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# Contents

**Federal Register**

Vol. 80, No. 156

Thursday, August 13, 2015

**Agricultural Marketing Service**
NOTICES
Meetings:
Fruit and Vegetable Industry Advisory Committee, 48476

**Agriculture Department**
*See* Agricultural Marketing Service
*See* Animal and Plant Health Inspection Service
*See* Forest Service
NOTICES
Privacy Act; Systems of Records, 48476–48489

**Animal and Plant Health Inspection Service**
NOTICES
Petitions for Determination of Nonregulated Status:
Monsanto Company; Maize Genetically Engineered for Resistance to Dicamba and Glufosinate, 48489–48490

**Centers for Disease Control and Prevention**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 48534–48536

**Children and Families Administration**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 48536–48538

**Coast Guard**
RULES
Drawbridge Operations:
China Basin, San Francisco, CA, 48441
Mokelumne River, East Isleton, CA, 48440–48441
Sacramento River, Sacramento, CA, 48440
Safety Zones:
Carly's Crossing; Outer Harbor, Gallagher Beach, Buffalo, NY, 48441–48443
Special Local Regulations:
Marine Events held in the Sector Long Island Sound Captain of the Port Zone, 48436–48440
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 48550–48557

**Commerce Department**
*See* Economic Analysis Bureau
*See* International Trade Administration
*See* National Oceanic and Atmospheric Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 48490–48492

**Defense Department**
NOTICES
Meetings:
Reserve Forces Policy Board, 48509–48510

**Economic Analysis Bureau**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Services Surveys—BE–185, Quarterly Survey of Financial Services Transactions between U.S. Financial Services Providers and Foreign Persons, 48492–48493

**Education Department**
RULES
Final Priorities:
Rehabilitation Training; Vocational Rehabilitation Workforce Innovation Technical Assistance Center, 48443–48449
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Assessing the Role of Noncognitive and School Environmental Factors in Students' Transitions to High School in New Mexico; Docket ID Number; Correction, 48515
Gap Analysis Tool Implementation and Outcomes Evaluation (Future Ready Leaders Study), 48510
Applications for New Awards:
Rehabilitation Training — Vocational Rehabilitation Workforce Innovation Technical Assistance Center, 48511–48515

**Energy Department**
*See* Federal Energy Regulatory Commission
PROPOSED RULES
Energy Conservation Program:
Energy Conservation Standards for Ceiling Fan Light Kits, 48624–48682

**Environmental Protection Agency**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Natural Gas STAR Program, 48529
NSPS for Nitric Acid Plants for which Construction, Reconstruction or Modification Commenced after October 14, 2011, 48532–48533
PCBs, Consolidated Reporting and Record Keeping Requirements, 48530–48531
Servicing of Motor Vehicle Air Conditioners, 48529–48530
Cross-Media Electronic Reporting:
Alaska; Authorized Program Revision Approval, 48531–48532
Washington; Authorized Program Revision Approval, 48528–48529
Waste Management System:
Testing and Monitoring Activities; Final Update V of SW–846, 48522–48528

**Federal Aviation Administration**
RULES
Amendment of Class E Airspace:
Chehalis, WA, 48429–48430
Kelso, WA, 48430–48431

Santa Rosa, CA, 48426–48427
Toledo, WA, 48425–48426
Amendment of VOR Federal Airways:
Northeastern United States, 48427–48428
Class D Airspace:
Ogden, Hill AFB, UT, 48428–48429
Class D and E Airspace:
Ogden-Hinckley Airport, UT, 48431–48433
PROPOSED RULES
Class E Airspace:
Marshall, AR, 48470–48471
Vidalia, LA, 48469–48470
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Commercial Air Tour Operator Reports, 48620
Noise Exposure Maps:
Fort Lauderdale Executive Airport, Fort Lauderdale, FL, 48619–48620
Release of Airport Property:
Orlando International Airport, Orlando, FL, 48619

**Federal Deposit Insurance Corporation**
NOTICES
Termination of Receivership:
10014, Ameribank, Inc. Northfork, WV, 48533
Pinnacle Bank, Beaverton, OR, 48533

**Federal Energy Regulatory Commission**
NOTICES
Applications:
Aquenergy Systems, LLC, 48518–48519
Transcontinental Gas Pipe Line Co., LLC, 48519
Combined Filings, 48516–48517, 48521
Complaints:
Boston Energy Trading and Marketing, LLC v. Midcontinent Independent System Operator, Inc., 48515–48516
Indicated Market Participants v. PJM Interconnection, LLC, 48517
Exempt Wholesale Generator or Foreign Utility Company Status:
Seville Solar One LLC, et al., 48519–48520
Initial Market-Based Rate Filings Including Requests for Blanket Section 204 Authorizations:
Energy Me Midwest, LLC, 48521–48522
Willey Battery Utility, LLC, 48520–48521
Requests under Blanket Authorization:
Columbia Gas Transmission, LLC, 48517–48518
DBM Pipeline, LLC, 48520

**Federal Reserve System**
NOTICES
Changes in Bank Control:
Acquisitions of Shares of a Bank or Bank Holding Company, 48533

**Food and Drug Administration**
PROPOSED RULES
Food Additive Petitions; Animal Use:
Adisseo France S.A.S., 48471–48472

**Forest Service**
NOTICES
Meetings:
Siuslaw Resource Advisory Committee, 48490

**Gulf Coast Ecosystem Restoration Council**
NOTICES
Draft Funded Priorities List, 48533–48534

**Health and Human Services Department**
*See* Centers for Disease Control and Prevention
*See* Children and Families Administration
*See* Food and Drug Administration
*See* National Institutes of Health
*See* Substance Abuse and Mental Health Services Administration
PROPOSED RULES
Occupational Safety and Health Research and Related Activities:
Administrative Functions, Practices, and Procedures, 48473–48475
NOTICES
Privacy Act; Systems of Records, 48538–48544

**Homeland Security Department**
*See* Coast Guard

**Housing and Urban Development Department**
NOTICES
Extension of Time for Completion of Manufacturer Notification and Correction Plan, 48557–48558

**Indian Affairs Bureau**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Data Elements for Student Enrollment in Bureau-funded Schools, 48558
Environmental Impact Statements; Availability, etc.:
Tejon Indian Tribe Proposed Trust Acquisition and Casino Project, Kern County, CA, 48559
Indian Gaming, 48558–48560

**Interior Department**
*See* Indian Affairs Bureau
*See* National Park Service
*See* Reclamation Bureau
RULES
Hearing Process Concerning Acknowledgment of American Indian Tribes, 48451–48467

**Internal Revenue Service**
RULES
Extension of Time to File Certain Information Returns, 48433–48436
PROPOSED RULES
Extension of Time to File Certain Information Returns, 48472–48473

**International Trade Administration**
NOTICES
Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
Certain Corrosion-Resistant Steel Products from India, Italy, the People's Republic of China, the Republic of Korea, and Taiwan; Postponement, 48499–48500
Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China, 48493–48497
Cyber Security Business Development Mission to Japan, South Korea, and Taiwan, 48498–48499
Meetings:
Renewable Energy and Energy Efficiency Advisory Committe, 48497–48498

**Justice Department**
*See* Justice Programs Office
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
2016/2018 Identity Theft Supplement, 48568–48569
Cargo Theft Incident Report, 48564–48565
Environmental Information, 48565
National Incident-Based Reporting System, 48567–48568
Research to Support the National Crime Victimization Survey, 48567
Survey—National Corrections Reporting Program, 48565–48567

**Justice Programs Office**
NOTICES
Meetings:
Federal Advisory Committee on Juvenile Justice, 48569–48570

**Labor Department**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Notification of Methane Detected in Underground Metal and Nonmetal Mine Atmospheres, 48570–48571
Reports of Injuries to Employees Operating Mechanical Power Presses, 48571–48572

**National Institutes of Health**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Scientific Information Reporting System NIGMS, 48549–48550
Government-Owned Inventions; Availability for Licensing, 48544–48546
Meetings:
Center for Scientific Review, 48548–48549
National Cancer Institute, 48547–48548
National Institute of Allergy and Infectious Diseases, 48548
National Institute of Diabetes and Digestive and Kidney Diseases, 48546
National Institute on Aging, 48544, 48547–48548

**National Oceanic and Atmospheric Administration**
RULES
Fisheries of the Economic Exclusive Zone Off Alaska:
Groundfish Fishery by Non-Rockfish Program Catcher Vessels Using Trawl Gear in the Western and Central Regulatory Area of the Gulf of Alaska, 48467–48468
NOTICES
Taking of Marine Mammals Incidental to Specified Activities:
Front Street Transload Facility Construction, 48500–48509

**National Park Service**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
A Survey of National Parks and Federal Recreational Lands Pass Holders, 48560

**Pipeline and Hazardous Materials Safety Administration**
NOTICES
Meetings:
PHMSA Pipeline Risk Modeling Methodologies Public Workshop, 48620–48621

**Postal Service**
NOTICES
Product Changes:
Priority Mail Express and Priority Mail Negotiated Service Agreement, 48572

**Presidential Documents**
PROCLAMATIONS
Special Observances:
National Health Center Week (Proc. 9306), 48423–48424

**Reclamation Bureau**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 48560–48564

**Securities and Exchange Commission**
NOTICES
Self-Regulatory Organizations; Proposed Rule Changes:
EDGX Exchange, Inc., 48600–48610
Financial Industry Regulatory Authority, Inc., 48615–48617
Municipal Securities Rulemaking Board, 48572–48577
NASDAQ OMX BX, Inc., 48590–48592, 48611–48612
NASDAQ OMX PHLX, LLC, 48592–48594
New York Stock Exchange, LLC, 48583–48586
NYSE Arca, Inc., 48577–48583
NYSE MKT LLC, 48594–48600
NYSE MKT, LLC, 48588–48590
The NASDAQ Stock Market LLC, 48586–48588

**Small Business Administration**
NOTICES
Disaster Declarations:
Northern Mariana Islands, 48617–48618
Texas; Amendment 5, 48618
Meetings:
Advisory Committee on Veterans Business Affairs, 48617
Interagency Task Force on Veterans Small Business Development, 48618

**Substance Abuse and Mental Health Services Administration**
NOTICES
Meetings:
Center for Substance Abuse Treatment, 48550

**Surface Transportation Board**
NOTICES
Acquisition of Control Exemptions:
Regional Rail Holdings, LLC; Regional Rail, LLC; Correction, 48621–48622

**Transportation Department**
*See* Federal Aviation Administration
*See* Pipeline and Hazardous Materials Safety Administration
*See* Surface Transportation Board
NOTICES
Certificates of Public Convenience and Necessity:
Harris Aircraft Services, Inc., 48622

**Treasury Department**
*See* Internal Revenue Service

**Veterans Affairs Department**
**RULES**
Additional Compensation on Account of Children Adopted Out of Veteran's Family, 48450–48451
**NOTICES**
Enhanced-Use Leases:
St. Cloud, MN, 48622

**Separate Parts In This Issue**

**Part II**
Energy Department, 48624–48682

**Reader Aids**

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

## CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.


**3 CFR**

**Proclamations:**

9306 ..... 48423

**10 CFR**

**Proposed Rules:**

430 ..... 48624

**14 CFR**

71 (7 documents) ..... 48425, 48426, 48427, 48428, 48429, 48430, 48431

**Proposed Rules:**

71 (2 documents) ..... 48469, 48470

**21 CFR**

**Proposed Rules:**

573 ..... 48471

**26 CFR**

1 ..... 48433

**Proposed Rules:**

1 ..... 48472

**33 CFR**

100 ..... 48436

117 (3 documents) ..... 48440, 48441

165 ..... 48441

**34 CFR**

Ch. III ..... 48443

**38 CFR**

3 ..... 48450

**42 CFR**

**Proposed Rules:**

80 ..... 48473

**43 CFR**

4 ..... 48451

**50 CFR**

679 ..... 48467

Federal Register
Vol. 80, No. 156
Thursday, August 13, 2015

# Presidential Documents

**Title 3—**

**The President**

**Proclamation 9306 of August 7, 2015**

## National Health Center Week, 2015

**By the President of the United States of America**

**A Proclamation**

For a half century, health centers have delivered comprehensive, high quality, cost-effective primary health care to patients regardless of their ability to pay. This week, let us recognize the role of health centers and thank the tireless and dedicated center staff who work long hours to provide fundamental services to those who need them most.

Serving nearly 23 million patients, health centers are a vital source of primary care in communities across America. These centers also provide patients with crucial information on the importance of regular checkups and screenings, which encourage timely care and decrease the need for emergency treatment. By providing health insurance enrollment assistance to millions of individuals, they are playing a significant role in the implementation of the Affordable Care Act. This historic law has supported the operation, expansion, and construction of health centers across our Nation through the establishment of the Community Health Center Fund. Today, nearly 1,300 health centers operate approximately 9,000 service delivery sites that provide care to people in every State, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and the Pacific Basin. I encourage those in need of care to use the ''Find a Health Center'' tool at *www.HRSA.gov.*

Today, America's health centers have become a critical element of a health system that reflects the belief that all people deserve access to essential medical services, regardless of who they are or where they live. An idea born from the fight for justice and civil rights, health centers—as well as the committed professionals who support them—carry forward the ideals fought for at a transformational time in our Nation's history. Helping to ensure more Americans have the security and peace of mind that comes with quality, affordable care, health centers continue to be instrumental in safeguarding the promise of equality and opportunity for all.

This week, as we recognize the 50-year anniversary of the first community health centers being established in America, let us remember that health care is not a privilege for the few among us who can afford it, but a right for all Americans—and let us recognize the vital role health centers across our country play in carrying us toward greater health for our people.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim the week of August 9 through August 15, 2015, as National Health Center Week. I encourage all Americans to celebrate this week by visiting their local health center, meeting health center providers, and exploring the programs they offer to help keep families healthy.

IN WITNESS WHEREOF, I have hereunto set my hand this seventh day of August, in the year of our Lord two thousand fifteen, and of the Independence of the United States of America the two hundred and fortieth.

[FR Doc. 2015–20074
Filed 8–12–15; 8:45 am]
Billing code 3295–F5

# Rules and Regulations

Federal Register

Vol. 80, No. 156

Thursday, August 13, 2015

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

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 71

**[Docket No. FAA–2015–1135; Airspace Docket No. 15–ANM–9]**

## Amendment of Class E Airspace; Toledo, WA

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

**ACTION:** Final rule.

**SUMMARY:** This action modifies Class E airspace extending upward from 700 feet above the surface at Ed Carlson Memorial Field-South Lewis County Airport, Toledo, WA, to accommodate new Standard Instrument Approach Procedures (SIAPs) at the airport due to a decrease in the radius of controlled airspace. The FAA is taking this action to enhance the safety and management of Instrument Flight Rules (IFR) operations at the airport.

**DATES:** Effective 0901 UTC, October 15, 2015. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

**ADDRESSES:** FAA Order 7400.9Y, Airspace Designations and Reporting Points, and subsequent amendments can be viewed on line at *http://www.faa.gov/airtraffic/publications/*. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15. For further information, you can contact the Airspace Policy and ATC Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 29591; telephone: 202–267–8783.

**FOR FURTHER INFORMATION CONTACT:** Steve Haga, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4563.

**SUPPLEMENTARY INFORMATION:**

### Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends controlled airspace at Ed Carlson Memorial Field-South Lewis County Airport, Toledo, WA.

### History

On May 27, 2015, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to modify Class E airspace extending upward from 700 feet above the surface at Ed Carlson Memorial Field-South Lewis County Airport, Toledo, WA (80 FR 30185). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005, of FAA Order 7400.9Y, dated August 6, 2014, and effective September 15, 2014, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

### Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.9Y, airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014. FAA Order 7400.9Y is publicly available as listed in the **ADDRESSES** section of this final rule. FAA Order 7400.9Y lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

### The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 modifies Class E airspace extending upward from 700 feet above the surface at Ed Carlson Memorial Field-South Lewis County Airport, Toledo, WA. A review of the airspace revealed new Standard Instrument Approach Procedures necessary for the safety and management of IFR operations at the airport. Class E airspace extending upward from 700 feet above the surface is decreased from the 6.0-mile radius to within a 4-mile radius of Ed Carlson Memorial-South Lewis County Airport, with segments extending from the 4-mile radius to 8 miles northeast of the airport, and 7 miles southwest of the airport. This action enhances the safety and management of controlled airspace within the NAS.

### Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**Environmental Review**

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures,'' paragraph 311a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

**Lists of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**Adoption of the Amendment**

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

## PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for Part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

**§ 71.1 [Amended]**

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014, is amended as follows:

*Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth*

* * * * *

**ANM WA E5 Toledo, WA [Modified]**

Ed Carlson Memorial Field-South Lewis County Airport, WA
(Lat. 46°28′38″ N., long. 122°48′23″ W.)

That airspace extending upward from 700 feet above the surface within a 4-mile radius of the Ed Carlson Memorial Field-South Lewis County Airport, and within 1.2 miles each side of the 073° bearing from the airport extending from the 4-mile radius to 8 miles northeast of the airport, and within 1.8 miles each side of the 256° bearing from the airport extending from the 4-mile radius to 7 miles southwest of the airport.

Issued in Seattle, Washington, on July 31, 2015.

**Christopher Ramirez,**

*Manager, Operations Support Group, Western Service Center.*

[FR Doc. 2015–19477 Filed 8–12–15; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Docket No. FAA–2015–1481; Airspace Docket No. 15–AWP–1]**

## Amendment of Class E Airspace; Santa Rosa, CA

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

**ACTION:** Final rule.

**SUMMARY:** This action modifies Class E airspace extending upward from 700 feet above the surface at Charles M. Schulz-Sonoma County Airport, Santa Rosa, CA. The FAA found modification of the airspace area above 1,200 feet is no longer needed for standard instrument approach procedures at the airport. This action is necessary for the safety and management of Instrument Flight Rules (IFR) operations at the airport.

**DATES:** Effective 0901 UTC, October 15, 2015. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

**ADDRESSES:** FAA Order 7400.9Y, Airspace Designations and Reporting Points, and subsequent amendments can be viewed on line at *http://www.faa.gov/airtraffic/publications/.* The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15. For further information, you can contact the Airspace Policy and ATC Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 29591; Telephone: (202) 267–8783.

**FOR FURTHER INFORMATION CONTACT:** Rob Riedl, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; Telephone: (425) 203–4534.

**SUPPLEMENTARY INFORMATION:**

**Authority for This Rulemaking**

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies controlled airspace at Santa Rosa, CA.

**History**

On May 27, 2015, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to modify Class E airspace extending upward from 700 feet above the surface at the Charles M. Schulz-Sonoma County Airport, Santa Rosa, CA (80 FR 30182). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005, of FAA Order 7400.9Y, dated August 6, 2014, and effective September 15, 2014, which is incorporated by reference in 14 CFR part 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

**Availability and Summary of Documents for Incorporation by Reference**

This document amends FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014. FAA Order 7400.9Y is publicly available as listed in the **ADDRESSES** section of this final rule. FAA Order 7400.9Y lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

**The Rule**

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 modifies Class E airspace extending upward from 700 feet above the surface at Charles M. Schulz-Sonoma County Airport, Santa Rosa, CA. After a review of the airspace, the FAA found removal of the Class E airspace area above 1,200 feet necessary as this airspace is no longer required for standard instrument approach procedures at the airport. This action enhances the safety and

management of controlled airspace within the NAS.

**Regulatory Notices and Analyses**

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial, and unlikely to result in adverse or negative comments. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**Environmental Review**

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures,'' paragraph 311a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

**Lists of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation.

**Adoption of the Amendment**

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

## PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for Part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g): 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

**§ 71.1 [Amended]**

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014, is amended as follows:

*Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth*

* * * * *

**AWP CA E5 Santa Rosa, CA [Amended]**

Charles M. Schulz-Sonoma County Airport, CA
(Lat. 38°30′35″ N., long. 122°48′46″ W.)

That airspace extending upward from 700 feet above the surface bounded by a line beginning at lat. 38°53′25″ N., long. 122°52′34″ W.; to lat. 38°37′07″ N., long. 122°46′02″ W.; to lat. 38°22′08″ N., long. 122°38′28″ W.; to lat. 38°06′41″ N., long. 122°29′59″ W.; to lat. 38°02′10″ N., long. 122°44′09″ W.; to lat. 38°17′57″ N., long. 122°54′37″ W.; to lat. 38°22′58″ N., long. 123°02′34″ W.; lat. 38°29′12″ N., long. 122°56′32″ W.; lat. 38°33′48″ N., long. 123°00′47″ W.; lat. 38°50′14″ N., long. 123°07′20″ W.; thence to the point of origin.

Issued in Seattle, Washington, on July 29, 2015.

**Christopher Ramirez,**

*Manager, Operations Support Group, Western Service Center.*

[FR Doc. 2015–19243 Filed 8–12–15; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Docket No. FAA–2015–1650; Airspace Docket No. 14–AEA–8]**

**RIN 2120–AA66**

## Amendment of VOR Federal Airways; Northeastern United States

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

**ACTION:** Final rule; delay of effective date, and correction.

**SUMMARY:** This action changes the effective date of a final rule published in the **Federal Register** on June 9, 2015, amending VOR Federal airways V–31, V–36, V–98, V–164 and V–252 in the northeastern United States. The FAA is taking this action to link the effective date of the airway amendments with the completion of the development of associated en route procedures. In addition, this action corrects the description of Federal airway V–36 by restoring certain segments of that route that were removed in the final rule.

**DATES:** The effective date of the final rule published on June 9, 2015, is delayed from August 20, 2015, to October 15, 2015. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

**ADDRESSES:** FAA Order 7400.9Y, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15. For further information, you can contact the Airspace Policy and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783.

**FOR FURTHER INFORMATION CONTACT:** Paul Gallant, Airspace Policy and Regulations Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783.

**SUPPLEMENTARY INFORMATION:**

**Background**

Docket No. FAA–2015–1650, Airspace Docket No. 14–AEA–8, published in the **Federal Register** on June 9 2015 (80 FR 32464), amends VOR Federal airways V–31, V–36, V–98, V–164 and V–252 by removing certain segments in Canadian airspace. The development of associated en route procedures are planned for October 15, 2015, therefore the rule amending these airways is delayed until that date.

Additionally, subsequent to publication of the final rule, it was determined that an error was made in the description of Federal airway V–36, whereby the airway segments between Thunder Bay, Ontario, Canada, and the intersection of radials from the Wiarton, Ontario, Canada, and the Toronto, Ontario, Canada, navigation aids were inadvertently removed. This action corrects the description of V–36 by reinserting the missing airway segments.

Domestic VOR Federal Airways are published in paragraph 6010(a) of FAA Order 7400.9Y, dated August 6, 2014, and effective September 15, 2014, which is incorporated by reference in 14 CFR 71.1. The VOR Federal Airway listed in this document will be published subsequently in the Order.

**Delay of Effective Date**

Accordingly, pursuant to the authority delegated to me, the effective

date of the final rule, Airspace Docket 14–AEA–8, as published in the **Federal Register** on June 9, 2015 (80 FR 32464), is hereby delayed until October 15, 2015.

**Correction to Final Rule**

Accordingly, pursuant to the authority delegated to me, the description of VOR Federal airway V–36 as published in the **Federal Register** on June 9, 2015 (80 FR 32464) (FR Doc. 2015–13980) for Federal airway V–36, is corrected under the description for V–36 as follows:

*Paragraph 6010(a) Domestic VOR Federal Airways*

* * * * *

**V–36 [Corrected]**

On page 32465, column 2, remove lines 39–42 and add in its place:

From Thunder Bay, ON, Canada; Wawa, ON, Canada; Sault Ste Marie, MI; Elliot Lake, ON, Canada; Wiarton, ON, Canada to INT Wiarton 150° and Toronto, ON, Canada, 304° radials.

From Buffalo; Elmira, NY; INT Elmira 110° and LaGuardia, NY, 310° radials; to INT LaGuardia 310° and Stillwater, NJ, 043° radials. The airspace in Canada is excluded.

**Authority:** 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

Issued in Washington, DC, on July 30, 2015.

**Jacqueline R. Jackson,**

*Acting Manager, Airspace Policy and Regulations Group.*

[FR Doc. 2015–19239 Filed 8–12–15; 8:45 am]

**BILLING CODE 4910–13–P**

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Docket No. FAA–2015–0691; Airspace Docket No. 15–ANM–6]**

## Establishment of Class E Airspace, and Amendment of Class D Airspace; Ogden, Hill AFB, UT

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

**ACTION:** Final rule.

**SUMMARY:** This action establishes Class E airspace and modifies Class D airspace at Hill Air Force Base (AFB), Ogden, UT. The FAA's review of the airspace area revealed that modification of controlled airspace enhances the safety and management of Standard Instrument Approach Procedures for Instrument Flight Rules (IFR) operations at the airport. This action updates the geographic coordinates for Hill AFB, and Ogden-Hinckley Airport.

**DATES:** Effective 0901 UTC, October 15, 2015. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

**ADDRESSES:** FAA Order 7400.9Y, Airspace Designations and Reporting Points, and subsequent amendments can be viewed on line at *http://www.faa.gov/airtraffic/publications/.* The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15. For further information, you can contact the Airspace Policy and ATC Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 29591; telephone: 202–267–8783.

**FOR FURTHER INFORMATION CONTACT:** Steve Haga, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4563.

**SUPPLEMENTARY INFORMATION:**

### Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes controlled airspace at Hill AFB, Ogden, UT.

### History

On May 1, 2015, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to establish Class E airspace as an extension to the Class D surface area, and modify Class D airspace at Ogden-Hinckley Airport, Ogden, UT (80 FR 24860). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class D and Class E airspace designations are published in paragraph 5000 and 6004, respectively, of FAA Order 7400.9Y, dated August 6, 2014, and effective September 15, 2014, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E airspace designations listed in this document will be published subsequently in the Order.

### Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.9Y, airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014. FAA Order 7400.9Y is publicly available as listed in the **ADDRESSES** section of this final rule. FAA Order 7400.9Y lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

### The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 establishes Class E airspace as an extension to the Class D surface area and modifies Class D airspace Hill AFB, Ogden, UT. Class E airspace as an extension to the Class D surface area is established within a 4.5-mile radius of point in space coordinates, with a segment extending 1 mile southeast. Class D airspace is amended to within a 4.6-mile radius of Hill AFB, and the boundary between Hill AFB and Ogden-Hinckley Airport is moved 1 mile northwest. This action also updates the geographic coordinates for Hill AFB and Ogden-Hinckley Airport. This action enhances the safety and management of controlled airspace within the National Airspace System.

### Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a

Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**Environmental Review**

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures,'' paragraph 311a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment

**Lists of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**Adoption of the Amendment**

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

## PART 71 —DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for Part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

**§ 71.1 [Amended]**

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014, is amended as follows:

*Paragraph 5000 Class D Airspace*

* * * * *

**ANM UT D Ogden, Hill AFB, UT [Modified]**

Hill AFB, UT
(Lat. 41°07′26″ N., long. 111°58′23″ W.)
Ogden-Hinckley Airport, UT
(Lat. 41°11′44″ N., long. 112°00′47″ W.)

That airspace extending upward from the surface up to, but not including, 7,800 feet within a 4.6-mile radius of Hill AFB, excluding that airspace north of a line beginning at a point where the Ogden-Hinckley Airport 216° radial intersects the Hill AFB 4.6-mile radius; thence counter clockwise along the 4.6- mile radius to the point where the Ogden-Hinckley Airport 99° radial intersects the Hill AFB 4.6-mile radius, thence northwest to lat. 41°10′56″ N., long. 111°59′19″ W.; to lat. 41°10′21″ N., long. 112°00′55 W., to the point of beginning. This airspace is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be published in the Airport/Facility Directory.

*Paragraph 6004 Class E Airspace Areas Designated as an Extension to a Class D or Class E Surface Area*

* * * * *

**ANM UT E4 Ogden, Hill AFB, UT [New]**

Hill AFB, UT
(Lat. 41°07′26″ N., long. 111°58′23″ W.)
Hill AFB, point in space coordinates
(Lat. 41°06′27″ N., long.111°57′43″ W.)

That airspace extending upward from the surface within a 4.5-mile radius of point in space coordinates at lat. 41°06′27″ N., long.111°57′43″ W., from the 077° bearing from the Hill AFB airport clockwise to the 230° bearing.

Issued in Seattle, Washington, on July 27, 2015.

**Johanna Forkner,**

*Manager, Operations Support Group, Western Service Center.*

[FR Doc. 2015–19140 Filed 8–12–15; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

### Aviation Administration

### 14 CFR Part 71

**[Docket No. FAA–2015–1134; Airspace Docket No. 15–ANM–7]**

## Amendment of Class E Airspace; Chehalis, WA

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

**ACTION:** Final rule.

**SUMMARY:** This action modifies Class E airspace extending upward from 700 feet above the surface at Chehalis-Centralia Airport, Chehalis, WA, to accommodate new Standard Instrument Approach Procedures (SIAPs) at Chehalis-Centralia Airport. The FAA is taking this action to enhance the safety and management of Instrument Flight Rules (IFR) operations at the airport.

**DATES:** Effective 0901 UTC, October 15, 2015. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

**ADDRESSES:** FAA Order 7400.9Y, Airspace Designations and Reporting Points, and subsequent amendments can be viewed on line at *http://www.faa.gov/airtraffic/publications/.* The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15. For further information, you can contact the Airspace Policy and ATC Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 29591; telephone: 202–267–8783.

**FOR FURTHER INFORMATION CONTACT:** Steve Haga, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4563.

**SUPPLEMENTARY INFORMATION:**

**Authority for This Rulemaking**

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends controlled airspace at Chehalis-Centralia Airport, Chehalis, WA.

**History**

On May 27, 2015, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to modify Class E airspace extending upward from 700 feet above the surface at Chehalis-Centralia Airport, Chehalis, WA (80 FR 30181). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005, of FAA Order 7400.9Y, dated August 6, 2014, and effective September 15, 2014, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

**Availability and Summary of Documents for Incorporation by Reference**

This document amends FAA Order 7400.9Y, airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014. FAA Order 7400.9Y is publicly available as listed in the **ADDRESSES** section of this final rule. FAA Order 7400.9Y lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

**The Rule**

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 modifies Class E airspace extending upward from 700 feet above the surface at Chehalis-Centralia Airport, Chehalis, WA. A review of the airspace revealed that new Standard Instrument Approach Procedures are necessary for the safety and management of IFR operations at the airport. Class E airspace extending upward from 700 feet above the surface is modified to within a 4-mile radius of Chehalis-Centralia Airport, with a segment extending from the 4-mile radius to 8.1 miles north of the airport. This action enhances the safety and management of controlled airspace within the NAS.

**Regulatory Notices and Analyses**

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**Environmental Review**

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures,'' paragraph 311a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

**Lists of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**Adoption of the Amendment**

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

## PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for Part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

**§ 71.1 [Amended]**

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014, is amended as follows:

*Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth*

* * * * *

**ANM WA E5 Chehalis, WA [Modified]**

Chehalis, Chehalis-Centralia Airport, WA
(Lat. 46°40′37″ N., long. 122°58′58″ W.)

That airspace extending upward from 700 feet above the surface within a 4-mile radius of Chehalis-Centralia Airport, and within 1 mile each side of the 358° bearing of the airport extending from the 4-mile radius to 8.1 miles north of the airport.

Issued in Seattle, Washington, on July 31, 2015.

**Christopher Ramirez,**

*Manager, Operations Support Group, Western Service Center.*

[FR Doc. 2015–19475 Filed 8–12–15; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Docket No. FAA–2015–1133; Airspace Docket No. 15–ANM–8]**

## Amendment of Class E Airspace; Kelso, WA

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

**ACTION:** Final rule.

**SUMMARY:** This action modifies Class E airspace extending upward from 700 feet above the surface at Southwest Washington Regional Airport, Kelso, WA, to accommodate new Standard Instrument Approach Procedures (SIAPs) developed at Southwest Washington Regional Airport, Kelso, WA, due to a decrease of controlled airspace. This action enhances the safety and management of Instrument Flight Rules (IFR) operations at the airport.

**DATES:** Effective 0901 UTC, October 15, 2015. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

**ADDRESSES:** FAA Order 7400.9Y, Airspace Designations and Reporting Points, and subsequent amendments can be viewed on line at *http://www.faa.gov/airtraffic/publications/*. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15. For further information, you can contact the Airspace Policy and ATC Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 29591; telephone: 202–267–8783.

**FOR FURTHER INFORMATION CONTACT:** Steve Haga, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4563.

**SUPPLEMENTARY INFORMATION:**

**Authority for This Rulemaking**

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of

airspace. This regulation is within the scope of that authority as it amends controlled airspace at Southwest Washington Regional Airport, Kelso, WA.

**History**

On May 27, 2015, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to modify Class E airspace extending upward from 700 feet above the surface at Southwest Washington Regional Airport, Kelso, WA (80 FR 30183). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005, of FAA Order 7400.9Y, dated August 6, 2014, and effective September 15, 2014, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

**Availability and Summary of Documents for Incorporation by Reference**

This document amends FAA Order 7400.9Y, airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014. FAA Order 7400.9Y is publicly available as listed in the **ADDRESSES** section of this final rule. FAA Order 7400.9Y lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

**The Rule**

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 modifies Class E airspace extending upward from 700 feet above the surface at Southwest Washington Regional Airport, Kelso, WA. A review of the airspace revealed modification necessary for new Standard Instrument Approach Procedures developed at the airport, the safety and management of IFR operations at the airport. Class E airspace extending upward from 700 feet above the surface is modified to within a 4-mile radius of the Southwest Washington Regional Airport, with segments extending from the 4-mile radius to 14.8 miles northwest of the airport, 20.7 miles north of the airport, and 13.2 miles northeast of the airport. This action enhances the safety and management of controlled airspace within the NAS.

**Regulatory Notices and Analyses**

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**Environmental Review**

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures,'' paragraph 311a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

**Lists of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**Adoption of the Amendment**

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

## PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for Part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

### § 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014, is amended as follows:

*Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth*

* * * * *

**ANM WA E5 Kelso, WA [Modified]**

Southwest Washington Regional Airport, WA

(Lat. 46°07′05″ N., long. 122°53′54″ W.)

That airspace extending upward from 700 feet above the surface within a 4-mile radius of Southwest Washington Regional Airport beginning at lat. 46°07′51″ N., long. 122°48′16″ W., clockwise along the 4-mile radius of the airport to lat. 46°04′25″ N., long. 122°58′10″ W.; to lat. 46°14′02″ N., long. 123°12′43″ W.; to lat. 46°24′21″ N., long. 123°10′19″ W.; to lat. 46°20′04″ N., long. 122°50′07″ W.; thence to the point of beginning.

Issued in Seattle, Washington, on July 31, 2015.

**Christopher Ramirez,**

*Manager, Operations Support Group, Western Service Center.*

[FR Doc. 2015–19476 Filed 8–12–15; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Docket No. FAA–2015–0671; Airspace Docket No. 15–ANM–5]**

## Establishment of Class E Airspace, and Amendment of Class D and E Airspace; Ogden-Hinckley Airport, UT

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

**ACTION:** Final rule.

**SUMMARY:** This action establishes Class E airspace as an extension to the Class D surface area, modifies Class D airspace, and Class E airspace extending from 700 feet above the surface at Ogden-Hinckley Airport, Ogden, UT. The FAA's review of the airspace area revealed that modification of controlled airspace enhances the safety and management of Standard Instrument Approach Procedures for Instrument Flight Rules (IFR) operations at the airport. This action updates the geographic coordinates of Ogden-Hinckley Airport and Hill AFB, Ogden, UT, and corrects an error in the regulatory text of the Class E airspace designated as an extension.

**DATES:** Effective 0901 UTC, October 15, 2015. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

**ADDRESSES:** FAA Order 7400.9Y, Airspace Designations and Reporting Points, and subsequent amendments can be viewed on line at *http://www.faa.gov/airtraffic/publications/.* The Order is also available for

inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15. For further information, you can contact the Airspace Policy and ATC Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 29591; telephone: 202–267–8783.

**FOR FURTHER INFORMATION CONTACT:** Steve Haga, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4563.

**SUPPLEMENTARY INFORMATION:**

## Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes controlled airspace at Ogden-Hinckley Airport, Ogden, UT.

## History

On May 1, 2015, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to establish Class E airspace as an extension to the Class D surface area, modify Class D airspace, and Class E airspace extending from 700 feet above the surface, at Ogden-Hinckley Airport, Ogden, UT (80 FR 24861). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Subsequent to publication, the FAA identified an error in the geographic coordinates in the legal description of the airspace designated as an extension to Class D airspace. This action corrects the error.

Class D and Class E airspace designations are published in paragraph 5000, 6004, and 6005, respectively, of FAA Order 7400.9Y, dated August 6, 2014, and effective September 15, 2014, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E airspace designations listed in this document will be published subsequently in the Order.

## Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.9Y, airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014. FAA Order 7400.9Y is publicly available as listed in the **ADDRESSES** section of this final rule. FAA Order 7400.9Y lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

## The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 establishes Class E airspace as an extension to the Class D surface area, modifies Class D airspace, and Class E airspace extending upward from 700 feet above the surface at Ogden-Hinckley Airport, Ogden, UT. Class E airspace as an extension to the Class D surface area is established with a segment extending from the 4.3-mile radius of the airport to 16 miles southwest of the airport. The Class D airspace common boundary between Ogden-Hinckley Airport and Hill AFB, Ogden, UT, is moved 1 mile northwest. Class E airspace extending upward from 700 feet above the surface is modified to within a 5.3-mile radius of the airport, with segments extending from the 5.3-mile radius to 11 miles northwest, and 13 miles southwest of the airport. This action updates the geographic coordinates for Ogden-Hinckley Airport and Hill AFB, as well as corrects coordinates in the legal description for the Class E airspace area designated as an extension. This action enhances the safety and management of controlled airspace within the NAS.

## Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

## Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures,'' paragraph 311a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment

## Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

## Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

## PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for Part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

### § 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014, is amended as follows:

*Paragraph 5000 Class D Airspace*

* * * * *

**ANM UT D Ogden-Hinckley Airport, UT [Modified]**

Ogden-Hinckley Airport, UT
(Lat. 41°11′44″ N., long. 112°00′47″ W.)
Hill AFB, UT
(Lat. 41°07′26″ N., long. 111°58′23″ W.)

That airspace extending upward from the surface up to, but not including, 7,800 feet within a 4.3-mile radius of the Ogden-Hinckley Airport, and that airspace beginning at a point where the Ogden-Hinckley 216° radial intersects the Hill AFB 4.6-mile radius to the point where the Ogden-Hinckley 231° radial intersects the 4.3-mile radius, thence clockwise along the 4.3-mile

radius to where the Ogden-Hinckley 84° radial intersects the 4.3-mile radius to the point where the Ogden-Hinckley 99° radial intersects the Hill AFB 4.6-mile radius, excluding the portion southeast of a line beginning where the 216° radial intersects the Hill AFB 4.6-mile radius; thence northeast to lat. 41°10′21″ N., long. 112°00′55 W.; to lat. 41°10′56″ N., long. 111°59′19″ W.; to a point where the Ogden-Hinckley 99° radial intersects the Hill AFB 4.6-nm radius. This airspace is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be published in the Airport/Facility Directory.

*Paragraph 6004 Class E Airspace Areas Designated as an Extension to a Class D or Class E Surface Area*

* * * * *

**ANM UT E4 Ogden-Hinckley Airport, UT [New]**

Ogden-Hinckley Airport, UT
(Lat. 41°11′44″ N., long. 112°00′47″ W.)
Hill AFB, UT
(Lat. 41°07′26″ N., long. 111°58′23″ W.)

That airspace extending upward from the surface 4 miles north and parallel to the 225° radial of the Ogden-Hinckley Airport, extending from the 4.3-mile radius to 16 miles southwest of the airport, thence southeast to lat. 40°57′3″ N., long. 112°12′44″ W., thence northeast to the point where the Ogden-Hinckley 99° radial intersects the Hill AFB 4.6-mile radius, thence to the point of beginning.

*Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth*

* * * * *

**ANM UT E5 Ogden-Hinckley Airport, UT [Modified]**

Ogden-Hinckley Airport, UT
(Lat. 41°11′44″ N., long. 112°00′47″ W.)

That airspace extending upward from 700 feet above the surface within a 5.3-mile radius of Ogden-Hinckley Airport, and that airspace 3 miles either side of the 294° radial from the airport extending from the 5.3-mile radius to 11 miles northwest of the airport, and that airspace 4 miles either side of the Ogden-Hinckley 226° radial from the 5.3-mile radius to 13 miles southwest of the airport.

Issued in Seattle, Washington, on July 27, 2015.

**Johanna Forkner,**

*Manager, Operations Support Group, Western Service Center.*

[FR Doc. 2015–19138 Filed 8–12–15; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF THE TREASURY

## Internal Revenue Service

## 26 CFR Part 1

**[TD 9730]**

**RIN 1545–BM50**

## Extension of Time To File Certain Information Returns

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

**ACTION:** Final and temporary regulations.

**SUMMARY:** This document contains final and temporary regulations that remove the automatic extension of time to file information returns on forms in the W–2 series (except Form W–2G). The temporary regulations allow only a single 30-day non-automatic extension of time to file these information returns. These changes are being implemented to accelerate the filing of forms in the W–2 series (except Form W–2G) so they are available earlier in the filing season for use in the IRS's identity theft and refund fraud detection processes. In addition, the temporary regulations update the list of information returns subject to the rules regarding extensions of time to file. The temporary regulations affect taxpayers who are required to file the affected information returns and need an extension of time to file. The substance of the temporary regulations is included in the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section in this issue of the **Federal Register**.

**DATES:** *Effective date:* These regulations are effective on July 1, 2016.

*Applicability date:* For dates of applicability, see § 1.6081–8T(g) and (h).

**FOR FURTHER INFORMATION CONTACT:** Jonathan R. Black, (202) 317–6845 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

### Background

This document contains amendments to 26 CFR part 1 under section 6081 of the Internal Revenue Code (Code) regarding extensions of time to file certain information returns. Effective for filing season 2017, this document removes § 1.6081–8 and adds new § 1.6081–8T. Section 1.6081–8 will remain in effect for filing season 2016. Section 1.6081–8 currently provides an automatic 30-day extension of time to file information returns on forms in the W–2 series (including Forms W–2, W–2AS, W–2G, W–2GU, and W–2VI), 1095 series, 1098 series, 1099 series, and 5498 series, and on Forms 1042–S and 8027, and allows an additional 30-day non-automatic extension of time to file those information returns in certain cases.

