintaining visual flight rules cannot be achieved while avoiding the minimum altitude, rather than violating overflight regulations within the zones the pilot could instead choose to do any of the following: (1) Avoid flying over sanctuary waters by flying inland; (2) fly instrument flight rules through the fog; or (3) fly above the fog. With regards to safety, GFNMS regulations contain an exemption from the overflight prohibition in the event of an emergency threatening life, property or the environment.

Overflight Regulations: Drone Use for the Purpose of Research

Comment: The use of solar powered drones and ultra-light aircraft for research purposes should be highly encouraged as it provides a quieter, more environmentally friendly, and a more economical alternative.

Response: NOAA agrees that such technology can be useful, and is working with other resource management agencies to best understand the potential benefits and drawbacks of drones and other light aircraft in protected areas like national marine sanctuaries. GFNMS and CBNMS regulations prohibit ''take,'' including operating a vessel or aircraft or doing any other act that results in the disturbance of sea turtles, birds, and marine mammals, and NOAA is now analyzing new information regarding the potential impacts of these machines on these species. NOAA may issue permits for research activities otherwise prohibited by sanctuary regulations, and researchers may apply to operate motorized aerial vehicles, including motorized ultra-light aircraft and ''unmanned aerial systems'' (drones) at low altitudes, within the boundaries of SPWZs.

Overflight Regulations: Private Airstrip Located in Vicinity of SWPZ

Comment: NOAA should change the overflight regulations in the vicinity of Point Arena, due to the location of the private airstrip at 27711 South Hwy 1. It is necessary to fly over the ocean under 1,000 feet during arrival and departure from this airstrip, which has been in use since 1970.

Response: NOAA is not including an overflight zone next to Point Arena in its final regulations. The southernmost point of the private airstrip is approximately 5 nautical miles from the northernmost boundary of SWPZ 1, which is the nearest SWPZ to the

airstrip. NOAA believes that the distance between SWPZ 1 and the airstrip would not impact takeoff or landing at this airstrip.

Cargo Vessel Regulations: Expand the Prohibition Regulations

Comment: NOAA should not remove the zone that excludes cargo vessels around Middle Farallon Island; NOAA should create a new zone to include the waters of CBNMS. This would benefit pelagic wildlife over Cordell Bank, Fanny Shoals, and the Shelf Break west of the Farallon Islands. It would also encourage ships to operate away from the Farallon Islands, reducing the risk of strikes to whales in that area.

Response: The International Maritime Organization amended the San Francisco Traffic Separation Scheme effective June 1, 2013 to route vessel traffic farther away from the Farallon Islands. Extending the western shipping lanes to the southwest and the northern shipping lanes to the northwest has virtually eliminated the potential for cargo vessels to transit the area between Southeast and North Farallon Islands. Because the shipping lanes effectively prohibit cargo vessels near the Middle Island, there is no need to include a sanctuary cargo vessel prohibition around this island and NOAA is removing it in this final rule. Because the purpose of the cargo vessel prohibition zones are to reduce the risk of a collision with islands, and given the Cordell Bank is deep enough underwater, NOAA does not believe it is necessary to exclude cargo vessel operation in CBNMS.

Comment: NOAA should designate a two-nautical mile buffer distance for cargo vessels around both the existing ASBSs and the proposed SWPZs within the GFNMS expansion area.

Response: In the final rule, NOAA designed the cargo vessel restriction boundaries to extend one-nautical mile seaward of SWPZs. This effectively translates into a two-nautical mile area around designated biologically sensitive areas. Therefore, NOAA has not modified the action with respect to the size of the zones where cargo vessel operation is restricted.

Comment: NOAA should add white shark protection by including Tomales Point and Tomales Bay as additional SWPZs that protect white sharks from close approaching vessels.

Response: The final rule prohibits attracting white sharks throughout all GFNMS waters, including Tomales Point, Tomales Bay, and the expansion area. The prohibition on approaching white sharks within 50 meters only applies inside of and within one nautical mile of SWPZ 6 and 7 (the North and Southeast Farallon Islands), because the waters around the Southeast Farallon Islands are where tourism and research vessels are most likely to be found, and therefore most likely to disturb feeding white sharks. Impact analyses on creating additional white shark approach prohibition areas were not conducted as part of this rulemaking. However, the revised GFNMS management plan outlines a process for GFNMS to minimize future user conflicts and provide special areas of protection for sensitive habitats, living resources, and other unique sanctuary features, such as SPWZs. See comment below for more detail on this process.

Process for Designating Additional Zones

Comment: NOAA should clearly describe the process by which it would designate additional SWPZs within any of the four national marine sanctuaries on the California coast or make changes to the regulations that apply within those zones.

Response: SWPZs are only being established in GFNMS. If NOAA intended to designate additional SWPZs, it would initiate a public process under the NMSA, NEPA and the Administrative Procedure Act (APA), all of which include opportunities for public review and comment as well as consultation with appropriate Federal, state, and local agencies.

Enforcement and Penalties

Comment: NOAA should have a strong enforcement element and adequate funding for more patrols by California Department of Fish and Wildlife (CDFW) and U.S. Coast Guard (USCG). NOAA should perform a gap analysis to identify increased enforcement needs so that management of existing sanctuaries will not be compromised, particularly in these times of uncertain federal funding.

Response: Enforcement of sanctuary regulations are handled principally by NOAA's Office for Law Enforcement (OLE), USCG, and respective state resource management agencies. Although this expansion action does not include an automatic increase in enforcement funding, CDFW officers work together with NOAA to conduct patrols and investigate potential violations throughout California. NOAA OLE and GFNMS currently provide funding for patrols of sanctuary waters to the CDFW through a joint enforcement agreement. In addition to the cooperative assistance by the state, USCG conducts air and sea surveillance within the expansion area and has broad federal enforcement authority. Additionally, NOAA will continue to work with federal and state enforcement partners, both within the current boundaries and in the expansion area, to maintain water and aerial surveillance, update patrol guides and regulatory handbooks, and conduct interpretive/outreach patrols. Based on these ongoing enforcement mechanisms, NOAA does not believe a gap analysis is warranted. More information about enforcement of NOAA regulations is available at *http://www.nmfs.noaa.gov/ole/index.html*.

Comment: NOAA should clarify how it assesses penalties on people engaging in activities prohibited by sanctuary regulations. Penalties for violations in protected ocean areas should be severe.

Response: The NMSA establishes a limit on the maximum civil penalties that can be charged for violations of sanctuary regulations and law, presently set at $140,000 per violation. The amount of any penalty is generally determined by the nature of a violation and a variety of aggravating/mitigating circumstances. NOAA attorneys generally scale proposed penalties to fit the nature of a particular violation. NOAA's Office of the General Counsel considers the aggravating and mitigating circumstances and assesses penalties appropriately. NOAA's policy for assessment of civil administrative penalties and permit sanctions is available at: *http://www.gc.noaa.gov/documents/Penalty%20Policy_FINAL_07012014_combo.pdf*.

Fishing

Discharge Exemption

Comment: NOAA should clarify whether the routine practice of washing ice and slime off the deck of a fishing boat would be considered a prohibited discharge under NOAA's proposed regulations for graywater.

Response: Graywater is defined according to section 312 of the FWPCA as ''galley, bath and shower water.'' This definition does not include ice and slime from deck wash. Further, NOAA regulations provides an exemption for clean vessel deck wash down (15 CFR 922.82(a)(2)(iii) and 15 CFR 922.112(a)(2)(i)(C)) and for fish, fish parts or bait (15 CFR 922.82(a)(2)(i) and 15 CFR 922.112(a)(2)(i)(A)), with clean defined as not containing detectable levels of harmful matter. Therefore, the routine practice of washing ice and slime off the deck of a fishing boat conducting lawful fishing in the sanctuary is not prohibited, provided it is during the conduct of lawful fishing

activity and the material is otherwise clean.

Fishery Regulations

Comment: NOAA should clarify how the authorization authority interacts with the Pacific Fishery Management Council (PFMC) process in assessing impacts on fishery management, because of concerns for impacts on fisheries or essential fish habitat (EFH).

Response: NOAA has removed the authorization provision from the final rule, but intends to address it through a separate rulemaking process after this expansion action is complete. (See response to comments under ''Authorization'' heading.)

Comment: NOAA should ban all fishing and taking of wildlife, especially of threatened or endangered species. NOAA should not allow long-line fishing or the type of fishing that may capture, harm or kill unintended marine wildlife.

Response: NOAA is not implementing any fishing regulations as part of this rulemaking. Fishing is regulated at GFNMS and CBNMS by CDFW, the California Fish and Game Commission, and NMFS (in consultation with the Pacific Fishery Management Council). Regarding long-line fishing, NMFS has implemented several regulations to reduce bycatch of non-target species such as marine turtles, mammals and birds. Within NOAA, the Office of National Marine Sanctuaries and NMFS work closely together and with CDFW to ensure that fishing activities within the national marine sanctuaries do not pose a threat to any threatened or endangered species.

Comment: NOAA or Congress should clarify that sanctuaries do not regulate fishing and that the Magnuson-Stevens Fishery Conservation and Management Act (MSA) is the primary statute for any fishing-related management issue, including the creation of MPAs inside national marine sanctuaries. NOAA should use regulatory and/or statutory mechanisms at the national level, so that it would apply to all national marine sanctuaries.

Response: Both the NMSA and MSA provide NOAA tools to regulate fishing activities in national marine sanctuaries. NOAA and the relevant Regional Fishery Management Councils examine the need for fishing regulations. Depending on the determination made, NOAA may need to use the authorities under either or both Acts as the most appropriate regulatory approach to meet the stated goals and objectives of a sanctuary. The process for establishing fishing regulations in national marine sanctuaries is codified in the NMSA at Section 304(a)(5) [16 U.S.C. 1434]. Here, NOAA is not promulgating any fishing regulations or proposing to designate specific MPAs within the expanded sanctuaries. Promulgating regulations affecting all national marine sanctuaries is beyond the scope of this rulemaking.

Comment: Enforcement of the present set of discharge regulations would comprise a *de facto* fishing ban in sanctuary waters, resulting from requirements for holding tanks or MSD.

Response: NOAA disagrees. Enforcement of the discharge regulations in the footprint of the original GFNMS and CBNMS has not comprised a *de facto* fishing ban. Fishing occurs routinely within these sanctuaries and is regulated by CDFW, the California Fish and Game Commission and NMFS in consultation with PFMC. The aim of the discharge regulations is to improve water quality and ecosystem health; not to ban fishing within the sanctuaries. The discharge regulations implemented by national marine sanctuaries affect the treatment of sewage and other materials associated with vessel operations, and may therefore result in adverse impacts on the operations of a commercial fishing vessel. However, current state and federal regulations already limit different types of vessel discharges into the waters of the expansion area. Therefore, the addition of sanctuary regulations only represents an incremental increase in restrictions on vessel discharges.

Comment: Enforcement of the present set of regulations would comprise a *de facto* fishing ban in sanctuary waters, resulting from a prohibition on cleaning of fish as per the prohibition on discharges (15 CFR 922.82(a)(2)(i)).

Response: NOAA disagrees. The discharge regulation prohibits the discharge into the sanctuary of material resulting from unlawful fishing or from fishing outside the boundaries of the sanctuary, including discharge of material acquired outside the sanctuary while transiting the sanctuary. Regulations for both CBNMS and GFNMS identify fish and fish parts, including discharges of fish and fish parts from fish cleaning, as part of lawful fishing activities, and therefore exempt from the discharge regulation.

Comment: Enforcement of the present set of regulations would comprise a *de facto* fishing ban in sanctuary waters, resulting from the definition of harmful matter under 15 CFR 922.81, because fishing activity in sanctuary waters necessarily involves the risk of loss of fishing tackle, including sinkers, hooks, and line.

Response: The full definition of harmful matter (15 CFR 922.81 and 922.111) states that any substance, or combination of substances that because of *their quantity and concentration,* or physical, chemical, or infectious characteristic *may pose a threat* to Sanctuary resources or qualities, including but not limited to: fishing nets, fishing line, hooks, fuel, oil, and those contaminants (regardless of quantity) listed pursuant to 42. U.S.C. 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act at 40 CFR 302.4. The intent of including fishing nets, fishing line, hooks, fuel, oil, and other contaminants to the definition of harmful is not to prohibit the loss of fishing gear incidental to fishing activity, but to restrict the loss of fishing gear in concentrations that could pose a threat to sanctuary resources, which could potentially happen if a fishing vessel were grounded or deserted within a sanctuary. Grounding or deserting a fishing vessel with concentrations of fishing gear that may pose a threat to sanctuary resources is prohibited as defined at 15 CFR 922.82(a)(15), which states that leaving harmful matter aboard a grounded or deserted vessel in the sanctuary is prohibited. NOAA is willing to discuss the interpretation of ''harmful matter'' with the fishing community at a future date to determine the scope of the concern and potential solutions.

Comment: NOAA should develop language for the on-going discharge of non-toxic gray water from commercial fishing vessels and recreational craft.

Response: With this final rule, NOAA exempts clean graywater from the discharge regulations in GFNMS and CBNMS.

Fishing and Introduced Species Definition

Comment: NOAA needs to clarify the definition for introduced species, because of concerns for how the current definition may be applied to different types of bait used by fishermen and thereby restrict or prohibit fishing within the Sanctuary.

Response: The definition for introduced species at 15 CFR 922.81 and 922.111 states that an introduced species means any species or its biological matter *capable of propagation* that is non-native to the ecosystem of the sanctuary. Bait of non-native fish carcasses or poultry parts are not capable of propagation or reproduction and therefore are not within the definition of introduced species. Consequently, using species (or

biological matters of species) not native to the ecosystem and not capable of propagation as bait while conducting lawful fishing is not subject to the sanctuaries' regulations related to introduced species.

Fishery Management

Comment: NOAA should create a blanket law regulating all of the nationally recognized fisheries controlled by the United States.

Response: The MSA is implemented by NMFS within NOAA and the Regional Fishery Management Councils. Most fisheries that solely occur within the limits of state waters are managed by the respective state fishery management agency. Promulgating regulations affecting all fisheries in the United States is beyond the scope of this rulemaking.

Comment: NOAA should regulate fishing to sustainable or healthy levels and provide adequate funding for enforcement of regulations.

Response: NOAA is not implementing any fishing regulations as part of this rulemaking. Almost all of the regulations regarding fishing off of California are promulgated by NMFS and the State of California. The regulations are enforced by NOAA OLE and CDFW officers with assistance from partners, such as USCG and California State Parks with funding appropriated by Congress and the California Legislature. As components of NOAA, ONMS and NMFS work closely together and with CDFW to ensure that fishing activities within national marine sanctuaries support healthy and sustainable fish populations and do not pose a threat to any threatened or endangered species.

Aquaculture

Comment: NOAA should prohibit offshore aquaculture in the sanctuary and clarify whether future new aquaculture projects in sanctuary waters would be geographically restricted to Tomales Bay, or would be allowed in all sanctuary waters of GFNMS.

Response: While GFNMS regulations do not prohibit aquaculture operations, the activities typically associated with aquaculture, such as disturbance of submerged lands (anchoring pens and structures), introduction of introduced species, or discharges (food, medicine) are prohibited within the sanctuary. (It should be noted, per NOAA's recent rulemaking on the introduction of introduced species, existing state-approved aquaculture projects in Tomales Bay are exempt from the introduced species prohibition.) Thus, whereas any future offshore aquaculture is not explicitly prohibited by GFNMS regulations, it would be subject to these other associated prohibitions.

Comment: The DEIS does not comment on potential negative effects of future aquaculture operations on areas of special designation like Essential Fish Habitat (EFH), marine protected areas (MPAs), etc.; the DEIS provides no analysis of how these operations might affect fisheries and marine ecosystems, including cumulative effects.

Response: The purpose of the EIS is to assess impacts of the proposed action, which is sanctuary expansion and adoption of proposed regulations. The final action does not propose future aquaculture operations. There are numerous future activities that could impact sanctuary resources, each of which would be subject to review and approval from state and federal agencies, including NOAA. At that time, impacts of a proposed activity would be assessed through the NEPA or California Environmental Quality Act process depending on if it is a local, state or federal action. The rulemaking about introduced species is prohibiting aquaculture that uses introduced species from all state waters except Tomales Bay.

Fishing Grounds Impacts From Alternative Energy Development

Comment: NOAA should clarify how currently productive fishing grounds may be impacted by non-mineral energy development.

Response: NOAA assumes the reference to non-mineral energy development refers to alternative energy development (for example wind or marine hydrokinetic energy). Energy development and its effects on fishing are outside the scope of this action.

Comment: NOAA should support a comprehensive marine spatial planning effort to analyze uses, including fishing and habitat conservation, as they relate to alternative energy production.

Response: NOAA collaborates with the Bureau of Ocean Energy Management (BOEM), Department of Energy, Federal Energy Regulatory Commission, and other agencies, as part of the West Coast Governors Alliance (WCGA) on Ocean Health. For any future alternative energy projects along the west coast, NOAA will work through any of the strategies developed by the WCGA. Moreover, it would not be appropriate for national marine sanctuaries to lead a marine spatial planning effort for the State of California, given BOEM cannot issue a lease for alternative energy projects within national marine sanctuaries. However, if an applicant requested a permit to test an alternative energy project within state waters of GFNMS and the project fit into a sanctuary permit category, GFNMS would conduct a planning exercise on the scale of the sanctuary to determine how to best minimize impacts on existing uses (including fishing) and sanctuary natural resources.

Whale Entanglement

Comment: NOAA could help in efforts to have fishing gear modified to reduce entanglements with whales, particularly from pots and gear from Bodega Bay north.

Response: NMFS has lead authority for implementing the MMPA and ESA for whale species, and is therefore also the lead NOAA agency for whale entanglements. ONMS will continue to consult with NMFS, CDFW and the California Fish and Game Commission on matters of whale entanglement.

Historic Resources

Point Arena Pier Wrecks

Comment: There are at least two shipwrecks in the waters adjacent to the Point Arena pier; while there may be interest in preserving the shipwreck sites, it is equally important that any preservation effort not interfere with the uses of the pier.

Response: NOAA is no longer including waters adjacent to the Point Arena pier in the expansion of GFNMS (see response to comment regarding Arena Cove boundary). Management of cultural and maritime heritage resources outside sanctuary boundaries will continue under the existing regulatory framework summarized in the Cultural and Maritime Heritage Resources section of the FEIS.

Salvage of Historic Resources

Comment: NOAA should allow the salvage of historic resources.

Response: The NMSA directs NOAA to enhance the protection of historical, cultural, and archaeological resources. Therefore, CBNMS and GFNMS regulations prohibit possessing, moving, or injuring, or attempting to possess, move, remove or injure, a sanctuary historical resource. However, through a sanctuary permit, salvage of historic resources may be allowed to further research or monitoring, further the educational value of the sanctuary, or assist in managing the sanctuary.

Marine Transportation—Shipping Lanes

Comment: NOAA should certify that the shipping lanes are an existing use within the GFNMS and CBNMS and shall not be terminated by the ONMS Director.

Response: Certification applies to holders of an existing permit or other authorization or right to conduct an otherwise prohibited activity in the expansion area. The shipping lanes are neither in the sanctuary expansion area nor a prohibited activity in CBNMS and GFNMS and therefore do not require a certification as an existing use.

Military Uses

DOD Consultation

Comment: NOAA should develop a formal consultation process between ONMS and DOD to assure minimization of impacts on sanctuary resources. This process should include PFMC and NMFS notification so that impacts on EFH in the sanctuaries can be minimized.

Response: NOAA disagrees that a new consultation process with DOD is necessary. The extent of DOD activities not included in the existing exemptions from CBNMS and GFNMS regulations would be determined in consultation with ONMS pursuant to section 304(d) of the National Marine Sanctuaries Act (NMSA), which contains formal procedures for required interagency consultation on federal actions that are likely to injure sanctuary resources. DOD would be required to follow all consultation requirements contained in the NEPA and NMSA, among other statutes. The DOD would be required to consult directly with NMFS for any projects that may have an adverse impact on EFH, whether the EFH is within a national marine sanctuary or not.

DOD Exemption

Comment: The Navy opposes the provision in the proposed rule that would maintain an existing exemption from the prohibitions in the CBNMS regulations that provides that Department of Defense activities not necessary for national defense, such as routine exercises and vessel operations, would be subject to all prohibitions contained in the regulations. 15 CFR 922.112(c). Navy proposes instead that CBNMS adopt the regulatory provision regarding exemption for Department of Defense (DOD) activities to the existing prohibitions set out in GFNMS regulations that states that all activities currently carried out by Department of Defense within the sanctuary are essential for national defense and therefore, not subject to the prohibitions contained in the regulations in this subpart. 15 CFR 922.82(b). Further, the Navy objects to any amendments to the current GFNMS DOD exemption and suggests that the agencies that are responsible for ensuring national security are in the best position to determine which actions are necessary for national defense. Lastly, the Navy cites an inconsistency in the summary of regulatory amendments and proposed regulatory text. The summary of regulatory amendments implies that existing language from CBNMS regulations would be applied to the GFNMS exemption for DOD activities, but the regulatory text does not reflect such a change.

Response: NOAA acknowledges that there is an inconsistency in the summary of regulatory amendments and proposed regulations in the preamble to the proposed rule. In response, NOAA has modified the preamble to clarify that the proposed rule for this rulemaking did not include any amendments to the current GFNMS DOD exemption.

NOAA recognizes that the DOD exemption differs between CBNMS and GFNMS because ''routine exercises and vessel operations'' are not exempted in CBNMS regulations as they are in GFNMS regulations. NOAA believes that the issue of consistency in the language for DOD exemptions across the national marine sanctuary system is broader in scope than this rulemaking, which focuses on the expansion of CBNMS and GFNMS, and that the issue is more appropriately addressed separately. Therefore, NOAA will continue for the time being to make no changes to the existing DOD exemptions in CBNMS and GFNMS as they have been in the regulations since 1989 and 1981 respectively. NOAA, however, commits to undertaking a separate process to consider additional amendments to the regulations governing military exemptions from prohibitions on a system-wide basis across all national marine sanctuaries, in consultation with DOD and the Department of Homeland Security concerning the Coast Guard.

Comment: NOAA should exclude all activities by the DOD, such as the use of sonar, which can affect marine mammals, in the expansion area since it is such a special place.

Response: Existing military uses and an analysis of their environmental effects in the study area are contained in Section 4.9 of the FEIS. Homeland security and military uses of the expanded CBNMS and GFNMS are subject to NEPA and the NMSA, and they are also subject to all applicable federal regulations and requirements related to the environment. DOD is required to consult with ONMS pursuant to NMSA section 304(d) on any proposed military activities in the expansion area that would be likely to injure sanctuary resources. Therefore, NOAA believes the existing regulatory framework sufficiently addresses DOD impacts on sanctuary resources and excluding military activities from the expansion area is not warranted.

Motorized Personal Watercraft (MPWC) Use

Support for Conditional MPWC Use

Comment: NOAA should move forward with alternative approaches to regulating MPWCs that would allow some MPWC use in the proposed expansion area.

Response: Due to the range of comments in support of, in opposition to and suggesting changes to MPWC regulations, NOAA removed from the final rule the MPWC use zones in the GFNMS expansion area (see Figure 3.2–17 in the FEIS). The proposed access route to Zone 4 was removed from the final rule and the area where MPWC are prohibited was extended slightly northward through establishing a line of latitude that corresponds with the southernmost tip of Bodega Head. This specific line was established to aid navigation and enforcement of the regulation.

MPWC use is allowed to continue within the GFNMS expansion area north of Bodega Head, (excluding Bodega Bay due to existing laws and regulations) until NOAA can implement a separate process to evaluate the feasibility of managing MPWC within the expansion area. Further consideration of MPWC use patterns and activities, and public input on the scope of sanctuary regulations are needed. MPWC use will continue to be prohibited in the original GFNMS boundaries, with exceptions for emergency search and rescue missions or law enforcement operations. MPWC will continue to be allowed in CBNMS. Additional information regarding impacts of MPWC use is in Section 3.2 of the FEIS.

Comment: NOAA should avoid any overlap of the proposed zones for MPWC use with California-designated MPAs.

Response: See response above. The regulations that apply to State marine protected areas (such as Marine Reserves, Marine Parks and Marine Conservation Areas) from Bodega Head to Point Arena prohibit the take of marine resources. Some of those MPAs allow take of certain species, while others prohibit all take, but none prohibit any types of vessel use and are not designed to protect wildlife from boat-based disturbance.

Total Allowance (*i.e.* No Regulation) of MPWC

Comment: NOAA should allow MPWC use throughout the entire expansion area, including CBNMS, and/or GFNMS. The DEIS did not provide adequate rationale for the purpose and need to regulate MPWC and potential impacts from MPWC have not been shown to be significant and/or are no different than other types of vessels.

Response: See response to the comment on ''Support for Conditional MPWC Use.''

Prohibition of MPWC

Comment: NOAA should prohibit MPWC use throughout the entire GFNMS sanctuary (both the previous boundaries and the entire expansion area) as it creates a risk of wildlife disturbance and is a use that is incompatible with sanctuary resources and values. Moreover, the use of MPWC could adversely affect the public's experience of such a pristine coastal area and is already prohibited in GFNMS.

Response: See response to the comment on ''Support for Conditional MPWC Use.''

Socioeconomic Impacts of Regulating MPWC

Comment: NOAA should better address socioeconomic impacts on the MPWC industry, local economy, including loss of recreational opportunities.

Response: Socioeconomic considerations are fully addressed in the EIS for both the former proposed action (which would have prohibited MPWC use in most of the proposed expansion area but allowed MPWC use in designated zones) and for the existing regulations alternative, which would prohibit MPWC use throughout the expansion area. The EIS found that with MPWC restrictions wildlife protection would be improved, and given the relatively low level of existing MPWC use within the GFNMS expansion area, the impact on MPWC users was expected to be less than significant.

As explained above, NOAA has revised the final rule (see response to comment under ''Support for Conditional MPWC Use.'')

Comment: NOAA should compensate MPWC owners for taxes and registration costs paid on their watercraft if a ban is enacted within the expansion area.

Response: Since NOAA is not regulating MPWC use in the expansion area, other than the slight extension of original GFNMS regulations to the southernmost tip of Bodega Head, discussion about potential socioeconomic mitigation measures is premature.

MPWC Education and Outreach

Comment: NOAA should promote voluntary programs (similar to the Blue Rider Ocean Awareness and Stewardship Program in the Florida Keys National Marine Sanctuary (FKNMS)) to educate the public on responsible MPWC use as an alternative to implementing additional regulations and restrictions.

Response: NOAA recognizes the importance of education and outreach to MPWC users as a complement to MPWC regulations. GFNMS has updated the Wildlife Disturbance Action Plan in its revised management plan to include outreach to MPWC users.

MPWC Enforcement

Comment: NOAA does not have the authority to require MPWC users to carry a GPS unit and to enforce this requirement.

Response: As a tool for compliance with zonal regulations, NOAA has the authority to require such specific equipment on vessels and watercraft in order for MPWC users to accurately and precisely navigate to access and stay within the designated zones. However, NOAA is not moving forward with regulation of MPWC in the expansion area at this time. See response to comment on ''Support for Conditional MPWC Use.''

Comment: The opening of an access channel for the proposed Zone 4 creates additional enforcement challenges. NOAA should implement a permit program for surfer safety and lawful fishing to allow for limited MPWC use within the GFNMS expansion area using visual and permitted identification (*e.g.* stickers).

Response: At this time, NOAA removed the zones and the proposed access channel to Zone 4 from the final rule, and thus permitting for certain uses is not applicable. MPWC use will continue to be allowed throughout almost all of the GFNMS expansion area. A permitting program for MPWC use could be evaluated in the future assessment and potential regulatory framework of MPWC use in the GFNMS expansion area.

Comment: NOAA should extend the existing GFNMS regulation prohibiting MPWC use to apply to the expansion area (as well as the previous boundaries of the sanctuary) but temporarily not enforce this regulation in the expansion area until the working group concludes its work and NOAA implements revised MPWC rules in the expansion area.

Response: All regulations are subject to enforcement. See response to comment on ''Support for Conditional MPWC Use.''

MPWC Use Liability

Comment: Within the DEIS, NOAA neglected to consider the chain of liability incurred from proposed MPWC launch points in the event of injuries or fatalities resulting from public use of these launch locations.

Response: All launch points discussed in the EIS currently exist and are open to multiple ocean user groups. NOAA is not constructing any launch points as part of the final action. Furthermore, NOAA is not liable for injuries or fatalities resulting from public use of sanctuary waters.

MPWC Rulemaking Process

Comment: The proposed MPWC zones appear to have been developed by NOAA in a closed process that did not inform or involve the sanctuary advisory councils or include representative coastal residents that could have provided local knowledge on wildlife populations; the only input on zones came from special interests seeking to maintain MPWC activity.

Response: NOAA complied with the public noticing requirements as specified by the NEPA and APA during this rulemaking process, including providing a public scoping period at the beginning of the process, which is when NOAA started gathering information on the use of MPWC in the expansion area. Due to the range of comments in support of, in opposition to and suggesting changes to MPWC regulations, NOAA removed from the final rule the MPWC use zones in the expansion area and is prohibiting the use of MPWC in the original GFNMS boundary and up to the southernmost tip of Bodega Head.

MPWC Definition

Comment: A wide range of comments suggested various changes to the definition of MPWCs, including using the definitions from the USCG and Society of Automotive Engineers.

Response: NOAA removed all proposed changes to the GFNMS definition of MPWC. This maintains the status quo with respect to regulation of MPWC in the previously-existing GFNMS. NOAA is considering potential changes to the definition of MPWC as part of a separate national rulemaking process (78 FR 5998), which is still underway.

MPWC Use and Potential Impacts on the Affected Environment

Comment: NOAA should investigate the technology and design and different methods of operation of MPWC in the marine environment, because the 4-stroke engines contained in modern MPWC are less polluting, more fuel efficient, and quieter than earlier MPWC models.

Response: NOAA acknowledges the changes in MPWC technology, but continues to have concerns with MPWC use. See response to comment on ''Support for Conditional MPWC Use.''

Comment: MPWC are not more detrimental to the environment than other vessel types that are allowed in the sanctuary, therefore regulating MPWC more strictly than other vessels, such as fishing vessels and rescue vessels, constitutes unfair discrimination against one particular user group.

Response: See response to comment on ''Support for Conditional MPWC Use.''

Comment: NOAA should better assess the potential impacts of MPWC sound on wildlife, including thresholds for noise impacts that can induce a ''take'' of marine mammals and seabirds under the MMPA. In addition, NOAA should analyze current uses and future trends in demand for MPWC use within the expansion area, especially MPWC use patterns in the proposed expansion area and proposed MPWC use zones in relation to wildlife hotspots.

Response: Further review of all available information pertaining to MPWC use and their potential effects could be beneficial during a future public process evaluating the feasibility of regulating MPWC use in the expansion area.

Comment: NOAA should work with stakeholders to justify the MPWC zones in MBNMS and their definition.

Response: Although the information provided by the commenter may be useful to consider in any subsequent process that evaluates the potential regulation of MPWC use, this comment is outside the scope of the proposed action.

NEPA Process

NEPA Compliance

Comment: NOAA has violated the processes required by NEPA. Proposed authorizations would be allowed in the existing CBNMS and GFNMS. Over half of the existing GFNMS lies south of Sausalito, yet there have been no hearings held south of the Golden Gate Bridge.

Response: NOAA believes it has fully complied with NEPA requirements and regulations promulgated by the Council on Environmental Quality (40 CFR 1506.6(c)). The location of public hearings is not specified as part of the requirements. Public hearings were held in Sausalito (May 22), Bodega Bay (June 19), Gualala (June 18), and Point Arena (June 17), CA. Sausalito, where one of the public hearings was held, is in close proximity to the southern portion of GFNMS. Furthermore, public comment could also have been submitted via letter to the GFNMS superintendent or via electronic submission via the Federal e-Rulemaking Portal. NOAA considered comments in the same manner, regardless of means of delivery. Also, see response to comments on ''Authorizations.''

Commenting Through Regulations.gov

Comment: NOAA should make it less confusing to which document the comment should be directed.

Response: NOAA sought comment on four different documents: the proposed rule, which contains the action NOAA proposed, supplementary information in the DEIS, and the draft CBNMS and GFNMS management plans. NOAA acknowledges that some comments could apply to more than one of the documents. NOAA received all the comments, then evaluated if changes were necessary to support the proposed action, and if so, which document(s) would need to be changed. The Regulations.gov Web site is set up to serve all federal government agencies, and is administered by USEPA; NOAA does not have the flexibility to alter this interface for public comment.

Public Hearings Testimony

Comment: At future hearings, NOAA should not say that repeating comments is not necessary because it implies that people's comments are unimportant. Also elected officials should not be prioritized.

Response: NOAA regrets if it created the impression that comments are not important during the public hearings. As required by law, NOAA reviews the substance of every comment received on a proposed action. The intent of the directions provided at the public hearings was to acknowledge that NOAA focuses on the quality, rather than quantity, of the comments. This means that NOAA bases its decision on the merit of the comments raised, not just on the number of comments received on a particular topic. Regarding priority for elected officials, it is standard practice by many agencies to acknowledge public officials and allow them to present their testimony first. In this way, members of the public have the opportunity to state their support or opposition to comments made by elected officials and provide additional rationale for consideration.

National Marine Sanctuaries Act

Comment: Congress should re-authorize the NMSA to make clear the mandate of multiple use and the need to balance this mandate with resource protection.

Response: Reauthorization and the ability to make changes to the NMSA are within the authority of Congress, not NOAA or other executive branch agencies. NOAA believes the purposes and policies of the NMSA are clear; among other things, they direct NOAA to ''facilitate to the extent compatible with the primary objective of resource protection, all public and private uses of the resources of these marine areas not prohibited pursuant to other authorities'' (16 U.S.C. 1431(b)(6)).

Comment: The expansion of sanctuaries should be done through an act of Congress. This would provide adequate public forum to debate the expansion.

Response: The designation of new national marine sanctuaries as well as the expansion of existing sanctuaries can be achieved congressionally or administratively by NOAA under the authority of the NMSA. In order to expand the sanctuary, NOAA needs to comply with public notice and comment requirements of the NMSA, NEPA, and APA, which provide for extensive public involvement during the developmental phases of a proposed action, such as sanctuary expansion.

Comment: NOAA should explain why expansions do not violate Congressional intent found in the NMSA.

Response: In 2000, Congress amended the NMSA by requiring certain findings be made by the agency before designating a new sanctuary (16 U.S.C. 1434 (f)(1)). This particular requirement does not apply to this action because NOAA is expanding the boundaries of existing sanctuaries, not designating new national marine sanctuaries.

Oil, Gas, Alternative Energy and Mining Development

Alternative Energy Development Concerns

Comment: NOAA should define the process, policy and standards for approval of alternative energy projects, given the new proposed authorization provisions.

Response: As explained above, the final rule no longer includes provisions

for authorizations. Alternative energy projects would be subject to sanctuary regulations, such as the restrictions against altering the submerged lands and discharges or deposits. Projects that would otherwise be in violation of the regulations could be allowed if they qualified for a sanctuary permit.

Comment: NOAA should prohibit alternative energy development, especially development that would disturb the sea floor.

Response: See response to comment above. Development that would alter the submerged lands is prohibited, unless allowed by permit.

Comment: The DEIS indicates that there would be environmental consequences under the proposed action, as oil and gas development would be prohibited, but NOAA should also include a discussion of the potential for energy project development and its potential effect on wildlife.

Response: The purpose of the impact analysis is to disclose potential impacts caused by the proposed action and other alternatives. The FEIS addresses beneficial effects of the regulations on biological resources, as compared to existing conditions. NOAA is not proposing to undertake or to issue a permit for energy development with this rule. Accordingly, the FEIS does not analyze the impacts of energy projects on wildlife. The impacts of prohibiting oil and gas development are outlined in this section because the regulations prohibit all oil and gas development. In contrast, alternative energy development is not being specifically prohibited nor being proposed. The potential for future energy project development is not known at this time. As noted in the EIS, no lease requests have been received by BOEM for alternative energy projects in the expansion area or anywhere in California. Any future alternative energy project would be subject to the NEPA process if NOAA or another agency is involved in the establishment or permitting of an alternative energy project.

Alternative Energy Support

Comment: Alternative energy development should be allowed, if it were environmentally prudent to do so.

Response: The revised regulations do not specifically prohibit alternative energy projects but, as noted above, projects are subject to sanctuary regulations. NOAA intends to conduct a separate rulemaking process to consider establishing a process to allow each sanctuary to authorize other Federal or state permits. During this separate public process, NOAA may consider authorizations for alternative energy development.

Methane Hydrates

Comment: NOAA should clarify that the oil, gas and mineral leasing prohibition precludes leasing, development or production of methane hydrates.

Response: Since methane hydrates are a form of gas, they are subject to the prohibition against gas development or production contained in the sanctuary regulations.

Oil and Gas Development Threats

Comment: NOAA should clarify what threat exists for oil and gas development, since regulatory protections are not necessarily permanent.

Response: Given the demand for oil and gas products, there is the potential for increased pressure to develop resources that have been identified offshore northern California. The final rule prohibits oil and gas development and does not have any exceptions for oil and gas facilities. In addition, no permit may be issued for oil and gas development in the sanctuaries. The existing exemption for oil and gas pipelines in GFNMS has been deleted in the final rule. Once in effect, reversal of the oil and gas prohibition would require an act of Congress or NOAA would need to commence a rulemaking and NEPA process to amend the regulation that prohibits oil and gas development.

Oil and Gas Development Prohibition

Comment: NOAA should adopt the strongest oil and gas prohibitions.

Response: The final rule includes a complete prohibition against oil and gas development. No permit may be issued for oil and gas development in the sanctuaries. Furthermore, it does not include an exemption for oil and gas pipelines in GFNMS, or any mechanism to issue a permit for a future proposal.

Oil Transportation

Comment: NOAA should revise sanctuary regulation § 922.82(a)(1) to also prohibit the transportation of oil, gas or minerals via pipeline and remove the existing pipeline exemption.

Response: The final rule includes deletion of the existing pipeline exemption; therefore, the suggested revision to GFNMS regulation 15 CFR 922.82 is not necessary. There would be no mechanism to allow oil and gas pipelines.

Oil and Gas Development Support

Comment: NOAA should adopt balanced policies that support affordable, reliable oil and gas development. BOEM estimates 700 million barrels of oil and 700 billion cubic feet of natural gas located in federal waters would be precluded by the expansion.

Response: One of NOAA's mandates is to ''facilitate to the extent compatible with the primary objective of resource protection, all public and private uses of the resources [. . .]'' (16 U.S.C. 1431(b)(6)). Oil and gas development in the marine environment has historically posed significant risks to marine resources, as evidenced by the magnitude of the impacts of some offshore oil spills. Therefore, NOAA has usually excluded traditional energy exploration and production in our nation's national marine sanctuaries.

Mining

Comment: NOAA should prohibit mining operations in the expansion area.

Response: Mineral development is prohibited, as stated in the sanctuary regulations that prohibit exploration for minerals.

Sanctuary Management and Administration

Collaboration

Comment: NOAA should collaborate with government and non-governmental organizations on monitoring wildlife, education, citizen science, outreach, and advancing ecosystem protection and marine conservation initiatives and programs.

Response: NOAA welcomes the opportunity to collaborate with organizations to build community partnerships for education, outreach, research, monitoring, and resource protection. The Stewards of the Coast and Redwoods, Bureau of Land Management's (BLM) California Coastal National Monument, as well as other local government and non-governmental organizations are listed as potential partners in the revised GFNMS management plan. For example, NOAA values the partnership with BLM and looks forward to continuing and strengthening this partnership in the expansion area through national and local initiatives, such as reducing and mitigating wildlife disturbance along the California coast through the Seabird Protection Network.

Coordinated Management

Comment: NOAA staff should meet with the California State Lands

Commission (CSLC) to determine the location and terms of CSLC leases in the proposed sanctuary in order to analyze how the leases would be affected by the proposed rule. CSLC suggests GFNMS enter into a Memorandum of Understanding (MOU) with the Commission on existing and future CSLC leases.

Response: NOAA will continue coordination with the CSLC and other agencies to ensure compatibility to the maximum extent practicable. NOAA would certify existing CSLC leases in accordance with 15 CFR 922.47 and 15 CFR 922.84. NOAA will also work with the CSLC on potential future leases, and mechanisms for potentially allowing those uses in the sanctuary, including MOUs.

GFNMS Collaboration

Comment: NOAA should work in a collaborative manner to achieve the goals of the Point Reyes-Farallon Islands Marine Sanctuary as listed in its original DEIS. The current process did not achieve those goals.

Response: The comment refers to text in Volume One of the FEIS on the Proposed Point Reyes-Farallon Island Marine Sanctuary (the original name of GFNMS), issued in 1980. NOAA manages GFNMS under the statutory authority of the NMSA. To meet its management responsibilities, NOAA implements the GFNMS management plan and develops regulations consistent with the terms of designation. The framework for expanding the sanctuary was laid out in the 2008 GFNMS management plan, which is in line with activities NOAA stated it would aim to achieve after initial sanctuary designation.

Governance Structure

Comment: NOAA should allow for significant local oversight in sanctuary governance.

Response: National marine sanctuaries have sanctuary advisory councils composed of voting and non-voting members that represent a variety of government agencies, local user groups, and the general public. Sanctuary advisory councils are very inclusive of local communities and stakeholders. The meetings have agendas set by the advisory council members, are hosted throughout the year in local communities, and always have an allotted time for public comment. Sanctuary advisory councils may choose to establish committees and working groups to further delve into issues; and working groups provide an opportunity to involve more stakeholders from the community in developing recommendations for consideration by the full sanctuary advisory councils.

Funding

Comment: NOAA should clarify how funds will be used to manage the expanded sanctuary area, given the current uncertainties of federal funding for programs. The resources required to manage this large and new area could detract from the protection of existing resources in already designated sanctuaries.

Response: Once the regulations are in effect, prohibitions and environmental protections, such as the prohibition on oil and gas development, will be immediate and would entail virtually no cost to the sanctuary. NOAA recognizes resource limitations may limit or delay implementation of some of the activities in the management plans. NOAA will continue to evaluate future resource needs of all sanctuaries in its formulation of annual budget requests. In addition, the sanctuaries will work to build community partnerships in the expansion area to develop collaborative programs for education, outreach, research and monitoring, resource protection, and enforcement.

Monitoring

Comment: NOAA should clarify how it will monitor the protection of upwelling waters.

Response: GFNMS, CBNMS and MBNMS share an action plan in their respective management plans that is focused on monitoring the health of the ecosystem through offshore oceanographic and wildlife surveys. The action plan also describes how GFNMS and CBNMS will develop plans to extend monitoring efforts into the proposed expansion area to monitor the full extent of the upwelling area. Monitoring would help identify changes over time as well as potential problems that need to be addressed through management actions, enforcement and/or education.

Permits

Comment: NOAA should not grant any kind of permits to allow otherwise prohibited activities (including special event privileges) because it is contrary to the intended protection of sanctuary resources.

Response: NOAA has the authority to issue permits to allow some types of activities that are otherwise prohibited by sanctuary regulations, but which generally present a public benefit by furthering the management and protection of sanctuary resources. Permits usually include conditions that are designed to minimize or eliminate impacts on sanctuary resources, and may also be designed to minimize user conflict. Various findings must also be met in order to issue a sanctuary permit, which can be issued for education, research, salvage (for GFNMS), and management. NOAA can also issue special use permits (SUP) to promote public access and use, and understanding of a sanctuary resource, when the superintendent can determine the activity will have no effect on sanctuary resources.

Sanctuary Advisory Councils

Comment: The current sanctuary advisory councils should be expanded to include additional representatives from the geographic area of the expanded sanctuary boundary.

Response: NOAA recognizes the need to potentially adjust the composition of the GFNMS advisory council and has revised the GFNMS management plan to reflect this need. NOAA will consider the addition of seats to the sanctuary advisory council after the expansion becomes final. NOAA is not considering the addition of seats to the CBNMS advisory council, as the expanded boundary of CBNMS would not add new constituencies not already represented on the CBNMS advisory council.

Comment: NOAA should consider using a sanctuary advisory council working group process to further investigate and make recommendations on how to address controversial items identified during the public comment period.

Response: NOAA has included this recommendation in the final GFNMS management plan. NOAA will propose to the sanctuary advisory council the establishment of working groups to address issues such as authorization authority, MPWC regulations, and additional low overflight prohibition zones as well as the configuration of those zones and the inclusion of estuaries in the GFNMS. The CBNMS advisory council decided to delay consideration of such a working group until after NOAA made a final decision about the expansion of CBNMS.

Comment: NOAA should consider using a sanctuary advisory working group to examine how existing uses in Arena Cove could continue.

Response: After review of all public comments, NOAA chose to exclude Arena Cove from the expansion area. Therefore, existing uses of Arena Cove do not fall under sanctuary regulations.

Comment: NOAA should clarify how community members may become

members of a sanctuary advisory council working group.

Response: If the CBNMS or GFNMS advisory councils convened working groups to make recommendations to the respective full advisory councils regarding a specific topic, they would work with sanctuary staff to identify a list of potential members including experts on a particular topic and/or appropriate interested parties. Interested community members may also express interest in participating on a working group by contacting any of the advisory council members or sanctuary staff listed on the sanctuary Web sites.

Comment: Sanctuary advisory councils should represent the will and voice of the communities, rather than be forced to support the goals of the sanctuary. They are controlled by the sanctuary because the sanctuary sets the agenda and has the right not to accept their recommendations.

Response: Sanctuary advisory councils are established by NOAA under the authority of the NMSA (16 U.S.C. 1445A). Congress intended the councils to include representatives interested in the protection and multiple use management of sanctuary resources. This means that representatives on a sanctuary advisory council may represent a wide range of views on sanctuary management. Congress intended sanctuary advisory councils to be advisory bodies, not decision-making bodies. Each sanctuary advisory council meeting is open to the public, and anyone is permitted to present oral or written statements on items of concern to sanctuary management. Therefore, NOAA believes that the sanctuary advisory councils in their current format are an efficient and effective way to receive input from communities affected by sanctuary management.

Management Plan Purpose

Comment: The GFNMS management plan should focus on preservation and restoration.

Response: The NMSA directs NOAA to manage national marine sanctuaries with the primary objective of resource protection. The NMSA further instructs NOAA to provide comprehensive management, which includes research, education, outreach, and facilitation of uses compatible with resource protection. Therefore, the GFNMS management plan contains action plans that focus on all of these mandates.

Radioactive and Toxic Waste

Comment: NOAA should do something about the vast quantity of radioactive waste dumped near the Farallon Islands.

Response: The GFNMS management plan includes an action plan to evaluate the condition of, and actual impacts on, sanctuary resources and qualities from the Farallon Islands radioactive waste dump site.

State Control

Comment: The State of California rather than the federal government should manage the expansion area. There are concerns that the federal government will tell the State of California how to manage and regulate the area and wrong decisions will be made for the state.

Response: Although the State of California has an extensive MPA program established by the Marine Life Protection Act, much of the expansion area extends beyond the marine waters under state control and is beyond its jurisdiction.

NOAA closely collaborates with various agencies and departments of the State of California not only on the topic of sanctuary regulations, but also on various non-regulatory programs aimed at improving resource protection in national marine sanctuaries off the coast of California. The NMSA also includes a provision that allows a governor to review any terms of designation—boundary areas, activities subject to regulation—and accept or reject any term (in state waters) the governor finds objectionable; this provision helps create this strong collaboration. When it comes to sanctuary management, NOAA emphasizes coordination with state and federal agencies and therefore the State of California has representation on the GFNMS advisory council. Furthermore, there are numerous ways for the public to provide input on sanctuary management, including service as an advisory council member, providing public comment at advisory council meetings and commenting during the development of new management plans or regulations.

Science in Decisions

Comment: NOAA should use robust, peer-reviewed science for management decisions. Some ONMS scientific publications would benefit from independent peer-review.

Response: NOAA always strives to use the best available science to inform management decisions. One of the means to achieve that is the rigorous public process that accompanies management decisions. During a public comment period on a draft EIS and proposed rule, NOAA may receive relevant scientific information of which it was unaware at the time of publication of the draft documents. Such public comments as well as consultations with various agencies assist NOAA in developing a sound final action.

The level of review for a NOAA scientific document is determined through the guidelines set forth in the Information Quality Act. These guidelines are in the Final Information Quality Bulletin for Peer Review published in 2004, and are administered by the White House Office of Management and Budget (OMB). Under OMB guidelines, any document that is deemed influential scientific information (*i.e.,* information that can reasonably be determined to have a ''clear and substantial impact on important public policies or private sector decisions'') must be peer reviewed. NOAA guidelines also set forth requirements for NOAA publications with regards to peer review (see *http://www.cio.noaa.gov/services_programs/info_quality.html*). The ONMS Condition Reports and some of the ONMS Conservation Series reports fall into the category of influential scientific information. In addition, NOAA publishes some documents through the ONMS Conservation Series that are not considered influential scientific information under OMB guidelines, but internal policy still requires that they be peer reviewed.

Freedom of Information Act (FOIA) Compliance

Comment: NOAA should fully comply with the Freedom of Information Act (FOIA) in content and in a timely manner.

Response: Since 2010, NOAA has received 16 requests under the FOIA for information relating to CBNMS and GFNMS. NOAA responded to 13 requests in a timely and complete manner. Two requests were withdrawn by the applicants. Due to the complexity of the remaining request, it is still pending for further review. It is NOAA's policy to fully comply with the FOIA.

Sanctuary Names

Comment: NOAA should consider new ecosystem-based names for the expanded GFNMS and CBNMS, since the action will lead to the inclusion of other prominent marine features.

Response: NOAA is considering a public process to gather input on a potential new name for GFNMS after finalization of this action. At this time, NOAA is not considering any name change for CBNMS.

Socioeconomics Issues

Access to Expanded Sanctuaries—General Public Access

Comment: NOAA should ensure that there will be no loss of public access to the expansion area.

Response: The final rule does not contain any restrictions on public access to the shorelines in the GFNMS expansion area.

Vessel/Vehicle Access

Comment: NOAA should prohibit or restrict use of vessels or vehicles in the proposed expansion area and/or in the rivers leading into the proposed sanctuary, for the following reasons: Noise disturbance to birds and marine mammals, water pollution (including from oil), disturbance of bottom vegetation, and further environmental risk to sensitive areas.

Response: NOAA believes current restrictions are sufficient to protect sanctuary resources. It is beyond the scope of this action for NOAA to broadly ban all vessels from the sanctuaries, or from the rivers feeding into the GFNMS expansion area. Existing regulations and management actions are extended to apply in the expanded boundary area to help mitigate resource impacts associated with vessel access/operation in the sanctuaries, such as restriction on cargo vessels near sensitive areas.

Bodega Marine Life Refuge Research and Education

Comment: NOAA should either: (1) Recognize and establish a special-use area for research and education (Research and Education Zone) managed by the University of California (University); (2) exclude the Bodega Marine Life Reserve from the sanctuary; or (3) include the Bodega Marine Life Reserve in the sanctuary and streamline the process to allow appropriate existing research and educational uses.

Response: Establishing a special-use area for research and education for the Bodega Marine Reserve would require NOAA to initiate a separate regulatory process, and excluding the Bodega Marine Reserve would prevent sanctuary protection from applying to the Reserve. Therefore, NOAA is including the Bodega Marine Life Reserve in the sanctuary, and will work towards certifying current research and education activities in accordance with 15 CFR 922.47 and 15 CFR 922.84. In addition, NOAA will meet with the University to streamline the permitting process and request the Marine Lab apply for an institutional permit for a range of future activities within the boundaries of the Reserve.

Bodega Bay Companies

Comment: NOAA should respect companies such as oyster farms and cattle ranches that have businesses in and around Bodega Bay, since they have continually protected the waters around them.

Response: NOAA acknowledges the importance of the local businesses around and in the sanctuary including ranches and oyster farms. NOAA has worked with ranchers and the oyster farms in and around Tomales Bay to protect water quality and will continue to work with groups near the original sanctuary and expansion area.

Desalination

Comment: NOAA should clarify if desalination projects will be allowed in the future.

Response: The sanctuary regulations do not specifically prohibit desalination projects, but such development could be subject to regulations prohibiting the alteration of the submerged lands or the discharges or deposits. The project could qualify for some form of a sanctuary permit, which involves specific criteria and which typically includes conditions to protect sanctuary resources.

Education Center Needed

Comment: NOAA should develop an education center and/or office in Bodega Bay or other location in the proposed expansion area.

Response: Bodega Marine Laboratory has been identified as a potential location for a sanctuary field office. GFNMS and CBNMS staff will consult with various public constituents including the sanctuary advisory councils to determine potential locations for sanctuary exhibits, a potential visitor center(s) and field office(s).

Education Materials

Comment: NOAA should produce relevant outreach materials and maps online and in print, to visually highlight the features, ecosystems, and wildlife within the boundary expansion area.

Response: NOAA agrees that these types of materials would support public outreach. The existing online and print materials created for this action contain select maps and several photographs. NOAA will work to update and distribute printed and online materials to reflect the features and boundaries of CBNMS and GFNMS.

Fireworks

Comment: Existing fireworks displays should be grandfathered in to the expansion area through the use of certification or special use permits; any additional proposals should be considered by applying appropriate biological and other criteria. Would a federal permit be needed for fireworks?

Response: The originally proposed authorization provision has been deleted from the sanctuary regulations. Therefore, NOAA does not have the ability to authorize firework activities on the basis of a state or local permit. As noted in the FEIS, NOAA will examine whether the discharge of fireworks could be allowed through certification (for existing permitted fireworks) pursuant to proposed 15 CFR 922.84, or through a special use permit, as described in Section 310 of the NMSA (16 U.S.C. 1441) and in the **Federal Register** notice published on May 3, 2013 (78 FR 25957). The potential to permit firework shows is also an activity that could be addressed in the separate process to consider authorization authority. For fireworks at Arena Cove, it should be noted that the boundary has been revised to exclude Arena Cove. Activities outside of the sanctuary that do not result in discharges that enter the sanctuary and cause injury to sanctuary resources do not require NOAA approval.

Population

Comment: NOAA should address environmental concerns of a growing population.

Response: The sanctuary management plans provide action plans to address the issue of balancing resources with human activities.

Research—Expand ACCESS Program

Comment: The Applied California Current Ecosystem Studies (ACCESS) integrated monitoring program should be extended into the sanctuary expansion areas.

Response: Both the CBNMS and GFNMS management plans contain action plans to maintain and extend ACCESS into the proposed expansion area.

Visual Resources

Comment: NOAA should discuss visual resource impacts in the EIS since visual resources may benefit significantly from increasing protected habitat.

Response: Visual resources are indirectly captured in the FEIS discussion of benefits on marine resources, habitats, recreation and tourism.

Water Quality, Discharges and Dredging

Vessel Graywater Discharges (Non-Cruise Ships)

Comment: NOAA should address graywater discharges from commercial vessels, including fishing vessels and recreational craft. Since both sanctuaries would be expanded, the larger area might make it difficult for some vessels to hold graywater discharges while transiting through the sanctuaries.

Response: NOAA prohibits discharging or depositing into CBNMS and GFNMS, other than from a cruise ship, any material *except* clean graywater (and other exemptions). By allowing the discharge of clean graywater by vessels less than 300 GRT or vessels 300 GRT or greater without sufficient tank capacity to hold graywater while within the sanctuary, NOAA does not force non-cruise ship vessels to hold all graywater and they have the option of discharging clean graywater in the sanctuary, consistent with the existing provisions in MBNMS and state and federal regulations.

Comment: NOAA should move forward with the graywater exemption and should consider the effects of sanctuary expansion upon the California No Discharge Zone (NDZ) and the water quality of the San Francisco Bay Estuary.

Response: See response to comment above. NOAA's final rule contains a graywater exemption. The effects of the sanctuary expansion upon the portion of the California NDZ in the expansion area were indirectly described in the EIS. Since many vessels transit the sanctuaries upon entering and exiting the San Francisco Bay, this exception avoids the potential situation of concentrating graywater discharges in a small area outside of the sanctuaries near the bay entrance. The water quality within the portions of the California NDZ in the expansion area and existing GFNMS is expected to be the same as, or similar to, that within the entire area of the expanded sanctuaries. In the portion of the San Francisco-Pacifica Exclusion Area of northern MBNMS beyond 3 nm, vessels will continue to be able to discharge sewage and graywater as allowed by the current regulatory regime.

Comment: NOAA should only allow park service vessels to discharge graywater into the sanctuaries.

Response: See responses to comment above.

Cruise Ship Discharges

Comment: NOAA should base the proposed rules upon best available science and the continuing advancements in the shipboard treatment of wastewater to high standards and reconsider the current ''no-discharge'' approach for cruise ships. The proposed covered waters are expanding to the point where cruise ships may have difficulty managing their discharges over several days.

Response: NOAA disagrees that cruise ships transiting the expansion areas will face significant operational difficulties in holding discharges. As noted in the FEIS, NOAA's analysis of the issue indicates that transit of the expansion area will take only a few hours during normal circumstances, and that operators could hold discharges until they reach areas outside sanctuary boundaries (*e.g.,* north and west of the expanded boundary or within the San Francisco-Pacifica exclusion area) and discharge per the existing regulatory regime.

NOAA's decision to apply existing sanctuary discharge regulations to the expanded area were developed consistent with the scientific rigor associated with EPA's 2012 California NDZ (USEPA 2012) and NOAA's 2008 Joint Management Plan Review (NOAA 2008). NOAA also reviewed the Cruise Ship Assessment Discharge Report (USEPA 2008), which described, among other things, the nature and volume of waste streams, treatment methods, potential adverse impacts, and regulatory regime for cruise ship discharges. Based on these analyses, NOAA concludes that the volume and content of cruise ship discharges could adversely affect sanctuary resources in the expansion area and that their continued prohibition is warranted at this time. However, NOAA recognizes the cruise ship industry's recent advancements in shipboard treatments of wastewater, and plans to have ONMS consider these developments in a system-wide review of sanctuary cruise ship regulations, as described in the revised CBNMS and GFNMS management plan. Until such time NOAA can better understand these advancements, and their effect on sanctuary resources, it is making no changes to the discharge regulations promulgated with this action.

Comment: NOAA should give a better justification of the differential treatment of cruise ships with respect to the exceptions for treated sewage and graywater.

Response: The cruise ship regulations extended to the CBNMS and GFNMS expansion areas are existing CBNMS and GFNMS regulations. The existing cruise ship regulations were fully analyzed in the FEIS for the revised management plans of CBNMS, GFNMS, and MBNMS and published on September 26, 2008 (73 FR 55842). Regarding cruise ships being different than other ships, many discharge regulations treat discharges from cruise ships as a distinct vessel class on the West Coast of the U.S. (*e.g.* California, Washington, and Alaska) and nationally (*e.g.,* the Vessel General Permit [VGP]) of the EPA). Cruise ships are a unique class of vessel and have the potential to generate and discharge greater quantities of wastewater effluents than other vessel categories.

Cruise Ships—Vessel Routes

Comment: The option of sailing to seaward of the sanctuaries would require significant additional time and cost and have additional environmental effects in terms of fuel consumption and resultant emissions from cruise ships. NOAA should analyze these effects.

Response: Cruise ships are not required to sail seaward, or west, of the expanded sanctuaries as a result of this action. Cruise ship operators could choose, but are not required, to implement vessel route changes based on their own assessment of the best methods to adjust to the sanctuary regulations, particularly as it pertains to the capacity to hold sewage and graywater during transit through the sanctuaries. Also, see response to first comment under the ''Cruise Ship Discharges.''

Vessel General Permit Relationship to Regulations

Comment: NOAA's regulations should mirror the 2013 VGP, which provides a more extensive list of vessel discharge effluent streams than sanctuary regulations. The high water quality standards achieved under the VGP are confirmed by extensive research by the USEPA and the Alaska Science Advisory Panels, and there is no evidence that any threat would be posed to the environment or resources of the sanctuaries under that approach.

Response: The VGP only applies within three miles of the coastline; its application to waters beyond that has not been analyzed by the USEPA or the State of California. See response to comment under ''Cruise Ship Discharge.'' NOAA is considering undertaking a review of national marine sanctuary cruise ship discharge regulations, which could include VGP effluent streams and the standards for them. This proposal is included in the revised management plans for CBNMS and GFNMS.

Discharge-Related Regulatory Definitions

Comment: NOAA should change the definition of ''clean'' to mean not containing harmful matter, because the current definition is inconsistent with the definition of ''harmful matter.'' If applied strictly, this definition would effectively establish a limit of ''non-detectable'' for any ''harmful matter'' discharged by a ship.

Response: The qualifier ''clean'' is used in describing allowed discharges and is defined in §§ 922.81 and 922.111 as ''. . . not containing detectable levels of harmful matter.'' A substance may be at ''detectable'' levels, but pose no threat to the environment and therefore no longer be considered a ''harmful matter.'' Therefore the substance would be considered clean. As noted in the previous response, NOAA is considering having ONMS undertake a review of national marine sanctuary cruise ship discharge regulations, and could include a review of the definitions for ''clean'' and ''harmful matter'' as part of the review.