The temporary regulations § 1.6081–8T are substantially identical to the regulations § 1.6081–8 that will be removed, except that the temporary regulations: (1) Add information returns on forms in the 1097 series and Forms 1094–C, 3921, and 3922 to the list of information returns with procedures prescribed by regulations for the extension of time to file; (2) remove information returns on forms in the W–2 series (except Form W–2G) from the list of information returns eligible for the automatic 30-day extension of time to file, and instead provide a single 30-day non-automatic extension of time to file those information returns; and (3) clarify that the procedures for requesting an extension of time to file in the case of forms in the 1095 series apply to information returns on Forms 1095–B and 1095–C, but not 1095–A.

The due dates imposed by statute, regulation, or form instruction for filing information returns on forms in the W–2 series, 1097 series, 1098 series, and 1099 series, and Forms 1094–C (when filed as a stand-alone information return), 1095–B, 1095–C, 3921, 3922, and 8027 on paper are either February 28 or the last day of February of the calendar year following the calendar year for which the information is being reported. The due date for filing these information returns electronically is March 31 of the calendar year following the calendar year for which the information is being reported. The information returns on forms in the 5498 series and the Form 1042–S, whether filed on paper or electronically, are due March 15 and May 31, respectively, of the calendar year following the calendar year for which the information is being reported. All of these information returns are filed with the IRS, except for information returns on forms in the W–2 series (other than Form W–2G), which are filed with the Social Security Administration. Filers who fail to timely and accurately file these information returns may be subject to penalties under section 6652 (regarding failure to file certain information returns), section 6693 (regarding failure to report on certain tax-favored accounts or annuities), or section 6721 (regarding failure to timely and accurately file information returns defined by section 6724(d)(1)).

Section 6081(a) generally provides that the Secretary may grant a reasonable extension of time, not to exceed 6 months, for filing any return,

declaration, statement, or other document required by Title 26 or by regulation. The regulations under section 6081 generally provide rules for extensions of time to file returns. The regulations under § 1.6081–8 provide specific rules for extensions of time to file certain information returns.

Under § 1.6081–8(a), a person required to file certain information returns (the filer), or the person transmitting the return for the filer (the transmitter), can currently receive an automatic 30-day extension of time to file those information returns. A filer or transmitter obtains an automatic 30-day extension of time to file by submitting a Form 8809, ''Application for Extension of Time to File Information Returns,'' to the IRS on or before the due date of the information return.

Section 1.6081–8(d) also currently provides that a filer or transmitter that obtains an automatic 30-day extension of time to file may request an additional 30-day extension of time to file by submitting a second Form 8809 on or before the date that the automatic 30-day extension of time to file expires. That additional 30-day extension of time to file under § 1.6081–8(d) is not automatically granted by the IRS. Unlike requests to obtain an automatic 30-day extension of time to file under § 1.6081–8(a), a filer or transmitter that requests an additional 30-day extension of time to file under § 1.6081–8(d) is required to sign the Form 8809 under penalties of perjury and include an explanation of why an additional extension of time to file is needed. No further extensions of time to file are permitted under § 1.6081–8.

Employers eligible to file information returns on forms in the W–2 series on an expedited basis under § 31.6071(a)-1(a)(3)(ii) are not eligible to obtain the automatic 30-day extension of time to file those information returns under § 1.6081–8 because they received an automatic extension of time to file information returns on forms in the W–2 series under Rev. Proc. 96–57 (1996–2 CB 389), see § 601.601(d)(2)(ii)(*b*) of this chapter.

A filer or transmitter seeking an extension of time to furnish statements to recipients is required to separately request an extension of time to furnish the statements under rules applicable to those statements.

**Explanation of Provisions**

The IRS uses third-party information returns to increase voluntary compliance, verify accuracy of tax returns, improve collection of taxes, and combat fraud, including fraudulent refund claims filed by unscrupulous preparers and individuals using the stolen identities of legitimate taxpayers. Identity theft and refund fraud is a persistent and evolving threat to the nation's tax system. It places an enormous burden on the United States Government, with the most painful and immediate impact being on the victims whose personal information is used to commit the crime and the most pervasive impact being an erosion of public confidence in the tax system.

Identity thieves often electronically file their fraudulent refund claims early in the tax filing season, using fictitious wage and other information of legitimate taxpayers. Unscrupulous preparers also electronically file early in the tax filing season, over-claiming deductions and credits and underreporting income for unwitting, as well as complicit, taxpayers. In many cases, the IRS is unable to verify the wage and other information reported on tax returns filed before April 15th, in part because the IRS does not receive the information returns reporting this information until later in the filing season.

Although paper information returns are generally due to be filed by February 28 or the last day of February of the calendar year following the calendar year for which the information is reported, an extension of time to file under § 1.6081–8 may currently extend the due date until the end of March or, if a non-automatic extension is also granted, the end of April. Similarly, although electronically-filed information returns are generally due by March 31 of the calendar year following the calendar year for which the information is reported, an extension of time to file under § 1.6081–8 may extend the due date until the end of April or, if a non-automatic extension is also granted, the end of May.

Receipt of information returns earlier in the filing season will improve the IRS's ability to identify fraudulent refund claims and stop the refunds before they are paid. The United States Government Accountability Office (GAO) has cited the IRS's receipt of information returns late in the filing season as a contributing factor in payment of fraudulent refunds due to identity theft and preparer misconduct. See GAO Report GAO–14–633, Identity Theft, Additional Actions Could Help IRS Combat the Large, Evolving Threat of Refund Fraud. Removing the automatic 30-day extension of time to file is an affirmative step to accelerate the filing of information returns so they are available earlier in the filing season for use in the IRS's refund fraud detection processes.

Over the next several years, the IRS intends to remove the 30-day automatic extension of time to file certain information returns. Under § 1.6081–8T, which will not be effective until the 2017 filing season, the first information returns subject to these new rules are information returns on forms in the W–2 series (except Form W–2G). These information returns are particularly helpful to the IRS for identifying fraudulent identity theft refund claims and preventing their payout. This is because a significant portion of most taxpayers' income and withholding information is reported on Forms W–2. Forms W–2 are also a major source of the false income and withholding that is reported by identity thieves and unscrupulous preparers. Having access to Forms W–2 earlier in the filing season will improve the IRS's ability to conduct pre-refund matching and identify incidences of identity theft and tax refund fraud.

Accordingly, § 1.6081–8T provides a single 30-day non-automatic extension of time to file information returns on forms in the W–2 series (except Form W–2G) due in 2017 that the IRS may, in its discretion, grant if the IRS determines that an extension of time to file is warranted based on the filer's or transmitter's explanation attached to the Form 8809 signed under the penalties of perjury. The IRS anticipates that it will grant the non-automatic extension of time to file only in limited cases where the filer's or transmitter's explanation demonstrates that an extension of time to file is needed as a result of extraordinary circumstances or catastrophe, such as a natural disaster or fire destroying the books and records a filer needs for filing the information returns. If the IRS does not grant the extension of time to file, information returns filed after their due dates are not timely filed, regardless of whether the application for extension of time to file was filed timely.

The IRS intends to eventually remove the automatic 30-day extension of time to file the other forms listed in § 1.6081–8T and replace it with a single non-automatic 30-day extension of time to file. Therefore, proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section in this issue of the **Federal Register** would remove the automatic 30-day extension of time to file these other information returns. As currently drafted, the proposed regulations would affect information returns due January 1 of the calendar year beginning after the date of publication of final regulations in the **Federal Register**, but the preamble to

those proposed regulations provides that final regulations will not be effective any earlier than the 2018 filing season.

Treasury and the IRS request comments on the appropriate timing of the removal of the automatic extension of time to file information returns covered by § 1.6081–8T, such as Form 1042–S, including whether special transitional considerations should be given for any category or categories of forms or filers relative to other forms or filers. Please follow the instructions in the ''Comments and Requests for Public Hearing'' section in the notice of proposed rulemaking accompanying these temporary regulations in this issue of the **Federal Register**.

Section 1.6081–8T also updates the list of information returns that are currently covered by § 1.6081–8. Forms 3921 and 3922 are being added to § 1.6081–8T because these forms have been included on Form 8809 since the June 2009 revision, which coincided with the revision of the regulations requiring those forms under section 6039. See TD 9470 (74 FR 59087) November 17, 2009. Forms in the 1097 series are being added because they have similarly been included on Form 8809 since the September 2010 revision, which coincided with the publication of the notice requiring the filing of the only active form in the 1097 series, Notice 2010–28 (2010–15 IRB 541).

In addition, the Form 1094–C is being added to the list of forms in § 1.6081–8T. In most cases the Form 1094–C is filed as a mere transmittal with the Form 1095–C and, therefore, the due date of the Form 1094–C is the same as the Form 1095–C, including extensions. However, in certain cases, the Form 1094–C is filed as a stand-alone information return. See TD 9661, (79 FR 13231) March 10, 2014. When Form 1094–C is filed as a stand-alone information return, it is subject to the same rules regarding extensions of time to file as other information returns. Accordingly, Form 1094–C has been added to the list of forms subject to extension under § 1.6081–8T.

Section 1.6081–8T also replaces the general reference to the forms in the 1095 series that was added to § 1.6081–8 on March 10, 2014, by TD 9660 (79 FR 13220) with specific references to Forms 1095–B and 1095–C. Form 1095–A was not intended to be included in § 1.6081–8, because the timing rules for filing the Form 1095–A are governed by § 1.36B–5. See TD 9663 (79 FR 26113) May 7, 2014.

## Special Analyses

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations.

Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. As stated in this preamble, these regulations remove the automatic 30-day extension of time to file information returns on Forms in the W–2 series (except for Form W–2G). Starting in filing season 2017, filers and transmitters may request only one 30-day extension of time to file Form W–2 by timely submitting a Form 8809, including an explanation of the reasons for requesting the extension and signed under penalty of perjury. Although the regulation may potentially affect a substantial number of small entities, the economic impact on these entities is not expected to be significant because filers who are unable to timely file as a result of extraordinary circumstances or catastrophe may continue to obtain a 30-day extension through the Form 8809 process. The form takes approximately 20 minutes to prepare and submit to the IRS. Pursuant to section 7805(f) of the Code, these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

## Drafting Information

The principal author of these regulations is Jonathan R. Black of the Office of the Associate Chief Counsel (Procedure and Administration).

## List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

## Adoptions of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

## PART 1—INCOME TAXES

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

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

■ **Par. 2.** Section 1.6081–8 is revised to read as follows:

### § 1.6081–8 Automatic extension of time to file certain information returns.

[Reserved]. For further guidance, see § 1.6081–8T(a) through (g).

■ **Par. 3.** Section 1.6081–8T is added to read as follows:

### § 1.6081–8T Extension of time to file certain information returns (temporary).

(a) *Information returns on Form W–2G, 1042–S, 1094–C, 1095–B, 1095–C, 1097 series, 1098 series, 1099 series, 3921, 3922, 5498 series, or 8027*—(1) *Automatic extension of time to file.* A person required to file an information return (the filer) on Form W–2G, 1042–S, 1094–C, 1095–B, 1095–C, 1097 series, 1098 series, 1099 series, 3921, 3922, 5498 series, or 8027 will be allowed one automatic 30-day extension of time to file the information return beyond the due date for filing it if the filer or the person transmitting the information return for the filer (the transmitter) files an application in accordance with paragraph (c)(1) of this section.

(2) *Non-automatic extension of time to file.* One additional 30-day extension of time to file an information return on a form listed in paragraph (a)(1) of this section may be allowed if the filer or transmitter submits a request for the additional extension of time to file before the expiration of the automatic 30-day extension of time to file. No extension of time to file will be granted under this paragraph (a)(2) unless the filer or transmitter has first obtained an automatic extension of time to file under paragraph (a)(1) of this section. To request the additional 30-day extension of time to file, the filer or transmitter must satisfy the requirements of paragraph (c)(2) of this section. No additional extension of time to file will be allowed for an information return on a form listed in paragraph (a)(1) of this section pursuant to § 1.6081–1 beyond the extensions of time to file provided by paragraph (a)(1) of this section and this paragraph (a)(2).

*(b) Information returns on forms in the W–2 series (except Form W–2G).* Except as provided in paragraph (f) of this section, the filer or transmitter of an information return on forms in the W–2 series (except Form W–2G) may only request one non-automatic 30-day extension of time to file the information return beyond the due date for filing it. To make such a request, the filer or transmitter must submit an application for an extension of time to file in accordance with paragraph (c)(2) of this section. No additional extension of time to file will be allowed for information returns on forms in the W–2 series pursuant to § 1.6081–1 beyond the 30-

day extension of time to file provided by this paragraph (b).

(c) *Requirements*—(1) *Automatic extension of time to file.* To satisfy this paragraph (c)(1), an application must—

(i) Be submitted on Form 8809, ''Request for Extension of Time to File Information Returns,'' or in any other manner as may be prescribed by the Commissioner; and

(ii) Be filed with the Internal Revenue Service office designated in the application's instructions on or before the due date for filing the information return.

(2) *Non-automatic extension of time to file.* To satisfy this paragraph (c)(2), a filer or transmitter must—

(i) Submit a complete application on Form 8809, or in any other manner prescribed by the Commissioner, including a detailed explanation of why additional time is needed;

(ii) File the application with the Internal Revenue Service in accordance with forms, instructions, or other appropriate guidance on or before the due date for filing the information return (for purposes of paragraph (a)(2) of this section, determined with regard to the extension of time to file under paragraph (a)(1) of this section); and

(iii) Sign the application under penalties of perjury.

(d) *Penalties.* See sections 6652, 6693, and 6721 through 6724 for failure to comply with information reporting requirements on information returns described in this section.

(e) *No effect on time to furnish statements.* An extension of time to file an information return under this section does not extend the time for furnishing a statement to the person with respect to whom the information is required to be reported.

(f) *Form W–2 filed on expedited basis.* This section does not apply to an information return on a form in the W–2 series if the procedures authorized in Rev. Proc. 96–57 (1996–2 CB 389) (or a successor revenue procedure) allow an automatic extension of time to file the information return. See § 601.601(d)(2)(ii)(*b*) of this chapter.

(g) *Effective/applicability date.* This section applies to requests for extensions of time to file information returns due after December 31, 2016.

(h) *Expiration date.* The applicability of this section expires on August 10, 2018.

**John Dalrymple,**

*Deputy Commissioner for Services and Enforcement.*

Approved: July 31, 2015.

**Mark J. Mazur,**

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

[FR Doc. 2015–19932 Filed 8–12–15; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Parts 100

**[Docket Number USCG–2015–0705]**

**RIN 1625–AA08**

## Special Local Regulations; Marine Events Held in the Sector Long Island Sound Captain of the Port Zone

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing five special local regulations for five separate marine events within the Coast Guard Sector Long Island Sound (LIS) Captain of the Port (COTP) Zone. This temporary final rule is necessary to provide for the safety of life on navigable waters during these events. Entry into, transit through, mooring or anchoring within these regulated areas is prohibited unless authorized by COTP Sector Long Island Sound.

**DATES:** This rule is effective without actual notice from August 13, 2015 until 4:30 p.m. on August 28, 2015. For the purposes of enforcement, actual notice will be used from the date the rule was signed, July 29, 2015, until August 13, 2015.

**ADDRESSES:** Documents mentioned in this preamble are part of docket [USCG–2015–0705]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, contact Petty Officer Ian Fallon, Prevention Department, Coast Guard Sector Long Island Sound, telephone (203) 468–4565, email *Ian.M.Fallon@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

**SUPPLEMENTARY INFORMATION:**

### Table of Acronyms

COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking

### A. Regulatory History and Information

This rulemaking establishes five special local regulations for three regattas and two swim events. Each event and its corresponding regulatory history are discussed below.

Smith Point Triathlon (Swim) is a reoccurring marine event with regulatory history. A safety zone was established for Smith Point Triathlon in 2014 when the Coast Guard issued a temporary final rule entitled, ''Safety Zone; Smith Point Triathlon; Narrow Bay; Mastic Beach, NY.'' The NPRM in that rulemaking was published on April, 25, 2014 in the **Federal Register** (79 FR 22927).

Island Beach Two Mile (Swim) is a recurring marine event with regulatory history. A safety zone was established for this event on August 9, 2014 via a temporary final rule entitled, ''Special Local Regulations and Safety Zones; Marine Events in Captain of the Port Long Island Sound Zone.'' This rule was published on August 12, 2014 in the **Federal Register** (79 FR 46997).

Riverside Yacht Club JSA of LIS Opti Champs (Regatta) is a new event with no regulatory history.

Riverfront Dragon Boat and Asian Festival (Regatta) is a recurring marine event with regulatory history. A special local regulation was established in 2014 for the Riverfront Dragon Boat and Asian Festival when the Coast Guard enforced 33 CFR 100.100(a)(1.7). This event has been included in this rule due to deviation from the location in this cite.

War Writers Campaign Kayak for Cause (Regatta) is a new event with no regulatory history.

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule

without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable and contrary to the public interest. There is insufficient time to publish an NPRM and solicit comments from the public before these events take place. Thus, waiting for a comment period to run would inhibit the Coast Guard's ability to fulfill its mission to keep the ports and waterways safe.

Under 5 U.S.C. 553(d)(3), and for the same reasons stated in the preceding paragraph, the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

**B. Basis and Purpose**

The legal basis for this temporary rule is 33 U.S.C. 1233 which authorizes the Coast Guard to define regulatory special local regulations.

As discussed in the *Regulatory History and Information* section, three regattas and two swim events will take place in the Coast Guard Sector LIS COTP Zone between August 2, 2015, and August 28, 2015. The COTP Long Island Sound has determined that the five special local regulations established by this temporary final rule are necessary to provide for the safety of life on navigable waterways during those events.

*Smith Point Triathlon* will have the swim portion of the triathlon at Smith Point County Park in Shirley, NY. The race participants will stay within 500 feet of the shore. There will be life guards in kayaks as safety boats.

*Island Beach Two Mile Swim* is a swim event in Long Island Sound south of Greenwich, CT. The swim course starts at Little Captain's Island and follows a course towards Belle Haven, CT turning back towards Captain's Island after a mile. There will be two safety boats at each end of the swim course and fifteen life guards in kayaks along the swim course.

*Riverside Yacht Club JSA of LIS Opti Champs* is a sailing event will be held in Captain Harbor south of Greenwich, CT using Optimist sailboats. There will be five boats in support of this event and four safety boats.

*Riverfront Dragon Boat and Asian Festival* is a dragon boat race and regatta that will be held on the Connecticut River in Hartford, CT. There will be three safety boats in support of this event.

*War Writers Campaign Kayak for Cause* is a kayak event that starts in Bridgeport, CT and ends in Port Jefferson, NY across Long Island Sound. There will be four safety boats accompanying the race participants across Long Island Sound.

**C. Discussion of the Temporary Final Rule**

This rule establishes five special local regulations for three regattas and two swim events. The locations of these special local regulations are as follows:

SPECIAL LOCAL REGULATIONS

| | | |
|---|---|---|
| 1 | Smith Point Triathlon | Location: All waters of Narrow Bay near Smith Point Park in Shirley, NY within the area bound by land along its southern edge and points in position 40°44′14.28″ N. 072°51′40.68″ W. northerly through position 40°44′20.83″ N. 072°51′40.68″ W., then easterly through position 40°44′20.83″ N. 072°51′19.73″ W., then southerly through position 40°44′14.85″ N. 072°51′19.73″ W. (NAD 83). |
| 2 | Island Beach 2 Mile Swim | Location: All waters of Captain Harbor between Little Captain's Island and Bower's Island that are located within the box formed by connecting four points in the following positions. Beginning at 40°59′23.35″ N. 073°36′42.05″ W., then northwest to 40°59′51.04″ N. 073°37′57.32″ W., then southwest to 40°59′45.17″ N. 073°38′01.18″ W., then southeast to 40°59′17.38″ N. 073°36′45.90″ W., then northeast to the beginning point at 40°59′23.35″ N. 073°36′42.05″ W. (NAD 83). |
| 3 | Riverside Yacht Club JSA of LIS Opti Champs. | Location: All waters of Captain Harbor near Greenwich, CT within a 1 mile radius of position 41°00′07.5″ N.; 073°36′27.4″ W. (NAD 83). |
| 4 | Riverfront Dragon Boat and Asian Festival. | Location: All waters of the Connecticut River, Hartford, CT, between the Bulkeley Bridge 41°46′10.10″ N.; 072°39′56.13″ W. and the Wilbur Cross Bridge 41°45′11.67″ N.; 072°39′13.64″ W. (NAD 83). |
| 5 | War Writers Campaign Kayak For Cause. | Location: All waters of Long Island Sound along the regatta route from Bridgeport, CT to Port Jefferson, NY along positions 41°09′40″ N.; 073°11′04″ W., then south east near Stratford Shoal at position 41°03′41″ N.; 073°06′24″ W. then south to Port Jefferson at position 40°58′37″ N.; 073° 05′49″ W. (NAD 83). |

This rule establishes additional vessel movement rules within areas specifically under the jurisdiction of the special local regulations during the periods of enforcement unless authorized by the COTP or designated representative.

Public notifications will be made to the local maritime community prior to each event through the Local Notice to Mariners and Broadcast Notice to Mariners.

**D. Regulatory Analyses**

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

*1. Regulatory Planning and Review*

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The Coast Guard determined that this rulemaking is not a significant regulatory action for the following reasons: (1) The enforcement of these regulated areas will be relatively short in duration, (2) persons or vessels desiring entry into the ''No Entry'' area or a deviance from the stipulations within the ''Slow/No Wake Area'' may be authorized to do so by the COTP Sector Long Island Sound or designated representative, (3) vessels can operate within the regulated area provided they do so in accordance with the regulation and (4) before the effective period,

public notifications will be made to local mariners through appropriate means, which may include but are not limited to the Local Notice to Mariners as well as Broadcast Notice to Mariners.

*2. Impact on Small Entities*

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This temporary final rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to enter, transit, anchor, or moor within a regulated area during the periods of enforcement, from August 2, 2015 to August 28, 2015. However, this temporary final rule will not have a significant economic impact on a substantial number of small entities for the same reasons discussed in the Regulatory Planning and Review section.

*3. Assistance for Small Entities*

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

*4. Collection of Information*

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

*5. Federalism*

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

*6. Protest Activities*

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

*7. Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

*8. Taking of Private Property*

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

*9. Civil Justice Reform*

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

*10. Protection of Children From Environmental Health Risks*

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

*11. Indian Tribal Governments*

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

*12. Energy Effects*

This action is not a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

*13. Technical Standards*

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

*14. Environment*

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of special local regulations. This rule is categorically excluded from further review under paragraph 34(h) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

**List of Subjects in 33 CFR Part 100**

Marine safety, Navigation (water), Reporting and recording requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 100 as follows:

## PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

**Authority:** 33 U.S.C. 1233.

■ 2. Add § 100.35T01–0705 to read as follows:

**§ 100.35T01–0705 Special Local Regulations; Marine Events in Captain of the Port Long Island Sound Zone.**

(a) *Regulations.* The general regulations contained in 33 CFR 100.35 as well as the following regulations apply to the marine events listed in Table to § 100.T01–0705.

(b) *Enforcement periods.* This section will be enforced on the dates and times

listed for each event in Table to § 100.T01–0705.

(c) *Definitions.* The following definitions apply to this section:

*Designated representative.* A ''designated representative'' is any commissioned, warrant or petty officer of the U.S. Coast Guard who has been designated by the Captain of the Port (COTP), Sector Long Island Sound, to act on his or her behalf. The designated representative may be on an official patrol vessel or may be on shore and will communicate with vessels via VHF–FM radio or loudhailer. While members of the Coast Guard Auxiliary will not serve as the designated representative, they may be present to inform vessel operators of this regulation.

*Official patrol vessels.* Official patrol vessels may consist of any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessels assigned or approved by the COTP.

(d) Operators of non-event vessels transiting through the area during the enforcement period are required to travel at no wake speeds or 6 knots, whichever is slower and that vessels shall not block or impede the transit of event participants, event safety vessels or official patrol vessels in the regulated area unless authorized by the Captain of the Port (COTP) or designated representatives.

(e) All persons and vessels shall comply with the instructions of the COTP Sector Long Island Sound or designated representative. These designated representatives are comprised of commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing lights or other means, the operator of a vessel shall proceed as directed.

(f) Non-event vessels desiring to transit through the ''No Wake Area'' at faster than no wake speeds must contact the COTP Sector Long Island Sound by telephone at (203)-468–4401, or designated representative via VHF radio on channel 16, to request authorization. A designated representative may be on an official patrol vessel or may be on shore and will communicate with vessels via VHF–FM radio or loudhailer. In addition, members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation. If authorization to transit through at faster than no wake speed within the regulated areas is granted by the COTP Sector Long Island Sound or designated representative, all persons and vessels receiving such authorization must comply with the instructions of the COTP Sector Long Island Sound or designated representative.

(g) The Coast Guard will provide notice of the regulated area prior to the event through appropriate means, which may include but is not limited to the Local Notice to Mariners and Broadcast Notice to Mariners.

(h) The additional stipulations listed in the table to § 100.35T01–0705 also apply for the event in which they are listed.

TABLE TO § 100.35T01–0705

| | | |
|---|---|---|
| (1) | Smith Point Triathlon | • Date: August 2, 2015.<br>• Time: 6:20 a.m. to 9:30 a.m.<br>• Location: All waters of Narrow Bay near Smith Point Park in Shirley, NY within the area bound by land along its southern edge and points in position 40°44′14.28″ N. 072°51′40.68″ W. northerly through position 40°44′20.83″ N. 072°51′40.68″ W., then easterly through position 40°44′20.83″ N. 072°51′19.73″ W., then southerly through position 40°44′14.85″ N. 072°51′19.73″ W. (NAD 83).<br>• Additional stipulations: All persons transiting through the area shall maintain a minimum distance of 100 yards from the swimmers. |
| (2) | Island Beach 2 Mile Swim | • Date: August 8, 2015.<br>• Time: 7:45 a.m. to 10:45 a.m.<br>• Location: The following area is a safety zone: All waters of Captain Harbor between Little Captain's Island and Bower's Island that are located within the box formed by connecting four points in the following positions. Beginning at 40°59′23.35″ N. 073°36′42.05″ W., then northwest to 40°59′51.04″ N. 073°37′57.32″ W., then southwest to 40°59′45.17″ N. 073°38′01.18″ W., then southeast to 40°59′17.38″ N. 073°36′45.90″ W., then northeast to the beginning point at 40°59′23.35″ N. 073°36′42.05″ W. (NAD 83).<br>• Additional stipulations: All persons transiting through the area shall maintain a minimum distance of 100 yards from the swimmers. |
| (3) | Riverside Yacht Club JSA of LIS Opti Champs. | • Date: August 9–10, 2015.<br>• Time: 8:30 a.m. to 4:30 p.m.<br>• Location: All waters of Captain Harbor near Greenwich, CT within a 1 mile radius of position 41°00′07.5″ N; 073°36′27.4″ W. (NAD 83). |
| (4) | Riverfront Dragon Boat and Asian Festival. | • Date: August 15, 2015.<br>• Time: 7:30 a.m. to 5:30 p.m.<br>• Date: August 16, 2015.<br>• Time: 8:30 a.m. to 4:30 p.m.<br>• Location: All waters of the Connecticut River, Hartford, CT, between the Bulkeley Bridge 41°46′10.10″ N; 072°39′56.13″ W. and the Wilbur Cross Bridge 41°45′11.67″ N; 072°39′13.64″ W. (NAD 83). |
| (5) | War Writers Campaign Kayak For Cause. | • Date: August 28, 2015.<br>• Time: 7:30 a.m. to 4:30 p.m.<br>• Location: All waters of Long Island Sound along the regatta route from Bridgeport, CT to Port Jefferson, NY along positions 41°09′40″ N; 073°11′04″ W., then south east near Stratford Shoal at position 41°03′41″ N; 073°06′24″ W. then south to Port Jefferson at position 40°58′37″ N; 073° 05′49″ W. (NAD 83).<br>• Additional stipulations: All persons transiting through the area shall maintain a minimum distance of 100 yards from the kayakers. |

Dated: July 29, 2015.

**E.J. Cubanski, III,**

*Captain, U. S. Coast Guard, Captain of the Port Sector Long Island Sound.*

[FR Doc. 2015–19986 Filed 8–12–15; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 117

**[Docket No. USCG–2015–0486]**

## Drawbridge Operation Regulation; Sacramento River, Sacramento, CA

**AGENCY:** Coast Guard, DHS.

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

**SUMMARY:** The Coast Guard has issued a temporary deviation from the operating schedule that governs the Tower Drawbridge across the Sacramento River, mile 59.0 at Sacramento, CA. The deviation is necessary to allow the community to participate in the Arches Run. This deviation allows the bridge to remain in the closed-to-navigation position during the deviation period.

**DATES:** This deviation is effective from 7:50 a.m. to 10 a.m. on August 16, 2015.

**ADDRESSES:** The docket for this deviation, [USCG–2015–0486], 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 David H. Sulouff, Chief, Bridge Section, Eleventh Coast Guard District; telephone 510–437–3516, email *David.H.Sulouff@uscg.mil.* If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

**SUPPLEMENTARY INFORMATION:** California Department of Transportation has requested a temporary change to the operation of the Tower Drawbridge, mile 59.0, over Sacramento River, at Sacramento, CA. The drawbridge navigation span provides a vertical clearance of 30 feet above Mean High Water in the closed-to-navigation position. The draw opens on signal from May 1 through October 31 from 6 a.m. to 10 p.m. and from November 1 through April 30 from 9 a.m. to 5 p.m. At all other times the draw shall open on signal if at least four hours notice is given, as required by 33 CFR 117.189(a). Navigation on the waterway is commercial and recreational.

The drawspan will be secured in the closed-to-navigation position from 7:50 a.m. to 10 a.m. on August 16, 2015, to allow the community to participate in the Arches Run, benefiting the Ronald McDonald House and Shriners Hospitals for Children. This temporary deviation has been coordinated with the waterway users. No objections to the proposed temporary deviation were raised.

Vessels able to pass through the bridge in the closed position may do so at anytime. The bridge will be able to open for emergencies and there is no immediate alternate route for vessels to pass. The Coast Guard will also inform the users of the waterway 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 effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: July 30, 2015.

**D.H. Sulouff,**

*District Bridge Chief, Eleventh Coast Guard District.*

[FR Doc. 2015–19995 Filed 8–12–15; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 117

**[Docket No. USCG–2015–0688]**

## Drawbridge Operation Regulation; Mokelumne River, East Isleton, CA

**AGENCY:** Coast Guard, DHS.

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

**SUMMARY:** The Coast Guard has issued a temporary deviation from the operating schedule that governs the California Department of Transportation highway drawbridge across the Mokelumne River, mile 3.0, at East Isleton, CA. The deviation is necessary to allow the bridge owner to perform installation of motor drives. This deviation allows the bridge to remain in the closed-to-navigation position during the deviation period.

**DATES:** This deviation is effective from 6 a.m. on August 17, 2015 to 10 p.m. on August 19, 2015.

**ADDRESSES:** The docket for this deviation, [USCG–2015–0688], 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 David H. Sulouff, Chief, Bridge Section, Eleventh Coast Guard District; telephone 510–437–3516, email *David.H.Sulouff@uscg.mil.* If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

**SUPPLEMENTARY INFORMATION:** California Department of Transportation has requested a temporary change to the operation of the California Department of Transportation highway drawbridge across the Mokelumne River, mile 3.0, at East Isleton, CA. The drawbridge navigation span provides approximately 7 feet vertical clearance above Mean High Water in the closed-to-navigation position. In accordance with 33 CFR 117.175(a), the draw opens on signal from November 1 through April 30 from 9 a.m. to 5 p.m.; and from May 1 through October 31 from 6 a.m. to 10 p.m., except that during the following periods the draw need only open for recreational vessels on the hour, 20 minutes past the hour, and 40 minutes past the hour: Saturdays, 10 a.m. until 2 p.m.; Sundays, 11 a.m. until 6 p.m.; and Memorial Day, Fourth of July and Labor Day 11 a.m. until 6 p.m.. At all other times the drawbridge shall open on signal if at least 4 hours notice is given. Navigation on the waterway is commercial, recreational, search and rescue, and law enforcement.

The drawspan will be secured in the closed-to-navigation position from 6 a.m. on August 17, 2015 to 10 p.m. on August 19, 2015, due to replacing the end lift motors of the bridge. This temporary deviation has been

coordinated with the waterway users. Caltrans work plan and dates have been tailored to produce the least possible impacts to waterway traffic, land traffic, businesses and potential flood response plans, while allowing the work to be performed, to ensure dependable future operation of the drawbridge.

Vessels able to pass through the bridge in the closed position may do so at anytime. The bridge will not be able to open for emergencies. Alternative paths for recreational vessel traffic are available via Little Potato Slough and Georgiana Slough. The Coast Guard will inform waterway users of this temporary deviation via our Local and Broadcast Notices to Mariners, to minimize resulting navigational impacts.

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

Dated: July 30, 2015.

**D.H. Sulouff,**

*District Bridge Chief, Commander, Eleventh Coast Guard District.*

[FR Doc. 2015–19996 Filed 8–12–15; 8:45 am]

**BILLING CODE 9110–04–P**

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## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 117

**[Docket No. USCG–2015–0632]**

## Drawbridge Operation Regulation; China Basin, San Francisco, CA

**AGENCY:** Coast Guard, DHS.

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

**SUMMARY:** The Coast Guard has issued a temporary deviation from the operating schedule that governs the 3rd Street Drawbridge across China Basin, mile 0.0, at San Francisco, CA. The deviation is necessary to allow participants to cross the bridge during the San Francisco Giant Race event. This deviation allows the bridge to remain in the closed-to-navigation position during the deviation period.

**DATES:** This deviation is effective from 5 a.m. to 11:30 a.m. on August 23, 2015.

**ADDRESSES:** The docket for this deviation, [USCG–2015–0632], 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 David H. Sulouff, Chief, Bridge Section, Eleventh Coast Guard District; telephone 510–437–3516, email *David.H.Sulouff@uscg.mil*. If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

**SUPPLEMENTARY INFORMATION:** The City of San Francisco Public Works Department has requested a temporary change to the operation of the 3rd Street Drawbridge, mile 0.0, over China Basin, at San Francisco, CA. The drawbridge navigation span provides 3 feet vertical clearance above Mean High Water in the closed-to-navigation position. In accordance with 33 CFR 117.149, the draw opens on signal if at least one hour notice is given. Navigation on the waterway is recreational.

The drawspan will be secured in the closed-to-navigation position from 5 a.m. to 11:30 a.m. on August 23, 2015, to allow participants to cross the bridge during the San Francisco Giant Race event. This temporary deviation has been coordinated with the waterway users. No objections to the proposed temporary deviation were raised.

Vessels able to pass through the bridge in the closed position may do so at anytime. The bridge can be operated upon one hour advance notice for emergencies requiring the passage of waterway traffic. There is no alternate route for vessels to pass through the bridge in the closed position. The Coast Guard will also inform waterway users 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 effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: July 30, 2015.

**D.H. Sulouff,**

*District Bridge Chief, Eleventh Coast Guard District.*

[FR Doc. 2015–19989 Filed 8–12–15; 8:45 am]

**BILLING CODE 9110–04–P**

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## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 165

**[Docket Number USCG–2015–0717]**

**RIN 1625–AA00**

## Safety Zone; Carly's Crossing; Outer Harbor, Gallagher Beach, Buffalo, NY

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the Outer Harbor, Gallagher Beach, Buffalo, NY. This safety zone is intended to restrict vessels from a portion of the Outer Harbor during the Carly's Crossing swimming event. This temporary safety zone is necessary to protect participants, spectators, mariners, and vessels from the navigational hazards associated with a large scale swimming event.

**DATES:** This rule is effective from 6:45 a.m. until 2:15 p.m. on August 16, 2015.

**ADDRESSES:** Documents mentioned in this preamble are part of docket [USCG–2015–0717]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email LTJG Amanda Garcia, Chief of Waterways Management, U.S. Coast Guard Sector Buffalo; telephone 716–843–9343, email *SectorBuffaloMarineSafety@uscg.mil.* If you have questions on viewing the docket, call Ms. Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826 or 1–800–647–5527.

**SUPPLEMENTARY INFORMATION:**

**Table of Acronyms**

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking
TFR Temporary Final Rule

**A. Regulatory History and Information**

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable. The final details for this event were not known to the Coast Guard until there was insufficient time remaining before the event to publish an NPRM. Thus, delaying the effective date of this rule to wait for a comment period to run would be impracticable because it would inhibit the Coast Guard's ability to protect spectators and vessels from the hazards associated with a large scale swimming event.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this temporary rule effective less than 30 days after publication in the **Federal Register**. For the same reasons discussed in the preceding paragraph, waiting for a 30 day notice period to run would be impracticable.

**B. Basis and Purpose**

The legal basis and authorities for this rule are found in 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to establish and define regulatory safety zones.

Between 6:45 a.m. and 2:15 p.m. on August 16, 2015, a large scale swimming event will take place in the Outer Harbor, near Gallagher Beach on Lake Erie in Buffalo, NY. The Captain of the Port Buffalo has determined that such a large scale swimming event across a navigable waterway will pose significant risks to participants and the boating public.

**C. Discussion of the Final Rule**

With the aforementioned hazards in mind, the Captain of the Port Buffalo has determined that this temporary safety zone is necessary to ensure the safety of spectators and vessels during the Carly's Crossing swimming event. This zone will be enforced from 6:45 p.m. until 2:15 p.m. on August 16, 2015. This zone will encompass a portion of the Outer Harbor, Gallagher Beach, Buffalo, NY starting at position 42°50′38.92″ N., 78°51′40.37″ W.; then West to 42°50′25.33″ N., 78°52′12.05″ W.; then East to 42°50′26.69″ N., 78°51′34.97″ W.; then North returning to the point of origin to form a triangle (NAD 83).

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

**D. Regulatory Analyses**

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

*1. Regulatory Planning and Review*

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone created by this rule will be relatively small and enforced for a relatively short time. Also, the safety zone is designed to minimize its impact on navigable waters. Furthermore, the safety zone has been designed to allow vessels to transit around it. Thus, restrictions on vessel movement within that particular area are expected to be minimal. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the Captain of the Port.

*2. Impact on Small Entities*

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered the impact of this rule on small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in a portion of the Outer Harbor between 6:45 a.m. to 2:15 p.m. on August 16, 2015.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This safety zone would be effective, and thus subject to enforcement, for only 7.5 hours early in the day. Traffic may be allowed to pass through the zone with the permission of the Captain of the Port. The Captain of the Port can be reached via VHF channel 16. Before the enforcement of the zone, we would issue local Broadcast Notice to Mariners.

*3. Assistance for Small Entities*

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

*4. Collection of Information*

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

*5. Federalism*

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

*6. Protest Activities*

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

*7. Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

*8. Taking of Private Property*

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

*9. Civil Justice Reform*

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

*10. Protection of Children*

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

*11. Indian Tribal Governments*

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

*12. Energy Effects*

This action is not a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

*13. Technical Standards*

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

*14. Environment*

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of a safety zone and, therefore it is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

**List of Subjects in 33 CFR Part 165**

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 165 as follows:

## PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T09–0717 to read as follows:

**§ 165.T09–0717 Safety Zone; Carly's Crossing; Outer Harbor, Gallagher Beach, Buffalo, NY.**

(a) *Location.* This zone will encompass a portion of the waters of the Outer Harbor, Gallagher Beach, Buffalo, NY starting at position 42°50′38.92″ N., 78°51′40.37″ W.; then West to 42°50′25.33″ N., 78°52′12.05″ W.; then East to 42°50′26.69″ N., 78°51′34.97″ W.; then North returning to the point of origin to form a triangle (NAD 83).

(b) *Enforcement period.* This regulation will be enforced on August 16, 2015 from 6:45 a.m. until 2:15 p.m.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Buffalo or his designated on-scene representative.

(3) The ''on-scene representative'' of the Captain of the Port Buffalo is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Buffalo to act on his behalf.

(4) Vessel operators desiring to enter or operate within the safety zone must contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. The Captain of the Port Buffalo or his on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Buffalo, or his on-scene representative.

Dated: July 28, 2015.

**B.W. Roche,**

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

[FR Doc. 2015–19987 Filed 8–12–15; 8:45 am]

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## DEPARTMENT OF EDUCATION

### 34 CFR Chapter III

**[Docket ID ED–2015–OSERS–0069; CFDA Number: 84.264G.]**

### Final Priority. Rehabilitation Training: Vocational Rehabilitation Workforce Innovation Technical Assistance Center

**AGENCY:** Office of Special Education and Rehabilitative Services, Department of Education.

**ACTION:** Final priority.

**SUMMARY:** The Assistant Secretary for Special Education and Rehabilitative Services announces a priority under the Rehabilitation Training program. The Assistant Secretary may use this priority for competitions in fiscal year 2015 and later years. We take this action to provide training and technical assistance to State vocational rehabilitation agencies to improve services under the State Vocational Rehabilitation Services program and State Supported Employment Services program for individuals with disabilities, including those with the most significant disabilities, and to implement changes to the Rehabilitation Act of 1973, as amended by the Workforce Innovation and Opportunity Act (WIOA), signed into law on July 22, 2014.

**DATES:** This priority is effective September 14, 2015.

**FOR FURTHER INFORMATION CONTACT:** Jerry Elliott, U.S. Department of Education, 400 Maryland Avenue SW., Room 5021, Potomac Center Plaza (PCP), Washington, DC 20202–2800. Telephone: (202) 245–7335 or by email: *jerry.elliott@ed.gov.*

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

**SUPPLEMENTARY INFORMATION:**

*Purpose of Program:* Under the Rehabilitation Act of 1973 (Rehabilitation Act), as amended by the Workforce Innovation and Opportunity Act, the Rehabilitation Services Administration (RSA) makes grants to States and public or nonprofit agencies and organizations (including institutions of higher education) to support projects that provide training, traineeships, and technical assistance (TA) designed to increase the numbers of, and improve the skills of, qualified personnel, especially rehabilitation counselors, who are trained to provide vocational, medical, social, and psychological rehabilitation services to individuals with disabilities; assist individuals with communication and related disorders; and provide other services authorized under the Rehabilitation Act.

*Program Authority:* 29 U.S.C. 772(a)(1).

*Applicable Program Regulations:* 34 CFR part 385.

We published a notice of proposed priority for this competition in the **Federal Register** on June 17, 2015 (80 FR 34579). That notice contained background information and our reasons for proposing the particular priority. Except for minor revisions, there are no differences between the proposed priority and this final priority.

*Public Comment:* In response to our invitation in the notice of proposed priority, eight parties submitted comments on the proposed priority. Generally, we do not address technical and other minor changes, or suggested changes the law does not authorize us to make under the applicable statutory authority. In addition, we do not address general comments that raised concerns not directly related to the proposed priorities.

*Analysis of Comments and Changes:* An analysis of the comments follows.

*Comment:* Most of the commenters recommended that we modify the priority to establish two centers—one center providing assistance to designated State vocational rehabilitation (VR) agencies serving individuals who are blind or visually impaired and a second center to provide assistance to designated State VR agencies that serve all other individuals with disabilities. In the alternative, these commenters recommended that if the Office of Special Education and Rehabilitative Services (OSERS) decides to fund only one center, the final priority should earmark funds and require, directly or through contract or other arrangement, qualified TA staff to address the unique needs of professionals serving individuals with blindness.

The commenters stated that these recommendations are consistent with section 101(a)(2)(A) of the Rehabilitation Act, which authorizes States to designate a State agency to provide VR services to individuals who are blind or visually impaired, as well as a designated State agency to provide VR services to all other individuals with disabilities. If a second center were established to serve individuals who are blind or visually impaired, such action would recognize that these agencies and the clientele they serve deserve the same quality, level, and intensity of TA provided to designated State agencies that serve all other individuals with disabilities.

*Discussion:* RSA recognizes that the Rehabilitation Act authorizes a State to designate a separate VR agency to serve individuals who are blind or visually impaired, and agrees that these agencies deserve the same quality, level, and intensity of TA provided to State agencies that serve all other individuals with disabilities.

However, we believe the priority as written provides TA of the same quality, level, and intensity to all State VR agencies, regardless of type. All 80 State VR agencies (including the 24 separate State VR agencies for individuals who are blind or visually impaired) will be able to receive universal, general TA, as well as targeted, specialized TA for the five topic areas of responsibility outlined for the Workforce Innovation Technical Assistance Center (WITAC). Likewise, all 80 agencies may apply for intensive TA for the five topic areas of responsibility outlined for the WITAC. Intensive TA is intended to be individualized to the needs of the requesting State VR agency and driven by an agreement between the State VR agency requesting the intensive TA and the WITAC.

In general, the five topic areas pertain to new requirements of WIOA, which apply to all States and to all State VR agencies, and thus do not necessitate separate TA centers for agencies serving individuals who are blind or visually impaired. While implementation strategies and responsibilities of State VR agencies in States where two State VR agencies exist may differ somewhat depending on their negotiated responsibilities within the State, these differences can be addressed through the negotiated intensive TA agreement.

Additionally, we decline to set aside a portion of the funds for TA to the State VR agencies for individuals who are blind or visually impaired. As outlined above, we believe that all TA provided by the WITAC will be beneficial to State VR agencies regardless of the population that they serve, and a set-aside may result in an inefficient allocation of funds.

*Changes:* None.

*Comment:* One commenter stated that the WITAC appears to cover an extremely broad spectrum of issues, such as: Pre-employment transition services, compliance with section 511 of the Rehabilitation Act, competitive integrated employment strategies, integration into the State workforce development system, and transition to new performance accountability measures. The commenter was concerned about the degree to which the center will be able to provide meaningful guidance and assistance across such a wide range of topics to VR agencies nationwide, as well as about how this will mesh with the efforts of the Job Driven Vocational Rehabilitation Technical Assistance Center (JDVRTAC) and other planned instruments for assistance.

*Discussion:* We agree that the WITAC covers a broad spectrum of topics, but we believe that this will not be an obstacle to effective TA or produce

unnecessary duplication with the work of the JDVRTAC. Rather, the common thread among the TA topics is that they all address changes required by WIOA. Further, because some topic areas are interrelated in pursuit of WIOA goals, we believe that it is reasonable for the WITAC to provide TA in each of these topic areas. The applicant will be required to describe how the center will be staffed and will provide the expertise to address all of the five topic areas in this priority. Finally, the WITAC and the JDVRTAC are cooperative agreements, which allow for oversight, coordination, and direction of project activities by RSA through the terms of the cooperative agreements. In sum, we believe that the benefits of having these WIOA-related TA topics housed together in a single center outweigh any disadvantages.

*Changes:* None.

*Comment:* One commenter noted that, as with the JVRDTAC, it would appear that TA classified as ''intensive'' would be available to a relatively small number of agencies nationally (approximately 23). The commenter suggested that criteria for selection of these sites be included in the scope of the WITAC.

*Discussion:* We disagree. The intent is to allow State VR agencies to request TA tailored to meet their individual needs (within the content of one or more of the five topic areas). We therefore do not want to create in the priority a rigid, one-size-fits-all set of criteria for all requests.

Further, as to the appropriate distribution of TA, the applicant will be required to describe its plan for recruiting and selecting State VR agencies as part of the application. After the grant is awarded, RSA will modify the required number of agencies to receive intensive TA, if needed, through the cooperative agreement.

*Changes:* None.

*Comment:* One commenter stated that the type of assistance to be provided under topic area (d) (integration of the State VR program into the workforce development system) and under topic area (e) (transition to new common performance accountability system and its required data elements) is unclear, and the commenter recommended that this assistance be consistent with the guidance and TA that the U.S. Departments of Labor (DOL) and Education, as well other WIOA core partners, provide to their own State entities. The commenter also recommended that assistance in developing contractual agreements for WIOA partnerships be included.

*Discussion:* We recognize that some of the topic areas may seem broad in their wording. However, this is intentional. Given the range of issues that we expect State VR agencies may experience as they begin to implement WIOA, we believe it is important to provide the WITAC with broader areas of focus, so that the center can effectively respond to the needs of the field.

We also agree that the TA provided by the WITAC needs to be consistent with the guidance and TA provided by RSA, DOL, and other WIOA core partners. As such, collaboration and coordination with other partners and TA efforts is required in the priority and will be ensured through mechanisms described in the cooperative agreement. The WITAC is also charged with gathering guidance and TA materials from these sources, and the WITAC may provide TA jointly with partners or partner TA centers as WIOA implementation efforts move forward.

As part of the TA to be provided in the ''integration of the State VR program into the workforce development system'' topic area, the WITAC can provide assistance to States in developing contractual agreements for WIOA partnerships. The applicant will have to describe how it will collect and disseminate contracts, related policies, and other information about State VR agency efforts with regard to implementation of WIOA's requirements as part of the knowledge development requirements in the priority.

*Changes:* None.

*Comment:* One commenter stated that specific guidance and TA on reporting requirements for both fiscal and programmatic changes (particularly pre-employment transition services), changes to the Case Service Report (RSA–911) data reporting, and data sharing with other WIOA core partners are essential to optimal implementation of WIOA. In addition, the commenter recommended that this guidance be provided as quickly and specifically as possible to allow States to restructure and implement the new requirements for data collection and service delivery.

*Discussion:* We agree that specific guidance for reporting requirements, including RSA–911 reporting changes and data sharing with other WIOA core partners, is essential to the implementation of WIOA. We also agree that guidance in these areas is needed as soon as possible.

However, it is not the responsibility of the WITAC to develop the guidance on these issues. That responsibility lies with the Federal agencies. The WITAC, on the other hand, will assist State VR agencies in implementing these new requirements as soon as practicable after the guidance is available. The WITAC will also provide TA to State VR agencies on how to use performance results to improve agency performance.

*Changes:* None.

*Comment:* One commenter asked how much guidance will be provided in development of Unified or Combined State Plans and how the timing of this assistance will mesh with the established deadline of March 2016 for Unified or Combined State Plan submissions. The commenter also asked if there will be a separate TA mechanism for this aspect of WIOA implementation.

*Discussion:* TA on these topics can be conducted through the WITAC as part of the activities related to the integration of the VR program into the workforce development system. Even though this is an area of major change, the content of the Unified or Combined State Plans is related to the implementation activities of many parts of WIOA. At this time, RSA is not planning any further investments under this program for TA on Unified or Combined State Plans.

We recognize that States are required to submit their Unified or Combined State Plans by March 2016. However, given the expected award date of this cooperative agreement, and the time that the WITAC will need to set up and onboard the necessary staff, we do not think it is reasonable to expect the WITAC to be able to provide intensive TA to a large number of States prior to the March 2016 submission deadline. However, RSA is committed to ensuring that States have the resources that they need to complete these plans, and will work with the WITAC to prioritize TA resources as needed when the award is made.

*Changes:* None.

*Comment:* One commenter recommended establishment of a WITAC after State VR agencies and others have had a reasonable time to digest WIOA and the final regulations so as to have a clear idea of the TA that would be needed. The commenter recommended delaying implementation of a WITAC until 2016.

*Discussion:* We disagree that implementation of the WITAC should be postponed until 2016. Based on RSA's experience, it will take a new TA center about one year to gather and develop information on existing and emerging practices that could relate to the implementation of WIOA in the five topic areas assigned to the WITAC. Regulations will be final during that time. Additionally, given the likely award date, we do not expect any intensive TA agreements to begin until

2016, and to have the center start from scratch in 2016 would likely delay the implementation of intensive TA agreements until 2017.

*Changes:* None.

*Comment:* One commenter stated that, while the list of specific TA topic areas is a good list, there ought to be flexibility for State VR agencies and the WITAC to deviate from the stated TA topic areas if they find themselves in need of WIOA TA on other topics.

*Discussion:* We believe that the list of WIOA topic areas is sufficiently broad to encompass TA on WIOA requirements, except for those requirements relating to employer engagement, services to employers, and knowledge of the 21st century workforce. These aspects of WIOA are primarily the purview of the JDVRTAC, with which the WITAC will be required to coordinate through the cooperative agreements of both centers.

Taking the WITAC and the JDVRTAC together, we believe that TA needs emerging from WIOA implementation can be subsumed under one or more topic areas of these centers.

*Changes:* None.

*Comment:* One commenter suggested that, in order to avoid duplication and stretching of resources, the WITAC should look to existing effective communities of practice that could meet identified TA needs in various areas before establishing a new one.

*Discussion:* We agree that avoiding duplication and prudent use of resources is important, and nothing in the current priority prohibits the use of existing communities of practice. Indeed, cross-posting materials on multiple, disparate communities of practice could be a useful tool for expanding the reach of the WITAC. However, we also believe a dedicated forum relating to the work of the WITAC will be a valuable resource for State VR staff and may help to bring together staff who would otherwise not collaborate on independent communities of practice.

*Changes:* None.

*Final Priority*:

The purpose of this priority is to fund a cooperative agreement to establish a Vocational Rehabilitation Workforce Innovation Technical Assistance Center (WITAC). The focus of this priority is to provide training and technical assistance (TA) to State vocational rehabilitation (VR) agencies on the new statutory requirements imposed by WIOA.

The WITAC is designed to achieve, at a minimum, the following outcomes:

(a) Implementation of effective and efficient ''pre-employment transition services'' for students with disabilities, as set forth in section 113 of the Rehabilitation Act;

(b) Implementation by State VR agencies, in coordination with local and State educational agencies and with the Department of Labor, of the requirements in section 511 of the Rehabilitation Act that are under the purview of the Department of Education;

(c) Increased access to supported employment and customized employment services for individuals with the most significant disabilities, including youth with the most significant disabilities, receiving services under the State VR and Supported Employment programs;

(d) An increased percentage of individuals with disabilities who receive services through the State VR agency and who achieve employment outcomes in competitive integrated employment;

(e) Improved collaboration between State VR agencies and other core programs of the workforce development system; and

(f) Implementation of the new common performance accountability system under section 116 of WIOA.

Topic Areas

The WITAC will develop and provide training and TA to State VR agency staff and related rehabilitation professionals and service providers in five topic areas related to changes made by WIOA:

(a) Provision of pre-employment transition services to students with disabilities and supported employment services to youth with disabilities;

(b) Implementation of the requirements in section 511 of the Rehabilitation Act that are under the purview of the Department of Education;

(c) Provision of resources and strategies to help individuals with disabilities achieve competitive integrated employment, including customized employment and supported employment;

(d) Integration of the State VR program into the workforce development system; and

(e) Transition to the new common performance accountability system under section 116 of WIOA, including the collection and reporting of common data elements.

Project Activities

To meet the requirements of this priority, the WITAC must, at a minimum, conduct the following activities:

Knowledge Development Activities

(a) In the first year, collect information from the literature and from existing State and Federal programs about evidence-based and promising practices relevant to the work of the WITAC and make this information publicly available in a searchable, accessible, and useful format. The WITAC must review, at a minimum:

(1) Literature on evidence-based and promising practices relevant to the work of the WITAC;

(2) The results of State VR agency monitoring conducted by RSA;

(3) State VR agency program and performance data;

(4) Department of Education and Department of Labor policies and guidance on program changes made by WIOA and implementation of those changes; and

(5) Any existing State VR agency memoranda of understanding (MOUs) or agreement (MOAs) related to the work of the WITAC.

(b) In the first year, conduct a survey of relevant stakeholders and VR service providers to identify workforce development TA needs and a process by which TA solutions can be offered to State VR agencies and their partners. The WITAC must survey, at a minimum:

(1) State VR agency staff;

(2) Relevant RSA staff; and

(3) Other stakeholders, including stakeholders from the transition and special education community, the workforce development community, and the rehabilitation community.

(c) Develop and refine one or more curriculum guides for VR staff training for each of the topic areas listed in the Topic Areas section of this priority.

Technical Assistance and Dissemination Activities

(a) Provide intensive, sustained TA [1] to a minimum of 23 State VR agencies and their associated rehabilitation professionals and service providers in the topic areas set out in this priority. The WITAC must provide intensive, sustained TA to a minimum of two agencies in the first year of the project and to a minimum of seven additional agencies per year in the second, third, and fourth years of the project. These

[1] For the purposes of this priority, ''intensive, sustained technical assistance'' means TA services often provided on-site and requiring a stable, ongoing relationship between the TA center staff and the TA recipient. ''Technical assistance services'' are defined as negotiated series of activities designed to reach a valued outcome. This category of TA should result in changes to policy, program, practice, or operations that support increased recipient capacity or improved outcomes at one or more systems levels.

are minimum requirements, and the expectation is that intensive, sustained TA will be provided, to the extent funds are available, to all of the State VR agencies that request intensive, sustained TA. This TA must include:

(1) For topic area (a), how to—

(i) Develop, manage, and implement effective pre-employment transition services to improve the transition of students with disabilities from secondary to postsecondary education and employment;

(ii) Coordinate pre-employment transition services with transition services provided under IDEA; and

(iii) Develop and implement supported employment services for youth with the most significant disabilities;

(2) For topic area (b):

(i) How to provide career-related counseling, information, and referral services to individuals entering and continuing employment at subminimum wages; and

(ii) How to implement documentation requirements for youth with disabilities seeking employment at subminimum wage, in accordance with section 511 of the Rehabilitation Act;

(3) For topic area (c), how to design and implement new services and new roles and responsibilities among partner agencies to increase the percentage of individuals achieving competitive integrated employment and to meet the supported employment and customized employment requirements of the Rehabilitation Act;

(4) For topic area (d), how to develop model relationships between State VR agencies and other core programs of the workforce development system for purposes of implementing the requirements of title I of WIOA, especially those requirements related to integration of core programs into the workforce development system; and

(5) For topic area (e), how to effectively transition to the new common performance accountability system required in section 116 of WIOA and use performance results to implement programmatic changes to improve agency performance.

(b) Provide a range of targeted, specialized TA [2] and universal, general TA [3] products and services on the topic areas in this priority. This TA must include, at a minimum, the following activities:

(1) Establishing and maintaining a state-of-the-art information technology (IT) platform sufficient to support Webinars, teleconferences, video conferences, and other virtual methods of dissemination of information and TA.

**Note:** All products produced by WITAC must meet government- and industry-recognized standards for accessibility, including section 508 of the Rehabilitation Act.

(2) Developing and maintaining a state-of-the-art archiving and dissemination system that—

(i) Provides a central location for later use of TA products, including course curricula, audiovisual materials, Webinars, examples of emerging and best practices for the topic areas in this priority, and any other TA products; and

(ii) Is open and available to the public.

**Note:** In meeting the requirements for (b)(1) and (2) above, the WITAC may either develop new platforms or systems or may modify existing platforms or systems, so long as the requirements of this priority are met.

(3) Providing a minimum of two Webinars or video conferences over the course of the project on each of the topic areas in this priority to describe and disseminate information about emerging and best practices in each area.

Coordination Activities

(a) Establish one or more communities of practice that focus on the topic areas in this priority and that act as vehicles for communication and exchange of information among State VR agencies and partners, including the results of TA projects that are in progress or have been completed;

(b) Communicate, collaborate, and coordinate, on an ongoing basis, with other relevant Department-funded projects and those supported by the Social Security Administration (SSA) and the Departments of Labor, Health and Human Services, and Commerce; and

(c) Maintain ongoing communication with the RSA project officer and other RSA staff as required.

**Application Requirements**

To be funded under this priority, applicants must meet the application requirements in this priority. RSA encourages innovative approaches to meet these requirements, which are to:

(a) Demonstrate, in the narrative section of the application under ''Significance of the Project,'' how the proposed project will address State VR agencies' capacity to implement the requirements of WIOA. To meet this requirement, the applicant must:

(1) Demonstrate knowledge of current RSA guidance and State and Federal initiatives designed to improve engagement with the workforce development system and workforce development system partners;

(2) Demonstrate knowledge of current State VR agency and other efforts to improve engagement with secondary schools, youth programs, and other programs that provide services to youth with disabilities for the purpose of assisting such youth to enter postsecondary education or competitive integrated employment; and

(3) Demonstrate knowledge of current State VR agency efforts to engage with State Medicaid, developmental disability, and mental health agencies to develop agreements and provide services leading to competitive integrated employment, including supported employment and customized employment.

(b) Demonstrate, in the narrative section of the application under ''Quality of Project Services,'' how the proposed project will—

(1) Achieve its goals, objectives, and intended outcomes. To meet this requirement, the applicant must provide—

(i) Measurable intended project outcomes;

(ii) A plan for how the proposed project will achieve its intended outcomes; and

(iii) A plan for communicating, collaborating, and coordinating with key staff in State VR agencies; State and local partner programs; RSA partners, such as the Council of State Administrators of Vocational Rehabilitation, the National Association of State Directors of Special Education, the National Council of State Agencies for the Blind, and other TA centers; and relevant programs within SSA and the Departments of Education, Labor,

[2] For the purposes of this priority, ''targeted, specialized technical assistance'' means TA services based on needs common to multiple recipients and not extensively individualized. A relationship is established between the TA recipient and one or more TA center staff. This category of TA includes one-time, labor-intensive events, such as facilitating strategic planning or hosting regional or national conferences. It can also include episodic, less labor-intensive events that extend over a period of time, such as facilitating a series of conference calls on single or multiple topics that are designed around the needs of the recipients. Facilitating communities of practice can also be considered targeted, specialized TA.

[3] For the purposes of this priority, ''universal, general technical assistance'' means TA and information provided to independent users through their own initiative, resulting in minimal interaction with TA center staff and including one-time, invited or offered conference presentations by TA center staff. This category of TA also includes information or products, such as newsletters, guidebooks, or research syntheses, downloaded from the TA center's Web site by independent users. Brief communications by TA center staff with recipients, either by telephone or email, are also considered universal, general TA.

Health and Human Services, and Commerce.

(2) Use a conceptual framework to develop project plans and activities, describing any underlying concepts, assumptions, expectations, beliefs, or theories, as well as the presumed relationships or linkages among these variables, and any empirical support for this framework.

(3) Be based on current research and make use of evidence-based practices. To meet this requirement, the applicant must describe—

(i) How the current research about adult learning principles and implementation science will inform the proposed TA; and

(ii) How the proposed project will incorporate current research and evidence-based practices in the development and delivery of its products and services.

(4) Develop products and provide services that are of high quality and sufficient intensity and duration to achieve the intended outcomes of the proposed project. To address this requirement, the applicant must describe—

(i) Its proposed activities to identify or develop the knowledge base on emerging and promising practices in the five topic areas listed in the Topic Areas section of this priority;

(ii) Its proposed approach to universal, general TA;

(iii) Its proposed approach to targeted, specialized TA, which must identify—

(A) The intended recipients of the products and services under this approach; and

(B) Its proposed approach to measure the capacity and readiness of State VR agencies to work with the proposed project, assessing, at a minimum, their current infrastructure, available resources, and ability to effectively respond to the TA, as appropriate;

(iv) Its proposed approach to intensive, sustained TA, which must identify—

(A) The intended recipients of the products and services under this approach;

(B) Its proposed approach to measure the readiness of the State VR agencies to work with the proposed project, including the State VR agencies' commitment to the initiative, fit of the initiative, current infrastructure, available resources, and ability to effectively respond to the TA, as appropriate;

(C) Its proposed plan for assisting State VR agencies to build training systems that include professional development based on adult learning principles and coaching; and

(D) Its proposed plan for developing agreements with State VR agencies to provide intensive, sustained TA. The plan must describe how the agreements will outline the purposes of the TA, the intended outcomes of the TA, and the measurable objectives of the TA that will be evaluated.

(5) Develop products and implement services to maximize the project's efficiency. To address this requirement, the applicant must describe—

(i) How the proposed project will use technology to achieve the intended project outcomes; and

(ii) With whom the proposed project will collaborate and the intended outcomes of this collaboration.

(c) Demonstrate, in the narrative section of the application under ''Quality of the Evaluation Plan,'' how the proposed project will—

(1) Measure and track the effectiveness of the TA provided. To meet this requirement, the applicant must describe its proposed approach to—

(i) Collecting data on the effectiveness of each TA activity from State VR agencies, partners, or other sources, as appropriate; and

(ii) Analyzing data and determining effectiveness of each TA activity, including any proposed standards or targets for determining effectiveness.

(2) Collect and analyze data on specific and measurable goals, objectives, and intended outcomes of the project, including measuring and tracking the effectiveness of the TA provided. To address this requirement, the applicant must describe—

(i) Its proposed evaluation methodologies, including instruments, data collection methods, and analyses;

(ii) Its proposed standards or targets for determining effectiveness;

(iii) How it will use the evaluation results to examine the effectiveness of its implementation and its progress toward achieving the intended outcomes; and

(iv) How the methods of evaluation will produce quantitative and qualitative data that demonstrate whether the project and individual TA activities achieved their intended outcomes.

(d) Demonstrate, in the narrative section of the application under ''Adequacy of Project Resources,'' how—

(1) The proposed project will encourage applications for employment from persons who are members of groups that have historically been underrepresented based on race, color, national origin, gender, age, or disability, as appropriate;

(2) The proposed key project personnel, consultants, and subcontractors have the qualifications and experience to provide TA to State VR agencies and their partners in each of the topic areas in this priority and to achieve the project's intended outcomes;

(3) The applicant and any key partners have adequate resources to carry out the proposed activities; and

(4) The proposed costs are reasonable in relation to the anticipated results and benefits;

(e) Demonstrate, in the narrative section of the application under ''Quality of the Management Plan,'' how—

(1) The proposed management plan will ensure that the project's intended outcomes will be achieved on time and within budget. To address this requirement, the applicant must describe—

(i) Clearly defined responsibilities for key project personnel, consultants, and subcontractors, as applicable; and

(ii) Timelines and milestones for accomplishing the project tasks.

(2) Key project personnel and any consultants and subcontractors will be allocated to the project and how these allocations are appropriate and adequate to achieve the project's intended outcomes, including an assurance that such personnel will have adequate availability to ensure timely communications with stakeholders and RSA;

(3) The proposed management plan will ensure that the products and services provided are of high quality; and

(4) The proposed project will benefit from a diversity of perspectives, including those of State and local personnel, TA providers, researchers, and policy makers, among others, in its development and operation.

*Types of Priorities:* When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

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

*Competitive preference priority:* Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit

that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

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

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

**Note:** This notice does *not* solicit applications. In any year in which we choose to use this priority, we invite applications through a notice in the **Federal Register**.

**Executive Orders 12866 and 13563**

*Regulatory Impact Analysis*

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

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

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

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

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

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

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

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

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

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

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

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

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

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

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

Through this priority, State VR agencies will receive TA to improve the quality of VR services and the competitive integrated employment outcomes achieved by individuals with disabilities, which ultimately will increase the percentage of individuals with disabilities who receive services through the State VR agencies who achieve competitive integrated employment outcomes. This priority would promote the efficient and effective use of Federal funds.

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

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

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

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

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

Dated: August 7, 2015.

**Michael K. Yudin,**

*Assistant Secretary for Special Education and Rehabilitative Services.*

[FR Doc. 2015–20011 Filed 8–12–15; 8:45 am]

BILLING CODE 4000–01–P

**DEPARTMENT OF VETERANS AFFAIRS**

**38 CFR Part 3**

**RIN 2900–AP18**

## Additional Compensation on Account of Children Adopted Out of Veteran's Family

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** The Department of Veterans Affairs (VA) is amending its adjudication regulations to clarify that a veteran will not receive the dependent rate of disability compensation for a child who is adopted out of the veteran's family. This action is necessary because applicable VA adjudication regulations are currently construed as permitting a veteran, whose former child was adopted out of the veteran's family, to receive the dependent rate of disability compensation for the adopted-out child, which constitutes an unwarranted award of benefits not supported by the applicable statute and legislative history. This document adopts as a final rule, without change, the proposed rule published in the **Federal Register** on December 2, 2014.

**DATES:** This rule is effective September 14, 2015.

**FOR FURTHER INFORMATION CONTACT:** Stephanie Li, Chief, Regulations Staff (211D), Compensation Service, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461–9700. (This is not a toll-free telephone number.)

**SUPPLEMENTARY INFORMATION:** On December 2, 2014, VA published in the **Federal Register** (79 FR 71366), a proposed rule to amend 38 CFR 3.57 and 3.58 to clarify that a veteran will not receive the dependent rate of disability compensation for a child who is adopted out of the veteran's family. In this regard, pursuant to 38 U.S.C. 1115, a veteran entitled to compensation based on a service-connected disability rating of not less than 30 percent is entitled to an additional rate of disability compensation for each of his or her children. Additionally, 38 CFR 3.58 provides that ''[a] child of a veteran adopted out of the family of the veteran . . . is nevertheless a *child* within the meaning of that term as defined by § 3.57 and is eligible for benefits payable under all laws administered by the Department of Veterans Affairs.'' However, VA believes its longstanding interpretation in § 3.58, as it applies to 38 U.S.C. 1115, is inconsistent with the statute's clear purpose to provide for payments to a veteran that are based primarily upon the veteran's needs for purposes of supporting his or her dependent family members.

VA, therefore, believes Congress did not intend for section 1115 to provide additional disability compensation to a veteran on account of a child who is adopted out of the veteran's family. In such cases, it is clear that any payment to the veteran on account of the adopted-out child would rarely, if ever, fulfill the clear purpose of section 1115 to provide for the expense of supporting that child. As such, VA is amending its regulations, particularly 38 CFR 3.57, 3.58, and 3.458, to eliminate this additional compensation paid to veterans for such children.

Any child, however, who is adopted out of the veterans family does not, as the result of the amendments to 38 CFR 3.57 and 3.58, lose any rights to receive VA benefits in the child's own right, such as dependency and indemnity compensation, which is not necessarily dependent upon a continuing, legally based parent-child relationship.

The proposed rule was published in the **Federal Register** (79 FR 71366) on December 2, 2014. A 60-day comment period was provided. No public comments were received regarding the proposed rule. As a result, based on the rationale set forth in the proposed rule, we adopt the provisions of the proposed rule as a final rule without change. This rule will apply as of the effective date of the final rule, namely 30 days following the date of publication of the final rule.

### Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action'' requiring review by the Office of Management and Budget (OMB), unless OMB waives such review, as ''any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.''

The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined, and it has been determined not to be a significant regulatory action under Executive Order 12866. VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's Web site at *http://www.va.gov/orpm/,* by following the link for ''VA Regulations Published From FY 2004 Through Fiscal Year to Date.''

### Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (5 U.S.C. 601–12). This final rule will not directly affect small entities. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the final regulatory flexibility analysis requirements of section 604.

### Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This final rule will have no such effect on State, local, and tribal governments, or on the private sector.

### Paperwork Reduction Act

This final rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–21).

### Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the

programs affected by this document are 64.102, Compensation for Service-Connected Deaths for Veterans' Dependents; 64.105, Pension to Veterans, Surviving Spouses, and Children; 64.109, Veterans Compensation for Service-Connected Disability; and 64.110, Veterans Dependency and Indemnity Compensation for Service-Connected Death.

**Signing Authority**

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Robert L. Nabors II, Chief of Staff, Department of Veterans Affairs, approved this document on August 7, 2015, for publication.

**List of Subjects in 38 CFR Part 3**

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Radioactive materials, Veterans, Vietnam.

Dated: August 10, 2015.

**Michael Shores,**

*Chief Impact Analyst, Office of Regulation Policy & Management, Office of the General Counsel, Department of Veterans Affairs.*

For the reasons set forth in the preamble, VA amends 38 CFR part 3 as follows:

## PART 3—ADJUDICATION

### Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

■ 1. The authority citation for part 3, subpart A continues to read as follows:

**Authority:** 38 U.S.C. 501(a), unless otherwise noted.

■ 2. Amend § 3.57:

■ a. In paragraph (a)(1) introductory text, by removing the phrase ''paragraphs (a)(2) and (3)'' and adding in its place ''paragraphs (a)(2) through (4)''.

■ b. By adding paragraph (a)(4).

■ c. By adding an authority citation immediately following newly added paragraph (a)(4).

■ d. By revising the Cross References at the end of the section.

The revisions and additions read as follows:

**§ 3.57 Child.**

(a) * * *

(4) For purposes of any benefits provided under 38 U.S.C. 1115, Additional compensation for dependents, the term child does not include a child of a veteran who is adopted out of the family of the veteran. This limitation does not apply to any benefit administered by the Secretary that is payable directly to a child in the child's own right, such as dependency and indemnity compensation under 38 CFR 3.5.

(Authority: 38 U.S.C. 101(4), 501, 1115).

* * * * *

CROSS REFERENCES: Improved pension rates. See § 3.23. Improved pension rates; surviving children. See § 3.24. Child adopted out of family. See § 3.58. Child's relationship. See § 3.210. Helplessness. See § 3.403(a)(1). Helplessness. See § 3.503(a)(3). Veteran's benefits not apportionable. See § 3.458. School attendance. See § 3.667. Helpless children—Spanish-American and prior wars. See § 3.950.

■ 3. Revise § 3.58 to read as follows:

**§ 3.58 Child adopted out of family.**

(a) Except as provided in paragraph (b) of this section, a child of a veteran adopted out of the family of the veteran either prior or subsequent to the veteran's death is nevertheless a *child* within the meaning of that term as defined by § 3.57 and is eligible for benefits payable under all laws administered by the Department of Veterans Affairs.

(b) A child of a veteran adopted out of the family of the veteran is not a child within the meaning of § 3.57 for purposes of any benefits provided under 38 U.S.C. 1115, Additional compensation for dependents.

(Authority: 38 U.S.C. 101(4)(A), 1115).

CROSS REFERENCES: Child. See § 3.57. Veteran's benefits not apportionable. See § 3.458.

■ 4. Amend § 3.458:

■ (a) In paragraph (d), by removing the phrase '', except the additional compensation payable for the child''.

■ (b) By adding Cross References at the end of the section.

The addition reads as follows:

**§ 3.458 Veterans benefits not apportionable.**

* * * * *

CROSS REFERENCES: Child. See § 3.57. Child adopted out of family. See § 3.58.

[FR Doc. 2015–19949 Filed 8–12–15; 8:45 am]

BILLING CODE 8320–01–P

## DEPARTMENT OF THE INTERIOR

### Office of the Secretary

### 43 CFR Part 4

**[156A2100DD/AAKC001030/ A0A501010.999900 253G]**

**RIN 1094–AA54**

## Hearing Process Concerning Acknowledgment of American Indian Tribes

**AGENCY:** Office of the Secretary, Interior.

**ACTION:** Final rule.

**SUMMARY:** The Office of the Secretary is publishing this final rule contemporaneously and in conjunction with the Bureau of Indian Affairs final rulemaking (the BIA final rule) revising the process and criteria for Federal acknowledgment of Indian tribes. This rule establishes procedures for a new optional, expedited hearing process for petitioners who receive a negative proposed finding for Federal acknowledgment.

**DATES:** This rule is effective September 14, 2015.

**FOR FURTHER INFORMATION CONTACT:** Karl Johnson, Senior Attorney, Office of Hearings and Appeals, Departmental Cases Hearings Division, (801) 524–5344; *karl_johnson@oha.doi.gov.* Persons who use a telecommunications device for the deaf may call the Federal Information Relay Service at 800–877–8339.

**SUPPLEMENTARY INFORMATION:**

**I. Executive Summary of Rule**

This final rule establishes procedures for the hearing process, including provisions governing prehearing conferences, discovery, motions, an evidentiary hearing, briefing, and issuance by the administrative law judge (ALJ) of a recommended decision on Federal acknowledgment of an Indian tribe for consideration by the Assistant Secretary—Indian Affairs (AS–IA). This final rule complements the BIA final rule published in the July 1, 2015 **Federal Register**, 80 FR 37862, that revises 25 CFR part 83 to improve the processing of petitions for Federal acknowledgment of Indian tribes. These improvements include affording the petitioner an opportunity to request a hearing before an ALJ in the Departmental Cases Hearings Division (DCHD), Office of Hearings and Appeals (OHA), if the petitioner receives a negative proposed finding on Federal acknowledgment from the Office of Federal Acknowledgment (OFA).

Our proposed rule also contained procedures for a new re-petition authorization process which the BIA proposed establishing in its proposed rule. Because the BIA is not incorporating that process into the BIA final rule, our final rule does not contain procedures for that process.

The other primary differences between our proposed rule and this final rule are:

- This final rule allows only a DCHD ALJ to preside over the hearing process.
- Except under extraordinary circumstances, this final rule:

(1) Does not allow discovery;

(2) limits the scope of evidence admissible at hearing to documentation in the administrative record reviewed by OFA and testimony clarifying or explaining information in that documentation; and

(3) limits witnesses to expert witnesses and OFA staff who participated in preparation of the negative proposed finding.

- This final rule extends a few of the deadlines in the proposed rule, including allowing 15 more days to file motions to intervene, while streamlining the hearing process overall by the aforementioned limits on discovery, the scope of evidence, and witnesses.
- This final rule does not incorporate the proposed rule's provision requiring direct testimony to be submitted in writing.
- This final rule establishes procedures for obtaining protective orders limiting disclosure of information that is confidential or exempt by law from public disclosure.

## II. Comments on the Proposed Rule and the Department's Responses

The proposed rule was published on June 19, 2014. See 79 FR 35129. We extended the initial comment deadline of August 18, 2014, to September 30, 2014, see 79 FR 44150, to comport with the BIA's extension of the comment period for its proposed rule. As more fully explained in the preamble to the BIA final rule, the Department held public meetings, teleconferences, and separate consultation sessions with federally recognized Indian tribes in July and August of 2014. During the public comment period, we received seven written comment submissions on our proposed rule.

Some comments pertain to the BIA proposals to (1) eliminate the process for reconsideration of the AS–IA's determination by the Interior Board of Indian Appeals (IBIA) found at 25 CFR 83.1, (2) establish the opportunity for the hearing process under proposed 25 CFR 83.38(a) and 83.39, and (3) establish the opportunity for the re-petition authorization process under proposed 25 CFR 83.4. We address only briefly the comments we received on these and any other proposals made in the BIA proposed rule. Those proposals, along with additional comments which the BIA received, are more fully addressed in the BIA final rule.

We have reviewed each of the comments received by us and have made several changes to the proposed rule in response to these comments. The following is a summary of comments received and our responses.

### *A. Eliminating the IBIA Reconsideration Process and Adding the Hearing Process*

The BIA's proposed rule would eliminate the process for IBIA reconsideration of the AS–IA's determination found at 25 CFR 83.11, and would replace it with a new hearing process under proposed 25 CFR 83.38(a) and 83.39. The new process would be governed by procedures in our proposed rule. One commenter stated that the IBIA reconsideration process should be retained because it allows interested parties other than the petitioner to seek independent review of acknowledgment determinations that is not available under the proposed hearing process.

*Response:* The BIA final rule retains the proposal to delete the IBIA reconsideration process and allows for a hearing on a negative proposed finding. See the responses to comments in the BIA final rule.

### *B. Re-Petition Authorization Process*

Proposed §§ 4.1060 through 4.1063 identify procedures for re-petitioning under 25 CFR 83.4(b) of the BIA proposed rule. Under that proposed re-petition process, an OHA judge could authorize an unsuccessful petitioner to re-petition for Federal acknowledgment if certain conditions are met. One condition, identified by some commenters as the ''third-party veto,'' would require written consent for re-petitioning from any third party that participated as a party in an administrative reconsideration or Federal Court appeal concerning the unsuccessful petition. Two commenters opposed the proposed ''third-party veto'' and one opposed allowing for any re-petitioning.

*Response:* The final rule does not include the procedures for the re-petition authorization process because the BIA final rule did not incorporate that process. See the responses to comments in the BIA final rule.

### *C. Standard of Proof*

25 CFR 83.10(a) in the BIA proposed rule attempted to clarify the meaning of the ''reasonable likelihood'' standard of proof found at 25 CFR 83.6(d). Section 4.1047 in our proposed rule repeated the language of proposed § 83.10(a). One commenter supported the ''reasonable likelihood'' standard of proof in proposed § 4.1047, while one commenter stated that the proposed definition for ''reasonable likelihood'' comes from the criminal law context and, as such, is too low.

*Response:* In its final rule, the BIA concludes, in light of commenters' concerns that its proposed rule changed the standard of proof, that its final rule would retain the current ''reasonable likelihood'' standard of proof and discard the proposed interpreting language. This final rule does the same. See § 4.1048. The Department will continue to interpret ''reasonable likelihood of the validity of the facts'' consistent with its interpretations in prior decisions and the plain language of the phrase, and will strive to prevent a trend toward a more stringent interpretation over time.

### *D. Notification of Local Governments*

A few commenters requested the addition of requirements to notify local governments of petitions, OFA proposed findings, and elections of hearings.

*Response:* The BIA final rule requires more notice to local governments by adding that the Department will notify the local, county-level government in writing of the receipt of the petition and other actions, in addition to notifying the State attorney general and governor. See 25 CFR 83.22, 83.34, 83.39.

### *E. Opportunity for Third Parties To Request a Hearing and Intervene in Hearing Process*

25 CFR 83.38(a) in the BIA proposed rule would allow only a petitioner receiving a negative proposed finding to request a hearing. One commenter believed, in the interest of fairness, that other interested parties should be able to request a hearing after a positive proposed finding.

Proposed § 4.1021 would allow for intervention of right by any entity who files a motion to intervene demonstrating that the entity has an interest that may be adversely affected by the final determination. Several commentators asserted that State or local governmental entities should be recognized automatically as intervenors.

*Response:* In its final rule the BIA adopts the proposed approach of allowing only a petitioner receiving a

negative proposed finding to request a hearing. See 25 CFR 83.38(a). The BIA explains, in part, that

> [t]he Part 83 petitioning process is similar to other administrative processes uniquely affecting an applicant's status in that the applicant may administratively challenge a negative determination, but third parties may not administratively challenge a positive determination. . . . The [25 CFR part 83] process provides third parties with the opportunity to submit comments and evidence.

BIA Final Rule at 78. Responses to comments in the BIA final rule provide the BIA's complete explanation for adopting this approach.

Our final rule adopts the proposed rule approach of allowing for intervention of right by any entity who files a motion to intervene demonstrating that the entity has an interest that may be adversely affected by the final determination. See § 4.1021. Conditioning intervention on the filing of a motion showing such an interest is not a heavy burden. It allows other parties the opportunity to express opposing viewpoints to facilitate confirmation of whether the entity indeed has such an interest.

*F. Hearing Process Time Limits*

Proposed § 4.1050 would require issuance of a recommended decision within 180 days after issuance of the docketing notice, unless the ALJ issues an order finding good cause to issue the recommended decision at a later date. A few commenters stated that this time limit is too aggressive and recommended lengthening the time period. One added that, at a minimum, proposed § 4.1050 should allow for an automatic 90-day extension of the time limit upon the petitioner's request and that the OHA judge should liberally grant further extension requests, especially where the petitioner needs more time to prepare its case due to resource limitations.

Proposed § 4.1021 would require that a motion to intervene be filed within 15 days after election of the hearing. A few commenters asserted that this time period is too short.

25 CFR 83.38 in the BIA proposed rule would allow the petitioner 60 days after the end of the comment period for a negative proposed finding to elect a hearing and/or respond to any comments. If the petitioner elects a hearing, the petitioner must list in its written election the witnesses and exhibits it intends to present at the hearing. One commenter stated that the 60-day period for the petitioner to provide witness and exhibit information is too short.

*Response:* To promote efficiency but lessen the burden of complying with the 180-day time limit for the hearing process, the final rule retains the 180-day time limit while streamlining the hearing process by limiting discovery, the scope of evidence, and witnesses. See §§ 4.1031, 4.1042, 4.1046. We do not anticipate that a petitioner's limited resources will substantially impede compliance with the time limit for several reasons. First, the petitioner should have already diligently gathered all relevant evidence and submitted it to OFA. The purposes of the hearing process are to allow for clarification of information in the OFA administrative record, to focus on the key issues and evidence, and to produce a recommended decision on those issues by an independent tribunal, which will ultimately promote transparency in and the integrity of the process. Second, in keeping with these purposes, the final rule limits discovery, the persons who may testify, and the scope of admissible evidence to documentation from OFA's administrative record and testimony clarifying and explaining the information in that documentation. See §§ 4.1031, 4.1042, 4.1046. These limits will lessen resource expenditures for all parties. Third, the final rule retains the proposed provision allowing the ALJ to extend the 180-day time limit for good cause. See § 4.1051. Allowing a petitioner an automatic 90-day extension upon request does not promote efficiency or diligence and hence is less desirable than the proposed and adopted provision allowing for extensions for good cause.

Some adjustments to timeframes have been made to address the comments, including doubling the time period for intervention from 15 days to 30 days. See § 4.1021. The BIA final rule also allows an extra 60 days for the petitioner to provide witness and exhibit information in the election of hearing by establishing that the petitioner's period to respond to comments on OFA's negative proposed finding and period for election of a hearing run consecutively rather than simultaneously. See 25 CFR 83.38.

*G. Scope of the Hearing Record*

In the proposed rule, we invited comment on whether the hearing record should include all evidence in OFA's administrative record for the petition or be limited to testimony and exhibits specifically identified by the parties. A few commenters stated that the hearing record should encompass the whole administrative record plus any information submitted in the hearing.