Discharges That Cannot Be Terminated

Comment: The exceptions for other operational discharges (for both cruise ships and other vessels) are limited to clean vessel engine cooling water, clean vessel generator cooling water, vessel engine or generator exhaust, clean bilgewater or anchor wash. NOAA should include an exception for all ''non-discretionary'' discharges arising from vessel operation, such as leachate from anti-fouling hull coatings, cathodic protection, (as well as others described in the EPA VGP).

Response: The exceptions for discharges (§§ 922.81(a)(2)(iii) and (iv) and 922.111(a)(1)(i)(C) and (D)) are standard exceptions for most of the national marine sanctuaries across the country. A site-specific rulemaking such as this one is not the appropriate mechanism for a nation-wide amendment to sanctuary regulations. As mentioned in the response to comment ''Cruise Ship Discharges,'' NOAA is considering having ONMS undertake a review of national marine sanctuary cruise ship discharge regulations, which could also include a review of discharges noted as unable to be terminated.

Land-Based Discharges

Comment: NOAA should use its expertise and authorities to address issues of estuarine and marine conservation as it relates to California's non-point source management responsibility under the Coastal Zone Management Act (CZMA).

Response: The NMSA and CZMA are distinct and separate statutory authorities administered by different NOAA offices. Under the CZMA, NOAA's Office for Ocean and Coastal Management reviews state coastal nonpoint source pollution control programs developed for approval under the Coastal Zone Act Reauthorization Amendments of 1990. The office also administers grants to states for coastal nonpoint source control program implementation activities. The Plan for California's Nonpoint Source Pollution Control Program (NPS Plan), developed by the State Water Resources Control Board (SWRCB) and the California Coastal Commission, received full approval from the USEPA and NOAA in 2000. Although the proposed GFNMS final management plan is not linked to the NPS Plan, its Water Quality Action Plan includes activities to coordinate with other agencies to address land-based discharges into the estuarine and nearshore areas of the sanctuary.

Comment: NOAA should make it mandatory to aerobically compost biosolids, which will modify, degrade and in some cases eliminate some of the toxic compounds from farms.

Response: The regulation of biosolids is outside the scope of this rulemaking and outside the jurisdiction of national marine sanctuaries. The discharge of material beyond its boundaries is not regulated in GFNMS, except with regards to discharges that enter the sanctuary and injure a sanctuary resource. NOAA recognizes the connection between land-based pollution and sanctuary water quality, and therefore includes an activity to promote best management practices for agriculture in the GFNMS management plan.

Comment: NOAA should regulate discharge from agricultural activities and oil pollution from roads and cars by designating inland sanctuaries or expanding sanctuaries into inland areas to prevent inland discharges that may injure a sanctuary resource or quality.

Response: See response to the comment ''Inclusion of Estuaries.'' The discharge of material is not regulated in GFNMS beyond its boundaries, except with regard to discharges that enter the sanctuary and injure a sanctuary resource. The GFNMS revised management plan outlines steps to understand and address impacts from known sources of pollution.

Russian River Discharge and Water Quality

Comment: NOAA should maintain or improve the Russian River Estuary Management Project to: Better address impacts of breaching the Russian River, including release of toxins; identify sources of increased nutrients; and request maintenance of adequate flow in the Russian River.

Response: The Russian River Estuary Management Project is not within the boundary expansion of GFNMS. However, NOAA currently collaborates with the Estuary Project managers, through NMFS. Although NOAA is not expanding the sanctuary into the Russian River Estuary at this time, the management plan includes a strategy to collaborate and exchange information with agencies and authorities within estuaries adjacent to the proposed GFNMS expansion area. See the Water Quality Action Plan Strategy WQ–3 for more information.

Beach Nourishment

Comment: NOAA should consider how the proposed regulatory framework may prohibit dredging and disposing of sediments for living shoreline projects (*e.g.,* beach nourishment), which are environmentally beneficial.

Response: The disposal of matter above the mean high water line is not regulated in GFNMS, except with regard to discharges that enter the sanctuary and injure a sanctuary resource. Currently there are no known proposed living shoreline projects within the GFNMS boundary or expansion area. However, NOAA considers such projects a beneficial use that could be considered as an alternative to disposal of dredged materials. If a living shoreline project were to be proposed within GFNMS in the future, NOAA could consider a permit application in accordance with 15 CFR 922.83 or a separate regulatory process, if needed.

NPDES Permits

Comment: NOAA should include an exemption to 15 CFR 922.84 for discharges regulated by NPDES discharge permits. These discharge permits are adopted to fully protect all beneficial uses and NPDES dischargers should not and need not be subject to additional regulations for GFNMS resources to be fully protected. NOAA should clarify that discharges to the Russian River regulated by NPDES permits are not considered unlawful activities under 15 CFR 922.82(a)(4).

Response: NOAA has not included an exemption to 15 CFR 922.84 for discharges regulated by NPDES discharge permits. The regulation is not intended to prevent discharge activities beyond the sanctuary boundary, including the Russian River Estuary discharges regulated by NPDES permits. NOAA could certify pre-existing NPDES

discharge permits that are already authorized by the State of California and in existence on the effective date of the proposed sanctuary expansion, such as the NPDES permit for the Russian River Estuary. See 15 CFR 922.47 and the procedures outlined in 15 CFR 922.84 for more information. In part, NOAA had originally proposed authorization authority to allow it to approve NPDES permits for discharges that would not cause significant, adverse harm to sanctuary resources; it is an example of an activity a sanctuary advisory council working group on authorizations could consider in making any recommendations.

State Water Resources Control Board (SWRCB) Jurisdiction

Comment: NOAA should communicate with the local communities regarding jurisdiction of storm water discharges.

Response: SWRCB regulates storm water discharge, and this action would not change SWRCB jurisdiction. NOAA is not regulating storm water discharge, except potentially for those discharges that enter the sanctuary and injure a sanctuary resource.

Bodega Harbor Dredging and Disposal

Comment: NOAA needs to exempt existing routine dredging of Bodega Harbor. Without such an exception, a small port of that size would be inadvertently shut down as a result of the cost of maintenance dredge disposal (whether on land or offshore). In addition, NOAA should designate a dredge disposal site in GFNMS for Bodega Harbor Channel Maintenance Dredging.

Response: Bodega Harbor is located outside of the sanctuary boundaries. Therefore, existing or future dredging of the harbor would not violate any sanctuary regulations that pertain to discharge of materials or alteration of the seafloor. Bodega Harbor maintenance projects conducted adjacent to GFNMS currently dispose of dredged materials at EPA-designated dredge disposal sites, which include ocean and upland locations outside the existing and proposed boundaries of GFNMS. There is no need to designate another dredge disposal site at this time. If the need arises in the future, the EPA would be the lead agency to designate any new dredge disposal sites.

Dredging Prohibition

Comment: NOAA should ban dredging throughout all sanctuary waters.

Response: NOAA agrees. The final rule prohibits drilling into, dredging, or otherwise altering the submerged lands of GFNMS and CBNMS, with few exceptions.

Technical Document Edits (Rule, EIS, Management Plans)

Numerous comments requested specific edits to the text of the proposed rule, DEIS or management plans. To the extent that these edits are pertinent and correct, these edits have been made to the relevant documents and are not further addressed in the response to comments. Other minor typographical corrections have been made to the relevant documents and are also not further addressed here.

VI. Classification

National Environmental Policy Act

NOAA has prepared a final environmental impact statement to evaluate the environmental effects of this rulemaking. Copies are available at the address and Web site listed in the **ADDRESSES** section of this final rule. Responses to comments received on the proposed rule are presented in the final environmental impact statement (December 19, 2014; 79 FR 75800) and preamble to this final rule.

Coastal Zone Management Act

Section 307 of the Coastal Zone Management Act (CZMA; 16 U.S.C. 1456) requires Federal agencies to consult with a state's coastal program on potential Federal regulations having an effect on state waters. NOAA submitted a copy of the final environmental impact statement and supporting documents to the California Coastal Commission for evaluation of Federal consistency under the CZMA. On December 12, 2014, NOAA received confirmation from the California Coastal Commission that the action was consistent with the purposes of the California Coastal Management Program.

Executive Orders 12866 and 13563

This rule was drafted in accordance with Executive Orders 12866 and 13563. It was reviewed by the Office of Management and Budget, which found the rule to be ''significant'' according to EO 12866 and EO 13563.

Executive Order 13132: Federalism Assessment

NOAA has concluded that this regulatory action does not have federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 13132.

Executive Order 13175: Tribal Consultation and Collaboration

Representatives from the Manchester Band of Pomo Indians, Kashia Band of Pomo Indians of Stewarts Point Rancheria, and Federated Indians of Graton Rancheria were invited in writing to consult with NOAA under Executive Order 13175. As of publication date of this notice of final rulemaking, NOAA only received a response from the Chairman of the Kashia Band of Pomo Indians to the consultation letters. NOAA will continue to consult and seek tribal participation in the management of CBNMS and GFNMS as appropriate.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), as amended and codified at 5 U.S.C. 601 *et seq.,* requires an agency to prepare a regulatory flexibility analysis of any rule subject to the notice and comment rulemaking requirements under the Administrative Procedure Act (5 U.S.C. 553) 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. Under section 605(b) of the RFA, if the head of an agency (or his or her designee) certifies that a rule will not have a significant impact on a substantial number of small entities, the agency is not required to prepare a regulatory flexibility analysis. Pursuant to section 605(b), the Chief Counsel for Regulation, Department of Commerce, submitted a memorandum to the Chief Counsel for Advocacy, Small Business Administration, certifying that original proposed rule would not have a significant impact on a substantial number of small entities. The rationale for that certification was set forth in the preamble of that rule (79 FR 20982, April 14, 2014).

Although NOAA has made a few changes to the regulations for CBNMS and GFNMS from the proposed rule to the final rule, none of these changes alter the initial determination that this rule will not have an impact on the small businesses included in the original analysis presented in the proposed rule. Moreover, NOAA did not receive any comments on the certification or its conclusion. Therefore, the determination that this rule will not have a significant economic impact on a substantial number of small entities is unchanged. As a result, a final regulatory flexibility analysis is not required and has not been prepared.

Paperwork Reduction Act

ONMS has a valid Office of Management and Budget (OMB) control number (0648–0141) for the collection of public information related to the processing of ONMS permits across the National Marine Sanctuary System. NOAA's proposal to expand GFNMS and CBNMS would likely increase the number of requests for ONMS general permits and special use permits, because the sanctuaries are now larger. An increase in the number of ONMS permit requests resulted in a change to the reporting burden certified for OMB control number 0648–0141. This control number for the processing of ONMS permits has been updated by OMB.

Comments on this determination were solicited in the proposed rule but none were received. Notwithstanding any other provision of 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.

VII. References

A complete list of all references cited herein is available upon request (see **ADDRESSES** section).

List of Subjects in 15 CFR Part 922

Administrative practice and procedure, Coastal zone, Historic preservation, Intergovernmental relations, Marine resources, Natural resources, Penalties, Recreation and recreation areas, Reporting and recordkeeping requirements, Wildlife.

Dated: February 27, 2015.

W. Russell Callender,

Acting Assistant Administrator for Ocean Services and Coastal Zone Management.

Accordingly, for the reasons discussed in the preamble, the National Oceanic and Atmospheric Administration is amending 15 CFR part 922 as follows:

PART 922—NATIONAL MARINE SANCTUARY PROGRAM REGULATIONS

■ 1. The authority citation for part 922 continues to read as follows:

Authority: 16 U.S.C. 1431 *et seq.*

■ 2. Revise subpart H to read as follows:

Subpart H—Farallones National Marine Sanctuary

Sec.

922.80 Boundary.
922.81 Definitions.
922.82 Prohibited or otherwise regulated activities.
922.83 Permit procedures and issuance criteria.
922.84 Certification of preexisting leases, licenses, permits, approvals, other authorizations, or rights to conduct a prohibited activity.
922.85 Review of State permits and leases for certain aquaculture projects.
Appendix A to Subpart H of Part 922—Farallones National Marine Sanctuary Boundary Coordinates
Appendix B to Subpart H of Part 922—No-Anchoring Seagrass Protection Zones in Tomales Bay
Appendix C to Subpart H of Part 922—Northern Extent of Tomales Bay
Appendix D to Subpart H of Part 922—Special Wildlife Protection Zones within the Sanctuary
Appendix E to Subpart H of Part 922—Cargo Vessel Prohibition Zones in the Sanctuary
Appendix F to Subpart H of Part 922—White Shark Approach Prohibition Zones in the Sanctuary

§ 922.80 Boundary.

(a) Farallones National Marine Sanctuary (Sanctuary) encompasses an area of approximately 2,488 square nautical miles (3,295 square miles) of coastal and ocean waters, and submerged lands thereunder, surrounding the Farallon Islands and Noonday Rock along the northern coast of California. The precise boundary coordinates are listed in appendix A to this subpart.

(b) The western boundary of the Sanctuary extends south from Point 1 approximately 45 nautical miles (52 miles) to Point 2, which is the northwestern corner of Cordell Bank National Marine Sanctuary (CBNMS). The Sanctuary boundary then extends from Point 2 approximately 38 nautical miles (43 miles) east along the northern boundary of CBNMS to Point 3, which is approximately 6 nautical miles (7 miles) west of Bodega Head. From Point 3 the Sanctuary boundary continues south and west to Points 4 through 19 (in numerical sequence) and is coterminous with the eastern boundary of CBNMS. From Point 19 the Sanctuary boundary continues south and east to Points 20 through 25 (in numerical sequence) until it intersects the boundary for Monterey Bay National Marine Sanctuary (MBNMS) at Point 26. From Point 26 the Sanctuary boundary extends eastward and northward, coterminous with MBNMS, to Points 27 through 33 (in numerical sequence). From Point 33 the boundary proceeds along a straight line arc towards Point 34 until it intersects the Mean High Water Line at Rocky Point, California. From this intersection the Sanctuary boundary follows the Mean High Water Line northward until it intersects the boundary for Point Reyes National Seashore approximately 0.7 nautical miles (0.8 miles) south and east of Bolinas Point in Marin County, California. The Sanctuary boundary then approximates the boundary for Point Reyes National Seashore, as established at the time of designation of the Sanctuary, to the intersection of the Point Reyes National Seashore boundary and the Mean High Water Line approximately 0.13 nautical miles (0.15 miles) south and east of Duck Cove in Tomales Bay. The Sanctuary boundary then follows the Mean High Water Line along Tomales Bay and up Lagunitas Creek to the U.S. Highway 1 Bridge. Here the Sanctuary boundary crosses Lagunitas Creek and follows the Mean High Water Line north to the Estero de San Antonio and up the Estero to the tide gate at Valley Ford-Franklin School Road. Here the Sanctuary boundary crosses the Estero de San Antonio and proceeds west and north following the Mean High Water Line to the Estero Americano and up the Estero to the bridge at Valley Ford-Estero Road. Here the Sanctuary boundary crosses the Estero Americano and proceeds west and north following the Mean High Water Line towards Salmon Creek. Approaching Salmon Creek the boundary continues along the Mean High Water Line until it intersects a straight line arc that passes through Points 35 and 36. From that intersection the boundary extends across the creek along the straight line arc towards Point 36 until it again intersects the Mean High Water Line. From this intersection the boundary follows the Mean High Water Line north towards the Russian River. Approaching the Russian River the boundary continues along the Mean High Water Line until it intersects a straight line arc that passes through Points 37 and Point 38. At that intersection the boundary extends across the river along the straight line arc towards Point 38 until it again intersects the Mean High Water Line. From this intersection the boundary follows the Mean High Water Line north towards the Gualala River. Approaching the Gualala River the boundary continues along the Mean High Water Line until it intersects a straight line arc that passes through Points 39 and Point 40. At that intersection the boundary extends across the river along the straight line arc towards Point 40 until it again intersects the Mean High Water Line. From this intersection the boundary follows the Mean High Water Line north to Arena Cove in Mendocino County. Approaching Arena Cove the

boundary continues along the Mean High Water Line until it intersects a straight line arc that passes through Points 41 and Point 42. At that intersection the boundary extends across the cove along the straight line arc towards Point 42 until it again intersects the Mean High Water Line. From this intersection the boundary follows the Mean High Water Line north towards the Garcia River. Approaching the Garcia River the boundary continues along the Mean High Water Line until it intersects a straight line arc that passes through Points 43 and Point 44. At that intersection the boundary extends across the river along the straight line arc towards Point 44 until it intersects the Mean High Water Line. The Sanctuary boundary then continues north following the Mean High Water Line until it intersects the rhumb line connecting Point 45 and Point 46. From this intersection the Sanctuary boundary continues west along its northernmost extent to Point 46. The Sanctuary includes Bolinas Lagoon, Estero de San Antonio (to the tide gate at Valley Ford-Franklin School Road) and Estero Americano (to the bridge at Valley Ford-Estero Road), as well as Bodega Bay, but does not include Bodega Harbor, the Salmon Creek Estuary, the Russian River Estuary, the Gualala River Estuary, Arena Cove, or the Garcia River Estuary. Unless otherwise specified, where the Sanctuary boundary crosses a waterway, the Sanctuary excludes this waterway upstream of the crossing.

§ 922.81 Definitions.

In addition to those definitions found at § 922.3, the following definitions apply to this subpart:

Attract or attracting means the conduct of any activity that lures or may lure any animal in the Sanctuary by using food, bait, chum, dyes, decoys (*e.g.,* surfboards or body boards used as decoys), acoustics or any other means, except the mere presence of human beings (*e.g.,* swimmers, divers, boaters, kayakers, surfers).

Clean means not containing detectable levels of harmful matter.

Cruise ship means a vessel with 250 or more passenger berths for hire.

Deserting means leaving a vessel aground or adrift without notification to the Director of the vessel going aground or becoming adrift within 12 hours of its discovery and developing and presenting to the Director a preliminary salvage plan within 24 hours of such notification, after expressing or otherwise manifesting intention not to undertake or to cease salvage efforts, or when the owner/operator cannot after reasonable efforts by the Director be reached within 12 hours of the vessel's condition being reported to authorities; or leaving a vessel at anchor when its condition creates potential for a grounding, discharge, or deposit and the owner/operator fails to secure the vessel in a timely manner.

Harmful matter means any substance, or combination of substances, that because of its quantity, concentration, or physical, chemical, or infectious characteristics may pose a present or potential threat to Sanctuary resources or qualities, including but not limited to: Fishing nets, fishing line, hooks, fuel, oil, and those contaminants (regardless of quantity) listed pursuant to 42 U.S.C. 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act at 40 CFR 302.4.

Introduced species means any species (including, but not limited to, any of its biological matter capable of propagation) that is non-native to the ecosystems of the Sanctuary; or any organism into which altered genetic matter, or genetic matter from another species, has been transferred in order that the host organism acquires the genetic traits of the transferred genes.

Motorized personal watercraft means a vessel which uses an inboard motor powering a water jet pump as its primary source of motive power and which is designed to be operated by a person sitting, standing, or kneeling on the vessel, rather than the conventional manner of sitting or standing inside the vessel.

Routine maintenance means customary and standard procedures for maintaining docks or piers.

Seagrass means any species of marine angiosperms (flowering plants) that inhabit portions of the submerged lands in the Sanctuary. Those species include, but are not limited to: *Zostera asiatica* and *Zostera marina.*

Special Wildlife Protection Zones are areas surrounding or adjacent to high abundance of white sharks, breeding pinnipeds (seals and sea lions) or high abundance and high biological diversity of breeding birds that are susceptible to human caused disturbance, including federally listed and specially protected species. Coordinates for Special Wildlife Protection Zones are found in appendix C of this Subpart.

§ 922.82 Prohibited or otherwise regulated activities.

(a) The following activities are prohibited and thus are unlawful for any person to conduct or to cause to be conducted within the Sanctuary:

(1) Exploring for, developing, or producing oil, gas or minerals.

(2) Discharging or depositing from within or into the Sanctuary, other than from a cruise ship, any material or other matter except:

(i) Fish, fish parts, chumming materials or bait used in or resulting from lawful fishing activities within the Sanctuary, provided that such discharge or deposit is during the conduct of lawful fishing activity within the Sanctuary;

(ii) For a vessel less than 300 gross registered tons (GRT), or a vessel 300 GRT or greater without sufficient holding tank capacity to hold sewage while within the Sanctuary, clean effluent generated incidental to vessel use by an operable Type I or II marine sanitation device (U.S. Coast Guard classification) that is approved in accordance with section 312 of the Federal Water Pollution Control Act, as amended (FWPCA), 33 U.S.C. 1322. Vessel operators must lock all marine sanitation devices in a manner that prevents discharge or deposit of untreated sewage;

(iii) Clean vessel deck wash down, clean vessel engine cooling water, clean vessel generator cooling water, clean bilge water, or anchor wash;

(iv) For a vessel less than 300 GRT or a vessel 300 GRT or greater without sufficient holding capacity to hold graywater while within the Sanctuary, clean graywater as defined by section 312 of the FWPCA; or

(v) Vessel engine or generator exhaust.

(3) Discharging or depositing from within or into the Sanctuary any material or other matter from a cruise ship except clean vessel engine cooling water, clean vessel generator cooling water, vessel engine or generator exhaust, clean bilge water, or anchor wash.

(4) Discharging or depositing, from beyond the boundary of the Sanctuary, any material or other matter that subsequently enters the Sanctuary and injures a Sanctuary resource or quality, except for the material or other matter excepted in paragraphs (a)(2)(i) through (v) and (a)(3) of this section.

(5) Constructing any structure other than a navigation aid on or in the submerged lands of the Sanctuary; placing or abandoning any structure on or in the submerged lands of the Sanctuary; or drilling into, dredging, or otherwise altering the submerged lands of the Sanctuary in any way, except:

(i) By anchoring vessels (in a manner not otherwise prohibited by this part (see paragraph (a)(16) of this section);

(ii) While conducting lawful fishing activities;

(iii) Routine maintenance and construction of docks and piers on Tomales Bay; or

(iv) Aquaculture activities conducted pursuant to a valid lease, permit, license or other authorization issued by the State of California.

(6) Operating motorized personal watercraft (MPWC) anywhere in Bodega Bay and anywhere in the Sanctuary south of 38.29800 degrees North Latitude (the southernmost tip of Bodega Head), except for emergency search and rescue missions or law enforcement operations (other than routine training activities) carried out by the National Park Service, U.S. Coast Guard, Fire or Police Departments or other Federal, State or local jurisdictions.

(7) Taking any marine mammal, sea turtle, or bird within or above the Sanctuary, except as authorized by the Marine Mammal Protection Act, as amended, (MMPA), 16 U.S.C. 1361 *et seq.,* Endangered Species Act (ESA), as amended, 16 U.S.C. 1531 *et seq.,* Migratory Bird Treaty Act, as amended, (MBTA), 16 U.S.C. 703 *et seq.,* or any regulation, as amended, promulgated under the MMPA, ESA, or MBTA.

(8) Possessing within the Sanctuary (regardless of where taken, moved or removed from), any marine mammal, sea turtle, or bird taken, except as authorized by the MMPA, ESA, MBTA, by any regulation, as amended, promulgated under the MMPA, ESA, or MBTA, or as necessary for valid law enforcement purposes.

(9) Possessing, moving, removing, or injuring, or attempting to possess, move, remove or injure, a Sanctuary historical resource.

(10) Introducing or otherwise releasing from within or into the Sanctuary an introduced species, except:

(i) Striped bass (*Morone saxatilis*) released during catch and release fishing activity; or

(ii) Species cultivated by commercial shellfish aquaculture activities in Tomales Bay pursuant to a valid lease, permit, license or other authorization issued by the State of California. Tomales Bay is defined in § 922.80. The coordinates for the northern terminus of Tomales Bay are listed in appendix C to this subpart.

(11) Disturbing marine mammals or seabirds by flying motorized aircraft at less than 1,000 feet over the waters within any of the seven designated Special Wildlife Protection Zones described in appendix D to this subpart, except transiting Zone 6 to transport persons or supplies to or from Southeast Farallon Island authorized by the U.S. Fish and Wildlife Service, Farallon National Wildlife Refuge, or for enforcement purposes. Failure to maintain a minimum altitude of 1,000 feet above ground level over such waters is presumed to disturb marine mammals or seabirds.

(12) Operating any vessel engaged in the trade of carrying cargo within any area designated Special Wildlife Protection Zone or within one nautical mile from these zones. The coordinates are listed in appendix E to this subpart. This includes but is not limited to tankers and other bulk carriers and barges, or any vessel engaged in the trade of servicing offshore installations, except to transport persons or supplies to or from the Farallon Islands. In no event shall this section be construed to limit access for fishing, recreational or research vessels.

(13) Attracting a white shark anywhere in the Sanctuary; or approaching within 50 meters of any white shark within Special Wildlife Protection Zone 6 and 7 or within one nautical mile from these zones The coordinates are listed in appendix F to this subpart.

(14) Deserting a vessel aground, at anchor, or adrift in the Sanctuary.

(15) Leaving harmful matter aboard a grounded or deserted vessel in the Sanctuary.

(16) Anchoring a vessel in a designated seagrass protection zone in Tomales Bay, except as necessary for aquaculture operations conducted pursuant to a valid lease, permit or license. The coordinates for the no-anchoring seagrass protection zones are listed in Appendix B to this subpart.

(17) Interfering with, obstructing, delaying, or preventing an investigation, search, seizure, or disposition of seized property in connection with enforcement of the Act or any regulation or permit issued under the Act.

(b) All activities currently carried out by the Department of Defense within the Sanctuary are essential for the national defense and, therefore, not subject to the prohibitions in this section. The exemption of additional activities shall be determined in consultation between the Director and the Department of Defense.

(c) The prohibitions in paragraph (a) of this section do not apply to activities necessary to respond to an emergency threatening life, property, or the environment.

(d) The prohibitions in paragraphs (a)(2) through (9) and (a)(11) through (16) of this section do not apply to any activity executed in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to §§ 922.48 and 922.83 or a Special Use permit issued pursuant to section 310 of the Act.

§ 922.83 Permit procedures and issuance criteria.

(a) A person may conduct an activity prohibited by § 922.82(a)(2) through (9) and (a)(11) through (16) if such activity is specifically authorized by, and conducted in accordance with the scope, purpose, terms and conditions of, a permit issued under § 922.48 and this section.

(b) The Director, at his or her discretion, may issue a National Marine Sanctuary permit under this section, subject to terms and conditions as he or she deems appropriate, if the Director finds that the activity will:

(1) Further research or monitoring related to Sanctuary resources and qualities;

(2) Further the educational value of the Sanctuary;

(3) Further salvage or recovery operations; or

(4) Assist in managing the Sanctuary.

(c) In deciding whether to issue a permit, the Director shall consider factors such as:

(1) The applicant is qualified to conduct and complete the proposed activity;

(2) The applicant has adequate financial resources available to conduct and complete the proposed activity;

(3) The methods and procedures proposed by the applicant are appropriate to achieve the goals of the proposed activity, especially in relation to the potential effects of the proposed activity on Sanctuary resources and qualities;

(4) The proposed activity will be conducted in a manner compatible with the primary objective of protection of Sanctuary resources and qualities, considering the extent to which the conduct of the activity may diminish or enhance Sanctuary resources and qualities, any potential indirect, secondary or cumulative effects of the activity, and the duration of such effects;

(5) The proposed activity will be conducted in a manner compatible with the value of the Sanctuary, considering the extent to which the conduct of the activity may result in conflicts between different users of the Sanctuary, and the duration of such effects;

(6) It is necessary to conduct the proposed activity within the Sanctuary;

(7) The reasonably expected end value of the proposed activity to the furtherance of Sanctuary goals and purposes outweighs any potential adverse effects on Sanctuary resources

and qualities from the conduct of the activity; and

(8) Any other factors as the Director deems appropriate.

(d) *Applications.* (1) Applications for permits should be addressed to the Director, Office of National Marine Sanctuaries; ATTN: Superintendent, Farallones National Marine Sanctuary, 991 Marine Dr., The Presidio, San Francisco, CA 94129.

(2) In addition to the information listed in § 922.48(b), all applications must include information to be considered by the Director in paragraph (b) and (c) of this section.

(e) The permittee must agree to hold the United States harmless against any claims arising out of the conduct of the permitted activities.

§ 922.84 Certification of preexisting leases, licenses, permits, approvals, other authorizations, or rights to conduct a prohibited activity.

(a) A person may conduct an activity prohibited by § 922.82(a)(1) through (17) if such activity is specifically authorized by a valid Federal, State, or local lease, permit, license, approval, or other authorization in existence prior to the effective date of sanctuary expansion and within the sanctuary expansion area and complies with § 922.47 and provided that the holder of the lease, permit, license, approval, or other authorization complies with the requirements of paragraph (e) of this section.

(b) In considering whether to make the certifications called for in this section, the Director may seek and consider the views of any other person or entity, within or outside the Federal government, and may hold a public hearing as deemed appropriate.

(c) The Director may amend, suspend, or revoke any certification made under this section whenever continued operation would otherwise be inconsistent with any terms or conditions of the certification. Any such action shall be forwarded in writing to both the holder of the certified permit, license, or other authorization and the issuing agency and shall set forth reason(s) for the action taken.

(d) Requests for findings or certifications should be addressed to the Director, Office of National Marine Sanctuaries; ATTN: Sanctuary Superintendent, Farallones National Marine Sanctuary, 991 Marine Drive, The Presidio, San Francisco, CA 94129. A copy of the lease, permit, license, approval, or other authorization must accompany the request.

(e) For an activity described in paragraph (a) of this section, the holder of the authorization or right may conduct the activity prohibited by § 922.82 (a)(1) through (17) provided that:

(1) The holder of such authorization or right notifies the Director, in writing, within 90 days of the effective date of Sanctuary designation, of the existence of such authorization or right and requests certification of such authorization or right;

(2) The holder complies with the other provisions of this section; and

(3) The holder complies with any terms and conditions on the exercise of such authorization or right imposed as a condition of certification, by the Director, to achieve the purposes for which the Sanctuary was designated.

(f) The holder of an authorization or right described in paragraph (a) of this section authorizing an activity prohibited by § 922.82 may conduct the activity without being in violation of applicable provisions of § 922.82, pending final agency action on his or her certification request, provided the holder is otherwise in compliance with this section.

(g) The Director may request additional information from the certification requester as he or she deems reasonably necessary to condition appropriately the exercise of the certified authorization or right to achieve the purposes for which the Sanctuary was designated. The Director must receive the information requested within 45 days of the postmark date of the request. The Director may seek the views of any persons on the certification request.

(h) The Director may amend any certification made under this section whenever additional information becomes available that he determines justifies such an amendment.

(i) Upon completion of review of the authorization or right and information received with respect thereto, the Director shall communicate, in writing, any decision on a certification request or any action taken with respect to any certification made under this section, in writing, to both the holder of the certified lease, permit, license, approval, other authorization, or right, and the issuing agency, and shall set forth the reason(s) for the decision or action taken.

(j) The holder may appeal any action conditioning, amending, suspending, or revoking any certification in accordance with the procedures set forth in § 922.50.

(k) Any time limit prescribed in or established under this section may be extended by the Director for good cause.

§ 922.85 Review of State permits and leases for certain aquaculture projects.

NOAA has described in a Memorandum of Agreement (MOA) with the State of California how the State will consult and coordinate with NOAA to review any new, amended or expanded lease or permit application for aquaculture projects in Tomales Bay involving introduced species.

Appendix A to Subpart H of Part 922—Farallones National Marine Sanctuary Boundary Coordinates

Coordinates listed in this appendix are unprojected (Geographic) and based on the North American Datum of 1983.

Point ID No.	Latitude	Longitude
1	39.00000	−124.33350
2	38.29989	−123.99988
3	38.29989	−123.20005
4	38.26390	−123.18138
5	38.21001	−123.11913
6	38.16576	−123.09207
7	38.14072	−123.08237
8	38.12829	−123.08742
9	38.10215	−123.09804
10	38.09069	−123.10387
11	38.07898	−123.10924
12	38.06505	−123.11711
13	38.05202	−123.12827
14	37.99227	−123.14137
15	37.98947	−123.23615
16	37.95880	−123.32312
17	37.90464	−123.38958
18	37.83480	−123.42579
19	37.76687	−123.42694
20	37.75932	−123.42686
21	37.68892	−123.39274
22	37.63356	−123.32819
23	37.60123	−123.24292
24	37.59165	−123.22641
25	37.56305	−123.19859
26	37.52001	−123.12879
27	37.50819	−123.09617
28	37.49418	−123.00770
29	37.50948	−122.90614
30	37.52988	−122.85988
31	37.57147	−122.80399
32	37.61622	−122.76937
33	37.66641	−122.75105
34 *	37.88225	−122.62753
35 *	38.35045	−123.06711
36 *	38.35665	−123.06724
37 *	38.44575	−123.12602
38 *	38.45531	−123.13469
39 *	38.76231	−123.52957
40 *	38.76941	−123.53541
41 *	38.91136	−123.71061
42 *	38.91766	−123.72568
43 *	38.95404	−123.73405
44 *	38.95944	−123.71820
45 *	39.00000	−123.69710
46	39.00000	−124.33350

Note: The coordinates in the table above marked with an asterisk (*) are not a part of the sanctuary boundary. These coordinates are landward reference points used to draw a line segment that intersects with the shoreline.

Appendix B to Subpart H of Part 922—No-Anchoring Seagrass Protection Zones in Tomales Bay

Coordinates listed in this appendix are unprojected (Geographic) and based on the North American Datum of 1983.

(1) No-Anchoring Seagrass Protection Zone 1 encompasses an area of approximately .11 square nautical miles (.15 square miles) offshore south of Millerton Point. The precise boundary coordinates are listed in the table following this description. The eastern boundary is a straight line arc that connects points 1 and 2 listed in the coordinate table below. The southern boundary is a straight line arc that connects points 2 and 3, the western boundary is a straight line arc that connects points 3 and 4 and the northern boundary is a straight line arc that connects point 4 to point 5.

Zone 1 Point ID No.	Latitude	Longitude
1	38.10571	−122.84565
2	38.09888	−122.83603
3	38.09878	−122.84431
4	38.10514	−122.84904
5	38.10571	−122.84565

(2) No-Anchoring Seagrass Protection Zone 2 encompasses an area of approximately .15 square nautical miles (.19 square miles) that begins just south of Marconi and extends approximately 1.6 nautical miles (1.9 miles) south along the eastern shore of Tomales Bay. The precise boundary coordinates are listed in the table following this description. The western boundary is a series of straight line arcs that sequentially connect point 1 to point 5 listed in the coordinate table below. The southern boundary is a straight line arc that extends from point 5 towards point 6 until it intersects the Mean High Water Line. From this intersection the eastern boundary follows the Mean High Water Line north until it intersects the straight line arc that connects point 7 to point 8. From this intersection the northern boundary extends to point 8.

Zone 2 Point ID No.	Latitude	Longitude
1	38.13326	−122.87178
2	38.12724	−122.86488
3	38.12563	−122.86480
4	38.11899	−122.86731
5	38.11386	−122.85851
6*	38.11608	−122.85813
7*	38.14078	−122.87433
8	38.13326	−122.87178

Note: The coordinates in the table above marked with an asterisk (*) are not a part of the zone boundary. These coordinates are landward reference points used to draw a line segment that intersects with the shoreline.

(3) No-Anchoring Seagrass Protection Zone 3 encompasses an area of approximately .01 square nautical miles (.02 square miles) that begins just south of Marshall and extends approximately .5 nautical miles (.6 miles) south along the eastern shore of Tomales Bay. The precise boundary coordinates are listed in the table following this description. The western boundary is a straight line arc that connects point 1 to point 2 listed in the coordinate table below. The southern boundary is a straight line arc that extends from point 2 towards point 3 until it intersects the Mean High Water Line. From this intersection the eastern boundary follows the Mean High Water Line northward until it intersects the straight line arc that connects point 4 to point 5. From this intersection the northern boundary extends westward along the straight line arc that connects point 4 to point 5.

Zone 3 Point ID No.	Latitude	Longitude
1	38.15956	−122.89573
2	38.15250	−122.89042
3*	38.15292	−122.88984
4*	38.16031	−122.89442
5	38.15956	−122.89573

Note: The coordinates in the table above marked with an asterisk (*) are not a part of the zone boundary. These coordinates are landward reference points used to draw a line segment that intersects with the shoreline.

(4) No-Anchoring Seagrass Protection Zone 4 is an area of approximately .18 square nautical miles (.21 square miles) that begins just north of Nicks Cove and extends approximately 2.7 nautical miles (3.1 miles) south along the eastern shore of Tomales Bay to just south of Cypress Grove. The precise boundary coordinates are listed in the table following this description. The western boundary is a series of straight line arcs that sequentially connect point 1 to point 8 listed in the coordinate table below. The southern boundary is a straight line arc that extends from point 8 towards point 9 until it intersects the Mean High Water Line. From this intersection the eastern boundary follows the Mean High Water Line north until it intersects the straight line arc that connects point 10 to point 11. From this intersection the northern boundary extends westward along the straight line arc that connects point 10 to point 11.

Zone 4 Point ID No.	Latitude	Longitude
1	38.20004	−122.92315
2	38.18881	−122.91740
3	38.18651	−122.91404
4	38.17919	−122.91021
5	38.17450	−122.90545
6	38.16869	−122.90475
7	38.16535	−122.90308
8	38.16227	−122.89650
9*	38.16266	−122.89620
10*	38.20080	−122.92174
11	38.20004	−122.92315

Note: The coordinates in the table above marked with an asterisk (*) are not a part of the zone boundary. These coordinates are landward reference points used to draw a line segment that intersects with the shoreline.

(5) No-Anchoring Seagrass Protection Zone 5 encompasses an area of approximately 1.3 square nautical miles (1.6 square miles) that begins east of Lawson's Landing and extends approximately 2.7 nautical miles (3.1 miles) east and south along the eastern shore of Tomales Bay but excludes areas adjacent (approximately .32 nautical miles or .37 miles) to the mouth of Walker Creek. The precise boundary coordinates are listed in the table following this description. The western boundary is a series of straight line arcs that sequentially connect point 1 to point 3 listed in the coordinate table below. From point 3 the southern boundary trends eastward along the straight line arc that connects point 3 to point 4 until it intersects the Mean High Water Line. From this intersection the boundary follows the Mean High Water Line northward until it intersects the straight line arc that connects point 5 to point 6. From this intersection the boundary extends westward along the straight line arc that connects point 5 to point 6. From point 6 the boundary follows the straight line arc that connects point 6 to point 7, and then extends along the straight line arc that connects point 7 to point 8 until it again intersects the Mean High Water Line. From this intersection the boundary follows the Mean High Water Line until it intersects the straight line arc that connects point 9 to point 10. From this intersection the boundary extends to point 10 along the straight line arc that connects point 9 to point 10.

Zone 5 Point ID No.	Latitude	Longitude
1	38.21825	−122.96041
2	38.20666	−122.94397
3	38.19431	−122.93431
4*	38.20080	−122.92174
5*	38.20522	−122.92446
6	38.20366	−122.93246
7	38.20938	−122.94153
8*	38.21599	−122.93742
9*	38.23129	−122.96293
10	38.21825	−122.96041

Note: The coordinates in the table above marked with an asterisk (*) are not a part of the zone boundary. These coordinates are landward reference points used to draw a line segment that intersects with the shoreline.

(6) No-Anchoring Seagrass Protection Zone 6 encompasses an area of approximately .01 square nautical miles (.02 square miles) in the vicinity of Indian Beach along the western shore of Tomales Bay. The precise boundary coordinates are listed in the table following this description. The eastern boundary is a straight line arc that connects point 1 to point 2 listed in the coordinate table below. The southern boundary extends westward along the straight line arc that connects point 2 to point 3 until it intersects the Mean High Water Line. From this intersection the eastern boundary follows the Mean High Water Line northward until it intersects the straight line arc that connects point 3 to point 4. From this intersection the northern boundary extends eastward along the straight line arc that connects point 4 to point 5.

Zone 6 Point ID No.	Latitude	Longitude
1	38.14103	−122.89537
2	38.13919	−122.89391
3*	38.13804	−122.89610
4*	38.14033	−122.89683
5	38.14103	−122.89537

Note: The coordinates in the table above marked with an asterisk (*) are not a part of the zone boundary. These coordinates are landward reference points used to draw a line segment that intersects with the shoreline.

(7) No-Anchoring Seagrass Protection Zone 7 encompasses an area of approximately .09 square nautical miles (.12 square miles) that begins just south of Pebble Beach and extends approximately 1.6 nautical miles (1.9 miles) south along the western shore of Tomales Bay. The precise boundary coordinates are listed in the table following this description. The eastern boundary is a series of straight line arcs that sequentially connect point 1 to point 5 listed in the coordinate table below. The southern boundary extends along the straight line arc that connects point 5 to point 6 until it intersects the Mean High Water Line. From this intersection the western boundary extends north along the Mean High Water Line until it intersects the straight line arc that connects point 7 to point 8. From this intersection the northern boundary extends eastward along the straight line arc that connects point 7 to point 8.

Zone 7 Point ID No.	Latitude	Longitude
1	38.13067	−122.88620
2	38.12362	−122.87984
3	38.11916	−122.87491
4	38.11486	−122.86896
5	38.11096	−122.86468
6*	38.11027	−122.86551
7*	38.13001	−122.88749
8	38.13067	−122.88620

Note: The coordinates in the table above marked with an asterisk (*) are not a part of the zone boundary. These coordinates are landward reference points used to draw a line segment that intersects with the shoreline.

Appendix C to Subpart H of Part 922—Northern Extent of Tomales Bay

For the purpose of § 922.82(a)(10)(ii), NOAA is codifying the northern geographical extent of Tomales Bay via a line running from Avalis Beach (Point 1) east to Sand Point (Point 2). Coordinates listed in this Appendix are unprojected (geographic) and based on the North American Datum of 1983.

Point ID No. Tomales Bay Boundary	Latitude	Longitude
1	38.23165	−122.98148
2	38.23165	−122.96955

Appendix D to Subpart H of Part 922—Special Wildlife Protection Zones Within the Sanctuary

Coordinates listed in this appendix are unprojected (Geographic) and based on the North American Datum of 1983.

(1) Special Wildlife Protection Zone 1 (SWPZ 1) encompasses an area of approximately 7.9 square nautical miles (10.5 square miles). The precise boundary coordinates are listed in the table following this description. The western boundary of SWPZ 1 extends south from Point 1, west of Haven's Neck in Mendocino County, to Point 2, west of Del Mar Point. The boundary then extends east from Point 2 along a straight line arc connecting Point 2 and Point 3 until it intersects the Mean High Water Line at Del Mar Point. The SWPZ 1 boundary then turns north to follow the Mean High Water Line towards Haven's Neck and continues until it intersects a straight line arc connecting Point 4 and Point 5. From this intersection the Sanctuary boundary continues west along its northernmost extent to Point 5.

Zone 1 Point ID No.	Latitude	Longitude
1	38.80865	−123.63227
2	38.74096	−123.54306
3*	38.74096	−123.51051
4*	38.80865	−123.60195
5	38.80865	−123.63227

Note: The coordinates in the table above marked with an asterisk (*) are not a part of the zone boundary. These coordinates are landward reference points used to draw a line segment that intersects with the shoreline.

(2) Special Wildlife Protection Zone 2 (SWPZ 2) encompasses an area of approximately 16.2 square nautical miles (21.4 square miles). The precise boundary coordinates are listed in the table following this description. The western boundary of SWPZ 2 extends south and east from Point 1, south of Windermere Point in Sonoma County, to Point 2 and then to Point 3 in sequence. Point 3 is west of Duncans Point in Sonoma County. The boundary then extends east from Point 3 along a straight line arc connecting Point 3 and Point 4 until it intersects the Mean High Water Line at Duncans Point. The boundary then turns north to follow the Mean High Water Line towards Windermere Point until it intersects a straight line arc connecting Point 5 and Point 6. From this intersection the boundary continues due south along a straight line arc to Point 6.

Zone 2 Point ID No.	Latitude	Longitude
1	38.49854	−123.26804
2	38.45095	−123.18564
3	38.39311	−123.12068
4*	38.39311	−123.09527
5*	38.52487	−123.26804
6	38.49854	−123.26804

Note: The coordinates in the table above marked with an asterisk (*) are not a part of the zone boundary. These coordinates are landward reference points used to draw a line segment that intersects with the shoreline.

(3) Special Wildlife Protection Zone 3 (SWPZ 3) encompasses an area of approximately 7 square nautical miles (9.3 square miles). The precise boundary coordinates are listed in the table following this description. The western boundary of SWPZ 3 extends south and east from Point 1, southwest of the Estero de San Antonio in Sonoma County, to Point 2, south of Tomales Point in Marin County. The boundary then extends north and east from Point 2 along a straight line arc connecting Point 2 and Point 3 until it intersects the boundary of the Point Reyes National Seashore. From this intersection the SWPZ 3 boundary follows the Point Reyes National Seashore boundary around Tomales Point into Tomales Bay and continues until it again intersects the straight line arc that connects Point 2 and Point 3. From this intersection the SWPZ 3 boundary follows the straight line arc north and east toward Point 3 until it intersects the Mean High Water Line at Toms Point in Tomales Bay. The SWPZ 3 boundary then follows the Mean High Water Line northward towards the Estero de San Antonio until it intersects the straight line arc that connects Point 4 and Point 5. From this intersection the Sanctuary boundary continues south and west to Point 5.

Zone 3 Point ID No.	Latitude	Longitude
1	38.24001	−123.02963
2	38.19249	−122.99523
3*	38.21544	−122.95286
4*	38.27011	−122.97840
5	38.24001	−123.02963

Note: The coordinates in the table above marked with an asterisk (*) are not a part of the zone boundary. These coordinates are landward reference points used to draw a line segment that intersects with the shoreline.

(4) Special Wildlife Protection Zone 4 (SWPZ 4) encompasses an area of approximately 10.2 square nautical miles (13.5 square miles). The precise boundary coordinates are list in the table following this description. The western boundary of SWPZ 4 extends south and west from Point 1, west of Point Reyes in Marin County, to Point 2, south and west of Point Reyes Lighthouse. The boundary then follows a straight line arc east and south from Point 2 to Point 3. From Point 3 the boundary follows a straight line arc north to Point 4. From Point 4 the SWPZ 4 boundary proceeds west along the straight line arc that connects Point 4 and Point 5 until it intersects the Point Reyes National Seashore boundary north of Chimney Rock. The SWPZ 4 boundary then follows the Point Reyes National Seashore boundary around Point Reyes until it again intersects the

straight line arc that connects Point 4 and Point 5 north of the Point Reyes Lighthouse. From this intersection the SWPZ 4 boundary turns seaward and continues west to Point 5.

Zone 4 Point ID No.	Latitude	Longitude
1	38.01475	−123.05013
2	37.97536	−123.05482
3	37.96521	−122.93771
4	38.00555	−122.93504
5	38.01475	−123.05013

(5) Special Wildlife Protection Zone 5 (SWPZ 5) encompasses an area of approximately 14.8 square nautical miles (19.6 square miles). The precise boundary coordinates are listed in the table following this description. The western boundary of SWPZ 5 extends south and east from Point 1, near Millers Point in Marin County, to Point 2, which is south and west of Bolinas Point. The SWPZ 5 boundary then follows a straight line arc east from Point 2 towards Point 3 until it intersects the Mean High Water Line at Rocky Point. From this intersection, the SWPZ 5 boundary follows the Sanctuary boundary north to Bolinas Point and Millers Point, respectively, including Bolinas Lagoon but not including Seadrift Lagoon, until it intersects the straight line arc that connects Point 4 and Point 5. From this intersection the SWPZ 5 boundary turns seaward and continues west and south along the straight line arc to Point 5.

Zone 5 Point ID No.	Latitude	Longitude
1	37.96579	−122.83284
2	37.88195	−122.73989
3*	37.88195	−122.62873
4*	37.98234	−122.81513
5	37.96579	−122.83284

Note: The coordinates in the table above marked with an asterisk (*) are not a part of the zone boundary. These coordinates are landward reference points used to draw a line segment that intersects with the shoreline.

(6) Special Wildlife Protection Zone 6 (SWPZ 6) encompasses an area of approximately 6.8 square nautical miles (9 square miles) and extends from the Mean High Water Line seaward to the SWPZ 6 boundary. The precise boundary coordinates are listed in the table following this description. The boundary of SWPZ 6 extends south and west from Point 1, north of Southeast Farallon Island, along a straight line arc to Point 2, then south and east along a straight line arc to Point 3, then north and east along a straight line arc to Point 4, then north and west along a straight line arc to Point 5.

Zone 6 Point ID No.	Latitude	Longitude
1	37.72976	−123.00961
2	37.69697	−123.04374
3	37.66944	−123.00176
4	37.70246	−122.96608
5	37.72976	−123.00961

(7) Special Wildlife Protection Zone 7 (SWPZ 7) encompasses an area of approximately 6 square nautical miles (7.9 square miles) and extends from the Mean High Water Line seaward to the SWPZ 7 boundary. The precise boundary coordinates are listed in the table following this description. The boundary of SWPZ 7 extends south and west from Point 1, north of North Farallon Island, along a straight line arc to Point 2, then south and east along a straight line arc to Point 3, then north and east along a straight line arc to Point 4, then north and west along a straight line arc to Point 5.

Zone 7 Point ID No.	Latitude	Longitude
1	37.79568	−123.10845
2	37.76746	−123.13869
3	37.73947	−123.09341
4	37.76687	−123.06330
5	37.79568	−123.10845

Appendix E to Subpart H of Part 922—Cargo Vessel Prohibition Zones in the Sanctuary

Coordinates listed in this appendix are unprojected (Geographic) and based on the North American Datum of 1983.

(1) Cargo Vessel Prohibition Zone 1 (CVPZ 1) is an area of approximately 20 square nautical miles (26 square miles) immediately offshore of Anchor Bay. The precise boundary coordinates are listed in the table following this description. The western boundary of extends south and east from Point 1, north and west of Haven's Neck, to Point 2, west and south of Del Mar Point. The CVPZ 1 boundary then extends east from Point 2 along a straight line arc connecting Point 2 and Point 3 until it intersects the Sanctuary boundary. The CVPZ 1 boundary then turns north to follow the Sanctuary boundary past Haven's Neck and continues until it intersects the straight line arc connecting Point 4 and Point 5. From this intersection the CVPZ 1 boundary continues west along its northernmost extent to Point 5.

Zone 1 Point ID No.	Latitude	Longitude
1	38.82485	−123.68420
2	38.72330	−123.55145
3*	38.72330	−123.47658
4*	38.82485	−123.60953
5	38.82485	−123.68420

Note: The coordinates in the table above marked with an asterisk (*) are not a part of the zone boundary. These coordinates are landward reference points used to draw a line segment that intersects with the shoreline.

(2) Cargo Vessel Prohibition Zone 2 (CVPZ 2) encompasses an area of approximately 30 square nautical miles (40 square miles). The precise boundary coordinates are listed in the table following this description. The western CVPZ 2 boundary extends south and east from Point 1, west of Windermere Point in Sonoma County, to Point 2 and then to Point 3 in sequence. Point 3 is west of Duncans Point in Sonoma County. The CVPZ 2 boundary then extends east from Point 3 along a straight line arc connecting Point 3 and Point 4 until it intersects the Sanctuary boundary south of Duncans Point. The CVPZ 2 boundary then turns north to follow the Sanctuary boundary past Windermere Point until it intersects the straight line arc connecting Point 5 and Point 6. From this intersection the CVPZ 2 boundary continues due south along this straight line arc to Point 6.

Zone 2 Point ID No.	Latitude	Longitude
1	38.48995	−123.28994
2	38.43749	−123.19789
3	38.37614	−123.13153
4*	38.37614	−123.07843
5*	38.54099	−123.28994
6	38.48995	−123.28994

Note: The coordinates in the table above marked with an asterisk (*) are not a part of the zone boundary. These coordinates are landward reference points used to draw a line segment that intersects with the shoreline.

(3) Cargo Vessel Prohibition Zone 3 (CVPZ 3) encompasses an area of approximately 17 square nautical miles (22 square miles). The precise boundary coordinates are listed in the table following this description. The western CVPZ 3 boundary extends south and east from Point 1, west of the Estero de San Antonio in Sonoma County, to Point 2, south of Tomales Point in Marin County. The CVPZ 3 boundary then extends north and east from Point 2 along a straight line arc connecting Point 2 and Point 3 until it intersects the Sanctuary boundary. From this intersection the CVPZ 3 boundary follows the Sanctuary boundary around Tomales Point into Tomales Bay and continues until it again intersects the straight line arc that connects Point 2 and Point 3. From this intersection the CVPZ 3 boundary follows the straight line arc north and east across Tomales Bay until it intersects the Sanctuary boundary south of Toms Point in Tomales Bay. The CVPZ 3 boundary then follows the Sanctuary boundary northward past the Estero de San Antonio until it intersects the straight line arc that connects Point 4 and Point 5. From this intersection the boundary continues south and west to Point 5.

Zone 3 Point ID No.	Latitude	Longitude
1	38.24496	−123.05698
2	38.16758	−123.00179
3*	38.21170	−122.92566
4*	38.28215	−122.99278

Zone 3 Point ID No.	Latitude	Longitude
5	38.24496	−123.05698

Note: The coordinates in the table above marked with an asterisk (*) are not a part of the zone boundary. These coordinates are landward reference points used to draw a line segment that intersects with the shoreline.

(4) Cargo Vessel Prohibition Zone 4 (CVPZ 4) encompasses an area of approximately 28 square nautical miles (37 square miles). The precise boundary coordinates are listed in the table following this description. The western CVPZ 4 boundary extends south and west from Point 1, west and north of Point Reyes in Marin County, to Point 2, south and west of Point Reyes Lighthouse. The CVPZ 4 boundary then follows a straight line arc east and south from Point 2 to Point 3. From Point 3 the CVPZ 4 boundary follows a straight line arc north to Point 4. From Point 4 the CVPZ 4 boundary proceeds west along the straight line arc that connects Point 4 and Point 5 until it intersects the Sanctuary boundary at Drakes Beach. The CVPZ 4 boundary then follows the Sanctuary boundary around Point Reyes until it again intersects the straight line arc that connects Point 4 and Point 5, north of the Point Reyes Lighthouse. From this intersection the CVPZ 4 boundary turns seaward and continues west to Point 5 along this arc.

Zone 4 Point ID No.	Latitude	Longitude
1	38.03311	−123.06923
2	37.96053	−123.07801
3	37.94655	−122.91781
4	38.02026	−122.91261
5	38.03311	−123.06923

(5) Cargo Vessel Prohibition Zone 5 (CVPZ 5) encompasses an area of approximately 29 square nautical miles (39 square miles). The precise boundary coordinates are listed in the table following this description. The western CVPZ 5 boundary extends south and east from Point 1, west of Millers Point in Marin County, to Point 2, south and west of Bolinas Point. The CVPZ 5 boundary then follows a straight line arc east from Point 2 towards Point 3 until it intersects the Sanctuary boundary. From this intersection, the CVPZ 5 boundary follows the Sanctuary boundary north towards Rocky Point and continues along the Sanctuary boundary past Bolinas Point and Millers Point, respectively, including Bolinas Lagoon but not including Seadrift Lagoon, until it intersects the straight line arc that connects Point 4 and Point 5. From this intersection the CVPZ 5 boundary turns seaward and continues west and south along the straight line arc to Point 5.

Zone 5 Point ID No.	Latitude	Longitude
1	37.96598	−122.85997
2	37.86532	−122.74797
3*	37.86532	−122.63720
4*	37.99449	−122.82841
5	37.96598	−122.85997

Note: The coordinates in the table above marked with an asterisk (*) are not a part of the zone boundary. These coordinates are landward reference points used to draw a line segment that intersects with the shoreline.

(6) Cargo Vessel Prohibition Zone 6 (CVPZ 6) encompasses an area of approximately 21 square nautical miles (28 square miles) surrounding Southeast Farallon Island and extends from the Mean High Water Line to the CVPZ 6 boundary. The precise boundary coordinates are listed in the table following this description. The boundary extends south and west from Point 1, north of Southeast Farallon Island, along a straight line arc to Point 2, then south and east along a straight line arc to Point 3, then north and east along a straight line arc to Point 4, then north and west along a straight line arc to Point 5.

Zone 6 Point ID No.	Latitude	Longitude
1	37.75264	−123.01175
2	37.69461	−123.07333
3	37.64621	−122.99867
4	37.70538	−122.93567
5	37.75264	−123.01175

(7) Cargo Vessel Prohibition Zone 7 (CVPZ 7) encompasses an area of approximately 20 square nautical miles (26 square miles) surrounding the North Farallon Islands and extends from the Mean High Water Line to the CVPZ 7 boundary. The precise boundary coordinates are listed in the table following this description. The boundary extends south and west from Point 1, north of North Farallon Island, along a straight line arc to Point 2, then south and east along a straight line arc to Point 3, then north and east along a straight line arc to Point 4, then north and west along a straight line arc to Point 5.

Zone 7 Point ID No.	Latitude	Longitude
1	37.81914	−123.11155
2	37.76497	−123.16939
3	37.71623	−123.09089
4	37.76872	−123.03359
5	37.81914	−123.11155

Appendix F to Subpart H of Part 922—White Shark Approach Prohibition Zones in the Sanctuary

Coordinates listed in this appendix are unprojected (Geographic) and based on the North American Datum of 1983.

(1) White Shark Approach Prohibition Zone 1 (WSAPZ 1) encompasses an area of approximately 21 square nautical miles (28 square miles) surrounding Southeast Farallon Island and extends from the Mean High Water Line to the WSAPZ 1 boundary. The precise boundary coordinates are listed in the table following this description. The boundary extends south and west from Point 1, north of Southeast Farallon Island, along a straight line arc to Point 2, then south and east along a straight line arc to Point 3, then north and east along a straight line arc to Point 4, then north and west along a straight line arc to Point 5.

Zone 1 Point ID No.	Latitude	Longitude
1	37.75264	−123.01175
2	37.69461	−123.07333
3	37.64621	−122.99867
4	37.70538	−122.93567
5	37.75264	−123.01175

(2) White Shark Approach Prohibition Zone 2 (WSAPZ 2) encompasses an area of approximately 20 square nautical miles (26 square miles) surrounding the North Farallon Islands and extends from the Mean High Water Line to the WSAPZ 2 boundary. The precise boundary coordinates are listed in the table following this description. The boundary extends south and west from Point 1, north of North Farallon Island, along a straight line arc to Point 2, then south and east along a straight line arc to Point 3, then north and east along a straight line arc to Point 4, then north and west along a straight line arc to Point 5.

Zone 2 Point ID No.	Latitude	Longitude
1	37.81914	−123.11155
2	37.76497	−123.16939
3	37.71623	−123.09089
4	37.76872	−123.03359
5	37.81914	−123.11155

■ 3. Revise subpart K to read as follows:

Subpart K—Cordell Bank National Marine Sanctuary

Sec.
922.110 Boundary.
922.111 Definitions.
922.112 Prohibited or otherwise regulated activities.
922.113 Permit procedures and issuance criteria.
Appendix A to Subpart K of Part 922—Cordell Bank National Marine Sanctuary Boundary Coordinates
Appendix B to Subpart K of Part 922—Line Representing the 50-Fathom Isobath Surrounding Cordell Bank

§ 922.110 Boundary.

The Cordell Bank National Marine Sanctuary (Sanctuary) boundary encompasses a total area of approximately 971 square nautical miles (1,286 square miles) of offshore ocean waters, and submerged lands thereunder, surrounding the submarine plateau known as Cordell Bank along-the northern coast of California, approximately 45 nautical miles west-northwest of San Francisco, California.

The precise boundary coordinates are listed in appendix A to this subpart. The northern boundary of the Sanctuary is a rhumb line that begins approximately 6 nautical miles (7 miles) west of Bodega Head in Sonoma County, California at Point 1 and extends west approximately 38 nautical miles (44 miles) to Point 2. This line is part of a shared boundary between the Sanctuary and Farallones National Marine Sanctuary (FNMS). The western boundary of the Sanctuary extends south from Point 2 approximately 34 nautical miles (39 miles) to Point 3. From Point 3 the Sanctuary boundary continues east 15 nautical miles (17 miles) to Point 4 where it intersects the FNMS boundary again. The line from Point 3 to Point 4 forms the southernmost boundary of the Sanctuary. The eastern boundary of the Sanctuary is a series of straight lines connecting Points 4 through 20 in numerical sequence. The Sanctuary is coterminous with FNMS along both its (the Sanctuary's) eastern and northern boundaries.

§ 922.111 Definitions.

In addition to the definitions found in § 922.3, the following definitions apply to this subpart:

Clean means not containing detectable levels of harmful matter.

Cruise ship means a vessel with 250 or more passenger berths for hire.

Harmful matter means any substance, or combination of substances, that because of its quantity, concentration, or physical, chemical, or infectious characteristics may pose a present or potential threat to Sanctuary resources or qualities, including but not limited to: fishing nets, fishing line, hooks, fuel, oil, and those contaminants (regardless of quantity) listed pursuant to title 42 of the United States Code.