*Response:* A primary purpose of the hearing process is to inform the AS–IA's final determination by focusing in on the key issues and evidence and producing a recommended decision on those issues from an independent tribunal. To that end, under the final rule, the hearing record will not automatically include the entire administrative record reviewed by OFA, but only those portions which are considered sufficiently important to be offered by the parties as exhibits and to be admitted into evidence by the ALJ. While the AS–IA may consider not only the hearing record, but also OFA's entire administrative record, we believe that an independent review of the key issues and evidence will be invaluable to the AS–IA.

The final rule does limit admissible evidence to documentation in the OFA administrative record and to testimony clarifying or explaining the information in that documentation. See § 4.1046. The final rule also limits who may testify to expert witnesses and OFA staff who participated in preparation of the negative proposed finding. See § 4.1042. The ALJ may admit other evidence or allow other persons to testify only under extraordinary circumstances.

These limits will afford the parties the opportunity to clarify the record, without expanding the record beyond what was before OFA. The limits will encourage the petitioner and all others to be diligent in gathering and presenting to OFA all their relevant evidence and discourage strategic withholding of evidence. This will ensure that OFA's proposed finding is based on the most complete record possible, allowing the ALJ to focus on discrete issues in dispute if a hearing is requested.

*H. Disclosure of Confidential Information and Discovery*

The BIA received comments on its proposed rule expressing concern that petitions may contain confidential information that should be protected from disclosure. Those comments prompted the addition of a new section in this rule containing procedures for obtaining protective orders limiting disclosure of information which is confidential or exempt by law from public disclosure.

A corresponding change has been made in one of the criteria for allowing discovery in § 4.1031(b). Proposed § 4.1031(b)(4) would require a showing ''[t]hat any trade secrets or proprietary information can be adequately safeguarded.'' The phrase ''trade secrets or proprietary information'' has been changed to ''confidential information''

to better reflect the type of information which may need safeguarding.

Regarding discovery generally, proposed § 4.1031 would allow for discovery by agreement of the parties or by order of the judge if certain criteria are met. Those criteria are similar to standards typically used by various tribunals.

The final rule limits discovery more strictly, eliminating discovery by agreement of the parties, and requiring not only that those criteria be met, but also that extraordinary circumstances exist to justify the discovery. Consistent with these limitations, the final rule removes many provisions addressing the details of discovery, allowing the ALJ to exercise his or her discretion to tailor discovery in the rare instance where extraordinary circumstances exist.

These changes were prompted in part by general comments that the proposed 180-day time limit for the hearing process is too short. Also influential were more specific comments that petitioners may lack resources to engage in prehearing procedures or to prepare their cases in a timely manner in light of the expedited nature of the hearing process.

Discovery can be time-consuming and require large expenditures of resources, and thus could be burdensome for petitioners and other parties as well, especially given the time sensitive nature of the expedited hearing process. Limiting discovery will alleviate those burdens, leaving more time and resources for other case preparation activities.

This benefit outweighs the impediment to case preparation, if any, that limiting discovery may pose. The need for discovery should be rare in light of the case preparation that occurs prior to the petitioner's election of a hearing, the limited scope of the hearing record, and the availability of OFA's administrative record to all parties. In the rare instances where extraordinary circumstances justify discovery, the ALJ may customize it to serve justice while striving to keep case preparation moving forward in a timely manner.

*I. Presiding Judge Over Hearing*

In the proposed rule, any of several different employees of OHA could be assigned to preside as the judge over the hearing process: An administrative law judge appointed under 5 U.S.C. 3105, an administrative judge (AJ), or an attorney designated by the OHA Director. See § 4.1001, definition of ''judge.'' We invited comments on who is an appropriate OHA judge to preside. Two commenters stated that an ALJ is most appropriate. One preferred an AJ. Most identified impartiality or independence as a desirable trait. One stated that regardless of what type of judge presides over the hearing, the judge should have some background in Indian law.

*Response:* The final rule establishes that the judge presiding over hearings will be a DCHD ALJ (see § 4.1001, definition of ALJ), because DCHD ALJs are experienced and skilled at presiding over hearings and managing procedural matters to facilitate justice. They also have some knowledge of Indian law and their independence is protected and impartiality fostered by laws which, among other things, exempt them from performance ratings, evaluation, and bonuses (see 5 U.S.C. 4301(2)(D), 5 CFR 930.206); vest the Office of Personnel Management rather than the Department with authority over the ALJs' compensation and tenure (see 5 U.S.C. 5372, 5 CFR 930.201–930.211); and provide that most disciplinary actions against ALJs may be taken only for good cause established and determined by the Merit Systems Protection Board on the record after opportunity for a hearing (see 5 U.S.C. 7521).

*J. Conduct of the Hearing*

One commenter strongly supported the provisions recognizing a petitioner's right to orally cross-examine OFA staff who participated in preparation of the negative proposed finding, requiring submittal of written direct testimony prior to the hearing for efficiency, and allowing parties to supplement and amend testimony when absolutely necessary. This commenter also stated that the proposed rule would require only senior Department employees to be subject to subpoena or discovery. The commenter urged us to clarify that all OFA staff and consultants who participated in preparation of the proposed finding would be subject to discovery and subpoena under proposed § 4.1031(h)(3) and proposed § 4.1037(a)(2).

*Response:* These proposed sections would simply limit deposing and issuing subpoenas to senior Department employees to instances where certain conditions are met; the sections would not limit discovery and subpoenas for other OFA staff and consultants who participated in preparation of the negative proposed finding. Nevertheless, proposed § 4.1037(a)(2), redesignated § 4.1035(a)(2), has been reworded to clarify this with respect to subpoenas. The provisions of proposed § 4.1031(h)(3) pertaining to depositions have not been changed but they have been moved to § 4.1033(b)(3).

Please note, however, with respect to all persons, the final rule limits discovery to situations where extraordinary circumstances exist. See § 4.1031. Under the final rule, in the absence of extraordinary circumstances, OFA staff who participated in the preparation of the negative proposed finding still may be deposed for the preservation of testimony, as opposed to for discovery purposes, and may be subpoenaed. However, if the staff member is a senior Department employee, the deposition or subpoena will be allowed only if certain conditions are met. See §§ 4.1033(b)(3) and 4.1035(a)(2).

The proposed rule's requirement to submit direct testimony in writing prior to the hearing is not being incorporated into the final rule. This requirement was designed to shorten the hearing to facilitate compliance with the 180-day time limit for issuance of the recommended decision. However, the requirement is burdensome for the parties and the burden is no longer justified because the final rule adopts other measures to streamline the hearing process. Those measures include limiting discovery, the scope of admissible evidence, and the witnesses who may testify. See §§ 4.1031, 4.1042, and 4.1046.

*K. Miscellaneous Comments*

1. Facilitating Petitioner Participation

One commenter made suggestions for facilitating petitioner participation in the hearing process, stating that hearings should be held in a location near the petitioner, that telephonic conferences should be allowed, and that filing and service of documents by priority mail should be allowed as an alternative to the proposed rule's requirements that overnight mail or delivery services be used for both filing and service. See proposed § 4.1012(b) and proposed § 4.1013(c). These suggestions are based in part upon the commenter's stated concern that a petitioner's participation may be impeded by a lack of resources. The commenter also observed that some petitioners may be in remote locations without access to overnight mail or delivery services.

*Response:* A standard hearing procedure is for the ALJ to consider the convenience of all parties, their representatives, and witnesses in setting a place for hearing, but not to unduly favor the preferences of one party over another. A provision mandating that the hearing be held in a location near the petitioner would deviate from this fair standard in all cases without sufficient

justification. Indeed, in some cases the petitioner itself may not favor a hearing location near to it, such as where its witnesses are not located near the petitioner. The selection of a hearing location is best left to the discretion of the ALJ. To guide the exercise of that discretion, a provision has been added to the final rule incorporating the fair standard that the ALJ will consider the convenience of all parties, their representatives, and witnesses in setting a place for hearing.

Regarding telephonic conferences, both the proposed and final rule include a provision that conferences will ordinarily be held by telephone. See § 4.1022(d) and proposed § 4.1022(c).

The suggestion to allow for filing and service of documents by priority mail has not been adopted. Requiring filing and service by overnight delivery promotes compliance with time limits for specific actions as well as with the overall time limit for the hearing process of 180 days. The use and cost of overnight delivery can be avoided by filing and serving a document by facsimile transmission and regular mail if the document is 20 pages or less. See § 4.1012(b)(iii). Given the limits on discovery and admissible evidence, we do not anticipate a large volume of exchanges of documents exceeding 20 pages. Nevertheless, to address the rare situation where mandating strict compliance with the prescribed filing and service methods would be unfair, the final rule adds language to both §§ 4.1012(b) and 4.1013(c) giving the ALJ discretion to allow deviation from those methods.

2. Summary Decision Procedures

In the proposed rule we included summary decision procedures, see proposed § 4.1023, and invited comments on whether the final rule should include them. A commenter stated that they will be beneficial but that there should be a safeguard to address situations where petitioners lack the resources to respond to motions for summary decision.

*Response:* We agree that summary decision procedures should be included in the final rule because they will be beneficial, but we do not believe that such a safeguard is warranted. If a petitioner elects to initiate the hearing process, fairness dictates that it should be prepared to expend resources to defend its position. Summary decision procedures are designed to minimize those expenditures by avoiding costly hearings, where appropriate, thus conserving the resources of all parties. And, implementation of such a safeguard would entail expenditures in resolving whether petitioner's financial status merits bypassing the summary decision procedures.

Further, the final rule modifies the summary decision procedures in the proposed rule to conform to the present version of Rule 56 of the Federal Rules of Civil Procedure. This includes the addition of a provision that allows the ALJ to issue appropriate orders other than a recommended summary decision where a party fails to properly address another party's assertion of fact. See § 4.1023(e). Thus, if a party does not respond properly to a motion for summary decision because of a lack of resources or otherwise, the ALJ has discretion whether or not to issue a recommended summary decision. Even if the ALJ feels that summary decision in a given case is technically proper, sound judicial policy and the proper exercise of judicial discretion may prompt the ALJ to deny the motion and permit the case to be developed fully at hearing since the movant's ultimate legal rights can always be protected in the course of or even after hearing. See, *e.g., Olberding* v. *U.S. Dept. of Defense, Dept. of the Army,* 564 F.Supp. 907 (S.D. Iowa 1982), *aff'd* 709 F.2d 621. Accordingly, flexible summary decision procedures are included in the final rule without a specific safeguard for petitioners lacking resources.

3. DNA Evidence

One commenter stated that the proposed rule should allow DNA results to be used to determine ''Indian Blood Line'' and qualify people as ''Indian.''

*Response:* DNA results may be admitted into evidence if they satisfy the generally applicable requirements for the admissibility of evidence found at § 4.1046(a), including that evidence be probative. The ALJ is experienced and skilled at evaluating the admissibility of evidence and there is no good justification for including in the final rule a provision specifically addressing the admissibility of DNA results.

## III. Section-by-Section Analysis

The following discussion briefly describes the changes the final rule makes to the proposed rule, while the complete, final regulatory text follows this section. We do not discuss regulations that have not been changed or that were changed only in minor ways such as by correcting regulatory citations, restyling, or substituting the term ''ALJ'' for ''judge'' or ''DCHD'' for ''OHA,'' see § 4.1001 discussed below. The reader may wish to consult the preamble of the proposed rule and the ''Comments on the Proposed Rule and the Department's Responses'' portion of this preamble for additional explanation of the regulations.

*§ 4.1001 What terms are used in this subpart?*

This section in the proposed rule contained definitions for ''OHA'' and ''judge,'' with judge being defined to include several different employees of OHA who could be assigned to preside over the hearing process: an administrative law judge appointed under 5 U.S.C. 3105, an administrative judge (AJ), or an attorney designated by the OHA Director. The definitions of ''OHA'' and ''judge'' have been removed and replaced with definitions ''DCHD'' and ''ALJ,'' respectively, so that only a DCHD ALJ may preside over the hearing process. Those terms are substituted for OHA and judge in many other sections of this final rule.

Because the final rule removes proposed §§ 4.1060 through 4.1063 containing the re-petition authorization process, the definitions of ''re-petition authorization process'' and ''unsuccessful petitioner'' in this section of the proposed rule have also been removed and the definition of ''representative'' has been modified.

*§ 4.1002 What is the purpose of this subpart?*

Because the final rule removes proposed §§ 4.1060 through 4.1063 containing the re-petition authorization process, those portions of this section pertaining to that process have also been removed: Paragraph (b) and the reference to that process in paragraph (c). Accordingly, paragraph (c) has been redesignated paragraph (b).

*§ 4.1003 Which general rules of procedure and practice apply?*

Because the final rule removes proposed §§ 4.1060 through 4.1063 containing the re-petition authorization process, those portions of this section pertaining to that process have also been removed: Paragraph (d) and the reference to that process in paragraphs (a), (b), and (c). The remaining text of § 4.1003 has been rearranged but not altered in meaning, except for the following. Because proposed § 4.1017(a) has been modified to preclude ex parte communications in accordance with 43 CFR 4.27, proposed § 4.1003 has been modified to state that the provisions of 43 CFR part 4, subpart B do not apply, ''except as provided in § 4.1017(a).''

*§ 4.1010 Who may act as a party's representative, and what requirements apply to a representative?*

Because the final rule removes proposed §§ 4.1060 through 4.1063 containing the re-petition authorization process, that portion of this section referencing that process has also been removed.

*§ 4.1012 Where and how must documents be filed?*

Because, under the final rule, only an ALJ employed by DCHD may preside over the hearing process, the place of filing has been changed to DCHD. In the proposed rule, this section provides that documents must be filed with the Office of the Director, OHA, because several different types of OHA employees from various OHA organizations could be assigned to serve as the judge presiding over the hearing process. This section provides relevant contact information for DCHD, and identifies the methods by which documents can be filed there.

*§ 4.1014 What are the powers of the ALJ?*

Because the final rule modifies § 4.1031 to limit discovery to situations where extraordinary circumstances exist, the ALJ's listed power in this section to authorize discovery has been qualified so that discovery may be authorized ''under extraordinary circumstances.'' The final rule also adds to this section's list of ALJ powers the power to impose non-monetary sanctions for a person's failure to comply with an ALJ order or provision of this subpart. This addition substitutes for proposed § 4.1036, which pertained to the imposition of sanctions and which has been eliminated. See § 4.1036.

*§ 4.1017 Are ex parte communications allowed?*

Proposed § 4.1017 prohibits ex parte communications in accordance with 5 U.S.C. 554(d), which applies only to adjudications required by statute to be determined on the record after opportunity for an agency hearing. Because the hearing process is not such an adjudication, § 4.1017 has been reworded to prohibit ex parte communications in accordance with 43 CFR 4.27(b). While § 4.27(b) does not have the section 554(d) prohibition against the presiding hearing officer being responsible to or subject to the supervision or direction of the investigating or prosecuting agency, this difference is immaterial because ALJs are not responsible to or subject to the supervision or direction of OFA or the AS–IA.

*§ 4.1019 How may a party submit prior Departmental final decisions?*

In furtherance of the Department's policy of applying each criterion for Federal acknowledgment consistently with, and no more stringently than, its application in prior Departmental final decisions, § 4.1019 has been added to identify how a party may submit prior decisions for the ALJ's consideration. The ALJ will consider proper submittals of relevant Departmental final decisions and the ALJ's recommended decision should be consistent therewith.

*§ 4.1020 What will DCHD do upon receiving the election of hearing from a petitioner?*

The BIA's final companion rule changes the place for filing a petitioner's election of hearing from OFA, as proposed, to the DCHD (within OHA). See 25 CFR 83.38(a). To reflect this change, the final rule slightly modifies § 4.1020 and revises its title to read: ''What will DCHD do upon receiving the election of hearing from a petitioner?'' Also, under the final rule, OFA will not be sending the entire administrative record to DCHD, but instead will send only a copy of the proposed finding, critical documents from the administrative record that are central to the portions of the negative proposed finding at issue, and any comments and evidence and responses sent in response to the proposed finding. See 25 CFR 83.39(a).

*§ 4.1021 What are the requirements for motions for intervention and responses?*

This section doubles the period for filing a motion to intervene from the proposed 15 days to 30 days after issuance of the hearing election notice under 25 CFR 83.39(a). Another modification pertains to the proposed provisions requiring that a motion to intervene include the movant's position with respect to the issues of material fact raised in the election of hearing and precluding an intervenor from raising issues of material fact beyond those raised in the election. See proposed § 4.1021(b)(2) and (f)(3). Those provisions have been modified to apply not only to issues of material fact, but also to issues of law. See § 4.1021(b)(2) and (f)(3).

The final rule also eliminates proposed paragraph (e)(4), which states that the ALJ, in determining whether permissive intervention is appropriate, will consider ''[t]he effect of intervention on the Department's implementation of its statutory mandates.'' This language, like much of the proposed rule, was patterned after language in the hydropower hearing regulations at 43 CFR part 45. The statutory provisions governing those hearings imposed certain requirements, including that the hearing process be completed in 90 days. There are no similar statutory mandates applicable to the hearing process addressed in this rule. Therefore, paragraph (e)(4) has been eliminated.

*§ 4.1022 How are prehearing conferences conducted?*

This section extends the deadline for conducting the initial prehearing conference from the proposed 35 days to 55 days after issuance of the docketing notice, because the preceding deadline for filing a motion to intervene is being extended under § 4.1021. This section also removes written testimony from the list of topics for discussion at the initial prehearing conference under paragraph (a) and removes discovery from that list and the topics for discussion at the parties' meeting under paragraph (e). These topics have been removed because they will rarely be discussed, given that the final rule restricts the use of discovery to extraordinary circumstances and eliminates the requirement in proposed § 4.1042 to submit direct testimony in writing.

*§ 4.1023 What are the requirements for motions for recommended summary decision, responses, and issuance of a recommended summary decision?*

This section has been reorganized and reworded to conform to the latest version of Rule 56 of the Federal Rules of Civil Procedure. Most of the changes are not substantive. Paragraph (e) does afford the ALJ more flexibility in addressing situations where a party fails to properly support an assertion of fact or fails to properly address another party's assertion of fact, allowing the ALJ to issue any appropriate order. Paragraph (f) makes explicit the ALJ's authority to issue, after giving notice and a reasonable opportunity for the parties to respond, a recommended summary decision independent of a motion for recommended summary decision. References to forms of discovery have been eliminated from the list of materials used to support a parties' position because the final rule restricts discovery to extraordinary circumstances and we expect that the use of discovery will be rare.

*§ 4.1031 Under what circumstances will the ALJ authorize a party to obtain discovery of information?*

Proposed § 4.1031 would allow for discovery by agreement of the parties or by order of the judge if the certain

criteria in paragraph (b) are met. Those criteria are similar to standards typically used by various tribunals.

This section of the final rule limits discovery more strictly, requiring not only that those criteria be met, but also that extraordinary circumstances exist to justify the discovery. Further, discovery by agreement of the parties has been eliminated.

Because of these changes and the expectation that the use of discovery will be rare, this section has been renamed and modified as follows: (1) Proposed paragraphs (f) and (g), addressing discovery of materials prepared for hearing and facts known or opinions held by experts, and proposed paragraph (i), pertaining to completion of discovery, have been eliminated; and (2) proposed paragraph (h), which would limit depositions to those for the purpose of preserving testimony as opposed to for discovery purposes, has also been eliminated. However, the criteria in proposed paragraph (h) for the ALJ to authorize depositions for preserving testimony have been moved to a new § 4.1033. The effect of modification (2) is that depositions for discovery purposes may now be allowed, but, like other discovery, only under extraordinary circumstances and if otherwise in accordance with § 4.1031.

Consistent with the final rule's extension of the deadlines for filing motions to intervene and conducting the initial prehearing conference, this section also extends the deadlines for filing discovery motions, if any, from the proposed 20 days to 30 days after issuance of the docketing notice for discovery sought between the petitioner and OFA and from the proposed 30 days to 50 days after issuance of the docketing notice for discovery sought between a full intervenor and another party.

One of the criteria for allowing discovery in proposed paragraph (b) is ''[t]hat any trade secrets or proprietary information can be adequately safeguarded.'' The phrase ''trade secrets or proprietary information'' has been changed to ''confidential information.''

*§ 4.1032 When must a party supplement or amend information?*

Because of the final rule's stricter limitations on discovery and the expectation that the use of discovery will be rare, proposed § 4.1032(a), addressing supplementation or amendment of discovery responses, has been deleted and the other paragraphs have been redesignated accordingly. For the same reason, the deadline for updating witness and exhibit lists has been changed from the proposed 10 days after the date set for completion of discovery to 15 days prior to the hearing date, unless otherwise ordered by the ALJ.

*§ 4.1033 What are the requirements for written interrogatories?*

Proposed § 4.1033 pertains to written interrogatories. Because of the final rule's stricter limitations on discovery and the expectation that the use of discovery will be rare, proposed § 4.1033 has been eliminated and a new § 4.1033, pertaining to depositions for the purpose of preserving testimony, has been added.

*§ 4.1033 Under what circumstances will the ALJ authorize a party to depose a witness to preserve testimony?*

Proposed § 4.1031(h) contains criteria for the ALJ to authorize depositions for the purpose of preserving testimony. Proposed § 4.1034 contained a long delineation of procedures for those depositions. Section 4.1033 is a new, much shorter section pertaining to depositions for preserving testimony, and states that depositions for discovery purposes are governed by § 4.1031.

This section incorporates the criteria in proposed § 4.1031(h) and the requirements for a motion and notice for a deposition in proposed § 4.1034(a). Both proposed § 4.1031(h) and proposed § 4.1034 have been eliminated.

We have created a much shorter deposition section because we expect that depositions will be conducted rarely, given the new limits on the scope of the hearing record and on the persons who may testify. In the absence of the long delineation of procedures, the ALJ may customize the deposition procedures to serve justice while striving to keep case preparation moving forward in a timely manner.

*§ 4.1034 What are the requirements for depositions?*

Proposed § 4.1034, containing a long delineation of procedures for depositions for preserving testimony, has been eliminated. A new § 4.1033 has been added, as explained in the immediately preceding paragraphs, to address depositions for preserving testimony.

*§ 4.1034 What are the procedures for limiting disclosure of information which is confidential or exempt by law from public disclosure?*

This new section is being added to establish procedures for obtaining protective orders limiting disclosure of information which is confidential or exempt by law from public disclosure. Under this section, a party or a prospective witness or deponent may file a motion requesting a protective order to limit from disclosure to other parties or to the public a document or testimony containing information which is confidential or exempt by law from public disclosure. Ordinarily, documents and testimony introduced into the public hearing process are presumed to be public so this section requires the movant to describe the information sought to be protected and explain, among other things, why it should not be disclosed and how disclosure would be harmful. In issuing a protective order, the ALJ may make any order which justice requires to protect the person, consistent with the mandatory public disclosure requirements of the Freedom of Information Act, 5 U.S.C. 552(b), and other applicable law.

*§ 4.1035 How can parties request documents, tangible things, or entry on land?*

Proposed § 4.1035 pertains to requests for the production of documents and other tangible things. Because of the final rule's stricter limitations on discovery and the expectation that the use of discovery will be rare, proposed § 4.1035 has been eliminated.

*§ 4.1036 What sanctions may the judge impose for failure to comply with discovery?*

Proposed § 4.1036 delineates the circumstances under which the ALJ could impose sanctions and the types of sanctions imposable. The focus is on sanctions for failures relating to discovery. Because of the final rule's stricter limitations on discovery and the expectation that the use of discovery will be rare, proposed § 4.1036 has been eliminated. However, a shorter provision acknowledging the ALJ's power to impose sanctions has been added to § 4.1014.

*§ 4.1035 What are the requirements for subpoenas and witness fees?*

Because of the elimination of proposed § 4.1035 and proposed § 4.1036, proposed § 4.1037 has been redesignated § 4.1035. Paragraph (a)(2) of this section has been reworded to clarify that a party may subpoena any OFA employee who participated in the preparation of the negative proposed finding, except if the employee is a senior Department employee, the party must show that certain conditions are met.

A new paragraph (d)(3)(ii) has been added to this section because of the final rule's new limits on witnesses and

the scope of admissible evidence. See §§ 4.1042 and 4.1046. That paragraph identifies the following as a justification for the ALJ to quash or modify a subpoena: The subpoena ''[r]equires evidence beyond the limits on witnesses and evidence found in §§ 4.1042 and 4.1046.'' Proposed paragraphs (d)(3)(ii) and (d)(3)(iii) have been redesignated as (d)(3)(iii) and (d)(3)(iv), respectively.

*§ 4.1040 When and where will the hearing be held?*

Proposed § 4.1040 provides that the hearing would generally be held ''within 20 days after the date for completion of discovery,'' which would be approximately within 90 days after issuance of the docketing notice. Because of the final rule's stricter limitations on discovery and the expectation that the use of discovery will be rare, the quoted language has been changed to ''within 90 days after the date DCHD issues the docketing notice under § 4.1020(a)(3).''

With respect to where the hearing will be held, this section states that the ALJ ''will consider the convenience of all parties, their representatives, and witnesses in setting the time and place for hearing.''

*§ 4.1041 What are the parties' rights during the hearing?*

Proposed § 4.1041(b) provides that the petitioner would have the right to cross-examine OFA staff who participated in the preparation of the negative proposed finding. Because this provision might be interpreted as precluding other parties from cross-examining such staff, § 4.1041 has been reorganized and reworded to make clear that each party has the right to cross-examine such staff if called as a witness by another party.

*§ 4.1042 What are the requirements for presenting testimony?*

Proposed § 4.1042 has been renamed and redesignated § 4.1043.

*§ 4.1042 Who may testify?*

The final rule adds this section which limits the persons who may testify, except under extraordinary circumstances, to (1) persons who qualify as expert witnesses, and (2) OFA staff who participated in the preparation of the negative proposed finding.

*§ 4.1043 What are the methods for testifying?*

Proposed § 4.1042 has been renamed and redesignated § 4.1043. The provisions in proposed § 4.1042 requiring the submittal of direct testimony in writing and detailing the requirements for written testimony have been eliminated. Proposed §§ 4.1042(c)(1) and (c)(2) contain minutiae for telephone testimony that are obvious matters of standard practice which have also been eliminated. The remainder of proposed § 4.1042 has been reorganized and reworded and incorporated into § 4.1043 without change in meaning.

*§ 4.1044 How may a party use a deposition in the hearing?*

Proposed § 4.1043 has been redesignated § 4.1044.

*§ 4.1045 What are the requirements for exhibits, official notice, and stipulations?*

Proposed § 4.1044 has been redesignated § 4.1045 and modified by adding paragraph (b) and redesignating the following paragraphs accordingly. Paragraph (b) recognizes the ALJ's authority, on his or her own initiative, to admit into evidence any document from OFA's administrative record, provided the parties are notified and given an opportunity to comment. This modification is consistent with the modification to § 4.1023, which explicitly recognizes the ALJ's authority to issue, after giving notice and a reasonable opportunity for the parties to respond, a recommended summary decision independent of a motion for recommended summary decision.

Proposed paragraph (c), redesignated paragraph (d) in the final rule, would allow the ALJ, at the request of any party, to take official notice of certain matters, including public records of any Department party. The term ''any Department party'' derives from procedures governing hydropower hearings at 43 CFR 45.54(c), is confusing in its application to the hearing process under these Federal acknowledgment regulations, and would allow the taking of official notice of matters in OFA's administrative record. The better mechanism for admitting into evidence materials from OFA's administrative record is the parties offering them for admission at hearing. Therefore, the provision has been reworded to allow the ALJ to take official notice of public records of the ''Department,'' except materials in OFA's administrative record.

*§ 4.1046 What evidence is admissible at the hearing?*

Proposed § 4.1045 has been redesignated § 4.1046 and modified to limit the scope of admissible evidence to documentation in OFA's administrative record, and testimony clarifying or explaining the information in that documentation, except if the party seeking to admit the information explains why the information was not submitted for inclusion in OFA's administrative record and demonstrates that extraordinary circumstances exist justifying admission of the information.

*§ 4.1047 What are the requirements for transcription of the hearing?*

Proposed § 4.1046 has been redesignated § 4.1047 and states that the hearing must be transcribed verbatim. This section also states that transcripts will be presumed to be correct, and includes procedures for correcting a transcript.

*§ 4.1048 What is the standard of proof?*

Proposed § 4.1047 has been redesignated § 4.1048. Proposed § 4.1047 attempted to clarify the meaning of the ''reasonable likelihood'' standard of proof found at 25 CFR 83.6(d). The final rule retains the current ''reasonable likelihood'' standard of proof and eliminates the proposed interpreting language.

*§ 4.1049 When will the hearing record close?*

Proposed § 4.1048 has been redesignated § 4.1049 and modified to allow the ALJ to admit evidence after the close of the hearing record in accordance with the modification at § 4.1045(b)(1), which authorizes the ALJ to admit evidence on his or her own initiative. See § 4.1045.

*§ 4.1050 What are the requirements for post-hearing briefs?*

Proposed § 4.1049 has been redesignated § 4.1050.

*§ 4.1051 What are the requirements for the ALJ's recommended decision?*

Proposed § 4.1050 has been redesignated § 4.1051.

## IV. Procedural Requirements

### *A. Regulatory Planning and Review (E.O. 12866 and 13563)*

Executive Order (E.O.) 12866 provides that the Office of Information and Regulatory Affairs (OIRA) at the Office of Management and Budget (OMB) will review all significant rules. OIRA has determined that this rule is not significant.

E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The E.O. directs agencies to consider regulatory approaches that reduce

burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

*B. Regulatory Flexibility Act*

The Department of the Interior certifies that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

*C. Small Business Regulatory Enforcement Fairness Act*

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. It will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year. The rule's requirements will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. Nor will this rule have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of the U.S.-based enterprises to compete with foreign-based enterprises because the rule is limited to Federal acknowledgment of Indian tribes.

*D. Unfunded Mandates Reform Act*

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

*E. Takings (E.O. 12630)*

Under the criteria in Executive Order 12630, this rule does not affect individual property rights protected by the Fifth Amendment nor does it involves a compensable ''taking.'' A takings implication assessment is therefore not required.

*F. Federalism (E.O. 13132)*

Under the criteria in Executive Order 13132, this rule has no substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

*G. Civil Justice Reform (E.O. 12988)*

This rule complies with the requirements of Executive Order 12988. Specifically, this rule has been reviewed to eliminate errors and ambiguity and written to minimize litigation; and is written in clear language and contains clear legal standards.

*H. Consultation With Indian Tribes (E.O. 13175)*

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments,'' 59 FR 22951 (May 4, 1994), supplemented by Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, 65 FR 67249 (Nov. 6, 2000), and 512 DM 2, the Department has assessed the impact of this rule on Tribal trust resources and has determined that it does not directly affect Tribal resources. The rules are procedural and administrative in nature. However, the Department has consulted with federally recognized Indian tribes regarding the companion proposed rule being published concurrently by the BIA. That rule is an outgrowth of the ''Discussion Draft'' of the Federal acknowledgment rule, which the Department distributed to federally recognized Indian tribes in June 2013, and on which the Department hosted five consultation sessions with federally recognized Indian tribes throughout the country in July and August 2013. Several federally recognized Indian tribes submitted written comments on that rule. The Department considered each tribe's comments and concerns and has addressed them, where possible. The Department will continue to consult on that rule during the public comment period and tribes are encouraged to provide feedback on this proposed rule during those sessions as well.

*I. Paperwork Reduction Act*

The information collection requirements are subject to an exception under 25 CFR part 1320 and therefore are not covered by the Paperwork Reduction Act.

*J. National Environmental Policy Act*

This rule does not constitute a major Federal action significantly affecting the quality of the human environment because it is of an administrative, technical, and procedural nature. See 43 CFR 46.210(i). No extraordinary circumstances exist that would require greater review under the National Environmental Policy Act.

*K. Effects on the Energy Supply (E.O. 13211)*

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

**List of Subjects in 43 CFR Part 4**

Administrative practice and procedure, Hearing procedures, Indians—tribal government.

■ For the reasons stated in the preamble, the Department of the Interior, Office of the Secretary, amends part 4 of subtitle A in title 43 of the Code of Federal Regulations by adding subpart K to read as follows:

## Subpart K—Hearing Process Concerning Acknowledgment of American Indian Tribes

Sec.

**General Provisions**

4.1001 What terms are used in this subpart?
4.1002 What is the purpose of this subpart?
4.1003 Which general rules of procedure and practice apply?
4.1004 How are time periods computed?

*Representatives*

4.1010 Who may represent a party, and what requirements apply to a representative?

*Document Filing and Service*

4.1011 What are the form and content requirements for documents under this subpart?
4.1012 Where and how must documents be filed?
4.1013 How must documents be served?

*ALJ's Powers, Unavailability, Disqualification, and Communications*

4.1014 What are the powers of the ALJ?
4.1015 What happens if the ALJ becomes unavailable?
4.1016 When can an ALJ be disqualified?
4.1017 Are ex parte communications allowed?

*Motions*

4.1018 What are the requirements for motions?

*Prior Decisions*

4.1019 How may a party submit prior Departmental final decisions?

**Hearing Process**

*Docketing, Intervention, Prehearing Conferences, and Summary Decision*

4.1020 What will DCHD do upon receiving the election of hearing from a petitioner?
4.1021 What are the requirements for motions for intervention and responses?

4.1022 How are prehearing conferences conducted?
4.1023 What are the requirements for motions for recommended summary decision, responses, and issuance of a recommended summary decision?

*Information Disclosure*

4.1030 What are the requirements for OFA's witness and exhibit list?
4.1031 Under what circumstances will the ALJ authorize a party to obtain discovery of information?
4.1032 When must a party supplement or amend information?
4.1033 Under what circumstances will the ALJ authorize a party to depose a witness to preserve testimony?
4.1034 What are the procedures for limiting disclosure of information which is confidential or exempt by law from public disclosure?
4.1035 What are the requirements for subpoenas and witness fees?

*Hearing, Briefing, and Recommended Decision*

4.1040 When and where will the hearing be held?
4.1041 What are the parties' rights during the hearing?
4.1042 Who may testify?
4.1043 What are the methods for testifying?
4.1044 How may a party use a deposition in the hearing?
4.1045 What are the requirements for exhibits, official notice, and stipulations?
4.1046 What evidence is admissible at the hearing?
4.1047 What are the requirements for transcription of the hearing?
4.1048 What is the standard of proof?
4.1049 When will the hearing record close?
4.1050 What are the requirements for post-hearing briefs?
4.1051 What are the requirements for the ALJ's recommended decision?

**Authority:** 5 U.S.C. 301; 25 U.S.C. 2, 9, 479a–1.

## General Provisions

### § 4.1001 What terms are used in this subpart?

As used in this subpart:

*ALJ* means an administrative law judge in DCHD appointed under 5 U.S.C. 3105 and assigned to preside over the hearing process.

*Assistant Secretary* means the Assistant Secretary—Indian Affairs within the Department of the Interior, or that officer's authorized representative, but does not include representatives of OFA.

*Day* means a calendar day. Computation of time periods is discussed in § 4.1004.

*Department* means the Department of the Interior, including the Assistant Secretary and OFA.

*DCHD* means the Departmental Cases Hearings Division, Office of Hearings and Appeals, Department of the Interior.

*Discovery* means a prehearing process for obtaining facts or information to assist a party in preparing or presenting its case.

*Ex parte communication* means an oral or written communication to the ALJ that is made without providing all parties reasonable notice and an opportunity to participate.

*Full intervenor* means a person granted leave by the ALJ to intervene as a full party under § 4.1021.

*Hearing process* means the process by which DCDH handles a case forwarded to DCHD by OFA pursuant to 25 CFR 83.39(a), from receipt to issuance of a recommended decision as to whether the petitioner should be acknowledged as a federally recognized Indian tribe for purposes of federal law.

*OFA* means the Office of Federal Acknowledgment within the Office of the Assistant Secretary—Indian Affairs, Department of the Interior.

*Party* means the petitioner, OFA, or a full intervenor.

*Person* means an individual; a partnership, corporation, association, or other legal entity; an unincorporated organization; and any federal, state, tribal, county, district, territorial, or local government or agency.

*Petitioner* means an entity that has submitted a documented petition to OFA requesting Federal acknowledgment as a federally recognized Indian tribe under 25 CFR part 83 and has elected to have a hearing under 25 CFR 83.38.

*Representative* means a person who:

(1) Is authorized by a party to represent the party in a hearing process under this subpart; and

(2) Has filed an appearance under § 4.1010.

*Secretary* means the Secretary of the Interior or his or her designee.

*Senior Department employee* has the same meaning as the term ''senior employee'' in 5 CFR 2641.104.

### § 4.1002 What is the purpose of this subpart?

(a) The purpose of this subpart is to establish rules of practice and procedure for the hearing process available under 25 CFR 83.38(a)(1) and 83.39 to a petitioner for Federal acknowledgment that receives from OFA a negative proposed finding on Federal acknowledgment and elects to have a hearing before an ALJ. This subpart includes provisions governing prehearing conferences, discovery, motions, an evidentiary hearing, briefing, and issuance by the ALJ of a recommended decision on Federal acknowledgment for consideration by the Assistant Secretary—Indian Affairs (AS–IA).

(b) This subpart will be construed and applied to each hearing process to achieve a just and speedy determination, consistent with adequate consideration of the issues involved.

### § 4.1003 Which rules of procedure and practice apply?

(a) The rules which apply to the hearing process under this subpart are the provisions of §§ 4.1001 through 4.1051.

(b) Notwithstanding the provisions of § 4.20, the general rules in subpart B of this part, do not apply to the hearing process, except as provided in § 4.1017(a).

### § 4.1004 How are time periods computed?

(a) *General.* Time periods are computed as follows:

(1) The day of the act or event from which the period begins to run is not included.

(2) The last day of the period is included.

(i) If that day is a Saturday, Sunday, or other day on which the Federal government is closed for business, the period is extended to the next business day.

(ii) The last day of the period ends at 5 p.m. at the place where the filing or other action is due.

(3) If the period is less than 7 days, any Saturday, Sunday, or other day on which the Federal government is closed for business that falls within the period is not included.

(b) *Extensions of time.* (1) No extension of time can be granted to file a motion for intervention under § 4.1021.

(2) An extension of time to file any other document under this subpart may be granted only upon a showing of good cause.

(i) To request an extension of time, a party must file a motion under § 4.1018 stating how much additional time is needed and the reasons for the request.

(ii) The party must file the motion before the applicable time period expires, unless the party demonstrates extraordinary circumstances that justify a delay in filing.

(iii) The ALJ may grant the extension only if:

(A) It would not unduly prejudice other parties; and

(B) It would not delay the recommended decision under § 4.1051.

*Representatives*

### § 4.1010 Who may represent a party, and what requirements apply to a representative?

(a) *Individuals.* A party who is an individual may either act as his or her

own representative in the hearing process under this subpart or authorize an attorney to act as his or her representative.

(b) *Organizations.* A party that is an organization or other entity may authorize one of the following to act as its representative:

(1) An attorney;

(2) A partner, if the entity is a partnership;

(3) An officer or full-time employee, if the entity is a corporation, association, or unincorporated organization;

(4) A receiver, administrator, executor, or similar fiduciary, if the entity is a receivership, trust, or estate; or

(5) An elected or appointed official or an employee, if the entity is a federal, state, tribal, county, district, territorial, or local government or component.

(c) *OFA.* OFA's representative will be an attorney from the Office of the Solicitor.

(d) *Appearance.* A representative must file a notice of appearance. The notice must:

(1) Meet the form and content requirements for documents under § 4.1011;

(2) Include the name and address of the person on whose behalf the appearance is made;

(3) If the representative is an attorney (except for an attorney with the Office of the Solicitor), include a statement that he or she is a member in good standing of the bar of the highest court of a state, the District of Columbia, or any territory or commonwealth of the United States (identifying which one); and

(4) If the representative is not an attorney, include a statement explaining his or her authority to represent the entity.

(e) *Disqualification.* The ALJ may disqualify any representative for misconduct or other good cause.

*Document Filing and Service*

**§ 4.1011 What are the form and content requirements for documents under this subpart?**

(a) *Form.* Each document filed in a case under this subpart must:

(1) Measure 8–1/2 by 11 inches, except that a table, chart, diagram, or other attachment may be larger if folded to 8–1/2 by 11 inches and attached to the document;

(2) Be printed on just one side of the page;

(3) Be clearly typewritten, printed, or otherwise reproduced by a process that yields legible and permanent copies;

(4) Use 12-point font size or larger;

(5) Be double-spaced except for footnotes and long quotations, which may be single-spaced;

(6) Have margins of at least 1 inch; and

(7) Be bound on the left side, if bound.

(b) *Caption.* Each document must begin with a caption that includes:

(1) The name of the case under this subpart and the docket number, if one has been assigned;

(2) The name and docket number of the proceeding to which the case under this subpart relates; and

(3) A descriptive title for the document, indicating the party for whom it is filed and the nature of the document.

(c) *Signature.* The original of each document must be signed by the representative of the person for whom the document is filed. The signature constitutes a certification by the representative that:

(1) He or she has read the document;

(2) The statements in the document are true to the best of his or her knowledge, information, and belief; and

(3) The document is not being filed for the purpose of causing delay.

(d) *Contact information.* Below the representative's signature, the document must provide the representative's name, mailing address, street address (if different), telephone number, facsimile number (if any), and electronic mail address (if any).

**§ 4.1012 Where and how must documents be filed?**

(a) *Place of filing.* Any documents relating to a case under this subpart must be filed with DCHD. DCHD's address, telephone number, and facsimile number are set forth at *www.doi.gov/oha/dchd/index.cfm.*

(b) *Method of filing.* (1) Unless otherwise ordered by the ALJ, a document must be filed with DCHD using one of the following methods:

(i) By hand delivery of the original document;

(ii) By sending the original document by express mail or courier service for delivery on the next business day; or

(iii) By sending the document by facsimile if:

(A) The document is 20 pages or less, including all attachments;

(B) The sending facsimile machine confirms that the transmission was successful; and

(C) The original of the document is sent by regular mail on the same day.

(2) Parties are encouraged, but not required, to supplement any filing by providing the appropriate office with an electronic copy of the document on compact disc.

(c) *Date of filing.* A document under this subpart is considered filed on the date it is received. However, any document received by DCHD after 5 p.m. is considered filed on the next regular business day.

(d) *Nonconforming documents.* If any document submitted for filing under this subpart does not comply with the requirements of this subpart or any applicable order, it may be rejected. If the defect is minor, the filer may be notified of the defect and given a chance to correct it.

**§ 4.1013 How must documents be served?**

(a) *Filed documents.* Any document related to a case under this subpart must be served at the same time the document is delivered or sent for filing. Copies must be served on each party, using one of the methods of service in paragraph (c) of this section.

(b) *Documents issued by DCHD or the ALJ.* A complete copy of any notice, order, recommended decision, or other document issued by DCHD or the ALJ under this subpart must be served on each party, using one of the methods of service in paragraph (c) of this section.

(c) *Method of service.* Unless otherwise ordered by the ALJ, service must be accomplished by one of the following methods:

(1) By hand delivery of the document;

(2) By sending the document by express mail or courier service for delivery on the next business day; or

(3) By sending the document by facsimile if:

(i) The document is 20 pages or less, including all attachments;

(ii) The sending facsimile machine confirms that the transmission was successful; and

(iii) The document is sent by regular mail on the same day.

(d) *Certificate of service.* A certificate of service must be attached to each document filed under this subpart. The certificate must be signed by the serving party's representative and include the following information:

(1) The name, address, and other contact information of each party's representative on whom the document was served;

(2) The means of service, including information indicating compliance with paragraph (c)(3) or (4) of this section, if applicable; and

(3) The date of service.

*ALJ's Powers, Unavailability, Disqualification, and Communications*

**§ 4.1014 What are the powers of the ALJ?**

The ALJ has all powers necessary to conduct the hearing process in a fair,

orderly, expeditious, and impartial manner, including the powers to:

(a) Administer oaths and affirmations;

(b) Issue subpoenas to the extent authorized by law;

(c) Rule on motions;

(d) Authorize discovery under exceptional circumstances as provided in this subpart;

(e) Hold hearings and conferences;

(f) Regulate the course of hearings;

(g) Call and question witnesses;

(h) Exclude any person from a hearing or conference for misconduct or other good cause;

(i) Impose non-monetary sanctions for a person's failure to comply with an ALJ order or provision of this subpart;

(j) Issue a recommended decision; and

(k) Take any other action authorized by law.

**§ 4.1015 What happens if the ALJ becomes unavailable?**

(a) If the ALJ becomes unavailable or otherwise unable to perform the duties described in § 4.1014, DCHD will designate a successor.

(b) If a hearing has commenced and the ALJ cannot proceed with it, a successor ALJ may do so. At the request of a party, the successor ALJ may recall any witness whose testimony is material and disputed, and who is available to testify again without undue burden. The successor ALJ may, within his or her discretion, recall any other witness.

**§ 4.1016 When can an ALJ be disqualified?**

(a) The ALJ may withdraw from a case at any time the ALJ deems himself or herself disqualified.

(b) At any time before issuance of the ALJ's recommended decision, any party may move that the ALJ disqualify himself or herself for personal bias or other valid cause.

(1) The party must file the motion promptly after discovering facts or other reasons allegedly constituting cause for disqualification.

(2) The party must file with the motion an affidavit or declaration setting forth the facts or other reasons in detail.

(c) The ALJ must rule upon the motion, stating the grounds for the ruling.

(1) If the ALJ concludes that the motion is timely and meritorious, he or she must disqualify himself or herself and withdraw from the case.

(2) If the ALJ does not disqualify himself or herself and withdraw from the case, the ALJ must continue with the hearing process and issue a recommended decision.

**§ 4.1017 Are ex parte communications allowed?**

(a) Ex parte communications with the ALJ or his or her staff are prohibited in accordance with § 4.27(b).

(b) This section does not prohibit ex parte inquiries concerning case status or procedural requirements, unless the inquiry involves an area of controversy in the hearing process.

*Motions*

**§ 4.1018 What are the requirements for motions?**

(a) *General.* Any party may apply for an order or ruling on any matter related to the hearing process by presenting a motion to the ALJ. A motion may be presented any time after DCHD issues the docketing notice.

(1) A motion made at a hearing may be stated orally on the record, unless the ALJ directs that it be written.

(2) Any other motion must:

(i) Be in writing;

(ii) Comply with the requirements of this subpart with respect to form, content, filing, and service; and

(iii) Not exceed 10 pages, unless the ALJ orders otherwise.

(b) *Content.* (1) Each motion must state clearly and concisely:

(i) Its purpose and the relief sought;

(ii) The facts constituting the grounds for the relief sought; and

(iii) Any applicable statutory or regulatory authority.

(2) A proposed order must accompany the motion.

(c) *Response.* Except as otherwise required by this subpart or by order of the ALJ, any other party may file a response to a written motion within 14 days after service of the motion. When a party presents a motion at a hearing, any other party may present a response orally on the record.

(d) *Reply.* Unless the ALJ orders otherwise, no reply to a response may be filed.

(e) *Effect of filing.* Unless the ALJ orders otherwise, the filing of a motion does not stay the hearing process.

(f) *Ruling.* The ALJ will rule on the motion as soon as feasible, either orally on the record or in writing. The ALJ may summarily deny any dilatory, repetitive, or frivolous motion.

*Prior Decisions*

**§ 4.1019 How may a party submit prior Departmental final decisions?**

A party may submit as an appendix to a motion, brief, or other filing a prior Departmental final decision in support of a finding that the evidence or methodology is sufficient to satisfy one or more criteria for Federal acknowledgment of the petitioner because the Department found that evidence or methodology sufficient to satisfy the same criteria in the prior decision.

**Hearing Process**

*Docketing, Intervention, Prehearing Conferences, and Summary Decision*

**§ 4.1020 What will DCHD do upon receiving the election of hearing from a petitioner?**

Within 5 days after petitioner files its election of hearing under 25 CFR 83.38(a), the actions required by this section must be taken.

(a) DCHD must:

(1) Docket the case;

(2) Assign an ALJ to preside over the hearing process and issue a recommended decision; and

(3) Issue a docketing notice that informs the parties of the docket number and the ALJ assigned to the case.

(b) The ALJ assigned under paragraph (a)(2) of this section must issue a notice setting the time, place, and method for conducting an initial prehearing conference under § 4.1022(a). This notice may be combined with the docketing notice under paragraph (a)(3) of this section.

**§ 4.1021 What are the requirements for motions for intervention and responses?**

(a) *General.* A person may file a motion for intervention within 30 days after OFA issues the notice of the election of hearing under 25 CFR 83.39(a)(1).

(b) *Content of the motion.* The motion for intervention must contain the following:

(1) A statement setting forth the interest of the person and, if the person seeks intervention under paragraph (d) of this section, a showing of why that interest may be adversely affected by the final determination of the Assistant Secretary under 25 CFR 83.43;

(2) An explanation of the person's position with respect to the issues of law and issues of material fact raised in the election of hearing in no more than five pages; and

(3) A list of the witnesses and exhibits the person intends to present at the hearing, other than solely for impeachment purposes, including:

(i) For each witness listed, his or her name, address, telephone number, and qualifications and a brief narrative summary of his or her expected testimony; and

(ii) For each exhibit listed, a statement specifying where the exhibit is located in the administrative record reviewed by OFA.

(c) *Timing of response to a motion.* Any response to a motion for intervention must be filed by a party within 7 days after service of the motion.

(d) *Intervention of right.* The ALJ will grant intervention where the person has an interest that may be adversely affected by the Assistant Secretary's final determination under 25 CFR 83.43.

(e) *Permissive intervention.* If paragraph (d) of this section does not apply, the ALJ will consider the following in determining whether intervention is appropriate:

(1) The nature of the issues;

(2) The adequacy of representation of the person's interest which is provided by the existing parties to the proceeding; and

(3) The ability of the person to present relevant evidence and argument.

(f) *How an intervenor may participate.* (1) A person granted leave to intervene under paragraph (d) of this section may participate as a full party or in a capacity less than that of a full party.

(2) If the intervenor wishes to participate in a limited capacity or if the intervenor is granted leave to intervene under paragraph (e) of this section, the extent and the terms of the participation will be determined by the ALJ.

(3) An intervenor may not raise issues of law or issues of material fact beyond those raised in the election of hearing under 25 CFR 83.38(a)(1).

**§ 4.1022 How are prehearing conferences conducted?**

(a) *Initial prehearing conference.* The ALJ will conduct an initial prehearing conference with the parties at the time specified in the docketing notice under § 4.1020, within 55 days after issuance of the docketing notice.

(1) The initial prehearing conference will be used:

(i) To identify, narrow, and clarify the disputed issues of material fact and exclude issues that do not qualify for review as factual, material, and disputed;

(ii) To discuss the evidence on which each party intends to rely at the hearing; and

(iii) To set the date, time, and place of the hearing.

(2) The initial prehearing conference may also be used:

(i) To discuss limiting and grouping witnesses to avoid duplication;

(ii) To discuss stipulations of fact and of the content and authenticity of documents;

(iii) To consider requests that the ALJ take official notice of public records or other matters;

(iv) To discuss pending or anticipated motions, if any; and

(v) To consider any other matters that may aid in the disposition of the case.

(b) *Other conferences.* The ALJ may direct the parties to attend one or more other prehearing conferences, if consistent with the need to complete the hearing process within 180 days. Any party may by motion request a conference.

(c) *Notice.* The ALJ must give the parties reasonable notice of the time and place of any conference.

(d) *Method.* A conference will ordinarily be held by telephone, unless the ALJ orders otherwise.

(e) *Representatives' preparation and authority.* Each party's representative must be fully prepared during the prehearing conference for a discussion of all procedural and substantive issues properly raised. The representative must be authorized to commit the party that he or she represents respecting those issues.

(f) *Parties' meeting.* Before the initial prehearing conference, the parties' representatives must make a good faith effort:

(1) To meet in person, by telephone, or by other appropriate means; and

(2) To reach agreement on the schedule of remaining steps in the hearing process.

(g) *Failure to attend.* Unless the ALJ orders otherwise, a party that fails to attend or participate in a conference, after being served with reasonable notice of its time and place, waives all objections to any agreements reached in the conference and to any consequent orders or rulings.

(h) *Scope.* During a conference, the ALJ may dispose of any procedural matters related to the case.

(i) *Order.* Within 3 days after the conclusion of each conference, the ALJ must issue an order that recites any agreements reached at the conference and any rulings made by the ALJ during or as a result of the conference.

**§ 4.1023 What are the requirements for motions for recommended summary decision, responses, and issuance of a recommended summary decision?**

(a) *Motion for recommended summary decision or partial recommended summary decision.* A party may move for a recommended summary decision, identifying each issue on which summary decision is sought. The ALJ may issue a recommended summary decision if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to a recommended decision as a matter of law. The ALJ should state on the record the reasons for granting or denying the motion.

(b) *Time to file a motion.* Except as otherwise ordered by the ALJ, a party may file a motion for recommended summary decision on all or part of the proceeding at any time after DCHD issues a docketing notice under § 4.1020.

(c) *Procedures*—(1) *Supporting factual positions.* A party asserting that a fact cannot be or is genuinely disputed must support the assertion by:

(i) Citing to particular parts of materials in the hearing process record, including affidavits or declarations, stipulations (including those made for purposes of the motion only), or other materials; or

(ii) Showing that the materials cited do not establish the absence or presence of a genuine dispute, or that an adverse party cannot produce admissible evidence to support the fact.

(2) *Objection that a fact is not supported by admissible evidence.* A party may object that the material cited to support or dispute a fact cannot be presented in a form that would be admissible in evidence.

(3) *Materials not cited.* The ALJ need consider only the cited materials, but the ALJ may consider other materials in the hearing process record.

(4) *Affidavits or declarations.* An affidavit or declaration used to support or oppose a motion must be made on personal knowledge, set out facts that would be admissible in evidence, and show that the affiant or declarant is competent to testify on the matters stated.

(d) *When facts are unavailable to the nonmovant.* If a nonmovant shows by affidavit or declaration that, for specified reasons, it cannot present facts essential to justify its opposition, the ALJ may:

(1) Defer considering the motion or deny it;

(2) Allow time to obtain affidavits or declarations or, under extraordinary circumstances, to take discovery; or

(3) Issue any other appropriate order.

(e) *Failing to properly support or address a fact.* If a party fails to properly support an assertion of fact or fails to properly address another party's assertion of fact as required by paragraph (c) of this section, the ALJ may:

(1) Give an opportunity to properly support or address the fact;

(2) Consider the fact undisputed for purposes of the motion;

(3) Issue a recommended summary decision if the motion and supporting materials—including the facts considered undisputed—show that the movant is entitled to it; or

(4) Issue any other appropriate order.

(f) *Issuing a recommended summary decision independent of the motion.* After giving notice and a reasonable time to respond, the ALJ may:

(1) Issue a recommended summary decision for a nonmovant;

(2) Grant a motion for recommended summary decision on grounds not raised by a party; or

(3) Consider issuing a recommended summary decision on his or her own after identifying for the parties material facts that may not be genuinely in dispute.

(g) *Failing to grant all the requested relief.* If the ALJ does not grant all the relief requested by the motion, the ALJ may enter an order stating any material fact that is not genuinely in dispute and treating the fact as established in the case.

*Information Disclosure*

**§ 4.1030 What are the requirements for OFA's witness and exhibit list?**

Within 14 days after OFA issues the notice of the election of hearing under 25 CFR 83.39(a)(1), OFA must file a list of the witnesses and exhibits it intends to present at the hearing, other than solely for impeachment purposes, including:

(a) For each witness listed, his or her name, address, telephone number, qualifications, and a brief narrative summary of his or her expected testimony; and

(b) For each exhibit listed, a statement specifying where the exhibit is in the administrative record reviewed by OFA.

**§ 4.1031 Under what circumstances will the ALJ authorize a party to obtain discovery of information?**

(a) *General.* A party may obtain discovery of information to assist in preparing or presenting its case only if the ALJ determines that the party has met the criteria set forth in paragraph (b) of this section and authorizes the discovery in a written order or during a prehearing conference. Available methods of discovery are:

(1) Written interrogatories;

(2) Depositions; and

(3) Requests for production of designated documents or tangible things or for entry on designated land for inspection or other purposes.

(b) *Criteria.* The ALJ may authorize discovery only under extraordinary circumstances and if the party requesting discovery demonstrates:

(1) That the discovery will not unreasonably delay the hearing process;

(2) That the scope of the discovery is not unduly burdensome;

(3) That the method to be used is the least burdensome method available;

(4) That any confidential information can be adequately safeguarded; and

(5) That the information sought:

(i) Will be admissible at the hearing or appears reasonably calculated to lead to the discovery of admissible evidence;

(ii) Is not otherwise obtainable by the party;

(iii) Is not cumulative or repetitious; and

(iv) Is not privileged or protected from disclosure by applicable law.

(c) *Motions.* A party seeking the ALJ's authorization for discovery must file a motion that:

(1) Briefly describes the proposed methodology, purpose, and scope of the discovery;

(2) Explains how the discovery meets the criteria in paragraph (b) of this section; and

(3) Attaches a copy of any proposed discovery request (written interrogatories, notice of deposition, or request for production of designated documents or tangible things or for entry on designated land).

(d) *Timing of motions.* Any discovery motion under paragraph (c) of this section must be filed:

(1) Within 30 days after issuance of the docketing notice under § 4.1020 if the discovery sought is between the petitioner and OFA; and

(2) Within 50 days after issuance of the docketing notice under § 4.1020 if the discovery sought is between a full intervenor and another party.

(e) *Objections.* (1) A party must file any objections to a discovery motion or to specific portions of a proposed discovery request within 10 days after service of the motion.

(2) An objection must explain how, in the objecting party's view, the discovery sought does not meet the criteria in paragraph (b) of this section.

**§ 4.1032 When must a party supplement or amend information?**

(a) *Witnesses and exhibits.* (1) Each party must file an updated version of the list of witnesses and exhibits required under 25 CFR 83.38(a)(2), § 4.1021(b)(3), or § 4.1030 by no later than 15 days prior to the hearing date, unless otherwise ordered by the ALJ.

(2) If a party wishes to include any new witness or exhibit on its updated list, it must provide an explanation of why it was not feasible for the party to include the witness or exhibit on its list under 25 CFR 83.38(a)(2), § 4.1021(b)(3), or § 4.1030.

(b) *Failure to disclose.* (1) A party that fails to disclose information required under 25 CFR 83.38(a)(2), § 4.1021(b)(3), § 4.1030, or paragraph (a)(1) of this section will not be permitted to introduce as evidence at the hearing testimony from a witness or other information that it failed to disclose.

(2) Paragraph (b)(1) of this section does not apply if the failure to disclose was substantially justified or is harmless.

(3) Before or during the hearing, a party may object under paragraph (b)(1) of this section to the admission of evidence.

(4) The ALJ will consider the following in determining whether to exclude evidence under paragraphs (b)(1) through (3) of this section:

(i) The prejudice to the objecting party;

(ii) The ability of the objecting party to cure any prejudice;

(iii) The extent to which presentation of the evidence would disrupt the orderly and efficient hearing of the case;

(iv) The importance of the evidence; and

(v) The reason for the failure to disclose, including any bad faith or willfulness regarding the failure.

**§ 4.1033 Under what circumstances will the ALJ authorize a party to depose a witness to preserve testimony?**

(a) *General.* A party may depose a witness to preserve testimony only if the ALJ determines that the party has met the criteria set forth in paragraph (b) of this section and authorizes the deposition in a written order or during a prehearing conference. Authorization of depositions for discovery purposes is governed by § 4.1031.

(b) *Criteria.* (1) The ALJ may authorize a deposition to preserve testimony only if the party shows that the witness:

(i) Will be unable to attend the hearing because of age, illness, or other incapacity; or

(ii) Is unwilling to attend the hearing voluntarily, and the party is unable to compel the witness's attendance at the hearing by subpoena.

(2) Paragraph (b)(1)(ii) of this section does not apply to any person employed by or under contract with the party seeking the deposition.

(3) A party may depose a senior Department employee of OFA only if the party shows:

(i) That the employee's testimony is necessary in order to provide significant, unprivileged information that is not available from any other source or by less burdensome means; and

(ii) That the deposition would not significantly interfere with the employee's ability to perform his or her official duties.

(c) *Motion and notice.* A party seeking the ALJ's authorization to take a

deposition to preserve testimony must file a motion which explains how the criteria in paragraph (b) of this section have been met and states:

(1) The time and place that the deposition is to be taken;

(2) The name and address of the person before whom the deposition is to be taken;

(3) The name and address of the witness whose deposition is to be taken; and

(4) Any documents or materials that the witness is to produce.

**§ 4.1034 What are the procedures for limiting disclosure of information which is confidential or exempt by law from public disclosure?**

(a) A party or a prospective witness or deponent may file a motion requesting a protective order to limit from disclosure to other parties or to the public a document or testimony containing information which is confidential or exempt by law from public disclosure.

(b) In the motion the person must describe the information sought to be protected from disclosure and explain in detail:

(1) Why the information is confidential or exempt by law from public disclosure;

(2) Why disclosure of the information would adversely affect the person; and

(3) Why disclosure is not required in the public interest.

(c) If the person seeks non-disclosure of information in a document:

(1) The motion must include a copy of the document with the confidential information deleted. If it is not practicable to submit such a copy of the document because deletion of the information would render the document unintelligible, a description of the document may be substituted.

(2) The ALJ may require the person to file a sealed copy of the document for in camera inspection.

(d) Ordinarily, documents and testimony introduced into the public hearing process are presumed to be public. In issuing a protective order, the ALJ may make any order which justice requires to protect the person, consistent with the mandatory public disclosure requirements of the Freedom of Information Act, 5 U.S.C. 552(b), and other applicable law.

**§ 4.1035 What are the requirements for subpoenas and witness fees?**

(a) *Request for subpoena.* (1) Except as provided in paragraph (a)(2) of this section, any party may file a motion requesting the ALJ to issue a subpoena to the extent authorized by law for the attendance of a person, the giving of testimony, or the production of documents or other relevant evidence during discovery or for the hearing.

(2) A party may subpoena an OFA employee if the employee participated in the preparation of the negative proposed finding, except that if the OFA employee is a senior Department employee, the party must show:

(i) That the employee's testimony is necessary in order to provide significant, unprivileged information that is not available from any other source or by less burdensome means; and

(ii) That the employee's attendance would not significantly interfere with the ability to perform his or her government duties.

(b) *Service.* (1) A subpoena may be served by any person who is not a party and is 18 years of age or older.

(2) Service must be made by hand delivering a copy of the subpoena to the person named therein.

(3) The person serving the subpoena must:

(i) Prepare a certificate of service setting forth the date, time, and manner of service or the reason for any failure of service; and

(ii) Swear to or affirm the certificate, attach it to a copy of the subpoena, and return it to the party on whose behalf the subpoena was served.

(c) *Witness fees.* (1) A party who subpoenas a witness who is not a party must pay him or her the same fees and mileage expenses that are paid witnesses in the district courts of the United States.

(2) A witness who is not a party and who attends a deposition or hearing at the request of any party without having been subpoenaed to do so is entitled to the same fees and mileage expenses as if he or she had been subpoenaed. However, this paragraph does not apply to federal employees who are called as witnesses by OFA.

(d) *Motion to quash.* (1) A person to whom a subpoena is directed may request by motion that the ALJ quash or modify the subpoena.

(2) The motion must be filed:

(i) Within 5 days after service of the subpoena; or

(ii) At or before the time specified in the subpoena for compliance, if that is less than 5 days after service of the subpoena.

(3) The ALJ may quash or modify the subpoena if it:

(i) Is unreasonable;

(ii) Requires evidence beyond the limits on witnesses and evidence found in §§ 4.1042 and 4.1046;

(iii) Requires evidence during discovery that is not discoverable; or

(iv) Requires evidence during a hearing that is privileged or irrelevant.

(e) *Enforcement.* For good cause shown, the ALJ may apply to the appropriate United States District Court for the issuance of an order compelling the appearance and testimony of a witness or the production of evidence as set forth in a subpoena that has been duly issued and served.

*Hearing, Briefing, and Recommended Decision*

**§ 4.1040 When and where will the hearing be held?**

(a) *Time and place.* (1) Except as provided in paragraph (b) of this section, the hearing will be held at the time and place set at the initial prehearing conference under § 4.1022(a)(1)(iii), generally within 90 days after the date DCHD issues the docketing notice under § 4.1020(a)(3).

(2) The ALJ will consider the convenience of all parties, their representatives, and witnesses in setting the time and place for hearing.

(b) *Change.* On motion by a party or on the ALJ's initiative, the ALJ may change the date, time, or place of the hearing if he or she finds:

(1) That there is good cause for the change; and

(2) That the change will not unduly prejudice the parties and witnesses.

**§ 4.1041 What are the parties' rights during the hearing?**

Consistent with the provisions of this subpart, and as necessary to ensure full and accurate disclosure of the facts, each party may exercise the following rights during the hearing:

(a) Present direct and rebuttal evidence;

(b) Make objections, motions, and arguments; and

(c) Cross-examine witnesses, including OFA staff, and conduct re-direct and re-cross examination as permitted by the ALJ.

**§ 4.1042 Who may testify?**

(a) Except as provided in paragraph (b) of this section, each party may present as witnesses the following persons only:

(1) Persons who qualify as expert witnesses; and

(2) OFA staff who participated in the preparation of the negative proposed finding, except that if the OFA employee is a senior Department employee, any party other than OFA must first obtain a subpoena for that employee under § 4.1035.

(b) The ALJ may authorize testimony from witnesses in addition to those identified in paragraph (a) of this

section only under extraordinary circumstances.

**§ 4.1043 What are the methods for testifying?**

Oral examination of a witness in a hearing, including on cross-examination or redirect, must be conducted under oath with an opportunity for all parties to question the witness. The witness must testify in the presence of the ALJ unless the ALJ authorizes the witness to testify by telephonic conference call. The ALJ may issue a subpoena under § 4.1035 directing a witness to testify by telephonic conference call.

**§ 4.1044 How may a party use a deposition in the hearing?**

(a) *In general.* Subject to the provisions of this section, a party may use in the hearing any part or all of a deposition taken against any party who:

(1) Was present or represented at the taking of the deposition; or

(2) Had reasonable notice of the taking of the deposition.

(b) *Admissibility.* (1) No part of a deposition will be included in the hearing record, unless received in evidence by the judge.

(2) The judge will exclude from evidence any question and response to which an objection:

(i) Was noted at the taking of the deposition; and

(ii) Would have been sustained if the witness had been personally present and testifying at a hearing.

(3) If a party offers only part of a deposition in evidence:

(i) An adverse party may require the party to introduce any other part that ought in fairness to be considered with the part introduced; and

(ii) Any other party may introduce any other parts.

(c) *Video-recorded deposition.* If the deposition was video recorded and is admitted into evidence, relevant portions will be played during the hearing and transcribed into the record by the reporter.

**§ 4.1045 What are the requirements for exhibits, official notice, and stipulations?**

(a) *General.* (1) Except as provided in paragraphs (d) and (e) of this section, any material offered in evidence, other than oral testimony, must be offered in the form of an exhibit.

(2) Each exhibit offered by a party must be marked for identification.

(3) Any party who seeks to have an exhibit admitted into evidence must provide:

(i) The original of the exhibit to the reporter, unless the ALJ permits the substitution of a copy; and

(ii) A copy of the exhibit to the ALJ.

(b) *ALJ exhibits.* (1) At any time prior to issuance of the recommended decision, the ALJ, on his or her own initiative, may admit into evidence as an exhibit any document from the administrative record reviewed by OFA.

(2) If the ALJ admits a document under paragraph (b)(1) of this section, the ALJ must notify the parties and give them a brief opportunity to submit comments on the document.

(c) *Material not offered.* If a document offered as an exhibit contains material not offered as evidence:

(1) The party offering the exhibit must:

(i) Designate the matter offered as evidence;

(ii) Segregate and exclude the material not offered in evidence, to the extent feasible; and

(iii) Provide copies of the entire document to the other parties appearing at the hearing.

(2) The ALJ must give the other parties an opportunity to inspect the entire document and offer in evidence any other portions of the document.

(d) *Official notice.* (1) At the request of any party at the hearing, the ALJ may take official notice of any matter of which the courts of the United States may take judicial notice, including the public records of the Department, except materials in the administrative record reviewed by OFA.

(2) The ALJ must give the other parties appearing at the hearing an opportunity to show the contrary of an officially noticed fact.

(3) Any party requesting official notice of a fact after the conclusion of the hearing must show good cause for its failure to request official notice during the hearing.

(e) *Stipulations.* (1) The parties may stipulate to any relevant facts or to the authenticity of any relevant documents.

(2) If received in evidence at the hearing, a stipulation is binding on the stipulating parties.

(3) A stipulation may be written or made orally at the hearing.

**§ 4.1046 What evidence is admissible at the hearing?**

(a) *Scope of evidence.* (1) The ALJ may admit as evidence only documentation in the administrative record reviewed by OFA, including comments on OFA's proposed finding and petitioner's responses to those comments, and testimony clarifying or explaining the information in that documentation, except as provided in paragraph (a)(2) of this section.

(2) The ALJ may admit information outside the scope of paragraph (a)(1) of this section only if the party seeking to admit the information explains why the information was not submitted for inclusion in the administrative record reviewed by OFA and demonstrates that extraordinary circumstances exist justifying admission of the information.

(3) Subject to the provisions of § 4.1032(b) and paragraphs (a)(1) and (2) of this section, the ALJ may admit any written, oral, documentary, or demonstrative evidence that is:

(i) Relevant, reliable, and probative; and

(ii) Not privileged or unduly repetitious or cumulative.

(b) *General.* (1) The ALJ may exclude evidence if its probative value is substantially outweighed by the risk of undue prejudice, confusion of the issues, or delay.

(2) Hearsay evidence is admissible. The ALJ may consider the fact that evidence is hearsay when determining its probative value.

(3) The Federal Rules of Evidence do not directly apply to the hearing, but may be used as guidance by the ALJ and the parties in interpreting and applying the provisions of this section.

(c) *Objections.* Any party objecting to the admission or exclusion of evidence shall concisely state the grounds. A ruling on every objection must appear in the record.

**§ 4.1047 What are the requirements for transcription of the hearing?**

(a) *Transcript and reporter's fees.* The hearing must be transcribed verbatim.

(1) DCHD will secure the services of a reporter and pay the reporter's fees to provide an original transcript to DCHD on an expedited basis.

(2) Each party must pay the reporter for any copies of the transcript obtained by that party.

(b) *Transcript corrections.* (1) Any party may file a motion proposing corrections to the transcript. The motion must be filed within 5 days after receipt of the transcript, unless the ALJ sets a different deadline.

(2) Unless a party files a timely motion under paragraph (b)(1) of this section, the transcript will be presumed to be correct and complete, except for obvious typographical errors.

(3) As soon as feasible after the close of the hearing and after consideration of any motions filed under paragraph (b)(1) of this section, the ALJ will issue an order making any corrections to the transcript that the ALJ finds are warranted.

**§ 4.1048 What is the standard of proof?**

The ALJ will consider a criterion to be met if the evidence establishes a reasonable likelihood of the validity of

the facts related to the criteria. Conclusive proof of the facts relating to a criterion shall not be required in order for the criterion to be considered met.

**§ 4.1049 When will the hearing record close?**

(a) The hearing record will close when the ALJ closes the hearing, unless he or she directs otherwise.

(b) Except as provided in § 4.1045(b)(1), evidence may not be added after the hearing record is closed, but the transcript may be corrected under § 4.1047(b).

**§ 4.1050 What are the requirements for post-hearing briefs?**

(a) *General.* (1) Each party may file a post-hearing brief within 20 days after the close of the hearing, unless the ALJ sets a different deadline.

(2) A party may file a reply brief only if requested by the ALJ. The deadline for filing a reply brief, if any, will be set by the ALJ.

(3) The ALJ may limit the length of the briefs to be filed under this section.

(b) *Content.* (1) An initial brief must include:

(i) A concise statement of the case;

(ii) A separate section containing proposed findings regarding the issues of material fact, with supporting citations to the hearing record;

(iii) Arguments in support of the party's position; and

(iv) Any other matter required by the ALJ.

(2) A reply brief, if requested by the ALJ, must be limited to any issues identified by the ALJ.

(c) *Form.* (1) An exhibit admitted into evidence or marked for identification in the record may not be reproduced in the brief.

(i) Such an exhibit may be reproduced, within reasonable limits, in an appendix to the brief.

(ii) Any pertinent analysis of an exhibit may be included in a brief.

(2) If a brief exceeds 30 pages, it must contain:

(i) A table of contents and of points made, with page references; and

(ii) An alphabetical list of citations to legal authority, with page references.

**§ 4.1051 What are the requirements for the ALJ's recommended decision?**

(a) *Timing.* The ALJ must issue a recommended decision within 180 days after issuance of the docketing notice under § 4.1020(a)(3), unless the ALJ issues an order finding good cause to issue the recommended decision at a later date.

(b) *Content.* (1) The recommended decision must contain all of the following:

(i) Recommended findings of fact on all disputed issues of material fact;

(ii) Recommended conclusions of law:

(A) Necessary to make the findings of fact (such as rulings on materiality and on the admissibility of evidence); and

(B) As to whether the applicable criteria for Federal acknowledgment have been met; and

(iii) Reasons for the findings and conclusions.

(2) The ALJ may adopt any of the findings of fact proposed by one or more of the parties.

(c) *Service.* Promptly after issuing a recommended decision, the ALJ must:

(1) Serve the recommended decision on each party to the hearing process; and

(2) Forward the complete hearing record to the Assistant Secretary—Indian Affairs, including the recommended decision.

Dated: August 3, 2015.

**Kristen J. Sarri,**

*Principal Deputy Assistant Secretary for Policy Management & Budget.*

[FR Doc. 2015–19612 Filed 8–12–15; 8:45 am]

BILLING CODE 4337–15–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 679

**[Docket No. 140918791–4999–02]**

**RIN 0648–XE099**

## Fisheries of the Economic Exclusive Zone Off Alaska; Groundfish Fishery by Non-Rockfish Program Catcher Vessels Using Trawl Gear in the Western and Central Regulatory Area of the Gulf of Alaska

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

**ACTION:** Temporary rule; modification of closure.

**SUMMARY:** NMFS is opening directed fishing for groundfish, other than pollock, by non-Rockfish Program catcher vessels using trawl gear in the Western and Central Regulatory Areas of the Gulf of Alaska (GOA). This action is necessary to fully use the 2015 groundfish total allowable catch available for non-Rockfish Program catcher vessels directed fishing for groundfish, other than pollock, using trawl gear in the Western and Central Regulatory Areas of the GOA.

**DATES:** Effective 1200 hours, Alaska local time (A.l.t.), August 10, 2015, through 2400 hours, A.l.t., December 31, 2015. Comments must be received at the following address no later than 4:30 p.m., A.l.t., August 25, 2015.

**ADDRESSES:** You may submit comments on this document, identified by NOAA–NMFS–2014–0118, by any of the following methods:

- Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0118*, click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- Mail: Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.*, name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:** Mary Furuness, 907–586–7228.

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

NMFS prohibited directed fishing for groundfish, other than pollock, by non-Rockfish Program catcher vessels using trawl gear in the Western and Central Regulatory Areas of the GOA, effective 1200 hours, A.l.t., May 3, 2015 (May 6, 2015, 80 FR 25967) under § 679.21(i)(7)(i).

On August 10, 2015, NMFS published an emergency rule (80 FR 47864, August 10, 2015) establishing a Chinook salmon prohibited species catch (PSC) limit of 1,600 for non-Rockfish Program catcher vessels directed fishing for groundfish, other than pollock, using trawl gear in the Western and Central Regulatory Areas of the GOA that is available from August 10, 2015 until December 31, 2015 (§ 679.21(i)(8)). Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C), and (a)(2)(iii)(D), and to fully utilize the 2015 groundfish total allowable catch available for non-Rockfish Program catcher vessels directed fishing for groundfish, other than pollock, using trawl gear in the Western and Central Regulatory Areas of the GOA, NMFS is terminating the previous closure and is opening directed fishing for non-Rockfish Program catcher vessels directed fishing for groundfish, other than pollock, using trawl gear in the Western and Central Regulatory Areas of the GOA.

**Classification**

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) and § 679.25(c)(1)(ii) as such a requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay opening directed fishing for groundfish, other than pollock, by non-Rockfish Program catcher vessels using trawl gear in the Western and Central Regulatory Areas of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of August 7, 2015.

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

Without this inseason adjustment, NMFS could not allow the fishery for groundfish, other than pollock, by non-Rockfish Program catcher vessels using trawl gear in the Western and Central Regulatory Areas of the GOA to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until August 25, 2015.

This action is required by §§ 679.20, 679.21, and 679.25 and is exempt from review under Executive Order 12866.

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

Dated: August 10, 2015.

**Alan D. Risenhoover,**

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

[FR Doc. 2015–19926 Filed 8–10–15; 4:15 pm]

**BILLING CODE 3510–22–P**

# Proposed Rules

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

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 71

**[Docket No. FAA–2015–1389; Airspace Docket No. 13–ASW–8]**

## Proposed Establishment of Class E Airspace; Vidalia, LA

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This action proposes to establish Class E airspace at Vidalia, LA. Controlled airspace is necessary to accommodate new Standard Instrument Approach Procedures at Concordia Parish Airport. The FAA is proposing this action to enhance the safety and management of Instrument Flight Rules (IFR) operations at the airport.

**DATES:** Comments must be received on or before September 28, 2015.

**ADDRESSES:** Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2015–1389/Airspace Docket No. 13–ASW–8, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FAA Order 7400.9Y, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15. For further information, you can contact the Airspace Policy and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–8783.

**FOR FURTHER INFORMATION CONTACT:** Rebecca Shelby, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone: 817–321–7740.

**SUPPLEMENTARY INFORMATION:**

### Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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. This rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish Class E airspace at Concordia Parish Airport, Vidalia, LA.

### Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2015–1389/Airspace Docket No. 13–ASW–8.'' The postcard will be date/time stamped and returned to the commenter.

### Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, 2601 Meacham Blvd., Fort Worth, TX 76137.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

### Availability and Summary of Documents Proposed for Incorporation by Reference

This document proposes to amend FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014. FAA Order 7400.9Y is publicly available as listed in the **ADDRESSES** section of this proposed rule. FAA Order 7400.9Y lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

### The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by establishing Class E airspace extending upward from 700 feet above the surface within a 7.7-mile radius of Concordia Parish Airport,

Vidalia, LA, with a segment extending 9 miles south to accommodate new standard instrument approach procedures. Controlled airspace is needed for the safety and management of IFR operations at the airport.

Class E airspace areas are published in Paragraph 6005 of FAA Order 7400.9Y, dated August 6, 2014, and effective September 15, 2014, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

**Regulatory Notices and Analyses**

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal.

Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**Environmental Review**

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**The Proposed Amendment**

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

## PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for Part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

**§ 71.1 [Amended]**

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014, is amended as follows:

*Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth*

* * * * *

**ASW LA E5 Vidalia, LA [New]**

Concordia Parish Airport, LA
(Lat. 31°33′43″ N., long. 91°30′23″ W.)

That airspace extending upward from 700 feet above the surface within a 7.7-mile radius of Concordia Parish Airport, and within 2 miles each side of the 174° bearing from the airport extending from the 7.7 mile radius to 9 miles south of the airport.

Issued in Fort Worth, TX, on July 28, 2015.

**Walter Tweedy,**

*Acting Manager, Operations Support Group, ATO Central Service Center.*

[FR Doc. 2015–19146 Filed 8–12–15; 8:45 am]

**BILLING CODE 4910–13–P**

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Docket No. FAA–2015–1833; Airspace Docket No. 15–ASW–7]**

## Proposed Establishment of Class E Airspace; Marshall, AR

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This action proposes to establish Class E airspace at Marshall, AR. Controlled airspace is necessary to accommodate new Standard Instrument Approach Procedures at Concordia Parish Airport. The FAA is proposing this action to enhance the safety and management of Instrument Flight Rules (IFR) operations at the airport.

**DATES:** Comments must be received on or before September 28, 2015.

**ADDRESSES:** Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2015–1833/Airspace Docket No. 15–ASW–7, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov*. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FAA Order 7400.9Y, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/*. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html*.

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15. For further information, you can contact the Airspace Policy and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–8783.

**FOR FURTHER INFORMATION CONTACT:** Rebecca Shelby, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone: 817–321–7740.

**SUPPLEMENTARY INFORMATION:**

**Authority for This Rulemaking**

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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. This rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish Class E airspace at Searcy County Airport, Marshall, AR.

**Comments Invited**

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory

decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2015–1833/Airspace Docket No. 15–ASW–7.'' The postcard will be date/time stamped and returned to the commenter.

**Availability of NPRMs**

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/*.

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, 2601 Meacham Blvd., Fort Worth, TX 76137.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

**Availability and Summary of Documents Proposed for Incorporation by Reference**

This document proposes to amend FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014. FAA Order 7400.9Y is publicly available as listed in the **ADDRESSES** section of this proposed rule. FAA Order 7400.9Y lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

**The Proposal**

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by establishing Class E airspace extending upward from 700 feet above the surface within an 11.2-mile radius of Searcy County Airport, Marshall, AR, to accommodate new standard instrument approach procedures. Controlled airspace is needed for the safety and management of IFR operations at the airport.

Class E airspace areas are published in Paragraph 6005 of FAA Order 7400.9Y, dated August 6, 2014, and effective September 15, 2014, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

**Regulatory Notices and Analyses**

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal.

Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**Environmental Review**

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**The Proposed Amendment**

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

## PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for Part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

**§ 71.1 [Amended]**

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014, is amended as follows:

*Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth*

* * * * *

**ASW AR E5 Marshall, AR [New]**

Searcy County Airport, AR
(Lat. 35°53′55″ N., long. 92°39′23″ W.)

That airspace extending upward from 700 feet above the surface within an 11.2-mile radius of Searcy County Airport.

Issued in Fort Worth, TX, on July 28, 2015.

**Walter Tweedy,**

*Acting Manager, Operations Support Group, ATO Central Service Center.*

[FR Doc. 2015–19151 Filed 8–12–15; 8:45 am]

**BILLING CODE 4910–13–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Part 573

**[Docket No. FDA–2015–F–2712]**

## Adisseo France S.A.S.; Filing of Food Additive Petition (Animal Use)

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

**ACTION:** Notice of petition.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that Adisseo France S.A.S. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of selenomethionine hydroxy analogue as a source of selenium in feed for chickens, turkeys, swine, dairy cattle, and beef cattle.

**DATES:** Submit either electronic or written comments on the petitioner's request for categorical exclusion from preparing an environmental assessment or environmental impact statement by September 14, 2015.

**ADDRESSES:** Submit electronic comments to: *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

**FOR FURTHER INFORMATION CONTACT:** Isabel Pocurull, Center for Veterinary Medicine, Food and Drug Administration, 7519 Standish Pl.,

Rockville, MD 20855, 240–402–5877, *isabel.pocurull@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** Under the Federal Food, Drug, and Cosmetic Act (section 409(b)(5) (21 U.S.C. 348(b)(5)), notice is given that a food additive petition (FAP 2291) has been filed by Adisseo France S.A.S., Immeuble Antony Parc II, 10 Place du Général de Gaulle, 92160 Antony, France. The petition proposes to amend Title 21 of the Code of Federal Regulations (CFR) in part 573 *Food Additives Permitted in Feed and Drinking Water of Animals* (21 CFR part 573) to provide for the safe use of selenomethionine hydroxy analogue as a source of selenium in feed for chickens, turkeys, swine, dairy cattle, and beef cattle. The petitioner has requested a categorical exclusion from preparing an environmental assessment or environmental impact statement under 21 CFR 25.32(r).

Interested persons may submit either electronic or written comments regarding this request for categorical exclusion to the Division of Dockets Management (see **DATES** and **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

Dated: August 7, 2015.

**Bernadette Dunham,**

*Director, Center for Veterinary Medicine.*

[FR Doc. 2015–19884 Filed 8–12–15; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### 26 CFR Part 1

**[REG–132075–14]**

**RIN 1545–BM49**

## Extension of Time to File Certain Information Returns

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations that will remove the automatic extension of time to file information returns on forms in the W–2 series (except Form W–2G). The temporary regulations will allow only a single 30-day non-automatic extension of time to file these information returns. In addition, the temporary regulations will update the list of information returns subject to the rules regarding extensions of time to file. These proposed regulations incorporate the temporary regulations with respect to extensions of time to file information returns on forms in the W–2 series (except Form W–2G). In addition, these proposed regulations would remove the automatic 30-day extension of time to file all information returns listed in the temporary regulation.

**DATES:** Written or electronic comments and requests for a public hearing must be received by November 12, 2015.

**ADDRESSES:** Send submissions to: CC:PA:LPD:PR (REG–132075–14), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–132075–14), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC, or sent via the Federal eRulemaking Portal at *www.regulations.gov* (IRS REG–132075–14).