Introduced species means any species (including, but not limited to, any of its biological matter capable of propagation) that is non-native to the ecosystems of the Sanctuary; or any organism into which altered genetic matter, or genetic matter from another species, has been transferred in order that the host organism acquires the genetic traits of the transferred genes.

§ 922.112 Prohibited or otherwise regulated activities.

(a) The following activities are prohibited and thus are unlawful for any person to conduct or to cause to be conducted within the Sanctuary:

(1) Exploring for, developing, or producing oil, gas, or minerals.

(2)(i) Discharging or depositing from within or into the Sanctuary, other than from a cruise ship, any material or other matter except:

(A) Fish, fish parts, chumming materials, or bait used in or resulting from lawful fishing activities within the Sanctuary, provided that such discharge or deposit is during the conduct of lawful fishing activity within the Sanctuary;

(B) For a vessel less than 300 gross registered tons (GRT), or a vessel 300 GRT or greater without sufficient holding tank capacity to hold sewage while within the Sanctuary, clean effluent generated incidental to vessel use and generated by an operable Type I or II marine sanitation device (U.S. Coast Guard classification) approved in accordance with section 312 of the Federal Water Pollution Control Act, as amended, (FWPCA), 33 U.S.C. 1322. Vessel operators must lock all marine sanitation devices in a manner that prevents discharge or deposit of untreated sewage;

(C) Clean vessel deck wash down, clean vessel engine cooling water, clean vessel generator cooling water, clean bilge water, or anchor wash;

(D) For a vessel less than 300 GRT or a vessel 300 GRT or greater without sufficient holding capacity to hold graywater while within the Sanctuary, clean graywater as defined by section 312 of the FWPCA; or

(E) Vessel engine or generator exhaust.

(ii) Discharging or depositing from within or into the Sanctuary any material or other matter from a cruise ship except clean vessel engine cooling water, clean vessel generator cooling water, vessel engine or generator exhaust, clean bilge water, or anchor wash.

(iii) Discharging or depositing, from beyond the boundary of the Sanctuary, any material or other matter that subsequently enters the Sanctuary and injures a Sanctuary resource or quality, except as listed in paragraphs (a)(2)(i) and (ii) of this section.

(3) On or within the line representing the 50-fathom isobath surrounding Cordell Bank, removing, taking, or injuring or attempting to remove, take, or injure benthic invertebrates or algae located on Cordell Bank. This prohibition does not apply to use of bottom contact gear used during fishing activities, which is prohibited pursuant to 50 CFR part 660 (Fisheries off West Coast States). The coordinates for the line representing the 50-fathom isobath are listed in appendix B to this subpart, and the 50-fathom isobath is approximated by connecting these coordinates with straight line arcs in numerical sequence from Point 1 to Point 15. There is a rebuttable presumption that any such resource found in the possession of a person within the Sanctuary was taken or removed by that person.

(4)(i) On or within the line representing the 50-fathom isobath surrounding Cordell Bank, drilling into, dredging, or otherwise altering the submerged lands; or constructing, placing, or abandoning any structure, material or other matter on or in the submerged lands. This prohibition does not apply to use of bottom contact gear used during fishing activities, which is prohibited pursuant to 50 CFR part 660 (Fisheries off West Coast States). The coordinates for the line representing the 50-fathom isobath are listed in appendix B to this subpart, and the 50-fathom isobath is approximated by connecting these coordinates with straight line arcs in numerical sequence from Point 1 to Point 15.

(ii) In the Sanctuary beyond the line representing the 50-fathom isobath surrounding Cordell Bank, drilling into, dredging, or otherwise altering the submerged lands; or constructing, placing, or abandoning any structure, material or matter on the submerged lands except as incidental and necessary for anchoring any vessel or lawful use of any fishing gear during normal fishing activities. The coordinates for the line representing the 50-fathom isobath are listed in Appendix B to this subpart, and the 50-fathom isobath is approximated by connecting these coordinates with straight line arcs in numerical sequence from Point 1 to Point 15.

(5) Taking any marine mammal, sea turtle, or bird within or above the Sanctuary, except as authorized by the Marine Mammal Protection Act, as amended, (MMPA), 16 U.S.C. 1361 *et seq.,* Endangered Species Act, as amended, (ESA), 16 U.S.C. 1531 *et seq.,* Migratory Bird Treaty Act, as amended, (MBTA), 16 U.S.C. 703 *et seq.,* or any regulation, as amended, promulgated under the MMPA, ESA, or MBTA.

(6) Possessing within the Sanctuary (regardless of where taken, moved or removed from), any marine mammal, sea turtle or bird taken, except as authorized by the MMPA, ESA, MBTA, by any regulation, as amended, promulgated under the MMPA, ESA, or MBTA, or as necessary for valid law enforcement purposes.

(7) Possessing, moving, removing, or injuring, or attempting to possess, move, remove or injure, a Sanctuary historical resource.

(8) Introducing or otherwise releasing from within or into the Sanctuary an introduced species, except striped bass

(*Morone saxatilis*) released during catch and release fishing activity.

(9) Interfering with, obstructing, delaying, or preventing an investigation, search, seizure, or disposition of seized property in connection with enforcement of the Act or any regulation or permit issued under the Act.

(b) The prohibitions in paragraph (a) of this section do not apply to activities necessary to respond to an emergency threatening life, property or the environment.

(c) All activities being carried out by the Department of Defense (DOD) within the Sanctuary on the effective date of designation or expansion of the Sanctuary that are necessary for national defense are exempt from the prohibitions contained in the regulations in this subpart. Additional DOD activities initiated after the effective date of designation or expansion that are necessary for national defense will be exempted by the Director after consultation between the Department of Commerce and DOD. DOD activities not necessary for national defense, such as routine exercises and vessel operations, are subject to all prohibitions contained in the regulations in this subpart.

(d) The prohibitions in paragraphs (a)(2) through (7) of this section do not apply to any activity executed in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to §§ 922.48 and 922.113 or a Special Use permit issued pursuant to section 310 of the Act.

(e) Where necessary to prevent immediate, serious, and irreversible damage to a Sanctuary resource, any activity may be regulated within the limits of the Act on an emergency basis for no more than 120 days.

§ 922.113 Permit procedures and issuance criteria.

(a) A person may conduct an activity prohibited by § 922.112(a)(2) through (7), if such activity is specifically authorized by, and conducted in accordance with the scope, purpose, terms and conditions of, a permit issued under § 922.48 and this section.

(b) The Director, at his or her discretion, may issue a national marine sanctuary permit under this section, subject to terms and conditions, as he or she deems appropriate, if the Director finds that the activity will:

(1) Further research or monitoring related to Sanctuary resources and qualities;

(2) Further the educational value of the Sanctuary;

(3) Further salvage or recovery operations in or near the Sanctuary in connection with a recent air or marine casualty; or

(4) Assist in managing the Sanctuary.

(c) In deciding whether to issue a permit, the Director shall consider such factors as:

(1) The applicant is qualified to conduct and complete the proposed activity;

(2) The applicant has adequate financial resources available to conduct and complete the proposed activity;

(3) The methods and procedures proposed by the applicant are appropriate to achieve the goals of the proposed activity, especially in relation to the potential effects of the proposed activity on Sanctuary resources and qualities;

(4) The proposed activity will be conducted in a manner compatible with the primary objective of protection of Sanctuary resources and qualities, considering the extent to which the conduct of the activity may diminish or enhance Sanctuary resources and qualities, any potential indirect, secondary or cumulative effects of the activity, and the duration of such effects;

(5) The proposed activity will be conducted in a manner compatible with the value of the Sanctuary, considering the extent to which the conduct of the activity may result in conflicts between different users of the Sanctuary, and the duration of such effects;

(6) It is necessary to conduct the proposed activity within the Sanctuary;

(7) The reasonably expected end value of the proposed activity to the furtherance of Sanctuary goals and purposes outweighs any potential adverse effects on Sanctuary resources and qualities from the conduct of the activity; and

(8) The Director may consider additional factors as he or she deems appropriate.

(d) *Applications.* (1) Applications for permits should be addressed to the Director, Office of National Marine Sanctuaries; ATTN: Superintendent, Cordell Bank National Marine Sanctuary, P.O. Box 159, Olema, CA 94950.

(2) In addition to the information listed in § 922.48(b), all applications must include information to be considered by the Director in paragraph (b) and (c) of this section.

(e) The permittee must agree to hold the United States harmless against any claims arising out of the conduct of the permitted activities.

Appendix A to Subpart K of Part 922—Cordell Bank National Marine Sanctuary Boundary Coordinates

Coordinates listed in this appendix are unprojected (Geographic Coordinate System) and based on the North American Datum of 1983 (NAD83).

SANCTUARY BOUNDARY COORDINATES

Point ID No.	Latitude	Longitude
1	38.29989	−123.20005
2	38.29989	−123.99988
3	37.76687	−123.75143
4	37.76687	−123.42694
5	37.83480	−123.42579
6	37.90464	−123.38958
7	37.95880	−123.32312
8	37.98947	−123.23615
9	37.99227	−123.14137
10	38.05202	−123.12827
11	38.06505	−123.11711
12	38.07898	−123.10924
13	38.09069	−123.10387
14	38.10215	−123.09804
15	38.12829	−123.08742
16	38.14072	−123.08237
17	38.16576	−123.09207
18	38.21001	−123.11913
19	38.26390	−123.18138
20	38.29989	−123.20005

Appendix B to Subpart K of Part 922—Line Representing the 50-Fathom Isobath Surrounding Cordell Bank

Coordinates listed in this appendix are unprojected (Geographic Coordinate System) and based on the North American Datum of 1983 (NAD83).

CORDELL BANK FIFTY FATHOM LINE COORDINATES

Point ID No.	Latitude	Longitude
1	37.96034	−123.40371
2	37.96172	−123.42081
3	37.9911	−123.44379
4	38.00406	−123.46443
5	38.01637	−123.46076
6	38.04684	−123.47920
7	38.07106	−123.48754
8	38.07588	−123.47195
9	38.06451	−123.46146
10	38.07123	−123.44467
11	38.04446	−123.40286
12	38.01442	−123.38588
13	37.98859	−123.37533
14	37.97071	−123.38605
15	37.96034	−123.40371

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Part III

Department of Energy

10 CFR Part 430

Energy Conservation Program for Consumer Products: Energy Conservation Standards for Residential Furnaces; Proposed Rule

DEPARTMENT OF ENERGY

10 CFR Part 430

[Docket Number EERE–2014–BT–STD–0031]

RIN 1904–AD20

Energy Conservation Program for Consumer Products: Energy Conservation Standards for Residential Furnaces

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

ACTION: Notice of proposed rulemaking and announcement of public meeting.

SUMMARY: The Energy Policy and Conservation Act of 1975 (EPCA), as amended, prescribes energy conservation standards for various consumer products and certain commercial and industrial equipment, including residential furnaces. EPCA also requires the U.S. Department of Energy (DOE) to periodically determine whether more-stringent, amended standards would be technologically feasible and economically justified, and would save a significant amount of energy. In this document, DOE proposes amended energy conservation standards for residential non-weatherized gas furnaces and mobile home furnaces, in partial fulfillment of a court-ordered remand of DOE's 2011 rulemaking for these products. The proposed rule also announces a public meeting to receive comment on these proposed standards and associated analyses and results.

DATES: *Meeting:* DOE will hold a public meeting on Friday, March 27, from 9:00 a.m. to 4:00 p.m., in Washington, DC. The meeting will also be broadcast as a webinar. See section VII, ''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 June 10, 2015. See section VII, ''Public Participation,'' for details.

ADDRESSES: The public meeting will be held at the U.S. Department of Energy, Forrestal Building, Room 8E–089, 1000 Independence Avenue SW., Washington, DC 20585. To attend, please notify Ms. Brenda Edwards at (202) 586–2945. Please note that foreign nationals visiting DOE Headquarters are subject to advance security screening procedures. Any foreign national wishing to participate in the meeting should advise DOE as soon as possible by contacting Ms. Edwards at the phone number above to initiate the necessary procedures. Please also note that any person wishing to bring a laptop computer or tablet into the Forrestal Building will be required to obtain a property pass. Visitors should avoid bringing laptops, or allow an extra 45 minutes. Persons may also attend the public meeting via webinar. For more information, refer to section VII, ''Public Participation,'' near the end of this NOPR.

Instructions: Any comments submitted must identify the NOPR for Energy Conservation Standards for Residential Furnaces, and provide docket number EERE–2014–BT–STD–0031 and/or regulatory information number (RIN) number 1904–AD20. Comments may be submitted using any of the following methods:

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

2. *Email: ResFurnaces2014STD0031@ee.doe.gov.* Include the docket number and/or RIN in the subject line of the message. Submit electronic comments in Word Perfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form on encryption.

3. *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.

4. *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.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to Office of Energy Efficiency and Renewable Energy through the methods listed above and by email to *Chad_S_Whiteman@omb.eop.gov.*

No telefacsimilies (faxes) will be accepted. For detailed instructions on submitting comments and additional information on the rulemaking process, see section VII of this document (Public Participation).

Docket: The docket, which includes **Federal Register** notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials, is available for review at *www.regulations.gov.* All documents in the docket are listed in the *www.regulations.gov* index. However, some documents listed in the index may not be publically available, such as those containing 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-2014-BT-STD-0031.* This Web page contains a link to the docket for this notice 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 VII, ''Public Participation,'' for further information on how to submit comments through *www.regulations.gov.*

For further information on how to submit a comment, review other public comments and the docket, or participate in the public meeting, contact Ms. Brenda Edwards at (202) 586–2945 or by email: *Brenda.Edwards@ee.doe.gov.*

FOR FURTHER INFORMATION CONTACT:

Mr. John Cymbalsky, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 287–1692. Email: *residential_furnaces_and_boilers@ee.doe.gov.*

Mr. Eric Stas or Ms. Johanna Hariharan, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–9507 or (202) 287–6307. Email: *Eric.Stas@hq.doe.gov* or *Johanna.Hariharan@hq.doe.gov.*

For information on how to submit or review public comments, contact Ms. Brenda Edwards at (202) 586–2945 or by email: *Brenda.Edwards@ee.doe.gov.*

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I. Summary of the Proposed Rule

Title III, Part B [1] of the Energy Policy and Conservation Act of 1975 (EPCA or the Act), Public Law 94–163 (42 U.S.C. 6291–6309, as codified), established the Energy Conservation Program for Consumer Products Other Than Automobiles.[2] These products include non-weatherized gas furnaces (NWGFs) and mobile home gas furnaces (MHGFs), the subject of this notice.

Pursuant to EPCA, any new or amended energy conservation standard must be designed to achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) Furthermore, the new or amended standard must result in a significant conservation of energy. (42 U.S.C. 6295(o)(3)(B)) EPCA specifically provides that DOE must conduct a second round of energy conservation standards rulemaking for NWGFs and MHGFs. (42 U.S.C. 6295(f)(4)(C)) The statute also provides that not later than 6 years after issuance of any final rule establishing or amending a standard, DOE must publish either a notice of determination that standards for the product do not need to be amended, or a notice of proposed rulemaking including new proposed energy conservation standards. (42 U.S.C. 6295(m)(1)) Once complete, this rulemaking will satisfy both statutory provisions.

In accordance with these and other statutory provisions discussed in this document, DOE proposes amended energy conservation standards for NWGFs and MHGFs. The proposed standards, which are expressed as minimum annual fuel utilization efficiencies (AFUE), are shown in Table I.1. Table I.2 shows the proposed standards for standby mode and off mode. These proposed standards, if adopted, would apply to all products listed in Table I.1 and Table I.2 and manufactured in, or imported into, the

[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).

United States on or after the date 5 years after the publication of the final rule for this rulemaking.

TABLE I.1—PROPOSED AFUE ENERGY CONSERVATION STANDARDS FOR NON-WEATHERIZED GAS FURNACES AND MOBILE HOME GAS FURNACES (TSL 3)

Product class	Proposed standard: AFUE (%)
Non-Weatherized Gas-Fired Furnaces	92
Mobile Home Gas-Fired Furnaces	92

TABLE I.2—PROPOSED STANDBY MODE AND OFF MODE ENERGY CONSERVATION STANDARDS FOR NON-WEATHERIZED GAS FURNACES AND MOBILE HOME GAS FURNACES ELECTRICAL ENERGY CONSUMPTION (TSL 3)

Product class	Proposed standby mode standard: $P_{W,SB}$ (watts)	Proposed off mode standard: $P_{W,OFF}$ (watts)
Non-Weatherized Gas-Fired Furnaces	8.5	8.5
Mobile Home Gas-Fired Furnaces	8.5	8.5

A. Benefits and Costs to Consumers

Table I.3 and Table I.4 present DOE's evaluation of the economic impacts of the proposed AFUE and standby and off mode standards on consumers of NWGFs and MHGFs, as measured by the average life-cycle cost (LCC) savings and the simple payback period (PBP).[3] In both cases, the average LCC savings are positive for all product classes. The PBP for each product class falls well below the average furnace lifetime, which is approximately 22 years.[4]

TABLE I.3—IMPACTS OF PROPOSED AFUE ENERGY CONSERVATION STANDARDS ON CONSUMERS OF RESIDENTIAL FURNACES (TSL 3)

Product class	Average LCC savings (2013$)	Simple payback period (years)
Non-Weatherized Gas-Fired Furnaces	$305	7.2
Mobile Home Gas-Fired Furnaces	691	2.2

TABLE I.4—IMPACTS OF PROPOSED STANDBY MODE AND OFF MODE ELECTRICAL ENERGY CONSUMPTION ENERGY CONSERVATION STANDARDS ON CONSUMERS OF RESIDENTIAL FURNACES (TSL 3)

Product class	Average LCC savings (2013$)	Median payback period (years)
Non-Weatherized Gas Furnace	$13	6.6
Mobile Home Gas Furnace	1	5.9

B. Impact on Manufacturers

The industry net present value (INPV) is the sum of the discounted cash flows to the industry from the base year of the MIA analysis through the end of the analysis period (2014 to 2050). Using a real discount rate of 6.4 percent, DOE estimates that the INPV for manufacturers of NWGF and MHGF is $1055.13 million in 2013$. DOE analyzed the impacts of AFUE energy conservation standards and standby/off mode electrical energy consumption energy conservation standards on manufacturers independently. Under the proposed AFUE standards, DOE expects the change in INPV to range from −7.93 percent to 0.62 percent. Under the proposed standby mode and off mode standards, DOE expects the change in INPV will range from −1.1 to 0.2 percent. Industry total conversion costs are expected to total $55 million as a result of the proposed standard.

A key consideration in DOE's selection of the proposed standard was the cumulative regulatory burden associated with the residential furnace fan final rule, 79 FR 38130 (July 3, 2014). Today's proposed standard and the furnace fans standard impact the same products (*i.e.,* residential furnaces), affect the same group of manufacturers, and go into effect in a similar timeframe. Based on currently available information, DOE assumes the regulatory impact of these two rules to be largely additive with limited opportunity for cost savings to be

[3] The average LCC savings are measured relative to the base-case efficiency distribution, which depicts the furnace market in the compliance year (see section IV.F.3.f). The simple PBP, which is designed to compare specific furnace AFUE and standby and off mode efficiency levels, is measured relative to the baseline furnace AFUE and standby and off mode (see section IV.C.1.a). The AFUE standard results include the projected fuel switching as described in chapter 8 of the NOPR TSD.

[4] See appendix 8G of the NOPR TSD for details of the derivation of the average furnace lifetime.

achieved through coordinating the expenditures of the two rules. Thus, when considering the total conversion costs of the furnace fans final rule ($40.6 million), manufacturers could incur a combined total of $95.6 million conversion costs in the years leading up to the 2019 furnace fans and the projected 2021 residential furnaces effective dates.

DOE selected the proposed standard levels in today's proposal in such a way as to reduce the cumulative burden on manufacturers that result from the additive effects of the two rules, although higher standard levels for residential furnaces may have been justified based solely on the analytical results presented in this NOPR. See Sections V.B.2.e and V.C.1 for a more detail discussion of cumulative regulatory burden.

C. National Benefits [5]

DOE's analyses indicate that the proposed AFUE energy conservation standards for NWGFs and MHGFs would save a significant amount of energy. The lifetime energy savings for NWGFs and MHGFs purchased in the 30-year period that begins in the first full year of compliance with amended standards (2021–2050) amount to 2.78 quads [6] of full-fuel-cycle energy. This is a savings of 1.1 percent relative to the energy use of these products in the base case without amended standards.

The cumulative net present value (NPV) of total consumer costs and savings for the proposed NWGF and MHGF AFUE standards ranges from $3.1 billion to $16.1 billion at 7-percent and 3-percent discount rates, respectively. This NPV expresses the estimated total value of future operating-cost savings minus the estimated increased installed product costs for NWGFs and MHGFs purchased in 2021–2050.

In addition, the proposed NWGF and MHGF AFUE standards would have significant environmental benefits. The proposed standards would result in cumulative emission reductions of 137 million metric tons (Mt) [7] of carbon dioxide (CO_2), 3,424 thousand tons of methane (CH_4), and 816 thousand tons of nitrogen oxides (NO_X).[8] Projected emissions show an increase of 203 thousand tons of sulfur dioxide (SO_2), 2.61 thousand tons of nitrous oxide (N_2O), and 0.629 tons of mercury (Hg). The increase is due to projected switching from NWGFs to electric heat pumps and electric furnaces under the proposed standards. The cumulative reduction in CO_2 emissions through 2030 amounts to 4.2 Mt, which is a savings of 0.2 percent relative to the CO_2 emissions in the base case without amended standards.

The value of the CO_2 reductions is calculated using a range of values per metric ton of CO_2 (otherwise known as the Social Cost of Carbon, or SCC) developed by a recent Federal interagency process.[9] The derivation of the SCC values is discussed in section IV.L. Using discount rates appropriate for each set of SCC values, DOE estimates the present monetary value of the CO_2 emissions reduction is between $0.7 billion and $11.7 billion. Additionally, DOE estimates the present monetary value of the NO_X emissions reduction to be $0.32 billion to $0.88 billion at 7-percent and 3-percent discount rates, respectively.[10]

Table I.5 summarizes the national economic benefits and costs expected to result from the proposed AFUE standards for NWGFs and MHGFs.

TABLE I.5—SUMMARY OF NATIONAL ECONOMIC BENEFITS AND COSTS OF PROPOSED AFUE ENERGY CONSERVATION STANDARDS FOR NON-WEATHERIZED GAS FURNACES AND MOBILE HOME GAS FURNACES (TSL 3) *

Category	Present value (billion 2013$)	Discount rate (%)
Benefits		
Consumer Operating Cost Savings	8.9	7
	27.7	3
CO_2 Reduction Monetized Value ($12.0/t case) **	0.7	5
CO_2 Reduction Monetized Value ($40.5/t case) **	3.8	3
CO_2 Reduction Monetized Value ($62.4/t case) **	6.1	2.5
CO_2 Reduction Monetized Value ($119/t case) **	11.7	3
NO_X Reduction Monetized Value (at $2,684/ton) **	0.9	3
Total Benefits †	13.0	7
	32.4	3
Costs		
Consumer Incremental Installed Costs	5.8	7
	11.6	3
Total Net Benefits		
Including Emissions Reduction Monetized Value †	7.2	7
	20.8	3

* This table presents the costs and benefits associated with NWGFs and MHGFs shipped in 2021–2050. These results include benefits to consumers which accrue after 2050 from the products purchased in 2021–2050. The results account for the incremental variable and fixed costs incurred by manufacturers due to the standard, some of which may be incurred in preparation for the rule.

[5] Energy savings in this section refer to full-fuel-cycle savings (see section IV.H for discussion).

[6] A quad is equal to 10^{15} British thermal units (Btu).

[7] A metric ton is equivalent to 1.1 short tons. Results for emissions other than CO_2 are presented in short tons.

[8] DOE calculated emissions reductions relative to the *Annual Energy Outlook 2014* (*AEO 2014*) Reference case, which generally represents current legislation and environmental regulations, including recent government actions for which implementing regulations were available as of October 31, 2013.

[9] *Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866,* Interagency Working Group on Social Cost of Carbon, United States Government (May 2013; revised November 2013) (Available at: *http://www.whitehouse.gov/sites/default/files/omb/assets/inforeg/technical-update-social-cost-of-carbon-for-regulator-impact-analysis.pdf.*)

[10] DOE is investigating valuation of avoided Hg and SO_2 emissions.

** The CO_2 values represent global monetized values of the SCC, in 2013$, in 2015 under several scenarios of the updated SCC values. The first three cases use the averages of SCC distributions calculated using 5%, 3%, and 2.5% discount rates, respectively. The fourth case represents the 95th percentile of the SCC distribution calculated using a 3% discount rate. The SCC time series used by DOE incorporate an escalation factor. The value for NO_X is the average of high and low values found in the literature.

† Total Benefits for both the 3% and 7% cases are derived using the series corresponding to average SCC with a 3-percent discount rate ($40.5/t in 2015).

For the proposed standby mode and off mode standards, the lifetime energy savings for NWGFs and MHGFs purchased in the 30-year period that begins in the first full year of compliance with amended standards (2021–2050) amount to 0.28 quads of energy. This is a savings of 15.9 percent relative to the standby energy use of these products in the base case without amended standards.

The cumulative net present value (NPV) of total consumer costs and savings for the proposed NWGF and MHGF standby mode and off mode standards ranges from $1.0 billion to $3.3 billion at 7-percent and 3-percent discount rates, respectively. This NPV expresses the estimated total value of future operating-cost savings minus the estimated increased product costs for NWGFs and MHGFs purchased in 2021–2050.

In addition, the proposed standby mode and off mode standards would have significant environmental benefits. The energy savings would result in cumulative emission reductions of 15.6 Mt of CO_2, 75 thousand tons of CH_4, 0.22 thousand tons of N_2O, 13.0 thousand tons of SO_2, 24.3 thousand tons of NO_X, and 0.04 tons of Hg. The cumulative reduction in CO_2 emissions through 2030 amounts to 1.5 Mt.

As noted above, the value of the CO_2 reductions is calculated using a range of SCC values developed by a recent Federal interagency process. Using discount rates appropriate for each set of SCC values, DOE estimates the present monetary value of the CO_2 emissions reduction is between $0.09 billion and $1.37 billion. Additionally, DOE estimates the present monetary value of the NO_X emissions reduction to be $0.01 billion to $0.03 billion at 7-percent and 3-percent discount rates, respectively.

Table I.6 summarizes the national economic benefits and costs expected to result from the proposed standby mode and off mode standards for NWGFs and MHGFs.

TABLE I.6—SUMMARY OF NATIONAL ECONOMIC BENEFITS AND COSTS OF PROPOSED STANDBY MODE AND OFF MODE ENERGY CONSERVATION STANDARDS FOR NON-WEATHERIZED GAS FURNACES AND MOBILE HOME GAS FURNACES (TSL 3) *

Category	Present value (billion 2013$)	Discount rate (%)
Benefits		
Consumer Operating Cost Savings	1.4	7
	3.9	3
CO_2 Reduction Monetized Value ($12.0/t case) **	0.1	5
CO_2 Reduction Monetized Value ($40.5/t case) **	0.4	3
CO_2 Reduction Monetized Value ($62.4/t case) **	0.7	2.5
CO_2 Reduction Monetized Value ($119/t case) **	1.4	3
NO_X Reduction Monetized Value (at $2,684/ton) **	0.01	7
	0.03	3
Total Benefits †	1.8	7
	4.4	3
Costs		
Consumer Incremental Installed Costs	0.33	7
	0.67	3
Total Net Benefits		
Including Emissions Reduction Monetized Value †	1.5	7
	3.7	3

* This table presents the costs and benefits associated with NWGFs and MHGFs shipped in 2021–2050. These results include benefits to consumers which accrue after 2050 from the products purchased in 2021–2050. The results account for the incremental variable and fixed costs incurred by manufacturers due to the standard, some of which may be incurred in preparation for the rule.

** The CO_2 values represent global monetized values of the SCC, in 2013$, in 2015 under several scenarios of the updated SCC values. The first three cases use the averages of SCC distributions calculated using 5%, 3%, and 2.5% discount rates, respectively. The fourth case represents the 95th percentile of the SCC distribution calculated using a 3% discount rate. The SCC time series used by DOE incorporate an escalation factor. The value for NO_X is the average of high and low values found in the literature.

† Total Benefits for both the 3% and 7% cases are derived using the series corresponding to average SCC with a 3-percent discount rate ($40.5/t in 2015).

The benefits and costs of the proposed energy conservation standards, for NWGFs and MHGFs products sold in 2021–2050, can also be expressed in terms of annualized values. Benefits and costs for the AFUE standards are considered separately from benefits and costs for the standby mode and off mode electrical consumption standards, because it was not feasible to develop a single, integrated standard. As discussed in the October 20, 2010 test procedure final rule, DOE concluded that due to the magnitude of the active mode energy consumption as compared to the standby mode and off mode electrical consumption, an integrated metric would not be feasible because the standby and off mode electrical consumption would be a de minimis portion of the overall energy consumption. 75 FR 64621, 64627. Thus, an integrated metric could not be used to effectively regulate the standby

mode and off mode energy consumption. The annualized monetary values are the sum of: (1) The annualized national economic value of the benefits from consumer operation of products that meet the proposed new or amended standards (consisting primarily of operating cost savings from using less energy, minus increases in product purchase and installation costs, which is another way of representing consumer NPV), and (2) the annualized monetary value of the benefits of emission reductions, including CO_2 emission reductions.[11]

Although combining the values of operating savings and CO_2 emission reductions provides a useful perspective, two issues should be considered. First, the national operating savings are domestic U.S. consumer monetary savings that occur as a result of market transactions, whereas the value of CO_2 reductions is based on a global value. Second, the assessments of operating cost savings and CO_2 savings are performed with different methods that use different time frames for analysis. The national operating cost savings is measured for the lifetime of NWGFs and MHGFs shipped in 2021–2050. The SCC values, on the other hand, reflect the present value of some future climate-related impacts resulting from the emission of one ton of carbon dioxide in each year. These impacts continue well beyond 2100.

Estimates of annualized benefits and costs of the proposed AFUE standards are shown in Table I.7. The results under the primary estimate are as follows. Using a 7-percent discount rate for benefits and costs other than CO_2 reduction, for which DOE used a 3-percent discount rate along with the average SCC series that uses a 3-percent discount rate ($40.5/t in 2015), the cost of the NWGFs and MHGFs standards proposed in this rule is $701 million per year in increased equipment costs, while the estimated benefits are $1,074 million per year in reduced equipment operating costs, $231 million per year in CO_2 reductions, and $39 million per year in reduced NO_X emissions. In this case, the net benefit would amount to $642 million per year. Using a 3-percent discount rate for all benefits and costs and the average SCC series that uses a 3-percent discount rate ($40.5/t in 2015), the estimated cost of the NWGFs and MHGFs standards proposed in this rule is $709 million per year in increased equipment costs, while the estimated benefits are $1,690 million per year in reduced equipment operating costs, $231 million per year in CO_2 reductions, and $54 million per year in reduced NO_X emissions. In this case, the net benefit would amount to $1,264 million per year.

TABLE I.7—ANNUALIZED BENEFITS AND COSTS OF PROPOSED AFUE ENERGY CONSERVATION STANDARDS FOR NON-WEATHERIZED GAS FURNACES AND MOBILE HOME GAS FURNACES (TSL 3)

	Discount rate (%)	(Million 2013$/year)		
		Primary estimate *	Low net benefits estimate *	High net benefits estimate *
Benefits				
Consumer Operating Cost Savings	7	1,074	903	1,174.
	3	1,690	1,383	1,887.
CO_2 Reduction Monetized Value ($12.0/t case) **.	5	64	59	72.
CO_2 Reduction Monetized Value ($40.5/t case) **.	3	231	211	260.
CO_2 Reduction Monetized Value ($62.4/t case) **.	2.5	340	311	384.
CO_2 Reduction Monetized Value ($119/t case) **.	3	715	654	805.
NO_X Reduction Monetized Value (at $2,684/ton) **.	7	38.50	35.68	42.48.
	3	53.52	49.26	59.53.
Total Benefits †	7 plus CO_2 range	1,177 to 1,828	998 to 1,593	1,288 to 2,022.
	7	1,343	1,150	1,476.
	3 plus CO_2 range	1,807 to 2,458	1,491 to 2,087	2,018 to 2,751.
	3	1,974	1,643	2,206.
Costs				
Consumer Incremental Installed Costs.	7	701	750	683.
	3	709	766	689.
Net Benefits				
Total †	7 plus CO_2 range	476 to 1,127	248 to 843	605 to 1,339.
	7	642	400	793.
	3 plus CO_2 range	1,098 to 1,749	725 to 1,320	1,329 to 2,062.

[11] To convert the time-series of costs and benefits into annualized values, DOE calculated a present value in 2014, the year used for discounting the NPV of total consumer costs and savings. For the benefits, DOE calculated a present value associated with each year's shipments in the year in which the shipments occur (*e.g.,* 2020 or 2030), and then discounted the present value from each year to 2014. The calculation uses discount rates of 3 and 7 percent for all costs and benefits except for the value of CO_2 reductions, for which DOE used case-specific discount rates, as shown in Table I.7. Using the present value, DOE then calculated the fixed annual payment over a 30-year period, starting in the compliance year, that yields the same present value.

TABLE I.7—ANNUALIZED BENEFITS AND COSTS OF PROPOSED AFUE ENERGY CONSERVATION STANDARDS FOR NON-WEATHERIZED GAS FURNACES AND MOBILE HOME GAS FURNACES (TSL 3)—Continued

	Discount rate (%)	(Million 2013$/year)		
		Primary estimate *	Low net benefits estimate *	High net benefits estimate *
	3	1,264	877	1,517.

* This table presents the annualized costs and benefits associated with NWGFs and MHGFs shipped in 2021–2050. These results include benefits to consumers which accrue after 2050 from the products purchased in 2021–2050. The results account for the incremental variable and fixed costs incurred by manufacturers due to the standard, some of which may be incurred in preparation for the rule. The Primary, Low Benefits, and High Benefits Estimates utilize projections of energy prices from the *AEO 2014* Reference case, Low Estimate, and High Estimate, respectively. In addition, incremental product costs reflect a modest decline rate for projected product price trends in the Primary Estimate, a constant rate in the Low Benefits Estimate, and a higher decline rate in the High Benefits Estimate. The methods used to derive projected price trends are explained in section IV.F.1.

** The CO_2 values represent global monetized values of the SCC, in 2013$, in 2015 under several scenarios of the updated SCC values. The first three cases use the averages of SCC distributions calculated using 5%, 3%, and 2.5% discount rates, respectively. The fourth case represents the 95th percentile of the SCC distribution calculated using a 3% discount rate. The SCC time series used by DOE incorporate an escalation factor. The value for NO_X is the average of high and low values found in the literature.

† Total Benefits for both the 3% and 7% cases are derived using the series corresponding to the average SCC with a 3-percent discount rate ($40.5/t in 2015). In the rows labeled "7% plus CO_2 range" and "3% plus CO_2 range," the operating cost and NO_X benefits are calculated using the labeled discount rate, and those values are added to the full range of CO_2 values.

Estimates of annualized benefits and costs of the proposed standby mode and off mode standards are shown in Table I.8. The results under the primary estimate are as follows. Using a 7-percent discount rate for benefits and costs other than CO_2 reduction, for which DOE used a 3-percent discount rate along with the average SCC series that uses a 3-percent discount rate ($40.5/t in 2015), the estimated cost of the NWGFs and MHGFs standby mode and off mode standards proposed in this rule is $40.4 million per year in increased equipment costs, while the estimated benefits are $165.4 million per year in reduced equipment operating costs, $26.9 million per year in CO_2 reductions, and $1.1 million per year in reduced NO_X emissions. In this case, the net benefit would amount to $153.0 million per year. Using a 3-percent discount rate for all benefits and costs and the average SCC series that uses a 3-percent discount rate ($40.5/t in 2015), the estimated cost of the NWGFs and MHGFs standby mode and off mode standards proposed in this rule is $41.0 million per year in increased equipment costs, while the estimated benefits are $240.2 million per year in reduced equipment operating costs, $26.9 million per year in CO_2 reductions, and $1.6 million per year in reduced NO_X emissions. In this case, the net benefit would amount to $227.6 million per year.

TABLE I.8—ANNUALIZED BENEFITS AND COSTS OF PROPOSED STANDBY MODE AND OFF MODE ENERGY CONSERVATION STANDARDS FOR NON-WEATHERIZED GAS FURNACES AND MOBILE HOME GAS FURNACES (TSL 3)

	Discount rate (%)	(Million 2013$/year)		
		Primary estimate *	Low net benefits estimate *	High net benefits estimate *
Benefits				
Consumer Operating Cost Savings	7	165.4	149.7	190.8
	3	240.2	214.9	281.5
CO_2 Reduction Monetized Value ($12.0/t case) **.	5	7.65	6.94	8.60
CO_2 Reduction Monetized Value ($40.5/t case) **.	3	26.87	24.31	30.28
CO_2 Reduction Monetized Value ($62.4/t case) **.	2.5	39.46	35.68	44.50
CO_2 Reduction Monetized Value ($119/t case) **.	3	83.18	75.26	93.76
NO_X Reduction Monetized Value (at $2,684/ton) **.	7	1.14	1.04	1.27
	3	1.59	1.44	1.78
Total Benefits †	7 plus CO_2 range	174 to 250	158 to 226	201 to 286
	7	193.4	175.0	222.4
	3 plus CO_2 range	249 to 325	223 to 292	292 to 377
	3	268.6	240.7	313.5
Costs				
Consumer Incremental Installed Costs.	7	40.35	45.01	36.86
	3	41.02	46.13	37.19

TABLE I.8—ANNUALIZED BENEFITS AND COSTS OF PROPOSED STANDBY MODE AND OFF MODE ENERGY CONSERVATION STANDARDS FOR NON-WEATHERIZED GAS FURNACES AND MOBILE HOME GAS FURNACES (TSL 3)—Continued

	Discount rate (%)	(Million 2013$/year)		
		Primary estimate *	Low net benefits estimate *	High net benefits estimate *
Net Benefits				
Total †	7 plus CO_2 range	134 to 209	113 to 181	164 to 249
	7	153.0	130.0	185.5
	3 plus CO_2 range	208 to 284	177 to 246	255 to 340
	3	227.6	194.6	276.3

* This table presents the annualized costs and benefits associated with NWGFs and MHGFs shipped in 2021–2050. These results include benefits to consumers which accrue after 2050 from the products purchased in 2021–2050. The results account for the incremental variable and fixed costs incurred by manufacturers due to the standard, some of which may be incurred in preparation for the rule. The Primary, Low Benefits, and High Benefits Estimates utilize projections of energy prices from the *AEO 2014* Reference case, Low Estimate, and High Estimate, respectively.

** The CO_2 values represent global monetized values of the SCC, in 2013$, in 2015 under several scenarios of the updated SCC values. The first three cases use the averages of SCC distributions calculated using 5%, 3%, and 2.5% discount rates, respectively. The fourth case represents the 95th percentile of the SCC distribution calculated using a 3% discount rate. The SCC time series used by DOE incorporate an escalation factor. The value for NO_X is the average of high and low values found in the literature.

† Total Benefits for both the 3% and 7% cases are derived using the series corresponding to the average SCC with a 3-percent discount rate ($40.5/t in 2015). In the rows labeled "7% plus CO_2 range" and "3% plus CO_2 range," the operating cost and NO_X benefits are calculated using the labeled discount rate, and those values are added to the full range of CO_2 values.

Estimates of the combined annualized benefits and costs of the proposed AFUE and standby mode and off mode standards are shown in Table I.9. The results under the primary estimate are as follows. Using a 7-percent discount rate for benefits and costs other than CO_2 reduction, for which DOE used a 3-percent discount rate along with the average SCC series that uses a 3-percent discount rate ($40.5/t in 2015), the estimated cost of the NWGFs and MHGFs AFUE and standby mode and off mode standards proposed in this rule is $741.2 million per year in increased equipment costs, while the estimated benefits are $1,240 million per year in reduced equipment operating costs, $257.4 million per year in CO_2 reductions, and $39.6 million per year in reduced NO_X emissions. In this case, the net benefit would amount to $795.5 million per year. Using a 3-percent discount rate for all benefits and costs and the average SCC series that uses a 3-percent discount rate ($40.5/t in 2015), the estimated cost of the NWGFs and MHGFs AFUE and standby mode and off mode standards proposed in this rule is $750.5 million per year in increased equipment costs, while the estimated benefits are $1,930 million per year in reduced equipment operating costs, $257.4 million per year in CO_2 reductions, and $55.1 million per year in reduced NO_X emissions. In this case, the net benefit would amount to $1,492 million per year.

TABLE I.9—ANNUALIZED BENEFITS AND COSTS OF PROPOSED AFUE AND STANDBY MODE AND OFF MODE ENERGY CONSERVATION STANDARDS FOR NON-WEATHERIZED GAS FURNACES AND MOBILE HOME GAS FURNACES (TSL 3)

	Discount rate (%)	(Million 2013$/year)		
		Primary estimate *	Low net benefits estimate *	High net benefits estimate *
Benefits				
Consumer Operating Cost Savings	7	1,240	1,053	1,365.
	3	1,930	1,598	2,168.
CO_2 Reduction Monetized Value ($12.0/t case) **.	5	71.49	65.60	80.15.
CO_2 Reduction Monetized Value ($40.5/t case) **.	3	257.4	235.2	290.0.
CO_2 Reduction Monetized Value ($62.4/t case) **.	2.5	379.6	346.6	428.0.
CO_2 Reduction Monetized Value ($119/t case) **.	3	798.1	729.2	898.9.
NO_X Reduction Monetized Value (at $2,684/ton) **.	7	39.64	36.72	43.75.
	3	55.11	50.70	61.31.
Total Benefits †	7 plus CO_2 range	1,351 to 2,077	1,155 to 1,819	1,489 to 2,308.
	7	1,537	1,325	1,699.
	3 plus CO_2 range	2,057 to 2,783	1,715 to 2,378	2,310 to 3,128.
	3	2,243	1,884	2,519.

TABLE I.9—ANNUALIZED BENEFITS AND COSTS OF PROPOSED AFUE AND STANDBY MODE AND OFF MODE ENERGY CONSERVATION STANDARDS FOR NON-WEATHERIZED GAS FURNACES AND MOBILE HOME GAS FURNACES (TSL 3)—Continued

	Discount rate (%)	(Million 2013$/year)		
		Primary estimate *	Low net benefits estimate *	High net benefits estimate *
Costs				
Consumer Incremental Installed Costs.	7	741.2	795.0	719.9.
	3	750.5	812.4	726.3.
Net Benefits				
Total †	7 plus CO_2 range	609.6 to 1,336	360.3 to 1,024	768.9 to 1,588.
	7	795.5	529.8	978.7.
	3 plus CO_2 range	1,306 to 2,033	0,902 to 1,566	1,583 to 2,402.
	3	1,492	1,072	1,793.

* This table presents the annualized costs and benefits associated with NWGFs and MHGFs shipped in 2021–2050. These results include benefits to consumers which accrue after 2050 from the products purchased in 2021–2050. The results account for the incremental variable and fixed costs incurred by manufacturers due to the standard, some of which may be incurred in preparation for the rule. The Primary, Low Benefits, and High Benefits Estimates utilize projections of energy prices from the *AEO 2014* Reference case, Low Estimate, and High Estimate, respectively.

** The CO_2 values represent global monetized values of the SCC, in 2013$, in 2015 under several scenarios of the updated SCC values. The first three cases use the averages of SCC distributions calculated using 5%, 3%, and 2.5% discount rates, respectively. The fourth case represents the 95th percentile of the SCC distribution calculated using a 3% discount rate. The SCC time series used by DOE incorporate an escalation factor. The value for NO_X is the average of high and low values found in the literature.

† Total Benefits for both the 3% and 7% cases are derived using the series corresponding to the average SCC with a 3-percent discount rate ($40.5/t in 2015). In the rows labeled ''7% plus CO_2 range'' and ''3% plus CO_2 range,'' the operating cost and NO_X benefits are calculated using the labeled discount rate, and those values are added to the full range of CO_2 values.

DOE has tentatively concluded that the proposed standards (for AFUE as well as standby mode and off mode) represent the maximum improvement in energy efficiency that is technologically feasible and economically justified, and would result in the significant conservation of energy. DOE further notes that products achieving these standard levels are already commercially available for all product classes covered by this proposal. Based on the analyses described above, DOE has tentatively concluded that the benefits of the proposed standards to the Nation (energy savings, positive NPV of consumer benefits, consumer LCC savings, and emission reductions) would outweigh the burdens (loss of INPV for manufacturers and LCC increases for some consumers).

DOE also considered more-stringent energy efficiency levels as trial standard levels, and is still considering them in this rulemaking. However, DOE has tentatively concluded that the potential burdens of the more-stringent energy efficiency levels would outweigh the projected benefits. Based on consideration of the public comments DOE receives in response to this NOPR and related information collected and analyzed during the course of this rulemaking effort, DOE may adopt energy efficiency levels presented in this NOPR that are either higher or lower than the proposed standards, or some combination of level(s) that incorporate the proposed standards in part.

II. Introduction

The following section briefly discusses the statutory authority underlying today's proposal, as well as some of the relevant historical background related to the establishment of amended standards for residential non-weatherized gas furnaces and mobile home gas furnaces.

A. Authority

Title III, Part B of the Energy Policy and Conservation Act of 1975 (EPCA or the Act), Public Law 94–163 (42 U.S.C. 6291–6309, as codified) established the Energy Conservation Program for Consumer Products Other Than Automobiles, a program covering most major household appliances (collectively referred to as ''covered products''). These products include the residential furnaces that are the subject of this rulemaking. (42 U.S.C. 6292(a)(5)) EPCA, as amended, prescribed energy conservation standards for these products (42 U.S.C. 6295(f)(1) and (2)), and directed DOE to conduct further rulemakings to determine whether to amend these standards (42 U.S.C. 6295(f)(4)). Under 42 U.S.C. 6295(m), the agency must periodically review established energy conservation standards for a covered product; under this requirement, such review must be conducted no later than 6 years from the issuance of any final rule establishing or amending a standard for a covered product.

Pursuant to EPCA, DOE's energy conservation program for covered products consists essentially of four parts: (1) Testing; (2) labeling; (3) establishing Federal energy conservation standards; and (4) certification and enforcement procedures. The Federal Trade Commission (FTC) is primarily responsible for labeling, and DOE implements the remainder of the program. Subject to certain criteria and conditions, DOE is required to conduct a second round of rulemaking under 42 U.S.C. 6295(f)(4)(C) to consider amended energy conservation standards for residential furnaces, and DOE is also required to consider amended standards under 42 U.S.C. 6295(m)(1) by June 27, 2017 (*i.e.,* with either: (1) A NOPR with proposed standards, or (2) a notice of determination not to amend the standards within six years of issuance of the last final rule for residential furnaces). DOE is further required to develop test procedures to measure the energy efficiency, energy use, or estimated annual operating cost of each covered product prior to the adoption of a new or amended energy conservation

standard. (42 U.S.C. 6295(o)(3)(A) and (r)) Manufacturers of covered products must use the prescribed DOE test procedure as the basis for certifying to DOE that their products comply with the applicable energy conservation standards adopted under EPCA and when making representations to the public regarding the energy use or efficiency of those products. (42 U.S.C. 6293(c) and 6295(s)) Similarly, DOE must use these test procedures to determine whether the products comply with standards adopted pursuant to EPCA. (42 U.S.C. 6295(s)) The DOE test procedures for residential furnaces appear at title 10 of the Code of Federal Regulations (CFR) part 430, subpart B, appendix N. In 2012, DOE initiated a rulemaking to review the residential furnace and boiler test procedure. Details on this rulemaking are discussed in section III.B.

DOE must follow specific statutory criteria for prescribing amended standards for covered products, including residential furnaces. As indicated above, any amended standard for a covered product must be designed to achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A) and (3)(B)) Furthermore, DOE may not adopt any standard that would not result in the significant conservation of energy. (42 U.S.C. 6295(o)(3)) Moreover, DOE may not prescribe a standard: (1) For certain products, including residential furnaces, if no test procedure has been established for the product, or (2) if DOE determines by rule that the proposed standard is not technologically feasible or economically justified. (42 U.S.C. 6295(o)(3)(A)–(B)) In deciding whether a proposed standard is economically justified, after receiving comments on the proposed standard, DOE must determine whether the benefits of the standard exceed its burdens. (42 U.S.C. 6295(o)(2)(B)(i)) DOE must make this determination by, to the greatest extent practicable, considering the following seven factors:

(1) The economic impact of the standard on manufacturers and consumers of the products subject to the standard;

(2) The savings in operating costs throughout the estimated average life of the covered products in the type (or class) compared to any increase in the price, initial charges, or maintenance expenses for the covered products that are likely to result from the standard;

(3) The total projected amount of energy (or as applicable, water) savings likely to result directly from the standard;

(4) Any lessening of the utility or the performance of the covered products likely to result from the standard;

(5) The impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the standard;

(6) The need for national energy and water conservation; and

(7) Other factors the Secretary of Energy (Secretary) considers relevant. (42 U.S.C. 6295(o)(2)(B)(i)(I)–(VII))

EPCA, as codified, also contains what is known as an ''anti-backsliding'' provision, which prevents the Secretary from prescribing any amended standard that either increases the maximum allowable energy use or decreases the minimum required energy efficiency of a covered product. (42 U.S.C. 6295(o)(1)) Also, the Secretary may not prescribe an amended or new standard if interested persons have established by a preponderance of evidence that the standard is likely to result in the unavailability in the United States of any covered product type (or class) of performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the United States. (42 U.S.C. 6295(o)(4))

Further, EPCA, as codified, establishes a rebuttable presumption that a standard is economically justified if the Secretary finds that the additional cost to the consumer of purchasing a product complying with an energy conservation standard level will be less than three times the value of the energy savings during the first year that the consumer will receive as a result of the standard, as calculated under the applicable test procedure. (42 U.S.C. 6295(o)(2)(B)(iii))

Additionally, 42 U.S.C. 6295(q)(1) specifies requirements when promulgating an energy conservation standard for a covered product that has two or more subcategories. DOE must specify a different standard level for a type or class of covered product that has the same function or intended use, if DOE determines that products within such group: (A) Consume a different kind of energy from that consumed by other covered products within such type (or class); or (B) have a capacity or other performance-related feature that other products within such type (or class) do not have and such feature justifies a higher or lower standard. (42 U.S.C. 6295(q)(1)) In determining whether a performance-related feature justifies a different standard for a group of products, DOE must consider such factors as the utility to the consumer of the feature and other factors DOE deems appropriate. *Id.* Any rule prescribing such a standard must include an explanation of the basis on which such higher or lower level was established. (42 U.S.C. 6295(q)(2))

Federal energy conservation requirements generally supersede State laws or regulations concerning energy conservation testing, labeling, and standards. (42 U.S.C. 6297(a)–(c)) DOE may, however, grant waivers of Federal preemption for particular State laws or regulations, in accordance with the procedures and other provisions set forth under 42 U.S.C. 6297(d).

Pursuant to amendments contained in the Energy Independence and Security Act of 2007 (EISA 2007), Public Law 110–140, DOE may consider the establishment of regional energy conservation standards for furnaces (except boilers). (42 U.S.C. 6295(o)(6)(B)) Specifically, in addition to a base national standard for a product, DOE may establish for furnaces a single more-restrictive regional standard. (42 U.S.C. 6295(o)(6)(B)) The regions must include only contiguous States (with the exception of Alaska and Hawaii, which may be included in regions with which they are not contiguous), and each State may be placed in only one region (*i.e.,* an entire State cannot simultaneously be placed in two regions, nor can it be divided between two regions). (42 U.S.C. 6295(o)(6)(C)) Further, DOE can establish the additional regional standards only: (1) Where doing so would produce significant energy savings in comparison to a single national standard; (2) if the regional standards are economically justified; and (3) after considering the impact of these standards on consumers, manufacturers, and other market participants, including product distributors, dealers, contractors, and installers. (42 U.S.C. 6295(o)(6)(D))

Finally, pursuant to other amendments contained in EISA 2007, any final rule for new or amended energy conservation standards promulgated after July 1, 2010, is required to address standby mode and off mode energy use. (42 U.S.C. 6295(gg)(3)) Specifically, when DOE adopts a standard for a covered product after that date, it must, if justified by the criteria for adoption of standards under EPCA (42 U.S.C. 6295(o)), incorporate standby mode and off mode energy use into a single standard, or, if that is not feasible, adopt a separate standard for such energy use for that product. (42 U.S.C. 6295(gg)(3)(A)–(B)) DOE's current test procedures for residential furnaces address standby mode and off mode energy use. In this rulemaking, DOE intends to adopt separate energy

conservation standards to address standby mode and off mode energy use.

B. Background

1. Current Standards

EPCA established the energy conservation standards that apply to most residential furnaces currently being manufactured. The original standards, which are still in place for a number of product classes (including all product classes except for non-weatherized oil-fired furnaces), consisted of a minimum AFUE of 75 percent for mobile home furnaces and a minimum AFUE of 78 percent for all other furnaces, except ''small'' gas furnaces (those having an input rate of less than 45,000 Btu per hour), for which DOE was directed to prescribe a separate standard. (42 U.S.C. 6295(f)(1)–(2); 10 CFR 430.32(e)(1)(i)) The standard for mobile home furnaces has applied to products manufactured for sale in the United States, or imported into the United States, since September 1, 1990, and the standard for most other furnaces has applied to products manufactured or imported since January 1, 1992. *Id.* On November 17, 1989, DOE published a final rule in the **Federal Register** adopting the current standard for ''small'' gas furnaces, which consists of a minimum AFUE of 78 percent that has applied to products manufactured or imported since January 1, 1992. 54 FR 47916.

EPCA also required DOE to conduct two rounds of rulemaking to consider amended standards for residential furnaces (42 U.S.C. 6295(f)(4)(B)–(C)), a requirement subsequently expanded to encompass a six-year look back review of all covered products (42 U.S.C. 6295(m)(1)). In a final rule published on November 19, 2007 (November 2007 final rule), DOE prescribed amended energy conservation standards for residential furnaces manufactured on or after November 19, 2015. 72 FR 65136. The November 2007 final rule revised the energy conservation standards for non-weatherized gas furnaces to 80 percent AFUE, weatherized gas furnaces to 81 percent AFUE, mobile home gas furnaces to 80 percent AFUE, and non-weatherized oil-fired furnaces to 82 percent AFUE. *Id.* at 65169.

Subsequently, on October 31, 2011, DOE published a notice of effective date and compliance dates (76 FR 67037) to confirm amended energy conservation standards and compliance dates contained in a June 27, 2011 direct final rule (76 FR 37408) for residential central air conditioners and residential furnaces. These two rulemakings represented the first and the second, respectively, of the two rulemakings required under 42 U.S.C. 6295(f)(4)(B)–(C) to consider amending the standards for furnaces.

The June 2011 direct final rule and October 2011 notice of effective date and compliance dates amended, in relevant part, the energy conservation standards and compliance dates for three product classes of residential furnaces (*i.e.,* non-weatherized gas furnaces, mobile home gas furnaces, and non-weatherized oil furnaces) The existing standards were left in place for three classes of residential furnaces (*i.e.,* weatherized oil-fired furnaces, mobile home oil-fired furnaces, and electric furnaces). For one class of residential furnaces (weatherized gas furnaces), the existing standard was left in place, but the compliance date was amended. Electrical standby mode and off mode energy consumption standards were established for non-weatherized gas and oil-fired furnaces (including mobile home furnaces) and electric furnaces. Compliance with the energy conservation standards promulgated in the June 2011 direct final rule was to be required on May 1, 2013 for non-weatherized furnaces and on January 1, 2015 for weatherized furnaces. 76 FR 37408, 37547–48 (June 27, 2011); 76 FR 67037, 67051 (Oct. 31, 2011). The amended energy conservation standards and compliance dates in the June 2011 direct final rule would have superseded those standards and compliance dates promulgated by the November 2007 final rule for non-weatherized gas furnaces, mobile home gas furnaces, non-weatherized oil furnaces. Similarly, the amended compliance date for weatherized gas furnaces in the June 2011 direct final rule supersedes the compliance date in the November 2007 final rule.

After publication of the October 2011 notice, the American Public Gas Association (APGA) sued DOE [12] in the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) to invalidate the rule as it pertained to non-weatherized gas furnaces (as discussed further in section II.B.2). Petition for Review, *American Public Gas Association, et al.* v. *Department of Energy, et al.,* No. 11–1485 (D.C. Cir. filed Dec. 23, 2011). The parties to the litigation engaged in settlement negotiations which ultimately led to filing of an unopposed motion on March 11, 2014, seeking to vacate DOE's rule in part and to remand to the agency for further rulemaking. On April 24, 2014, the Court granted the motion and ordered that the standards established for non-weatherized gas furnaces and mobile home gas furnaces be vacated and remanded to DOE for further rulemaking. As a result, only the standards for non-weatherized oil-fired furnaces and weatherized gas furnaces established in the June 2011 direct final rule will go into effect as stated in that final rule. The standards established by the June 2011 direct final rule for the non-weatherized gas furnaces and mobile home gas furnaces will not go into effect, and thus, the standards established for these products in the November 2007 final rule will require compliance beginning on November 19, 2015. As stated previously, the standards for weatherized oil-fired furnaces, mobile home oil-fired furnaces, and electric furnaces were unchanged, and as such, the original standards for those product classes will remain in effect. The standards for all residential furnaces, including the two product classes being analyzed in this NOPR, are set forth in DOE's regulations at 10 CFR 430.32(e)(1)(ii). Table II.1 below shows the upcoming standards for product classes that have been previously amended (either by the November 2007 final rule or June 2011 direct final rule) and the existing standards for the product classes where there AFUE standard has not been amended.

[12] After APGA filed its petition for review on December 23, 2011, various entities subsequently intervened.

TABLE II.1—FEDERAL ENERGY CONSERVATION STANDARDS FOR RESIDENTIAL FURNACES

Product class	Minimum annual fuel utilization efficiency (%)	Compliance date
Non-weatherized Gas-Fired *	80	11/19/2015
Mobile Home Gas-Fired *	80	11/19/2015
Weatherized Gas-Fired	81	1/1/2015
Non-weatherized Oil-Fired	83	5/1/2013
Mobile Home Oil-Fired	75	9/1/1990
Weatherized Oil-Fired	78	1/1/1992
Electric	78	1/1/1992

* Only non-weatherized gas-fired and mobile home gas-fired furnaces are being analyzed for this current rulemaking.

2. History of Standards Rulemaking for Residential Furnaces

Given the somewhat complicated interplay of recent DOE rulemakings and statutory provisions related to residential furnaces, DOE provides the following regulatory history as background leading to the present rulemaking. Amendments to EPCA in the National Appliance Energy Conservation Act of 1987 (NAECA; Pub. L. 100–12) established EPCA's original energy conservation standards for furnaces, consisting of the minimum AFUE levels described above for mobile home furnaces and for all other furnaces except ''small'' gas furnaces. (42 U.S.C. 6295(f)(1)–(2)) Pursuant to 42 U.S.C. 6295(f)(1)(B), in November 1989, DOE adopted a mandatory minimum AFUE level for ''small'' furnaces. 54 FR 47916 (Nov. 17, 1989). The standards established by NAECA and the November 1989 final rule for ''small'' gas furnaces are still in effect for all residential product classes except for non-weatherized oil-fired furnaces, for which the standards adopted in the June 2011 direct final rule are in effect.

Pursuant to EPCA, DOE was required to conduct two rounds of rulemaking to consider amended energy conservation standards for furnaces. (42 U.S.C. 6295(f)(4)(B) and (C)) In satisfaction of this first round of amended standards rulemaking under 42 U.S.C. 6295(f)(4)(B), as noted above, DOE published a final rule in the **Federal Register** on November 19, 2007 (the November 2007 Rule) that revised these standards for most furnaces, but left them in place for two product classes (*i.e.,* mobile home oil-fired furnaces and weatherized oil-fired furnaces; there standards were to apply to furnaces manufactured or imported on and after November 19, 2015). 72 FR 65136. The energy conservation standards in the November 2007 final rule consist of a minimum AFUE level for each of the six classes of furnaces. Id. at 65169.

Following DOE's adoption of the November 2007 final rule, several parties jointly sued DOE in the United States Court of Appeals for the Second Circuit (Second Circuit) to invalidate the rule. Petition for Review, *State of New York, et al.* v. *Department of Energy, et al.,* Nos. 08–0311–ag(L); 08–0312–ag(con) (2d Cir. filed Jan. 17, 2008). The petitioners asserted that the standards for residential furnaces promulgated in the November 2007 Rule did not reflect the ''maximum improvement in energy efficiency'' that ''is technologically feasible and economically justified,'' as required under 42 U.S.C. 6295(o)(2)(A). On April 16, 2009, DOE filed with the Court a motion for voluntary remand that the petitioners did not oppose. The motion did not state that the November 2007 rule would be vacated, but indicated that DOE would revisit its initial conclusions outlined in the November 2007 Rule in a subsequent rulemaking action. DOE also agreed that the final rule would address both regional standards for furnaces, as well as the effects of alternate standards on natural gas prices. The Second Circuit granted DOE's motion on April 21, 2009.