**FOR FURTHER INFORMATION CONTACT:** Concerning these proposed regulations, Jonathan R. Black, (202) 317–6845; concerning submissions of comments and/or requests for a hearing, Regina Johnson (202) 317–6901 (not toll-free numbers).

**SUPPLEMENTARY INFORMATION:**

### Background and Explanation of Provisions

Temporary regulations § 1.6081–8T in the Rules and Regulations section of this issue of the **Federal Register** will amend 26 CFR part 1 by removing the automatic extension of time to file information returns on forms in the W–2 series (except Form W–2G), effective for filing season 2017. The temporary regulations will allow only a single 30-day non-automatic extension of time to file these information returns that the IRS may, in its discretion, grant if the IRS determines that an extension of time to file is warranted based on the filer's or transmitter's explanation attached to a Form 8809, ''Application for Extension of Time to File Information Returns,'' signed under penalties of perjury. The temporary regulations will also add Forms 3921, 3922, 1094–C, and forms in the 1097 series to the list of information returns covered by § 1.6081–8T(a) and clarify that Forms 1095–B and 1095–C, but not Form 1095–A, are covered by the rules in § 1.6081–8T(a).

These proposed regulations would remove the automatic 30-day extension of time to file the information returns listed in § 1.6081–8T(a) and allow only a single non-automatic extension of time to file all information returns listed in § 1.6081–8T.

The IRS anticipates that, as described in the temporary regulations with respect to forms in the W–2 series (other than Forms W–2G), under the proposed regulations, the IRS will grant the non-automatic 30-day extension of time to file information returns listed in § 1.6081–8(a) only in limited cases where the filer's or transmitter's explanation demonstrates that an extension of time to file is needed as a result of extraordinary circumstances or catastrophe, such as a natural disaster or fire destroying the books and records a filer needs for filing the information returns.

Treasury and the IRS request comments on the appropriate timing of the removal of the automatic 30-day extension of time to file information returns covered by these proposed regulations, such as Form 1042–S, including whether special transitional considerations should be given for any category or categories of forms or filers relative to other forms or filers. Although these regulations are proposed to be effective for requests for extensions of time to file information returns due on or after January 1 of the calendar year immediately following the date of publication of a Treasury decision adopting these rules as final regulations in the **Federal Register**, removal of the automatic 30-day extension of time to file will not apply to information returns (other than forms in the W–2 series except Forms W–2G) due any earlier than January 1, 2018. Please follow the instructions in the ''Comments and Requests for Public Hearing'' portion of this preamble.

The temporary regulations affect taxpayers who are required to file information returns on forms in the W–2 series (except Forms W–2G) and need an extension of time to file. These proposed regulations also affect taxpayers who need an extension of time to file any of the information returns listed in § 1.6081–8T(a).

The substance of the temporary regulations is incorporated in these proposed regulations. The preamble to the temporary regulations explains these amendments. These proposed regulations would also expand the rules in § 1.6081–8T(b) to the other information returns, which are listed in § 1.6081–8T(a).

**Proposed Effective/Applicability Date**

The regulations, as proposed, would apply to requests for extensions of time to file information returns due on or after January 1 of the calendar year immediately following the date of publication of a Treasury decision adopting these rules as final regulations in the **Federal Register**.

**Special Analyses**

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these proposed regulations.

Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. As stated in this preamble, the proposed regulations would remove the automatic 30-day extension of time to file certain information returns (Form W–2G, 1042–S, 1094–C, 1095–B, 1095–C, 1097 series, 1098 series, 1099 series, 3921, 3922, 5498 series, and 8027). Under the proposed regulations, filers and transmitters would be permitted to request only one 30-day extension of time to file these information returns by timely submitting a Form 8809, including an explanation of the reasons for requesting the extension and signed under penalty of perjury. Although the proposed regulation may potentially affect a substantial number of small entities, the economic impact on these entities is not expected to be significant because filers who are unable to timely file as a result of extraordinary circumstances or catastrophe may continue to obtain a 30-day extension through the Form 8809 process, which takes approximately 20 minutes to prepare and submit to the IRS. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

**Comments and Requests for Public Hearing**

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in the preamble under the **ADDRESSES** heading. Treasury and the IRS request comments on all aspects of the proposed regulations. All comments submitted will be made available at *www.regulations.gov* or upon request. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

**Drafting Information**

The principal author of these regulations is Jonathan R. Black of the Office of the Associate Chief Counsel (Procedure and Administration).

**List of Subjects in 26 CFR Part 1**

Income taxes, Reporting and recordkeeping requirements.

**Proposed Amendments to the Regulations**

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

## PART 1—INCOME TAXES

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

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

**Par. 2.** Section 1.6081–8 is revised to read as follows:

**§ 1.6081–8 Extension of time to file certain information returns.**

(a) *In general.* Except as provided in paragraph (e) of this section, a person required to file an information return (the filer) on forms in the W–2 series (including Forms W–2, W–2AS, W–2G, W–2GU, and W–2VI), 1097 series, 1098 series, 1099 series, or 5498 series, or on Forms 1042–S, 1094–C, 1095–B, 1095–C, 3921, 3922, or 8027, or the person transmitting the information return for the filer (the transmitter), may only request one non-automatic 30-day extension of time to file the information return beyond the due date for filing it. To make such a request, the filer or transmitter must submit an application for an extension of time to file in accordance with paragraph (b) of this section. No additional extension of time to file will be allowed pursuant to § 1.6081–1 beyond the 30-day extension of time to file provided by this paragraph.

(b) *Requirements.* To satisfy this paragraph (b), a filer or transmitter must—

(1) Submit a complete application on Form 8809, ''Application for Extension of Time to File Information Returns,'' or in any other manner prescribed by the Commissioner, including a detailed explanation of why additional time is needed;

(2) File the application with the Internal Revenue Service in accordance with forms, instructions, or other appropriate guidance on or before the due date for filing the information return; and

(3) Sign the application under penalties of perjury.

(c) *Penalties.* See sections 6652, 6693, and 6721 through 6724 for failure to comply with information reporting requirements on information returns described in paragraph (a) of this section.

(d) *No effect on time to furnish statements.* An extension of time to file an information return under this section does not extend the time for furnishing a statement to the person with respect to whom the information is required to be reported.

(e) *Form W–2 filed on expedited basis.* This section does not apply to an information return on a form in the W–2 series if the procedures authorized in Rev. Proc. 96–57 (1996–2 CB 389) (or a successor revenue procedure) allow an automatic extension of time to file the information return. See § 601.601(d)(2)(ii)(b) of this chapter.

(f) *Effective/applicability date.* This section applies to requests for extensions of time to file information returns due on or after January 1 of the calendar year immediately following the date of publication of a Treasury decision adopting these rules as final regulations in the **Federal Register**.

**§ 1.6081–8T [Removed]**

**Par. 3.** Section 1.6081–8T is removed.

**John Dalrymple,**

*Deputy Commissioner for Services and Enforcement.*

[FR Doc. 2015–19933 Filed 8–12–15; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## 42 CFR Part 80

**[Docket No. CDC–2015–0062; NIOSH–286]**

**RIN 0920–AA55**

## Occupational Safety and Health Research and Related Activities; Administrative Functions, Practices, and Procedures

**AGENCY:** Centers for Disease Control and Prevention, HHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Department of Health and Human Services (HHS) proposes the

removal of its regulations pertaining to administrative functions, practices, and procedures for occupational safety and health research and related activities conducted by the National Institute for Occupational Safety and Health (NIOSH) in the Centers for Disease Control and Prevention (CDC). As a part of the retrospective review conducted by all Federal agencies, HHS has determined that these regulations are no longer in use by NIOSH and should be removed.

**DATES:** Comments must be received by September 14, 2015.

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

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* NIOSH Docket Office, 1090 Tusculum Avenue, MS C–34, Cincinnati, OH 45226–1998.

*Instructions:* All submissions received must include the agency name (Centers for Disease Control and Prevention, HHS) and docket number (CDC–2015–0062; NIOSH–286) or Regulation Identifier Number (0920–AA55) for this rulemaking. All relevant comments, including any personal information provided, will be posted without change to *http://www.regulations.gov.*

*Docket:* For access to the docket go to *http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Rachel Weiss, Program Analyst, 1090 Tusculum Ave, MS: C–46, Cincinnati, OH 45226; telephone (855) 818–1629 (this is a toll-free number); email *NIOSHregs@cdc.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Public Participation

Interested persons or organizations are invited to participate in this rulemaking by submitting written views, recommendations, and data. In addition, HHS invites comments on any aspect of this rulemaking.

All comments submitted will be available for examination in the rule docket (a publicly available repository of the documents associated with the rulemaking) both before and after the closing date for comments. A complete electronic docket containing all comments submitted will be available on *http://www.regulations.gov.*

Comments submitted electronically or by mail should be titled ''Docket No. CDC–2015–0062'' and should identify the author(s) and contact information in case clarification is needed. Electronic and written comments can be submitted to the addresses provided in the **ADDRESSES** section, above. All communications received on or before the closing date for comments will be fully considered by HHS.

## II. Statutory Authority

HHS promulgated Part 80 of Title 42 to facilitate Section 21(a)(1) of the Occupational Safety and Health (OSH) Act of 1970 (29 U.S.C. 670(a)(1)), which authorizes the Director of NIOSH to conduct educational programs to provide an adequate supply of qualified personnel to carry out the purposes of the OSH Act. Part 80 established tuition fees for such training, as authorized by 31 U.S.C. 483a (31 U.S.C. 9701, as revised by Pub. L. 97–258, September 13, 1982), which permits agencies to ''prescribe regulations establishing the charge for service or thing of value provided by the agency.'' In accordance with section 6 of Executive Order 13563, HHS conducted a retrospective analysis of its existing rules, determined Part 80 to be obsolete, and is proposing the removal of Part 80 from Title 42.

## III. Summary of Proposed Rule

The provisions in Part 80 establish the NIOSH policies with respect to the charging of fees for direct training in occupational safety and health. Because NIOSH no longer offers direct training programs, these provisions are no longer needed. Removing Part 80 from Title 42 will have no effect on NIOSH procedures or practices, including the NIOSH funding of the Education and Research Centers for Occupational Safety and Health. This action is being done in accordance with Executive Order 13563, section 6, which requires that Federal agencies conduct retrospective analyses of existing rules. In conducting the analysis, HHS discovered that the Part 80 provisions were outdated.

## IV. Regulatory Assessment Requirements

### *A. Executive Order 12866 and Executive Order 13563*

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

This proposed rule has been determined not to be a ''significant regulatory action'' under § 3(f) of E.O. 12866. With this action, HHS is proposing the removal of Part 80 from Title 42. Because this notice of proposed rulemaking is entirely administrative and does not affect the economic impact, cost, or policies of any activities authorized by Title 42, HHS has not prepared an economic analysis and the Office of Management and Budget (OMB) has not reviewed this rulemaking.

### *B. Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.,* requires each agency to consider the potential impact of its regulations on small entities including small businesses, small governmental units, and small not-for-profit organizations. Because no substantive changes will be made to 42 CFR part 85a as a result of this action, HHS certifies that this rule has ''no significant economic impact upon a substantial number of small entities'' within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

### *C. Paperwork Reduction Act*

The Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* requires an agency to invite public comment on, and to obtain OMB approval of, any regulation that requires 10 or more people to report information to the agency or to keep certain records. Data collection and recordkeeping requirements for the health investigations of places of employment program receive OMB approval on an as-needed basis. The amendments in this rulemaking do not impact the collection of data.

### *D. Small Business Regulatory Enforcement Fairness Act*

As required by Congress under the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*), HHS will report the promulgation of this rule to Congress prior to its effective date.

### *E. 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.'' For purposes of the Unfunded Mandates Reform Act, this proposed rule does not include any Federal mandate that may result in increased annual expenditures in excess of $100

million by State, local or Tribal governments in the aggregate, or by the private sector.

*F. Executive Order 12988 (Civil Justice)*

This proposed rule has been drafted and reviewed in accordance with Executive Order 12988, ''Civil Justice Reform,'' and will not unduly burden the Federal court system. This rule has been reviewed carefully to eliminate drafting errors and ambiguities.

*G. Executive Order 13132 (Federalism)*

HHS has reviewed this proposed rule in accordance with Executive Order 13132 regarding federalism, and has determined that it does not have ''federalism implications.'' The rule does not ''have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

*H. Executive Order 13045 (Protection of Children From Environmental Health Risks and Safety Risks)*

In accordance with Executive Order 13045, HHS has evaluated the environmental health and safety effects of this proposed rule on children. HHS has determined that the rule would have no environmental health and safety effect on children.

*I. Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use)*

In accordance with Executive Order 13211, HHS has evaluated the effects of this proposed rule on energy supply, distribution or use, and has determined that the rule will not have a significant adverse effect.

*J. Plain Writing Act of 2010*

Under Public Law 111–274 (October 13, 2010), executive Departments and Agencies are required to use plain language in documents that explain to the public how to comply with a requirement the Federal Government administers or enforces. HHS has attempted to use plain language in promulgating the proposed rule consistent with the Federal Plain Writing Act guidelines.

**Proposed Rule**

## PART 80—[REMOVED AND RESERVED]

For the reasons discussed in the preamble and under the authorities 29 U.S.C. 671, 31 U.S.C. 9701, and 42 U.S.C. 216(b), the Department of Health and Human Services proposes to amend 42 CFR chapter I by removing part 80.

Dated: August 3, 2015.

**Sylvia M. Burwell,**

*Secretary, Department of Health and Human Services.*

[FR Doc. 2015–19856 Filed 8–12–15; 8:45 am]

BILLING CODE 416350–18–P

# Notices

Federal Register

Vol. 80, No. 156

Thursday, August 13, 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

### Agricultural Marketing Service

**[Doc. No. AMS–FV–15–0041]**

### Fruit and Vegetable Industry Advisory Committee

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

**ACTION:** Notice of public meeting.

**SUMMARY:** Pursuant to the Federal Advisory Committee Act, the Agricultural Marketing Service (AMS) is announcing a meeting of the Fruit and Vegetable Industry Advisory Committee (Committee). The meeting is being convened to examine the full spectrum of fruit and vegetable industry issues and to provide recommendations and ideas to the Secretary of Agriculture on how the U.S. Department of Agriculture (USDA) can tailor programs and services to better meet the needs of the U.S. produce industry. The meeting is open to the public. This notice sets forth the schedule and location for the meeting.

**DATES:** Tuesday, September 15, 2015, from 8:30 a.m. to 5:00 p.m. Eastern Time, and Wednesday, September 16, 2015, from 8:30 a.m. to 1:00 p.m., Eastern Time.

**ADDRESSES:** The Committee meeting will be held in the Latrobe/Bulfinch Conference Room at the Grand Hyatt Washington Hotel, 1000 H Street Northwest, Washington, DC 20001.

**FOR FURTHER INFORMATION CONTACT:** Pamela Stanziani, Designated Federal Official, USDA, AMS, Fruit and Vegetable Program; Telephone: (202) 720–3334; Email: *pamela.stanziani@ams.usda.gov.*

**SUPPLEMENTARY INFORMATION:** Pursuant to the Federal Advisory Committee Act (FACA) (5 U.S.C. App.), the Secretary of Agriculture (Secretary) established the Committee in 2001, to examine the full spectrum of issues faced by the fruit and vegetable industry and to provide suggestions and ideas to the Secretary on how USDA can tailor its programs to meet the fruit and vegetable industry's needs. The Committee was re-chartered in July 2015, for a two-year period.

AMS Deputy Administrator for the Fruit and Vegetable Program, Charles Parrott, serves as the Committee's Manager. Representatives from USDA mission areas and other government agencies affecting the fruit and vegetable industry are periodically called upon to participate in the Committee's meetings as determined by the Committee. AMS is giving notice of the Committee meeting to the public so that they may attend and present their views. The meeting is open to the public.

*Public Comments:* All written public comments must be submitted electronically by August 31, 2015, for the Committee's consideration to Pamela Stanziani at *pamela.stanziani@ams.usda.gov* or to *www.regulations.gov,* or mailed to: 1400 Independence Avenue SW., Room 2077–South, STOP 0235, Washington, DC 20250–0235. The meeting will be recorded, and information about obtaining a transcript will be provided at the meeting.

Agenda items may include, but are not limited to, welcome and introductions, administrative matters, progress reports from committee working group chairs and/or vice chairs, potential working group recommendation discussion, and presentations by subject matter experts as requested by the Committee.

*Meeting Accommodations:* The Grand Hyatt Washington Hotel is ADA compliant and provides reasonable accommodations to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in this public meeting, please notify Pamela Stanziani at *pamela.stanziani@ams.usda.gov* or (202) 720–3334, by August 31, 2015. Determinations for reasonable accommodations will be made on a case-by-case basis.

Dated: August 10, 2015.

**Rex A. Barnes,**

*Associate Administrator.*

[FR Doc. 2015–19927 Filed 8–12–15; 8:45 am]

BILLING CODE P

## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

### Privacy Act of 1974; Systems of Records USDA/OIG–1 through USDA/OIG–9

**AGENCY:** Office of Inspector General, USDA.

**ACTION:** Notice of amendment to systems of records; establishment of one new system of records; addition of four new routine uses; and republication of systems of records.

**SUMMARY:** In accordance with the Privacy Act, 5 U.S.C. 552a(e)(4) and (11), the United States Department of Agriculture (USDA), Office of Inspector General (OIG) proposes to revise its systems of records by establishing one new system of records, by deleting a current system of records, by adding new routine uses, and by making technical changes and corrections to certain existing routine uses and systems of records.

**DATES:** This action will be effective without further notice on September 22, 2015 unless comments are received that would result in a contrary determination. If comments are received, the comments will be considered and, where adopted, the document will be republished with changes.

**ADDRESSES:** You may submit comments, identified by docket number OIG–2015–0001 by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: Comments@oig.usda.gov.*
- *Fax:* (202) 690–1528.
- *Mail:* Christy A. Slamowitz, Counsel to the Inspector General, U.S. Department of Agriculture, 1400 Independence Avenue SW., STOP 2308, Washington, DC 20250–2308.
- *Instructions:* All submissions received must include the agency name and docket number 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 or to read background documents or comments received go to *http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** For general questions and for privacy issues

please contact: Cherry W. Tolliver, Assistant Counsel to the Inspector General, USDA OIG, (202) 720–9110.

**SUPPLEMENTARY INFORMATION:** The Privacy Act, 5 U.S.C. 552a(e)(4), (11), provides that the public be given a 30-day period in which to comment on new uses or intended uses of information in systems of records. The Office of Management and Budget (OMB), which has oversight responsibilities under the Act, requires a 40-day period in which to conclude its review of the new or amended systems. Therefore, please submit any comments by September 22, 2015. The public, OMB, and the Congress are invited to send written comments.

The full list of OIG's systems of records notices was last published in the **Federal Register** on pages 61262–61266, 62 FR 61262, *et seq.* (November 17, 1997). OIG's systems of records was last amended on pages 21389–21391, 70 FR 21389, *et seq.* (April 26, 2005); on pages 43398–43400, 73 FR 43398, *et seq.* (July 25, 2008); and on pages 9584–9586, 74 FR 9584, *et seq.* (March 5, 2009). Because there are a number of changes, this notice also republishes in one location descriptions of all of OIG's systems of records for the convenience of interested parties.

Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a) and OMB Circular No. A–130, USDA OIG has conducted a review of its Privacy Act systems of records notices and has determined that it needs one new system of records entitled Audit Records. USDA OIG has determined that one system of records entitled Training Tracking System, USDA/OIG–6, containing audit employee training records, can be deleted and the records of audit employee training history will be included in USDA/OIG–5 Automated Reporting and General Operations System (ARGOS). Additionally, USDA OIG has determined that six existing routine uses need to be modified or revised, and that new routine uses need to be added to several systems of records. USDA OIG has determined that the release of information for the purposes provided in the new routine uses is a necessary and proper use of the information in the systems of records and is compatible and consistent with the purpose for which the records are collected.

USDA OIG has also determined that its systems of records' locations need to be updated as set forth in the system location of each system of records and in Appendix A. USDA OIG's office locations can also be found on OIG's Web site at *www.usda.gov/oig/contact.htm*. This notice also updates the titles of responsible officials. USDA OIG is replacing the title of ''Assistant Inspector General for Policy Development and Resources Management'' with ''Counsel to the Inspector General'' under the category of Contesting Record Procedures, and is replacing the title of ''Director, Information Management Division, Policy Development and Resources Management'' with ''Counsel to the Inspector General'' under the category of Notification Procedures and Record Access Procedures. Elsewhere, the titles ''Director, Information Management Division, Policy Development and Resources Management'' and ''Assistant Inspector General for Policy Development and Resources Management'' are replaced with ''Assistant Inspector General for Management.''

USDA OIG is also amending the systems of records to make clear that written requests for Notification, Record Access and Contesting Records should be addressed to the Counsel to the Inspector General. Where applicable, the storage, retention, and disposal practices for records in systems of records have also been updated. USDA OIG's records are retained and disposed of, as applicable, in compliance with the General Records Schedule, National Archives and Records Administration (NARA) and USDA OIG's record disposition authority, approved by NARA. USDA OIG's record disposition authority was approved by NARA on October 17, 2001. *See* Request for Records Disposition Authority, Job No. N1–016–00–3 (October 17, 2001). During our review, it was determined that USDA OIG's record disposition authority approved by NARA on October 17, 2001, did not explicitly mention the records contained in USDA/OIG–2 Informant and Undercover Agent Records. Therefore, USDA OIG will keep those records in USDA/OIG–2, Informant and Undercover Agent Records until a records retention schedule is developed and approved by NARA for those records. USDA OIG also deleted from USDA/OIG–5 (ARGOS) the reference to Social Security numbers under the Retrievability heading as OIG no longer retrieves records using Social Security numbers from this system. Because there are a number of changes, USDA OIG is republishing its systems of records notices in their entirety.

This notice adds a new system of records called USDA/OIG–9, Audit Records, to account for information about individuals that is not included elsewhere in OIG's systems of records regarding OIG audits.

USDA OIG has also determined that its systems of records need to be updated to include a section on disclosures to consumer reporting agencies, a purpose(s) section, and a security classification section.

**Revised System of Records—Employee Records—USDA/OIG–1 (Amendment to Notice)**

The description of existing system of records USDA/OIG–1 Employee Records is revised to show that OPM/GOVT–8, Confidential Statements of Employment and Financial Interest, has been renamed OGE/GOVT–2, Executive Branch Confidential Financial Disclosure Reports as shown in 55 FR 6327 (February 22, 1990) and 68 FR 3098 (January 22, 2003). A reference to governmentwide system of records OGE/GOVT–1, Executive Branch Personnel Public Financial Disclosure Reports and Other Named-Retrieved Ethics Program Records, is being added to fully reflect the ethics records in OIG's possession.

The retention and disposal paragraph for this system is updated to reflect that records are disposed of in accordance with the various applicable retention periods and disposal methods as outlined by NARA. The following sentence is deleted as it is no longer applicable: ''Personal information that the agency deems to be potentially derogatory or embarrassing is shredded when retention period expires.''

**Deletion of System of Records Training Tracking System—USDA/OIG–6**

USDA OIG is terminating USDA/OIG–6 entitled Training Tracking System for training records of audit employees. The records currently covered by USDA/OIG–6 will be covered by USDA/OIG–5 (ARGOS), and the USDA/OIG–6 system designation will be reserved for future use.

**New System of Records—USDA/OIG–9 Audit Records**

USDA OIG has undertaken an internal review and has determined that an additional system of records notice is necessary in order to account for information maintained about individuals that is not included elsewhere in USDA OIG's systems of records. The new USDA OIG system of records is entitled USDA/OIG–9 Audit Records. The system is designed to function as a tool to initiate, manage, and retain audits in a centralized environment. Records maintained in this system may be retrieved by OIG personnel in headquarters and the

regions. Information is generally retrieved by audit assignment number. However, information can be retrieved by using alphanumeric queries and personal identifiers.

**Routine Use 5—Technical Change (Disclosure to Department of Justice or Courts)**

USDA OIG proposes revising Routine Use 5 to incorporate the clarifications on such disclosures prescribed by the Office of Management and Budget (OMB) in its supplementary guidelines dated May 24, 1985, for implementing the Privacy Act. The current language of Routine Use No. 5 is as follows:

(5) A record from the system of records may be disclosed to the Department of Justice in the course of litigation when the use of such records by the Department of Justice is deemed relevant and necessary to the litigation and may be disclosed in a proceeding before a court, adjudicative body, or administrative tribunal, or in the course of civil discovery, litigation, or settlement negotiations, when a party to a legal action or an entity or individual having an interest in the litigation includes any of the following:

(a) The OIG or any component thereof;

(b) Any employee of the OIG in his or her official capacity;

(c) Any employee of the OIG in his or her individual capacity where the Department of Justice has agreed to represent the employee; or

(d) The United States, where the OIG determines that litigation is likely to affect USDA or any of its components.

The revised routine use will read as follows:

(5) A record from the system of records may be disclosed to the U.S. Department of Justice or in a proceeding before a court, administrative tribunal, or adjudicative body, when:

(a) OIG, or any component thereof;

(b) Any employee of OIG in his or her official capacity;

(c) Any employee of OIG in his or her individual capacity where the Department of Justice has agreed to represent the employee; or

(d) The United States, where the OIG determines that litigation is likely to affect USDA or any of its components, is a party to the litigation or has an interest in such litigation, and OIG determines that use of such records is relevant and necessary to the litigation; provided, however, that in each case, OIG determines that disclosure of the records is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

The revised routine use, like the original version of the routine use, will still allow for the disclosure of information in the course of civil discovery, litigation, or settlement negotiations. The revision is simply to incorporate a clarification by OMB.

**Routine Use No. 10 (Disclosure in Response to Federal Subpoenas)—Technical Change**

USDA OIG proposes revising Routine Use 10 to more clearly recognize the role of the cognizant agency head and the relevant law enforcement purposes related to subpoenas issued by Federal agencies in compliance with 5 U.S.C. 552a(b)(7). The current language of Routine Use 10 is as follows:

A record from the system of records may be disclosed in response to a subpoena issued by a Federal agency having the power to subpoena records of other Federal agencies, if the OIG determines that: (a) The records are both relevant and necessary to the proceeding, and (b) such release is compatible with the purpose for which the records were collected.

The revised routine use will then read as follows:

(10) A record from the system of records may be disclosed in response to a subpoena issued by a Federal agency having the power to subpoena records of other Federal agencies, provided the subpoena is channeled through the head of the agency, if the OIG determines that: (a) The head of the agency signed the subpoena; (b) the subpoena specifies the information sought and the law enforcement purpose served; (c) the records are both relevant and necessary to the proceeding; and (d) such release is compatible with the purpose for which the records were collected.

The revised routine use, like the original version of the routine use, will still allow for the disclosure of information in response to a subpoena issued by a Federal agency having the power to subpoena records of other Federal agencies in order to cooperate with Federal agencies to the extent necessary for them to carry out their legal responsibilities.

**Routine Use No. 13 (Disclosure to News Media and Public)—Technical Change**

USDA OIG proposes revising existing Routine Use No. 13 by deleting one half of one sentence of the existing routine use to avoid referring to another agency's regulations, to add language regarding personal privacy, and to make this routine use consistent with respect to all applicable USDA OIG systems of records. The current language of Routine Use No. 13 for USDA/OIG–1, USDA/OIG–2, USDA/OIG–5, and USDA/OIG–6 is as follows:

(13) Relevant information from a system of records may be disclosed to the news media and general public where there exists a legitimate public interest, *e.g.,* to assist in the location of fugitives, to provide notification of arrests, where necessary for protection from imminent threat of life or property, *or in accordance with guidelines set out by the Department of Justice in 28 CFR 50.2*.

The proposed revision deletes the last part of the sentence, to end the sentence after the word ''property.'' Thus, the end of the sentence that refers to the Department of Justice guidelines and its regulatory citation is deleted and a reference to personal privacy is added. The revised routine use will then read as follows:

(13) Relevant information from a system of records may be disclosed to the news media and general public where there exists a legitimate public interest, *e.g.,* to assist in the location of fugitives, to provide notification of arrests, or where necessary for protection from imminent threat of life or property except to the extent OIG determines that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Part of this modification (deleting the reference to the Department of Justice guidelines and its regulatory citation) to Routine Use No. 13 was made for USDA/OIG–3 and USDA/OIG–4 in 2005, 70 FR 21389 (April 26, 2005). We are revising the routine use as to USDA/OIG–1, 2, and 5 to make it consistent with the routine use applicable to these other USDA OIG systems of records and updating the routine use for USDA/OIG–3 and USDA/OIG–4 as well to address personal privacy concerns.

**Routine Uses Nos. 14 and 15—Technical Change (Disclosures to CIGIE)**

USDA OIG proposes revising two existing routine uses by allowing disclosure to the President's Council on Integrity and Efficiency's successor entity, the Council of the Inspectors General on Integrity and Efficiency (CIGIE), or to any successor entity.

The current language of Routine Uses numbered 14 and 15 for USDA/OIG–3, USDA/OIG–4, and USDA/OIG–8 (Office of Audit's Research Aggregated Data Analysis Repository (RADAR)) is as follows:

(14) A record may be disclosed to any official charged with the responsibility to conduct qualitative assessment

reviews or peer reviews of internal safeguards and management procedures employed in investigative operations. This disclosure category includes members of the President's Council on Integrity and Efficiency and officials and administrative staff within their investigative chain of command, as well as authorized officials of the Department of Justice and the Federal Bureau of Investigation.

(15) In the event that these records respond to an audit, investigation, or review, which is conducted pursuant to an authorizing law, rule, or regulation, and in particular those conducted at the request of the President's Council on Integrity and Efficiency (PCIE) pursuant to Executive Order 12993, the records may be disclosed to the PCIE and other Federal agencies, as necessary.

The revised routine uses will then read as follows:

(14) A record may be disclosed to any official charged with the responsibility to conduct qualitative assessment reviews or peer reviews of internal safeguards and management procedures employed in investigative, audit, and inspection and evaluation operations. This disclosure category includes members of the Council of the Inspectors General on Integrity and Efficiency (CIGIE) or any successor entity and officials and administrative staff within their chain of command, as well as authorized officials of the Department of Justice and the Federal Bureau of Investigation.

(15) In the event that these records respond to an audit, investigation, or review, which is conducted pursuant to an authorizing law, rule, or regulation, and in particular those conducted at the request of CIGIE, the records may be disclosed to the CIGIE or any successor entity and other Federal agencies, as necessary.

**Renumber Routine Use and Technical Change**

USDA OIG proposes to renumber Routine Use 1 for USDA/OIG–6 (Training Tracking System) (published at 62 FR 61262, November 17, 1997) to Routine Use 17 since USDA/OIG–6 (Training Tracking System) currently has two routine uses which are numbered 1, and USDA OIG is deleting USDA/OIG–6. USDA OIG is not amending current Routine Use 1 substantively, but is renumbering it as Routine Use 17 in the amended systems of records notice.

USDA OIG proposes revising the existing routine use, renumbered as Routine Use No. 17, to change the name General Accounting Office because the name of that office has changed to the U.S. Government Accountability Office.

The current language of Routine Use No. 1 for USDA/OIG–6 is as follows:

A record from the system of records may be disclosed as a routine use to a Federal agency or professional organization to document continuing education credits required by the Government Auditing Standards, U.S. General Accounting Office Standards of Audit of Governmental Organizations, Programs, Activities, and Functions. The record must be relevant to the determination of professional proficiency and compliance with the general qualification standard for government auditing, and retention of an employee or other personnel action.

The revised routine use will then read as follows:

(17) A record from the system of records may be disclosed as a routine use to a Federal agency or professional organization to document continuing professional education required by the Government Auditing Standards published by the U.S. Government Accountability Office. The record must be relevant to the determination of competency and compliance with the general qualification standard for government auditing, and retention of an employee or other personnel action.

**New Routine Uses**

USDA OIG proposes to add four new routine uses.

The first added routine use (proposed 18) is proposed to more readily and explicitly inform victims and complainants about the status, progress, and/or results of an investigation or case.

The second added routine use (proposed 19) is proposed to allow USDA OIG to share information with former employees for the purposes of responding to certain official inquiries and for facilitating communications that may be necessary for personnel-related or other official purposes.

The third added routine use (proposed 20) is proposed to allow the disclosure of information to CIGIE and its members for the preparation of reports to the President and Congress on the activities of the Inspectors General.

The fourth added routine use (proposed 21) is proposed to allow the disclosure of information to the NARA, Office of Government Information Services (OGIS), for all the purposes set forth in 5 U.S.C. 552(h)(2)(A) and (B) and (h)(3).

The text of the proposed routine use 18 is applicable to systems of records USDA/OIG–2, USDA/OIG–3, USDA/OIG–4, and USDA/OIG–5, and will read as follows:

18. To complainants and/or victims to the extent necessary to provide such persons with information and explanations concerning the progress and/or results of the investigation or case arising from the matters of which they complained and/or of which they were a victim.

The text of the proposed routine use 19 is applicable to systems of records USDA/OIG–1, USDA/OIG–2, USDA/OIG–3, USDA/OIG–4, USDA/OIG–5, USDA/OIG–7, USDA/OIG–8, and the new USDA/OIG–9, and will read as follows:

19. To a former employee of OIG for purposes of: Responding to an official inquiry by a Federal, State, or local government entity or professional licensing authority, in accordance with applicable Department regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where OIG requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of official responsibility.

The text of the proposed routine use 20 is applicable to systems of records USDA/OIG–3, USDA/OIG–4, USDA/OIG–8, and USDA/OIG–9, and will read as follows:

20. A record may be disclosed to members and employees of CIGIE, or any successor entity, for the preparation of reports to the President and Congress on the activities of the Inspectors General.

The text of the proposed routine use 21 is applicable to systems of records USDA/OIG–1, USDA/OIG–2, USDA/OIG–3, USDA/OIG–4, USDA/OIG–5, USDA/OIG–7, USDA/OIG–8, and USDA/OIG–9, and will read as follows:

21. A record may be disclosed to the National Archives and Records Administration, Office of Government Information Services (OGIS), to the extent necessary to fulfill its responsibilities in 5 U.S.C. 552(h), to review administrative agency policies, procedures, and compliance with the Freedom of Information Act (FOIA), and to facilitate OGIS' offering of mediation services to resolve disputes between persons making FOIA requests and administrative agencies.

**New Section on ''Disclosure to Consumer Reporting Agencies''**

USDA OIG has determined that a new section on ''Disclosure to Consumer Reporting Agencies'' needs to be added to allow disclosures of records in order to improve debt collection by the

Government. The Debt Collection Act, codified at 5 U.S.C. 552a(b)(12), requires agencies to publish a notice identifying each system of records from which information may be disclosed to consumer credit reporting agencies (*i.e.,* consumer credit bureaus). The Office of Management and Budget has indicated that this notice should take the form of an insert to existing systems of records. See OMB, Privacy Act of 1974; Guidelines on the Relationship of the Debt Collection Act of 1982 to the Privacy Act of 1974, 48 FR 15556, 15558 (April 11, 1983). USDA OIG has thus incorporated a statement regarding consumer credit reporting into its systems of records.

**Adding a ''Purpose(s)'' Section**

As a result of our review, USDA OIG found that all of our Privacy Act systems of records notices should be revised by adding a ''purpose(s)'' statement to conform the notices to the format required by the Office of the Federal Register. A purpose(s) statement was added to each system of records.

In accordance with 5 U.S.C. 552a(r), USDA OIG has provided a report to the Office of Management and Budget and to Congress on the proposed systems of records.

Dated: August 7, 2015.

**Thomas J. Vilsack,**

*Secretary, Department of Agriculture.*

Accordingly, we are republishing the systems of records notices in their entirety, as amended, as follows:

**Routine Uses**

The following 21 routine uses are applicable as noted below to USDA OIG's systems of records.

1. A record from the system of records which indicates either by itself or in combination with other information, a violation or potential violation of a contract or law, whether civil, criminal, or regulatory, or which otherwise reflects on the qualifications or fitness of a licensed (or seeking to be licensed) individual, may be disclosed to a Federal, State, local, foreign, or self-regulatory agency (including but not limited to organizations such as professional associations or licensing boards), or other public authority that investigates or prosecutes or assists in such investigation, prosecution, enforcement, implementation, or issuance of the statute, rule, regulation, order, or license.

2. A record from the system of records may be disclosed to a Federal, State, local, or foreign agency, other public authority, consumer reporting agency, or professional organization maintaining civil, criminal, or other relevant enforcement or other pertinent records, such as current licenses, in order to obtain information relevant to an OIG decision concerning employee retention or other personnel action, issuance of a security clearance, letting of a contract or other procurement action, issuance of a benefit, establishment of a claim, collection of a delinquent debt, or initiation of an administrative, civil, or criminal action.

3. A record from the system of records may be disclosed to a Federal, State, local, foreign, or self-regulatory agency (including but not limited to organizations such as professional associations or licensing boards), or other public authority, to the extent the information is relevant and necessary to the requestor's hiring or retention of an individual or any other personnel action; issuance or revocation of a security clearance, license, grant, or other benefit; establishment of a claim; letting of a contract; reporting of an investigation of an individual; or for purposes of a suspension or debarment action, or the initiation of administrative, civil, or criminal action.

4. A record from the system of records may be disclosed to any source—private or public—to the extent necessary to secure from such source information relevant to a legitimate OIG investigation, audit, or other inquiry.

5. A record from the system of records may be disclosed to the U.S. Department of Justice or in a proceeding before a court, administrative tribunal, or adjudicative body, when:

(a) OIG, or any component thereof;

(b) Any employee of OIG in his or her official capacity;

(c) Any employee of OIG in his or her individual capacity where the Department of Justice has agreed to represent the employee; or

(d) The United States, where the OIG determines that litigation is likely to affect USDA or any of its components,

is a party to the litigation or has an interest in such litigation, and OIG determines that use of such records is relevant and necessary to the litigation, provided, however, that in each case, OIG determines that disclosure of the records is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

6. A record from the system of records may be disclosed to a Member of Congress from the record of an individual in response to an inquiry from the Member of Congress made at the request of that individual. In such cases however, the Member's right to a record is no greater than that of the individual.

7. A record from the system of records may be disclosed to the Department of Justice for the purpose of obtaining its advice on an OIG audit, investigation, or other inquiry, including Freedom of Information or Privacy Act matters.

8. A record from the system of records may be disclosed to the Office of Management and Budget for the purpose of obtaining its advice regarding OIG obligations under the Privacy Act or in connection with the review of private relief legislation.

9. A record from the system of records may be disclosed to a private firm with which OIG contemplates it will contract or with which it has contracted for the purpose of performing any functions or analyses that facilitate or are relevant to an OIG investigation, audit, inspection, or other inquiry. Such contractor or private firm shall be required to maintain Privacy Act safeguards with respect to such information.

10. A record from the system of records may be disclosed in response to a subpoena issued by a Federal agency having the power to subpoena records of other Federal agencies, provided the subpoena is channeled through the head of the agency, if the OIG determines that: (a) The head of the agency signs the subpoena; (b) the subpoena specifies the information sought and the law enforcement purpose served; (c) the records are both relevant and necessary to the proceeding; and (d) such release is compatible with the purpose for which the records were collected.

11. A record from the system of records may be disclosed to a grand jury agent pursuant either to a Federal or State grand jury subpoena, or to a prosecution request that such record be released for the purpose of its introduction to a grand jury, provided that the grand jury channels its request through the cognizant U.S. Attorney, that the U.S. Attorney has been delegated the authority to make such requests by the Attorney General, and that the U.S. Attorney actually signs the letter specifying both the information sought and the law enforcement purpose served. In the case of a State grand jury subpoena, the State equivalent of the U.S. Attorney and Attorney General shall be substituted.

12. A record from the system of records may be disclosed, as a routine use, to a Federal, State, local, or foreign agency, or other public authority, for use in computer matching programs to prevent and detect fraud and abuse in benefit programs administered by any agency, to support civil and criminal law enforcement activities of any agency

and its components, and to collect debts and overpayments owed to any agency and its components.

13. Relevant information from a system of records may be disclosed to the news media and general public where there exists a legitimate public interest, *e.g.,* to assist in the location of fugitives, to provide notification of arrests, or where necessary for protection from imminent threat of life or property except to the extent OIG determines that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

14. A record may be disclosed to any official charged with the responsibility to conduct qualitative assessment reviews or peer reviews of internal safeguards and management procedures employed in investigative, audit, and inspection and evaluation operations. This disclosure category includes members of the Council of the Inspectors General on Integrity and Efficiency (CIGIE) or any successor entity and officials and administrative staff within their chain of command, as well as authorized officials of the Department of Justice and the Federal Bureau of Investigation.

15. In the event that these records respond to an audit, investigation, or review, which is conducted pursuant to an authorizing law, rule, or regulation, and in particular those conducted at the request of CIGIE, the records may be disclosed to the CIGIE or any successor entity and other Federal agencies, as necessary.

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

17. A record from the system of records may be disclosed as a routine use to a Federal agency or professional organization to document continuing professional education required by the Government Auditing Standards published by the U.S. Government Accountability Office. The record must be relevant to the determination of competency and compliance with the general qualification standard for government auditing, and retention of an employee or other personnel action.

18. A record from the system of records may be disclosed to complainants and/or victims to the extent necessary to provide such persons with information and explanations concerning the progress and/or results of the investigation or case arising from the matters of which they complained and/or of which they were a victim.

19. A record from the system of records may be disclosed to a former employee of OIG for purposes of: Responding to an official inquiry by a Federal, State, or local government entity or professional licensing authority, in accordance with applicable Department regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where OIG requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of official responsibility.

20. A record may be disclosed to members and employees of the CIGIE, or any successor entity, for the preparation of reports to the President and Congress on the activities of the Inspectors General.

21. A record may be disclosed to the National Archives and Records Administration, Office of Government Information Services (OGIS), to the extent necessary to fulfill its responsibilities in 5 U.S.C. 552(h), to review administrative agency policies, procedures, and compliance with the Freedom of Information Act (FOIA), and to facilitate OGIS' offering of mediation services to resolve disputes between persons making FOIA requests and administrative agencies.

## SYSTEM OF RECORDS

## USDA/OIG–1

### SYSTEM NAME:

Employee Records, USDA/OIG.

### SECURITY CLASSIFICATION:

None.

### SYSTEM LOCATION:

In the headquarters offices of the U.S. Department of Agriculture (USDA), Office of Inspector General (OIG), 1400 Independence Avenue SW., Washington, DC 20250; the Office of Compliance and Integrity, 5601 Sunnyside Avenue, Suite 2–2230, Beltsville, Maryland 20705–5300; and in the OIG regional offices and suboffices, listed in Appendix A.

### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

OIG temporary and permanent employees, former employees of OIG, and applicants for employment.

### CATEGORIES OF RECORDS IN THE SYSTEM:

These records show or relate to employment, personnel management, and work-related information, including position, classification, title, grade, pay rate, pay, temporary and permanent addresses and telephone numbers for home and work, copies of security clearance forms, program and performance evaluations, promotions, retirement, disciplinary actions, appeals, incentive programs, unemployment compensation, leave, complaints and grievances, health benefits, equal employment opportunity, automation of personnel data, travel information, accident reports and related information, activity reports, participation in savings and contribution programs, availability for employment, assignment, or for transfer, qualifications (for law enforcement employees this includes Attorney General designations, training certificates, physical fitness data, and medical officer's certification excluding personal medical data), awards, hours worked, issuance of credentials, passports and other identification, assignment and accountability of property and other things of value, parking space assignments, training and development, special assignments, and exit interviews.

Other employee records are covered by other systems as follows: For Official Personnel Folder (OPF) data refer to USDA/OP–1 Personnel and Payroll System for USDA Employees; for medical records, including SF–78, Certificate of Medical Examination, and drug testing records, refer to OPM/GOVT–10 Employee Medical File System; for pre-employment inquiries refer to USDA/OIG–3, Investigative Files and Automated Investigative Indices; for executive branch personnel financial disclosure statements and other ethics program records refer to OGE/GOVT–1, Executive Branch Personnel Public Financial Disclosure Reports and Other Named-Retrieved Ethics Program Records; for annual financial disclosure statements refer to OGE/GOVT–2, Executive Branch Confidential Financial Disclosure Reports.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

IG Act of 1978, 5 U.S.C. app. 3; 5 U.S.C. 301; 7 U.S.C. 2270.

**PURPOSE(S):**

This system consists of records compiled for personnel, payroll, and time-reporting purposes. In addition, this system contains all records created and/or maintained about employees as required by the Office of Personnel Management (OPM) as well as documents relating to personnel matters and determinations. Retirement, life, and health insurance benefit records are collected and maintained in order to administer the Federal Employees Retirement System, Civil Service Retirement System, Federal Employees' Group Life Insurance Plan, and the Federal Employees Health Benefit Program.

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

Routine Uses 1 through 13, 16, 19, and 21 apply.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to ''consumer reporting agencies'' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

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

**STORAGE:**

The system consists of computerized and paper records.

**RETRIEVABILITY:**

The records are retrieved by name of the individual employee and by Social Security number.

**SAFEGUARDS:**

Computer files are password protected and other records are kept in limited-access areas during duty hours and in locked offices during nonduty hours.

**RETENTION AND DISPOSAL:**

The records are retained and disposed of in compliance with the General Records Schedule, NARA. Retention periods and disposal methods vary by record categories as set forth in NARA General Records Schedules 1 (Civilian Personnel Records) and 2 (Payrolling and Pay Administration Records).

**SYSTEM MANAGER(S) AND ADDRESS(ES):**

Assistant Inspector General for Management, Office of Inspector General, U.S. Department of Agriculture, 1400 Independence Avenue SW., Washington, DC 20250.

**NOTIFICATION PROCEDURE:**

Any individual may request information regarding this system of records, or information as to whether the system contains records pertaining to him/her, from the Counsel to the Inspector General, Office of Inspector General, U.S. Department of Agriculture, 1400 Independence Avenue SW., Stop 2308, Washington, DC 20250–2308.

**RECORD ACCESS PROCEDURES:**

An individual may request access to a record in this system which pertains to him/her by submitting a written request to the Counsel to the Inspector General, Office of Inspector General, U.S. Department of Agriculture, 1400 Independence Avenue SW., Stop 2308, Washington, DC 20250–2308.

**CONTESTING RECORD PROCEDURES:**

An individual may contest information in this system which pertains to him/her by submitting a written request to the Counsel to the Inspector General, Office of Inspector General, U.S. Department of Agriculture, 1400 Independence Avenue SW., Stop 2308, Washington, DC 20250–2308.

**RECORD SOURCE CATEGORIES:**

The primary information is furnished by the individual employee. Additional information is provided by supervisors, coworkers, references, and others.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

## SYSTEM OF RECORDS

## USDA/OIG–2

**SYSTEM NAME:**

Informant and Undercover Agent Records, USDA/OIG.

**SECURITY CLASSIFICATION:**

Sensitive but Unclassified and/or Controlled Unclassified Information

**SYSTEM LOCATION:**

In the OIG headquarters office at 1400 Independence Avenue SW., Washington, DC 20250, and in the OIG regional offices and Investigations suboffices listed in Appendix A.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Confidential informants, investigative operatives, and undercover OIG special agents and other law enforcement personnel and others.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Information including names, occupations, criminal histories, and other information about confidential informants and investigative operatives, together with allegations against them, and the types of information previously furnished by or to be expected from them. Types, dates of issuance and destruction, and details of undercover identification documents used by OIG special agents and other law enforcement personnel for undercover activities.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

IG Act of 1978, 5 U.S.C. app. 3; 5 U.S.C. 301; 7 U.S.C. 2270.

**PURPOSE(S):**

To track the identities of, and related information regarding, confidential informants, investigative operatives, and undercover OIG special agents and other law enforcement personnel.

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

Routine Uses 1 through 13, 16, 18, 19, and 21 apply.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to ''consumer reporting agencies'' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

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

**STORAGE:**

The system consists of computerized and paper records.

**RETRIEVABILITY:**

The records are retrieved by name of confidential informant, investigative operative, or special agent.

**SAFEGUARDS:**

Computer files are password protected and other records are kept in limited-access areas during duty hours and in locked offices during nonduty hours.

**RETENTION AND DISPOSAL:**

The records contained in this system are currently unscheduled. A record retention schedule will be developed and submitted to NARA for approval. No records will be destroyed until a NARA approved record retention schedule is in place.

**SYSTEM MANAGER(S) AND ADDRESS(ES):**

Assistant Inspector General for Investigations, Office of Inspector General, U.S. Department of Agriculture, 1400 Independence Avenue SW., Washington, DC 20250.

**NOTIFICATION PROCEDURE:**

Any individual may request information regarding this system of records, or information as to whether the system contains records pertaining to him/her, from the Counsel to the Inspector General, Office of Inspector General, U.S. Department of Agriculture, 1400 Independence Avenue SW., Stop 2308, Washington, DC 20250–2308.

**RECORD ACCESS PROCEDURES:**

An individual may request access to a record in this system which pertains to him/her by submitting a written request to the Counsel to the Inspector General, Office of Inspector General, U.S. Department of Agriculture, 1400 Independence Avenue SW., Stop 2308, Washington, DC 20250–2308.

**CONTESTING RECORD PROCEDURES:**

An individual may contest information in this system which pertains to him/her by submitting a written request to the Counsel to the Inspector General, Office of Inspector General, U.S. Department of Agriculture, 1400 Independence Avenue SW., Stop 2308, Washington, DC 20250–2308.

**RECORD SOURCE CATEGORIES:**

This system contains materials for which sources need not be reported.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

Pursuant to 5 U.S.C. 552a(j)(2), this system of records is exempted from all provisions of the Privacy Act of 1974, 5 U.S.C. 552a, as amended, except subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11), and (i). Pursuant to 5 U.S.C. 552a(k)(2) and (5), this system is exempted from the following provisions of the Privacy Act of 1974, 5 U.S.C. 552a: Subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

## SYSTEM OF RECORDS:

## USDA/OIG–3

**SYSTEM NAME:**

Investigative Files and Automated Investigative Indices System, USDA/OIG.

**SECURITY CLASSIFICATION:**

Sensitive but Unclassified and/or Controlled Unclassified Information

**SYSTEM LOCATION:**

Physical files are kept in the OIG headquarters office at 1400 Independence Avenue SW., Washington, DC 20250; the Office of Compliance and Integrity, 5601 Sunnyside Avenue, Suite 2–2230, Beltsville, Maryland 20705–5300; and in the OIG regional offices and Investigations suboffices listed in Appendix A. The OIG regional offices and Investigations suboffices maintain paper files containing the report of investigation and the workpapers for each case investigated by that office. The headquarters files contain a copy of every investigative report, but do not contain workpapers and may not contain copies of all correspondence. Older investigative files may be stored in Federal Records Centers or on microfiche, microfilm, or electronic image filing systems. Therefore, delays in retrieving this material can be expected. Selected portions of records have been computerized—see section 1 of ''Categories of records'' below. These records, used as a research tool, are accessible by computer terminals located in each OIG office. These records are maintained on a computer at 1400 Independence Avenue SW., Washington, DC 20250.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

The individual names in the OIG index fall into one or more of the following categories:

1. Subjects. These are individuals against whom allegations of wrongdoing have been made. In some instances, these individuals have been the subjects of investigations conducted by OIG to establish whether allegations were true. In other instances, the allegations were deemed too frivolous or indefinite to warrant inquiry.

2. Principals. These are individuals who are not named subjects of investigative inquiries, but may be responsible for potential violations. For example, the responsible officers of a firm alleged to have violated laws or regulations might be individually listed in the OIG index.

3. Complainants. These are individuals, who have not requested anonymity or confidentiality regarding their identity, who allege wrongdoing, mismanagement, or unfair treatment by USDA employees and/or relating to USDA programs.

4. Others. These are all other individuals closely connected with a matter of investigative interest.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records in the OIG Investigative Files and Automated Investigative Indices System consist of:

1. Computerized records retrieved by case number or alphabetically by the names of individuals, organizations, and firms. A separate record for each contains, if applicable, identification of the OIG file or files which contain information on that subject and if such information was available when the record was created or modified; the individual's name, address, sex, race, date and place of birth, relationship to the investigation, FBI or State criminal identification number, and Social Security number;

2. Files containing sheets of paper or microfiche of such sheets from investigative and other reports, correspondence, and informal notes and notations concerning (a) one investigative matter or (b) a number of incidents of the same sort of alleged violation or irregularity; and

3. Where an investigation is being or will be conducted, but has not been completed, various case management records, investigator's notes, statements of witnesses, and copies of records. These are contained on cards and sheets of paper located in an OIG office or in the possession of the OIG investigator. Certain management records are retained after the investigative report is released as a means of following action taken on the basis of the OIG investigative report.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

IG Act of 1978, 5 U.S.C. app. 3; 5 U.S.C. 301; 7 U.S.C. 2270.

**PURPOSE(S):**

The records maintained in the system are used by the OIG in furtherance of the responsibilities of the Inspector General, pursuant to the Inspector General Act of 1978, as amended, to conduct and supervise investigations relating to programs and operations of the USDA; to promote economy, efficiency, and effectiveness in the administration of such programs and operations; and to prevent and detect fraud and abuse in such programs and operations.

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

Routine Uses 1 through 16, 18 through 21 apply.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to ''consumer reporting

agencies'' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

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

**STORAGE:**

The system consists of computerized and paper records.

**RETRIEVABILITY:**

Computerized records are retrieved alphabetically or by using the case number, with each record identifying one or more OIG investigative case files or administrative files arranged numerically by file number.

**SAFEGUARDS:**

These records are kept in limited-access areas during duty hours, in locked offices during nonduty hours, or in the possession of the investigator. Computer files are password protected.

**RETENTION AND DISPOSAL:**

The records are retained and disposed of in compliance with OIG's record disposition authority, approved by NARA.

**SYSTEM MANAGER(S) AND ADDRESS(ES):**

Assistant Inspector General for Investigations, Office of Inspector General, U.S. Department of Agriculture, 1400 Independence Avenue SW., Washington, DC 20250; and the Director, Office of Compliance and Integrity, 5601 Sunnyside Avenue, Suite 2–2230, Beltsville, Maryland 20705–5300.

**NOTIFICATION PROCEDURE:**

Inquiries and requests should be addressed to the Counsel to the Inspector General, Office of Inspector General, U.S. Department of Agriculture, 1400 Independence Avenue SW., Stop 2308, Washington, DC 20250–2308.

**RECORD ACCESS PROCEDURES:**

An individual may request access to a record in this system which pertains to him/her by submitting a written request to the Counsel to the Inspector General, Office of Inspector General, U.S. Department of Agriculture, 1400 Independence Avenue SW., Stop 2308, Washington, DC 20250–2308.

**CONTESTING RECORD PROCEDURES:**

An individual may contest information in this system which pertains to him/her by submitting a written request to the Counsel to the Inspector General, Office of Inspector General, U.S. Department of Agriculture, 1400 Independence Avenue SW., Stop 2308, Washington, DC 20250–2308.

**RECORD SOURCE CATEGORIES:**

This system contains materials for which sources need not be reported.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

Pursuant to 5 U.S.C. 552a(j)(2), this system of records is exempted from all provisions of the Privacy Act of 1974, 5 U.S.C. 552a, as amended, except subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11), and (i). Pursuant to 5 U.S.C. 552a(k)(2) and (5), this system is exempted from the following provisions of the Privacy Act of 1974, 5 U.S.C. 552a: Subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

## SYSTEM OF RECORDS:

## USDA/OIG–4

**SYSTEM NAME:**

OIG Hotline Complaint Records, USDA/OIG.

**SECURITY CLASSIFICATION:**

Sensitive but Unclassified and/or Controlled Unclassified Information

**SYSTEM LOCATION:**

In the OIG headquarters office at 1400 Independence Avenue SW., Washington, DC 20250.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

1. Complainants are persons who report or complain of possible criminal, civil, or administrative violations of law, rule, regulation, policy, or procedure, or fraud, waste, abuse, mismanagement, gross waste of funds, or abuse of authority in USDA programs or operations, or specific dangers to public health or safety, misuse of government property, personnel misconduct, discrimination, or other irregularities affecting USDA.
2. Subjects are persons against whom such complaints are made.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

1. Identities of complainants, if known, and subjects.
2. Details of each allegation.
3. OIG case number and control number(s) used by other agencies for tracking each complaint.
4. Responses from agencies to which complaints are referred for inquiry.
5. Summaries of substantiated information and results of agency inquiry into the complaint.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

IG Act of 1978, 5 U.S.C. app. 3; 5 U.S.C. 301; 7 U.S.C. 2270.

**PURPOSE(S):**

To record complaints, allegations of wrongdoing, and requests for assistance; to document inquiries; to compile statistical information; to provide prompt, responsive, and accurate information regarding the status of ongoing cases; to provide a record of complaint disposition and to record actions taken and notifications of interested parties and agencies.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF EACH SUCH USE:**

Routine Uses 1 through 16, 18 through 21 apply.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to ''consumer reporting agencies'' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

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

**STORAGE:**

The system consists of computerized and paper records.

**RETRIEVABILITY:**

The records are retrieved by name of subject or complainant or by case number.

**SAFEGUARDS:**

Files are kept in a limited access area and are in locked storage when not in use. Access to computerized information is protected by requiring a confidential password.

**RETENTION AND DISPOSAL:**

The records are retained and disposed of in compliance with OIG's record disposition authority, approved by NARA.

**SYSTEM MANAGER(S) AND ADDRESS(ES):**

Assistant Inspector General for Investigations, Office of Inspector General, U.S. Department of Agriculture, 1400 Independence Avenue SW., Washington, DC 20250.

**NOTIFICATION PROCEDURE:**

Any individual may request information regarding this system of records, or information as to whether the system contains records pertaining to him/her, from the Counsel to the Inspector General, Office of Inspector General, U.S. Department of Agriculture, 1400 Independence Avenue SW., Stop 2308, Washington, DC 20250–2308.

**RECORD ACCESS PROCEDURES:**

An individual may request access to a record in this system which pertains to him/her by submitting a written request to the Counsel to the Inspector General, Office of Inspector General, U.S. Department of Agriculture, 1400 Independence Avenue SW., Stop 2308, Washington, DC 20250–2308.

**CONTESTING RECORD PROCEDURES:**

An individual may contest information in this system which pertains to him/her by submitting a written request to the Counsel to the Inspector General, Office of Inspector General, U.S. Department of Agriculture, 1400 Independence Avenue SW., Stop 2308, Washington, DC 20250–2308.

**RECORD SOURCE CATEGORIES:**

Identities of complainants and subjects are provided by individual complainants. Additional information may be provided by individual complainants, subjects, and/or third parties.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

Pursuant to 5 U.S.C. 552a(j)(2), this system of records is exempted from all provisions of the Privacy Act of 1974, 5 U.S.C. 552a, as amended, except subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11), and (i). Pursuant to 5 U.S.C. 552a(k)(2) and (5), this system is exempted from the following provisions of the Privacy Act of 1974, 5 U.S.C. 552a: Subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

## SYSTEM OF RECORDS:

## USDA/OIG–5

**SYSTEM NAME:**

Automated Reporting and General Operations Systems (ARGOS), USDA/OIG.

**SECURITY CLASSIFICATION:**

Sensitive but Unclassified and/or Controlled Unclassified Information.

**SYSTEM LOCATION:**

U.S. Department of Agriculture, National Information Technology Center, 8930 Ward Parkway, Kansas City, Missouri 64114; in the OIG headquarters office at 1400 Independence Avenue SW., Washington, DC 20250; and in OIG Regional Offices/Audit suboffices listed in Appendix A.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

OIG professional employees who participate in either audit or investigative assignments. Subjects of investigations, principals, and others associated with investigations.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

ARGOS provides OIG management officials with a wide range of information on audit and investigative operations. The system identifies individual assignments of employees and provides information on their use of direct and indirect time, significant dates relating to each assignment, reported dollar deficiencies, recoveries, penalties, investigative prosecutions, convictions, other legal and administrative actions, and subjects of investigation. The system is used to manage audit and investigative assignments and to facilitate reporting of OIG activities to Congress and other Governmental entities. The system contains records of audit employee training history.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

IG Act of 1978, 5 U.S.C. app. 3; 5 U.S.C. 301; 7 U.S.C. 2270.

**PURPOSE(S):**

The records maintained in the system are used by the OIG in furtherance of the responsibilities of the Inspector General, pursuant to the Inspector General Act of 1978, as amended, to conduct and supervise audits and investigations relating to programs and operations of the USDA; to promote economy, efficiency, and effectiveness in the administration of such programs and operations; to prevent and detect fraud and abuse in such programs and operations; and for time management and tracking of audit training.

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

Routine Uses 1 through 13, 15, 16, 17, and 18 through 21 apply.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to ''consumer reporting agencies'' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

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

**STORAGE:**

The system consists of computerized and paper records.

**RETRIEVABILITY:**

Information in the system generally can be retrieved by OIG personnel in headquarters and the regions. Information is generally retrieved by assignment number or geographic location. However, information can be retrieved by any field in the system, including subject name, and employee name.

**SAFEGUARDS:**

Normal computer security is maintained including password protection. Printouts and source documents are kept in limited-access areas during duty hours and in locked offices during nonduty hours.

**RETENTION AND DISPOSAL:**

The records are retained and disposed of in compliance with the General Records Schedule, NARA and OIG's record disposition authority, approved by NARA.

**SYSTEM MANAGER(S) AND ADDRESS(ES):**

Audit Subsystem—Assistant Inspector General for Audit, Office of Inspector General, U.S. Department of Agriculture, 1400 Independence Avenue SW., Washington, DC 20250.
Investigations Subsystem—Assistant Inspector General for Investigations, Office of Inspector General, U.S. Department of Agriculture, 1400 Independence Avenue SW., Washington, DC 20250.

**NOTIFICATION PROCEDURE:**

Any individual may request information regarding this system of records, or information as to whether the system contains records pertaining to him/her, from the Counsel to the Inspector General, Office of Inspector General, U.S. Department of Agriculture, 1400 Independence Avenue SW., Stop 2308, Washington, DC 20250–2308.

**RECORD ACCESS PROCEDURES:**

An individual may request access to a record in this system which pertains to him/her by submitting a written request to the Counsel to the Inspector General, Office of Inspector General, U.S. Department of Agriculture, 1400 Independence Avenue SW., Stop 2308, Washington, DC 20250–2308.

**CONTESTING RECORD PROCEDURES:**

An individual may contest information in this system which pertains to him/her by submitting a written request to the Counsel to the Inspector General, Office of Inspector General, U.S. Department of Agriculture, 1400 Independence Avenue SW., Stop 2308, Washington, DC 20250–2308.

**RECORD SOURCE CATEGORIES:**

Information in the system is obtained from OIG employees and from various source documents related to audit and investigative activities, including assignment letters, employee time reports, and case entry sheets.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

Pursuant to 5 U.S.C. 552a(j)(2), the Investigations Subsystem and the Investigation Employee Time System of this system of records is exempted from all provisions of the Privacy Act of 1974, 5 U.S.C. 552a, as amended, except subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11), and (i). Pursuant to 5 U.S.C. 552a(k)(2) and (k)(5), the Investigations Subsystem and the Investigation Employee Time System of this system is exempted from the following provisions of the Privacy Act of 1974, 5 U.S.C. 552a: Subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

## SYSTEM OF RECORDS:

## USDA/OIG–6

**SYSTEM NAME:**

Reserved for future use.

**SYSTEM OF RECORDS:**

USDA/OIG–7

**SYSTEM NAME:**

Freedom of Information Act and Privacy Act Request Records, USDA/OIG.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

Files are kept in the OIG headquarters office at 1400 Independence Avenue SW., Washington, DC 20250.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

This system contains records of individuals who have made requests under the Freedom of Information Act or the Privacy Act.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

The request records consist of the incoming request, all correspondence developed during the processing of the request, the final reply, and any incoming requests and responses for FOIA appeals, including any litigation in U.S. District Court, and in some instances copies of requested records and records under administrative appeal.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

IG Act of 1978, 5 U.S.C. app. 3; 5 U.S.C. 301; 5 U.S.C. 552, 5 U.S.C. 552a.

**PURPOSE(S):**

To assist OIG in carrying out its responsibilities under the Freedom of Information Act and the Privacy Act.

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

Routine Uses 7, 16, 19, and 21 apply.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to ''consumer reporting agencies'' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

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

**STORAGE:**

The system consists of computerized and paper records.

**RETRIEVABILITY:**

The records are retrieved by name or by using a control number that is assigned upon date of receipt.

**SAFEGUARDS:**

Freedom of Information Act and Privacy Act request records are stored in file cabinets in limited-access areas during duty hours and in locked offices during nonduty hours. Computerized records are maintained in a secure, password protected computer system. The computer server is maintained in a secure, access-controlled area within an access-controlled building.

**RETENTION AND DISPOSAL:**

The records are retained and disposed of in compliance with the General Records Schedule, NARA. Retention periods and disposal methods vary by record categories as set forth in NARA General Records Schedule 14, Information Services Records.

**SYSTEM MANAGER(S) AND ADDRESS(ES):**

Counsel to the Inspector General, Office of Counsel, Office of Inspector General, U.S. Department of Agriculture, 1400 Independence Avenue SW., Stop 2308, Washington, DC 20250–2308.

**NOTIFICATION PROCEDURE:**

Any individual may request information regarding this system of records, or information as to whether the system contains records pertaining to him/her, from the Counsel to the Inspector General, Office of Inspector General, U.S. Department of Agriculture, 1400 Independence Avenue SW., Stop 2308, Washington, DC 20250–2308.

**RECORD ACCESS PROCEDURES:**

An individual may request access to a record in this system which pertains to him/her by submitting a written request to the Counsel to the Inspector General, Office of Inspector General, U.S. Department of Agriculture, 1400 Independence Avenue SW., Stop 2308, Washington, DC 20250–2308.

**CONTESTING RECORD PROCEDURES:**

An individual may contest information in this system which pertains to him/her by submitting a written request to the Counsel to the Inspector General, Office of Inspector General, U.S. Department of Agriculture, 1400 Independence Avenue SW., Stop 2308, Washington, DC 20250–2308.

**RECORD SOURCE CATEGORIES:**

Information in this system comes from the individual making the request and from OIG employees processing the request.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

## SYSTEM OF RECORDS:

## USDA/OIG–8

**SYSTEM NAME:**

Office of Audit's Research Aggregated Data Analysis Repository (RADAR) System, USDA/OIG.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

U.S. Department of Agriculture, National Information Technology Center, 8930 Ward Parkway, Kansas City, Missouri 64114.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals who participate in programs funded, monitored, and administered by USDA; other individuals who are connected with the individuals, organizations, or firms who participate in programs funded, monitored, and administered by USDA, including the names of the subjects of OIG audits and investigations.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

RADAR houses USDA data in order to detect fraud, waste, and abuse by utilizing software to match, merge, and analyze the data associated with USDA programs and activities, program participants, and other USDA information.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

IG Act of 1978, 5 U.S.C. app. 3; 5 U.S.C. 301.

**PURPOSE(S):**

The records maintained in the system are used by the OIG in furtherance of the responsibilities of the Inspector General, pursuant to the Inspector General Act of 1978, as amended, to conduct and supervise audits relating to programs and operations of the USDA; to promote economy, efficiency, and effectiveness in the administration of such programs and operations; and to prevent and detect fraud and abuse in such programs and operations.

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

Routine Uses 1 through 16, 19, 20, and 21 apply.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to ''consumer reporting agencies'' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

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

**STORAGE:**

The RADAR System consists of computerized and paper records.

**RETRIEVABILITY:**

The records are retrieved by names, addresses, Social Security numbers, and tax identification numbers of USDA program participants or by case numbers.

**SAFEGUARDS:**

Computerized records are maintained in a secure, password protected computer system. The computer server is maintained in a secure, access-controlled area within an access-controlled building. Paper records are kept in limited access areas during duty hours and in locked offices during non-duty hours.

**RETENTION AND DISPOSAL:**

The records are retained and disposed of in compliance with OIG's record disposition authority, approved by NARA.

**SYSTEM MANAGER(S) AND ADDRESS(ES):**

Assistant Inspector General for Audit, Office of Inspector General, U.S. Department of Agriculture, 1400 Independence Avenue SW., Washington, DC 20250.

**NOTIFICATION PROCEDURE:**

Any individual may request information regarding this system of records, or information as to whether the system contains records pertaining to him/her, from the Counsel to the Inspector General, Office of Inspector General, U.S. Department of Agriculture, 1400 Independence Avenue SW., Stop 2308, Washington, DC 20250–2308.

**RECORD ACCESS PROCEDURES:**

An individual may request access to a record in this system which pertains to him/her by submitting a written request to the Counsel to the Inspector General, Office of Inspector General, U.S. Department of Agriculture, 1400 Independence Avenue SW., Stop 2308, Washington, DC 20250–2308.

**CONTESTING RECORD PROCEDURES:**

An individual may contest information in this system which pertains to him/her by submitting a written request to the Counsel to the Inspector General, Office of Inspector General, U.S. Department of Agriculture, 1400 Independence Avenue SW., Stop 2308, Washington, DC 20250–2308. This system may contain records originated by USDA agencies and contained in the USDA's other systems of records. Where appropriate, coordination will be effected with the appropriate USDA agency regarding an individual's contesting of records in the relevant system of records.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

## SYSTEM OF RECORDS:

## USDA/OIG–9

**SYSTEM NAME:**

Audit Records.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

U.S. Department of Agriculture, National Information Technology Center, 8930 Ward Parkway, Kansas City, Missouri 64114; OIG headquarters office, U.S. Department of Agriculture, 1400 Independence Avenue SW., Washington, DC 20250; and OIG Audit regional offices and suboffices, listed in Appendix A.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals covered consist of: (1) USDA program participants and USDA employees who are associated with an activity that OIG is auditing or reviewing; (2) requesters of an OIG audit or other activity; and (3) persons and entities performing some other role of significance to the OIG's efforts, such as relatives or business associates of USDA program participants or employees, potential witnesses, or persons who represent legal entities that are connected to an OIG audit or other activity. The system also tracks information pertaining to OIG staff handling the audit or other activity, and may contain names of relevant staff in other agencies and private sector entities.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records consist of materials compiled and/or generated in connection with audits and other activities performed by OIG staff. These materials include workpapers and information regarding the planning, conduct, and resolution of audits and reviews of USDA programs and participants in those programs, internal legal assistance requests, information requests, responses to such requests, and reports of findings. The information consists of audit work papers and reports.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

IG Act of 1978, 5 U.S.C. app. 3; 5 U.S.C. 301.

**PURPOSE(S):**

The purpose of this system is to maintain a management information system for USDA OIG audit projects and personnel and to assist in the accurate and timely conduct of audits.

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

Routine Uses 1 through 16, 19, 20, and 21 apply.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to ''consumer reporting agencies'' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

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

**STORAGE:**

The system consists of computerized and paper records.

**RETRIEVABILITY:**

Information in the system generally can be retrieved by OIG personnel in headquarters and the regions. Information is generally retrieved by audit assignment number. However,

information can be retrieved by using alphanumeric queries and personal identifiers.

**SAFEGUARDS:**

Normal computer security is maintained including password protection. File folders are kept in limited-access areas during duty hours and in locked offices during nonduty hours.

**RETENTION AND DISPOSAL:**

The records are retained and disposed of in compliance with OIG's record disposition authority, approved by NARA.

**SYSTEM MANAGER(S) AND ADDRESS(ES):**

Assistant Inspector General for Audit, Office of Inspector General, U.S. Department of Agriculture, 1400 Independence Avenue SW., Washington, DC 20250.

**NOTIFICATION PROCEDURE:**

Any individual may request information regarding this system of records, or information as to whether the system contains records pertaining to him/her, from the Counsel to the Inspector General, Office of Inspector General, U.S. Department of Agriculture, 1400 Independence Avenue SW., Stop 2308, Washington, DC 20250–2308.

**RECORD ACCESS PROCEDURES:**

An individual may request access to a record in this system which pertains to him/her by submitting a written request to the Counsel to the Inspector General, Office of Inspector General, U.S. Department of Agriculture, 1400 Independence Avenue SW., Stop 2308, Washington, DC 20250–2308.

**CONTESTING RECORDS PROCEDURES:**

An individual may contest information in this system which pertains to him/her by submitting a written request to the Counsel to the Inspector General, Office of Inspector General, U.S. Department of Agriculture, 1400 Independence Avenue SW., Stop 2308, Washington, DC 20250–2308.

**RECORD SOURCE CATEGORIES:**

Information in the system is obtained from various source documents related to audits, including USDA, other federal agencies, the Government Accountability Office, law enforcement agencies, program participants including individuals and business entities, subject individuals, complainants, witnesses, and other non-governmental sources.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

## Appendix A

*OIG Regional Offices/Investigations*

Northeast Region/Investigations, 26 Federal Plaza, Room 1409, New York, New York 10278–0004
Southeast Region/Investigations, 401 West Peachtree Street NW., Room 2329, Atlanta, Georgia 30308
Midwest Region/Investigations, 111 North Canal Street, Suite 325, Chicago, Illinois 60606–7295
Southwest Region/Investigations, 101 South Main, Room 311, Temple, Texas 76501
Western Region/Investigations, 1333 Broadway, Suite 400, Oakland, California 94612

OIG Regional Offices/Audit

Eastern Region/Audit, 5601 Sunnyside Avenue, Suite 2–2230, Beltsville, Maryland 20705–5300
Midwestern Region/Audit, 8930 Ward Parkway, Suite 3016 Kansas City, MO 64114
Western Region/Audit, 1333 Broadway, Suite 400, Oakland, California 94612

OIG/Audit Sub Offices

401 West Peachtree Street NW., Room 2328, Atlanta, Georgia 30308
111 North Canal Street, Suite 325, Chicago, Illinois 60606–7295
3811 NW 40th Terrace, Suite 200, Gainesville, Florida 32606
233 Cumberland Bend, Room 118, Nashville, Tennessee 37228
4407 Bland Road, Room 200, Raleigh, North Carolina 27609
299 East Broward Boulevard, Federal Building, Room 410, Box 14, Ft. Lauderdale, Florida 33301
200 North High Street, Room 346, Columbus, Ohio 43215–2408
375 Jackson Street, Suite 300, St. Paul, Minnesota 55101–1850
1114 Commerce Street, Santa Fe Building, Suite 202, Dallas, Texas 75242
100 Centennial Mall North, Room 276, Lincoln, Nebraska 68508
101 South Main, Room 324, Temple, Texas 76501
13800 Old Gentilly Road, Building 350, Post L4, New Orleans, Louisiana 70129
4300 Goodfellow Boulevard, Building 104F, 2nd Floor, Pole L2, St. Louis, Missouri 63120
100 SW Main Street, Suite 625, Portland, Oregon 97204–2893

*OIG/Investigations Sub Offices*

5601 Sunnyside Avenue, Suite 2–2230, Beltsville, Maryland 20705–5300
660 American Avenue, Suite 201, King of Prussia, Pennsylvania 19406–4032
Federal Building, 400 North 8th Street, Room 526, Richmond, Virginia 23240–1001
1 Stiles Road, Suite 304, Salem, New Hampshire 03079
344 West Genesee Street, Suite 202, Syracuse, New York 13202
700 Grant Street, Suite 2110, Pittsburgh, Pennsylvania 15219
233 Cumberland Bend, Room 118, Nashville, Tennessee 37228
950 22nd Street North, Suite 976, Birmingham, Alabama 35203–3702
DHS/HIS—RAC/Sarasota, 3614 3rd Street West, Bradenton, Florida 34205
3811 NW 40th Terrace, Suite 200, Gainesville, Florida 32606
299 East Broward Boulevard, Federal Building, Room 410, Box 14, Ft. Lauderdale, Florida 33301
P.O. Box 952973, Lake Mary, Florida 32795
U.S. Courthouse Building, 601 West Broadway, Room 617, Louisville, Kentucky 40202
4407 Bland Road, Room 110, Raleigh, North Carolina 27609
200 North High Street, Room 350, Columbus, Ohio 43215–2408
3720 Benner Road, Miamisburg, Ohio 45342
2852 Eyde Parkway, Suite 220, East Lansing, Michigan 48823–6321
P.O. Box 768, Indian River, Michigan 49749
6039 Lakeside Boulevard, Indianapolis, Indiana 46278–1989
Metzenbaum U.S. Courthouse, 201 Superior, Suite 550, Cleveland, Ohio 44114
375 Jackson Street, Suite 300, St. Paul, Minnesota 55101–1850
210 Walnut Street, Suite 573, Des Moines, Iowa 50309
5000 South Broadband Lane, Suite 117, Sioux Falls, South Dakota 57108–2261
304 East Broadway, Room 336, Bismarck, North Dakota 58501
103 Holmes Street East #118, Detroit Lakes, Minnesota 56501
3120 South Business Drive, #291, Sheboygan, Wisconsin 53081
1114 Commerce Street, Santa Fe Building, Suite 202, Dallas, Texas 75242
111 East Capitol Street, Suite 425, Jackson, Mississippi 39201
Southwood Tower, 19221 I–45 South, Suite 350, Shenandoah, Texas 77385
700 West Capitol, Room 2528, Little Rock, Arkansas 72201
F. Edward Hebert Building, 600 South Maestri Place, Room 833, New Orleans, Louisiana 70130
215 Dean A. McGee Street, Room 416, Oklahoma City, Oklahoma 73102
8930 Ward Parkway, Suite 3016, Kansas City, Missouri 64114
1222 Spruce Street, Room 2.202E, St. Louis Missouri 63103
100 Centennial Mall North, Room 282, Lincoln, Nebraska 68508
300 5th Avenue, Suite 750, Seattle, Washington 98104–3616
21660 E Copley Drive, Suite 370, Diamond Bar, California 91765
401 West Washington St., Space 77, Suite 425, Phoenix, Arizona 85003–2162
FBI, 5425 West Amelia Earhart Drive, Salt Lake City, Utah 84116
501 I Street, Suite 12–200, Sacramento, California 95814
100 SW Main Street, Suite 625, Portland, Oregon 97204–2893
2440 Tulare Street, Suite 230, Fresno, California 93721–2249
610 West Ash Street, Suite 703, San Diego, California 92101–3346
Denver Federal Center, Building 67, Room 112, 1 Denver Federal Center, Denver,

Colorado 80225

[FR Doc. 2015–19854 Filed 8–12–15; 8:45 am]

BILLING CODE 3410–23–P

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

**[Docket No. APHIS–2015–0048]**

### Monsanto Company; Availability of Petition for Determination of Nonregulated Status for Maize Genetically Engineered for Resistance to Dicamba and Glufosinate

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Notice.

**SUMMARY:** We are advising the public that the Animal and Plant Health Inspection Service (APHIS) has received a petition from the Monsanto Company (Monsanto) seeking a determination of nonregulated status for maize designated as MON 87419, which has been genetically engineered for resistance to the herbicides dicamba and glufosinate. The petition has been submitted in accordance with our regulations concerning the introduction of certain genetically engineered organisms and products. We are making the Monsanto petition available for review and comment to help us identify potential issues and impacts that APHIS should be considering in our evaluation of the petition.

**DATES:** We will consider all comments that we receive on or before October 13, 2015.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2015-0048.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2015–0048, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

The petition and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2015-0048* 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.

The petition is also available on the APHIS Web site at: *http://www.aphis.usda.gov/biotechnology/petitions_table_pending.shtml* under APHIS petition number 15–113–01p, or by contacting Ms. Cindy Eck at (301) 851–3892; email: *cynthia.a.eck@aphis.usda.gov.*

**FOR FURTHER INFORMATION CONTACT:** Dr. John Turner, Director, Environmental Risk Analysis Programs, Biotechnology Regulatory Services, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737–1236; (301) 851–3954, email: *john.t.turner@aphis.usda.gov.*

**SUPPLEMENTARY INFORMATION:** Under the authority of the plant pest provisions of the Plant Protection Act (7 U.S.C. 7701 *et seq.*), the regulations in 7 CFR part 340, ''Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests,'' regulate, among other things, the introduction (importation, interstate movement, or release into the environment) of organisms and products altered or produced through genetic engineering that are plant pests or that there is reason to believe are plant pests. Such genetically engineered (GE) organisms and products are considered ''regulated articles.''

The regulations in § 340.6(a) provide that any person may submit a petition to the Animal and Plant Health Inspection Service (APHIS) seeking a determination that an article should not be regulated under 7 CFR part 340. Paragraphs (b) and (c) of § 340.6 describe the form that a petition for a determination of nonregulated status must take and the information that must be included in the petition.

APHIS has received a petition (APHIS Petition Number 15–113–01p) from the Monsanto Company (Monsanto) of St. Louis, MO, seeking a determination of nonregulated status for maize (*Zea mays*) designated as event MON 87419 which has been genetically engineered for resistance to the herbicides dicamba and glufosinate. The Monsanto petition states that information collected during field trials and laboratory analyses indicates that MON 87419 maize is unlikely to pose a plant pest risk and, therefore, should not be a regulated article under APHIS' regulations in 7 CFR part 340.

MON 87419 maize is currently regulated under 7 CFR part 340. Interstate movements and field tests of MON 87419 maize have been authorized by APHIS. Field tests conducted under APHIS oversight allowed for evaluation in a natural agricultural setting while imposing measures to minimize the risk of persistence in the environment after completion of the tests. Data are gathered on multiple parameters and used by the applicant to evaluate agronomic characteristics and product performance. These and other data are used by APHIS to determine if the new variety poses a plant pest risk.

Paragraph (d) of § 340.6 provides that APHIS will publish a notice in the **Federal Register** providing 60 days for public comment for petitions for a determination of nonregulated status. On March 6, 2012, we published in the **Federal Register** (77 FR 13258–13260, Docket No. APHIS–2011–0129) a notice [1] describing our process for soliciting public comment when considering petitions for determinations of nonregulated status for GE organisms. In that notice we indicated that APHIS would accept written comments regarding a petition once APHIS deemed it complete.

In accordance with § 340.6(d) of the regulations and our process for soliciting public input when considering petitions for determinations of nonregulated status for GE organisms, we are publishing this notice to inform the public that APHIS will accept written comments regarding the petition for a determination of nonregulated status from interested or affected persons for a period of 60 days from the date of this notice. The petition is available for public review and comment, and copies are available as indicated under **ADDRESSES** above. We are interested in receiving comments regarding potential environmental and interrelated economic issues and impacts that APHIS may determine should be considered in our evaluation of the petition. We are particularly interested in receiving comments regarding biological, cultural, or ecological issues, and we encourage the submission of scientific data, studies, or research to support your comments. We also request that, when possible, commenters provide relevant information regarding specific localities or regions as maize growth, crop management, and crop utilization may vary considerably by geographic region.

After the comment period closes, APHIS will review all written comments received during the comment period and any other relevant information. Any substantive issues identified by APHIS based on our review of the petition and our evaluation and analysis of comments will be considered in the development of our decisionmaking documents.

[1] To view the notice, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2011-0129.*

As part of our decisionmaking process regarding a GE organism's regulatory status, APHIS prepares a plant pest risk assessment to assess its plant pest risk and the appropriate environmental documentation—either an environmental assessment (EA) or an environmental impact statement (EIS)—in accordance with the National Environmental Policy Act (NEPA), to provide the Agency with a review and analysis of any potential environmental impacts associated with the petition request. For petitions for which APHIS prepares an EA, APHIS will follow our published process for soliciting public comment (see footnote 1) and publish a separate notice in the **Federal Register** announcing the availability of APHIS' EA and plant pest risk assessment. Should APHIS determine that an EIS is necessary, APHIS will complete the NEPA EIS process in accordance with Council on Environmental Quality regulations (40 CFR parts 1500 through 1508) and APHIS' NEPA implementing regulations (7 CFR part 372).

**Authority:** 7 U.S.C. 7701–7772 and 7781–7786; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 10th day of August 2015.

**Kevin Shea,**

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 2015–19925 Filed 8–12–15; 8:45 am]

**BILLING CODE 3410–34–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Siuslaw Resource Advisory Committee Meeting

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Siuslaw Resource Advisory Committee (RAC) will meet in Corvallis, Oregon. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. Additional RAC information, including the meeting agenda and the meeting summary/minutes can be found at the following Web site: *http://www.fs.usda.gov/main/siuslaw/workingtogether/advisorycommittees.*

**DATES:** The meeting will be held on September 25, 2015 from 9 a.m. to 5 p.m.

All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

**ADDRESSES:** The meeting will be held at the Corvallis Forestry Sciences Lab and Siuslaw National Forest Supervisor's Office at 3200 SW. Jefferson Way, Corvallis, OR 97331. Members of the public may attend in person or join by video-teleconference from Forest Service facilities in Hebo, Waldport, or Reedsport, Oregon.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Siuslaw National Forest Supervisor's Office in Corvallis, Oregon. Please call ahead to facilitate entry into the building.