On June 27, 2011 DOE published a direct final rule (June 2011 DFR) revising the energy conservation standards for residential furnaces pursuant to the voluntary remand in *State of New York, et al.* v. *Department of Energy, et al.* 76 FR 37408. In the June 2011 DFR, DOE considered the amendment of the same six product classes considered in the November 2007 final rule analysis plus electric furnaces. As discussed in section II.B.1, the June 2011 DFR amended the existing energy conservation standards for non-weatherized gas furnaces, mobile home gas furnaces, and non-weatherized oil furnaces, and amended the compliance date (but left the existing standards in place) for weatherized gas furnaces. The June 2011 DFR also established electrical standby mode and off mode standards for non-weatherized gas furnaces, non-weatherized oil furnaces, and electric furnaces. DOE confirmed the standards and compliance dates promulgated in the June 2011 final rule in a notice of effective date and compliance dates published on October 31, 2011. 76 FR 67037. As noted earlier, following DOE's adoption of the June 2011 DFR, APGA filed a petition for review with the United States Court of Appeals for the District of Columbia Circuit to invalidate the DOE rule as it pertained to non-weatherized natural gas furnaces. Petition for Review, *American Public Gas Association, et al.* v. *Department of Energy, et al.,* No. 11–1485 (D.C. Cir. filed Dec. 23, 2011). On April 24, 2014, the Court granted a motion that approved a settlement agreement that was reached between DOE, APGA, and the various interveners in the case, in which DOE agreed to a remand of the non-weatherized gas furnace and mobile home gas furnace portions of the June 2011 direct final rule in order to conduct further notice-and-comment rulemaking. Accordingly, the Court's order vacated the June 2011 DFR in part (*i.e.,* those portions relating to non-weatherized gas furnaces and mobile home gas furnaces) and remanded to the agency for further rulemaking.

As part of the settlement, DOE has agreed to issue a notice of public rulemaking within one year of the remand, and to issue a final rule within the later of two years of the issuance of remand or one year of the issuance of the proposed rule, including at least a ninety-day public comment period. Due to the extensive and recent rulemaking history for residential furnaces, as well as the associated opportunities for notice and comment described above, DOE is foregoing the typical earlier rulemaking stages (*e.g.,* framework document, preliminary analysis) and has instead developed this NOPR. DOE has tentatively concluded that there has been a sufficient recent exchange of information between interested parties and DOE regarding the energy

conservation standards for residential furnaces such as to allow for this proceeding to move directly to the NOPR stage. Moreover, DOE notes that under 42 U.S.C. 6295(p), DOE is only required to publish a notice of proposed rule and accept public comments before amending energy conservation standards in a final rule (*i.e.,* DOE is not required to conduct the earlier rulemaking stages).

DOE has initiated this rulemaking in partial fulfillment of the remand in *American Public Gas Association, et al.* v. *Department of Energy, et al.* and pursuant to its authority under 42 U.S.C. 42 U.S.C. 6295(f)(4)(C), which requires DOE to conduct a second round of amended standards rulemaking for residential non-weatherized gas furnaces and mobile home gas furnaces. EPCA, as amended by EISA 2007, also requires that not later than 6 years after issuance of any final rule establishing or amending a standard, DOE must publish either a notice of the determination that standards for the product do not need to be amended, or a notice of proposed rulemaking including proposed energy conservation standards. (42 U.S.C. 6295(m)(1)) This rulemaking will satisfy both statutory provisions.

Furthermore, EISA 2007 amended EPCA to require that any new or amended energy conservation standard adopted after July 1, 2010, shall address standby mode and off mode energy consumption pursuant to 42 U.S.C. 6295(o). (42 U.S.C. 6295(gg)(3)) If feasible, the statute directs DOE to incorporate standby mode and off mode energy consumption into a single standard with the product's active mode energy use. If a single standard is not feasible, DOE may consider establishing a separate standard to regulate standby mode and off mode energy consumption. Consequently, DOE will consider standby mode and off mode energy use as part of this rulemaking for residential furnaces.

III. General Discussion

A. Product Classes and Scope of Coverage

When evaluating and establishing energy conservation standards, DOE divides covered products into product classes by the type of energy used or by capacity or other performance-related features that justify a different standard. In making a determination whether a performance-related feature justifies a different standard, DOE must consider such factors as the utility of the feature to the consumer and other factors DOE deems appropriate. (42 U.S.C. 6295(q)).

As previously noted in section II.B.2, DOE agreed to the partial vacatur of the June 2011 final rule as it relates to energy conservation standards for non-weatherized gas-fired furnaces and mobile home gas-fired furnaces in the settlement agreement to resolve the litigation in *American Public Gas Association, et al.* v. *Department of Energy, et al.* Therefore, for this rulemaking, DOE has only considered amending the energy conservation standards for these two product classes of residential furnaces (*i.e.,* non-weatherized gas-fired furnaces and mobile home gas-fired furnaces). This rulemaking considers energy conservation standards for electrical power consumption in standby mode and off mode, as well as the annual fuel utilization efficiency standards for both product classes. More information relating to the scope of coverage is described in section IV.A of this proposed rule.

B. Test Procedure

DOE's current energy conservation standards for residential furnaces are expressed in terms of annual fuel utilization efficiency for fossil fuel consumption (*see* 10 CFR 430.32(e)(1)). AFUE is an annualized fuel efficiency metric that fully accounts for fuel consumption in active, standby, and off modes. The existing DOE test procedure for determining the AFUE of residential furnaces is located at 10 CFR part 430, subpart B, appendix N. The current DOE test procedure for residential furnaces was originally established by a May 12, 1997 final rule, which incorporates by reference the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE)/American National Standards Institute (ANSI) Standard 103–1993, *Method of Testing for Annual Fuel Utilization Efficiency of Residential Central Furnaces and Boilers* (1993). 62 FR 26140, 26157.

On October 20, 2010, DOE updated its test procedures for residential furnaces in a final rule published in the **Federal Register** (October 2010 test procedure rule). 75 FR 64621. This rule amended DOE's test procedure for residential furnaces and boilers to establish a method for measuring the electrical energy use in standby mode and off mode for gas-fired, oil-fired, and electric furnaces pursuant to requirements established by EISA 2007. These test procedure amendments were primarily based on and incorporate by reference 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** which 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** (July 2013 final rule) that modified the existing testing procedures for residential furnaces and boilers. 78 FR 41265. The modification addressed the omission of equations needed to calculate AFUE for two-stage and modulating condensing furnaces and boilers that are tested using an optional procedure provided by section 9.10 of ASHRAE 103–1993 (incorporated by reference into DOE's test procedure), which allows the test engineer to omit the heat-up and cool-down tests if certain conditions are met. Specifically, the DOE test procedure allows condensing boilers and furnaces to omit the heat-up and cool-down tests provided that the units have no measurable airflow through the combustion chamber and heat exchanger during the burner off period and have post-purge period(s) of less than 5 seconds. For two-stage and modulating condensing furnaces and boilers, ASHRAE 103–1993 (and by extension the DOE test procedure) does not contain the necessary equations to calculate the heating seasonal efficiency (which contributes to the ultimate calculation of AFUE) when the option in section 9.10 is selected. The July 2013 final rule adopted two new equations needed to account for the use of section 9.10 for two-stage and modulating condensing furnaces and boilers. *Id.*

EPCA, as amended by EISA 2007, requires that DOE must review test procedures for all covered products at least once every 7 years. (42 U.S.C. 6293(b)(1)(A)). Accordingly, DOE must complete the residential furnaces and boiler test procedure rulemaking no later than December 19, 2014 (*i.e.*, 7 years after the enactment of EISA 2007), which is before the expected completion of this energy conservation standards rulemaking. In February 2015, DOE issued a notice of proposed rulemaking for the test procedure (February 2015 Test Procedure NOPR), a necessary step toward fulfillment of the requirement under 42 U.S.C. 6293(b)(1)(A) for residential furnaces and boilers. DOE must base the analysis of amended energy conservation standards on the most recent version of its test procedures, and accordingly, DOE will use any amended test procedure when

considering product efficiencies, energy use, and efficiency improvements in its analyses. Major changes proposed in the February 2015 Test Procedure NOPR that relate to residential furnaces included proposals to:

- Adopt ANSI/ASHRAE 103–2007 by reference in place of the existing reference to ANSI/ASHRAE 103–1993;
- Modify the requirements for the measurement of condensate under steady-state conditions;
- Update references to installation manuals;
- Update the auxiliary electrical consumption calculation to include additional measurements of electrical consumption;
- Adopt a method for qualifying the use of the minimum draft factor.

C. Technological Feasibility

1. General

In each energy conservation standards rulemaking, DOE conducts a screening analysis based on information gathered on all current technology and prototype designs that could improve the efficiency of the products or equipment that are the subject of the rulemaking. As the first step in such an analysis, DOE develops a list of technology options for consideration in consultation with manufacturers, design engineers, and other interested parties. DOE then determines which of those means for improving efficiency are technologically feasible. DOE considers technologies incorporated in commercially-available products or in working prototypes to be technologically feasible. 10 CFR part 430, subpart C, appendix A, section 4(a)(4)(i).

After DOE has determined that particular technology options are technologically feasible, it further evaluates each technology option in light of the following additional screening criteria: (1) Practicability to manufacture, install, and service; (2) adverse impacts on product utility or availability; and (3) adverse impacts on health or safety. 10 CFR part 430, subpart C, appendix A, section 4(a)(4)(ii)–(iv). Additionally, it is DOE policy not to include in its analysis any proprietary technology that is a unique pathway to achieving a certain efficiency level. Section IV.B of this NOPR discusses the results of the screening analysis for residential furnaces, particularly the designs DOE considered, those it screened out, and those that are the basis for the trial standard levels (TSLs) in this rulemaking. For further details on the screening analysis for this rulemaking, see chapter 4 of the NOPR technical support document (TSD).

2. Maximum Technologically Feasible Levels

When DOE proposes to adopt an amended standard for a type or class of covered product, it must determine the maximum improvement in energy efficiency or maximum reduction in energy use that is technologically feasible for such product. (42 U.S.C. 6295(p)(1)). Accordingly, in the engineering analysis, DOE determined the maximum technologically feasible (max-tech) improvements in energy efficiency for NWGFs and MHGFs, using the design parameters for the most-efficient products available on the market or in working prototypes. The max-tech levels that DOE determined for this rulemaking are described in section IV.C of this proposed rule and in chapter 5 of the NOPR TSD.

D. Energy Savings

1. Determination of Savings

For each TSL, DOE projected energy savings from the products that are the subject of this rulemaking purchased in the 30-year period that begins in the year of compliance with amended standards (2021–2050).[13] The savings are measured over the entire lifetime of products purchased in the 30-year analysis period.[14] DOE quantified the energy savings attributable to each TSL as the difference in energy consumption between each standards case and the base case. The base case represents a projection of energy consumption in the absence of amended energy conservation standards, and it considers market forces and policies that affect demand for more-efficient products.

DOE used its national impact analysis (NIA) spreadsheet model to estimate energy savings from potential amended standards for the products that are the subject of this rulemaking. The NIA spreadsheet model (described in section IV.H of this NOPR) calculates energy savings in site energy, which is the energy directly consumed by products at the locations where they are used. For electricity, DOE reports national energy savings on an annual basis in terms of primary (source) energy savings, which is the savings in the energy that is used to generate and transmit the site electricity. To calculate the primary energy savings, DOE derives annual conversion factors from the model used to prepare the Energy Information Administration's (EIA) most recent *Annual Energy Outlook (AEO).*

DOE has begun to also estimate full-fuel-cycle energy savings, as discussed in DOE's statement of policy and notice of policy amendment. 76 FR 51282 (August 18, 2011), as amended at 77 FR 49701 (August 17, 2012). The full-fuel-cycle (FFC) metric includes the energy consumed in extracting, processing, and transporting primary fuels (*i.e.,* coal, natural gas, petroleum fuels), and, thus, presents a more complete picture of the impacts of energy efficiency standards. DOE's approach is based on the calculation of an FFC multiplier for each of the energy types used by covered equipment. For more information on FFC energy savings, see section IV.H.3.

2. Significance of Savings

To adopt more-stringent standards for a covered product, DOE must determine that such action would result in ''significant'' energy savings. (42 U.S.C. 6295(o)(3)(B)) Although the term ''significant'' is not defined in the Act, the U.S. Court of Appeals for the District of Columbia Circuit, in *Natural Resources Defense Council* v. *Herrington,* 768 F.2d 1355, 1373 (D.C. Cir. 1985), opined that Congress intended ''significant'' energy savings in the context of EPCA to be savings that were not ''genuinely trivial.'' The energy savings for all of the trial standard levels considered in this rulemaking, including the proposed standards (presented in section V.B.3), are nontrivial, and, therefore, DOE considers them ''significant'' within the meaning of section 325 of EPCA.

E. Economic Justification

1. Specific Criteria

EPCA provides seven factors to be evaluated in determining whether a potential energy conservation standard is economically justified. (42 U.S.C. 6295(o)(2)(B)(i)(I)–(VII)) The following sections discuss how DOE has addressed each of those seven factors in this rulemaking.

a. Economic Impact on Manufacturers and Consumers

In determining the impacts of a potential amended standard on manufacturers, DOE conducts a manufacturer impact analysis (MIA), as discussed in section IV.J. DOE first uses

[13] DOE also presents a sensitivity analysis that considers impacts for products shipped in a 9-year period.

[14] In the past, DOE presented energy savings results for only the 30-year period that begins in the year of compliance. In the calculation of economic impacts, however, DOE considered operating cost savings measured over the entire lifetime of products purchased in the 30-year period. DOE has chosen to modify its presentation of national energy savings to be consistent with the approach used for its national economic analysis.

an annual cash-flow approach to determine the quantitative impacts. This step includes both a short-term assessment—based on the cost and capital requirements during the period between when a regulation is issued and when entities must comply with the regulation—and a long-term assessment over a 30-year period. The industry-wide impacts analyzed include: (1) Industry net present value (INPV), which values the industry on the basis of expected future cash flows; (2) cash flows by year; (3) changes in revenue and income; and (4) other measures of impact, as appropriate. Second, DOE analyzes and reports the impacts on different types of manufacturers, including impacts on small manufacturers. Third, DOE considers the impact of standards on domestic manufacturer employment and manufacturing capacity, as well as the potential for standards to result in plant closures and loss of capital investment. Finally, DOE takes into account cumulative impacts of various DOE regulations and other regulatory requirements on manufacturers.

For individual consumers, measures of economic impact include the changes in LCC and PBP associated with new or amended standards. These measures are discussed further in the following section. For consumers in the aggregate, DOE also calculates the national net present value of the economic impacts applicable to a particular rulemaking. DOE also evaluates the LCC impacts of potential standards on identifiable subgroups of consumers that may be affected disproportionately by a national standard.

b. Savings in Operating Costs Compared to Increase in Price (LCC and PBP)

EPCA requires DOE to consider the savings in operating costs throughout the estimated average life of the covered product in the type (or class) compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the covered product that are likely to result from a standard. (42 U.S.C. 6295(o)(2)(B)(i)(II)) DOE conducts this comparison in its LCC and PBP analyses.

The LCC is the sum of the purchase price of a product (including its installation) and the operating expense (including energy, maintenance, and repair expenditures) discounted over the lifetime of the product. The LCC analysis requires a variety of inputs, such as product prices, product energy consumption, energy prices, maintenance and repair costs, product lifetime, and consumer discount rates. To account for uncertainty and variability in specific inputs, such as product lifetime and discount rate, DOE uses a distribution of values, with probabilities attached to each value. For its analysis, DOE assumes that consumers will purchase the covered products in the first year of compliance with amended standards.

The PBP is the estimated amount of time (in years) it takes consumers to recover the increased purchase cost (including installation) of a more-efficient product through lower operating costs. DOE calculates the PBP by dividing the change in purchase cost due to a more-stringent standard by the change in annual operating cost for the year that standards are assumed to take effect.

The LCC savings for the considered efficiency levels are calculated relative to a base case that reflects projected market trends in the absence of amended standards. DOE identifies the percentage of consumers estimated to receive LCC savings or experience an LCC increase, in addition to the average LCC savings associated with a particular standard level. In contrast, the PBP is measured relative to the baseline product.

DOE's LCC and PBP analyses are discussed in further detail in section IV.F.

c. Energy Savings

Although significant conservation of energy is a separate statutory requirement for adopting an energy conservation standard, EPCA requires DOE, in determining the economic justification of a standard, to consider the total projected energy savings that are expected to result directly from the standard. (42 U.S.C. 6295(o)(2)(B)(i)(III)) As discussed in section IV.H, DOE uses the NIA spreadsheet to project national energy savings.

d. Lessening of Utility or Performance of Products

In establishing product classes and in evaluating design options and the impact of potential standard levels, DOE evaluates potential standards that would not lessen the utility or performance of the considered products. (42 U.S.C. 6295(o)(2)(B)(i)(IV)) Based on data available to DOE, the standards proposed in this document would not reduce the utility or performance of the products under consideration in this rulemaking.

e. Impact of Any Lessening of Competition

EPCA directs DOE to consider the impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from a proposed standard. (42 U.S.C. 6295(o)(2)(B)(i)(V)) It also directs the Attorney General to determine the impact, if any, of any lessening of competition likely to result from a proposed standard and to transmit such determination to the Secretary within 60 days of the publication of a proposed rule, together with an analysis of the nature and extent of the impact. (42 U.S.C. 6295(o)(2)(B)(ii)) DOE will transmit a copy of this proposed rule to the Attorney General with a request that the Department of Justice (DOJ) provide its determination on this issue. DOE will publish and respond to the Attorney General's determination in the final rule.

f. Need for National Energy Conservation

DOE also considers the need for national energy conservation in determining whether a new or amended standard is economically justified. (42 U.S.C. 6295(o)(2)(B)(i)(VI)) The energy savings from new or amended standards are likely to provide improvements to the security and reliability of the nation's energy system. Reductions in the demand for electricity also may result in reduced costs for maintaining the reliability of the nation's electricity system. DOE conducts a utility impact analysis to estimate how standards may affect the nation's needed power generation capacity, as discussed in section IV.M.

New or amended standards also are likely to result in environmental benefits in the form of reduced emissions of air pollutants and greenhouse gases associated with energy production. DOE conducts an emissions analysis to estimate how standards may affect these emissions, as discussed in section IV.K. DOE reports the emissions impacts from the proposed standards, and from each TSL it considered, in section V.B.6 of this NOPR. DOE also estimates the economic value of emissions reductions resulting from the considered TSLs, as discussed in section IV.L.

g. Other Factors

EPCA allows the Secretary of Energy, in determining whether a standard is economically justified, to consider any other factors that the Secretary deems to be relevant. (42 U.S.C. 6295(o)(2)(B)(i)(VII)) To the extent interested parties submit any relevant information regarding economic justification that does not fit into the other categories described above, DOE could consider such information under ''other factors.''

2. Rebuttable Presumption

As set forth in 42 U.S.C. 6295(o)(2)(B)(iii), EPCA creates a rebuttable presumption that an energy conservation standard is economically justified if the additional cost to the consumer of a product that meets the standard is less than three times the value of the first year's energy savings resulting from the standard, as calculated under the applicable DOE test procedure. DOE's LCC and PBP analyses generate values used to calculate the effects that proposed energy conservation standards would have on the payback period for consumers. These analyses include, but are not limited to, the 3-year payback period contemplated under the rebuttable-presumption test. In addition, DOE routinely conducts an economic analysis that considers the full range of impacts to consumers, manufacturers, the Nation, and the environment, as required under 42 U.S.C. 6295(o)(2)(B)(i). The results of this analysis serve as the basis for DOE's evaluation of the economic justification for a potential standard level (thereby supporting or rebutting the results of any preliminary determination of economic justification). The rebuttable presumption payback calculation is discussed in section V.B.1 of this proposed rule.

F. Regional Standards

As discussed in section II.A, EISA 2007 amended EPCA to allow for the establishment of a single more-restrictive regional standard in addition to the base national standard for furnaces. (42 U.S.C. 6295(o)(6)(B)) The regions must include only contiguous States (with the exception of Alaska and Hawaii, which can be included in regions with which they are not contiguous), and each State may be placed in only one region (*i.e.,* a State cannot be divided among or otherwise included in two regions). (42 U.S.C. 6295(o)(6)(C))

Further, EPCA mandates that a regional standard must produce significant energy savings in comparison to a single national standard, and provides that DOE must determine that the additional standards are economically justified and consider the impact of the additional regional standards on consumers, manufacturers, and other market participants, including product distributors, dealers, contractors, and installers. (42 U.S.C. 6295(o)(6)(D)) For this rulemaking, DOE has considered the above-delineated impacts of regional standards in addition to national standards.

Where appropriate, DOE has addressed the potential impacts from considered regional standards in the relevant analyses, including the mark-ups to determine product price, the LCC and payback period analysis, the national impact analysis (NIA), and the manufacturer impact analysis (MIA). DOE's approach for addressing regional standards is included in the methodology section corresponding to each individual analysis (see section IV of this notice), and in the NOPR TSD, specifically Chapter 8 (LCC and PBP Analysis) and Chapter 10 (National Impact Analysis). For certain phases of the analysis, additional regional analysis is not required. For example, technologies for improving product efficiency generally do not vary by region, and thus, DOE did not perform any additional regional analysis for the technology assessment and screening analysis. Similarly, DOE did not examine the impacts of having two regions in the engineering analysis, since the technologies and manufacturer processes are the same under both a national and regional standard.

To evaluate regional standards for residential furnaces, DOE maintained the same regions analyzed in the June 2011 direct final rule, which are shown in Table III.1 and Figure III.1. The allocation of individual States to the regions was largely based on whether a State's annual heating degree day (HDD) [15] average is above or below 5,000, which offers a rough threshold point at which space heating demands are significant enough to require longer operation of heating systems, thereby providing a basis for utilization of higher-efficiency systems.

TABLE III.1—NATIONAL STANDARD AND REGIONAL STANDARD (BY STATE) FOR ANALYSIS OF FURNACE STANDARDS

National standard *	Northern region standard
Alabama	Alaska
Arizona	Colorado
Arkansas	Connecticut
California	Idaho
Delaware	Illinois
District of Columbia	Indiana
Florida	Iowa
Georgia	Kansas
Hawaii	Maine
Kentucky	Massachusetts
Louisiana	Michigan
Maryland	Minnesota
Mississippi	Missouri
Nevada	Montana
New Mexico	Nebraska
North Carolina	New Hampshire
Oklahoma	New Jersey
South Carolina	New York
Tennessee	North Dakota
Texas	Ohio
Virginia	Oregon
	Pennsylvania
	Rhode Island
	South Dakota
	Utah
	Vermont
	Washington
	West Virginia
	Wisconsin
	Wyoming

* DOE analyzes an approach whereby the agency would set a base National standard, as well as a more-stringent standard in the Northern region. Because compliance with the regional standard would also meet the National standard, Table III.1 categorizes States in terms of the most stringent standard applicable to that State.

[15] DOE used the population weighted state HDD as determined by the National Oceanic and Atmospheric Administration (NOAA) in its 1971–2000 United States Climate Normals report, available at *http://hurricane.ncdc.noaa.gov/climatenormals/hcs/HCS_51.pdf* (last accessed July 28, 2014).

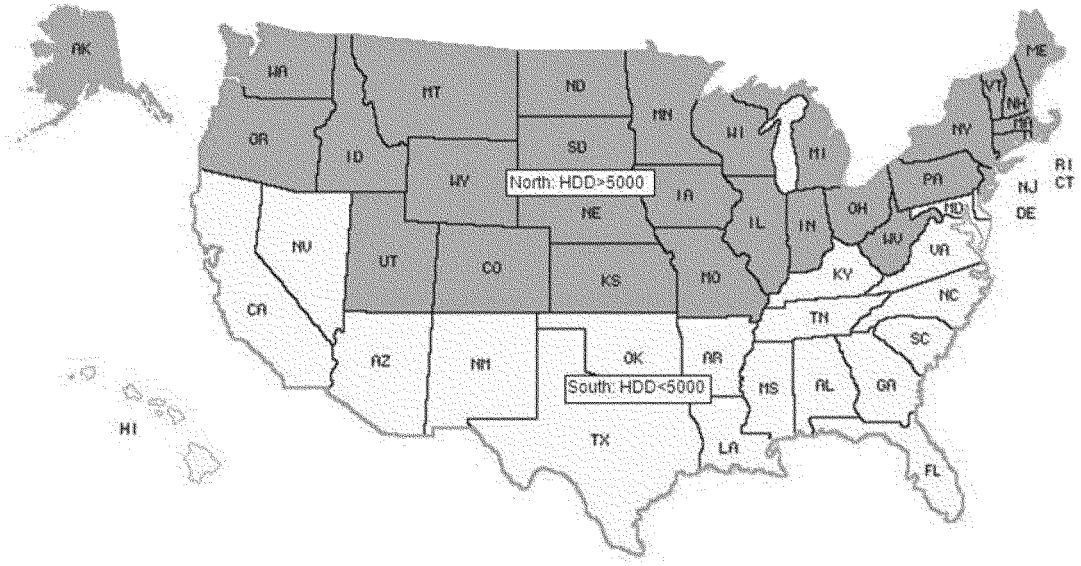

Figure III.1 Map of the Regions for the Analysis of Furnace Standards

G. Compliance Date

EPCA establishes a lead time between the publication of amended energy conservation standards and the date by which manufacturers must comply with the amended standards for residential furnaces. Specifically, EPCA dictated an eight-year period between the rulemaking publication date and compliance date for the first round of amended residential furnace standards, and a five-year period for the second round of amended residential furnace standards. (42 U.S.C. 6295(f)(4)(B)–(C)) DOE notes that the first remand agreement for residential furnaces (resulting from the Petition for Review, *State of New York, et al.* v. *Department of Energy, et al.,* Nos. 08–0311–ag(L); 08–0312–ag(con) (2d Cir. filed Jan. 17, 2008)) did not vacate the November 2007 Rule for furnaces and boilers. Therefore, DOE has concluded that the November 2007 final rule completed the first round of rulemaking for amended energy conservation standards for furnaces, thereby satisfying the requirements of 42 U.S.C. 6295(f)(4)(B). The June 2011 direct final rule satisfied the second round of rulemaking for amended energy conservation standards for furnaces; however, the settlement resulting from the APGA lawsuit (Petition for Review, *American Public Gas Association, et al.* v. *Department of Energy, et al.,* No. 11–1485 (D.C. Cir. filed Dec. 23, 2011) vacated the standards for non-weatherized gas furnaces and mobile home gas furnaces. As a result, the June 2011 direct final rule completed the second round of rulemaking for the furnace product classes for which it was not vacated, and the current rulemaking constitutes the second round of rulemaking for amended energy conservation standards for non-weatherized gas and mobile home gas furnaces, as required under 42 U.S.C. 6295(f)(4)(C). This provision prescribes a five-year period between the standard's publication date and compliance date. Accordingly, in its analysis of amended energy conservation standards for NWGFs and MHGFs, DOE used a 5-year lead time between the publication of the final rule and the compliance date for the standard.

H. Standby Mode and Off Mode

As discussed in section II.A of this NOPR, any final rule for amended or new energy conservation standards that is published on or after July 1, 2010 must address standby mode and off mode energy use. (42 U.S.C. 6295(gg)(3)) As a result, DOE has analyzed and is proposing new energy conservation standards for the standby mode and off mode electrical energy consumption for residential non-weatherized gas furnaces and mobile home gas furnaces.

AFUE, the statutory metric for residential furnaces, does not incorporate standby mode or off mode use of electricity, although it already fully addresses the fossil fuel use of gas-fired furnaces when operating in standby mode and off mode. In the October 2010 test procedure final rule for residential furnaces and boilers, DOE determined that incorporating standby mode and off mode electricity consumption into a single standard for residential furnaces and boilers is not technically feasible. 75 FR 64621, 64626–64627 (Oct. 20, 2010). DOE concluded that a metric that integrates standby mode and off mode electricity consumption into AFUE is not technically feasible, because the standby mode and off mode energy usage, when measured, is essentially lost in practical terms due to rounding conventions for certifying furnace compliance with Federal energy conservation standards. *Id.* Therefore, in this document, DOE is adopting amended furnace standards that are AFUE levels, which exclude standby mode and off mode electricity use, and DOE is also adopting separate standards that are maximum wattage (W) levels to address the standby mode ($P_{W,SB}$) and off mode ($P_{W,OFF}$) electrical energy use of furnaces. DOE also presents corresponding trial standard levels (TSLs) for energy consumption in standby mode and off mode. DOE has decided to use a maximum wattage requirement to regulate standby mode and off mode for furnaces. DOE believes using an annualized metric could add unnecessary complexities, such as trying to estimate an assumed number of hours that a furnace typically spends in standby mode. Instead, DOE believes that a maximum wattage standard is the most straightforward metric for regulating standby mode and off mode energy consumption of furnaces and will result in the least amount of industry and consumer confusion.

DOE is using the metrics just described—AFUE, $P_{W,SB}$, and $P_{W,OFF}$—in the amended energy conservation

standards it is proposing in this rulemaking for furnaces. This approach satisfies the mandate of 42 U.S.C. 6295(gg)(3) that amended standards address standby mode and off mode energy use. The various analyses performed by DOE to evaluate minimum standards for standby mode and off mode electrical energy consumption for furnaces are discussed further in section IV.E.2 of this NOPR.

IV. Methodology

This section addresses the analyses DOE has performed for this rulemaking with regard to residential furnaces. Separate subsections will address each component of DOE's analyses.

DOE used three spreadsheet tools to estimate the impact of today's proposed standards. The first spreadsheet calculates LCCs and payback periods of potential standards. The second provides shipments forecasts, and then calculates national energy savings and net present value impacts of potential standards. Finally, DOE assessed manufacturer impacts, largely through use of the Government Regulatory Impact Model (GRIM).[16]

Additionally, DOE estimated the impacts on utilities and the environment that would be likely to result from potential standards for residential furnaces. DOE used published output from the AEO 2014 version of Energy Information Administration's (EIA) National Energy Modeling System (NEMS) for both the utility and the environmental analyses. NEMS projects the production, imports, conversion, consumption, and prices of energy, subject to assumptions on macroeconomic and financial factors, world energy markets, resource availability and costs, behavioral and technological choice criteria, cost and performance characteristics of energy technologies, and demographics.[17] EIA uses NEMS to prepare its *Annual Energy Outlook,* a widely-known energy forecast for the United States. NEMS offers a sophisticated picture of the effect of standards because it accounts for the interactions between the various energy supply and demand sectors and their impact on the economy as a whole.

A. Market and Technology Assessment

In conducting a market and technology assessment, DOE develops information that provides an overall picture of the market for the products concerned, including the purpose of the products, the industry structure, manufacturers, market characteristics, and technologies used in the products. These activities include both quantitative and qualitative assessments, based primarily on publicly-available information. The issues covered in the market and technology assessment for this residential furnaces rulemaking include: (1) A determination of the scope of the rulemaking and product classes; (2) manufacturers and industry structure; (3) quantities and types of products sold and offered for sale; (4) retail market trends; (5) regulatory and non-regulatory programs; and (6) technologies or design options that could improve the energy efficiency of the product(s) under examination. The key findings of DOE's market assessment are summarized below.[18]

1. Definition and Scope of Coverage

EPCA defines a ''furnace'' as ''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.'' (42 U.S.C. 6291(23))

DOE has incorporated this definition into its regulations in the Code of Federal Regulations (CFR) at 10 CFR 430.2.

EPCA's definition of a ''furnace'' covers the following types of products: (1) Gas furnaces (non-weatherized and weatherized); (2) oil-fired furnaces (non-weatherized and weatherized); (3) mobile home furnaces (gas and oil-fired); (4) electric resistance furnaces; (5) hot water boilers (gas and oil-fired); (6) steam boilers (gas and oil-fired); and (7) combination space/water heating appliances (water-heater/fancoil combination units and boiler/tankless coil combination units). In accordance with the April 24th, 2014 court order in the *American Public Gas Association, et al.* v. *Department of Energy, et al.,* case, which granted the unopposed joint motion for a voluntary remand (see section II.B), DOE only analyzed potential amended energy conservation standards for non-weatherized gas-fired and mobile home gas-fired furnace product classes of furnaces in this rulemaking.

2. Product Classes

When evaluating and establishing energy conservation standards, DOE divides covered products into product classes by the type of energy used, by capacity, or by other performance-related features that justify a different standard. In making a determination whether a performance-related feature justifies a different standard, DOE must consider factors such as the utility to the consumer of the feature and other factors DOE determines are appropriate. (42 U.S.C. 6295(q)) DOE has viewed utility as an aspect of the product that is accessible to the layperson and is based on user operation, rather than performing a theoretical function. This interpretation has been implemented consistently in DOE's previously determining utility through the value the item brings to the consumer, rather than through analyzing more complicated design features, or costs that anyone, including the consumer, manufacturer, installer, or utility companies may bear. This approach is consistent with EPCA requiring a separate and extensive analysis of economic justification for the adoption of any new or amended energy conservation standard (see 42 U.S.C. 6295(o)(2)(A)–(B) and (3)).

Under EPCA, DOE has typically addressed consumer utility by establishing separate product classes or otherwise taken action when a consumer may value a product feature based on the consumer's everyday needs. For instance, DOE has determined that it would be impermissible under 42 U.S.C. 6295(o)(4) to include elimination of oven door windows as a technology option to improve the energy efficiency of cooking products.[19] DOE reached this conclusion based upon how consumers typically use the product: Peering through the oven window to judge if an

[16] All three spreadsheet tools are available online at the rulemaking portion of DOE's Web site at the following address: *http://www1.eere.energy.gov/buildings/appliance_standards/product.aspx/productid/72.*

[17] For more information on NEMS, refer to the U.S. Department of Energy, Energy Information Administration documentation. *See, e.g.,* Energy Info. Admin., The National Energy Modeling System: An Overview DOE/EIA–0581(2009), available at *http://www.eia.gov/oiaf/aeo/overview/.*

[18] See chapter 3 of the NOPR TSD for further discussion of the market and technology assessment.

[19] 63 FR 48038, 48041 (Sept. 8, 1998).

item is finished cooking, as opposed to checking the timer and/or indicator light or simply opening the oven door to see if the item is finished cooking. DOE has also determined that consumers may value other qualities such as ability to self-clean,[20] size,[21] and configuration.[22] This determination, however, can change depending on the technology and the consumer, and it is conceivable that certain products may disappear from the market entirely due to shifting consumer demand. DOE determines such value on a case-by-case basis through its own research as well as public comments received, the same approach that DOE employs in all other parts of its energy conservation standards rulemaking.

As a cautionary note, disparate products may have very different consumer utilities, thereby making direct comparisons difficult and potentially misleading. For instance, in a 2011 rulemaking, DOE created separate product classes for vented and ventless residential clothes dryers based on DOE's recognition of the ''unique utility'' that ventless clothes dryers offer to consumers. 76 FR 22454, 22485 (April 21, 2011). This utility could be characterized as the ability to have a clothes dryer in a living area where vents are impossible to install (*i.e.,* an apartment in a high-rise building). As explained in that April 2011 direct final rule technical support document, ventless dryers can be installed in locations where venting dryers would be precluded due to venting restrictions.

But in another rulemaking, DOE found that water heaters that utilize heat pump technology did not need to be put in a separate product class from conventional types of hot water heaters that utilize electric resistance technology, even though water heaters utilizing heat pumps require the additional installation of a condensate drain that a hot water heater utilizing electric resistance technology does not require. 74 FR 65852, 65871 (Dec. 11, 2009). DOE found that regardless of these installation factors, the heat pump water heater and the conventional water heater still had the same utility to the consumer: Providing hot water. Id. In both cases, DOE made its finding based on consumer type and utility type, rather than product design criteria that impact product efficiency. These distinctions in both the consumer type and the utility type are important because, as DOE has previously pointed out, taken to the extreme, each design differential could be designated a different ''product class'' and, therefore, require different energy conservation standards.

Tying the concept of ''feature'' to a specific technology would effectively lock-in the currently existing technology as the ceiling for product efficiency and eliminate DOE's ability to address technological advances that could yield significant consumer benefits in the form of lower energy costs while providing the same functionality for the consumer. DOE is very concerned that determining features solely on product technology could undermine the Department's Appliance Standards Program. If DOE is required to maintain separate product classes to preserve less-efficient technologies, future advancements in the energy efficiency of covered products would become largely voluntary, an outcome which seems inimical to Congress's purposes and goals in enacting EPCA.

Turning to the product at issue in this rulemaking, residential furnaces are currently divided into several product classes. For example, furnaces are separated into product classes based on their fuel source (gas, oil, or electricity), which is required by statute. As discussed in section IV.A.1, for this rulemaking, DOE is analyzing only two product classes for residential furnaces: (1) Non-weatherized gas-fired furnaces (NWGFs) and (2) mobile home gas-fired furnaces (MHGFs). DOE does not additionally separate NWGFs and MHGFs into condensing and non-condensing product classes because they provide the same utility to the consumer (*i.e.,* both are vented appliances that provide heat to a consumer).

DOE has tentatively concluded that the methods by which a furnace is vented do not provide any separate performance-related impacts, and, therefore, DOE has no statutory basis for defining a separate class based on venting and drainage characteristics. NWGF and MHGF venting methods do not provide unique utility to consumers beyond the basic function of providing heat, which all furnaces perform. The possibility that installing a non-condensing furnace may be less costly than a condensing furnace due to the difference in venting methods does not justify separating the two types of NWGFs into different product classes. Unlike the consumers of ventless dryers, which DOE has determined to be a performance-related feature based on the impossibility of venting in certain circumstances (*e.g.,* high-rise apartments), consumers of condensing NWGFs are homeowners that may either use their existing venting or have a feasible alternative to obtain heat, which is the furnace's singular utility to the consumer. In other words, homeowners will still be able to obtain heat regardless of the venting. In contrast, a resident of a high-rise apartment or condominium building that is not architecturally designed to accommodate vented clothes dryers would have no option in terms of installing and enjoying the utility of a dryer in their home unless he uses a ventless dryer.

As explained above, the utility of a furnace involves providing heat to a consumer. Such utility is provided by any type of furnace, but to the extent that a consumer has a preference for a particular fuel type (*e.g.,* gas), improvements in venting technology may soon allow a consumer to obtain the efficiency of a condensing furnace using the existing venting in a residence by sharing venting space with water heaters. This update in technology significantly reduces the cost burden associated with installing condensing furnaces and reduces potential instances of ''orphaned'' water heaters, where the furnace and water heater can no longer share the same venting (due to one unit being condensing and the other noncondensing). In other words, this technology allows consumers to switch from a non-condensing furnace to a condensing furnace in a greater variety of applications, such as urban row houses. For more information, see appendix 8L of the NOPR TSD.

3. Technology Options

DOE identified 12 technology options that would be expected to improve the AFUE of residential furnaces, as measured by the DOE test procedure: (1) Using a condensing secondary heat exchanger; (2) increasing the heat exchanger area; (3) heat exchanger baffles; (4) heat exchanger surface feature improvements; (5) two-stage modulating combustion; (6) step-modulating combustion; (7) pulse combustion; (8) low NO_X premix burners; (9) burner de-rating; (10) insulation improvements; (11) off-cycle dampers; and (12) direct venting. In addition, DOE identified three technologies that would reduce the standby mode and off mode energy consumption of residential furnaces: (1) Low-loss transformer (LLTX); (2) switching mode power supply; and (3)

[20] 73 FR 62034, 62048 (Oct. 17, 2008) (separating standard ovens and self-cleaning ovens into different product classes).

[21] 77 FR 32307, 32319 (May 31, 2012) (creating a separate product class for compact front-loading residential clothes washers).

[22] 75 FR 59469, 59487 (Sept. 27, 2010) (creating a separate product class for refrigerators with bottom-mounted freezers).

control relay for models with brushless permanent magnet (BPM) motors.

After identifying potential technology options for improving the efficiency of residential furnaces, DOE performed the screening analysis (see section IV.B of this NOPR or chapter 4 of the TSD) on these technologies to determine which could be considered further in the analysis and which should be eliminated.

B. Screening Analysis

DOE uses the following four screening criteria to determine which technology options are suitable for further consideration in an energy conservation standards rulemaking:

1. *Technological feasibility.* Technologies that are not incorporated in commercial products or in working prototypes will not be considered further.

2. *Practicability to manufacture, install, and service.* If DOE determines that mass production, reliable installation, and servicing of a technology in commercial products could not be achieved on the scale necessary to serve the relevant market at the time of the compliance date of the standard, then that technology will not be considered further.

3. *Impacts on product utility or product availability.* If it is determined that a technology would have significant adverse impact on the utility of the product to significant subgroups of consumers or would result in the unavailability of any covered product type with performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as products generally available in the United States at the time, it will not be considered further.

4. *Adverse impacts on health or safety.* If it is determined that a technology would have significant adverse impacts on health or safety, it will not be considered further. (10 CFR part 430, subpart C, appendix A, 4(a)(4) and 5(b))

In sum, if DOE determines that a technology, or a combination of technologies, fails to meet one or more of the above four criteria, it will be excluded from further consideration in the engineering analysis. The reasons for eliminating certain technologies are discussed below.

1. Screened-Out Technologies

DOE decided to screen the use of pulse combustion from further analysis. Based on manufacturer feedback received during the analysis for the June 2011 direct final rulemaking, pulse combustion furnaces have had reliability and safety issues in the past, and therefore, manufacturers do not consider their use a viable option to improve efficiency. In addition, manufacturers can attain similar or greater efficiencies through the use of other technologies. For these reasons, DOE is not including pulse combustion as a technology option, as its reliability and safety issues could reduce consumer utility.

DOE also decided to screen out burner de-rating. Burner de-rating reduces the burner firing rate while maintaining the same heat exchanger geometry/surface area and fuel-air ratio, which increases the ratio of heat transfer surface area to the energy input, which increases efficiency. However, the lower energy input means that less heat is provided to the user than is provided using conventional burner firing rates. As a result of the decreased heat output of furnaces with de-rated burners, DOE has screened out burner de-rating as a technology option, as it could reduce consumer utility.

In addition, DOE is screening low-NO_X premix burners from further analysis. Premix burners eliminate the need for secondary air in the combustion process by completely mixing heating fuel with primary air prior to ignition. This raises the overall flame temperature, which improves heat transfer and AFUE. In-shot burners that are commonly used in residential furnaces, on the other hand, cannot entrain sufficient primary air to completely premix the air and gas. As a result, premix burner design incorporates a fan to ensure sufficient and complete mixing of the air and fuel prior to combustion and does so by delivering the air to the fuel at positive pressure. To the extent of DOE's knowledge, and based on manufacturer feedback during the manufacturer interviews, low-NO_X premix burners have not yet been successfully incorporated into a residential furnace design that is widely available on the market. DOE is aware that low-NO_X premix burners have been incorporated into boilers, but boilers have significantly different heat exchangers and burners, allowing for the integration of premix burner technology in those products. Incorporating this technology into furnaces on a large scale will require further research and development due to the technical constraints imposed by current furnace burner and heat exchanger design.

Among the standby and off mode technologies, DOE decided to screen out using a control relay to depower BPM motors due to feedback received during the manufacturer interviews conducted for both this NOPR and the residential furnace June 2011 direct final rule, which indicated that using a control relay to depower brushless permanent magnet motors could reduce the lifetime of the motors (the reason for this reduction in product lifetime is further explained in Chapter 4 of the TSD). DOE believes that this reduction in lifetime would lead to a reduction in utility of the product. For this reason, DOE is not including control relays for models with brushless permanent magnet motors as a technology option, as it could reduce consumer utility.

2. Remaining Technologies

Through a review of each technology, DOE found that all of the other identified technologies met all four screening criteria and consequently, are suitable for further examination in DOE's analysis. In summary, DOE did not screen out the following technology options to improve AFUE: (1) Condensing secondary heat exchanger; (2) increased heat exchanger face area; (3) heat exchanger baffles; (4) heat exchanger surface feature improvements; (5) two-stage modulating combustion; (6) step-modulating combustion; (7) insulation improvements; (8) off-cycle dampers; and (9) direct venting. DOE also maintained the following technology options to improve standby mode and off mode energy consumption: (1) Low-loss transformer; and (2) switching mode power supply. All of these technology options are technologically feasible, given that the evaluated technologies are being used (or have been used) in commercially-available products or working prototypes. Therefore, all of the trial standard levels evaluated in this notice are technologically feasible. DOE also found that all of the remaining technology options also meet the other screening criteria (*i.e.,* practicable to manufacture, install, and service, and do not result in adverse impacts on consumer utility, product availability, health, or safety). For additional details, please see chapter 4 of the NOPR TSD.

C. Engineering Analysis

In the engineering analysis (corresponding to chapter 5 of the NOPR TSD), DOE establishes the relationship between the manufacturer selling price (MSP) and improved residential furnace efficiency. This relationship serves as the basis for cost-benefit calculations for individual consumers, manufacturers, and the Nation. DOE typically structures the engineering analysis using one of three approaches: (1) Design-option; (2)

efficiency-level; or (3) reverse-engineering (or cost-assessment). The design-option approach involves adding the estimated cost and efficiency of various efficiency-improving design changes to the baseline to model different levels of efficiency. The efficiency-level approach uses estimates of cost and efficiency at distinct levels of efficiency from publicly-available information, as well as information gathered in manufacturer interviews that is supplemented and verified through technology reviews. The reverse-engineering approach involves testing products for efficiency and determining cost from a detailed bill of materials (BOM) derived from reverse engineering representative products. The efficiency values range from that of a least-efficient furnace sold today (*i.e.,* the baseline) to the maximum technologically feasible efficiency level. At each efficiency level examined, DOE determines the manufacture production cost (MPC) and MSP; the relationship between efficiency levels and MPC is referred to as a cost-efficiency curve.

DOE conducted the engineering analysis for residential furnaces using a combination of the efficiency-level and the reverse-engineering approach. More specifically, DOE identified the efficiency levels for analysis and then used the reverse-engineering approach to determine the technologies used and the associated manufacturing costs at those levels. In the residential furnace market, manufacturers may use slight variations on designs to achieve a given efficiency level. The benefit of using the efficiency level approach is that it allows DOE to examine products at each efficiency level regardless of the specific design options that manufacturers use to achieve that level, so the analysis can account for variations in design. Using the reverse-engineering approach to estimate a product cost at each efficiency level allows DOE to analyze actual models as the basis for developing the MPCs.

For the standby mode and off mode analyses, DOE adopted a design option approach, which allowed for the calculation of incremental costs through the addition of specific design options to a baseline model. DOE decided on this approach because it did not have sufficient data to execute an efficiency-level analysis, as manufacturers typically do not rate or publish data on the standby mode and/or off mode energy consumption of their products. As such, DOE was not able to conduct a reverse-engineering approach due to a lack of definitive knowledge of the electrical energy consumption of products on the market. Also, the design options used to obtain higher efficiencies were composed of purchased parts, so obtaining price quotes on these electrical components was more accurate than attempting to determine their manufacturing costs via a reverse-engineering analysis.

See chapter 5 of the NOPR TSD for additional details about the engineering analysis.

1. Efficiency Levels

As noted above, for analysis of amended AFUE standards, DOE used an efficiency-level approach in combination with a reverse-engineering approach to identify the technology options needed to reach incrementally higher efficiency levels. DOE physically tore down newly manufactured furnaces for its analysis. Prior to teardown, all of the furnaces were tested to verify their AFUE ratings and determine their standby mode and off mode power consumption (in watts). From the market analysis, DOE was able to identify the most common AFUE ratings of NWGF and MHGF on the market and used this information to select AFUE efficiency levels for analysis. After identifying AFUE efficiency levels for analysis, DOE used the reverse-engineering approach (section IV.A.2) to determine the MPC at each AFUE efficiency level identified for analysis.

For the analysis of amended standby mode and off-mode energy conservation standards, DOE used a design-option approach to identify the efficiency levels that would result from implementing certain design options for reducing power consumption in standby mode and off mode.

a. Baseline Efficiency Level and Product Characteristics

DOE selected baseline units typical of the least-efficient commercially-available residential furnaces. DOE selected baseline units as reference points for both NWGF and MHGF, against which it measured changes resulting from potential amended energy conservation standards. The baseline unit in each product class represents the basic characteristics of products in that class. Additional details on the selection of baseline units may be found in chapter 5 of the NOPR TSD.

DOE uses the baseline unit for comparison in several phases of the analyses, including the engineering analysis, LCC analysis, PBP analysis, and the NIA. To determine energy savings that will result from an amended energy conservation standard, DOE compares energy use at each of the higher energy efficiency levels to the energy consumption of the baseline unit. Similarly, to determine the changes in price to the consumer that will result from an amended energy conservation standard, DOE compares the price of a baseline unit to the price of a unit at each higher efficiency level.

When calculating the price of a baseline furnace and comparing it to the price of units at each higher efficiency level, DOE factored in future changes to the indoor blower motor baseline design option resulting from the 2014 furnace fans rulemaking,[23] which sets new baseline efficiency levels for furnace fans requiring compliance in the year 2019. Specifically, a level effectively requiring constant torque brushless permanent magnet (BPM) motors as the minimum standard indoor blower motor technology option for NWGF units, and improved primary split capacitor (PSC) motors as the minimum standard technology option for MHGF units, will be enforced beginning in 2019. As such, when compliance is required for this rulemaking, constant torque BPM motors will be the baseline design feature for NWGF units, and improved PSC motors will be the baseline design feature for MHGF units. DOE has included constant torque BPM motors and improved PSC motors in the MPCs for NWGF and MHGF units, respectively. The current and expected baseline motor types are listed in Table IV.1.

[23] For more information on the Furnace Fans Rulemaking, see the DOE Furnace Fans Rulemaking Web page at: *http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/41.*

TABLE IV.1—BASELINE BLOWER MOTOR TYPES

[Current and expected in 2019]

Product class	Current typical baseline blower motor type	Expected typical baseline blower motor type starting in 2019
NWGF	PSC	Constant-Torque BPM.
MHGF	PSC	Improved PSC.

Currently, the baseline indoor blower motor design option for all residential furnace types is a PSC motor. From here, the next step up is an improved PSC motor, which consumes less energy during fan operation than a standard PSC motor. As compared to PSC motors, BPM motors offer further efficiency improvements. BPM motors feature a completely redesigned inner drive mechanism, as compared to PSC motors, which significantly reduces electricity wasted as heat during fan operation. The basic type of BPM motor is a constant torque BPM motor, which accepts a specified number of torque commands from an outside control source. A second type of BPM motor is a constant airflow BPM motor, which is similar to a constant torque BPM motor, but allows for more precise operational commands. Constant airflow BPM motors accept precise airflow commands from an outside control source, which allow it to adjust the building airflow to a wide range of operational demands.

Table IV.2 presents the baseline AFUE levels identified for each product class of furnaces. The baseline AFUE levels analyzed represent the minimum AFUE standards that will be required starting on November 19, 2015, as a result of the November 2007 final rule.

TABLE IV.2—BASELINE RESIDENTIAL FURNACE AFUE EFFICIENCY LEVELS

Product class	AFUE (%)
Non-Weatherized Gas-Fired.	80
Mobile Home Gas-Fired	80

For the standby mode and off-mode analysis, DOE identified baseline components as those that consume the most electricity during the operation of those modes. Since it would not be practical for DOE to test every furnace on the market to determine the baseline efficiency, and since manufacturers do not currently report standby mode and off mode energy consumption, DOE ''assembled'' the most consumptive baseline components from the models tested to model the electrical system of a furnace with the expected maximum system standby mode and off mode power consumption observed during testing of furnaces. The baseline standby mode and off-mode consumption levels used in the NOPR analysis are presented in Table IV.3.

TABLE IV.3—BASELINE STANDBY MODE AND OFF MODE POWER CONSUMPTION FOR NWGF AND MHGF

Component	Standby mode and off-mode power consumption (watts)
Transformer	4
ECM Blower Motor (includes controls)	3
Controls/Other	4
Total (watts)	11

b. Other Energy Efficiency Levels

Table IV.4 through Table IV.5 show the efficiency levels DOE selected for analysis of amended AFUE standards, along with a description of the typical technological change at each level.

TABLE IV.4—AFUE EFFICIENCY LEVELS FOR NON-WEATHERIZED GAS-FIRED FURNACES

Efficiency level EL	AFUE (%)	Technology options
0—Baseline	80	Baseline.
1	90	EL0 + Secondary condensing heat exchanger.
2	92	EL1 + Increased heat exchanger area.
3	95	EL2 + Increased heat exchanger area.
4—Max-Tech	98	EL3 + Step-modulating combustion + Increased heat exchanger area.

TABLE IV.5—AFUE EFFICIENCY LEVELS FOR MOBILE HOME FURNACES

Efficiency level	AFUE (%)	Technology options
0—Baseline	80	Baseline.
1	92	EL0 + Secondary condensing heat exchanger +.
2	95	EL1 + Increased heat exchanger area.
3—Max-Tech	97	EL2 + Step-modulating combustion + Increased heat exchanger area.

In addition to the technology options listed in Table IV.4 and Table IV.5, DOE considered certain enhanced design features that may be chosen for consumer comfort or to reduce electrical energy consumption during furnace operating periods. These enhancements are listed in Table IV.6.

TABLE IV.6—DESIGN FEATURES NOT DIRECTLY INCLUDED IN ANALYSIS OF AFUE EFFICIENCY LEVELS

Design feature	Baseline option *	Enhanced option
NWGF Indoor Blower Motor	Constant Torque brushless permanent magnet (BPM) motor.	Constant Speed motor.
MHGF Indoor Blower Motor	Improved PSC Motor	Constant Torque BPM motor. Constant Airflow BPM motor.
Combustion system	Single stage combustion	Two-stage modulating combustion (includes two-stage gas valve, 2-speed inducer assembly, upgraded pressure switch, and additional controls and wiring).

* The baseline design options listed for NWGF and MHGF indoor blower motors will not become effective until 2019 when the 2014 furnace fan rulemaking mandates new efficiency standards for furnace fans.

Indoor blower motors can be either improved PSC motors, constant torque BPM motors, or constant airflow BPM motors. As compared to constant torque BPM and improved PSC motors, which operate at design-specific torque settings, constant airflow BPM motors can operate at a wide range of specific speed commands. As a result, constant airflow BPM motors can adjust airflow to different building conditions better than constant torque BPM and improved PSC motors, and may be chosen for enhanced consumer comfort. Constant airflow BPM motors are also the current standard motor type at the max-tech AFUE level for both NWGF and MHGF units. This is because precise airflow adjustments are needed in order to match the wide range of heating rates offered by modulating combustion systems, which are used to reach the max-tech AFUE levels in both NWGF and MHGF units.

The combustion system baseline design feature for mobile home gas furnaces is a single-stage combustion system, which includes a single-stage gas valve and a 1-speed inducer fan assembly. During building warm-up periods, there may be a delay between when the target building temperature is reached, and when the thermostat detects this condition and sends a signal to the furnace to switch off. As a result, the furnace operates for a longer amount of time than needed and warms the building beyond the target temperature, which is uncomfortable for the building occupants and consumes more energy than is necessary. To improve comfort and save energy, a two-stage modulating combustion system can be used in place of a 1-stage combustion system. A two-stage combustion system includes a two-stage gas valve paired with a 2-speed combustion inducer fan, both of which serve to decrease the heating rate as the target temperature is approached. This decrease in heating rate can diminish any overshoot of the target building temperature, should the thermostat delay signaling the furnace to switch off once the proper temperature has been reached. By stabilizing the heating rate during warm-up, the furnace is able to achieve the target temperature more precisely, which improves comfort and reduces extraneous energy consumption. Because the furnace fans energy conservation standards will likely require that NWGF incorporate two-stage performance, DOE has included two-stage as the design for NWGF in this analysis.

Two-stage modulating combustion system design was one of the technology options DOE considered in the engineering analysis for improving AFUE, although this has been shown in some products to have a minor to negligible effect. In addition to improving AFUE, two-stage combustion allows the furnace to reduce its heating load when approaching the target indoor air temperature, which helps to prevent the conditioned space from becoming too hot, thus improving the comfort of building occupants. Based on market analysis, DOE determined that two-stage combustion is a common design feature in residential furnaces. However, due to its high cost relative to other technologies that can improve AFUE, DOE determined it is primarily offered to consumers as a comfort feature rather than for its efficiency benefits.

In addition to analyzing efficiency levels based on design options, DOE considered whether changes to the residential furnaces and boilers test procedure, as proposed by the February 2015 test procedure NOPR would necessitate changes to the AFUE levels being analyzed. The primary change proposed in the test procedure included updating the incorporation by reference to ASHRAE 103–2007. As discussed in the February 2015 test procedure NOPR, adopting ASHRAE 103–2007 would not be expected to change the AFUE rating for single-stage products and would result in a *de minimis* increase in the AFUE ratings for two-stage and modulating non-condensing products. Adopting ASHRAE 103–2007 provisions was assessed to have no statistically significant impact on the AFUE for condensing products. DOE has tentatively determined that this amendment to the test procedure would not be substantial enough to merit a revision of the proposed AFUE efficiency levels for residential furnaces.

Table IV.7 shows the efficiency levels DOE selected for the analysis of standby mode and off mode standards, along with a description of the typical technological change at each level.

''Standby mode'' and ''off mode'' power consumption are defined in the DOE test procedure for residential furnaces and boilers. DOE defines ''standby mode'' as ''the condition during the heating season in which the furnace or boiler is connected to the power source, and neither the burner, electric resistance elements, nor any electrical auxiliaries such as blowers or pumps, are activated.'' (10 CFR part 430, subpart B, appendix N, section 2.8) ''Off mode'' is defined as ''the condition during the non-heating season in which the furnace or boiler is connected to the power source, and neither the burner, electric resistance elements, nor any electrical auxiliaries such as the blowers or pumps, are activated.'' (10 CFR part 430, subpart B, appendix N, section 2.6) A ''seasonal off switch'' is defined as ''the switch on the furnace or boiler that, when activated, results in a measurable change in energy consumption between the standby and off modes.'' (10 CFR part 430, subpart B, appendix N, section 2.7.)

Through reviewing product literature and discussing with manufacturers, DOE has found that furnaces generally do not have a seasonal off switch that would be used to turn the product off during the off season. Manufacturer stated that if a switch is included with a product, it is left in the on position during the non-heating season because the indoor blower motor in the furnace is needed to move air for the AC side of the home's HVAC system and that the switch is typically used only as a service or repair switch. Therefore, DOE

assumed that the standby mode and the off mode power consumption for residential furnaces are equal. DOE requests comment on the efficiency levels analyzed for standby mode and off mode, and on the assumption that standby mode and off mode energy consumption (as defined by DOE) would be equal. This is identified as issue 1 in section VII.E, ''Issues on Which DOE Seeks Comment.''

TABLE IV.7—STANDBY MODE AND OFF MODE EFFICIENCY LEVELS FOR NON-WEATHERIZED AND MOBILE HOME GAS-FIRED FURNACES

Efficiency level EL	Standby mode and off mode power consumption (W)	Technology options
0—Baseline	11	Linear Power Supply.
1	9.5	Linear Power Supply with Low-Loss Transformer (LLTX).
2	9.2	Switching Mode Power Supply.
3—Max-Tech	8.5	Switching Mode Power Supply with LLTX.

2. Cost-Assessment Methodology

At the start of the engineering analysis, DOE identified the energy efficiency levels associated with residential furnaces on the market using data gathered in the market assessment. DOE also identified the technologies and features that are typically incorporated into products at the baseline level and at the various energy efficiency levels analyzed above the baseline. Next, DOE selected products for physical teardown analysis having characteristics of typical products on the market at the representative input capacity. DOE gathered information by performing a physical teardown analysis (see section IV.C.2.a) to create detailed BOMs, which included all components and processes used to manufacture the products. DOE used the BOMs from the teardowns as an input to a cost model, which was then used to calculate the MPC for products at various efficiency levels spanning the full range of efficiencies from the baseline to the maximum technology achievable (''max-tech'') level.

During the development of the engineering analysis, DOE held interviews with manufacturers to gain insight into the residential furnace industry, and to request feedback on the engineering analysis and assumptions that DOE used. DOE used the information gathered from these interviews, along with the information obtained through the teardown analysis, to refine the assumptions and data used in the cost model for this rulemaking. Next, DOE derived manufacturer markups using publicly-available residential furnace industry financial data in conjunction with manufacturers' feedback. The markups were used to convert the MPCs into MSPs. Further information on the analytical methodology is presented in the subsections below. For additional detail, see chapter 5 of the NOPR TSD.

a. Teardown Analysis

To assemble BOMs and to calculate the manufacturing costs for the different components in residential furnaces, DOE disassembled multiple units into their base components and estimated the materials, processes, and labor required for the manufacture of each individual component, a process referred to as a ''physical teardown.'' Using the data gathered from the physical teardowns, DOE characterized each component according to its weight, dimensions, material, quantity, and the manufacturing processes used to fabricate and assemble it.

DOE also used a supplementary method, called a ''virtual teardown,'' which examines published manufacturer catalogs and supplementary component data to estimate the major physical differences between a product that was physically disassembled and a similar product that was not. For supplementary virtual teardowns, DOE gathered product data such as dimensions, weight, and design features from publicly-available information, such as manufacturer catalogs. The NOPR teardown analysis included a total of 62 physical and virtual teardowns of residential furnaces. These teardowns are broken down among equipment classes in Table IV.8.

TABLE IV.8—RESIDENTIAL FURNACE TEARDOWNS BY EQUIPMENT CLASS

Equipment class	Physical	Virtual
Non-weatherized Gas-Fired	26	32
Mobile Home Gas-Fired	6	0

The teardown analysis allowed DOE to identify the technologies that manufacturers typically incorporate into their products, along with the efficiency levels associated with each technology or combination of technologies. The end result of each teardown is a structured BOM, which DOE developed for each of the physical and virtual teardowns. The BOMs incorporate all materials, components, and fasteners (classified as either raw materials or purchased parts and assemblies), and characterize the materials and components by weight, manufacturing processes used, dimensions, material, and quantity. The BOMs from the teardown analysis were then used as inputs to the cost model to calculate the MPC for each product that was torn down. The MPCs resulting from the teardowns were then used to develop an industry average MPC for each efficiency level of each product class analyzed.

More information regarding details on the teardown analysis can be found in chapter 5 of the NOPR TSD.

b. Cost Model

The cost model is a spreadsheet that converts the materials and components in the BOMs into dollar values based on the price of materials, average labor rates associated with manufacturing and assembling, and the cost of overhead and depreciation, as determined based

on manufacturer interviews and DOE expertise. To convert the information in the BOMs to dollar values, DOE collected information on labor rates, tooling costs, raw material prices, and other factors. For purchased parts, the cost model estimates the purchase price based on volume-variable price quotations and detailed discussions with manufacturers and component suppliers. For fabricated parts, the prices of raw metal materials [24] (*e.g.,* tube, sheet metal) are estimated on the basis of 5-year averages (from 2009 to 2014). The cost of transforming the intermediate materials into finished parts is estimated based on current industry pricing.[25]

c. Manufacturing Production Costs

Once the cost estimates for all the components in each teardown unit were finalized, DOE totaled the cost of materials, labor, and direct overhead used to manufacture a product in order to calculate the MPC. The total cost of the product was broken down into two main costs: (1) The full MPC; and (2) the non-production cost, which includes selling, general, and administration (SG&A) expenses, the cost of research and development, and interest from borrowing for operations or capital expenditures. DOE estimated the MPC at each efficiency level considered for each product class, from the baseline through the max-tech. After incorporating all calculations and determinations into the cost model, DOE calculated the percentages attributable to each element of total production cost (*i.e.,* materials, labor, depreciation, and overhead). These percentages are used to validate the assumptions by comparing them to manufacturers' actual financial data published in annual reports, along with feedback obtained from manufacturers during interviews. DOE uses these production cost percentages in the manufacturer impact analysis (MIA) (see section IV.J).

In estimating the MPC, DOE took into account the various furnace design enhancements offered for consumer comfort or to reduce electrical energy consumption during furnace operating periods (see Table IV.6 in section IV.C.1.b of this NOPR). In order to accommodate these additional design features into the MPC estimates, DOE calculated MPC estimates both with and without these added design features.

All of the furnaces torn down during the teardown analysis used PSC indoor blower motors, except for at the max-tech efficiency level, where constant airflow BPM motors were used. As discussed previously, constant torque BPM indoor blower motors were considered the baseline design for NWGF units since the 2014 furnace fans rule will set a level [26] that effectively requires the use of this technology before the compliance date of this residential furnaces rulemaking. Similarly, improved PSC indoor blower motors were considered as the baseline design feature for MHGF units as a result of the requirements set in the 2014 furnace fans rulemaking.[26] DOE used the results of the furnace fans rulemaking to calculate the increase in furnace MPC needed to accommodate constant torque BPM and improved PSC indoor blower motors into NWGF and MHGF units, respectively, in place of the PSC motors present in the tear down units. In addition, DOE considered the increases in MPC needed to accommodate constant airflow BPM indoor blower motors. Motor type was assigned in the LCC analysis based on the market penetration of each type of motor at different efficiency levels. At the max-tech efficiency levels for both NWGF and MHGF units, DOE determined that constant airflow BPM motors are a required technology option. As such, the incremental MPC changes of using a constant airflow BPM indoor blower motor in place of a PSC motor were included in the MPCs for NWGF and MHGF units at their respective max-tech AFUE levels.

In addition to estimating the impacts on MPC of different blower motor design features, DOE also estimated the impact on MPC of switching from a single-stage to a two-stage combustion system. The cost to change from a single-stage to a two-stage combustion system includes the cost of a two-stage gas valve, a two-speed inducer assembly, upgraded pressure switch, and additional controls and wiring. Generally, these costs are completely independent of input capacity and AFUE. As such, for two-stage combustion, DOE developed a single cost adder to apply to the MPCs for all furnace input capacities and efficiency levels.

Table IV.9 and Table IV.10 present DOE's estimates of the MPCs by AFUE efficiency level at the representative input capacity (80,000 Btu/hr) for both the NWGF and MHGF furnaces in this rulemaking. The MPCs presented incorporate the appropriate design characteristics of NWGF and MHGF furnaces at each efficiency level. These design characteristics include a single-stage gas valve (and corresponding single-stage components) for all MHGF efficiency levels, a two-stage gas valve (and corresponding components) for all NWGF levels (except for the max-tech level, which incorporates a fully modulating (or ''step modulating'') design), a constant-torque BPM blower motor for NWGF (except for the max-tech level, where the blower motor is a constant-airflow BPM motor), and an improved permanent split capacitor (PSC) blower motor for all MHGF efficiency levels. Further discussion of the MPCs that incorporate other design options (*e.g.,* two-stage modulating combustion and constant airflow BPM motors) is included in chapter 5 of the TSD.

TABLE IV.9—MANUFACTURER PRODUCTION COST FOR NON-WEATHERIZED GAS-FIRED FURNACES

Efficiency level	Efficiency level (AFUE) (%)	MPC * ($)	Incremental cost above baseline ($)
Baseline	80	360	.....
EL1	90	443	83
EL2	92	451	91
EL3	95	505	145

[24] American Metals Market, available at *http://www.amm.com/* (last accessed August 19, 2014).

[25] U.S. Department of Labor, Bureau of Labor Statistics, Produce Price Indices, available at *http://www.bls.gov/ppi/* (last accessed July 28, 2014).

[26] The Furnace Fans rule set a mandatory fan energy rating (FER) of .044*Qmax + 182 for NWGF units, .071*Qmax + 222 for non-condensing MHGF units, and .071*Qmax + 240 for condensing MHGF units, where Qmax equals the airflow through the furnace at the maximum airflow-control setting operating point. For more information, see the furnace fans rulemaking Web page at: *http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/41.*

TABLE IV.9—MANUFACTURER PRODUCTION COST FOR NON-WEATHERIZED GAS-FIRED FURNACES—Continued

Efficiency level	Efficiency level (AFUE) (%)	MPC * ($)	Incremental cost above baseline ($)
EL4	98	616	256

* The MPC for efficiency levels from Baseline through EL3 are for two-stage operation and incorporate a constant-torque BPM indoor blower motor. At EL4 DOE has determined that modulating operation and a constant-airflow BPM blower motor are present for NWGF furnaces.

TABLE IV.10—MANUFACTURER PRODUCTION COST FOR MOBILE HOME GAS-FIRED FURNACES

Efficiency level	Efficiency level (AFUE) (%)	MPC ($)	Incremental cost above baseline ($)
Baseline	80	323	.....
EL1	92	420	97
EL2	95	476	153
EL3	97	542	219

* The MPC for efficiency levels from Baseline through EL2 are for single-stage operation and incorporate an improved PSC indoor blower motor. At EL 3 DOE has determined that single stage operation and an improved PSC blower motor are present for MHGF furnaces.

Table IV.11 presents DOE's estimates of the incremental MPCs of each standby mode and off mode efficiency level for this rulemaking.

TABLE IV.11—INCREMENTAL MANUFACTURER PRODUCTION COST FOR NON-WEATHERIZED GAS-FIRED AND MOBILE HOME GAS-FIRED FURNACES STANDBY MODE AND OFF MODE

Efficiency level	Standby mode and off mode power consumption (W)	Incremental MPC ($)
Baseline	11	0
EL1	9.5	1.00
EL2	9.2	10.47
EL3	8.5	11.12

Chapter 5 of the NOPR TSD presents more information regarding the development of DOE's estimates of the MPCs for this rulemaking.

d. Cost-Efficiency Relationship

DOE's engineering analysis results may be portrayed as a cost-efficiency relationship. DOE created cost-efficiency curves representing the cost-efficiency relationships for both product classes that it examined (*i.e.,* NWGF and MHGF). To develop the cost-efficiency relationships for residential furnaces, DOE first calculated a market-share-weighted baseline MPC representative of all baseline residential furnaces torn down in the teardown analysis. DOE then took the calculated MPCs of all of the furnaces at efficiency levels above the baseline that were torn down, and subtracted the cost of the manufacturer-specific baseline counterpart that was torn down in order to develop a data set of the incremental costs for each manufacturer to get from the baseline efficiency level to each higher efficiency level for which one of their furnaces was torn down. DOE developed an average incremental cost for each efficiency level analyzed from the incremental data, and then added the average incremental costs to the market-share-weighted baseline MPC to calculate the market-share-weighted-average MPCs for the higher efficiency levels. Additional details on how DOE developed the cost-efficiency relationships and related results are available in chapter 5 of the NOPR TSD, which also presents these cost-efficiency curves in the form of energy efficiency versus MPC.

The results indicate that cost-efficiency relationships are nonlinear. In other words, as efficiency increases, manufacturing becomes more difficult and more costly. A large cost increase is evident between the non-condensing (80% AFUE) and condensing (90% AFUE) efficiency levels due to the requirement for a heat exchanger that can withstand corrosive condensate, which is typically achieved through the addition of a secondary heat exchanger in condensing furnaces. A significant cost increase also occurs between the 95% and 98% AFUE levels due to the need for modulating combustion components paired with a constant airflow BPM motor at 98% AFUE.

e. Manufacturer Markup

To account for manufacturers' non-production costs and profit margin, DOE applies a non-production cost multiplier (the manufacturer markup) to the full MPC. The resulting MSP is the price at which the manufacturer can recover all production and non-production costs and earn a profit. To meet new or amended energy conservation standards, manufacturers typically introduce design changes to their product lines that increase manufacturer production costs. Depending on the competitive environment for these particular products, some or all of the increased production costs may be passed from manufacturers to retailers and eventually to consumers in the form

of higher purchase prices. As production costs increase, manufacturers typically incur additional overhead. The MSP should be high enough to recover the full cost of the product (*i.e.,* full production and non-production costs) and yield a profit.

The manufacturer markup has an important bearing on profitability. A high markup under a standards scenario suggests manufacturers can readily pass along the increased variable costs and some of the capital and product conversion costs (the one-time expenditures) to consumers. A low markup suggests that manufacturers will not be able to recover as much of the necessary manufacturing investments.

To calculate the manufacturer markups, DOE used 10–K reports [27] submitted to the U.S. Securities and Exchange Commission (SEC) by six publicly-owned residential furnace companies. The financial figures necessary for calculating the manufacturer markup are net sales, costs of sales, and gross profit. For furnaces, DOE averaged the financial figures spanning the years 2009 to 2013 in order to calculate the markups. DOE used this approach because amended standards may transform high-efficiency products (which currently are considered premium products) into typical products. DOE acknowledges that numerous residential furnace manufacturers are privately-held companies and do not file SEC 10–K reports. In addition, while the publicly-owned companies file SEC 10–K reports, the financial information summarized may not be exclusively for the residential furnace portion of their business and can also include financial information from other product sectors, whose margins could be quite different from the residential furnace industries. DOE discussed the manufacturer markup with manufacturers during interviews, and used product specific feedback on market share, markups and cost structure from manufacturers to adjust the markup calculated through review of SEC 10–K reports. See chapter 12 of the NOPR TSD for more details about the manufacturer markup calculation.

f. Manufacturer Interviews

Throughout the rulemaking process, DOE has sought and continues to seek feedback and insight from interested parties that would improve the information used in its analyses. DOE interviewed manufacturers representing 35% of the product listings on the NWGF market and 50% of the product listings on the MHGF market as a part of the NOPR manufacturer impact analysis (see section IV.J.3). During the interviews, DOE sought feedback on all aspects of its analyses for residential furnaces. DOE discussed the analytical assumptions and estimates, cost model, and cost-efficiency curves with residential furnace manufacturers. DOE considered all the information manufacturers provided when refining the cost model and assumptions. However, DOE incorporated equipment and manufacturing process figures into the analysis as averages in order to avoid disclosing sensitive information about individual manufacturers' products or manufacturing processes. More details about the manufacturer interviews are contained in chapter 12 of the NOPR TSD.

D. Markups Analysis

DOE uses distribution channel markups and sales taxes (where appropriate) to convert the manufacturer production cost estimates from the engineering analysis to consumer prices, which are then used in the LCC, PBP, and the manufacturer impact analyses. The markups are multipliers that are applied to the purchase cost at each stage in the distribution channel.

DOE characterized two distribution channels to describe how NWGFs and MHGFs pass from manufacturers to residential consumers: Replacement market and new construction. The replacement market channel is characterized as follows:

Manufacturer → Wholesaler → Mechanical contractor → Consumer

The new construction distribution channel is characterized as follows:

Manufacturer → Wholesaler → Mechanical contractor → General contractor → Consumer

For NWGFs and MHGFs installed in commercial buildings,[28] DOE understands that, in general, the on-site contractor staff purchases equipment directly from the wholesaler and performs the installation. Therefore, DOE used a distribution channel in which the product goes from the manufacturer to a wholesaler and then to the commercial consumer through a national account:

Manufacturer → Wholesaler → Consumer

The derivation of the manufacturer markup is discussed in section IV.C. To develop markups for the parties involved in the distribution of the product, DOE utilized several sources, including: (1) The Heating, Air-Conditioning & Refrigeration Distributors International (HARDI) 2013 Profit Report [29] (to develop wholesaler markups); (2) the Air Conditioning Contractors of America's (ACCA) 2005 financial analysis on the heating, ventilation, air-conditioning, and refrigeration (HVACR) contracting industry [30] (to develop mechanical contractor markups); and (3) U.S. Census Bureau 2007 Economic Census data [31] on the residential and commercial building construction industry (to develop general contractor markups).

For wholesalers and contractors, DOE developed baseline and incremental markups based on the product markups at each step in the distribution chain. The baseline markup relates the change in the manufacturer selling price of baseline models to the change in the consumer purchase price. The incremental markup relates the change in the manufacturer selling price of higher-efficiency models (the incremental cost increase) to the change in the consumer purchase price.

In addition to the markups, DOE derived state and local taxes from data provided by the Sales Tax Clearinghouse.[32] These data represent weighted average taxes that include county and city rates. DOE derived shipment-weighted average tax values for each region considered in the analysis.

Chapter 6 of the NOPR TSD provides further detail on the estimation of markups.

E. Energy Use Analysis

The purpose of the energy use analysis is to assess the energy requirements of residential furnaces at different efficiencies in representative U.S. single-family homes, multi-family residences, and commercial buildings, and to assess the energy savings

[27] U.S. Securities and Exchange Commission, Annual 10–K Reports (various years between 2009 and 2013), available at *http://sec.gov.*

[28] DOE estimates that three percent of NWGFs are installed in commercial buildings. See section IV.E for further discussion.

[29] Heating, Air Conditioning & Refrigeration Distributors International 2013 Profit Report, available at *http://www.hardinet.org/Profit-Report* (last accessed Aug. 19, 2014).

[30] Air Conditioning Contractors of America (ACCA), Financial Analysis for the HVACR Contracting Industry (2005), available at *http://www.acca.org/store/* (last accessed Aug. 19, 2014).

[31] U.S. Census Bureau, 2007 Economic Census Data, available at: *http://www.census.gov/econ/* (last accessed April 10, 2014).

[32] Sales Tax Clearinghouse Inc., State Sales Tax Rates Along with Combined Average City and County Rates (2014) available at *http://thestc.com/STrates.stm* (last accessed May 27, 2014).

potential of increased furnace efficiency. DOE estimated the annual energy consumption of NWGFs and MHGFs at specified energy efficiency levels across a range of climate zones, building characteristics, and heating applications. The annual energy consumption includes the natural gas, liquid petroleum gas (LPG), and electricity used by the furnace.

DOE's analysis estimated the energy use of NWGFs and MHGFs in the field (*i.e.,* as they are actually used by consumers). In contrast to the DOE test procedure, which provides standardized results that can serve as the basis for comparing the performance of different appliances used under the same conditions, the energy use analysis seeks to capture the range of operating conditions for NWGFs and MHGFs.

To determine the field energy use of residential furnaces used in homes, DOE established a sample of households using NWGFs and MHGFs from the Energy Information Administration's (EIA) 2009 Residential Energy Consumption Survey (RECS 2009).[33] DOE assumed that furnaces in residential buildings smaller than 11,250 sq. ft. are residential furnaces and that each building has one furnace. The RECS data provide information on the vintage of the home, as well as heating energy use in each household. DOE used the household samples not only to determine furnace annual energy consumption, but also as the basis for conducting the LCC and PBP analysis. DOE projected household weights and household characteristics in 2021, the first full year of compliance with any amended energy conservation standards for NWGFs and MHGFs. To characterize future new homes, DOE used a subset of homes that were built after 1990.

To determine the field energy use of NWGFs used in commercial buildings, DOE established a sample of buildings using NWGFs from EIA's 2003 Commercial Building Energy Consumption Survey (CBECS 2003),[34] which is the most recent such survey that is currently available. DOE assumed that 80 percent of furnaces in commercial buildings smaller than 10,000 sq. ft are residential non-weatherized gas furnaces and each building has one or more furnaces.

1. Active Mode

To estimate the annual energy consumption in active mode of furnaces meeting the considered efficiency levels, DOE first calculated the house heating load based on the RECS estimates of household furnace annual energy consumption.[35] DOE estimated the house heating load by reference to the existing furnace's characteristics, specifically its capacity [36] and efficiency (AFUE), as well as by the heat generated from the electrical components. The analysis assumes that homes with more than 5,000 square feet (about 10 percent of the sample) have two furnaces, with the heating load split evenly between them. This assumption decreases the energy use per furnace. The AFUE of the existing furnaces was determined using the furnace vintage (the year of installation of the product) from RECS and historical data on the market share of furnaces by AFUE (see section IV.E). DOE then used the house heating load to calculate the burner operating hours at each considered efficiency level, which are needed to calculate the fuel consumption and electricity consumption based on the DOE residential furnace test procedure.

DOE adjusted the energy use estimated for 2009 to ''normal'' weather by using long-term heating degree-day (HDD) data for each geographical region.[37] DOE also accounted for future climate trends based on *Annual Energy Outlook 2014* (*AEO* 2014) projections of HDD.[38] This adjustment results in approximately three percent lower building heating load from 2014 to 2021.

DOE accounted for change in building shell characteristics and building size (square footage) between 2009 and 2021 by applying the building shell indexes in the National Energy Modeling System (NEMS) associated with Annual Energy Outlook 2014.[39] The indexes consider projected improvements in building thermal efficiency due to improvement in home insulation and other thermal efficiency practices, as well as projected increases in square footage. Application of the index results in nine percent lower building heating load from 2009 to 2021. EIA provides separate indexes for new buildings and existing buildings.

To calculate furnace fan electricity consumption, DOE accounted for field data from several sources (as described in chapter 8 of the NOPR TSD) on static pressures of duct systems, as well as airflow curves for furnace blowers from manufacturer literature. As noted in section IV.C, the furnace designs incorporate furnace fans that meet the standard that will take effect in 2019.[40]

To calculate electricity consumption for the inducer fan, ignition device, gas valve and controls, DOE used the calculation approach described in DOE's test procedure [41] as well as 2013 AHRI Directory of Certified Furnace Equipment and manufacturer product literature.[42]

Once annual energy use had been calculated, DOE disaggregated the total into monthly amounts, as described in chapter 8 of the NOPR TSD. This allows DOE to apply monthly energy prices in the LCC and PBP analysis.

Higher-efficiency furnaces reduce the operating costs for a consumer, which can lead to greater use of the furnace. A direct rebound effect occurs when a piece of equipment that is made more efficient is used more intensively, such that the expected energy savings from the efficiency improvement may not fully materialize. For the NOPR analysis, DOE examined a 2009 review of empirical estimates of the rebound effect for various energy-using products.[43] This review concluded that the econometric and quasi-experimental studies suggest a mean value for the direct rebound effect for household heating of around 20 percent. DOE also

[33] U.S. Department of Energy: Energy Information Administration, Residential Energy Consumption Survey: 2009 RECS Survey Data (2013), available at: *http://www.eia.gov/consumption/residential/data/2009/* (last accessed July 29, 2014).

[34] U.S. Department of Energy: Energy Information Administration, Commercial Buildings Energy Consumption Survey (2003), available at *http://www.eia.gov/consumption/commercial/data/2003/index.cfm?view=microdata*) (last accessed July 29, 2014).

[35] EIA estimated the equipment's annual energy consumption from the household's utility bills using conditional demand analysis.

[36] DOE's analysis accounts for the over-sizing of furnace capacity because the furnace capacity assignment is a function of historical shipments by furnace capacity, which reflects actual practice, as well as heating square footage and the outdoor design temperature for heating (*i.e.,* the temperature that is exceeded by the 30-year minimum average temperature 1 percent of the time).

[37] National Oceanic and Atmospheric Administration (NOAA), NNDC Climate Data Online (2009), available at *http://www7.ncdc.noaa.gov/CDO/CDODivisionalSelect.jsp* (last accessed July 29, 2014).

[38] The LCC and PBP analysis uses the climate projected for 2021, the first full year of compliance with potential amended furnace standards.

[39] U.S. Department of Energy, Energy Information Administration, Annual Energy Outlook 2014, available at *http://www.eia.gov/forecasts/aeo/pdf/0383(2014).pdf* (last accessed July 29, 2014).

[40] See Table 1 at: *http://www1.eere.energy.gov/buildings/appliance_standards/product.aspx/productid/42.*

[41] Found in 10 CFR Pt. 430, subpart B, appendix N.

[42] AHRI Directory of Certified Furnace Equipment, February 2013 (Available at: *http://www.ahridirectory.org/ahridirectory/pages/home.aspx*).

[43] Steven Sorrell, *et. al, Empirical Estimates of the Direct Rebound Effect: A Review,* 37 Energy Pol'y 1356–71 (2009).

examined a 2012 ACEEE paper [44] and a 2013 paper by Thomas and Azevedo.[45] Both of these publications examined the same studies that were reviewed by Sorrell, as well as Greening *et al,*[46] and identified methodological problems with some of the studies. The studies, believed to be most reliable by Thomas and Azevedo, show a direct rebound effect for heating products in the 1-percent to 15-percent range, while Nadel concludes that a more likely range is 1 to 12 percent, with rebound effects sometimes higher than this range for low-income households who could not afford to adequately heat their homes prior to weatherization. Based on DOE's review of these recent assessments (see chapter 10 of the NOPR TSD), DOE used a 15 percent rebound effect for NWGFs and MHGFs in this NOPR. Although a lower value might be warranted, DOE prefers to be conservative and not risk understating the rebound effect. DOE welcomes comment on its assessment of this effect on today's rulemaking.

2. Standby Mode and Off Mode

DOE calculated furnace standby mode and off mode electricity consumption for each technology option identified in the engineering analysis by multiplying the power consumption at each efficiency level by the number of standby mode and off mode hours. To calculate the annual number of standby mode and off mode hours for each sample household, DOE subtracted the estimated total furnace fan operating hours from the total hours in a year (8,760). The total furnace fan operating hours includes the furnace fan operating hours during heating, cooling and continuous fan modes.

See chapter 7 in the NOPR TSD for additional detail on the energy analysis for furnace standby mode and off mode operation.

F. Life-Cycle Cost and Payback Period Analysis

In determining whether an energy efficiency standard is economically justified, DOE considers the economic impact of potential standards on consumers. The effect of new or amended standards on individual consumers usually includes a reduction in operating cost and an increase in purchase cost. DOE used the following two metrics to measure consumer impacts:

- LCC (life-cycle cost) is the total consumer cost of an appliance or product, generally over the life of the appliance or product, including purchase and operating costs. The latter costs consist of maintenance, repair, and energy costs. Future operating costs are discounted to the time of purchase and summed over the lifetime of the appliance or product.
- PBP (payback period) measures the amount of time it takes consumers to recover the assumed higher purchase price of a more energy-efficient product through reduced operating costs.

For any given efficiency level, DOE measures the change in LCC relative to an estimate of the base-case efficiency level. The base-case estimate reflects the market in the absence of amended energy conservation standards, including market trends for equipment that exceeds the current energy conservation standards.

DOE analyzed the net effect of potential amended furnace standards on consumers by calculating the LCC and PBP for each household by efficiency level. Inputs to the LCC calculation include the installed cost to the consumer (purchase price, including sales tax where appropriate, plus installation cost), operating costs (energy expenses, repair costs, and maintenance costs), the lifetime of the product, and a discount rate. Inputs to the payback period calculation include the installed cost to the consumer and first-year operating costs.

DOE performed the LCC and PBP analyses using a spreadsheet model combined with Crystal Ball [47] to account for uncertainty and variability among the input variables. Each Monte Carlo simulation consists of 10,000 LCC and PBP calculations using input values that are either sampled from probability distributions and household samples or characterized with single point values. The analytical results include a distribution of 10,000 data points showing the range of LCC savings for a given efficiency level relative to the base case efficiency forecast. In performing an iteration of the Monte Carlo simulation for a given consumer, product efficiency is chosen based on its probability. If the chosen product efficiency is greater than or equal to the efficiency of the standard level under consideration, the LCC and PBP calculation reveals that a consumer is not impacted by the standard level. By accounting for consumers who already purchase more-efficient products, DOE avoids overstating the potential benefits from increasing product efficiency.

EPCA establishes a rebuttable presumption that a standard is economically justified if the Secretary finds that the additional cost to the consumer of purchasing a product complying with an energy conservation standard level will be less than three times the value of the energy (and, as applicable, water) savings during the first year that the consumer will receive as a result of the standard, as calculated under the test procedure in place for that standard. (42 U.S.C. 6295(o)(B)(ii)) For each considered efficiency level, DOE determines the value of the first year's energy savings by calculating the quantity of those savings in accordance with the applicable DOE test procedure, and multiplying that amount by the average energy price forecast for the year in which compliance with the amended standards would be required.

As discussed in section IV.E, DOE developed nationally-representative household samples from 2009 RECS, and a sample of commercial buildings using CBECS 2003. For each sampled building, DOE determined the energy consumption of the furnace and the appropriate energy prices in the area where the building is located.

DOE calculated the LCC and PBP for all furnace consumers as if the consumers were to purchase the product in the year that compliance with amended standards is required. At the time of preparation of the NOPR analysis, the expected issuance date for the final rule was in January 2016. EPCA also prescribes a five-year period between the standard's publication date and the compliance date, which leads to a compliance date of January 2021. (42 U.S.C. 6295(f)(4)(C)) For purposes of its analysis, DOE modelled furnaces purchased on or after this date as if they operated for a full year, beginning on January 1, 2021, and continuing thereafter.

1. Inputs to Installed Cost

The primary inputs for establishing the total installed cost are the baseline consumer product price, standard-level consumer price increases, and installation costs (labor and material cost). Baseline consumer prices and

[44] Steven Nadel, ''The Rebound Effect: Large or Small?'' ACEEE White Paper (August 2012) (Available at: *http://www.aceee.org/white-paper/rebound-effect-large-or-small).*

[45] Brinda Thomas & Ines Azevedo, *Estimating Direct and Indirect Rebound Effects for U.S. Households with Input–Output Analysis, Part 1: Theoretical Framework,* 86 Ecological Econ. 199–201 (2013), available at *http://www.sciencedirect.com/science/article/pii/S0921800912004764.*

[46] Lorna A. Greening, *et. al., Energy Efficiency and Consumption—The Rebound Effect—A Survey,* 28 Energy Pol'y 389–401 (2002).

[47] Crystal Ball is a commercial software program developed by Oracle and used to conduct stochastic analysis using Monte Carlo simulation. A Monte Carlo simulation uses random sampling over many iterations of the simulation to obtain a probability distribution of results. Certain key inputs to the analysis are defined as probability distributions rather than single-point values.

standard-level consumer price increases were determined by applying markups to manufacturer selling price estimates, including sales tax where appropriate. The installation cost is added to the consumer price to produce a total installed cost.

The manufacturer selling price estimated in the engineering analysis refers to the current price. Economic literature and historical data suggest that the real prices of many products may trend downward over time according to ''learning'' or ''experience'' curves. Experience curve analysis focuses on entire industries and aggregates over many causal factors that may not be well characterized.[48] For example, experience curve analysis implicitly includes factors such as efficiencies in labor, capital investment, automation, materials prices, distribution, and economies of scale at an industry-wide level. An experience curve relates the product price to the cumulative production of the product. Using a given set of historical data, DOE derived an experience rate that expresses the percentage reduction in price for each doubling of cumulative production.

For the default price trend for residential furnaces, DOE derived an experience rate based on an analysis of long-term historical data. As a proxy for manufacturer price, DOE used Producer Price Index (PPI) data for warm-air furnace equipment from the Bureau of Labor Statistics for 1990 through 2013.[49] An inflation-adjusted PPI was calculated using the implicit price deflators for GDP for the same years. To calculate an experience rate, DOE performed a least-squares power-law fit on the inflation-adjusted PPI versus cumulative shipments of residential furnaces, based on a corresponding series for total shipments of residential furnaces (see section IV.G of this NOPR for discussion of shipments data). A detailed discussion of DOE's derivation of the experience rate is provided in appendix 8C of the NOPR TSD.

DOE then derived a price factor index, with the price in 2013 equal to 1, to forecast prices in 2021 for the LCC and PBP analysis, and, for the NIA, for each subsequent year through 2050. The index value in each year is a function of the experience rate and the cumulative production through that year. To derive the latter, DOE combined the historical shipments data with projected shipments from the base-case projection made for the NIA (see section IV.H of this NOPR). Application of the index results in prices that decline 6 percent from 2013 to 2021.

2. Installation Cost

Installation cost includes labor, overhead, and any miscellaneous materials and parts needed to install the equipment.

DOE conducted a detailed analysis of installation costs when a non-condensing gas furnace is replaced with a condensing gas furnace, with particular attention to venting issues in replacement applications. DOE gave separate consideration to the cost of installing a condensing gas furnace in new homes. As part of its analysis, DOE used information in the 2009 RECS to estimate the location of the furnace in each of the sample homes.

First, DOE estimated basic installation costs that are applicable to both replacement and new home applications. These costs, which apply to both condensing and non-condensing gas furnaces, include putting in place and setting up the furnace, gas piping, ductwork, electrical hookup, permit and removal/disposal fees, and where applicable, additional labor hours for an attic installation.

For replacement applications, DOE then included a number of additional costs (''adders'') for a fraction of the sample households. For non-condensing gas furnaces, these additional costs included updating flue vent connectors, vent resizing, and chimney relining. For condensing gas furnaces, DOE included new adders for flue venting (PVC), combustion air venting (PVC), concealing vent pipes, addressing an orphaned water heater (by updating flue vent connectors, vent resizing, or chimney relining), and condensate removal. Freeze protection is accounted for in the cost of condensate removal. Table IV.12 shows the fraction of installations impacted and the average cost for each of the adders. The estimate of the fraction of installations impacted was based on the furnace location (primarily derived from information in the 2009 RECS) and a number of other sources that are described in chapter 8 of the NOPR TSD. The costs were based on 2013 *RS Means* data.[50] Chapter 8 of the NOPR TSD describes in detail how DOE estimated the cost for each installation item.

TABLE IV.12—ADDITIONAL INSTALLATION COSTS FOR NON-WEATHERIZED GAS FURNACES IN REPLACEMENT APPLICATIONS

Installation cost adder	Replacement installations impacted	Average cost (2013$)
Non-Condensing Furnaces		
Updating Flue Vent *	2%	$555.95
Condensing Furnaces		
New Flue Venting (PVC)	100%	$296.12
Combustion Air Venting (PVC)	59	295.36
Concealing Vent Pipes	9	360.25
Orphaned Water Heater	19	672.09
Condensate Removal	100	70.06

* For a fraction of installation, this cost includes the commonly vented water heater vent connector, relining chimney, and vent resizing.

DOE also included installation adders for new construction installations. For non-condensing furnaces, the only adder is a new flue vent (metal, including a fraction with stainless steel venting). For condensing gas furnaces,

[48] Margaret Taylor & Sydny K. Fujita, Accounting for Technological Change in Regulatory Impact Analyses: The Learning Curve Technique. (Lawrence Berkeley Nat'l Lab., 2013) available at: *http://eetd.lbl.gov/publications/accounting-for-technological-change-0.*

[49] U.S. Department of Labor, Bureau of Labor Statistics, Produce Price Indices Series ID PCU333415333415C, available at *http://www.bls.gov/ppi/* (last accessed July 28, 2014).

[50] RS Means Company Inc., *RS Means Residential Cost Data.* Kingston, MA (2013).

the adders include a new flue vent, combustion air venting for direct vent installations, accounting for a commonly vented water heater, and condensate removal. Table IV.13 shows the estimated fraction of new home installations impacted and the average cost for each of the adders. For details, see chapter 8 of the NOPR TSD.

TABLE IV.13—ADDITIONAL INSTALLATION COSTS FOR NON-WEATHERIZED GAS FURNACES IN NEW HOME APPLICATIONS

Installation cost adder	New construction installations impacted	Average cost (2013$)
Non-Condensing Furnaces		
New Flue Vent (Metal) *	100%	$1,273.78
Condensing Furnaces		
New Flue Venting (PVC)	100%	$207.83
Combustion Air Venting (PVC)	60	205.77
Concealing Vent Pipes	6	125.28
Orphaned Water Heater	45	987.60
Condensate Removal	100	47.46

* For a fraction of installation, this cost includes the commonly vented water heater vent connector.

DOE included basic installation costs for mobile home gas furnaces similar to those described above for non-weatherized gas furnaces. DOE also included costs for venting and condensate removal. Freeze protection is accounted for in the cost of condensate removal. In addition, DOE considered the cost of dealing with space constraints that could be encountered when a condensing furnace is installed.

3. Inputs to Operating Costs

a. Energy Consumption

For each sample household, DOE determined the energy consumption for a furnace at different efficiency levels using the approach described above in section IV.E.

As discussed in section IV.E, DOE is taking into account the rebound effect associated with more-efficient residential furnaces. The take-back in energy consumption associated with the rebound effect provides consumers with increased value (*e.g.,* enhanced comfort associated with a cooler or warmer indoor environment). The increased comfort has a cost that is equal to the monetary value of the higher energy use. DOE could reduce the energy cost savings to account for the rebound effect, but then it would have to add the value of increased comfort in order to conduct a proper economic analysis. The approach that DOE uses—not reducing the energy cost savings to account for the rebound effect and not adding the value of increased comfort—assumes that the value of increased comfort is equal to the monetary value of the higher energy use. Although DOE cannot measure the actual value of increased comfort to the consumers, the monetary value of the higher energy use represents a lower bound for this quantity.

b. Energy Prices

Using the most current data from EIA on average energy prices in various States and regions,[51] [52] [53] DOE assigned an appropriate energy price to each household or commercial building in the sample, depending on its location (see chapter 8 of the NOPR TSD for details). Average electricity and natural gas prices from the EIA data were adjusted using seasonal marginal price factors to derive monthly marginal electricity and natural gas prices. For a detailed discussion of the development of marginal energy price factors, see appendix 8F of the NOPR TSD.

To estimate future prices, DOE used the projected annual changes in average residential and commercial natural gas, LPG, and electricity prices in the Reference case projection in AEO 2014.[54]

c. Maintenance and Repair Costs

Repair costs are associated with repairing or replacing components that have failed, whereas maintenance costs are associated with maintaining the proper operation of the equipment. DOE estimated the frequency of annual maintenance using data from RECS 2009 survey on the frequency with which owners of different types of furnaces perform maintenance.

DOE estimated maintenance and repair costs for residential furnaces at each considered efficiency level using a variety of sources, including 2013 RS Means,[55] manufacturer literature, and information from expert consultants.

d. Product Lifetime

Product lifetime is the age at which an appliance is retired from service. DOE conducted an analysis of furnace lifetimes using a combination of data on shipments and the furnace stock (see section IV.G) and RECS data on the age of the furnaces in the homes. The data allowed DOE to develop a survival function, which provides a range from minimum to maximum lifetime as well as an average lifetime. The average lifetimes estimated for the NOPR are 21.5 years for NWGFs and MHGFs. In addition, DOE reviewed a number of sources to validate the derived furnace lifetimes, including American and European research studies and field data reports.[56] Chapter 8 of the NOPR TSD provides further details on the methodology and sources DOE used to develop furnace lifetimes.

e. Discount Rates

In the calculation of LCC, DOE applies discount rates to estimate the present value of future operating costs. The discount rate used in the LCC

[51] U.S. Department of Energy-Energy Information Administration, Form EIA–826 Database Monthly Electric Utility Sales and Revenue Data (2013) available at: *http://www.eia.doe.gov/cneaf/electricity/page/eia826.html.*

[52] U.S. Department of Energy-Energy Information Administration, Natural Gas Navigator (2013), available at: *http://tonto.eia.doe.gov/dnav/ng/ng_pri_sum_dcu_nus_m.htm.*

[53] U.S. Department of Energy-Energy Information Administration, 2012 State Energy Consumption, Price, and Expenditure Estimates (SEDS) (2013), available at: *http://www.eia.doe.gov/emeu/states/_seds.html.*

[54] U.S. Department of Energy, Energy Information Administration, Annual Energy Outlook 2014, Table 3, available at *http://www.eia.gov/forecasts/aeo/data.cfm#enprisec* (last accessed July 29, 2014).

[55] RS Means Company Inc., *RS Means Facilities Maintenance & Repair Cost Data.* Kingston, MA (2013).

[56] See appendix 8–F of the NOPR TSD for a listing of the sources.

analysis represents the rate from an individual consumer's perspective.

To establish discount rates for residential consumers, DOE identified all relevant household debt or asset classes in order to approximate a consumer's opportunity cost of funds related to appliance energy cost savings and maintenance costs. DOE estimated the average percentage shares of the various types of debt and equity by household income group using data from the Federal Reserve Board's Survey of Consumer Finances (SCF) for 1995, 1998, 2001, 2004, 2007, and 2010. DOE then developed a distribution of rates for each type of debt and asset by income group to represent the discount rates that may apply in the year in which amended standards would take effect. DOE assigned each sample household a specific discount rate drawn from one of the distributions. The average residential discount rate across all types of household debt and equity and income groups, weighted by the shares of each class, is 4.5 percent.

To establish discount rates for commercial consumers, DOE estimated the cost of capital for the types of companies that purchase NWGFs and MHGFs. The weighted average cost of capital is commonly used to estimate the present value of cash flows from a typical company project or investment. Most companies use both debt and equity capital to fund investments, so their cost of capital is the weighted average of the cost to the firm of equity and debt financing. DOE estimated the weighted average cost of capital using financial data for publicly traded firms in the sectors that purchase residential furnaces.[57]

See chapter 8 in the NOPR TSD for further details on the development of discount rates for the LCC analysis.

f. Base-Case Efficiency

To estimate the share of consumers affected by a potential standard at a particular efficiency level, DOE's LCC and PBP analysis considers the projected distribution (*i.e.,* market shares) of product efficiencies that consumers will purchase in the first compliance year, without amended energy conservation standards (base case).

DOE considered incentives and other market forces that have increased the sales of high-efficiency furnaces to estimate base-case efficiency distributions for the considered products. DOE started with data provided by AHRI on historical shipments for each product class. For non-weatherized gas furnaces, DOE reviewed AHRI data from 1992 to 2009, detailing the market shares of non-condensing (80 percent AFUE) and condensing (90 percent AFUE and greater) furnaces by region.[58] DOE also compiled data on the national market shares of non-condensing and condensing gas furnaces from 2010 to 2012 from the ENERGY STAR program.[59] With these data, DOE derived historic trends for the North and South regions.

To project trends from 2011 to 2021, DOE only used the trends from 1993 to 2004 because from 2005 to 2011, there was a sharp increase in the share of condensing furnaces primarily due to Federal tax credits, which was followed by a sharp decrease in 2012. DOE determined that excluding these years provides a more reasonable projection. The maximum share of condensing shipments for each region is assumed to be 95 percent. In other words, at least five percent of NWGF and MHGF furnace shipments will be non-condensing.

DOE used data on the distribution of models in AHRI's Directory of Certified Product Performance[60] to disaggregate the condensing-level shipments among condensing efficiency levels. Based on stakeholder input, DOE assumed that for furnace replacements, the fraction of 95 percent AFUE and above shipments in the replacement market would be double the fraction in the new construction market. DOE also assumed that the fraction of 95 percent AFUE and above shipments would be higher in the North compared to the South, because the ENERGY STAR level in the North is 95 percent AFUE compared to 90 percent in the South.

Table IV.14 and Table IV.15 show the estimated AFUE base-case efficiency distributions in 2021 for NWGFs and MHGFs. For further information on DOE's estimation of the base-case efficiency distributions for non-weatherized gas furnaces, see chapter 8 of the NOPR TSD.

TABLE IV.14—CURRENT AND BASE-CASE AFUE DISTRIBUTION FOR NON-WEATHERIZED GAS FURNACES

Efficiency, AFUE (%)	2021 Market share in percent				
	National (%)	North, Repl (%)	North, New (%)	South, Repl (%)	South, New (%)
80	53.4	33.0	34.7	77.6	70.4
90	5.2	5.5	8.8	3.4	5.5
92	17.9	15.8	32.4	13.9	20.2
95	23.0	44.9	23.6	4.9	3.8
98	0.5	0.8	0.6	0.1	0.2

TABLE IV.15—CURRENT AND BASE-CASE AFUE DISTRIBUTION FOR MOBILE HOME GAS FURNACES

Efficiency, AFUE (%)	2021 Market share in percent				
	National (%)	North, Repl (%)	North, New (%)	South, Repl (%)	South, New (%)
80	73.9	65.8	64.3	87.2	89.2
92	12.1	6.1	21.2	9.6	9.6
95	13.8	27.7	14.3	3.2	1.2

[57] Damodaran Online, Data Page: Costs of Capital by Industry Sector (2012), *http://pages.stern.nyu.edu/~adamodar/* (last accessed July 29, 2014).

[58] The market share of furnaces with AFUE between 80 and 90 percent is well below 1 percent due to the very high installed cost of 81-percent AFUE furnaces, compared with condensing designs, and concerns about safety of operation.

[59] ENERGY STAR Unit Shipment Data (2012), *https://www.energystar.gov/index.cfm?c=partners.unit_shipment_data.*

[60] Air Conditioning, Heating, and Refrigeration Institute, Directory of Certified Performance: Furnaces (2013), *http://www.ahridirectory.org/.*

TABLE IV.15—CURRENT AND BASE-CASE AFUE DISTRIBUTION FOR MOBILE HOME GAS FURNACES—Continued

Efficiency, AFUE (%)	2021 Market share in percent				
	National (%)	North, Repl (%)	North, New (%)	South, Repl (%)	South, New (%)
97	0.2	0.4	0.2	0.0	0.0

DOE also estimated base-case efficiency distributions for furnace standby mode and off mode power. As shown in Table IV.16, DOE estimated that 61 percent of the affected market would be at the baseline level in 2021 based on data from 18 furnace models from field study conducted in Wisconsin [61] and data from DOE laboratory tests (see appendix 8I). In addition, for MHGFs, DOE assumed that all PSC furnace fan motor models would have lower standby power than the max tech efficiency level.

TABLE IV.16—STANDBY MODE AND OFF MODE BASE-CASE EFFICIENCY DISTRIBUTION IN 2021 FOR NON-WEATHERIZED GAS FURNACES AND MOBILE HOME GAS FURNACES

Efficiency level	Standby/off mode (watts)	NWGF market share in percent	MHGF market share in percent
Baseline	11.0	61	5
1	9.5	0	0
2	9.2	17	1
3	8.5	22	94

4. Accounting for Product Switching Under Potential Standards

Because home builders are sensitive to the cost of heating equipment, a standard level that significantly increases purchase price may induce some builders to switch to a different heating system than they would have otherwise installed (*i.e.,* in the base case). Such an amended standard level may also induce some home owners to replace their existing furnace at the end of its useful life with a different type of heating product, although in this case, switching may incur additional costs to accommodate the different product. The decision to switch is also affected by the prices of the energy sources for competing equipment.

For this NOPR, DOE developed a consumer choice model to estimate the response of builders and home owners to potential amended furnace standards. The model considers the options available to each sample household, which are to purchase and install: (1) The furnace that meets a particular standard level, (2) a heat pump, or (3) an electric furnace. In addition, DOE allowed for the possibility that households for which installation of a condensing furnace would leave an ''orphaned'' gas water heater that would require expensive re-sizing of the vent system might choose instead to purchase an electric water heater when they choose any of the above three options. DOE did not include a repair option in the consumer choice model and associated analysis. Current data collected by DOE suggests that repair in the case of major equipment failure, such as a furnace, would be minimal, unless the furnace is relatively new. For option 2, purchase a heat pump, DOE takes into consideration the age of the existing central air conditioner, if one exists, because if the air conditioner is not very old, it is unlikely that the consumer would opt to install a heat pump to provide both heating and cooling.

The consumer choice model uses the installed cost of each option, as would be likely for each sample household, and the operating costs, taking into account the space heating load and the water heating load for each household and the energy prices it will pay over the equipment lifetime of the available product options. DOE also accounted for the cooling load of each relevant household that might switch from gas furnace and CAC to a heat pump.

For heat pumps, DOE used efficiency and consumer prices for models that meet the energy conservation standards due to take effect on January 1, 2015 (10 CFR 430.32(c)(3)),and for water heaters, it used efficiency and consumer prices for models that meet the standards due to take effect on April 16, 2015. (10 CFR 430.32(d)) For electric furnaces, DOE used an efficiency of 98 percent and a consumer price based on RS Means.[62] For situations where a household with a gas furnace might switch to electric space heating, DOE used the installed cost of the electric heating options, including a separate circuit up to 100 amps that would need to be installed to power the electric resistance heater within an electric furnace or heat pump, as well as a cost for upgrading the electrical service panel for a fraction of households. For all installations, DOE used regional labor rates from RS Means.[63]

Electric furnaces are estimated to have the same lifetime as NWGFs, but heat pumps have an estimated average lifetime of 19 years, which is 2.5 years less than the estimated average lifetime of NWGFs (21.5 years). To ensure comparable accounting, DOE annualized the installed cost of a second heat pump and multiplied the annualized cost by the difference in years between the heat pump and a gas furnace in a particular switching situation.

The decision criteria in the model are based on proprietary data from Decision Analysts,[64] which identified for a representative sample of consumers their willingness to purchase more-efficient space-conditioning systems. Each of the four surveys that DOE used,

[61] Scott Pigg, Electricity Use by New Furnaces: A Wisconsin Field Study (Energy Center of Wis. 2003), *available at http://www.ecw.org/publications /electricity-use-new-furnaces-wisconsin-field-study.*

[62] RS Means Company Inc., RS Means Facilities Maintenance & Repair Cost Data (2013).

[63] RS Means Company Inc., *RS Means Residential Cost Data.* Kingston, MA (2013).

[64] Decision Analysts, 2006, 2008, 2010, and 2013 American Home Comfort Studies. Available at *http://www.decisionanalyst.com/Syndicated/ HomeComfort.dai*

which span the period 2006 to 2013, involved approximately 30,000 homeowners. The surveys asked respondents the maximum price they would be willing to pay for a product that was 25 percent more efficient than their existing product, which DOE assumed is equivalent to a 25-percent decrease in annual energy costs. DOE also used Decision Analyst data for consumer choice model in the June 27, 2011 direct final rule for residential central air conditioners and residential furnaces. 76 FR 37408. From these data, DOE deduced that consumers would expect a payback period of 3.5 years or less for a more-expensive but more-efficient product (see appendix 8J of the NOPR TSD for further discussion). This reflects that, in general, consumers place a relatively high importance on the first cost differences.

The consumer choice model estimates the PBP between the higher efficiency NWGF in each standards case compared to the electric heating options using the total installed cost and first year operating cost as estimated for each sample household or building. For switching to occur, the total installed cost of the electric option has to be less than the NWGF standards case option. The model assumes that there will be switching to an electric heating option if the PBP of the NWGF relative to the electric heating option is greater than 3.5 years or the PBP is negative. In the case of switching to an electric heating option, the model selects the most economically beneficial case.

In addition to the default estimate, DOE conducted sensitivity analyses assuming higher and lower amounts of switching. Whereas the default estimate uses a consumer decision metric involving expectation of a payback period of 3.5 years or less for a more-expensive but more-efficient product, the sensitivity analyses use payback periods that are one year higher or lower than 3.5 years (*i.e.,* 2.5 years and 4.5 years).

Key results of the consumer choice model are presented in section V.B.1 of this NOPR.

5. Inputs to Payback Period Analysis

The payback period is the amount of time it takes the consumer to recover the additional installed cost of more efficient products, compared to baseline products, through energy cost savings. The simple payback period does not account for changes in operating expense over time or the time value of money. Payback periods that exceed the life of the product mean that the increase in total installed cost is not recovered in reduced operating expenses.

The inputs to the PBP calculation are the total installed cost of the equipment to the customer for each efficiency level and the average annual operating expenditures for each efficiency level. The PBP calculation uses the same inputs as the LCC analysis, except that discount rates are not needed. The results of DOE's PBP analysis are presented in section V.B.1.

For the rebuttable presumption PBP, for each considered efficiency level, DOE determined the value of the first year's energy savings by calculating the quantity of those savings in accordance with the applicable DOE test procedure, and multiplying that amount by the average energy price forecast for the year in which compliance with the amended standard would be required.

G. Shipments Analysis

1. Overview

DOE uses forecasts of product shipments to calculate the national impacts of potential amended energy conservation standards on energy use, NPV, and future manufacturer cash flows. DOE develops shipment projections based on historical data and an analysis of key market drivers for each product. DOE estimated furnace shipments by projecting shipments in three market segments: (1) Replacements; (2) new housing; and (3) new owners in buildings that did not previously have a NWGF. DOE also considered whether standards that require more-efficient furnaces would have an impact on furnace shipments.

First, DOE assembled historic shipments data for NWGFs and MHGFs from Appliance [65] and AHRI.[66] To project furnace replacement shipments, DOE developed retirement functions from the furnace lifetime estimates and applied them to the existing products in the housing stock, which are tracked by vintage.

To project shipments to the new housing market, DOE utilized a forecast of new housing construction and historic saturation rates of furnace product types in new housing. DOE used AEO 2014 for forecasts of new housing.[67] DOE estimated future furnace saturation rates in new housing based on a weighted-average of U.S. Census Bureau's Characteristics of New Housing [68] values from1990 through 2013.

To project shipments to new owners of NWGF, DOE used data in the American Home Comfort Survey [69] to estimate that the annual total amounts to five percent of replacement shipments.

DOE developed base-case shipments forecasts for each of the four Census regions that, in turn, were aggregated to produce regional and national forecasts. DOE estimated that the fraction of residential NWGFs shipped to the commercial sector is approximately three percent.[70]

For details on the shipments analysis, see chapter 9 of the NOPR TSD.

2. Impact of Potential Standards on Shipments: Accounting for Product Switching

To estimate the impacts of potential standards on furnace shipments, DOE applied the consumer choice model described in section IV.F.4. The options available to each sample household are to purchase and install: (1) The furnace that meets a particular standard level, (2) a heat pump, or (3) an electric furnace.[71]

As applied in the LCC and PBP analysis, the model considers equipment prices in the compliance year and energy prices over the lifetime of equipment installed in that year. The shipments model considers the switching that might occur in each year of the considered 2021–2050 forecast period. To do so, DOE estimated the switching in the final year of the shipments period (2050), and derived trends from 2021 to 2050. First, DOE applied the furnace product price trend described above to project prices in 2050. DOE used the appropriate energy prices over the lifetime of equipment

[65] *Appliance Historical Statistical Review: 1954–2012,* Appliance Mag. (2014), *available at http://www.appliancemagazine.com/marketresearch/editorial.php?article=2476.*

[66] Air-Conditioning, Heating, & Refrigeration Institute. Monthly Shipments (2010–2013), *available at http://www.ahrinet.org/site/498/Resources/Statistics/Monthly-Shipments*).

[67] U.S. Department of Energy, Energy Information Administration, Annual Energy Outlook 2014, Table 20, available at *http://www.eia.gov/forecasts/aeo/data.cfm?filter=macroeconomic#macroeconomic* (last accessed July 29, 2014).

[68] U.S. Census Bureau, Characteristics of New Housing, *http://www.census.gov/const/www/charindex.html (last accessed Aug. 19, 2014).*

[69] Decision Analysts, 2008 American Home Comfort Study: Online Database Tool, available at *http://www.decisionanalyst.com/Syndicated/HomeComfort.dai.*

[70] The results derived from RECS 2009 and CBECS 2003 show there are 45.6 and 1.2 million residential furnaces in residential and commercial buildings, respectively. DOE assumed that the share of shipments is similar to the share in the stock.

[71] DOE also accounted for situations when installing a condensing furnace could leave an ''orphaned'' gas water heater that would require expensive re-sizing of the vent system. Rather than incurring this cost, the consumer could choose to purchase an electric water heater along with a new furnace.

installed in that year. Although the inputs vary, the decision criteria, as described in section IV.F.4, are the same in each year.

For each considered standard level, the number of gas furnaces shipped in each year is equal to the base shipments minus the number of gas furnace buyers who switched to either a heat pump or an electric furnace. The shipments model also tracks the number of additional heat pumps and electric furnaces shipped in each year.

Because measures to limit standby mode and off mode power consumption have a very small impact on the total installed cost and do not impact consumer utility, and thus have a minimal effect on consumer purchase decisions, DOE assumed that base-case product shipments would be unaffected by standards to limit standby mode and off mode power consumption.

For details on DOE's shipments analysis of product and fuel switching, see chapter 9 of the NOPR TSD.

H. National Impact Analysis

The NIA assesses the national energy savings (NES) and the net present value (NPV) from a national perspective of total consumer costs and savings expected to result from new or amended energy conservation standards at specific efficiency levels. DOE determined the NPV and NES for the efficiency levels considered for the furnace product classes analyzed.

To make the analysis more accessible and transparent to all interested parties, DOE used a spreadsheet model to calculate the energy savings and the national consumer costs and savings from each TSL.[72] The NIA calculations are based on the annual energy consumption and total installed cost data from the energy use analysis and the LCC analysis. In the NIA, DOE forecasted the energy savings, energy cost savings and installed product costs for each product class over the lifetime of products sold from 2021 through 2050.

1. Efficiency in the Base Case and Standards Cases

A key component of the NIA is the trend in energy efficiency forecasted for the base case (without amended standards) and each of the standards cases. Section IV.F.3.f describes how DOE developed a base-case energy efficiency distribution for each of the considered product classes for the first full year of compliance (2021). To project base-case efficiency over the 30-year shipments period, DOE extrapolated the historical trends in efficiency that were described in section IV.F.3.f. DOE estimated that the national market share of condensing products would grow from 45 percent in 2021 to 61 percent by 2050 for NWGFs, and from 23 percent to 29 percent for MHGFs. The market shares of the different condensing efficiency levels (*i.e.,* 90-, 92-, 95-, and 98-percent AFUE for NWGF and 92-, 95-, and 97-percent AFUE for MHGF) are maintained in the same proportional relationship as in 2021.

Due to the lack of historical efficiency data for standby mode and off mode power consumption, DOE estimated that the efficiency distribution would remain the same throughout the forecast period.

To estimate the impact that amended energy conservation standards may have in the year compliance becomes required, DOE used a ''roll-up'' scenario: products with efficiencies in the base case that do not meet a potential amended standard level ''roll up'' to meet that standard level, and products at efficiencies above the standard level under consideration would not be affected. DOE believes that the roll-up approach provides a conservative estimate of the potential energy savings in the standards cases. For the standards case with a 90-percent AFUE national standard, DOE estimated that many consumers will purchase a 92-percent AFUE furnace rather than a 90-percent AFUE furnace because the extra installed cost is minimal.

After the year of compliance, DOE estimated growth in efficiency in the standards cases, except in the max-tech standards case. The estimated growth accounts for potential changes in ENERGY STAR criteria and the response of manufacturers to minimum standards in the condensing range. For the TSLs requiring 90-, 92-, and 95-percent AFUE, DOE projected growth in the market shares of 95-percent AFUE and 98-percent AFUE furnaces. For the proposed NWGF AFUE standards (TSL 3, requiring 92-percent AFUE), the share of 95-percent AFUE furnaces increases from 24 to 56 percent from 2021 to 2050, and the share of 98-percent AFUE furnaces increases from 0.5 to 8.4 percent. For the proposed MHGF AFUE standards (TSL 3, requiring 92-percent AFUE), the share of 95-percent furnaces increases from 11 percent to 34 percent, and the share of 97-percent AFUE furnaces increases from 0.1 percent to 2.6 percent.

DOE did not have a basis on which to predict a change in efficiency trend for standby mode and off mode power consumption, so DOE assumed that the efficiency distribution would not change after the first full year of compliance.

Details on how the efficiency trends were developed are in chapter 10 of the NOPR TSD.

2. Product Cost Trend

As discussed in section IV.F.1, DOE used an experience curve method to project future product price trends. Application of the price index results in a decline of 22 percent in furnace prices from 2021 to 2050. In addition to the default trend described in section IV.F.1, which shows a modest rate of decline, DOE performed price trend sensitivity calculations in the NIA to examine the dependence of the analysis results on different analytical assumptions. The price trend sensitivity analysis considered a trend with a greater rate of decline than the default trend and a trend with constant prices. The derivation of these trends is described in appendix 10C of the NOPR TSD.

3. Product Switching

As discussed in section IV.F.4, DOE estimated the extent of *switching* from NWGFs to electric heating equipment that might occur in each year of the considered 2021–2050 forecast period in response to potential amended standards. In addition to the default estimate, DOE conducted sensitivity analyses assuming higher and lower amounts of switching.

4. National Energy Savings

To develop the NES, DOE calculated annual energy consumption for the base case and the standards cases. DOE calculated the annual energy consumption for each case using the appropriate per-unit annual energy use data multiplied by the projected NWGF or MHGF shipments for each year. The per-unit annual energy use is adjusted with the building shell improvement index, which results in a decline of 12 percent in the heating load from 2021 to 2050, and the climate index, which results in a decline of 6.5 percent in the heating load.

In the standards cases, there are fewer shipments of NWGFs or MHGFs compared to the base case because of product switching, but there are additional shipments of heat pumps, electric furnaces and electric water heaters. DOE incorporated the per-unit

[72] DOE's use of spreadsheet models provides interested parties with access to the models within a familiar context. In addition, the TSD and other documentation that DOE provides during the rulemaking help explain the models and how to use them, and interested parties can review DOE's analyses by changing various input quantities within the spreadsheet.

annual energy use of the heat pumps and electric furnaces that was calculated in the LCC and PBP analysis (based on the specific sample households that switch to these products) into the NIA model.

As explained in section IV.E.1, DOE incorporated a rebound effect for NWGFs and MHGFs by reducing the site energy savings in each year by 15 percent.

To estimate the national energy savings expected from amended appliance standards, DOE used a multiplicative factor to convert site electricity consumption (at the home or commercial building) into primary energy consumption (the energy required to convert and deliver the site electricity). These conversion factors account for the energy used at power plants to generate electricity and energy losses during transmission and distribution. The factors vary over time due to changes in generation sources (*i.e.,* the power plant types projected to provide electricity to the country) projected in AEO 2014.[73] The factors that DOE developed are marginal values, which represent the response of the electricity sector to an incremental decrease in consumption associated with potential appliance standards.

In response to the recommendations of a committee on ''Point-of-Use and Full-Fuel-Cycle Measurement Approaches to Energy Efficiency Standards'' appointed by the National Academy of Science, in 2011 DOE announced its intention to use full-fuel-cycle (FFC) measures of energy use and greenhouse gas and other emissions in the national impact analyses and emissions analyses included in future energy conservation standards rulemakings. 76 FR 51281 (August 18, 2011). After evaluating the approaches discussed in the August 18, 2011 notice, DOE published a statement of amended policy in the **Federal Register** in which DOE explained that NEMS is the most appropriate tool for its FFC analysis and DOE intended to use NEMS for that purpose. 77 FR 49701 (August 17, 2012). The FFC factors incorporates losses in production and delivery in the case of natural gas (including fugitive emissions) and additional energy used to produce and deliver the various fuels used by power plants. The approach used for this NOPR is described in more detail in appendix 10B of the NOPR TSD.

5. Net Present Value of Consumer Benefit

To develop the national NPV of consumer benefits from potential energy conservation standards, DOE calculated projected annual operating costs (energy costs and repair and maintenance costs) and annual installation costs for the base case and the standards cases. DOE calculated annual energy expenditures from annual energy consumption using forecasted energy prices in each year. DOE calculated annual product expenditures by multiplying the price per unit times the projected shipments in each year.

As mentioned above, in the standards cases there are fewer shipments of NWGFs or MHGFs than in the base case because of product switching, but there are additional shipments of heat pumps and electric furnaces. For these products, the appropriate annual operating costs and installed costs that were calculated in the LCC and PBP analysis were incorporated into the NIA model.

The aggregate difference each year between operating cost savings and increased installation costs is the net savings or net costs. DOE multiplies the net savings in future years by a discount factor to determine their present value. DOE estimates the NPV of consumer benefits using both a 3-percent and a 7-percent real discount rate, in accordance with guidance provided by the Office of Management and Budget (OMB) to Federal agencies on the development of regulatory analysis.[74] The 7-percent real value is an estimate of the average before-tax rate of return to private capital in the U.S. economy. The 3-percent real value represents the ''societal rate of time preference,'' which is the rate at which society discounts future consumption flows to their present value. The discount rates for the determination of NPV differ from the discount rates used in the LCC analysis, which are designed to reflect a consumer's perspective.

As noted above, in determining national energy savings, DOE is accounting for the rebound effect associated with more-efficient furnaces.[75] Because consumers have foregone a monetary savings in energy expenses, it is reasonable to conclude that the value of the increased utility is equivalent to the monetary value of the energy savings that would have occurred without the rebound effect. Therefore, the economic impacts on consumers with or without the rebound effect, as measured in the NPV, are the same.

I. Consumer Subgroup Analysis

In analyzing the potential impacts of new or amended standards on consumers, DOE evaluated the impacts on two identifiable subgroups of consumers, low-income consumers and senior citizens, that may be disproportionately affected by a national standard. DOE analyzed the LCC impacts and PBP for those particular consumers from alternative standard levels. The analysis used subsets of the RECS 2009 sample comprised of households that meet the criteria for the two subgroups for both non-weatherized gas furnaces and mobile home gas furnaces.

Chapter 11 of the NOPR TSD describes the consumer subgroup analysis and its results.

J. Manufacturer Impact Analysis

1. Overview

DOE performed a manufacturer impact analysis (MIA) to determine the financial impact of amended energy conservation standards on residential furnace manufacturers and to estimate the potential impact of such standards on employment and manufacturing capacity.

The MIA has both quantitative and qualitative aspects. The quantitative part of the MIA primarily relies on the Government Regulatory Impact Model (GRIM), an industry cash-flow model with inputs specific to this rulemaking. The key GRIM inputs are industry cost structure data, shipment data, product costs, markups, and conversion costs. The key output is the industry net present value (INPV). The INPV is the sum of the discounted cash flows for the industry over the MIA analysis period and provides a valuation of the industry. The GRIM applies standard accounting principles to calculate industry cash flows and to estimate changes in INPV between a base case and various TSLs (the standards case). The difference in INPV between the base case and standards cases represents the financial impact of amended energy conservation standards on residential furnace manufacturers. DOE used different sets of assumptions (markup scenarios) to represent the uncertainty surrounding potential impacts on prices and manufacturer profitability as a result of amended standards. These

[73] U.S. Department of Energy, Energy Information Administration, Annual Energy Outlook 2014, available at *http://www.eia.gov/forecasts/aeo/data.cfm* (last accessed July 29, 2014).

[74] Office of Management and Budget, OMB Circular A–4, section E, Identifying and Measuring Benefits and Costs (2003), *available at http://www.whitehouse.gov/omb/memoranda/m03-21.html.*

[75] As previously discussed in section IV.F, the rebound effect provides consumers with increased utility (*e.g.,* a more comfortable indoor environment).

different assumptions produce a range of INPV results.

The qualitative part of the MIA addresses the proposed standard's potential impacts on manufacturing capacity and industry competition, as well as differential impacts the proposed standard may have on any particular sub-group of manufacturers. DOE also assesses the cumulative regulatory burden stemming from the combined effects of several recent or impending regulations, and considers opportunities to align future rulemakings to reduce burden to industry (see section V.B.2.e). The complete MIA is outlined in chapter 12 of the NOPR TSD.

DOE conducted the MIA for this rulemaking in three phases. In the first phase of the MIA, DOE prepared an industry characterization based on the market and technology assessment and publicly available information. As part of its profile of the residential furnace industry, DOE also conducted a top-down cost analysis of manufacturers in order to derive preliminary financial inputs for the GRIM (*e.g.,* sales, general, and administration (SG&A) expenses; research and development (R&D) expenses; and tax rates). DOE used public sources of information, including company SEC 10–K filings,[76] corporate annual reports, the U.S. Census Bureau's Economic Census,[77] and Hoover's reports [78] to conduct this analysis.

In the second phase of the MIA, DOE prepared an industry cash-flow analysis to quantify the potential impacts of amended energy conservation standards. In general, energy conservation standards can affect manufacturer cash flow in three distinct ways. These include: (1) Creating a need for increased investment; (2) raising production costs per unit; and (3) altering revenue due to higher per-unit prices and possible changes in sales volumes. DOE estimated industry cash flows in the GRIM at various potential standard levels using industry financial parameters derived in the first phase and the shipment scenario used in the NIA. The GRIM modeled both impacts from the AFUE energy conservation standards and impacts from standby mode and off mode energy conservation standards (*i.e.,* standards based on standby mode and off mode wattage). The GRIM results from the two standards were evaluated independent of one another.

In the third phase of the MIA, DOE conducted structured, detailed interviews with manufacturers that account for approximately 35% of NWGF product listings and 50% of MHGF product listings. During these interviews, DOE discussed engineering, manufacturing, procurement, and financial topics to validate assumptions used in the GRIM. DOE also solicited information about manufacturers' views of the industry as a whole and their key concerns regarding this rulemaking. See section IV.J.3 for a description of the key issues manufacturers raised during the interviews.

Additionally, in the third phase, DOE also evaluated subgroups of manufacturers that may be disproportionately impacted by amended standards or that may not be accurately represented by the average cost assumptions used to develop the industry cash-flow analysis. For example, small manufacturers, niche players, or manufacturers exhibiting a cost structure that largely differs from the industry average could be more negatively affected by amended energy conservation standards. DOE identified one subgroup (small manufacturers) for a separate impact analysis.

To identify small businesses for this analysis, DOE applied the small business size standards published by the Small Business Administration (SBA) to determine whether a company is considered a small business. 65 FR 30836, 30848 (May 15, 2000), as amended at 65 FR 53533, 53544 (Sept. 5, 2000) and codified at 13 CFR part 121. To be categorized as a small business under North American Industry Classification System (NAICS) code 333415, ''Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing,'' a residential furnace manufacturer and its affiliates may employ a maximum of 750 employees. The 750-employee threshold includes all employees in a business' parent company and any other subsidiaries. Based on this classification, DOE identified three residential furnace companies that qualify as small businesses. The residential furnace small manufacturer subgroup is discussed in section VI.B of this NOPR and in chapter 12 of the NOPR TSD.

2. Government Regulatory Impact Model

DOE used the GRIM to quantify the potential changes in cash flow due to amended standards that result in a higher or lower industry value. The GRIM was designed to conduct an annual cash-flow analysis using standard accounting principles that incorporates manufacturer costs, markups, shipments, and industry financial information as inputs. DOE calculated a series of annual cash flows, beginning in 2014 (the base year of the analysis) and continuing to 2050 (the end of the analysis period). DOE calculated INPVs by summing the stream of annual discounted cash flows during this period. DOE applied a discount rate of 6.4 percent, which was derived from industry financials and feedback received during manufacturer interviews. More information about the derivation of the manufacturers' discount rate can be found in chapter 12 of the TSD.

After calculating industry cash flows and INPV, DOE compared changes in INPV between the base case and each standards case. The difference in INPV between the base case and a standards case represents the financial impact of the amended energy conservation standard on the industry at a particular TSL. As discussed previously, DOE collected this information on GRIM inputs from a number of sources, including publicly-available data and confidential interviews with a number of manufacturers.

For consideration of standby mode and off mode regulations, DOE modeled the impacts of the technology options for reducing electricity usage discussed in the engineering analysis (chapter 5 of the TSD). The GRIM analysis incorporates the increases in MPC and changes in markups the results from the standby mode and off mode requirements. Due to the small cost of standby mode and off mode components relative to the overall cost of a residential furnace, DOE assumed that standby mode and off mode standards alone would not impact product shipment numbers. In general, the impacts of the standby and off mode standard are significantly smaller than the impacts of the AFUE standard. For this reason, the analysis of employment, capacity constraints, and sub-group impacts focus on the AFUE standard.

The GRIM results for both the AFUE standard and the standby mode and off mode standard are discussed in section V.B.2. Additional details about the GRIM, the discount rate, and other financial parameters can be found in chapter 12 of the NOPR TSD.

[76] U.S. Securities and Exchange Commission, Annual 10–K Reports (Various Years), available at: *http://www.sec.gov/edgar/searchedgar/companysearch.html* (last accessed August 1, 2014).

[77] U.S. Census Bureau, Annual Survey of Manufacturers: General Statistics: Statistics for Industry Groups and Industries (2011), available at: *http://factfinder2.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t.*

[78] Hoovers Inc. Company Profiles, Various Companies, available at: *http://www.hoovers.com.*

a. Government Regulatory Impact Model Key Inputs

Manufacturer Production Costs

Manufacturing a higher-efficiency product is typically more expensive than manufacturing a baseline product due to the use of more complex components, which are typically more costly than baseline components. The changes in the MPCs of the analyzed products can affect the revenues, gross margins, and cash flow of the industry, making these product cost data key GRIM inputs for DOE's analysis.

In the MIA, DOE used the MPCs calculated in the engineering analysis, as described in section IV.C and further detailed in chapter 5 of the NOPR TSD. In addition, DOE used information from its teardown analysis (described in chapter 5 of the TSD) to disaggregate the MPCs into material, labor, and overhead costs. To calculate the MPCs for products at and above the baseline, DOE performed teardowns and cost modeling that allowed DOE to estimate the incremental material, labor, and overhead costs for products above the baseline. These cost breakdowns and product markups were validated and revised with input from manufacturers during manufacturer interviews.

Shipments Forecast

DOE used the GRIM to estimate manufacturer revenues based on total unit shipment forecasts and the distribution of these values by efficiency level. Changes in sales volumes and efficiency mix over time can significantly affect manufacturer finances. For this analysis, DOE used the NIA's annual shipment forecasts derived from the shipments analysis from 2014 (the base year) to 2050 (the end year of the analysis period). In the shipments analysis, DOE estimates the distribution of efficiencies in the base case for all equipment classes. See section IV.G for additional details.

For the standards-case shipment forecast, the GRIM uses the shipments analysis standards case forecasts. To account for regional standards, shipments values inputted to the GRIM are break out the north and the ''rest of country'' for TSL 1 and TSL 2. The NIA assumes that product efficiencies in the base case that do not meet the energy conservation standard in the standards case either ''roll up'' to meet the amended standard or switch to another product such as a heat pump or electric furnace. In other words, the market share of products that are below the energy conservation standard is added to the market share of products at the minimum energy efficiency level allowed under each standard case. The market share of products above the energy conservation standard is assumed to be unaffected by the standard in the compliance year. (See section IV.H.1 for further details on the roll-up and product switching methodology).

Product and Capital Conversion Costs

Amended energy conservation standards would cause manufacturers to incur one-time conversion costs to bring their production facilities and product designs into compliance. DOE evaluated the level of conversion-related expenditures that would be needed to comply with each considered efficiency level in each product class. For the MIA, DOE classified these conversion costs into two major groups: (1) Capital conversion costs; and (2) product conversion costs. Capital conversion costs are one-time investments in property, plant, and equipment necessary to adapt or change existing production facilities such that new compliant product designs can be fabricated and assembled. Product conversion costs are one-time investments in research, development, testing, marketing, and other non-capitalized costs necessary to make product designs comply with amended energy conservation standards.

To evaluate the level of capital conversion expenditures manufacturers would likely incur to comply with amended AFUE energy conservation standards, DOE used manufacturer interviews to gather data on the anticipated level of capital investment that would be required at each efficiency level. Based on the manufacturer feedback, DOE developed a market-share weighted average capital expenditure per manufacturer. DOE then scaled up this number to estimate the industry capital conversion cost. DOE validated manufacturer comments with estimates of capital expenditure requirements derived from the product teardown analysis and engineering analysis described in chapter 5 of the NOPR TSD.

DOE assessed the product conversion costs at each considered AFUE efficiency level by integrating data from quantitative and qualitative sources. DOE considered market-share weighted feedback regarding the potential costs at each efficiency level from multiple manufacturers to estimate product conversion costs (*e.g.,* R&D expenditures, certification costs. Manufacturer data was aggregated to better reflect the industry as a whole and to protect confidential information.

DOE separately calculated the conversion costs for the standby mode and off mode standard. DOE anticipated that manufacturers would incur minimal capital conversion costs, as the engineering analysis indicates that all the design options to improve standby and off mode performance are component swaps which would not require new investments along production lines. However, the standby and off mode standard may require product conversion costs related to the specification and testing of a new components, as well as one-time updates to marketing literature for standby mode and off mode. DOE estimated these product conversion costs based on the engineering analysis and feedback collected in manufacturer interviews.

In general, DOE assumed that all conversion-related investments occur between the year of publication of the final rule and the year by which manufacturers must comply with the amended standards. The conversion cost figures used in the GRIM can be found in section V.B.2 of this notice. For additional information on the estimation of product and capital conversion costs, see chapter 12 of the NOPR TSD.

b. Government Regulatory Impact Model Scenarios

Manufacturer Markup Scenarios

As discussed in the previous section, MSPs include direct manufacturing production costs (*i.e.,* labor, materials, and overhead estimated in DOE's MPCs) and all non-production costs (*i.e.,* SG&A, R&D, and interest), along with profit. To calculate the MSPs in the GRIM, DOE applied non-production cost markups to the MPCs estimated in the engineering analysis for each product class and efficiency level. Modifying these markups in the standards case yielded different sets of impacts on manufacturers. For the MIA, DOE modeled two standards-case markup scenarios to represent the uncertainty regarding the potential impacts on prices and profitability for manufacturers following the implementation of amended energy conservation standards: (1) A preservation of gross margin percentage markup scenario; (2) a preservation of per-unit operating profit markup scenario; and (3) a three-tier markup. These scenarios lead to different markup values that, when applied to the inputted MPCs, resulted in varying revenue and cash-flow impacts. The analytic results in section V.B.2 presents the upper and lower bound markup

scenarios, which are the preservation of gross margin percentage and three-tier markup scenarios for AFUE standard and the preservation of gross margin percentage and per-unit preservation of operating profit markup scenarios for standby and off mode standard.

Under the preservation of gross margin percentage markup scenario, DOE applied a single uniform ''gross margin percentage'' markup across all efficiency levels, which assumes that following amended standards, manufacturers would be able to maintain the same amount of profit as a percentage of revenue at all efficiency levels within a product class. As production costs increase with efficiency, this scenario implies that the absolute dollar markup will increase as well. Based on publicly-available financial information for residential furnace manufacturers, as well as comments from manufacturer interviews, DOE assumed the average non-production cost markup—which includes SG&A expenses, R&D expenses, interest, and profit—to be 1.34 for non-weatherized gas furnaces and 1.27 for mobile home gas furnaces. Manufacturers do not believe they could maintain the same gross margin percentage markup as their production costs increase. Therefore, DOE assumes that this markup scenario represents the upper bound of the residential furnace industry's profitability in the standards case because manufacturers are able to fully pass through additional costs due to standards to consumers.

In the per-unit preservation-of-operating-profit scenario, as the cost of production goes up under a standards case, manufacturers are generally required to reduce their markups to a level that maintains base-case operating profit. In this scenario, the industry can only maintain its operating profit in absolute dollars after the standard (but not on a percentage basis, as seen in the preservation of gross margin markup scenario). Manufacturer markups are set so that operating profit one year after the compliance date of amended energy conservation standards is the same as in the base case on a per-unit basis. In other words, manufacturers are not able to garner additional operating profit from the higher production costs and the investments that are required to comply with the amended standards, but, they are able to maintain the same operating profit in the standards case that was earned in the base case. Therefore, in percentage terms, the operating margin is reduced between the base case and standards case.

DOE also modeled a three-tiered markup scenario, which reflects the industry's ''good, better, best'' pricing structure. DOE implemented the three-tiered markup scenario because multiple manufacturers stated in interviews that they offer multiple tiers of equipment lines that are differentiated, in part, by efficiency level. The higher efficiency tiers typically earn premiums (for the manufacturer) over the baseline efficiency tier. Several manufacturers suggested that amended standards would lead to a reduction in premium markups and reduce the profitability of higher efficiency products. During the MIA interviews, manufacturers provided information on the range of typical efficiency levels in those tiers and the change in profitability at each level. DOE used this information to estimate markups for residential gas-fired furnaces under a three-tier pricing strategy in the base case. In the standards case, DOE modeled the situation in which standards result in less product differentiation, compression of the markup tiers, and an overall reduction in profitability.

3. Manufacturer Interviews

DOE interviewed manufacturers representing 35 percent of the product listings in the NWGF market and 50 percent of the product listings in the MHGF market for this analysis. DOE contractors endeavored to conduct interviews with a representative cross section of manufacturers (including large and small manufacturers, covering all equipment classes and product offerings). DOE contractors reached out to all the small business manufacturers that were identified as part of the analysis, as well as larger manufacturers that have significant market share in the residential furnace market. The information gathered during these interviews enabled DOE to tailor the GRIM to reflect the unique financial characteristics of the residential furnace industry. All interviews provided information that DOE used to evaluate the impacts of potential amended energy conservation standards on manufacturer cash flows, manufacturing capacities, and employment levels.

In interviews, DOE asked manufacturers to describe their concerns with the rulemaking regarding residential gas-fired furnace products. The following section highlights manufacturer responses that helped shape DOE's understanding of potential impacts of an amended standard on the industry. Manufacturer interviews are conducted under non-disclosure agreements (NDAs), so DOE does not document these discussions in the same way that it does public comments in the comment summaries and DOE's responses throughout the rest of this NOPR.

Replacement Market

Multiple manufacturers noted that an energy conservation standard set at 90% AFUE or above would make it difficult for substantial portions of the install base to replace their existing residential furnaces. They noted that some consumers may be faced with significant installation or home renovation costs when for replacing non-condensing furnaces with new condensing units due to the challenges of disposing of condensate from furnaces with efficiencies above 80% AFUE.

Product Switching

Several manufacturers stated that gas-fired furnaces may not be economically justified for certain customers, depending on the level of the amended energy conservation standard for residential furnaces. These customers may be forced to seek more alternatives with lower upfront costs. Manufacturers expressed concern that customers may opt to buy alternative products, such as heat pumps, water heater systems, or electric furnaces. Such substitutions could decrease shipments of gas-fired furnaces, which in turn would reduce industry revenue.

Regional Enforcement

Several manufacturers expressed concern about the potential complications of implementing and enforcing regional standards. Without a clear enforcement plan for regional standards, manufacturers were concerned about the potential burdens and impacts on their residential furnace product lines. The manufacturers noted that any amended standard should provide enough lead-in time between the announcement date and effective date to comply with the increased burden of regional standard.

Negative Impacts on Industry Profitability

During interviews, all manufacturers agreed that if DOE set amended energy conservation standards too high, increased standards could limit their ability to differentiate residential furnace products based on efficiency. As the standard approaches max tech, manufacturers stated that there would be fewer performance differences and operating cost savings between baseline and premium products. They were concerned the drop in differentiation would lead to an erosion of markups for top efficiency products. Thus, the

manufacturers' profitability would decrease with compressed product offerings and markups.

K. Emissions Analysis

In the emissions analysis, DOE estimated the impacts on site and power sector emissions of carbon dioxide (CO_2), nitrogen oxides (NO_X), sulfur dioxide (SO_2), and mercury (Hg) from potential amended energy conservation standards for residential furnaces. In addition, DOE estimated emissions impacts in production activities (extracting, processing, and transporting fuels) that provide energy to power plants or building sites. These are referred to as ''upstream'' emissions. Together, these emissions account for the full-fuel-cycle (FFC). In accordance with DOE's FFC Statement of Policy (76 FR 51281 (Aug. 18, 2011) as amended at 77 FR 49701 (August 17, 2012)), the FFC analysis also includes impacts on emissions of methane (CH_4) and nitrous oxide (N_2O), both of which are recognized as greenhouse gases.

DOE primarily conducted the emissions analysis using emissions factors for CO_2 and most of the other gases derived from data in *AEO 2014.* Combustion emissions of CH_4 and N_2O were estimated using emissions intensity factors published by the Environmental Protection Agency (EPA) in its GHG Emissions Factors Hub.[79] Site emissions of CO_2 and NO_X were estimated using emissions intensity factors from a separate EPA publication.[80] DOE developed separate emissions factors for power sector emissions and upstream emissions. The method that DOE used to derive emissions factors is described in chapter 13 of the NOPR TSD.

For CH_4 and N_2O, DOE calculated emissions reduction in tons and also in terms of units of carbon dioxide equivalent (CO_2eq). Gases are converted to CO_2eq by multiplying each ton of the greenhouse gas by the gas's global warming potential (GWP) over a 100-year time horizon. Based on the Fifth Assessment Report of the Intergovernmental Panel on Climate Change,[81] DOE used GWP values of 28 for CH_4 and 265 for N_2O.

SO_2 emissions from affected electric generating units (EGUs) are subject to nationwide and regional emissions cap-and-trade programs. Title IV of the Clean Air Act sets an annual emissions cap on SO_2 for affected EGUs in the 48 contiguous States and the District of Columbia (DC). (42 U.S.C. 7651 *et seq.*) SO_2 emissions from 28 eastern States and DC were also limited under the Clean Air Interstate Rule (CAIR; 70 FR 25162 (May 12, 2005)), which created an allowance-based trading program that operates along with the Title IV program. CAIR was remanded to the U.S. Environmental Protection Agency (EPA) by the U.S. Court of Appeals for the District of Columbia Circuit, but it remained in effect.[82] In 2011, EPA issued a replacement for CAIR, the Cross-State Air Pollution Rule (CSAPR). 76 FR 48208 (August 8, 2011). On August 21, 2012, the D.C. Circuit issued a decision to vacate CSAPR.[83] The court ordered EPA to continue administering CAIR. The emissions factors used for today's NOPR, which are based on *AEO 2014,* assume that CAIR remains a binding regulation through 2040.[84]

The attainment of emissions caps is typically flexible among EGUs and is enforced through the use of emissions allowances and tradable permits. Beginning in 2016, however, SO_2 emissions will decline significantly as a result of the Mercury and Air Toxics Standards (MATS) for power plants. 77 FR 9304 (Feb. 16, 2012). In the final MATS rule, EPA established a standard for hydrogen chloride as a surrogate for acid gas hazardous air pollutants (HAP), and also established a standard for SO_2 (a non-HAP acid gas) as an alternative equivalent surrogate standard for acid gas HAP. The same controls are used to reduce HAP and non-HAP acid gas; thus, SO_2 emissions will be reduced as a result of the control technologies installed on coal-fired power plants to comply with the MATS requirements for acid gas. *AEO 2014* assumes that, in order to continue operating, coal plants must have either flue gas desulfurization or dry sorbent injection systems installed by 2016. Both technologies, which are used to reduce acid gas emissions, also reduce SO_2 emissions. Under the MATS, emissions will be far below the cap established by CAIR, so it is likely that the increase in electricity demand associated with the highest residential furnace efficiency levels would increase SO_2 emissions.

CAIR established a cap on NO_X emissions in 28 eastern States and the District of Columbia.[85] Thus, it is unlikely that the increase in electricity demand associated with the considered residential furnace efficiency levels would increase NO_X emissions in those States covered by CAIR. However, these efficiency levels would be expected to increase NO_X emissions in the States not affected by the caps, so DOE estimated NO_X emissions increases for these States.

The MATS limit mercury emissions from power plants, but they do not include emissions caps and, as such, the increase in electricity demand associated with the residential furnace efficiency levels would be expected to increase mercury emissions. DOE estimated mercury emissions using emissions factors based on *AEO 2014,* which incorporates the MATS.

L. Monetizing Carbon Dioxide and Other Emissions Impacts

As part of the development of this proposed rule, DOE considered the estimated monetary benefits from the reduced emissions of CO_2 and NO_X that are expected to result from each of the TSLs considered. In order to make this calculation similar to the calculation of the NPV of consumer benefit, DOE considered the reduced emissions expected to result over the lifetime of equipment shipped in the forecast period for each TSL. This section summarizes the basis for the monetary values used for each of these emissions and presents the values considered in this rulemaking.

To make these calculations, DOE is relying on a set of values for the social cost of carbon (SCC) that was developed by a Federal interagency process. A

[79] See *http://www.epa.gov/climateleadership/inventory/ghg-emissions.html.*

[80] U.S. Environmental Protection Agency, Compilation of Air Pollutant Emission Factors, AP–42, Fifth Edition, Volume I: Stationary Point and Area Sources (1998), available at *http://www.epa.gov/ttn/chief/ap42/index.html).*

[81] IPCC, Climate Change 2013: The Physical Science Basis. Contribution of Working Group I to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change (Cambridge University Press, 2013).

[82] *See North Carolina* v. *EPA,* 550 F.3d 1176 (D.C. Cir. 2008); *North Carolina* v. *EPA,* 531 F.3d 896 (D.C. Cir. 2008).

[83] *See EME Homer City Generation, LP* v. *EPA,* 696 F.3d 7, 38 (D.C. Cir. 2012), *cert. granted,* 81 U.S.L.W. 3567, 81 U.S.L.W. 3696, 81 U.S.L.W. 3702 (2013) (No. 12–1182).

[84] On April 29, 2014, the U.S. Supreme Court reversed the judgment of the DC Circuit and remanded the case for further proceedings consistent with the Supreme Court's opinion. The Supreme Court held in part that EPA's methodology for quantifying emissions that must be eliminated in certain States due to their impacts in other downwind States was based on a permissible, workable, and equitable interpretation of the Clean Air Act provision that provides statutory authority for CSAPR. See *EPA* v. *EME Homer City Generation,* No 12–1182, slip op. at 32 (April 29, 2014). On October 23, 2014, the D.C. Circuit lifted the stay of CSAPR and CSAPR went into effect (and the CAIR sunset) in January 1, 2015. Because DOE is using emissions factors based on AEO 2013 for today's NOPR, the NOPR assumes that CAIR, not CSAPR, is the regulation in force. The difference between CAIR and CSAPR is not relevant for the purpose of DOE's analysis of SO_2 emissions.

[85] CSAPR also applies to NO_X, and it would supersede the regulation of NO_X under CAIR. As stated previously, the current analysis assumes that CAIR, not CSAPR, is the regulation in force. The difference between CAIR and CSAPR with regard to DOE's analysis of NO_X is slight.

summary of the basis for these values is provided below, and a more detailed description of the methodologies used is provided as an appendix to chapter 14 of the NOPR TSD.

1. Social Cost of Carbon

The SCC is an estimate of the monetized damages associated with an incremental increase in carbon emissions in a given year. It is intended to include (but is not limited to) changes in net agricultural productivity, human health, property damages from increased flood risk, and the value of ecosystem services. Estimates of the SCC are provided in dollars per metric ton of carbon dioxide. A domestic SCC value is meant to reflect the value of damages in the United States resulting from a unit change in carbon dioxide emissions, while a global SCC value is meant to reflect the value of damages worldwide.

Under section 1(b)(6) of Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (Oct. 4, 1993), agencies must, to the extent permitted by law, ''assess both the costs and the benefits of the intended regulation and, recognizing that some costs and benefits are difficult to quantify, propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs.'' The purpose of the SCC estimates presented here is to allow agencies to incorporate the monetized social benefits of reducing CO_2 emissions into cost-benefit analyses of regulatory actions. The estimates are presented with an acknowledgement of DOE acknowledges that there are many uncertainties involved in the estimates and with a clear understanding that they should be updated over time to reflect increasing knowledge of the science and economics of climate impacts.

As part of the interagency process that developed the SCC estimates, technical experts from numerous agencies met on a regular basis to consider public comments, explore the technical literature in relevant fields, and discuss key model inputs and assumptions. The main objective of this process was to develop a range of SCC values using a defensible set of input assumptions grounded in the existing scientific and economic literatures. In this way, key uncertainties and model differences transparently and consistently inform the range of SCC estimates used in the rulemaking process.

a. Monetizing Carbon Dioxide Emissions

When attempting to assess the incremental economic impacts of carbon dioxide emissions, the analyst faces a number of challenges. A recent report from the National Research Council [86] points out that any assessment will suffer from uncertainty, speculation, and lack of information about: (1) Future emissions of greenhouse gases; (2) the effects of past and future emissions on the climate system; (3) the impact of changes in climate on the physical and biological environment; and (4) the translation of these environmental impacts into economic damages. As a result, any effort to quantify and monetize the harms associated with climate change will raise questions of science, economics, and ethics, and should be viewed as provisional.

Despite the limits of both quantification and monetization, SCC estimates can be useful in estimating the social benefits of reducing carbon dioxide emissions. The agency can estimate the benefits from reduced (or costs from increased) emissions in any future year by multiplying the change in emissions in that year by the SCC value appropriate for that year. The net present value of the benefits can then be calculated by multiplying each of these future benefits by an appropriate discount factor and summing across all affected years.

It is important to emphasize that the interagency process is committed to updating these estimates as the science and economic understanding of climate change and its impacts on society improves over time. In the meantime, the interagency group will continue to explore the issues raised by this analysis and consider public comments as part of the ongoing interagency process.

b. Development of Social Cost of Carbon Values

In 2009, an interagency process was initiated to offer a preliminary assessment of how best to quantify the benefits of reducing carbon dioxide emissions. To ensure consistency in how benefits were evaluated across agencies, the Administration sought to develop a transparent and defensible method, specifically designed for the rulemaking process, to quantify avoided climate change damages from reduced CO_2 emissions. The interagency group did not undertake any original analysis. Instead, it combined SCC estimates from the existing literature to use as interim values until a more comprehensive analysis could be conducted. The outcome of the preliminary assessment by the interagency group was a set of five interim global SCC estimates for 2007 (in 2006 dollars) of $55, $33, $19, $10, and $5 per metric ton of CO_2. These interim values represented the first sustained interagency effort within the U.S. government to develop an SCC for use in regulatory analysis. The results of this preliminary effort were presented in several proposed and final rules.

c. Current Approach and Key Assumptions

After the release of the interim values, the interagency group reconvened on a regular basis to generate improved SCC estimates. Specifically, the group considered public comments and further explored the technical literature in relevant fields. The interagency group relied on three integrated assessment models commonly used to estimate the SCC: the FUND, DICE, and PAGE models. These models are frequently cited in the peer-reviewed literature and were used in the last assessment of the Intergovernmental Panel on Climate Change (IPCC). Each model was given equal weight in the SCC values that were developed.

Each model takes a slightly different approach to model how changes in emissions result in changes in economic damages. A key objective of the interagency process was to enable a consistent exploration of the three models, while respecting the different approaches to quantifying damages taken by the key modelers in the field. An extensive review of the literature was conducted to select three sets of input parameters for these models: climate sensitivity, socio-economic and emissions trajectories, and discount rates. A probability distribution for climate sensitivity was specified as an input into all three models. In addition, the interagency group used a range of scenarios for the socio-economic parameters and a range of values for the discount rate. All other model features were left unchanged, relying on the model developers' best estimates and judgments.

In 2010, the interagency group selected four sets of SCC values for use in regulatory analyses. Three sets of values are based on the average SCC from three integrated assessment models, at discount rates of 2.5 percent, 3 percent, and 5 percent. The fourth set, which represents the 95th-percentile SCC estimate across all three models at a 3-percent discount rate, is included to represent higher-than-expected impacts from climate change further out in the tails of the SCC distribution. The values grow in real terms over time. Additionally, the interagency group determined that a range of values from

[86] National Research Council. *Hidden Costs of Energy: Unpriced Consequences of Energy Production and Use* (2009).

7 percent to 23 percent should be used to adjust the global SCC to calculate domestic effects, although preference is given to consideration of the global benefits of reducing CO_2 emissions.[87] Table IV.17 presents the values in the 2010 interagency group report,[88] hich is reproduced in appendix 14A of the NOPR TSD.

TABLE IV.17—ANNUAL SCC VALUES FROM 2010 INTERAGENCY REPORT, 2010–2050

[In 2007 dollars per metric ton CO_2]

Year	Discount rate			
	5%	3%	2.5%	3%
	Average	Average	Average	95th Percentile
2010	4.7	21.4	35.1	64.9
2015	5.7	23.8	38.4	72.8
2020	6.8	26.3	41.7	80.7
2025	8.2	29.6	45.9	90.4
2030	9.7	32.8	50.0	100.0
2035	11.2	36.0	54.2	109.7
2040	12.7	39.2	58.4	119.3
2045	14.2	42.1	61.7	127.8
2050	15.7	44.9	65.0	136.2

The SCC values used for today's notice were generated using the most recent versions of the three integrated assessment models that have been published in the peer-reviewed literature. Table IV.18 shows the updated sets of SCC estimates from the 2013 interagency update[89] in five-year increments from 2010 to 2050. Appendix 14B of the NOPR TSD provides the full set of values. The central value that emerges is the average SCC across models at a 3-percent discount rate. However, for purposes of capturing the uncertainties involved in regulatory impact analysis, the interagency group emphasizes the importance of including all four sets of SCC values.

TABLE IV.18—ANNUAL SCC VALUES FROM 2013 INTERAGENCY UPDATE, 2010–2050

[In 2007 dollars per metric ton CO_2]

Year	Discount rate			
	5%	3%	2.5%	3%
	Average	Average	Average	95th Percentile
2010	11	32	51	89
2015	11	37	57	109
2020	12	43	64	128
2025	14	47	69	143
2030	16	52	75	159
2035	19	56	80	175
2040	21	61	86	191
2045	24	66	92	206
2050	26	71	97	220

The interagency group recognizes that a number of key uncertainties remain, and that current SCC estimates should be treated as provisional and revisable since they will evolve with improved scientific and economic understanding. The interagency group also recognizes that the existing models are imperfect and incomplete. The National Research Council report describes tension between the goal of producing quantified estimates of the economic damages from an incremental ton of carbon and the limits of existing efforts to model these effects. There are a number of analytical challenges that are being addressed by the research community, including research programs housed in many of the Federal agencies participating in the interagency process to estimate the SCC. The interagency group intends to periodically review and reconsider those estimates to reflect increasing knowledge of the science and economics of climate impacts, as well as improvements in modeling.

In summary, in considering the potential global benefits resulting from reduced CO_2 emissions, DOE used the values from the 2013 interagency report, adjusted to 2013$ using the Gross Domestic Product price deflator. For each of the four SCC cases specified, the values used for emissions in 2015 were $12.0, $40.5, $62.4, and $119 per metric ton avoided (values expressed in 2013$). DOE derived values after 2050

[87] It is recognized that this calculation for domestic values is approximate, provisional, and highly speculative. There is no *a priori* reason why domestic benefits should be a constant fraction of net global damages over time.

[88] Interagency Working Group on Social Cost of Carbon, *Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866* (2010), *available at http://www.whitehouse.gov/sites/default/files/omb/inforeg/for-agencies/Social-Cost-of-Carbon-for-RIA.pdf.*

[89] *Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866. Interagency Working Group on Social Cost of Carbon, United States Government* (May 2013; revised November 2013) (Available at: *http://www.whitehouse.gov/sites/default/files/omb/assets/inforeg/technical-update-social-cost-of-carbon-for-regulator-impact-analysis.pdf*).

using the relevant growth rates for the 2040–2050 period in the interagency update.

DOE multiplied the CO_2 emissions reduction estimated for each year by the SCC value for that year in each of the four cases. To calculate a present value of the stream of monetary values, DOE discounted the values in each of the four cases using the specific discount rate that had been used to obtain the SCC values in each case.

2. Valuation of Other Emissions Reductions

As noted above, DOE has taken into account how amended energy conservation standards would reduce site NO_X emissions nationwide and increase power sector NO_X emissions in those 22 States not affected by the CAIR. DOE estimated the monetized value of net NO_X emissions reductions resulting from each of the TSLs considered for today's NOPR based on estimates found in the relevant scientific literature. Estimates of monetary value for reducing NO_X from stationary sources range from $476 to $4,893 per ton in 2013$.[90] DOE calculated monetary benefits using a medium value for NO_X emissions of $2,684 per short ton (in 2013$), and real discount rates of 3 percent and 7 percent.

DOE is evaluating appropriate monetization of avoided SO_2 and Hg emissions in energy conservation standards rulemakings. DOE has not included monetization of those emissions in the current analysis.

M. Utility Impact Analysis

The utility impact analysis estimates several effects on the power generation industry that would result from the adoption of new or amended energy conservation standards. In the utility impact analysis, DOE analyzes the changes in installed electrical capacity and generation that would result for each trial standard level. The analysis is based on published output from NEMS, which is a public domain, multi-sectored, partial equilibrium model of the U.S. energy sector. Each year, NEMS is updated to produce the AEO reference case as well as a number of side cases that estimate the economy-wide impacts of changes to energy supply and demand. DOE uses those published side cases that incorporate efficiency-related policies to estimate the marginal impacts of reduced energy demand on the utility sector. The output of this analysis is a set of time-dependent coefficients that capture the change in electricity generation, primary fuel consumption, installed capacity and power sector emissions due to a unit reduction in demand for a given end use. These coefficients are multiplied by the stream of electricity savings calculated in the NIA to provide estimates of selected utility impacts of new or amended energy conservation standards. Chapter 15 of the NOPR TSD describes the utility impact analysis in further detail.

N. Employment Impact Analysis

Employment impacts from new or amended energy conservation standards include direct and indirect impacts. Direct employment impacts are any changes in the number of employees of manufacturers of the products subject to standards; the MIA addresses those impacts. Indirect employment impacts are changes in national employment that occur due to the shift in expenditures and capital investment caused by the purchase and operation of more-efficient appliances. Indirect employment impacts from standards consist of the jobs created or eliminated in the national economy, other than in the manufacturing sector being regulated, due to: (1) Reduced spending by end users on energy; (2) reduced spending on new energy supply by the utility industry; (3) increased consumer spending on the purchase of new products; and (4) the effects of those three factors throughout the economy.

One method for assessing the possible effects on the demand for labor of such shifts in economic activity is to compare sector employment statistics developed by the Labor Department's Bureau of Labor Statistics (BLS). BLS regularly publishes its estimates of the number of jobs per million dollars of economic activity in different sectors of the economy, as well as the jobs created elsewhere in the economy by this same economic activity. Data from BLS indicate that expenditures in the utility sector generally create fewer jobs (both directly and indirectly) than expenditures in other sectors of the economy.[91] There are many reasons for these differences, including wage differences and the fact that the utility sector is more capital-intensive and less labor-intensive than other sectors. Energy conservation standards have the effect of reducing consumer utility bills. Because reduced consumer expenditures for energy likely lead to increased expenditures in other sectors of the economy, the general effect of efficiency standards is to shift economic activity from a less labor-intensive sector (*i.e.,* the utility sector) to more labor-intensive sectors (*e.g.,* the retail and service sectors). Thus, based on the BLS data alone, DOE believes net national employment may increase because of shifts in economic activity resulting from amended standards for NWGFs and MHGFs.

For the amended standard levels considered in this NOPR, DOE estimated indirect national employment impacts using an input/output model of the U.S. economy called Impact of Sector Energy Technologies, Version 3.1.1 (ImSET).[92] ImSET is a special-purpose version of the ''U.S. Benchmark National Input-Output'' (I–O) model, which was designed to estimate the national employment and income effects of energy-saving technologies. The ImSET software includes a computer-based I–O model having structural coefficients that characterize economic flows among the 187 sectors. ImSET's national economic I–O structure is based on a 2002 U.S. benchmark table, specially aggregated to the 187 sectors most relevant to industrial, commercial, and residential building energy use. DOE notes that ImSET is not a general equilibrium forecasting model, and understands the uncertainties involved in projecting employment impacts, especially changes in the later years of the analysis. Because ImSET does not incorporate price changes, the employment effects predicted by ImSET may over-estimate actual job impacts over the long run. For the NOPR, DOE used ImSET only to estimate short-term (through 2023) employment impacts.

For more details on the employment impact analysis, see chapter 16 of the NOPR TSD.

V. Analytical Results and Conclusions

The following section addresses the results from DOE's analyses with respect to potential energy conservation standards for the products examined as part of this rulemaking. It addresses the trial standard levels examined by DOE, the projected impacts of each of these levels if adopted as energy conservation standards for furnaces, and the standards levels that DOE is proposing

[90] U.S. Office of Management and Budget, Office of Information and Regulatory Affairs, *2006 Report to Congress on the Costs and Benefits of Federal Regulations and Unfunded Mandates on State, Local, and Tribal Entities* (2006), *available at http://www.whitehouse.gov/sites/default/files/omb/assets/omb/inforeg/2006_cb/2006_cb_final_report.pdf.*

[91] *See* Bureau of Economic Analysis, ''Regional Multipliers: A Handbook for the Regional Input-Output Modeling System (RIMS II),'' U.S. Department of Commerce (1992).

[92] M.J. Scott, *et. al., ImSET 3.1: Impact of Sector Energy Technologies,* PNNL–18412, (2009), *available at www.pnl.gov/main/publications/external/technical_reports/PNNL-18412.pdf.*

to adopt in this NOPR. Additional details regarding the analyses conducted by DOE are contained in the publicly-available NOPR TSD supporting this document.

A. Trial Standard Levels

DOE developed two sets of trial standard levels (TSLs) that combine efficiency levels for NWGFs and MHGFs, one for AFUE and one for standby mode and off mode power.

1. TSLs for AFUE [93]

Table V.1 presents the AFUE levels in each TSL that DOE has identified for potential NWGF and MHGF standards. TSL 5 consists of the max-tech efficiency levels. TSL 4 consists of the efficiency levels that provide the maximum NES with an NPV greater than zero using a 7-percent discount rate. TSL 3 consists of the efficiency levels that provide the highest NPV using a 7-percent discount rate, and that also result in a higher percentage of consumers that receive an LCC benefit than experience an LCC loss (see section V.B.1 for LCC results). TSL 2 consists of the efficiency levels that represent 95-percent AFUE for the Northern region for each product class, and the baseline non-condensing efficiency level for the rest of the country. TSL 1 consists of the baseline condensing efficiency level for the North and the baseline non-condensing efficiency level for the rest of the country for each product class.

TABLE V.1—AFUE TRIAL STANDARD LEVELS FOR NON-WEATHERIZED GAS FURNACES AND MOBILE HOME GAS FURNACES

Product class	Trial standard level (AFUE)				
	1	2	3	4	5
Non-Weatherized Gas Furnaces	North: 90% Rest: 80%	North: 95% Rest: 80%	92%	95%	98%
Mobile Home Gas Furnaces	North: 92% Rest: 80%	North: 95% Rest: 80%	92%	95%	97% .....

2. TSLs for Standby Mode and Off Mode Power

Table V.2 presents the TSLs and the corresponding product class efficiency levels (expressed in watts) that DOE considered for NWGF and MHGF standby mode and off mode power consumption. For each product class, DOE considered three efficiency levels.

TABLE V.2—STANDBY MODE AND OFF MODE TRIAL STANDARD LEVELS FOR NON-WEATHERIZED GAS FURNACES AND MOBILE HOME GAS FURNACES

Product class	Trial standard level (watts)		
	1	2	3
Non-Weatherized Gas Furnaces	9.5	9.2	8.5
Mobile Home Gas Furnaces	9.5	9.2	8.5

B. Economic Justification and Energy Savings

1. Economic Impacts on Individual Consumers

DOE analyzed the economic impacts on NWGF and MHGF consumers by looking at the effects standards would have on the LCC and PBP. DOE also examined the impacts of potential standards on selected consumer subgroups. These analyses are discussed below.

a. Life-Cycle Cost and Payback Period

To evaluate the net economic impact of potential amended energy conservation standards on consumers of NWGFs and MHGFs, DOE conducted LCC and PBP analyses for each TSL. In general, higher-efficiency products would affect consumers in two ways: (1) Purchase price would increase, and (2) annual operating expense would decrease. In addition, some consumers may choose to switch to an alternative heating system rather than purchase and install a NWGF if they judge the economics to be favorable. DOE estimated the extent of switching at each TSL using the consumer choice model discussed in section IV.F.4.

Inputs used for calculating the LCC and PBP include total installed costs (*i.e.,* product price plus installation costs) and operating costs (*i.e.,* annual energy savings, energy prices, energy price trends, repair costs, and maintenance costs). The LCC calculation also uses product lifetime and discount rates. In cases where consumers are predicted to switch, the inputs include the total installed costs, operating costs, and product lifetime for the chosen heating system.

The key outputs of the LCC analysis are a mean LCC savings (or cost) and a median PBP relative to the base-case efficiency distribution for each product class of residential NWGFs and MHGFs, as well as the percentage of consumers for whom the LCC under an amended standard would decrease (net benefit), increase (net cost), or exhibit no change (no impact).

DOE also performed a PBP analysis as part of the consumer impact analysis. The PBP is the number of years it would take for the consumer to recover the increased costs of higher-efficiency product as a result of energy savings based on the operating cost savings. The PBP is an economic benefit-cost measure that uses benefits and costs without discounting. Chapter 8 of the NOPR TSD provides detailed

[93] In the context of presenting TSLs and results for each of them, DOE uses the term ''AFUE standard'' to refer to potential standards on AFUE throughout section V of this notice. TSLs for standby mode and off mode are addressed separately.

information on the LCC and PBP analyses.

The simple payback is measured relative to the baseline product. In contrast, the LCC savings are measured relative to the base-case efficiency distribution in the compliance year. No impacts occur when the base-case efficiency for a specific consumer equals or exceeds the efficiency at a given TSL; a standard would have no effect because the product installed would be at or above that standard level without amended standards.

For NWGFs, the LCC and PBP results at each efficiency level include consumers that would purchase and install a NWGF at that level, and also consumers that would choose to switch to alternative heating equipment rather than pay the cost of installing a furnace at that level.[94] The impacts for consumers that switch depend on the product that they choose (heat pump or electric furnace) and the NWGF that they would purchase in the base case. The extent of projected product switching (in 2021) is shown in Table V.3 for each TSL for NWGFs. As expected, the degree of switching increases at higher-efficiency TSLs where the installed cost of a NWGF is very high for some consumers. As discussed in section IV.F.4, DOE also conducted sensitivity analysis using high and low switching estimates (based on paybacks of 2.5 and 4.5 years, respectively around the reference value of 3.5 years). Tables similar to Table V.3 for the high and low switching estimates are shown in appendix 8J of the NOPR TSD.

TABLE V.3—RESULTS OF CONSUMER CHOICE MODEL FOR NON-WEATHERIZED GAS FURNACES

Consumer Option	TSL 1** (%)	TSL 2** (%)	TSL 3	TSL 4	TSL 5
Purchase NWGF at Standard Level	97.8	97.4	90.6	88.6	84.7
Switch to Heat Pump*	1.6	1.9	6.8	8.6	12.0
Switch to Electric Furnace*	0.6	0.6	2.5	2.8	3.3
Total	100	100	100	100	100

* Includes switching from a gas water heater to an electric water heater.
** Results at TSLs 1 and 2 refer to the Northern region. For the Rest of Country, the proposed standard levels at TSLs 1 and 2 are at the baseline, so no consumers are affected.

Table V.4 through Table V.7 provide key results for the AFUE TSLs. Results for all efficiency levels are reported in chapter 8 of the NOPR TSD. The LCC and PBP results for NWGF include both residential and commercial users. For NWGFs, similar results for the high and low switching estimates are shown in appendix 8J of the NOPR TSD. For the proposed standards for AFUE (TSL 3), the average LCC savings are $253 using high switching estimates, and $329 using low switching estimates. These values compare to the default LCC savings of $305 (see Table V.5).

TABLE V.4—AVERAGE LCC AND PBP RESULTS FOR NON-WEATHERIZED GAS FURNACE AFUE STANDARDS

TSL	Region	AFUE (%)	Average costs (2013$)				Simple payback (years)	Average lifetime (years)
			Installed cost	First year's operating cost	Lifetime operating cost	LCC		
1	North	90	$2,985	$737	$11,761	$14,746	8.3	21.5
	Rest of Country	80	2,003	456	7,374	9,376	.....	21.5
2	North	95	3,133	706	11,251	14,385	7.2	21.5
	Rest of Country	80	2,003	456	7,374	9,376	.....	21.5
3	National	92	2,669	579	9,228	11,897	7.2	21.5
4	National	95	2,788	565	8,985	11,773	7.4	21.5
5	National	98	2,948	554	8,771	11,718	8.3	21.5

Note: The results for each TSL are calculated assuming that all consumers use products with that efficiency level. The PBP is measured relative to the baseline product.

TABLE V.5—AVERAGE LCC SAVINGS RELATIVE TO THE BASE CASE EFFICIENCY DISTRIBUTION FOR NON-WEATHERIZED GAS FURNACE AFUE STANDARDS

TSL	Region	AFUE (%)	Life-Cycle cost savings	
			% of Consumers that Experience Net Cost	Average savings* (2013$)
1	North	90	11	$208
	Rest of Country	80	0	.....
2	North	95	14	374
	Rest of Country	80	0	.....
3	National	92	20	305

[94] DOE did not analyze switching for MHGFs because the installation cost differential is small between condensing and non-condensing equipment, so the incentive for switching is fairly small.

TABLE V.5—AVERAGE LCC SAVINGS RELATIVE TO THE BASE CASE EFFICIENCY DISTRIBUTION FOR NON-WEATHERIZED GAS FURNACE AFUE STANDARDS—Continued

TSL	Region	AFUE (%)	Life-Cycle cost savings	
			% of Consumers that Experience Net Cost	Average savings* (2013$)
4	National	95	24	$388
5	National	98	40	441

* The calculation includes households with zero LCC savings (no impact).

TABLE V.6—AVERAGE LCC AND PBP RESULTS FOR MOBILE HOME GAS FURNACE AFUE STANDARDS

TSL	Region	AFUE (%)	Average costs (2013$)				Simple payback (years)	Average lifetime (years)
			Installed cost	First year's operating cost	Lifetime operating cost	LCC		
1	North	92	$1,760	$740	$11,415	$13,175	1.8	21.5
	Rest of Country	80	1,489	489	7,762	9,251	.....	21.5
2	North	95	1,902	719	11,103	13,005	2.8	21.5
	Rest of Country	80	1,489	489	7,762	9,251	.....	21.5
3	National	92	1,721	623	9,694	11,415	2.2	21.5
4	National	95	1,864	607	9,440	11,304	3.3	21.5
5	National	97	1,979	599	9,319	11,298	4.2	21.5

Note: The results for each TSL are calculated assuming that all consumers use products with that efficiency level. The PBP is measured relative to the baseline product.

TABLE V.7—AVERAGE LCC SAVINGS RELATIVE TO THE BASE CASE EFFICIENCY DISTRIBUTION FOR MOBILE HOME GAS FURNACE AFUE STANDARDS

TSL	Region	AFUE (%)	Life-Cycle cost savings	
			% of Consumers that experience net cost (%)	Average savings* (2013$)
1	North	92	4	$770
	Rest of Country	80	0	.....
2	North	95	8	902
	Rest of Country	80	0	.....
3	National	92	7	691
4	National	95	13	778
5	National	97	25	784

* The calculation includes households with zero LCC savings (no impact).

Table V.8 through Table V.11 show the national LCC and PBP results for standby mode and off mode TSLs. DOE did not consider regional standards for standby mode and off mode. The LCC and PBP results for NWGFs include both residential and commercial users.

TABLE V.8—AVERAGE LCC AND PBP RESULTS FOR NON-WEATHERIZED GAS FURNACE STANDBY MODE AND OFF MODE STANDARDS

TSL	Efficiency level	Average costs (2013$)				Simple payback (years)	Average lifetime (years)
		Installed cost	First year's operating cost	Lifetime operating cost	LCC		
	Baseline	$0	$11	$159	$159	.....	21.5
1	1	2	9	137	139	1.3	21.5
2	2	17	9	133	150	9.7	21.5

TABLE V.8—AVERAGE LCC AND PBP RESULTS FOR NON-WEATHERIZED GAS FURNACE STANDBY MODE AND OFF MODE STANDARDS—Continued

TSL	Efficiency level	Average costs (2013$)				Simple payback (years)	Average lifetime (years)
		Installed cost	First year's operating cost	Lifetime operating cost	LCC		
3	3	18	8	123	141	7.5	21.5

Note: The results for each TSL are calculated assuming that all consumers use products with that efficiency level. The PBP is measured relative to the baseline product.

TABLE V.9—AVERAGE LCC SAVINGS RELATIVE TO THE BASE-CASE EFFICIENCY DISTRIBUTION FOR NON-WEATHERIZED GAS FURNACE STANDBY MODE AND OFF MODE STANDARDS

TSL	Efficiency level	Life-Cycle cost savings	
		% of Consumers that experience net cost	Average savings * (2013$)
1	1	2	$12
2	2	15	6
3	3	9	13

* The calculation includes households with zero LCC savings (no impact).

TABLE V.10—AVERAGE LCC AND PBP RESULTS FOR MOBILE HOME GAS FURNACE STANDBY MODE AND OFF MODE STANDARDS

TSL	Efficiency level				Average costs (2013$)	Simple payback (years)	Average lifetime (years)
	Installed cost	First year's operating cost	Lifetime operating cost	LCC			
	Baseline	$0	$10	$155	$155		21.5
1	1	2	9	134	136	1.2	21.5
2	2	16	9	130	145	9.2	21.5
3	3	17	8	120	137	7.1	21.5

Note: The results for each TSL are calculated assuming that all consumers use products with that efficiency level. The PBP is measured relative to the baseline product.

TABLE V.11—AVERAGE LCC SAVINGS RELATIVE TO THE BASE-CASE EFFICIENCY DISTRIBUTION FOR MOBILE HOME GAS FURNACE STANDBY MODE AND OFF MODE STANDARDS

TSL	Efficiency level	Life-Cycle cost savings	
		% of Consumers that experience net cost	Average savings * (2013$)
1	1	0	$1
2	2	1	0
3	3	1	1

* The calculation includes households with zero LCC savings (no impact).

b. Consumer Subgroup Analysis [95]

In the consumer subgroup analysis, DOE estimated the impacts of the considered AFUE TSLs on low-income and senior-only households. The average LCC savings and simple payback periods for low-income and senior-only households are compared to the results for all consumers for the AFUE standards in Table V.12 and Table V.13. Because the Rest of Country efficiency levels at TSLs 1 and 2 are at the baseline, these tables only include results for the Northern region for these TSLs. Chapter 11 of the NOPR TSD presents detailed results of the consumer subgroup analysis, including

[95] As discussed in section IV.I, DOE did not perform a subgroup analysis for the residential furnace standby mode and off mode efficiency levels. The standby mode and off mode analysis relied on the test procedure to assess energy savings for the considered standby mode and off mode efficiency levels. Because the analysis used the same test procedure parameters for all sample households, there is no difference in energy savings between the consumer subgroups and the full sample.

results for standby mode and off mode standards.

TABLE V.12—NON-WEATHERIZED GAS FURNACE AFUE STANDARDS: IMPACTS FOR SENIOR-ONLY AND LOW-INCOME CONSUMER SUBGROUPS COMPARED TO ALL HOUSEHOLDS

TSL	AFUE (%)	Average life-cycle cost savings (2013$)			Simple payback period (years)		
		Senior-only	Low-income	All consumers	Senior-only	Low-income	All consumers
1*	90	$223	$148	$208	7.9	9.1	8.3
2*	95	405	346	374	6.7	7.6	7.2
3	92	326	247	305	6.8	8.3	7.2
4	95	427	330	388	6.9	8.3	7.4
5	98	542	485	441	7.5	8.5	8.3

*Only includes results for the North region.

TABLE V.13—MOBILE HOME GAS FURNACE AFUE STANDARDS: IMPACTS FOR SENIOR-ONLY AND LOW-INCOME CONSUMER SUBGROUPS COMPARED TO ALL HOUSEHOLDS

TSL	AFUE (%)	Average life-cycle cost savings (2013$)			Simple payback period (years)		
		Senior-only	Low-income	All consumers	Senior-only	Low-income	All consumers
1*	92	$586	$746	$770	4.1	2.2	1.8
2*	95	670	882	902	5.5	3.4	2.8
3	92	429	677	691	4.1	2.2	2.2
4	95	455	763	778	5.5	3.4	3.3
5	97	415	768	784	6.8	4.3	4.2

*Only includes results for the North region.

c. Rebuttable Presumption Payback Period

As discussed in section III.E.2, EPCA establishes a rebuttable presumption that an energy conservation standard is economically justified if the increased purchase cost for a product that meets the standard is less than three times the value of the first-year energy savings resulting from the standard. Accordingly, DOE calculated a rebuttable-presumption PBP for each TSL for NWGFs and MHGFs based on average usage profiles. As a result, DOE calculated a single rebuttable-presumption payback value, and not a distribution of PBPs, for each TSL. However, DOE routinely conducts an economic analysis that considers the full range of impacts to the consumer, manufacturer, Nation, and environment, as required by EPCA under 42 U.S.C. 6295(o)(2)(B)(i). The results of that analysis serve as the basis for DOE to definitively evaluate the economic justification for a potential standard level, thereby supporting or rebutting the results of any preliminary determination of economic justification. Table V.14 shows the rebuttable-presumption PBPs for the considered AFUE TSLs for NWGFs and MHGFs. Table V.15 shows the rebuttable-presumption PBPs for the considered TSLs for standby mode and off mode for NWGFs and MHGFs.

TABLE V.14—REBUTTABLE-PRESUMPTION PAYBACK PERIODS (YEARS) FOR NWGFS AND MHGFS FOR ANALYSIS OF AFUE STANDARDS

Product class	Trial standard level				
	1*	2*	3	4	5
Non-Weatherized Gas Furnaces	4.2	3.5	3.9	3.9	4.8
Mobile Home Gas Furnaces	0.9	1.1	1.1	1.4	1.8

*Results at TSLs 1 and 2 are for the North region. For the Rest of Country, the proposed standard levels at TSLs 1 and 2 are at the baseline, so no consumers are affected.

TABLE V.15—REBUTTABLE-PRESUMPTION PAYBACK PERIODS (YEARS) FOR NWGFS AND MHGFS FOR ANALYSIS OF STANDBY MODE AND OFF MODE STANDARDS

Product class	Trial standard level		
	1	2	3
Non-Weatherized Gas Furnaces	1.5	11.1	8.6
Mobile Home Gas Furnaces	1.3	9.8	7.5

2. Economic Impacts on Manufacturers

DOE performed a manufacturer impact analysis (MIA) to estimate the impact of an amended energy conservation standard on manufacturers of residential gas-fired furnace products. The following section describes the expected impacts on manufacturers at each considered TSL. DOE first discusses the impacts of potential AFUE standards and then turns to the impacts of potential standby mode and off mode standards. Chapter 12 of the NOPR TSD explains the analysis in further detail.

a. Industry Cash-Flow Analysis Results

Cash-Flow Analysis Results for Residential Furnaces AFUE Standards

In this section, DOE provides GRIM results from the AFUE analysis, which examines changes in the industry that would result from a potential increase in the AFUE standard. DOE applied preservation of gross margin markup scenario as an upper bound to GRIM results (less severe) and the three-tiered markup scenario as the lower bound to GRIM results (more severe).

As discussed in section IV.J.2.b, DOE considered the preservation of gross margin percentage scenario by applying a uniform ''gross margin percentage'' markup across all efficiency levels. As production cost increases with efficiency, this scenario implies that the absolute dollar markup will increase. DOE assumed the nonproduction cost markup—which includes SG&A expenses, research and development expenses, interest, and profit to be a factor of 1.34 for non-weatherized gas furnaces and 1.27 for mobile home gas furnaces. These markups are consistent with the ones DOE assumed in the engineering analysis and in the base case of the GRIM. Manufacturers have indicated that it is optimistic to assume that as their production costs increase in response to an amended energy conservation standard, they would be able to maintain the same gross margin percentage markup. Therefore, DOE assumes that this scenario represents a high bound to industry profitability under an amended energy conservation standard.

To assess the more severe end of the range of potential impacts, DOE modeled the three-tier markup scenario, which reflects manufacturer concerns surrounding their inability to higher margins on premium efficiency products as the energy conservation standard increases. High-efficiency products that enjoy a premium markup in the base case see that premium erode in the standards case. Additional information can be found in section IV.J.2.b of this document and chapter 12 of the TSD.

As noted in the MIA methodology section (see IV.J.2), in addition to markup scenarios, the MPC, shipments, and conversion cost assumptions also affect GRIM results. The GRIM shows a change in industry value net present value that results from amended standards.

Each of the modeled scenarios in the AFUE standards analysis results in a unique set of annual free cash flows at each TSL. The INPV is the sum of the annual free cash flows from the 2014 to 2050, taking into account the time value of money. In the following discussion, the ''change in INPV'' refers to the difference in industry value between the base case and each standards case that results from the sum of the discounted cash flows from the base year 2014 through 2050. The change in INPV reflects the potential changes in industry valuation due to amended standards.

To provide perspective on the short-term impacts, DOE discusses the change in free cash flow between the base case and the standards case in the year before new standards would take effect. These figures provide an understanding of the magnitude of the required conversion costs at each TSL relative to the cash flow generated by the industry in the base case.

Table V.16 and Table V.17 depict the estimated financial impacts for residential furnace manufacturers (represented by changes in INPV, the short-term cash flow impacts, and the industry conversion costs that DOE expects at each TSL under each of the two markup scenarios discussed above.

TABLE V.16—MANUFACTURER IMPACT ANALYSIS: AFUE STANDARDS RESULTS FOR RESIDENTIAL GAS-FIRED FURNACES—PRESERVATION OF GROSS MARGIN PERCENTAGE MARKUP SCENARIO

	Units	Base case	Trial standard level *				
			1	2	3	4	5
INPV	$M	1,055.13	1,048.71	1,063.45	1,061.65	1,099.24	1,080.94
Change in INPV	$M		(6.42)	8.32	6.52	44.10	25.80
	%		(0.61)	0.79	0.62	4.18	2.45
2020 Free Cash Flow (FCF)	$M	22.55	10.32	0.88	0.41	(13.78)	(86.21)
Change in 2020 FCF	$M		(12.23)	(21.67)	(22.15)	(36.33)	(108.76)
	%		(54.22)	(96.09)	(98.19)	(161.08)	(482.22)
Product Conversion Costs	$M		15.77	23.00	16.47	23.00	64.36
Capital Conversion Costs	$M		16.95	33.24	38.53	65.81	199.94

* Parentheses indicate negative values

TABLE V.17—MANUFACTURER IMPACT ANALYSIS: AFUE STANDARDS RESULTS FOR RESIDENTIAL GAS-FIRED FURNACES—THREE-TIER MARKUP SCENARIO

	Units	Base case	Trial standard level *				
			1	2	3	4	5
INPV	$M	1,055.13	990.43	825.26	971.41	740.79	548.20
Change in INPV	$M		(64.71)	(229.87)	(83.72)	(314.34)	(506.94)
	%		(6.13)	(21.79)	(7.93)	(29.79)	(48.04)
2020 Free Cash Flow (FCF)	$M	22.55	10.32	0.88	0.41	(13.78)	(86.21)
Change in 2020 FCF	$M		(12.23)	(21.67)	(22.15)	(36.33)	(108.76)
	%		(54.22)	(96.09)	(98.19)	(161.08)	(482.22)
Product Conversion Costs	$M		15.77	23.00	16.47	23.00	64.36

TABLE V.17—MANUFACTURER IMPACT ANALYSIS: AFUE STANDARDS RESULTS FOR RESIDENTIAL GAS-FIRED FURNACES—THREE-TIER MARKUP SCENARIO—Continued

	Units	Base case	Trial standard level *				
			1	2	3	4	5
Capital Conversion Costs	$M		16.95	33.24	38.53	65.81	199.94

* Parentheses indicate negative values

At TSL 1, DOE estimates the change in INPV to range from −$64.71 million to −6.42 million, or a change of −6.13 percent to −0.61 percent. At this level, industry free cash flow in 2020 (the year before the compliance date) is estimated to decrease to $10.32 million, or a change of −54.22 percent compared to the base-case value of $22.55 million.

TSL 1 proposes regional standards, requiring products the North to meet an efficiency level above the baseline while the Rest of Country remains at the current Federal minimum of 80% AFUE. NWGF products in the North would be required to meet a minimum efficiency of 90% AFUE while MHGF products in the North would be required to meet a minimum efficiency of 92% AFUE. Conversion costs are driven by the need for manufacturers to add a secondary condensing heat exchanger production capacity. Today, approximately 39% of NWGF shipments and 19 percent of MHGF shipments are sold at condensing levels. When the standard goes into effect, an additional 21 percent of NWGF shipments and 29 percent of MHGF will require secondary heat exchanges, requiring manufacturers to add capacity to their secondary heat exchanger production lines. Manufacturers will also incur product conversion costs driven by the development necessary to create compliant, cost competitive products. DOE estimates total conversion costs to be $32.72 million for the industry.

At TSL 2, DOE estimates the change in INPV to range from −$229.87 million to $8.32 million, or a change in INPV of −21.79 percent to 0.79 percent. At this level, free cash flow in 2020 is estimated to decrease to $0.88 million, or a decrease of 96.09 percent compared to the base-case value of $22.55 million in the year 2020.

TSL 2 is a regional standard requiring the North to meet efficiency levels above the baseline while the Rest of Country remains at baseline. NWGFs and MHGFs in the North would be required to meet a minimum efficiency of 95% AFUE. Manufacturer feedback in interviews indicated that capital conversion costs ramp up significantly at 95% AFUE. DOE estimates total conversion costs to be $56.24 million for the industry.

Furthermore, most 95% AFUE products today are premium offerings that are sold at a higher markup than baseline products. Once 95% AFUE becomes the amended baseline standard in the North, manufacturers would need to investment engineering resources to create baseline, cost-optimized 95% AFUE models that are competitive at reduced markups. Additionally, manufacturers may find markups for products above 95% AFUE in the North are reduced, as there is less opportunity for differentiation based on efficiency between baseline products and premium products. This general reduction in markups in the North leads to reduced profitability for manufacturers and a potential drop in INPV.

At TSL 3, DOE estimates the change in INPV to range from −$83.72 million to $6.52 million, or a change in INPV of −7.93 percent to 0.62 percent. At this level, free cash flow is estimated to decrease to $0.41 million, or a change of −98.19 percent compared to the base-case value of $22.55 million in the year 2020.

TSL 3 represents a national standard at 92% AFUE for both NWGF and MHGF products. With a national condensing standard, an additional 5 percent of NWGF and an additional 81 percent of MHGF industry shipments would need condensing heat exchangers. That increase would require manufacturers to add significant secondary heat exchanger capacity to their operations. Models accounting for 65 percent of NWGF shipments and 81 percent of MHGF shipments would need to be redesigned. Industry conversion costs reach $55 million.

At 92% AFUE, the industry faces some compression of markups. However, on the whole, manufacturers are still able to maintain three tiers of markups with efficiency as a differentiator. As a result, even though TSL 3 conversion costs as similar to those at TSL 2, the INPV impacts are not as severe.

At TSL 4, DOE estimates the change in INPV to range from −$314.34 million to $44.1 million, or a change in INPV of −29.79 percent to 4.18 percent. At this level, free cash flow is estimated to decrease to −$13.78 million, or a change of −161.08 percent compared to the base-case value of $22.55 million in the year 2020.

TSL 4 represents a national standard at 95% AFUE for both NWGF and MHGF products. Manufacturers would need to add significant secondary heat exchanger capacity. Additionally, manufacturers would need to redesign a models accounting for 99 percent of NWGF shipments and 99 percent of MHGF shipments. Industry conversion costs reach $88.81 million. These conversion costs are a significant drain on industry cash flow and could results in manufacturers seeking outside capital to finance the conversion expenses.

At 95% AFUE, the industry faces significant compression of markups. As noted at TSL 2, most 95% AFUE products today are premium offerings that are sold at a higher markup than baseline products. Once 95% AFUE becomes the amended baseline standard, manufacturers would need to investment engineering resources to create baseline, cost-optimized 95% AFUE models that are competitive at reduced markups. Additionally, there is less opportunity for differentiation between baseline products and premium products, resulting in reduced markups for products that have premium efficiencies. This reduction in markups leads to reduced profitability for manufacturers and a potential drop in INPV.

At TSL 5, DOE estimates the change in INPV to range from −$506.94 million to $25.80 million, or a change in INPV of −48.04 percent to 2.45 percent. At this level, free cash flow is estimated to decrease to −$86.21 million, or a decrease of 482.22 percent compared to the base-case value of $22.55 million in the year 2020. TSL 5 represents the max-tech standard level.

Some manufacturers expressed great concern about the state of technology at max tech. They had concerns about the ability to deliver cost effectiveness of these products for their customers at such a high efficiency level. They also cited high conversion costs and large investment in R&D to produce all

products at this level. Total conversion costs are expected to reach $264.30 million for the industry. Additionally at max-tech, there is no opportunity for product differentiation based on efficiency. DOE models all shipments as having a baseline product markup. This results in a large drop in profitability for manufacturers in the tiered markup scenario.

DOE seeks comments, information, and data on the capital conversion costs and product conversion costs estimated for each AFUE standard TSL.

Cash-Flow Analysis Results for Residential Furnaces Standby Mode and Off Mode Standards

Standby mode and off mode standards results are presented in Table V.18 and Table V.19. The impacts of standby mode and off mode features were analyzed for the same product classes as the amended AFUE standards, but at different efficiency levels, which correspond to a different set of technology options for reducing standby mode and off mode energy consumption. Therefore, the TSLs in the standby mode and off mode analysis do not correspond to the TSLs in the AFUE analysis.

DOE considered the impacts of standby mode and off mode features under two markup scenarios to represent the upper and lower bounds of industry impacts: (1) A preservation of gross margin percentage scenario; and (2) per-unit preservation of operating profit. As with the AFUE analysis, the preservation of gross margin percentage represents the upper bound of impacts (less severe), while the preservation of per-unit operating profit scenario represents the lower bound of impacts (more severe).

TABLE V.18—MANUFACTURER IMPACT ANALYSIS: STANDBY MODE AND OFF MODE STANDARDS RESULTS FOR RESIDENTIAL GAS-FIRED FURNACE STANDARDS—PRESERVATION OF GROSS MARGIN PERCENTAGE MARKUP SCENARIO

	Units	Base case	Trial standard level *		
			1	2	3
INPV	$M	1055.13	1054.61	1055.58	1055.99
Change in INPV	$M		(0.52)	(0.45)	(0.85)
	%		(0.05)	0.04	0.08
2020 Free Cash Flow (FCF)	$M	22.55	22.16	22.16	22.16
Change in 2020 FCF	$M		(0.39)	(0.39)	(0.39)
	%		(1.75)	(1.75)	(1.75)
Product Conversion Costs	$M		1.35	1.35	1.35
Capital Conversion Costs	$M				

* Parentheses indicate negative values.

TABLE V.19—MANUFACTURER IMPACT ANALYSIS: STANDBY MODE AND OFF MODE STANDARDS RESULTS FOR RESIDENTIAL GAS-FIRED FURNACE STANDARDS—PER-UNIT PRESERVATION OF OPERATING PROFIT SCENARIO

	Units	Base case	Trial standard level *		
			1	2	3
INPV	$M	1,055.13	1,053.41	1,046.10	1,042.97
Change in INPV	$M		(1.72)	(9.03)	(12.16)
	%		(0.16)	(0.86)	(1.15)
2020 Free Cash Flow (FCF)	$M	22.55	22.16	22.16	22.16
Change in 2020 FCF	$M		(0.39)	(0.39)	(0.39)
	%		(1.75)	(1.75)	(1.75)
Product Conversion Costs	$M		1.35	1.35	1.35
Capital Conversion Costs	$M				

* Parentheses indicate negative values.

At TSL 1, DOE estimates impacts on INPV for residential gas-fired furnace manufacturers to decrease by less than one percent in both markup scenarios (preservation of gross margin and per-unit preservation of operating profit). At this potential standard level, industry free cash flow is estimated to decrease by less than two percent, compared to the base-case value of $22.55 million in 2020. DOE expects conversion costs for standby and off mode to be $1.35 million.

At TSL 2, DOE estimates impacts on INPV for residential gas-fired furnace manufacturers to decrease by less than one percent in both markup scenarios. At this potential standard level, industry free cash flow is estimated to decrease by less than two percent, compared to the base-case value of $22.55 million in 2020. DOE expects conversion costs for standby and off mode to be $1.35 million.

At TSL 3, DOE estimates impacts on INPV for residential gas-fired furnace manufacturers to range from a decrease of 1.15 percent to an increase of 0.08 percent, or a change in INPV of −$12.16 million to $0.85 million. At this potential standard level, industry free cash flow is estimated to decrease by less than two percent compared to the base-case value of $22.55 million in 2020. DOE expects conversion costs for standby mode and off mode to be $1.35 million.

DOE seeks comments, information, and data on the capital conversion costs and product conversion costs estimated for each standby mode and off mode TSL.

b. Direct Impacts on Employment

To quantitatively assess the potential impacts of amended energy conservation standards on direct employment in the residential furnaces industry, DOE used the GRIM to estimate the domestic labor expenditures and number of direct employees in the base case and at each standards case (TSL) from 2014 through

2050. DOE used statistical data from the U.S. Census Bureau's 2011 Annual Survey of Manufacturers,[96] the results of the engineering analysis, and interviews with manufacturers to determine the inputs necessary to calculate industry-wide labor expenditures and domestic direct employment levels. Labor expenditures related to manufacturing of the product are a function of the labor intensity of the product, the sales volume, and an assumption that wages remain fixed in real terms over time. The total labor expenditures in each year are calculated by multiplying the MPCs by the labor percentage of MPCs.

The total labor expenditures in the GRIM were then converted to domestic production employment levels by dividing production labor expenditures by the annual payment per production worker (production worker hours times the labor rate found in the U.S. Census Bureau's 2011 Annual Survey of Manufacturers). The production worker estimates in this section only cover workers up to the line-supervisor level who are directly involved in fabricating and assembling a product within an original equipment manufacturer (OEM) facility. Workers performing services that are closely associated with production operations, such as materials handling tasks using forklifts, are also included as production labor. DOE's estimates only account for production workers who manufacture the specific products covered by this rulemaking. The total direct employment impacts calculated in the GRIM are the sum of the changes in the number of production workers resulting from the amended energy conservation standards for NWGFs and MHGFs, as compared to the base case. Table V.20 shows the range of impacts of a potential amended energy conservation standard on U.S. production workers of residential gas-fired furnace products.

TABLE V.20—POTENTIAL CHANGES IN THE TOTAL NUMBER OF PRODUCTION WORKERS IN THE RESIDENTIAL GAS-FIRED FURNACE INDUSTRY IN 2020

	Trial standard level					
	Base case	1	2	3	4	5
Total Number of Domestic Production Workers in 2020 (without changes in production locations).	2,692	3,037	3,200	3,172	3,474	3,804.
Potential Changes in Domestic Production Workers in 2020*.	.....	(2,692) to 75	(2,692) to 238	(2,692) to 210	(2,692) to 512	(2,692) to 842.

* DOE presents a range of potential employment impacts. Numbers in parentheses indicate negative values.

In the absence of amended energy conservation standards, DOE estimates that the residential gas-fired furnace industry would employ 2,692 domestic production workers in 2020. The upper end of the range estimates the maximum increase in the number of production workers in the residential gas-fired furnace industry after implementation of an energy conservation standard at each TSL. It assumes manufacturers would continue to produce the same scope of covered products within the United States and would require some additional labor to produce more-efficient products. To establish a conservative lower bound, DOE assumes the entire industry shifts production to foreign countries. Some large manufacturers have already begun moving production to lower-cost countries, and an amended standard that necessitates large increases in labor content or that requires large expenditures to re-tool facilities could cause other manufacturers to re-evaluate production siting options.

DOE notes that its estimates of the impacts on direct employment are based on the analysis of amended AFUE energy efficiency standards only. Standby mode and off mode technology options considered in the engineering analysis would result in component swaps, which would not make the product significantly more complex and would not be difficult to implement. While some product development effort would be required, DOE does not expect the standby mode and off mode standard to meaningfully affect the amount of labor required in production. Consequently, DOE does not anticipate that the proposed standby mode and off mode standards will have a significant impact on direct employment.

These employment impact conclusions are independent of conclusions regarding indirect employment impacts in the broader United States economy, which are discussed in chapter 15 of the NOPR TSD.

c. Impacts on Manufacturing Capacity

According to residential gas-fired furnace manufacturers interviewed, production facilities as they are today may not be able to accommodate a large shift to condensing furnaces, if such shift were mandated by an energy conservation standard. However, manufacturers would be able to add capacity and adjust product designs between the announcement year of the standard and the compliance year of the standard. DOE interviewed manufacturers representing over 50 percent of industry sales. None of the interviewed manufacturers expressed concern over the industry's ability to ramp up production lines at TSL 1 to TSL 4 to meet consumer demand. At TSL 5, technical uncertainty was expressed by manufacturers that do not offer 98-percent AFUE products today, as they were unsure what production lines changes would be needed to meet a standard set at max-tech.

d. Impacts on Subgroups of Manufacturers

As discussed above, using average cost assumptions to develop an industry cash flow estimate is not adequate for assessing differential impacts among subgroups of manufacturers. Small manufacturers, niche players, or manufacturers exhibiting a cost structure that differs substantially from the industry average could be affected disproportionately. DOE used the results of the industry characterization to group manufacturers exhibiting similar characteristics. Specifically, DOE identified small business manufacturers as a subgroup for separate impact analyses.

[96] U.S. Census Bureau, Annual Survey of Manufacturers: General Statistics: Statistics for Industry Groups and Industries (2011) (Available at *http://www.census.gov/manufacturing/asm/index.html*).

For residential gas-fired furnace equipment, DOE identified and evaluated the impact of amended energy conservation standards on one subgroup, specifically small manufacturers. The SBA defines a ''small business'' as having 750 employees or less for NAICS 333415, ''Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing.'' Based on this identification, DOE identified five domestic manufacturers in the industry that qualify as a small business. For a discussion of the impacts on the small manufacturer subgroup, see the regulatory flexibility analysis in section VI.B of this NOPR and chapter 12 of the NOPR TSD.

e. Cumulative Regulatory Burden

While any one regulation may not impose a significant burden on manufacturers, the combined effects of several recent or impending regulations may have serious consequences for some manufacturers, groups of manufacturers, or an entire industry. Assessing the impact of a single regulation may overlook this cumulative regulatory burden. Multiple regulations affecting the same manufacturer can strain profits and can lead companies to abandon product lines or markets with lower expected future returns than competing products. For these reasons, DOE conducts an analysis of cumulative regulatory burden as part of its rulemakings pertaining to appliance efficiency.

For the cumulative regulatory burden analysis, DOE looks at other regulations that could affect NWGF and MHGF manufacturers that will take effect approximately three years before or after the 2021 compliance date of amended energy conservation standards for NWGF and MHGF. In interviews, manufacturers cited Federal regulations on equipment other than NWGF and MHGF that contribute to their cumulative regulatory burden. The compliance years and expected industry conversion costs of relevant amended energy conservation standards are indicated in Table V.21.

TABLE V.21—COMPLIANCE DATES AND EXPECTED CONVERSION EXPENSES OF FEDERAL ENERGY CONSERVATION STANDARDS AFFECTING NWGF AND MHGF MANUFACTURERS

Federal energy conservation standards	Approximate compliance date	Estimated total industry conversion expense
Commercial Packaged Air Conditioners and Heat Pumps * 79 FR 58948 (September, 30, 2014)	2018	$226.4M (2013$)
Commercial Warm-Air Furnaces * 80 FR 6182 (February 4, 2015).	2018	$19.9M (2013$)
2014 Furnace Fans 79 FR 38130 (July 3, 2014)	2019	$40.6M (2013$)
Miscellaneous Residential Refrigeration *	2019	TBD
Single Packaged Vertical Units * 79 FR 78614 (December 30, 2014)	2019	$7.2M (2013$)
Commercial Water Heaters *	2019	TBD
Commercial Packaged Boilers *	2020	TBD
Residential Water Heaters *	2021	TBD
Clothes Dryers *	2022	TBD
Central Air Conditioners *	2022	TBD
Room Air Conditioners *	2022	TBD
Commercial Packaged Air Conditioning and Heating Equipment (Evaporatively and Water Cooled) *	2023	TBD

* The final rule for these energy conservation standards has not been published. The compliance date and analysis of conversion costs have not been finalized at this time. (If a value is provided for total industry conversion expense, this value represents an estimate from the NOPR.)

DOE notes that furnace fans standard creates a unique cumulative burden because today's proposed residential furnace standard and the furnace fans standard impact the same products (*i.e.,* residential furnaces), affect the same group of manufacturers, and go into effect in a similar timeframe. A detailed summary of manufacturer impacts from the furnace fans final rule can be found in Table V.22. DOE explicitly notes the additional burdens of the furnace fan rule when weighing the benefits and costs of the trial standard levels in Section V.C.1 of this NOPR.

TABLE V.22—SUMMARY OF MANUFACTURER FINANCIAL IMPACTS FROM THE FURNACE FANS FINAL RULE

	Units	Furnace fans final rule
INPV	$M	290.6 to 397.8
Change in INPV	$M	(59.0) to 48.2
	(%)	(16.9) to (13.8)
Product Conversion Costs	$M	25.5
Capital Conversion Costs	$M	15.1
Total Conversion Costs	$M	40.6

* Values in parentheses are negative values.

DOE requests comments on the identified regulations and their contribution to cumulative regulatory burden. Additionally, DOE requests feedback on product-specific regulations that take effect between 2018 and 2024 that were not listed, including identification of the specific regulations and data quantifying the associated burdens.

3. National Impact Analysis

This section presents DOE's estimates of the national energy savings and the NPV of consumer benefits that would result from each of the TSLs considered as potential amended furnace AFUE standards, as well as from each of the TSLs considered as potential standards for standby mode and off mode.

a. Significance of Energy Savings

For each TSL, DOE projected energy savings for NWGFs and MHGFs

purchased in the 30-year period that begins in the year of anticipated compliance with amended standards (2021–2050). The savings are measured over the entire lifetime of product purchased in the 30-year period. DOE quantified the energy savings attributable to each TSL as the difference in energy consumption between each standards case and the base case. Table V.23 presents the estimated primary energy savings for each considered TSL for AFUE standards, and Table V.24 presents the estimated FFC energy savings for each TSL for AFUE standards. The approach for estimating national energy savings is further described in section IV.H.

TABLE V.23—NON-WEATHERIZED GAS FURNACES AND MOBILE HOME GAS FURNACES: CUMULATIVE PRIMARY NATIONAL ENERGY SAVINGS FOR POTENTIAL AFUE STANDARDS

[Units Sold in 2021–2050]

Product class	Trial standard levels				
	1	2	3	4	5
	(quads)				
Non-Weatherized Gas Furnaces	1.004	1.756	2.124	3.263	4.364
Mobile Home Gas Furnaces	0.062	0.066	0.127	0.131	0.142
Total	1.066	1.821	2.251	3.394	4.507

* Components may not sum due to rounding.

TABLE V.24—NON-WEATHERIZED GAS FURNACES AND MOBILE HOME GAS FURNACES: CUMULATIVE FULL-FUEL-CYCLE NATIONAL ENERGY SAVINGS FOR POTENTIAL AFUE STANDARDS

[Units Sold in 2021–2050]

Product class	Trial standard levels				
	1	2	3	4	5
	(quads)				
Non-Weatherized Gas Furnaces	1.222	2.054	2.638	3.963	5.322
Mobile Home Gas Furnaces	0.069	0.073	0.141	0.146	0.159
Total	1.291	2.126	2.780	4.110	5.481

* Components may not sum due to rounding.

For the proposed standards (TSL 3), the FFC savings of 2.780 quads is the net sum of the FFC natural gas savings (7.061 quads) and the increase in FFC energy use associated with higher electricity use due to switching to electric heating (4.281 quads).

As discussed in section IV.F.4, DOE conducted sensitivity analyses assuming higher and lower levels of product switching for NWGFs. Table V.25 compares the NES FFC results for potential AFUE standards under the default switching assumptions with the results in the sensitivity cases.

TABLE V.25—NON-WEATHERIZED GAS FURNACES AND MOBILE HOME GAS FURNACES: CUMULATIVE FULL-FUEL-CYCLE NATIONAL ENERGY SAVINGS FOR POTENTIAL AFUE STANDARDS (UNITS SOLD IN 2021–2050); PRODUCT SWITCHING SENSITIVITY ANALYSIS

Switching case	Trial standard levels				
	1	2	3	4	5
	(quads)				
Default	1.291	2.126	2.780	4.110	5.481
High	1.147	1.914	2.129	3.272	4.541
Low	1.484	2.319	3.433	4.904	6.424

* Components may not sum due to rounding.

Table V.26 presents the estimated primary energy savings for each considered TSL for standby mode and off mode standards, and Table V.27 presents the estimated FFC energy savings for each TSL for standby mode and off mode standards.

TABLE V.26—NON-WEATHERIZED GAS FURNACES AND MOBILE HOME GAS FURNACES: CUMULATIVE PRIMARY NATIONAL ENERGY SAVINGS FOR POTENTIAL STANDBY MODE AND OFF MODE POWER STANDARDS

[Units Sold in 2021–2050]

Product class	Trial standard levels		
	1	2	3
	(quads)		
Non-Weatherized Gas Furnaces	0.147	0.176	0.264
Mobile Home Gas Furnaces	0.0002	0.0002	0.0003
Total *	0.147	0.176	0.264

* Components may not sum due to rounding.

TABLE V.27—NON-WEATHERIZED GAS FURNACES AND MOBILE HOME GAS FURNACES: CUMULATIVE FULL-FUEL-CYCLE NATIONAL ENERGY SAVINGS FOR POTENTIAL STANDBY MODE AND OFF MODE POWER STANDARDS

[Units Sold in 2021–2050]

Product class	Trial standard levels		
	1	2	3
	(quads)		
Non-Weatherized Gas Furnaces	0.154	0.184	0.276
Mobile Home Gas Furnaces	0.0002	0.0002	0.0003
Total *	0.154	0.185	0.277

* Components may not sum due to rounding.

OMB Circular A–4 [97] requires agencies to present analytical results, including separate schedules of the monetized benefits and costs that show the type and timing of benefits and costs. Circular A–4 also directs agencies to consider the variability of key elements underlying the estimates of benefits and costs. For this rulemaking, DOE undertook a sensitivity analysis using nine, rather than 30, years of product shipments. The choice of a nine-year period is a proxy for the timeline in EPCA for the review of certain energy conservation standards and potential revision of and compliance with such revised standards.[98] The review timeframe established in EPCA is generally not synchronized with the product lifetime, product manufacturing cycles, or other factors specific to NWGFs and MHGFs. Thus, such results are presented for informational purposes only and are not indicative of any change in DOE's analytical methodology. The primary NES based on a nine-year analytical period are presented for the AFUE TSLs in Table V.28.[99] The impacts are counted over the lifetime of NWGFs and MHGFs purchased in 2021–2029. The percentage difference between the NES for 30 years of shipments and the NES for nine years of shipments is the same for FFC savings as for the primary NES.

TABLE V.28—CUMULATIVE PRIMARY NATIONAL ENERGY SAVINGS FOR POTENTIAL AFUE STANDARDS FOR NON-WEATHERIZED GAS FURNACES AND MOBILE HOME GAS FURNACES; NINE YEARS OF SHIPMENTS

[Units sold in 2021–2029]

Product class	Trial standard level				
	1	2	3	4	5
	(quads)				
Non-Weatherized Gas Furnaces	0.330	0.570	0.601	0.950	1.307
Mobile Home Gas Furnaces	0.022	0.024	0.042	0.044	0.048
Total *	0.352	0.594	0.643	0.994	1.355

* Note: Components may not sum due to rounding.

[97] U.S. Office of Management and Budget, ''Circular A–4: Regulatory Analysis'' (Sept. 17, 2003) (Available at: *http://www.whitehouse.gov/omb/circulars_a004_a-4/*).

[98] Section 325(m) of EPCA requires DOE to review its standards at least once every 6 years, and requires, for certain products, a 3-year period after any new standard is promulgated before compliance is required, except that in no case may any new standards be required within 6 years of the compliance date of the previous standards. While adding a 6-year review to the 3-year compliance period adds up to 9 years, DOE notes that it may undertake reviews at any time within the 6 year period and that the 3-year compliance date may yield to the 6-year backstop. A 9-year analysis period may not be appropriate given the variability that occurs in the timing of standards reviews and the fact that for some consumer products, the compliance period is 5 years rather than 3 years.

[99] DOE presents results based on a nine-year analytical period only for the AFUE TSLs; the percentage difference between nine-year and 30-year results for the standby mode and off mode TSLs is the same as for the AFUE TSLs.

b. Net Present Value of Consumer Costs and Benefits

Table V.29 shows the consumer NPV of the total costs and savings for consumers that would result from each AFUE TSL considered for NWGFs and MHGFs. In each case, the impacts cover the lifetime of products purchased in 2021–2050. In accordance with OMB's guidelines on regulatory analysis,[100] DOE calculated NPV using both a 7-percent and a 3-percent real discount rate.

TABLE V.29—NON-WEATHERIZED GAS FURNACES AND MOBILE HOME GAS FURNACES: CUMULATIVE NET PRESENT VALUE OF CONSUMER BENEFITS FOR POTENTIAL AFUE STANDARDS

[Units sold in 2021–2050]

Product class	Discount rate	Trial standard level				
		1	2	3	4	5
		(billion 2013$)				
Non-Weatherized Gas Furnaces	3%	8.1	13.5	15.1	20.4	24.1
Mobile Home Gas Furnaces		0.6	0.7	1.0	1.1	1.2
Total *		8.6	14.1	16.1	21.5	25.3
Non-Weatherized Gas Furnaces	7%	1.9	3.3	2.8	3.7	3.3
Mobile Home Gas Furnaces		0.2	0.2	0.3	0.3	0.3
Total *		2.1	3.6	3.1	4.0	3.7

* Note: Components may not sum due to rounding.

The NPV results based on the aforementioned nine-year analytical period are presented in Table V.30 for AFUE standards. The impacts are counted over the lifetime of products purchased in 2021–2029. As mentioned previously, such results are presented for informational purposes only and is not indicative of any change in DOE's analytical methodology or decision criteria.

TABLE V.30—CUMULATIVE NET PRESENT VALUE OF CONSUMER BENEFITS FOR POTENTIAL AFUE STANDARDS FOR NON-WEATHERIZED GAS FURNACES AND MOBILE HOME GAS FURNACES; NINE YEARS OF SHIPMENTS

[Units sold in 2021–2029]

Product class	Discount rate	Trial standard level				
		1	2	3	4	5
		(billion 2013$)				
Non-Weatherized Gas Furnaces	3%	2.7	4.6	4.3	5.8	6.5
Mobile Home Gas Furnaces		0.2	0.3	0.4	0.4	0.4
Total *		3.0	4.9	4.7	6.2	6.9
Non-Weatherized Gas Furnaces	7%	0.8	1.5	0.9	1.2	0.7
Mobile Home Gas Furnaces		0.1	0.1	0.2	0.2	0.2
Total *		0.9	1.6	1.1	1.4	0.9

* Note: Components may not sum due to rounding.

The above results reflect the use of the default decreasing price trend (see section IV.F.1) to estimate the change in price for NWGFs and MHGFs over the analysis period. DOE also conducted a sensitivity analysis that considered one scenario with a constant price trend and one scenario with a slightly higher rate of price decline than the reference case. The results of these alternative cases are presented in appendix 10C of the NOPR TSD.

As discussed in section IV.F.4, DOE conducted sensitivity analyses assuming higher and lower levels of product switching for NWGFs. Table V.31 compares the NPV results (using 3 and 7-percent discount rate) for potential AFUE standards under the default switching assumptions with the results in the sensitivity cases.

TABLE V.31—NON-WEATHERIZED GAS FURNACES AND MOBILE HOME GAS FURNACES: CUMULATIVE NET PRESENT VALUE OF CONSUMER BENEFITS FOR POTENTIAL AFUE STANDARDS (UNITS SOLD IN 2021–2050); PRODUCT SWITCHING SENSITIVITY ANALYSIS

Product class	Discount rate	Trial standard level				
		1	2	3	4	5
		(billion 2013$)				
Default	3%	8.6	14.1	16.1	21.5	25.3

[100] OMB Circular A–4, section E (Sept. 17, 2003) (Available at: *http://www.whitehouse.gov/omb/circulars_a004_a-4*).

TABLE V.31—NON-WEATHERIZED GAS FURNACES AND MOBILE HOME GAS FURNACES: CUMULATIVE NET PRESENT VALUE OF CONSUMER BENEFITS FOR POTENTIAL AFUE STANDARDS (UNITS SOLD IN 2021–2050); PRODUCT SWITCHING SENSITIVITY ANALYSIS—Continued

Product class	Discount rate	Trial standard level				
		1	2	3	4	5
		(billion 2013$)				
High		8.1	13.6	11.9	16.7	19.9
Low		9.2	14.8	19.9	25.8	30.4
Default	7%	2.1	3.6	3.1	4.0	3.7
High		1.9	3.4	1.6	2.3	1.8
Low		2.3	3.8	4.4	5.5	5.4

Table V.32 shows the consumer NPV results for each standby mode and off mode TSL considered for NWGFs and MHGFs. In each case, the impacts cover the lifetime of products purchased in 2021–2050. The NPV results based on the aforementioned nine-year analytical period are presented in Table V.33

TABLE V.32—NON-WEATHERIZED GAS FURNACES AND MOBILE HOME GAS FURNACES: CUMULATIVE NET PRESENT VALUE OF CONSUMER BENEFITS FOR POTENTIAL STANDBY MODE AND OFF MODE POWER STANDARDS

[Units sold in 2021–2050]

Product class	Discount rate	Trial standard levels		
		1	2	3
		(billion 2013$)		
Non-Weatherized Gas Furnaces	3%	2.1	2.0	3.3
Mobile Home Gas Furnaces		0.002	0.002	0.003
Total *		2.1	2.0	3.3
Non-Weatherized Gas Furnaces	7%	0.7	0.6	1.0
Mobile Home Gas Furnaces		0.001	0.001	0.001
Total *		0.7	0.6	1.0

* **Note:** Components may not sum due to rounding.
Note: Parentheses indicate negative values.

TABLE V.33—NON-WEATHERIZED GAS FURNACES AND MOBILE HOME GAS FURNACES: CUMULATIVE NET PRESENT VALUE OF CONSUMER BENEFITS FOR POTENTIAL STANDBY MODE AND OFF MODE POWER STANDARDS; NINE YEARS OF SHIPMENTS

[Units Sold in 2021–2029]

Product class	Discount rate	Trial standard levels		
		1	2	3
		(billion 2013$)		
Non-Weatherized Gas Furnaces	3%	0.8	0.7	1.2
Mobile Home Gas Furnaces		0.001	0.001	0.001
Total *		0.8	0.7	1.2
Non-Weatherized Gas Furnaces	7%	0.4	0.3	0.5
Mobile Home Gas Furnaces		0.000	0.000	0.001
Total *		0.4	0.3	0.5

* **Note:** Components may not sum due to rounding.

c. Indirect Impacts on Employment

DOE expects that amended energy conservation standards for NWGFs and MHGFs would reduce energy costs for consumers, with the resulting net savings being redirected to other forms of economic activity. Those shifts in spending and economic activity could affect the demand for labor. As described in section IV.N, DOE used an input/output model of the U.S. economy to estimate indirect employment impacts of the TSLs that DOE considered in this rulemaking. DOE understands that there are uncertainties involved in projecting employment impacts, especially changes in the later years of the analysis. Therefore, DOE generated results for near-term time frames (2021 to 2026), where these uncertainties are reduced.

The results suggest that the proposed standards would be likely to have a negligible impact on the net demand for labor in the economy. The net change in jobs is so small that it would be imperceptible in national labor statistics and might be offset by other, unanticipated effects on employment. Chapter 16 of the NOPR TSD presents results regarding anticipated indirect employment impacts.

4. Impact on Product Utility or Performance

DOE has tentatively concluded that the amended standards it is proposing in this NOPR would not lessen the utility or performance of NWGFs and MHGFs. DOE surveyed the market and found that high efficiency furnaces and baseline products serve the same function and, therefore, there is no resulting loss in product utility by using higher efficiency furnaces. Furthermore, manufacturers of these products currently offer furnaces that meet or exceed today's proposed standards. While higher efficiency standards may require different venting techniques and other installation considerations, these requirements do not affect the consumer's utility with respect to the quality of the heat provided by the furnace. While not a utility issue, DOE notes that certain considerations associated with higher efficiency furnaces, such as increased installation costs or product size were examined, as appropriate, in its analyses. (See, for example, section IV.F.2 for discussion of installation cost for high efficiency condensing furnaces.)

5. Impact of Any Lessening of Competition

DOE considered any lessening of competition that is likely to result from new or amended standards. The Attorney General determines the impact, if any, of any lessening of competition likely to result from a proposed standard, and transmits such determination in writing to the Secretary, together with an analysis of the nature and extent of such impact. To assist the Attorney General in making such determination, DOE has provided DOJ with copies of this NOPR and the TSD for review. DOE will consider DOJ's comments on the proposed rule in preparing the final rule, and DOE will publish and respond to DOJ's comments in that document.

6. Need of the Nation to Conserve Energy

Enhanced energy efficiency, where economically justified, improves the Nation's energy security, strengthens the economy, and reduces the environmental impacts of energy production. Table V.34 provides DOE's estimate of cumulative reductions in air pollutant emissions resulting from the AFUE TSLs, and Table V.35 provides estimated cumulative emissions reductions for the TSLs considered for standby mode and off mode furnace efficiency. The tables include both power sector emissions and upstream emissions. The emissions were calculated using the multipliers discussed in section IV.K. The increase in emissions of SO_2, Hg, and N_2O is due to a fraction of NWGF consumers that are projected to switch from gas furnaces to electric heat pumps and electric furnaces under the potential standards. DOE reports annual emissions impacts for each TSL in chapter 13 of the NOPR TSD.

TABLE V.34—CUMULATIVE EMISSIONS REDUCTION ESTIMATED FOR NON-WEATHERIZED GAS FURNACES AND MOBILE HOME GAS FURNACES POTENTIAL AFUE STANDARDS

	Trial standard level				
	1	2	3	4	5
Site and Power Sector Emissions					
CO_2 (million metric tons)	51.0	91.3	105.5	163.2	215.5
SO_2 (thousand tons)	(76.3)	(72.3)	(200.5)	(242.0)	(339.0)
NO_X (thousand tons)	126.7	181.3	292.5	404.2	547.7
Hg (tons)	(0.238)	(0.226)	(0.624)	(0.754)	(1.056)
CH_4 (thousand tons)	(5.79)	(4.63)	(15.89)	(18.46)	(26.14)
N_2O (thousand tons)	(0.95)	(0.82)	(2.57)	(3.04)	(4.28)
Upstream Emissions					
CO_2 (million metric tons)	13.6	18.7	31.9	43.4	59.0
SO_2 (thousand tons)	(0.81)	(0.74)	(2.14)	(2.57)	(3.61)
NO_X (thousand tons)	222.6	303.0	523.4	708.7	965
Hg (tons)	(0.002)	(0.002)	(0.005)	(0.006)	(0.009)
CH_4 (thousand tons)	1,458	1,969	3,440	4,643	6,326
N_2O (thousand tons)	(0.011)	(0.001)	(0.037)	(0.036)	(0.054)
Total FFC Emissions					
CO_2 (million metric tons)	64.6	110.0	137.3	206.5	274.5
SO_2 (thousand tons)	(77.1)	(73.0)	(202.6)	(244.6)	(342.6)
NO_X (thousand tons)	349.3	484.3	815.9	1,113	1,513
Hg (tons)	(0.240)	(0.228)	(0.629)	(0.760)	(1.065)
CH_4 (thousand tons)	1,452	1,964	3,424	4,624	6,300
CH_4 (thousand tons CO_2eq) *	40,663	54,995	95,882	129,480	176,393
N_2O (thousand tons)	(0.96)	(0.82)	(2.61)	(3.07)	(4.34)
N_2O (thousand tons CO_2eq) *	(256)	(217)	(692)	(814)	(1,149)

* CO_2eq is the quantity of CO_2 that would have the same global warming potential (GWP).
Note: Parentheses indicate negative values.

TABLE V.35—CUMULATIVE EMISSIONS REDUCTION ESTIMATED FOR NON-WEATHERIZED GAS FURNACES AND MOBILE HOME GAS FURNACES POTENTIAL STANDBY MODE AND OFF MODE STANDARDS

	Trial standard level		
	1	2	3
Site and Power Sector Emissions			
CO_2 (million metric tons)	8.2	9.8	14.7
SO_2 (thousand tons)	7.1	8.6	12.9
NO_X (thousand tons)	6.5	7.8	11.8
Hg (tons)	0.022	0.026	0.040
CH_4 (thousand tons)	0.82	0.98	1.48
N_2O (thousand tons)	0.12	0.14	0.21
Upstream Emissions			
CO_2 (million metric tons)	0.5	0.6	0.9
SO_2 (thousand tons)	0.08	0.10	0.15
NO_X (thousand tons)	7.0	8.4	12.5
Hg (tons)	0.0002	0.0002	0.0003
CH_4 (thousand tons)	40.6	48.8	73.1
N_2O (thousand tons)	0.004	0.005	0.007
Total FFC Emissions			
CO_2 (million metric tons)	8.6	10.4	15.6
SO_2 (thousand tons)	7.2	8.7	13.0
NO_X (thousand tons)	13.5	16.2	24.3
Hg (tons)	0.022	0.027	0.040
CH_4 (thousand tons)	41.4	49.7	74.6
CH_4 (thousand tons CO_2eq) *	1,161	1,393	2,088
N_2O (thousand tons)	0.121	0.146	0.219
N_2O (thousand tons CO_2eq) *	32	39	58

* CO_2eq is the quantity of CO_2 that would have the same global warming potential (GWP).

As part of the analysis for this proposed rule, DOE estimated monetary benefits likely to result from the reduced emissions of CO_2 and NO_X that DOE estimated for each of the TSLs considered for NWGFs and MHGFs. As discussed in section IV.L, for CO_2, DOE used the most recent values for the SCC developed by an interagency process. The four sets of SCC values for CO_2 emissions reductions in 2015 resulting from that process (expressed in 2013$) are represented by $12.0/metric ton (the average value from a distribution that uses a 5-percent discount rate), $40.5/metric ton (the average value from a distribution that uses a 3-percent discount rate), $62.4/metric ton (the average value from a distribution that uses a 2.5-percent discount rate), and $119/metric ton (the 95th-percentile value from a distribution that uses a 3-percent discount rate). The values for later years are higher due to increasing damages (emissions-related costs) as the projected magnitude of climate change increases.

Table V.36 presents the global value of CO_2 emissions reductions at each TSL for AFUE standards. Table V.37 presents the global value of CO_2 emissions reductions at each TSL for standby mode and off mode standards. For each of the four cases, DOE calculated a present value of the stream of annual values using the same discount rate as was used in the studies upon which the dollar-per-ton values are based. DOE calculated domestic values as a range from 7 percent to 23 percent of the global values, and these results are presented in chapter 14 of the NOPR TSD.

TABLE V.36—ESTIMATES OF GLOBAL PRESENT VALUE OF CO_2 EMISSIONS REDUCTION FOR NON-WEATHERIZED GAS FURNACES AND MOBILE HOME GAS FURNACES POTENTIAL AFUE STANDARDS

TSL	SCC case *			
	5% Discount rate, average	3% Discount rate, average	2.5% Discount rate, average	3% Discount rate, 95th percentile
	(million 2013$)			
Site and Power Sector Emissions				
1	279.9	1,428	2,312	4,432
2	508.4	2,574	4,162	7,981
3	552.3	2,880	4,680	8,935
4	870.0	4,496	7,295	13,945
5	1,151	5,944	9,643	18,436

TABLE V.36—ESTIMATES OF GLOBAL PRESENT VALUE OF CO_2 EMISSIONS REDUCTION FOR NON-WEATHERIZED GAS FURNACES AND MOBILE HOME GAS FURNACES POTENTIAL AFUE STANDARDS—Continued

TSL	SCC case *			
	5% Discount rate, average	3% Discount rate, average	2.5% Discount rate, average	3% Discount rate, 95th percentile
	(million 2013$)			
Upstream Emissions				
1	78.2	389.9	628.7	1,207.6
2	106.9	534.7	862.7	1,656
3	180.0	904.2	1,460	2,800
4	244.7	1,229	1,985	3,808
5	333.6	1,674	2,703	5,185
Total FFC Emissions				
1	358.1	1,818	2,941	5,640
2	615.4	3,109	5,024	9,637
3	732.3	3,784	6,140	11,735
4	1,115	5,726	9,280	17,752
5	1,484	7,618	12,346	23,621

* For each of the four cases, the corresponding SCC value for emissions in 2015 is $12.0, $40.5, $62.4, and $119 per metric ton (2013$). The values are for CO_2 only (*i.e.,* not CO_{2eq} of other greenhouse gases).

TABLE V.37—ESTIMATES OF GLOBAL PRESENT VALUE OF CO_2 EMISSIONS REDUCTION FOR NON-WEATHERIZED GAS FURNACES AND MOBILE HOME GAS FURNACES POTENTIAL STANDBY MODE AND OFF MODE STANDARDS

TSL	SCC case *			
	5% Discount rate, average	3% Discount rate, average	2.5% Discount rate, average	3% Discount rate, 95th percentile
	(million 2013$)			
Site and Power Sector Emissions				
1	46.1	231.4	373. 6	716.5
2	55.3	277.7	448.4	859.8
3	82.9	416.4	672.3	1,289
Upstream Emissions				
1	2.7	13.7	22.1	42.4
2	3.2	16.4	26.6	50.9
3	4.8	24.6	39.8	76.2
Total FFC Emissions				
1	48.8	245.1	395.8	758.9
2	58.5	294.1	474.9	910.6
3	87.8	441.0	712.1	1,365

* For each of the four cases, the corresponding SCC value for emissions in 2015 is $12.0, $40.5, $62.4, and $119 per metric ton (2013$). The values are for CO_2 only (*i.e.,* not CO_{2eq} of other greenhouse gases).

DOE is well aware that scientific and economic knowledge about the contribution of CO_2 and other greenhouse gas (GHG) emissions to changes in the future global climate and the potential resulting damages to the world economy continues to evolve rapidly. Thus, any value placed on reducing CO_2 emissions in this rulemaking is subject to change. DOE, together with other Federal agencies, will continue to review various methodologies for estimating the monetary value of reductions in CO_2 and other GHG emissions. This ongoing review will consider the comments on this subject that are part of the public record for this and other rulemakings, as well as other methodological assumptions and issues. However, consistent with DOE's legal obligations, and taking into account the uncertainty involved with this particular issue, DOE has included in this proposed rule the most recent values and analyses resulting from the interagency review process.

DOE also estimated a range for the cumulative monetary value of the economic benefits associated with NO_X emissions reductions anticipated to result from amended standards for the NWGFs and MHGFs that are the subject of this NOPR. The dollar-per-ton values that DOE used are discussed in section IV.L. Table V.38 presents the cumulative present values for NO_X emissions reductions for each AFUE TSL calculated using the average dollar-per-ton value and seven-percent and three-percent discount rates. Similarly,

Table V.39 presents the cumulative present values for NO_X emissions reductions for each standby mode and off mode TSL.

TABLE V.38—ESTIMATES OF PRESENT VALUE OF NO_X EMISSIONS REDUCTION FOR NON-WEATHERIZED GAS FURNACES AND MOBILE HOME GAS FURNACES POTENTIAL AFUE STANDARDS

TSL	3% Discount rate	7% Discount rate
	(million 2013$)	
Site and Power Sector Emissions		
1	137.6	49.9
2	196.6	71.4
3	310.0	109.4
4	429.6	152.1
5	583.6	207.3
Upstream Emissions		
1	246.4	92.6
2	332.8	123.6
3	568.5	209.0
4	769.2	282.2
5	1050	386.4
Total FFC Emissions *		
1	384.0	142.5
2	529.5	195.0
3	878.6	318.4
4	1,199	434.4
5	1,634	593.7

* Components may not sum to total due to rounding.

TABLE V.39—ESTIMATES OF PRESENT VALUE OF NO_X EMISSIONS REDUCTION FOR NON-WEATHERIZED GAS FURNACES AND MOBILE HOME GAS FURNACES POTENTIAL STANDBY MODE AND OFF MODE STANDARDS

TSL	3% Discount rate	7% Discount rate
	million 2013$	
Site and Power Sector Emissions		
1	7.1	2.6
2	8.5	3.2
3	12.8	4.7
Upstream Emissions		
1	7.4	2.6
2	8.8	3.1
3	13.2	4.7
Total FFC Emissions *		
1	14.5	5.2
2	17.4	6.3
3	26.0	9.4

* Components may not sum to total due to rounding.

7. Other Factors

The Secretary of Energy, in determining whether a standard is economically justified, may consider any other factors that the Secretary deems to be relevant. (42 U.S.C. 6295(o)(2)(B)(i)(VI)) No other factors were considered in this analysis.

8. Summary of National Economic Impacts

The NPV of the monetized benefits associated with emissions reductions can be viewed as a complement to the NPV of the consumer savings calculated for each TSL considered in this rulemaking. Table V.40 presents the NPV values that result from adding the estimates of the potential economic benefits resulting from reduced CO_2 and NO_X emissions in each of four valuation scenarios to the NPV of consumer savings calculated for each AFUE TSL for NWGFs and MHGFs considered in this rulemaking, at both a seven-percent and three-percent discount rate. Table V.41 presents the NPV values that result from adding the estimates of the potential economic benefits resulting from reduced CO_2 and NO_X emissions in each of four valuation scenarios to the NPV of consumer savings calculated for each standby mode and off mode TSL for NWGFs and MHGFs considered in this rulemaking, at both a seven-percent and three-percent discount rate. The CO_2 values used in the columns of each table correspond to the four sets of SCC values discussed above.

TABLE V.40—NON-WEATHERIZED GAS FURNACES AND MOBILE HOME GAS FURNACES: NET PRESENT VALUE OF CONSUMER SAVINGS COMBINED WITH PRESENT VALUE OF MONETIZED BENEFITS FROM CO_2 AND NO_X EMISSIONS REDUCTIONS FOR POTENTIAL AFUE STANDARDS

TSL	Consumer NPV at 3% Discount rate added with:			
	SCC Case $12.0/ metric ton CO_2* and medium value for NO_X	SCC Case $40.5/ metric ton CO_2* and medium value for NO_X	SCC Case $62.4/ metric ton CO_2* and medium value for NO_X	SCC Case $119/ metric ton CO_2* and Medium value for NO_X
	(Billion 2013$)			
1	9.4	10.8	12.0	14.7
2	15.3	17.8	19.7	24.3
3	17.7	20.8	23.1	28.7
4	23.8	28.4	32.0	40.4
5	28.4	34.5	39.2	50.5
TSL	Consumer NPV at 7% Discount Rate added with:			
	SCC Case $12.0/ metric ton CO_2* and Medium Value for NO_X	SCC Case $40.5/ metric ton CO_2* and Medium Value for NO_X	SCC Case $62.4/ metric ton CO_2* and Medium Value for NO_X	SCC Case $119/ metric ton CO_2* and Medium Value for NO_X
	(Billion 2013$)			
1	2.6	4.0	5.2	7.9
2	4.4	6.9	8.8	13.4
3	4.1	7.2	9.5	15.1
4	5.6	10.2	13.7	22.2

TABLE V.40—NON-WEATHERIZED GAS FURNACES AND MOBILE HOME GAS FURNACES: NET PRESENT VALUE OF CONSUMER SAVINGS COMBINED WITH PRESENT VALUE OF MONETIZED BENEFITS FROM CO_2 AND NO_X EMISSIONS REDUCTIONS FOR POTENTIAL AFUE STANDARDS—Continued

TSL	Consumer NPV at 3% Discount rate added with:			
	SCC Case $12.0/ metric ton CO_2* and medium value for NO_X	SCC Case $40.5/ metric ton CO_2* and medium value for NO_X	SCC Case $62.4/ metric ton CO_2* and medium value for NO_X	SCC Case $119/ metric ton CO_2* and Medium value for NO_X
	(Billion 2013$)			
5	5.7	11.9	16.6	27.9

* These label values represent the global SCC in 2015, in 2013$. For NO_X emissions, each case uses the medium value, which corresponds to $2,684 per ton.

TABLE 41—NON-WEATHERIZED GAS FURNACES AND MOBILE HOME GAS FURNACES: NET PRESENT VALUE OF CONSUMER SAVINGS COMBINED WITH PRESENT VALUE OF MONETIZED BENEFITS FROM CO_2 AND NO_X EMISSIONS REDUCTIONS FOR POTENTIAL STANDBY MODE AND OFF MODE STANDARDS

TSL	Consumer NPV at 3% discount rate added with:			
	SCC Case $12.0/ metric ton CO_2* and Medium Value for NO_X	SCC Case $40.5/ metric ton CO_2* and Medium Value for NO_X	SCC Case $62.4/ metric ton CO_2* and Medium Value for NO_X	SCC Case $119/ metric ton CO_2* and Medium Value for NO_X
	(Billion 2013$)			
1	2.19	2.38	2.53	2.90
2	2.09	2.32	2.51	2.94
3	3.38	3.74	4.01	4.66
TSL	Consumer NPV at 7% Discount Rate added with:			
	SCC Case $12.0/ metric ton CO_2* and Medium Value for NO_X	SCC Case $40.5/ metric ton CO_2* and Medium Value for NO_X	SCC Case $62.4/ metric ton CO_2* and Medium Value for NO_X	SCC Case $119/ metric ton CO_2* and Medium Value for NO_X
	(Billion 2013$)			
1	0.78	0.98	1.13	1.49
2	0.67	0.91	1.09	1.52
3	1.13	1.48	1.76	2.41

* These label values represent the global SCC in 2015, in 2013$. For NO_X emissions, each case uses the medium value, which corresponds to $2,684 per ton.

Although adding the value of consumer savings to the values of emission reductions provides a valuable perspective, two issues should be considered. First, the national operating cost savings are domestic U.S. consumer monetary savings that occur as a result of market transactions, while the value of CO_2 reductions is based on a global value. Second, the assessments of operating cost savings and the SCC are performed with different methods that use different time frames for analysis. The national operating cost savings is measured for the lifetime of products shipped in 2021–2050. The SCC values, on the other hand, reflect the present value of future climate-related impacts resulting from the emission of one metric ton of CO_2 in each year; these impacts continue well beyond 2100.

C. Proposed Standards

When considering standards, the new or amended energy conservation standard that DOE adopts for any type (or class) of covered product shall be designed to achieve the maximum improvement in energy efficiency that the Secretary determines is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) As discussed previously, in determining whether a standard is economically justified, the Secretary must determine whether the benefits of the standard exceed its burdens by, to the greatest extent practicable, considering the seven statutory factors discussed previously. (42 U.S.C. 6295(o)(2)(B)(i)) The new or amended standard must also ''result in significant conservation of energy.'' (42 U.S.C. 6295(o)(3)(B))

For this NOPR, DOE considered the impacts of amended standards for NWGFs and MHGFs at each TSL, beginning with the maximum technologically feasible level, to determine whether that level was economically justified. Where the max-tech level was not justified, DOE then considered the next-most-efficient level and undertook the same evaluation until it reached the highest efficiency level that is both technologically feasible and economically justified and saves a significant amount of energy.

To aid the reader in understanding the benefits and/or burdens of each TSL, tables in this section summarize the quantitative analytical results for each TSL, based on the assumptions and methodology discussed herein. In addition to the quantitative results presented in the tables, DOE also considers other burdens and benefits

that affect economic justification. These include the impacts on identifiable subgroups of consumers who may be disproportionately affected by a national standard (see section IV.I), and impacts on employment. DOE discusses the impacts on direct employment in NWGF and MHGF manufacturing in section IV.J, and discusses the indirect employment impacts in section IV.N.

DOE also notes that the economics literature provides a wide-ranging discussion of how consumers trade off upfront costs and energy savings in the absence of government intervention. Much of this literature attempts to explain why consumers appear to undervalue energy efficiency improvements. There is evidence that consumers undervalue future energy savings as a result of: (1) A lack of information; (2) a lack of sufficient salience of the long-term or aggregate benefits; (3) a lack of sufficient savings to warrant delaying or altering purchases; (4) excessive focus on the short term, in the form of inconsistent weighting of future energy cost savings relative to available returns on other investments; (5) computational or other difficulties associated with the evaluation of relevant tradeoffs; and (6) a divergence in incentives (for example, renter versus owner or builder versus purchaser). Other literature indicates that with less than perfect foresight and a high degree of uncertainty about the future, consumers may trade off at a higher than expected rate between current consumption and uncertain future energy cost savings. This undervaluation suggests that regulation that promotes energy efficiency can produce significant net private gains (as well as producing social gains by, for example, reducing pollution).

In DOE's current regulatory analysis, potential changes in the benefits and costs of a regulation due to changes in consumer purchase decisions are included in two ways. First, if consumers forego a purchase of a product in the standards case, this decreases sales for product manufacturers, and the cost to manufacturers is included in the MIA. Second, DOE accounts for energy savings attributable only to products actually used by consumers in the standards case; if a standard decreases the number of products purchased by consumers, this decreases the potential energy savings from an energy conservation standard. DOE provides estimates of changes in the volume of product purchases in chapter 9 of the NOPR TSD. DOE's current analysis does not explicitly control for heterogeneity in consumer preferences, preferences across subcategories of products or specific features, or consumer price sensitivity variation according to household income.[101]

While DOE is not prepared at present to provide a fuller quantifiable framework for estimating the benefits and costs of changes in consumer purchase decisions due to an energy conservation standard, DOE is committed to developing a framework that can support empirical quantitative tools for improved assessment of the consumer welfare impacts of appliance standards. DOE has posted a paper that discusses the issue of consumer welfare impacts of appliance standards, and potential enhancements to the methodology by which these impacts are defined and estimated in the regulatory process.[102] DOE welcomes comments on how to more fully assess the potential impact of energy conservation standards on consumer choice and how to quantify this impact in its regulatory analysis.

1. Benefits and Burdens of TSLs Considered for NWGFs and MHGFs AFUE Standards

Table V.42 and Table V.43 summarize the quantitative impacts estimated for each TSL for the NWGF and MHGF AFUE standards. The national impacts are measured over the lifetime of NWGFs and MHGFs purchased in the 30-year period that begins in the year of compliance with amended standards (2021–2050). The energy savings, emissions reductions, and value of emissions reductions refer to full-fuel-cycle results and include the impacts of projected fuel switching discussed in sections IV.F.4 and IV.H.3 and chapter 8 of the Technical Support Document. The efficiency levels contained in each TSL are described in section V.A.

TABLE V.42—SUMMARY OF RESULTS FOR NON-WEATHERIZED GAS FURNACES AND MOBILE HOME GAS FURNACES AFUE TSLS: NATIONAL IMPACTS

Category	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
FFC National Energy Savings					
quads	1.291	2.126	2.780	4.110	5.481
NPV of Consumer Benefits (2013$ billion)					
3% discount rate	8.6	14.1	16.1	21.5	25.3
7% discount rate	2.1	3.6	3.1	4.0	3.7
Cumulative Emissions Reduction (Total FFC Emissions)					
CO_2 (million metric tons)	64.6	110.0	137.3	206.5	274.5
SO_2 (thousand tons)	(77.1)	(73.0)	(202.6)	(244.6)	(342.6)
NO_X (thousand tons)	349.3	484.3	815.9	1,113	1,513
Hg (tons)	(0.240)	(0.228)	(0.629)	(0.760)	(1.065)
CH_4 (thousand tons)	1,452	1,964	3,424	4,624	6,300
CH_4 (thousand tons CO_2eq)*	40,663	54,995	95,882	129,480	176,393
N_2O (thousand tons)	(1.0)	(0.8)	(2.6)	(3.1)	(4.3)
N_2O (thousand tons CO_2eq)*	(256)	(217)	(692)	(814)	(1,149)
Value of Emissions Reduction (Total FFC Emissions)					
CO_2 (2013$ billion)**	0.358 to 5.640	0.615 to 9.637	0.732 to 11.75	1.115 to 17.75	1.484 to 23.62

[101] P.C. Reiss and M.W. White, Household Electricity Demand, Revisited, *Review of Economic Studies* (2005) 72, 853–883.

[102] Alan Sanstad, Notes on the Economics of Household Energy Consumption and Technology Choice. Lawrence Berkeley National Laboratory (2010) (Available at: *http://www1.eere.energy.gov/buildings/appliance_standards/pdfs/consumer_ee_theory.pdf* (Last accessed May 3, 2013).

TABLE V.42—SUMMARY OF RESULTS FOR NON-WEATHERIZED GAS FURNACES AND MOBILE HOME GAS FURNACES AFUE TSLS: NATIONAL IMPACTS—Continued

Category	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
NO_X—3% discount rate (2013$ million).	384.0	529.5	878.6	1,199	1,634
NO_X—7% discount rate (2013$ million).	142.5	195.0	318.4	434.4	593.7

* CO_2eq is the quantity of CO_2 that would have the same global warming potential (GWP).
** Range of the economic value of CO_2 reductions is based on estimates of the global benefit of reduced CO_2 emissions.
Note: Parentheses indicate negative values.

TABLE V.43—SUMMARY OF RESULTS FOR NON-WEATHERIZED GAS FURNACES AND MOBILE HOME GAS FURNACES AFUE TSLS: MANUFACTURER AND CONSUMER IMPACTS

Category	TSL 1 **	TSL 2 **	TSL 3	TSL 4	TSL 5
Manufacturer Impacts					
Industry NPV ($M) Base Case = 1055.13.	990.43 to 1048.71	825.26 to 1063.45	971.41 to 1061.65	740.79 to 1099.24	548.20 to 1080.94
Change in Industry NPV (%)	(6.13) to (0.61)	(21.79) to 0.79	(7.93) to 0.62	(29.79) to 4.18	(48.04) to 2.45
Consumer Mean LCC Savings (2013$)					
Non-Weatherized Gas Furnaces	$208	$374	$305	$388	$441
Mobile Home Gas Furnaces	$770	$902	$691	$778	$784
Shipment-Weighted Average *	$220	$385	$313	$396	$449
Consumer Simple PBP (years)					
Non-Weatherized Gas Furnaces	8.3	7.2	7.2	7.4	8.3
Mobile Home Gas Furnaces	1.8	2.8	2.2	3.3	4.2
Shipment-Weighted Average *	8.1	7.1	7.0	7.3	8.2
Consumer LCC Impacts					
Non-Weatherized Gas Furnaces					
Consumers with Net Cost (%)	11%	14%	20%	24%	40%
Mobile Home Gas Furnaces					
Consumers with Net Cost (%)	4%	8%	7%	13%	25%

* Weighted by shares of each product class in total projected shipments in 2021. The results for TSLs 1 and 2 are weighted by shares of each product class in projected shipments to the North in 2021.
** Results at TSLs 1 and 2 refer to the Northern region. For the Rest of Country, the proposed standard levels at TSLs 1 and 2 are at the baseline, so no consumers are affected.
Note: Parentheses indicate negative values.

First, DOE considered TSL 5, which would save an estimated total of 5.48 quads of energy, an amount DOE considers significant. TSL 5 has an estimated NPV of consumer benefit of $3.7 billion using a 7-percent discount rate, and $25.3 billion using a 3-percent discount rate.

The cumulative emissions reductions at TSL 5 are 274 million metric tons of CO_2, 1,513 thousand tons of NO_X, and 6,300 thousand tons of CH_4. Projected emissions show an increase of 343 thousand tons of SO_2, 4.3 thousand tons of N_2O, and 1.065 tons of Hg. The increase is due to projected switching from gas furnaces to electric heat pumps and electric furnaces under the proposed standards. The estimated monetary value of the CO_2 emissions reductions at TSL 5 ranges from $1.48 billion to $23.62 billion.

At TSL 5, the average LCC savings are $441 for non-weatherized gas furnaces and $784 for mobile home gas furnaces. The simple PBP is 8.3 years for non-weatherized gas furnaces and 4.2 years for mobile home gas furnaces. The share of consumers experiencing a net LCC cost is 40 percent for non-weatherized gas furnaces and 25 percent for mobile home gas furnaces.

At TSL 5, the projected change in INPV ranges from a decrease of 506.94 million to an increase of $25.80 million. The upper bound is considered optimistic by industry because it assumes manufacturers could pass on all compliance costs as price increases to their customers. DOE recognizes the risk of negative impacts if manufacturers' expectations concerning reduced profit margins are realized. If the larger decrease is reached, as DOE expects, TSL 5 could result in a net loss of up to 48.04 percent in INPV for manufacturers.

The Secretary tentatively concludes that, at TSL 5 for NWGFs and MHGFs AFUE standards, the benefits of energy savings, positive NPV of total consumer benefits at a 3-percent and 7-percent discount rates, average consumer LCC savings, emission reductions, and the estimated monetary value of the emissions reductions would be outweighed by the very large reduction in industry value at TSL 5 and the high number of consumers experiencing a net LCC cost for NWGFs. Consequently,

DOE has concluded that TSL 5 is not economically justified.

Next, DOE considered TSL 4, which would save an estimated total of 4.11 quads of energy, an amount DOE considers significant. TSL 4 has an estimated NPV of consumer benefit of $4.0 billion using a 7-percent discount rate, and $21.5 billion using a 3-percent discount rate.

The cumulative emissions reductions at TSL 4 are 207 million metric tons of CO_2, 1,113 thousand tons of NO_X, and 4,624 thousand tons of CH_4. Projected emissions show an increase of 245 thousand tons of SO_2, 3.1 thousand tons of N_2O, and 0.760 tons of Hg. The increase is due to projected switching from gas furnaces to electric heat pumps and electric furnaces under the proposed standards. The estimated monetary value of the CO_2 emissions reductions at TSL 4 ranges from $1.11 billion to $17.75 billion

At TSL 4, the average LCC savings are $388 for non-weatherized gas furnaces and $778 for mobile home gas furnaces. The simple PBP is 7.4 years for non-weatherized gas furnaces and 3.3 years for mobile home gas furnaces. The share of consumers experiencing a net LCC cost is 24 percent for non-weatherized gas furnaces and 13 percent for mobile home gas furnaces.

At TSL 4, the projected change in INPV ranges from a decrease of $314.34 million to an increase of $44.10 million. If the larger decrease is reached, TSL 4 could result in a net loss of 29.79 percent in INPV.

In considering this level, DOE notes that the agency recently published a final rule for energy conservation standards for furnace fans. 79 FR 38130 (July 3, 2014). Figure V.1 illustrates the compliance intervals of both the furnace fans final rule and the proposed rule for residential furnaces.

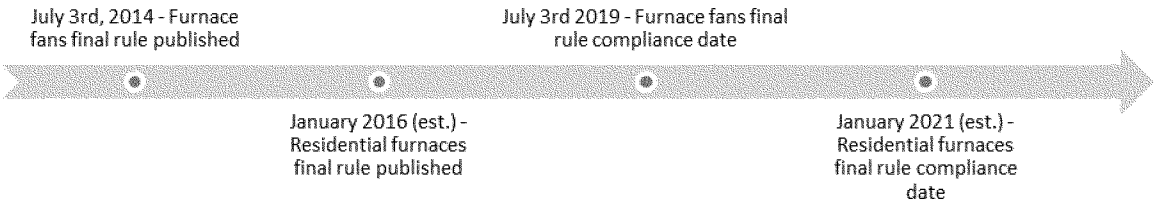

Figure V.1 Compliance timeline for furnace fans final rule and proposed residential furnaces rule

Furnace fans are a major component of residential furnaces. The final rule for furnace fans has a compliance date in 2019. This is relevant because manufacturers of furnaces also typically manufacture the furnace fans housed in those systems. Today's most common furnace blower motor technology is PSC motors. However, DOE believes that the furnace fan standard will likely require manufacturers to redesign residential furnaces to incorporate BPM motors and multi-staging for NWGF, and improved PSC motors for MHGF. Since these changes would also directly affect the furnace manufacturing industry, in addition to the new standards in this NOPR, DOE is aware that both rulemakings could present a cumulative burden impacting both product costs and upfront conversion costs. While cumulative burden issues are common in rulemakings (as manufacturers often produce more than one type of covered product), this situation is unique. First, both this energy conservation standard NOPR and the energy conservation standards furnace fan final rule will directly impact the design and manufacturing of the same product (*i.e.,* residential furnaces). Second, the two rules impact an identical group of manufacturers. Third, these requirements are impacting the same product in a very short period of time. And finally the design changes resulting from this NOPR are additive to the design changes needed to meet the furnace fan standard. The combined requirements from this NOPR and from the furnace fans final rule will result in a larger burden in terms of both product cost and product conversion cost than would occur as a result of either of the individual rulemakings alone. Typically, manufacturers will attempt to recover these additional costs by passing them on to consumers. If these rules applied to different products the impact on consumer prices would be less and the impact on manufacturers could be spread across a larger revenue base. However, because these costs apply to the same product (*i.e.,* furnaces), it may be more difficult for manufacturers to pass through all of the costs that they normally would to the consumer and the percentage reduction in industry value would be larger. Thus, manufacturers may feel this form of cumulative regulatory burden more acutely than that imposed on separate products in their manufacturing portfolio.

To reach TSL 4, DOE has tentatively concluded that manufacturers would need to increase the heat exchanger surface area (see section IV.C.1.b). In order to meet the adopted furnace fan standard, as discussed above, manufacturers would likely need to implement an improved blower motor and, for NWGF, add multi-staging. Although the furnace heat exchanger, blower components, and combustion system are all integrated in the residential furnace design, the changes expected from the two rules are largely additive, with little overlap. Thus, when analyzing the combined impact of the two rules, DOE expects that the full costs of each rule will be incurred, with limited opportunity for cost savings to be achieved through coordinating the expenditures of the two rules. DOE estimates that, on average, the MPC at TSL 4 would be $145 greater than the current baseline cost for NWGF. When added to the MPC increase projected from the furnace fan final rule of $68, the total resulting manufacturing cost increase would be $213 for NWGF. Likewise, when the estimated $154 MPC increase from this NOPR is combined with the $6 increase resulting from the furnace fans rulemaking, the total impact on the manufacturing cost of MHGF would be an increase of $160. In addition to the manufacturing costs being additive, the capital and product conversion costs are also largely additive, resulting in a greater impact on manufacturers than would be projected in the MIA results for either individual rulemaking. DOE projects that if TSL 4 was adopted as a result of this rulemaking, it would result in $65.8 million in capital conversion costs and $23.0 million in product conversion costs. These changes are in addition to a projected $15.1 million in capital

expenditures and $25.5 million in product conversion costs from the furnace fan standard, for which compliance will be required in 2019. 79 FR 38130, 38188 (July 3, 2014). In sum, manufacturers would be expected to incur $80.9 million and $48.5 million in capital and product conversion costs, respectively, leading up to the 2019 furnace fans and the projected 2021 residential furnaces compliance dates.

DOE strongly considered TSL 4, and in a typical case, DOE's quantitative analysis would have likely led to proposed standards at those levels, given the potential for significant additional energy and carbon savings. However, as discussed above, the unique cumulative burden on manufacturers from this rule and the furnace fans rule is an important concern for DOE. In light of this situation, DOE seeks further information in order to balance the benefits and burdens of adopting TSL 4 in the final rule. For example, DOE seeks validation of its estimated capital conversion costs and product conversion costs. Conversely, DOE seeks information concerning whether its assumptions about cumulative regulatory burden are mistaken. That is, DOE solicits information regarding the potential for cost-reducing synergies in terms of improving the energy efficiency of furnaces and furnace fans at the same time. Based upon the information available at this time with respect to manufacturer impacts, including the cumulative effects of the furnace fan rulemaking, the Secretary tentatively concludes that, at TSL 4 for NWGF and MHGF AFUE standards, the benefits of energy savings, positive NPV of total consumer benefits at a 3-percent and 7-percent discount rates, positive average consumer LCC savings, emission reductions, and the estimated monetary value of the emissions reductions would be outweighed by the potential negative impacts on manufacturers.

Next, DOE considered TSL 3, which would save an estimated total of 2.78 quads of energy, an amount DOE considers significant. TSL 3 has an estimated NPV of consumer benefit of $3.1 billion using a 7-percent discount rate, and $16.1 billion using a 3-percent discount rate.

The cumulative emissions reductions at TSL 3 are 137 million metric tons of CO_2, 816 thousand tons of NO_X, and 3,424 thousand tons of CH_4. Projected emissions show an increase of 203 thousand tons of SO_2, 2.6 thousand tons of N_2O, and 0.629 tons of Hg. The increase is due to projected switching from gas furnaces to electric heat pumps and electric furnaces under the proposed standards. The estimated monetary value of the CO_2 emissions reductions at TSL 3 ranges from $0.73 billion to $11.75 billion.

At TSL 3, the average LCC savings are $305 for non-weatherized gas furnaces and $691 for mobile home gas furnaces. The simple PBP is 7.2 years for non-weatherized gas furnaces and 2.2 years for mobile home gas furnaces. The share of consumers experiencing a net LCC cost is 20 percent for non-weatherized gas furnaces and 7 percent for mobile home gas furnaces.

At TSL 3, the projected change in INPV ranges from a decrease of $83.72 million to an increase of $6.52 million. If the larger decrease is reached, TSL 3 could result in a net loss of 7.93 percent in INPV. DOE notes that, as explained with TSL 4, cumulative burden from the furnaces and furnace fans rules is a significant concern. However, at TSL 3, the projected manufacturer impacts are significantly less than at TSL 4, thereby mitigating some of these concerns.

DOE estimates that the MPC at TSL 3 would be, on average, $91 greater than the current baseline cost for NWGF. When added to the MPC increase projected from the furnace fans final rule of $68, the total resulting manufacturing cost increase would be $159 for NWGF. Likewise, for MGHF, when the estimated $98 MPC increase from this NOPR is combined with the $6 increase resulting from the furnace fans rulemaking, the total impact on the MGHF manufacturing cost would be an increase of $104. DOE projects that at TSL 3 manufacturers will incur $38.5 million in capital conversion costs and $16.5 million in product conversion costs. When considering the conversion costs of the furnace fans final rule ($15.1 million in capital expenditures and $25.5 million in product conversion costs from the furnace fan standard) and residential furnaces rule as additive, manufacturers would be expected to incur $53.6 million in capital conversion costs and $42 million product conversion costs in the years leading up to the 2019 furnace fans and the projected 2021 residential furnaces effective dates.

DOE notes that the extent of switching that would result from amended standards for NWGF AFUE (as represented in the range of estimates that DOE analyzed) would affect the benefits and costs of TSLs 3, 4, and 5. Thus, DOE requests comments on DOE's analysis of product switching.

After considering the analysis and weighing the benefits and the burdens, the Secretary has tentatively concluded that at TSL 3 for NWGF and MHGF AFUE standards and based upon DOE's understanding of currently available information, the benefits of energy savings, positive NPV of consumer benefit, positive impacts on consumers (as indicated by positive average LCC savings and favorable PBPs), emission reductions, and the estimated monetary value of the emissions reductions would outweigh negative impacts on some consumers and the potential reductions in INPV for manufacturers. Consequently, DOE is proposing energy conservation standards for NWGFs and MHGFs at TSL 3.

In today's proposed rule, DOE requests comments and data from interested parties that would assist DOE in determining whether TSL 4 for NWGF and MHGF AFUE standards would also lead to the benefits of energy savings, positive NPV of total consumer benefits at a 3-percent and 7-percent discount rates, positive average consumer LCC savings, emission reductions, and the estimated monetary value of the emissions reductions outweighing the reduction in industry value at TSL 4. If additional information points to such a conclusion, DOE will strongly consider adoption of TSL 4 in the final rule. Because DOE has not yet reached a final decision to set standards at TSL 3 or TSL 4, it seeks a more complete understanding of the benefits and burdens of moving forward at each of these levels, as well as any implementation problems that might be reasonably foreseen.

Based on the above considerations, DOE today proposes to adopt AFUE energy conservation standards for NWGFs and MHGFs at TSL 3, as presented in Table V.44.

TABLE V.44—PROPOSED AMENDED AFUE ENERGY CONSERVATION STANDARDS FOR NON-WEATHERIZED GAS FURNACES AND MOBILE HOME GAS FURNACES

Product class	AFUE (%)
Non-Weatherized Gas-Fired Furnaces	92
Mobile Home Gas-Fired Furnaces	92

2. Benefits and Burdens of TSLs Considered for NWGFs and MHGFs Standby Mode and Off Mode Standards

Table V.45 and Table V.46 present a summary of the quantitative impacts estimated for each TSL considered for NWGFs and MHGFs standby mode and off mode standards. The national impacts are measured over the lifetime of NWGFs and MHGFs purchased in the 30-year period that begins in the year of

compliance with amended standards (2021–2050). The energy savings, emissions reductions, and value of emissions reductions refer to the full-fuel-cycle results. The efficiency levels contained in each TSL are described in section V.A.

TABLE V.45—SUMMARY OF RESULTS FOR NON-WEATHERIZED GAS FURNACES AND MOBILE HOME GAS FURNACES STANDBY MODE AND OFF MODE TSLS: NATIONAL IMPACTS

Category	TSL 1	TSL 2	TSL 3
FFC National Energy Savings			
quads	0.154	0.185	0.277
NPV of Consumer Benefits (2013$ billion)			
3% discount rate	2.1	2.0	3.3
7% discount rate	0.7	0.6	1.0
Cumulative Emissions Reduction (Total FFC Emissions)			
CO_2 (million metric tons)	8.6	10.4	15.6
SO_2 (thousand tons)	7.2	8.7	13.0
NO_X (thousand tons)	13.5	16.2	24.3
Hg (tons)	0.022	0.027	0.040
CH_4 (thousand tons)	41.45	49.74	74.58
CH_4 (thousand tons CO_2eq)*	1,161	1,393	2,088.
N_2O (thousand tons)	0.12	0.15	0.22
N_2O (thousand tons CO_2eq)*	32.2	38.6	57.9
Value of Emissions Reduction (Total FFC Emissions)			
CO_2 (2013$ billion)**	0.05 to 0.76	0.06 to 0.91	0.09 to 1.37
NO_X—3% discount rate (2013$ million)	14.5	17.4	26.0
NO_X—7% discount rate (2013$ million)	5.2	6.3	9.4

* CO_2eq is the quantity of CO_2 that would have the same global warming potential (GWP).
** Range of the value of CO_2 reductions is based on estimates of the global benefit of reduced CO_2 emissions.

TABLE V.46—SUMMARY OF RESULTS FOR NON-WEATHERIZED GAS FURNACES AND MOBILE HOME GAS FURNACES STANDBY MODE AND OFF MODE TSLS: MANUFACTURER AND CONSUMER IMPACTS

Category	TSL 1	TSL 2	TSL 3
Manufacturer Impacts			
Industry NPV ($M) Base case = 1055.13	1053.41 to 1054.61	1046.10 to 1055.58	1042.97 to 1055.99
Change in Industry NPV (%)	(0.16) to (0.05)	(0.86) to 0.04	(1.15) to 0.08
Consumer Mean LCC Savings (2013$)			
Non-Weatherized Gas Furnaces	$12	$6	$13
Mobile Home Gas Furnaces	$1	$0	$1
Shipment-Weighted Average*	$12	$6	$13
Consumer Simple PBP (years)			
Non-Weatherized Gas Furnaces	1.3	9.7	7.5
Mobile Home Gas Furnaces	1.2	9.2	7.1
Shipment-Weighted Average*	1.3	9.6	7.4
Consumer LCC Impacts			
Non-Weatherized Gas Furnaces			
Consumers with Net Cost (%)	2%	15%	9%
Mobile Home Gas Furnaces			
Consumers with Net Cost (%)	0%	1%	1%

* Weighted by shares of each product class in total projected shipments in 2021.
Note: Parentheses indicate negative values.

First, DOE considered TSL 3, which would save an estimated total of 0.28 quads of energy, an amount DOE considers significant. TSL 3 has an estimated NPV of consumer benefit of $1.0 billion using a 7-percent discount

rate, and $3.3 billion using a 3-percent discount rate.

The cumulative emissions reductions at TSL 3 are 15.6 million metric tons of CO_2, 24.3 thousand tons of NO_X, 13.0 thousand tons of SO_2, 0.040 tons of Hg, 0.22 thousand tons of N_2O, and 74.6 thousand tons of CH_4. The estimated monetary value of the CO_2 emissions reductions at TSL 3 ranges from $0.09 billion to $1.37 billion.

At TSL 3, the average LCC savings are $13 for non-weatherized gas furnaces and $1 for mobile home gas furnaces. The simple PBP is 7.5 years for non-weatherized gas furnaces and 7.1 years for mobile home gas furnaces. The share of consumers experiencing a net LCC cost is 9 percent for non-weatherized gas furnaces and 1 percent for mobile home gas furnaces.

At TSL 3, the projected change in INPV ranges from a decrease of $12.16 million to an increase of $0.08 million. If the larger decrease is reached, TSL 3 could result in a net loss of 1.15 percent in INPV.

The Secretary concludes that at TSL 3 for NWGF and MHGF standby mode and off mode standards, the benefits of energy savings, positive NPV of consumer benefits at both 7-percent and 3-percent discount rates, positive impacts on consumers (as indicated by positive average LCC savings, favorable PBPs, and a higher percentage of consumers who would experience LCC benefits as opposed to costs), emission reductions, and the estimated monetary value of the CO_2 emissions reductions would outweigh the economic burden on a small fraction of consumers and the small potential loss in manufacturer INPV. After considering the analysis and the benefits and burdens of TSL 3, the Secretary has concluded that this TSL offers the maximum improvement in energy efficiency that is technologically feasible and economically justified, and will result in the significant conservation of energy. Therefore, DOE proposes to adopt TSL 3 for NWGF and MHGF standby mode and off mode standards. The proposed energy conservation standards for standby mode and off mode, expressed as maximum power in watts, are shown in Table V.47.

TABLE V.47—PROPOSED STANDBY MODE AND OFF MODE ENERGY CONSERVATION STANDARDS FOR NON-WEATHERIZED GAS FURNACE AND MOBILE HOME GAS FURNACE

Product class	$PW_{W,SB}$ (watts)	$P_{W,OFF}$ (watts)
Non-Weatherized Gas Furnaces	8.5	8.5
Mobile Home Gas Furnaces	8.5	8.5

3. Summary of Benefits and Costs (Annualized) of the Proposed Standards

The benefits and costs of today's proposed standards can also be expressed in terms of annualized values. The annualized monetary values are the sum of: (1) The annualized national economic value (expressed in 2013$) of the benefits from operation of products that meet the proposed standards (consisting primarily of operating cost savings from using less energy, minus increases in product purchase costs, which is another way of representing consumer NPV), and (2) the annualized monetary value of the benefits of emission reductions, including CO_2 emission reductions.[103] The value of CO_2 reductions, otherwise known as the Social Cost of Carbon (SCC), is calculated using a range of values per metric ton of CO_2 developed by a recent interagency process.

Although combining the values of operating savings and CO_2 emission reductions provides a useful perspective, two issues should be considered. First, the national operating savings are domestic U.S. consumer monetary savings that occur as a result of market transactions, while the value of CO_2 reductions is based on a global value. Second, the assessments of operating cost savings and CO_2 savings are performed with different methods that use different time frames for analysis. The national operating cost savings is measured for the lifetime of NWGFs and MHGFs shipped in 2021–2050. The SCC values, on the other hand, reflect the present value of some future climate-related impacts resulting from the emission of one metric ton of carbon dioxide in each year. These impacts continue well beyond 2100.

Estimates of annualized benefits and costs of the proposed AFUE standards for NWGFs and MHGFs are shown in Table V.48. The results under the primary estimate are as follows.

Using a 7-percent discount rate for benefits and costs other than CO_2 reduction, (for which DOE used a 3-percent discount rate along with the average SCC series that uses a 3-percent discount rate ($40.5/t in 2015)), the estimated cost of the NWGFs and MHGFs AFUE standards proposed in this rule is $701 million per year in increased equipment costs, while the estimated benefits are $1,074 million per year in reduced equipment operating costs, $231 million per year in CO_2 reductions, and $39 million per year in reduced NO_X emissions. In this case, the net benefit would amount to $642 million per year.

Using a 3-percent discount rate for all benefits and costs and the average SCC series that uses a 3-percent discount rate ($40.5/t in 2015), the estimated cost of the NWGFs and MHGFs AFUE standards proposed in this rule is $709 million per year in increased equipment costs, while the estimated benefits are $1,690 million per year in reduced equipment operating costs, $231 million per year in CO_2 reductions, and $54 million per year in reduced NO_X emissions. In this case, the net benefit would amount to $1,264 million per year.

[103] To convert the time-series of costs and benefits into annualized values, DOE calculated a present value in 2014, the year used for discounting the NPV of total consumer costs and savings. For the benefits, DOE calculated a present value associated with each year's shipments in the year in which the shipments occur (*e.g.,* 2020 or 2030), and then discounted the present value from each year to 2014. The calculation uses discount rates of 3 and 7 percent for all costs and benefits except for the value of CO_2 reductions, for which DOE used case-specific discount rates, as shown in Table V.48. Using the present value, DOE then calculated the fixed annual payment over a 30-year period, starting in the compliance year, that yields the same present value.

TABLE V.48—ANNUALIZED BENEFITS AND COSTS OF PROPOSED AFUE STANDARDS (TSL 3) FOR NON-WEATHERIZED GAS FURNACES AND MOBILE HOME GAS FURNACES *

	Discount rate	(million 2013$/year)		
		Primary estimate	Low net benefits estimate	High net benefits estimate
Benefits				
Consumer Operating Cost Savings	7%	1,074	903	1,174
	3%	1,690	1,383	1,887
CO_2 Reduction Monetized Value ($12.0/t case) **	5%	64	59	72
CO_2 Reduction Monetized Value ($40.5/t case) **	3%	231	211	260
CO_2 Reduction Monetized Value ($62.4/t case) **	2.5%	340	311	384
CO_2 Reduction Monetized Value ($119/t case) **	3%	715	654	805
NO_X Reduction Monetized Value (at $2,684/ton) **	7%	38.50	35.68	42.48
	3%	53.52	49.26	59.53
Total Benefits †	7% plus CO_2 range	1,177 to 1,828	998 to 1,593	1,288 to 2,022
	7%	1,343	1,150	1,476
	3% plus CO_2 range	1,807 to 2,458	1,491 to 2,087	2,018 to 2,751
	3%	1,974	1,643	2,206
Costs				
Consumer Incremental Equipment Costs	7%	701	750	683
	3%	709	766	689
Net Benefits/Costs				
Total †	7% plus CO_2 range	476 to 1,127	248 to 843	605 to 1,339
	7%	642	400	793
	3% plus CO_2 range	1,098 to 1,749	725 to 1,320	1,329 to 2,062
	3%	1,264	877	1,517

* This table presents the annualized costs and benefits associated with NWGFs and MHGFs shipped in 2021–2050. These results include benefits to consumers which accrue after 2050 from the products purchased in 2021–2050. The results account for the incremental variable and fixed costs incurred by manufacturers due to the standard, some of which may be incurred in preparation for the rule. The Primary, Low Benefits, and High Benefits Estimates utilize projections of energy prices from the *AEO2014* Reference case, Low Economic Growth case and High Economic Growth case, respectively. In addition, incremental product costs reflect a modest decline rate for projected product price trends in the Primary Estimate, a constant rate in the Low Benefits Estimate, and a higher decline rate for projected price trends in the High Benefits Estimate. The methods used to derive projected price trends are explained in section IV.F.1.

** The interagency group selected four sets of SCC values for use in regulatory analyses. Three sets of values are based on the average SCC from the three integrated assessment models, at discount rates of 2.5, 3, and 5 percent. The fourth set, which represents the 95th percentile SCC estimate across all three models at a 3-percent discount rate, is included to represent higher-than-expected impacts from temperature change further out in the tails of the SCC distribution. The values in parentheses represent the SCC in 2015. The SCC time series incorporate an escalation factor. The value for NO_X is the average of the low and high values used in DOE's analysis.

† Total benefits for both the 3-percent and 7-percent cases are derived using the series corresponding to average SCC with 3-percent discount rate ($40.5/t in 2015). In the rows labeled "7% plus CO_2 range" and "3% plus CO_2 range," the operating cost and NO_X benefits are calculated using the labeled discount rate, and those values are added to the full range of CO_2 values.

Estimates of annualized benefits and costs of today's proposed standards for NWGFs and MHGFs standby mode and off mode power are shown in Table V.49. The results under the primary estimate are as follows.

Using a 7-percent discount rate for benefits and costs other than CO_2 reduction, (for which DOE used a 3-percent discount rate along with the average SCC series that uses a 3-percent discount rate ($40.5/t in 2015)), the estimated cost of the NWGFs and MHGFs standby mode and off mode standards proposed in this rule is $40.4 million per year in increased equipment costs, while the estimated benefits are $165.4 million per year in reduced equipment operating costs, $26.9 million per year in CO_2 reductions, and $1.1 million per year in reduced NO_X emissions. In this case, the net benefit would amount to $153.0 million per year.

Using a 3-percent discount rate for all benefits and costs and the average SCC series that uses a 3-percent discount rate ($40.5/t in 2015), the estimated cost of the NWGFs and MHGFs standby mode and off mode standards proposed in this rule is $41.0 million per year in increased equipment costs, while the estimated benefits are $240.2 million per year in reduced equipment operating costs, $26.9 million per year in CO_2 reductions, and $1.6 million per year in reduced NO_X emissions. In this case, the net benefit would amount to $227.6 million per year.

TABLE V.49—ANNUALIZED BENEFITS AND COSTS OF PROPOSED STANDBY MODE AND OFF MODE STANDARDS (TSL 3) FOR NON-WEATHERIZED GAS FURNACES AND MOBILE HOME GAS FURNACES *

	Discount rate	(million 2013$/year)		
		Primary estimate	Low net benefits estimate	High net benefits estimate
Benefits				
Consumer Operating Cost Savings	7%	165.4	149.7	190.8
	3%	240.2	214.9	281.5
CO_2 Reduction Monetized Value ($12.0/t case) **	5%	7.65	6.94	8.60
CO_2 Reduction Monetized Value ($40.5/t case) **	3%	26.87	24.31	30.28
CO_2 Reduction Monetized Value ($62.4/t case) **	2.5%	39.46	35.68	44.50
CO_2 Reduction Monetized Value ($119/t case) **	3%	83.18	75.26	93.76
NO_X Reduction Monetized Value (at $2,684/ton) **	7%	1.14	1.04	1.27
	3%	1.59	1.44	1.78
Total Benefits †	7% plus CO_2 range	174 to 250	158 to 226	201 to 286
	7%	193.4	175.0	222.4
	3% plus CO_2 range	249 to 325	223 to 292	292 to 377
	3%	268.6	240.7	313.5
Costs				
Consumer Incremental Equipment Costs	7%	40.35	45.01	36.86
	3%	41.02	46.13	37.19
Net Benefits/Costs				
Total †	7% plus CO_2 range	134 to 209	113 to 181	164 to 249
	7%	153.0	130.0	185.5
	3% plus CO_2 range	208 to 284	177 to 246	255 to 340
	3%	227.6	194.6	276.3

* This table presents the annualized costs and benefits associated with NWGFs and MHGFs shipped in 2021–2050. These results include benefits to consumers which accrue after 2050 from the equipment purchased in 2021–2050. The results account for the incremental variable and fixed costs incurred by manufacturers due to the standard, some of which may be incurred in preparation for the rule. The Primary, Low Benefits, and High Benefits Estimates utilize projections of energy prices from the *AEO2014* Reference case, Low Economic Growth case, and High Economic Growth case, respectively.

** The interagency group selected four sets of SCC values for use in regulatory analyses. Three sets of values are based on the average SCC from the three integrated assessment models, at discount rates of 2.5, 3, and 5 percent. The fourth set, which represents the 95th-percentile SCC estimate across all three models at a 3-percent discount rate, is included to represent higher-than-expected impacts from temperature change further out in the tails of the SCC distribution. The values in parentheses represent the SCC in 2015. The SCC time series incorporate an escalation factor. The value for NO_X is the average of the low and high values in DOE's analysis.

† Total benefits for both the 3-percent and 7-percent cases are derived using the series corresponding to average SCC with 3-percent discount rate ($40.5/t in 2015). In the rows labeled "7% plus CO_2 range" and "3% plus CO_2 range," the operating cost and NO_X benefits are calculated using the labeled discount rate, and those values are added to the full range of CO_2 values.

Estimates of the combined annualized benefits and costs of today's proposed standards for NWGFs and MHGFs AFUE and standby mode and off mode power are shown in Table V.50. The results under the primary estimate are as follows.

Using a 7-percent discount rate for benefits and costs other than CO_2 reduction, for which DOE used a 3-percent discount rate along with the average SCC series that uses a 3-percent discount rate ($40.5/t in 2015), the estimated cost of the NWGFs and MHGFs AFUE and standby mode and off mode standards proposed in this rule is $741.2 million per year in increased equipment costs, while the estimated benefits are $1,240 million per year in reduced equipment operating costs, $257.4 million per year in CO_2 reductions, and $39.6 million per year in reduced NO_X emissions. In this case, the net benefit would amount to $795.5 million per year.

Using a 3-percent discount rate for all benefits and costs and the average SCC series that uses a 3-percent discount rate ($40.5/t in 2015), the estimated cost of the NWGFs and MHGFs AFUE and standby mode and off mode standards proposed in this rule is $750.5 million per year in increased equipment costs, while the estimated benefits are $1,930 million per year in reduced equipment operating costs, $257.4 million per year in CO_2 reductions, and $55.1 million per year in reduced NO_X emissions. In this case, the net benefit would amount to $1,492 million per year.

TABLE V.50—COMBINED ANNUALIZED BENEFITS AND COSTS OF PROPOSED AFUE AND STANDBY MODE AND OFF MODE STANDARDS (TSL 3) FOR NON-WEATHERIZED GAS FURNACES AND MOBILE HOME GAS FURNACES *

	Discount rate	(million 2013$/year)		
		Primary estimate	Low net benefits estimate	High net benefits estimate
Benefits				
Consumer Operating Cost Savings	7%	1,240	1,053	1,365

TABLE V.50—COMBINED ANNUALIZED BENEFITS AND COSTS OF PROPOSED AFUE AND STANDBY MODE AND OFF MODE STANDARDS (TSL 3) FOR NON-WEATHERIZED GAS FURNACES AND MOBILE HOME GAS FURNACES *—Continued

	Discount rate	(million 2013$/year)		
		Primary estimate	Low net benefits estimate	High net benefits estimate
	3%	1,930	1,598	2,168
CO_2 Reduction Monetized Value ($12.0/t case) **	5%	71.49	65.60	80.15
CO_2 Reduction Monetized Value ($40.5/t case) **	3%	257.4	235.2	290.0
CO_2 Reduction Monetized Value ($62.4/t case) **	2.5%	379.6	346.6	428.0
CO_2 Reduction Monetized Value ($119/t case) **	3%	798.1	729.2	898.9
NO_X Reduction Monetized Value (at $2,684/ton) **	7%	39.64	36.72	43.75
	3%	55.11	50.70	61.31
Total Benefits †	7% plus CO_2 range	1,351 to 2,077	1,155 to 1,819	1,489 to 2,308
	7%	1,537	1,325	1,699
	3% plus CO_2 range	2,057 to 2,783	1,715 to 2,378	2,310 to 3,128
	3%	2,243	1,884	2,519
Costs				
Consumer Incremental Equipment Costs	7%	741.2	795.0	719.9
	3%	750.5	812.4	726.3
Net Benefits/Costs				
Total †	7% plus CO_2 range	609.6 to 1,336	360.3 to 1,024	768.9 to 1,588
	7%	795.5	529.8	978.7
	3% plus CO_2 range	1,306 to 2,033	0,902 to 1,566	1,583 to 2,402
	3%	1,492	1,072	1,793

* This table presents the annualized costs and benefits associated with NWGFs and MHGFs shipped in 2021–2050. These results include benefits to consumers which accrue after 2050 from the equipment purchased in 2021–2050. The results account for the incremental variable and fixed costs incurred by manufacturers due to the standard, some of which may be incurred in preparation for the rule. The Primary, Low Benefits, and High Benefits Estimates utilize projections of energy prices from the *AEO 2014* Reference case, Low Economic Growth case, and High Economic Growth case, respectively. In addition, incremental product costs reflect a modest decline rate for projected product price trends in the Primary Estimate, a constant rate in the Low Benefits Estimate, and a higher decline rate in the High Benefits Estimate. The methods used to derive projected price trends are explained in section IV.F.1.

** The interagency group selected four sets of SCC values for use in regulatory analyses. Three sets of values are based on the average SCC from the three integrated assessment models, at discount rates of 2.5, 3, and 5 percent. The fourth set, which represents the 95th-percentile SCC estimate across all three models at a 3-percent discount rate, is included to represent higher-than-expected impacts from temperature change further out in the tails of the SCC distribution. The values in parentheses represent the SCC in 2015. The SCC time series incorporate an escalation factor. The value for NO_X is the average of the low and high values in DOE's analysis.

† Total benefits for both the 3-percent and 7-percent cases are derived using the series corresponding to average SCC with 3-percent discount rate ($40.5/t in 2015). In the rows labeled "7% plus CO_2 range" and "3% plus CO_2 range," the operating cost and NO_X benefits are calculated using the labeled discount rate, and those values are added to the full range of CO_2 values.

Table V.51 compares the annualized benefits and costs of today's proposed standards for NWGF and MHGF AFUE under the default product switching estimate and under high and low switching estimates. The results under the primary, high, and low switching estimates are as follows. For the proposed standards for AFUE (TSL 3), the net benefits using a 7-percent discount rate amount to $396 million per year using high switching estimates, and $866 million per year using low switching estimates. These values compare to the primary net benefits of $642 million per year. The net benefits using a 3-percent discount rate amount to $942 million per year using high switching estimates, and $1,563 million per year using low switching estimates. These values compare to the primary net benefits of $1,264 million per year.

TABLE V.51—ANNUALIZED BENEFITS AND COSTS OF PROPOSED AFUE STANDARDS (TSL 3) FOR NON-WEATHERIZED GAS FURNACES AND MOBILE HOME GAS FURNACES UNDER ALTERNATIVE PRODUCT SWITCHING ESTIMATES *

	Discount rate	(million 2013$/year)		
		Primary estimate	Low switching estimate	High switching estimate
Benefits				
Consumer Operating Cost Savings	7%	1,074	1,271	868
	3%	1,690	1,958	1,411
CO_2 Reduction Monetized Value ($12.0/t case) **	5%	64	83	44
CO_2 Reduction Monetized Value ($40.5/t case) **	3%	231	298	163
CO_2 Reduction Monetized Value ($62.4/t case) **	2.5%	340	439	241
CO_2 Reduction Monetized Value ($119/t case) **	3%	715	923	505
NO_X Reduction Monetized Value (at $2,684/ton) **	7%	39	40	37
	3%	54	55	52
Total Benefits †	7% plus CO_2 range	1,177 to 1,828	1,395 to 2,235	950 to 1,411

TABLE V.51—ANNUALIZED BENEFITS AND COSTS OF PROPOSED AFUE STANDARDS (TSL 3) FOR NON-WEATHERIZED GAS FURNACES AND MOBILE HOME GAS FURNACES UNDER ALTERNATIVE PRODUCT SWITCHING ESTIMATES *—Continued

	Discount rate	(million 2013$/year)		
		Primary estimate	Low switching estimate	High switching estimate
	7%	1,343	1,609	1,069
	3% plus CO_2 range	1,807 to 2,458	2,097 to 2,937	1,507 to 1,968
	3%	1,974	2,312	1,626
Costs				
Consumer Incremental Equipment Costs	7%	701	743	673
	3%	709	748	684
Net Benefits/Costs				
Total †	7% plus CO_2 range	476 to 1,127	651 to 1,491	277 to 738
	7%	642	866	396
	3% plus CO_2 range	1,098 to 1,749	1,349 to 2,189	823 to 1,284
	3%	1,264	1,563	942

* This table presents the annualized costs and benefits associated with NWGFs and MHGFs shipped in 2021–2050. These results include benefits to consumers which accrue after 2050 from the equipment purchased in 2021–2050. The results account for the incremental variable and fixed costs incurred by manufacturers due to the standard, some of which may be incurred in preparation for the rule. The Primary, Low Switching Estimate, and High Switching Estimates are explained in section IV.F.4.

** The interagency group selected four sets of SCC values for use in regulatory analyses. Three sets of values are based on the average SCC from the three integrated assessment models, at discount rates of 2.5, 3, and 5 percent. The fourth set, which represents the 95th-percentile SCC estimate across all three models at a 3-percent discount rate, is included to represent higher-than-expected impacts from temperature change further out in the tails of the SCC distribution. The values in parentheses represent the SCC in 2015. The SCC time series incorporate an escalation factor. The value for NO_X is the average of the low and high values in DOE's analysis.

† Total benefits for both the 3-percent and 7-percent cases are derived using the series corresponding to average SCC with 3-percent discount rate ($40.5/t in 2015). In the rows labeled "7% plus CO_2 range" and "3% plus CO_2 range," the operating cost and NO_X benefits are calculated using the labeled discount rate, and those values are added to the full range of CO_2 values.

VI. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866 and 13563

Section 1(b)(1) of Executive Order 12866, "Regulatory Planning and Review," 58 FR 51735 (Oct. 4, 1993), requires each agency to identify the problem that it intends to address, including, where applicable, the failures of private markets or public institutions that warrant new agency action, as well as to assess the significance of that problem. The problems these proposed standards address are as follows:

(1) Insufficient information and difficulty in analyzing relevant information leads some customers to miss opportunities to make cost-effective investments in energy efficiency.

(2) In some cases the benefits of more efficient equipment are not realized due to misaligned incentives between purchasers and users. An example of such a case is when the equipment purchase decision is made by a building contractor or building owner who does not pay the energy costs.

(3) There are external benefits resulting from improved energy efficiency of residential furnaces that are not captured by the users of such equipment. These benefits include externalities related to public health, environmental protection and national security that are not reflected in energy prices, such as reduced emissions of air pollutants and greenhouse gases that impact human health and global warming.

In addition, DOE has determined that this regulatory action is a "significant regulatory action" under section 3(f)(1) of Executive Order 12866. Accordingly, section 6(a)(3) of the Executive Order requires that DOE prepare a regulatory impact analysis (RIA) on this rule and that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) review this rule. DOE presented to OIRA for review the draft rule and other documents prepared for this rulemaking, including the RIA, and has included these documents in the rulemaking record. The assessments prepared pursuant to Executive Order 12866 can be found in the technical support document for this rulemaking.

DOE has also reviewed this regulation pursuant to Executive Order 13563, issued on January 18, 2011 (76 FR 3281 (Jan. 21, 2011)). Executive Order 13563 is supplemental to and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, agencies are required by Executive Order 13563 to: (1) Propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

DOE emphasizes as well that Executive Order 13563 requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. In its guidance, the Office of Information and Regulatory Affairs has

emphasized that such techniques may include identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes. For the reasons stated in the preamble, DOE believes that this NOPR is consistent with these principles, including the requirement that, to the extent permitted by law, benefits justify costs and that net benefits are maximized.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (IRFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's Web site (*http://energy.gov/gc/office-general-counsel*). DOE has prepared the following IRFA for the products that are the subject of this rulemaking.

For manufacturers of NWGFs and MHGFs, the Small Business Administration (SBA) has set a size threshold, which defines those entities classified as ''small businesses'' for the purposes of the statute. DOE used the SBA's small business size standards to determine whether any small entities would be subject to the requirements of the rule. 65 FR 30836, 30848 (May 15, 2000), as amended at 65 FR 53533, 53544 (Sept. 5, 2000) and codified at 13 CFR part 121.[104] Manufacturing of NWGFs and MHGFs is classified under NAICS 333415, ''Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing.'' The SBA sets a threshold of 750 employees or less for an entity to be considered as a small business for this category.

1. Description and Estimated Number of Small Entities Regulated

DOE reviewed the proposed energy conservation standards for NWGFs and MHGFs considered in this notice of proposed rulemaking under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003. 68 FR 7990. To better assess the potential impacts of this rulemaking on small entities, DOE conducted a more focused inquiry of the 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 DOE's Compliance Certification Management System (CCMS [105]), industry trade association membership directories (including AHRI [106]), individual company Web sites, and market research tools (*e.g.,* Hoovers reports [107]) to create a list of companies that manufacture or sell the NWGF and MHGF products covered by this rulemaking. DOE also asked industry representatives if they were aware of any other small manufacturers during manufacturer interviews. DOE reviewed publicly available data and contacted companies on its list, as necessary, to determine whether they met the SBA's definition of a small business manufacturer of covered NWGF and MHGF products. DOE screened out companies that do not offer products covered by this rulemaking, do not meet the definition of a ''small business,'' or are foreign-owned and operated. Out of 12 manufacturers DOE was able to identify, four manufacturers were classified as meeting the SBA's definition of a ''small business'' that manufactures products covered by this rulemaking. Three of those small manufacturers were domestic companies.

Before issuing this NOPR, DOE attempted to contact all the small domestic business manufacturers of NWGFs and MHGFs it had identified. None of the small businesses consented to formal MIA interviews. DOE also attempted to obtain information about small business impacts while interviewing large manufacturers.

2. Description and Estimate of Compliance Requirements

Of the three small domestic manufacturers identified, one manufacturer was a NWGF manufacturer and two manufacturers were MHGF manufacturers. The small domestic NWGF manufacturer focuses on the residential furnace market and accounts for approximately 7 percent of the listings in the DOE Certification Compliance Database. This small manufacturer has condensing furnace product offerings, with 9 percent of its models meeting the proposed national standard level of 92% AFUE. In comparison, the NWGF industry as a whole has 46 percent of listings at or above 92% AFUE.

DOE made several key assumptions to estimate the conversion costs for small NWGF manufacturers. First, DOE assumed that conversion costs scaled with the number of model listings. Second, DOE assumed that small manufacturers accounted for 2 percent of NWGF industry revenues. Using these assumptions, DOE estimates the impacts on small manufacturer relative to large manufacturers:

	Total conversion cost as a percentage of revenue	Total conversion cost as a percentage of EBIT	Capital conversion cost as a percentage of annual capex	Product conversion cost as a percentage of annual R&D
Average Small Manufacturer	18	304	605	148
Average Large Manufacturer	3	60	99	50

These results suggest that small NWGF manufacturers could be at a disadvantage relative to the large NWGF manufacturers. In general, small manufacturers must make many of the same product redesign and cost

[104] The size standards are listed by North American Industry Classification System (NAICS) code and industry description and are available at *http://www.sba.gov/category/navigation-structure/contracting/contracting-officials/small-business-size-standards.*

[105] DOE's Compliance Certification Management System, *http://www.regulations.doe.gov/certification-data/*(last accessed Aug. 19, 2014).

[106] AHRI Directory, *https://www.ahridirectory.org/ahridirectory/pages/home.aspx* (last accessed Aug. 19, 2014).

[107] Hoovers|Company Information|Industry Information|Lists, *http://www.hoovers.com/*) (last accessed August 26, 2014).

optimization investments as their larger competitors. However, for the small manufacturer these upfront investments are spread over a smaller volume of shipments and smaller revenue base, making cost recovery more difficult.

The two small manufacturers producing MHGFs together account for approximately 32 percent of MHGF listings in the DOE Certification Compliance Database. These two manufacturers have zero listings at or above 92 percent AFUE, the proposed national standard level. In comparison, the MHGF industry as a whole has 58 percent of listings at or above 92 percent AFUE. These two small MHGF manufacturers would thus need to upgrade all product lines to remain in the industry. DOE estimates industry average conversion costs of approximately $0.9 million per company at this the proposed standard level. However, these estimates are driven by feedback from manufacturers who have condensing products today. Given that the two small manufacturers will need to develop a condensing product line from scratch, they may face substantially higher conversion costs for R&D and, perhaps, for tooling-up production of secondary heat exchangers. At the proposed AFUE standard level, the two small manufacturers may re-evaluate the cost-benefit of staying in the MHGF market.

DOE has tentatively concluded that the impacts of the standby mode and off mode requirements on small business are small relative to the AFUE standard impacts. Based on the engineering analysis, the cost of standby mode and off mode components are small to the overall cost of a residential furnace. DOE estimates that the standby mode and off mode requirements would add between $1 to $10 to the MPC of NWGF products (which ranges from $380 to $650) and to the MPC of MHGF products (which range from $323 to $568). The engineering analysis suggests that the design paths required to meet the standby mode and off mode requirements consist of relatively straight-forward component swaps. Additionally, the INPV and short-term cash flow impacts of the standby mode and off mode requirements are dwarfed by the impacts of the AFUE standard. In general, the impacts of the standby and off mode standard are significantly smaller than the impacts of the AFUE standard. For this reason, the IRFA focuses on the impacts of the AFUE standard.

DOE seeks comments, information, and data on the number of small businesses in the industry, the names of those small businesses, and their role in the market. Second, DOE requests data on the market share of small manufacturers in the NWGF and MHGF markets. Third, DOE request data on the estimate conversion costs for small manufacturers at all TSLs. Last, DOE requests comment on the potential impacts of the proposed AFUE standard and standby mode and off mode requirement on small manufacturers.

3. Duplication, Overlap, and Conflict With Other Rules and Regulations

DOE is not aware of any rules or regulations that duplicate, overlap, or conflict with the rule being proposed today.

4. Significant Alternatives to the Rule

The discussion in section V.B.2 analyzes impacts on small businesses that would result from DOE's proposed rule. In addition to the other TSLs being considered, the proposed rulemaking TSD includes a regulatory impact analysis (RIA) in chapter 17. For NWGFs and MHGFs, the RIA discusses the following policy alternatives: (1) No change in standard; (2) consumer rebates; (3) consumer tax credits; (4) manufacturer tax credits; (5) voluntary energy efficiency targets; and (6) bulk government purchases. While these alternatives may mitigate the economic impacts on small entities compared to the proposed standards, DOE has determined that the energy savings of these regulatory alternatives amount to 0.7 percent to 43.7 percent of the savings that would be expected to result from adoption of the proposed standard levels. Thus, DOE rejected these alternatives and is proposing the standards set forth in this rulemaking. See chapter 17 of the NOPR TSD for further detail on the policy alternatives DOE considered.

C. Review Under the Paperwork Reduction Act of 1995

Manufacturers of residential furnaces must certify to DOE that their products comply with any applicable energy conservation standards. In certifying compliance, manufacturers must test their products according to the DOE test procedures for residential furnaces, including any amendments adopted for those test procedures. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and commercial equipment, including residential furnaces. 76 FR 12422 (March 7, 2011). The collection-of-information requirement for the certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement has been approved by OMB under OMB control number 1910–1400. Public reporting burden for the certification is estimated to average 20 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

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

D. Review Under the National Environmental Policy Act of 1969

Pursuant to the National Environmental Policy Act (NEPA) of 1969, DOE has determined that the proposed rule fits within the category of actions included in Categorical Exclusion (CX) B5.1 and otherwise meets the requirements for application of a CX. See 10 CFR part 1021, App. B, B5.1(b); 1021.410(b) and Appendix B, B(1)–(5). The proposed rule fits within the category of actions because it is a rulemaking that establishes energy conservation standards for consumer products or industrial equipment, and for which none of the exceptions identified in CX B5.1(b) apply. Therefore, DOE has made a CX determination for this rulemaking, and DOE does not need to prepare an Environmental Assessment or Environmental Impact Statement for this proposed rule. DOE's CX determination for this proposed rule is available at *http://cxnepa.energy.gov/.*

E. Review Under Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have Federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process

it will follow in the development of such regulations. 65 FR 13735. DOE has 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 proposed rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297) Therefore, no further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). 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 section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this proposed rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a proposed regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE's policy statement is also available at *http://energy.gov/gc/office-general-counsel.*

Although this proposed rule, which proposes amended energy conservation standards for residential furnaces, does not contain a Federal intergovernmental mandate, it may require expenditures of $100 million or more on the private sector. Specifically, the proposed rule would likely result in a final rule that could require expenditures of $100 million or more, including: (1) Investment in research and development and in capital expenditures by residential furnace manufacturers in the years between the final rule and the compliance date for the new standards, and (2) incremental additional expenditures by consumers to purchase higher-efficiency residential furnaces, starting at the compliance date for the applicable standard.

Section 202 of UMRA authorizes a Federal agency to respond to the content requirements of UMRA in any other statement or analysis that accompanies the proposed rule. (2 U.S.C. 1532(c)) The content requirements of section 202(b) of UMRA relevant to a private sector mandate substantially overlap the economic analysis requirements that apply under section 325(o) of EPCA and Executive Order 12866. The **SUPPLEMENTARY INFORMATION** section of the NOPR and the ''Regulatory Impact Analysis'' section of the TSD for this proposed rule respond to those requirements.

Under section 205 of UMRA, the Department is obligated to identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a written statement under section 202 is required. (2 U.S.C. 1535(a)) DOE is required to select from those alternatives the most cost-effective and least burdensome alternative that achieves the objectives of the proposed rule unless DOE publishes an explanation for doing otherwise, or the selection of such an alternative is inconsistent with law. As required by 42 U.S.C. 6295(f) and (o), this proposed rule would establish amended energy conservation standards for residential furnaces that are designed to achieve the maximum improvement in energy efficiency that DOE has determined to be both technologically feasible and economically justified. A full discussion of the alternatives considered by DOE is presented in the ''Regulatory Impact Analysis'' section of the TSD for this proposed rule.

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

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

Pursuant to Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights,'' 53 FR 8859 (March 15, 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 the Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for Federal agencies to review most disseminations of information to the public under 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 this NOPR under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

DOE has tentatively concluded that this regulatory action, which sets forth amended energy conservation standards for residential furnaces, is not a significant energy action because the proposed standards are not likely to have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects on this proposed rule.

L. Review Under the Information Quality Bulletin for Peer Review

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (OSTP), issued its Final Information Quality Bulletin for Peer Review (the Bulletin). 70 FR 2664 (Jan. 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the bulletin is to enhance the quality and credibility of the Government's scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are ''influential scientific information,'' which the Bulletin defines as ''scientific information the agency reasonably can determine will have or does have a clear and substantial impact on important public policies or private sector decisions.'' *Id.* at 2667.

In response to OMB's Bulletin, DOE conducted formal in-progress peer reviews of the energy conservation standards development process and analyses and has prepared a Peer Review Report pertaining to the energy conservation standards rulemaking analyses. Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. The ''Energy Conservation Standards Rulemaking Peer Review Report,'' dated February 2007, has been disseminated and is available at the following Web site: *www1.eere.energy.gov/buildings/appliance_standards/peer_review.html.*

VII. Public Participation

A. Attendance at the Public Meeting

The time, date, and location of the public meeting are listed in the **DATES** and **ADDRESSES** sections at the beginning of this notice. If you plan to attend the public meeting, please notify Ms. Brenda Edwards at (202) 586–2945 or *Brenda.Edwards@ee.doe.gov* . As explained in the **ADDRESSES** section, foreign nationals visiting DOE Headquarters are subject to advance security screening procedures. Any foreign national wishing to participate in the meeting should advise DOE of this fact as soon as possible by contacting Ms. Brenda Edwards to initiate the necessary procedures.X

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=62.*

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, 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 shown 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 with 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 scheduled 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, requests to give an oral presentation should ask for such alternative arrangements.

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 included in the docket, which can be viewed as described in the *Docket* section at the beginning of this notice and will be accessible on the DOE Web site. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

DOE will accept comments, data, and information regarding this proposed rule before or after the public meeting, but no later than the date provided in the **DATES** section at the beginning of this proposed rule. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this NOPR.

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 below.

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 postal mail. Comments and documents submitted via email, hand delivery, or postal 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 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, that are written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. 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. The efficiency levels analyzed for standby mode and off mode, and on the assumption that standby mode and off mode energy consumption (as defined

by DOE) would be equal (see section IV.C.1.b).

2. The fraction of NWGFs and MHGFs that are used in commercial applications (see section IV.G.1).

3. The fraction of consumers that shut the furnace off during the non-heating season (see section IV.C.1.b).

4. Installation costs for condensing NWGFs and MHGFs. Specifically, the estimated fraction of houses that would see a large impact for installing a condensing furnace because of venting and/or condensate withdrawal issues (see section IV.F.2).

5. DOE's current approach for determining NWGF and MHGF lifetime distribution (see section IV.F.3.d).

6. DOE's current approach for calculating the fraction of NWGF consumers that would be expected to switch to other products in the standards cases (see section IV.F.4).

7. The estimated market share of condensing NWGFs and MHGFs in 2021 in the absence of amended energy conservation standards (see section IV.F).

8. The estimated market share of NWGFs and MHGFs that are used at each standby efficiency level in 2021 in the absence of amended energy conservation standards (see section IV.F).

9. The reasonableness of its assumption to apply a decreasing trend to the manufacturer selling price (in real dollars) of NWGFs and MHGFs, as well as any information that would support the use of alternative assumptions (see section IV.F.1).

10. Data that would allow for use of different price trend projections for condensing and non-condensing NWGFs and MHGFs (see section IV.F.1).

11. The methodology and data sources used for projecting the future shipments of NWGFs and MHGFs in the absence of amended energy conservation standards (see section IV.G.1).

12. The potential impacts on product shipments related to fuel and product switching (see section IV.G.2).

13. The reasonableness of the value that DOE used to characterize the rebound effect with higher-efficiency NWGFs and MHGFs (see section IV.E.1).

14. The approach for conducting the emissions analysis for NWGFs and MHGFs (see section IV.K).

15. DOE's approach for estimating monetary benefits associated with emissions reductions (see section IV.L).

16. Comments, information, and data on the capital conversion costs and product conversion costs estimated for each AFUE standard TSL (see section IV.J.2.a).

17. Comments, information, and data on the capital conversion costs and product conversion costs estimated for each standby mode and off mode TSL (see section IV.J.2.a).

18. Comments on the identified regulations and their contribution to cumulative regulatory burden. Additionally, DOE requests feedback on product-specific regulations that take effect between 2018 and 2024 that were not listed, including identification of the specific regulations and data quantifying the associated burdens (see section V.B.2.e and V.C.1).

19. Comments, information, and data on the number of small businesses in the industry, the names of those small businesses, and their role in the market and the market share of small manufacturers in the NWGF and MHGF markets (see section VI.B.1 and VI.B.2).

20. Comment on the potential impacts of the proposed AFUE standard and standby mode and off mode requirement on small manufacturers (see section VI.B.2).

21. Data, information, and feedback to enhance the estimate conversion costs for small manufacturers in the NWGF and MHGF to develop or adjust current product lines to meet the proposed standards (see section VI.B.2).

22. Comment on the potential impacts of the proposed AFUE standard and standby mode and off mode requirement on small manufacturers (see section VI.B.2).

VIII. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of today's notice of proposed rulemaking.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Intergovernmental relations, Small businesses.

Issued in Washington, DC, on February 10, 2015.

David T. Danielson,

Assistant Secretary, Energy Efficiency and Renewable Energy.

For the reasons set forth in the preamble, DOE proposes to amend part 430 of chapter II, subchapter D, of title 10 of the Code of Federal Regulations, as set forth below:

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 1. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

■ 2. Appendix N to subpart B of part 430 is amended by revising the note after the heading 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: The procedures and calculations that refer to standby mode and off mode energy consumption (*i.e.,* sections 8.6 and 10.11 of this appendix N) need not be performed to determine compliance with energy conservation standards for furnaces and boilers until required as specified below. However, any representation related to standby mode and off mode energy consumption of these products made after July 1, 2013 must be based upon results generated under this test procedure, consistent with the requirements of 42 U.S.C. 6293(c)(2). For non-weatherized oil-fired furnaces (including mobile home furnaces) and electric furnaces manufactured on and after May 1, 2013, compliance with the applicable provisions of this test procedure is required in order to determine compliance with energy conservation standards. For non-weatherized gas furnaces (including mobile home furnaces) manufactured on and after (*compliance date of final rule*), compliance with the applicable provisions of this test procedure is required in order to determine compliance with energy conservation standards. For boilers manufactured on and after (*compliance date of residential boilers final rule*), compliance with the applicable provisions of this test procedure is required in order to determine compliance with energy conservation standards.

* * * * *

■ 3. Section 430.32 is amended by

■ a. Redesignating paragraph (e)(1)(iii) as (e)(1)(iv);

■ b. Adding a new paragraph (e)(1)(iii); and

■ c. Revising newly redesignated paragraph (e)(1)(iv).

The additions and revisions read as follows:

§ 430.32 Energy and water conservation standards and their compliance dates.

* * * * *

(e) * * *

(1) * * *

(iii) The AFUE of non-weatherized gas-fired and mobile home gas furnaces shall not be less than the following starting on the compliance date indicated in the table below:

Product class	AFUE (percent) [1]	Compliance date
(A) Non-weatherized gas furnaces (not including mobile home furnaces)	92	*date 5 years after publication of final rule.*
(B) Mobile home gas furnaces	92	*date 5 years after publication of final rule.*

[1] Annual Fuel Utilization Efficiency, as determined in § 430.23(n)(2) of this part.

(iv) Furnaces manufactured on and after the compliance date listed in the table below shall have an electrical standby mode power consumption ($P_{W,SB}$) and electrical off mode power consumption ($P_{W,OFF}$) not more than the following:

Product class	Maximum standby mode electrical power consumption, ($P_{W,SB}$) (watts)	Maximum off mode electrical power consumption, ($P_{W,OFF}$) (watts)	Compliance date
(A) Non-weatherized oil-fired furnaces (including mobile home furnaces).	11	11	May 1, 2013.
(B) Electric furnaces	10	10	May 1, 2013.
(C) Non-weatherized gas-fired furnaces (including mobile home furnaces).	8.5	8.5	*date 5 years after publication of final rule.*

* * * * *

[FR Doc. 2015–03275 Filed 3–11–15; 8:45 am]

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