**FOR FURTHER INFORMATION CONTACT:** Lisa Romano, Public Affairs Staff Officer, by phone at 541–750–7075 or via email at *lmromano@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

**SUPPLEMENTARY INFORMATION:** The purpose of the meeting is:

1. To conduct RAC business, elect a RAC chairperson, set the 2015 fiscal year overhead rate, share information, provide a public forum, and review and select Secure Rural Schools Title II projects for funding.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request to do so in writing by September 5, 2015, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Lisa Romano, Public Affairs Staff Officer, 3200 SW Jefferson Way, Corvallis, OR 97331; or by email to *lmromano@fs.fed.us.*

*Meeting Accommodations:* If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT.** All reasonable accommodation requests are managed on a case by case basis.

Dated: August 4, 2015.

**Jeremiah C. Ingersoll,**

*Forest Supervisor.*

[FR Doc. 2015–19663 Filed 8–12–15; 8:45 am]

**BILLING CODE 3411–15–M**

## DEPARTMENT OF COMMERCE

### Submission for OMB Review; Comment Request

On behalf of the Committee for the Implementation of Textile Agreements (CITA), the Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Agency:* International Trade Administration.

*Title:* Interim Procedures for Considering Requests under the Commercial Availability Provision of the United States–Colombia Trade Promotion Agreement.

*Form Number(s):* N/A.

*OMB Control Number:* 0625–0272.

*Type of Request:* Regular submission.

*Burden Hours:* 89.

*Number of Respondents:* 16 (10 for Requests; 3 for Responses; 3 for Rebuttals).

*Average Hours per Response:* 8 hours per Request; 2 hours per Response; and 1 hour per Rebuttal.

*Needs and Uses:* Title II, Section 203(o) of the United States-Colombia Trade Promotion Agreement Implementation Act (the ''Act'') [Public Law 112–42] implements the commercial availability provision provided for in Article 3.3 of the United States-Colombia Trade Promotion Agreement (the ''Agreement''). The Agreement entered into force on May 15, 2012. Subject to the rules of origin in Annex 4.1 of the Agreement, and pursuant to the textile provisions of the Agreement, a fabric, yarn, or fiber produced in Colombia or the United States and traded between the two countries is entitled to duty-free tariff treatment. Annex 3–B of the Agreement also lists specific fabrics, yarns, and fibers that the two countries agreed are not available in commercial quantities in a timely manner from producers in Colombia or the United States. The

fabrics listed are commercially unavailable fabrics, yarns, and fibers, which are also entitled to duty-free treatment despite not being produced in Colombia or the United States.

The list of commercially unavailable fabrics, yarns, and fibers may be changed pursuant to the commercial availability provision in Chapter 3, Article 3.3, Paragraphs 5–7 of the Agreement. Under this provision, interested entities from Colombia or the United States have the right to request that a specific fabric, yarn, or fiber be added to, or removed from, the list of commercially unavailable fabrics, yarns, and fibers in Annex 3–B of the Agreement.

Chapter 3, Article 3.3, paragraph 7 of the Agreement requires that the President ''promptly'' publish procedures for parties to exercise the right to make these requests. Section 203(o)(4) of the Act authorizes the President to establish procedures to modify the list of fabrics, yarns, or fibers not available in commercial quantities in a timely manner in either the United States or Colombia as set out in Annex 3–B of the Agreement. The President delegated the responsibility for publishing the procedures and administering commercial availability requests to the Committee for the Implementation of Textile Agreements (''CITA''), which issues procedures and acts on requests through the U.S. Department of Commerce, Office of Textiles and Apparel (''OTEXA'') (See Proclamation No. 8818, 77 FR 29519, May 18, 2012).

The intent of the Commercial Availability Procedures is to foster the use of U.S. and regional products by implementing procedures that allow products to be placed on or removed from a product list, on a timely basis, and in a manner that is consistent with normal business practice. The procedures are intended to facilitate the transmission of requests; allow the market to indicate the availability of the supply of products that are the subject of requests; make available promptly, to interested entities and the public, information regarding the requests for products and offers received for those products; ensure wide participation by interested entities and parties; allow for careful review and consideration of information provided to substantiate requests and responses; and provide timely public dissemination of information used by CITA in making commercial availability determinations.

CITA must collect certain information about fabric, yarn, or fiber technical specifications and the production capabilities of Colombian and U.S. textile producers to determine whether certain fabrics, yarns, or fibers are available in commercial quantities in a timely manner in the United States or Colombia, subject to Section 203(o) of the Act.

*Affected Public:* Business or other for-profit.

*Frequency:* Varies.

*Respondent's Obligation:* Voluntary.

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

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

Dated: August 10, 2015.

**Glenna Mickelson,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 2015–19903 Filed 8–12–15; 8:45 am]

**BILLING CODE 3510–DS–P**

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## DEPARTMENT OF COMMERCE

### Submission for OMB Review; Comment Request

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

*Agency:* U.S. Census Bureau.

*Title:* Advance Monthly Retail Trade Survey (MARTS).

*OMB Control Number:* 0607–0104.

*Form Number(s):* SM–4412A, SM–4412AE, SM–4412AS, and SM–7212A.

*Type of Request:* Extension of a currently approved collection.

*Number of Respondents:* 4,900.

*Average Hours per Response:* 5 minutes.

*Burden Hours:* 4,900.

*Needs and Uses:* The Advance Monthly Retail Trade Survey (MARTS) is administered monthly to a sample of employer firms (*i.e.,* businesses with paid employees) with establishments located in the United States and classified in retail trade and/or food services sectors as defined by the North American Industry Classification System (NAICS). MARTS began in 1953 as a monthly survey for activity taking place during the previous month. MARTS was developed in response to requests by government, business, and other users to provide an early indication of current retail trade activity in the United States. Retail sales are one of the primary measures of consumer demand for both durable and non-durable goods. MARTS also provides an estimate of monthly sales at food service establishments and drinking places.

The results from MARTS provide the earliest possible look at consumer spending. Without MARTS, the Census Bureau's earliest measure of retail sales is the ''preliminary'' estimate from the full monthly sample, Month Retail Trade Survey (MRTS), released approximately 6 weeks after the end of the reference month. Advance estimates are released approximately 9 working days after the reference month.

This survey uses a multi-mode data collection process that includes Internet reporting (Centurion), fax, telephone, and mail. The survey requests sales and e-commerce sales for the month just ending. If reporting data for a period other than the calendar month, the survey asks for the period's length (4 or 5 weeks) and the date on which the period ended. The survey also asks for the number of establishments covered by the data provided and whether or not the sales data provided are estimates or more accurate ''book'' figures.

The survey results are published on the Census Bureau's Web site, *http://www.census.gov/retail.*

The U.S. Census Bureau tabulates the collected data to provide, with measured reliability, statistics on United States retail sales. These estimates are especially valued by data users because of their timeliness. There would be approximately a 6 week delay in the availability of these statistics if this survey were not conducted.

The sales estimates are used by the Bureau of Economic Analysis (BEA), Council of Economic Advisers (CEA), Federal Reserve Board (FRB), Bureau of Labor Statistics (BLS), and other government agencies, as well as business users in formulating economic decisions.

BEA uses the survey results as critical inputs to the calculation of the personal consumption expenditures component (PCE) of Gross Domestic Product (GDP). Specifically, BEA Chief Statistician states ''this important survey is our main data source for key components of BEA's economic statistics. Data on retail sales are used to prepare monthly estimates of personal consumption expenditures component of gross domestic product for all PCE goods categories, except tobacco, prescription drugs, motor vehicles, and gasoline end oil. These estimates are also published each month in the Personal Income and Outlays press release''. In first quarter 2015, PCE comprised 68 percent of total

GDP. PCE Goods (retail) was 32 percent of the PCE estimate.

CEA and other government agencies and businesses use the survey results to formulate and make decisions. CEA reports the retail data, one of the principal federal economic indicators, to the President each month for awareness on the current picture on the ''state of the economy'' and presents the data in one of the tables in Economic Indicators, a monthly publication prepared for Congress and the public. In addition, CEA's Macroeconomic Forecaster uses the retail sales data, one of the key monthly data releases each month, to keep track of real economic growth in the current quarter. According to CEA, spending components in the retail sales report constitute about 25 percent of the GDP, well in excess of any other indicator.

Policymakers such as the FRB need to have the timeliest estimates in order to anticipate economic trends and act accordingly. BLS uses the estimates to develop consumer price indexes used in inflation and cost of living calculations. In addition, businesses use the estimates to measure how they are performing and predict future demand for their products.

*Affected Public:* Business or other for-profit.

*Frequency:* Monthly.

*Respondent's Obligation:* Voluntary.

*Legal Authority:* Title 13, United States Code, sections 131 and 182.

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

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

Dated: August 10, 2015.

**Glenna Mickelson,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 2015–19911 Filed 8–12–15; 8:45 am]

**BILLING CODE 3510–07–P**

## DEPARTMENT OF COMMERCE

### Submission for OMB Review; Comment Request

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

*Agency:* International Trade Administration.

*Title:* Procedures for Considering Requests and Comments from the Public for Textile and Apparel Safeguard Actions on Imports from Colombia.

*Form Number(s):* None.

*OMB Control Number:* 0625–0271.

*Type of Request:* Regular submission.

*Burden Hours:* 24.

*Number of Respondents:* 6 (1 for Request; 5 for Comments).

*Average Hours per Response:* 4 hours for a Request; and 4 hours for each Comment.

*Average Annual Cost to Public:* $960.

*Needs and Uses:* Title III, Subtitle B, Section 321 through Section 328 of the United States-Colombia Trade Promotion Agreement Implementation Act (the ''Act'') [Pub. L. 112–42] implements the textile and apparel safeguard provisions, provided for in Article 3.1 of the United States-Colombia Trade Promotion Agreement (the ''Agreement''). This safeguard mechanism applies when, as a result of the elimination of a customs duty under the Agreement, a Colombian textile or apparel article is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions as to cause serious damage or actual threat thereof to a U.S. industry producing a like or directly competitive article. In these circumstances, Article 3.1 permits the United States to increase duties on the imported article from Colombia to a level that does not exceed the lesser of the prevailing U.S. normal trade relations (NTR)/most-favored-nation (MFN) duty rate for the article or the U.S. NTR/MFN duty rate in effect on the day before the Agreement entered into force.

The Statement of Administrative Action accompanying the Act provides that the Committee for the Implementation of Textile Agreements (CITA) will issue procedures for requesting such safeguard measures, for making its determinations under section 322(a) of the Act, and for providing relief under section 322(b) of the Act.

In Proclamation No. 8818 (77 FR 29519, May 18, 2012), the President delegated to CITA his authority under Subtitle B of Title III of the Act with respect to textile and apparel safeguard measures.

CITA must collect information in order to determine whether a domestic textile or apparel industry is being adversely impacted by imports of these products from Colombia, thereby allowing CITA to take corrective action to protect the viability of the domestic textile or apparel industry, subject to section 322(b) of the Act.

*Affected Public:* Individuals or households; business or other for-profit organizations.

*Frequency:* On occasion.

*Respondent's Obligation:* Voluntary.

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

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

Dated: August 10, 2015.

**Glenna Mickelson,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 2015–19899 Filed 8–12–15; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### Bureau of Economic Analysis

### Proposed Information Collection; Comment Request; Services Surveys: BE–185, Quarterly Survey of Financial Services Transactions Between U.S. Financial Services Providers and Foreign Persons

**AGENCY:** Bureau of Economic Analysis, Department of Commerce.

**ACTION:** Notice.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

**DATES:** Written comments must be submitted on or before October 13, 2015.

**ADDRESSES:** Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230, or via email at *jjessup@doc.gov.*

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument and instructions should be directed to Christopher Stein, Chief, Services Surveys Branch (SSB) BE–50, Bureau of Economic Analysis, U.S.

Department of Commerce, Washington, DC 20230; phone: (202) 606–9850; fax: (202) 606–5318; email: *christopher.stein@bea.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Abstract

The Quarterly Survey of Financial Services Transactions between U.S. Financial Services Providers and Foreign Persons (BE–185) is a survey that collects data from U.S. financial services providers that engage in covered transactions with foreign persons in financial services. A U.S. person must report if it had sales of covered services to foreign persons that exceeded $20 million for the previous fiscal year, or that are expected to exceed that amount during the current fiscal year, or if it had purchases of covered services from foreign persons that exceeded $15 million for the previous fiscal year, or that are expected to exceed that amount during the current fiscal year.

The data collected on the survey are needed to monitor U.S. trade in services, to analyze the impact of U.S. trade on the U.S. and foreign economies, to compile and improve the U.S. economic accounts, to support U.S. commercial policy on trade in services, to conduct trade promotion, and to improve the ability of U.S. businesses to identify and evaluate market opportunities. The data are used in estimating the financial services component of the U.S. international transactions accounts and national income and product accounts.

The Bureau of Economic Analysis (BEA) is proposing minor additions and modifications to the current BE–185 survey. The effort to keep current reporting requirements generally unchanged is intended to minimize respondent burden while considering the needs of data users. Existing language in the instructions and definitions will be reviewed and adjusted as necessary to clarify survey requirements.

## II. Method of Collection

Form BE–185 is a quarterly report that must be filed within 45 days after the end of each fiscal quarter, or within 90 days after the close of the fiscal year. BEA offers its electronic filing option, the eFile system, for reporting on Form BE–185. For more information about eFile, go to *www.bea.gov/efile.*

## III. Data

*OMB Control Number:* 0608–0065.

*Form Number:* BE–185.

*Type of Review:* Regular submission.

*Affected Public:* Business or other for-profit organizations.

*Estimated Number of Responses:* 2,700 annually (675 filed each quarter: 550 reporting mandatory data, and 125 that would file other responses).

*Estimated Time per Response:* 10 hours is the average for those reporting data, and 1 hour is the average for other responses, but hours may vary considerably among respondents because of differences in company size and complexity.

*Estimated Total Annual Burden Hours:* 22,500.

*Estimated Total Annual Cost to Public:* $0.

*Respondent's Obligation:* Mandatory.

*Legal Authority:* International Investment and Trade in Services Survey Act (Public Law 94–472, 22 U.S.C. 3101–3108, as amended) and Section 5408 of the Omnibus Trade and Competitiveness Act of 1988.

## IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: August 7, 2015.

**Glenna Mickelson,**

*Management Analyst, Office of Chief Information Officer.*

[FR Doc. 2015–19880 Filed 8–12–15; 8:45 am]

BILLING CODE 3510–06–P

# DEPARTMENT OF COMMERCE

## International Trade Administration

**[A–570–601]**

## Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Initiation of Antidumping Duty Changed Circumstances Review

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

**SUMMARY:** The Timken Company (the petitioner) has filed a request for the Department of Commerce (the Department) to initiate a changed circumstances review of the antidumping duty order on tapered roller bearings (TRBs) and parts thereof from the People's Republic of China (PRC). The petitioner alleges that Shanghai General Bearing Co., Ltd. (SGBC/SKF), a PRC TRBs producer previously revoked from the antidumping duty order, has resumed sales at prices below normal value (NV). Therefore, the petitioner requests that the Department conduct a review to determine whether to reinstate the antidumping duty order with respect to SGBC/SKF.

In accordance with section 751(b) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.216(b), the Department finds the information submitted by the petitioner sufficient to warrant initiation of a changed circumstances review of the antidumping duty order on TRBs from the PRC with respect to SGBC/SKF. The period of review (POR) is June 1, 2014, through May 31, 2015.

In this changed circumstances review, we will determine whether SGBC/SKF sold TRBs at less than NV subsequent to its revocation from the order. If we determine in this changed circumstances review that SGBC/SKF sold TRBs at less than NV and resumed dumping, effective on the date of publication of our final results, we will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of TRBs manufactured and exported by SGBC/SKF.

**DATES:** *Effective date:* August 13, 2015.

**FOR FURTHER INFORMATION CONTACT:** Alice Maldonado, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–4682.

**SUPPLEMENTARY INFORMATION:** On June 15, 1987, the Department published the antidumping duty order on TRBs from

the PRC.[1] On February 11, 1997, the Department conditionally revoked the TRBs Order with respect to merchandise produced and exported by SGBC/SKF,[2] based on a finding of three years of no dumping.[3]

On February 20, 2013, the petitioner alleged that, since its conditional revocation from the TRBs Order, there is evidence that SGBC/SKF has resumed dumping TRBs in the United States. The petitioner notes that SGBC/SKF agreed in writing to reinstatement in the antidumping duty order if it were found to have resumed dumping and it requests that, because SGBC/SKF violated this agreement, the Department initiate a changed circumstances review to determine whether to reinstate SGBC/SKF into the TRBs Order.[4]

In its February 2013, submission, the petitioner provided evidence supporting its allegation. Specifically, the petitioner compared invoice prices to an unaffiliated U.S. customer submitted by SGBC/SKF as part of an application for a separate rate in the 2011–2012 administrative review on TRBs from the PRC to NVs computed using data from the same segment of the proceeding related to another company, Changshan Peer Bearing Co., Ltd. (CPZ/SKF).[5]

In March 2013, the Department requested further information from the petitioner regarding the basis of its allegation, which the petitioner supplied in July 2013. Also in July 2013, SGBC/SKF objected to the petitioner's request for a changed circumstances review, and the petitioner responded to those comments in August 2013.

From August through November 2013, the Department requested that the petitioner provide additional information to support and/or clarify its allegation. The petitioner responded to these requests during the same time period.

In January 2014, the Department deferred the decision of whether to initiate the changed circumstances review requested by the petitioner, pending a determination in another changed circumstances review (*i.e.,* where the Department was examining whether SGBC/SKF was the successor in interest to the company that existed at the time of revocation from the antidumping duty order).[6] The Department completed that successor-in-interest changed circumstances review in April 2015, finding SGBC/SKF to be the successor to the revoked company.[7]

In May and June 2015, the Department requested additional information from the petitioner regarding its request for a changed circumstances review. The petitioner responded to these requests in the same months, and SGBC/SKF submitted comments related to the former of these submissions in June 2015.

## Scope of the Review

Imports covered by the order are shipments of tapered roller bearings and parts thereof, finished and unfinished, from the PRC; flange, take up cartridge, and hanger units incorporating tapered roller bearings; and tapered roller housings (except pillow blocks) incorporating tapered rollers, with or without spindles, whether or not for automotive use. These products are currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) item numbers 8482.20.00, 8482.91.00.50, 8482.99.15, 8482.99.45, 8483.20.40, 8483.20.80, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.80, 8708.70.6060, 8708.99.2300, 8708.99.4850, 8708.99.6890, 8708.99.8115, and 8708.99.8180. Although the HTSUS item numbers are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

## Allegation of Resumed Dumping

In its February 2013 submission, the petitioner provided an invoice to an unaffiliated U.S. customer of SGBC/SKF as the basis for U.S. price, and it provided factors of production (FOPs) reported by CPZ/SKF in another segment of this proceeding and surrogate value (SV) information as the basis for NV. Specifically, the petitioner's information was obtained from the 2011–2012 administrative review on TRBs from the PRC,[8] and the petitioner used this information to argue that SGBC/SKF sold TRBs at less than NV during that review period.

The petitioner provided an alternative allegation in August 2013 to take into account certain objections raised by SGBC/SKF.[9] In May and June 2015, at the Department's request, the petitioner provided additional calculations, based on data contained in the same source document used to make the initial allegation, to demonstrate that its initial allegation was representative of SGBC/SKF's broader overall selling practices during the period covered by the 2011–2012 administrative review.[10]

The allegation of resumed dumping upon which the Department has based its decision to initiate a changed circumstances review is detailed below. The sources of data for the adjustments that the petitioner calculated relating to NV and U.S. price are discussed in greater detail in the Changed Circumstances Review Initiation Checklist, dated concurrently with this notice. Should the need arise to use any of this information as facts available under section 776 of the Act, we may reexamine the information and revise the margin calculation, if appropriate.

[1] *See Antidumping Duty Order; Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, From the People's Republic of China,* 52 FR 22667 (June 15, 1987) (TRBs Order).

[2] SGBC/SKF is currently part of a group of companies owned by AB SKF (SKF) in Sweden. *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Notice of Final Results of Changed Circumstances Review,* 80 FR 19070 (April 9, 2015) and accompanying Issues and Decision Memorandum (*SII CCR*) at Comment 1. At the time of revocation, SGBC was not part of this group. However, the Department conducted a changed circumstances review after the company's change in ownership, and we found that SGBC/SKF is the successor in interest to the company as it existed at the time of revocation. *Id.*

[3] The three administrative reviews forming the basis of the revocation are: (1) The June 1, 1991, through May 31, 1992, review; (2) the June 1, 1992, through May 31, 1993, review; and (3) the June 1, 1993, through May 31, 1994, review. *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Final Results of Antidumping Duty Administrative Reviews,* 61 FR 65527 (December 13, 1996) (for the 1991–1992 and 1992–1993 reviews); *see also Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Final Results of Antidumping Duty Administrative Review and Revocation in Part of Antidumping Duty Order,* 62 FR 6189 (February 11, 1997) (for the 1993–1994 review) (*SGBC/SKF Revocation*).

The regulatory provision governing partial revocation at the time of SGBC/SKF's revocation was 19 CFR 353.25 (1997). The relevant language remained substantively unchanged when 19 CFR 353.25 was superseded by 19 CFR 351.222 in 1997. *See Antidumping Duties; Countervailing Duties: Notice of Proposed Rulemaking and Request for Public Comments,* 61 FR 7308 (February 27, 1996) (*1996 Notice of Proposed Rulemaking*); *see also Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296, 27325–26, 27399–402 (May 19, 1997) (*Preamble*). The portion of 19 CFR 351.222 related to partial revocations of orders as to specific companies has been revoked for all reviews initiated on or after June 20, 2012. *See Modification to Regulation Concerning the Revocation of Antidumping and Countervailing Duty Orders: Final Rule,* 77 FR 29875 (May 21, 2012) (*Revocation Final Rule*).

[4] *See* the petitioner's February 20, 2013, letter to the Department (CCR Request).

[5] *See* CCR Request, at 10.

[6] *See* the memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, from Alan Ray, Senior Analyst, Antidumping and Countervailing Duty Operations, entitled ''Deferment of Decision on Initiation of Changed Circumstances Review of the Antidumping Duty Order on Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China,'' dated January 7, 2014.

[7] *See SII CCR.*

[8] *See* CCR Request, at Attachment 1.

[9] *See* the petitioner's August 9, 2013 submission.

[10] *See* the petitioner's June 24, 2015 submission.

*1. Export Price (EP)*

The petitioner based U.S. price upon sales documents submitted by SGBC/SKF in a separate rate application, dated October 15, 2012, in the 2011–2012 administrative review on TRBs from the PRC. The invoice identifies prices for three TRB models sold by SGBC/SKF to an unaffiliated U.S. customer.[11] The petitioner subsequently revised its allegation to remove one of these models from its calculations because it was unable to provide contemporaneous NV information for this product.[12] In May and June 2015, to demonstrate that the prices upon which the petitioner based its allegation were representative of SGBC/SKF's broader selling activity during the 2011–2012 review period, the petitioner provided three sets of additional margin calculations based on sales contained in SGBC/SKF's separate rate application that were made by SGBC/SKF to an affiliated U.S. importer.

*2. NV*

In accordance with section 773(c)(1) of the Act, to determine NV, the petitioner used the FOPs submitted by CPZ/SKF, the sole respondent in the 2011–2012 administrative review on TRBs from the PRC, and it valued those FOPs using SV data and surrogate financial statements taken from the same segment of the proceeding.[13]

In addition, on August 9, 2013, the petitioner provided an alternative calculation of NV in order to address comments made by SGBC/SKF.[14] For further discussion, see below.

*3. Alleged Margins of Dumping*

Based upon the information summarized above, the petitioner alleges that there is evidence that SGBC/SKF has resumed dumping TRBs in the United States that is sufficient to warrant initiation of a changed circumstances review to determine whether SGBC/SKF should be reinstated into the antidumping duty order. The petitioner estimated a margin of 26 percent. To demonstrate that this margin is representative of SGBC/SKF's broader selling experience, the petitioner also calculated several additional non-*de minimis* margins using the data in its May 22, 2015, submission.[15]

**Comments by Interested Parties**

As noted above, on July 23, 2013, SGBC/SKF submitted comments on the petitioner's request that the Department initiate a changed circumstances review.[16] In these comments, SGBC/SKF contended that the evidence provided by the petitioner fails to provide a reasonable indication that SGBC/SKF has resumed dumping because: (1) The petitioner's allegation is based on a miniscule sample of U.S. sales, rendering the U.S. price data in the allegation unrepresentative of SGBC/SKF's broader selling experience; (2) the petitioner's calculations are not based on SGBC/SKF's own FOP data, but rather are based on the FOPs provided by CPZ/SKF, an entirely different company, and the petitioner provided no factual basis to demonstrate that CPZ/SKF's FOPs provide an accurate estimate of SGBC/SKF's own FOPs or that CPZ/SKF's and SGBC/SKF's product mixes during the POR were similar; and (3) the petitioner's calculations fail to use the market economy steel prices deemed by the Department to be the best information to value CPZ/SKF's steel bar purchases during the 2011–2011 administrative review.[17] Further, SGBC/SKF argued that, even if the small number of U.S. sales covered by petitioner's allegation represented sales below NV, this alone does not provide an indication of overall dumping because it does not take into account the fact that the Department's current practice is to offset lower-priced sales with higher prices on other products.[18] According to SGBC/SKF, initiating a changed circumstances review with such flaws would be unreasonable.

On August 9, 2013, the petitioner responded to these comments.[19] The petitioner noted that the U.S. price data in its allegation were taken from an actual sale made by SGBC/SKF, and thus it is reasonably likely that the sale of the products at issue is representative not only of other sales of the same part numbers (as these products fall within SGBC/SKF's U.S. product line) but also of SGBC/SKF's other products in general.[20] Moreover, the petitioner stated that these data were the only information reasonably available to it and, therefore, they provide reasonable grounds for the Department to initiate a changed circumstances review.[21]

Similarly, the petitioner disagreed that use of CPZ/SKF's FOP information yields an inaccurate picture of SGBC/SKF's production costs. The petitioner noted that, in 2008, CPZ/SKF was acquired by SKF, the world's largest bearing company.[22] Consequently, the petitioner argued that not only is SKF an efficient producer of TRBs, but also as owner of CPZ/SKF, it has improved the efficiency of CPZ/SKF's production facilities. Therefore, the petitioner claims that CPZ/SKF's FOPs likely provide a conservative estimate of SGBC/SKFs FOP experience.[23] Furthermore, in its September 2013 submission, the petitioner placed its TRB product coding system on the record of this proceeding;[24] the petitioner claims that this coding system demonstrates that certain of the TRBs sold by SGBC/SKF to the United States are the same as TRBs produced by CPZ/SKF (because they have the same part numbers),[25] and, thus, the CPZ/SKF FOPs used in the allegation are for products with identical specifications.

With respect to SGBC/SKF's final argument that the petitioner should have used CPZ/SKF's market economy input price submitted in the 2011–2012 administrative review, the petitioner stated that there is no information on the record indicating that SGBC/SKF purchased its steel from a market-economy source, so there is no basis to use anything other than SV data.[26] Nonetheless, in order to demonstrate that the facts of this record support the proposition that SGBC/SKF has likely resumed dumping, the petitioner took the margin program used by the Department in the 2011–2012 administrative review on TRBs from the

[11] *Id.*

[12] *See* the petitioner's August 29, 2013 submission at 2.

[13] *See* Changed Circumstances Review Initiation Checklist.

[14] *See* the petitioner's August 9, 2013 submission at 5.

[15] These calculations were revised at the Department's request on June 24, 2015. The petitioner has designated the alternative margins in both submissions as business proprietary. *See* Changed Circumstances Review Initiation Checklist.

[16] *See* SGBC/SKF's letter dated July 23, 2013.

[17] *Id.*

[18] *Id.*

[19] *See* the petitioner's August 9, 2013 submission.

[20] *Id.* at 3.

[21] *Id.* at 2. Subsequent to this submission, in June 2015, the petitioner provided several calculations to support its contention that the margins contained in the original allegation are representative of SGBC/SKF's selling practices; the petitioner based these calculations on additional SGBC/SKF data contained on the record of the 2011–2012 administrative review proceeding. *See* the petitioner's June 24, 2015 submission.

[22] *Id.* at 3, citing to *Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, From the People's Republic of China: Preliminary Results of the 2008–2009 Administrative Review of the Antidumping Duty Order,* 75 FR 41148, 41151 (July 15, 2010).

[23] *See* the petitioner's August 9, 2013, submission at 4.

[24] *See* the petitioner's September 3, 2013 submission at Attachment 1, Appendix 8. This information was originally part of an August 15, 2013, submission from SGBC/SKF on the successor-in-interest changed circumstances review involving SGBC/SKF.

[25] *Id.*

[26] *See* the petitioner's August 9, 2013 submission at 4.

PRC and tailored it to account for the facts of this case. Specifically, The petitioner: (1) Lowered the FOP usage rates by 10 percent in order to account for the possibility that SGBC/SKF is an even more efficient producer of TRBs than CPZ/SKF; and (2) used CPZ/SKF's market-economy steel price. The petitioner notes that, even after incorporating these conservative assumptions, the results still indicate that SGBC/SKF has resumed dumping.[27]

As noted above, in May and June 2015, the petitioner responded to the Department's requests for additional information regarding its request for a changed circumstances review. In these submissions, the petitioner explained why it considered the sale covered by its allegation to be representative of SGBC/SKF's broader U.S. sales activity and it provided additional calculations supporting this conclusion. On June 5, 2015, SGBC/SKF submitted comments on the petitioner's May 22, 2015 filing; in these comments; SGBC/SKF contends that, despite its claim to the contrary, the petitioner failed to establish that the sale at issue is, in fact, representative. Moreover, SGBC/SKF maintains that the petitioner's additional calculations are not valid because: (1) They are based on ''irrelevant'' U.S. transactions between affiliated parties without accompanying evidence that a sale to an unaffiliated party took place; and (2) a ''markup'' used in these calculations is based, in part, on sales of non-subject products. According to SGBC/SKF, the standard for initiation of reinstatement changed circumstances reviews should be higher than the comparatively lower standard that exists for investigations, considering the costs associated with such reviews and the fact that a revoked company has already proven that it was not engaged in dumping for three consecutive years. As a result, SGBC/SKF submits that the single sale on which the petitioner's allegation is based is not sufficiently indicative of resumed dumping for purposes of initiating a changed circumstances review.

## Initiation of Changed Circumstances Review

Pursuant to section 751(b) of the Act, the Department will conduct a changed circumstances review upon receipt of a request ''from an interested party for review of an antidumping duty order which shows changed circumstances sufficient to warrant a review of the order.'' After examining the petitioner's allegation and supporting documentation, we find that the petitioner has provided evidence of changed circumstances sufficient to initiate a review to determine whether SGBC/SKF has resumed dumping and should be reinstated in the TRBs Order.[28]

The Department's authority to reinstate a revoked company into an antidumping duty order by means of a changed circumstances review derives from sections 751(b) and (d) of the Act.[29] In particular, the Department's authority to revoke an order is expressed in section 751(d) of the Act. The statute, however, provides no detailed description of the criteria, procedures, or conditions relating to the Department's exercise of this authority. Accordingly, the Department issued regulations setting forth in detail how the Department will exercise the authority granted to it under the statute. At the time of SGBC/SKF's revocation from the TRBs Order, a Department regulation authorized the partial and conditional revocation of orders as to companies that were determined not to have made sales at less than NV for the equivalent of three consecutive years and that certified to the immediate reinstatement into an order if they resumed dumping.[30] Although the regulatory provision for partial and conditional revocation of companies from orders has since been revoked, we have clarified that all conditionally revoked companies remain subject to their certified agreements to be reinstated into the order from which they were revoked if the Department finds that the company has resumed dumping.[31] For these reasons, conducting a changed circumstances review pursuant to section 751(b) of the Act to determine whether to reinstate SGBC/SKF into the TRBs Order is consistent with the statute and with the certification that SGBC/SKF signed as a precondition to its conditional revocation.[32]

With respect to SGBC/SKF's comments regarding the representativeness of the U.S. price and NV data proffered by the petitioner, on December 18, 2013, the Department placed information on the record of this segment of the proceeding which was submitted in an ongoing successor-in-interest changed circumstances review involving SGBC/SKF.[33] This information relates to the product mix of both SGBC/SKF and CPZ/SKF, and it demonstrates that the type of products shown on SGBC/SKF's invoice represents a significant proportion of SGBC/SKF's product line. We also find SGBC/SKF's concerns relating to the use of CPZ/SKF's FOPs to be misplaced.

With respect to the question of whether the size of the allegation is sufficiently representative of SGBC/SKF's sales activity, we note that, in response to the Department's supplemental questionnaires, the petitioner provided additional information regarding representativeness of the U.S. price data on May 22, 2015, and June 24, 2015. In these submissions, the petitioner used affiliated-party pricing for a substantial quantity of TRBs shipped between SGBC/SKF and its U.S. affiliate.[34] Adjusting the prices to approximate the prices to an unaffiliated U.S. customer and using the same NV methodology, the petitioner calculated dumping margins.[35] We disagree with SGBC/SKF that these alternative calculations are invalid simply because the petitioner constructed an export price using a markup which may contain profit rates for both TRBs and other products not subject to the TRBs Order. We find that

[27] *See* the petitioner's August 9, 2013, submission at 5 and the petitioner's June 24, 2015 submission.

[28] *See* Changed Circumstances Review Initiation Checklist.

[29] *See Sahaviriya Steel Indus. Pub. Co., Ltd.* v. *United States,* 649 F.3d 1371, 1378 (CAFC 2011) (*Sahaviriya*) (''{T} his court holds, applying Chevron deference, that Commerce reasonably interpreted its revocation authority under {section 751(d) of the Act} to permit conditional revocation . . . .''); *Id.* at 1380 (finding that Commerce properly conducted a changed circumstances review for purposes of reconsidering revocation).

[30] *See* 19 CFR 353.25 (1997). As noted above, the relevant language regarding reinstatement remained substantively unchanged when 19 CFR 353.25 was superseded by 19 CFR 351.222 (1997), and the portion of 19 CFR 351.222 related to partial revocations of orders as to specific companies has been revoked for all reviews initiated on or after June 20, 2012. *See 1996 Notice of Proposed Rulemaking; Preamble; Revocation Final Rule.*

[31] *See Revocation Final Rule,* 77 FR at 29882.

[32] *See, e.g., Sahaviriya,* 649 F.3d at 1380; *Initiation of Antidumping Duty Changed Circumstances Review: Certain Hot-Rolled Carbon Steel Flat Products from Thailand,* 73 FR 18766, 18769 (April 7, 2008*); see also SGBC/SKF Revocation,* 62 FR at 6189 (''In accordance with 19 CFR 353.25(a)(2)(iii), this request was accompanied by certifications from the firm that it had sold subject merchandise at not less than FMV for a three-year period, including this review period, and would not do so in the future. Shanghai also agreed to its immediate reinstatement in the antidumping duty order, as long as any firm is subject to this order, if the Department concludes under 19 CFR 353.22(f) that, subsequent to revocation, it sold the subject merchandise at less than FMV.'').

[33] *See* the Product Mix Memo at Attachment I.

[34] The prices and quantities were sourced from the same Separate Rate Application filed by SGBC/SKF used by the petitioner in its resumed dumping allegation. *See* the petitioner's May 22, 2015, submission, at Exhibit 1.

[35] We note that the margins calculated by the petitioner in these submissions were treated as business proprietary information. *See* the petitioner's May 22, 2015, submission at 3 through 8; *see also* the petitioner's June 24, 2015, submission, at Exhibits 1, 2, and 3.

the petitioner's methodology yields a reasonable approximation of SGBC/SKF's U.S. pricing behavior. Moreover, given that the petitioner made no adjustments for numerous selling expenses, we find that the petitioner's methodology is likely conservative.

Further, with respect to NV, the petitioner maintains that its TRB product coding system demonstrates that the FOPs in its allegation are for the same basic products as CPZ/SKF's because they have the same cone and bore width.[36] Thus, while the FOP data are not specific to SGBC/SKF, we find that the FOP data submitted are publicly available and the product coding system information submitted by the petitioner provides a reasonable basis to conclude that NV is for substantially similar or identical products. Finally, with respect to SGBC/SKF's argument that the petitioner should have used CPZ/SKF's market-economy steel purchase prices in its calculations, we note that the petitioner provided alternative calculations which incorporated these prices and provided the dumping margins resulting from these calculations.

With respect to SGBC/SKF's comments regarding zeroing or offsets, we note that the issue raised by SGBC/SKF is implicated only when the comparison results (*i.e.,* individual dumping margins) are aggregated to calculate the weighted-average dumping margin. In this instance, we have examples provided by the petitioner to demonstrate, on an individual comparison basis, that SGBC/SKF has sold subject merchandise at less than NV.[37] As previously noted, we find, consistent with section 751(b) of the Act, that this information provided by the petitioner constitutes evidence of changed circumstances sufficient to initiate a review to determine whether SGBC/SKF has resumed dumping and should be reinstated in the TRBs Order. We note that initiation of this review does not constitute a conclusive determination that SGBC/SKF has resumed dumping on an aggregate basis. During the course of this review, the Department will apply its established methodologies regarding offsets.

Finally, with respect to SGBC/SKF's argument that the Department should apply a heightened standard when determining whether to initiate this review, the Department notes that the applicable standard is whether there is information ''which shows changed circumstances sufficient to warrant a review'' under section 751(b)(1) of the Act. In the context of a reinstatement changed circumstances review, the pertinent question is whether there is sufficient evidence of resumed dumping. Based on the foregoing, we find that the petitioner has provided sufficient evidence to initiate a changed circumstances review to examine SGBC/SKF's pricing and determine whether SGBC/SKF has resumed dumping sufficient to reinstate the company within the TRBs Order. If we determine in this changed circumstances review that SGBC/SKF resumed dumping, effective on the date of publication of our final results, we will direct CBP to suspend liquidation of all entries of TRBs manufactured in the PRC and exported by SGBC/SKF.

## Period of Changed Circumstances Review

The Department intends to request data from SGBC/SKF for the June 1, 2014, through May 31, 2015, period in order to determine whether SGBC/SKF has resumed dumping sufficient to warrant reinstatement within the TRBs Order.

## Public Comment

The Department will publish in the **Federal Register** a notice of preliminary results of changed circumstances review in accordance with 19 CFR 351.221(b)(4) and 351.221(c)(3)(i), which will set forth the Department's preliminary factual and legal conclusions. Pursuant to 19 CFR 351.221(b)(4)(ii), interested parties will have an opportunity to comment on the preliminary results. Unless otherwise extended, the Department intends to issue its final results of review in accordance with the time limits set forth in 19 CFR 351.216(e).

This notice is published in accordance with sections 751(b)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b) of the Department's regulations.

Dated: August 7, 2015.

**Ronald K. Lorentzen,**

*Acting Assistant Secretary for Enforcement and Compliance.*

[FR Doc. 2015–19985 Filed 8–12–15; 8:45 am]

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[36] *See* the petitioner's September 3, 2013 submission at Attachment 1, Appendix 8.

[37] *See* the petitioner's February 20, 2013 submission at Attachment 1.

# DEPARTMENT OF COMMERCE

## International Trade Administration

## Renewable Energy and Energy Efficiency Advisory Committee

**AGENCY:** International Trade Administration, U.S. Department of Commerce

**ACTION:** Notice of an open meeting.

**SUMMARY:** The Renewable Energy and Energy Efficiency Advisory Committee (RE&EEAC) will hold a meeting on Tuesday, September 22, 2015 at the U.S. Department of Commerce Herbert C. Hoover Building in Washington, DC. The meeting is open to the public and interested parties are requested to contact the U.S. Department of Commerce in advance of the meeting.

**DATES:** September 22, 2015, from approximately 8:30 a.m. to 4 p.m. Daylight Saving Time (DST). Members of the public wishing to participate must notify Andrew Bennett at the contact information below by 5:00 p.m. DST on Friday, September 18, 2015, in order to pre-register.

*For All Further Information, Please Contact:* Andrew Bennett, Office of Energy and Environmental Industries (OEEI), International Trade Administration, U.S. Department of Commerce at (202) 482–5235; email: *Andrew.Bennett@trade.gov.*

**SUPPLEMENTARY INFORMATION:**

*Background:* The Secretary of Commerce established the RE&EEAC pursuant to his discretionary authority and in accordance with the Federal Advisory Committee Act (5 U.S.C. App.) on July 14, 2010. The RE&EEAC was re-chartered on June 12, 2014. The RE&EEAC provides the Secretary of Commerce with consensus advice from the private sector on the development and administration of programs and policies to enhance the international competitiveness of the U.S. renewable energy and energy efficiency industries.

During the September 22nd meeting of the RE&EEAC, committee members will discuss priority issues identified in advance by the Committee Chair and Sub-Committee leadership, and hear from interagency partners on issues impacting the competitiveness of the U.S. renewable energy and energy efficiency industries.

A limited amount of time before the close of the meeting will be available for pertinent oral comments from members of the public attending the meeting. To accommodate as many speakers as possible, the time for public comments will be limited to two to five minutes per person (depending on number of

public participants). Individuals wishing to reserve additional speaking time during the meeting must contact Mr. Bennett and submit a brief statement of the general nature of the comments, as well as the name and address of the proposed participant by 5:00 p.m. DST on Friday, September 11, 2015. If the number of registrants requesting to make statements is greater than can be reasonably accommodated during the teleconference, the International Trade Administration may conduct a lottery to determine the speakers. Speakers are requested to submit a copy of their oral comments by email to Mr. Bennett for distribution to the participants in advance of the teleconference.

Any member of the public may submit pertinent written comments concerning the RE&EEAC's affairs at any time before or after the meeting. Comments may be submitted to the Renewable Energy and Energy Efficiency Advisory Committee, c/o: Andrew Bennett, Office of Energy and Environmental Industries, U.S. Department of Commerce, Mail Stop: 4053, 1401 Constitution Avenue NW., Washington, DC 20230. To be considered during the meeting, written comments must be received no later than 5:00 p.m. DST on Friday, September 11, 2015, to ensure transmission to the Committee prior to the meeting. Comments received after that date will be distributed to the members but may not be considered at the meeting.

Copies of RE&EEAC meeting minutes will be available within 30 days following the meeting.

Dated: August 5, 2015.

**Edward A. O'Malley,**

*Director, Office of Energy and Environmental Industries.*

[FR Doc. 2015–19865 Filed 8–12–15; 8:45 am]

**BILLING CODE 3510–DR–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

### Cyber Security Business Development Mission to Japan, South Korea, and Taiwan; May 16–24, 2016

**AGENCY:** International Trade Administration, Department of Commerce.

**ACTION:** Notice.

**SUMMARY:** The United States Department of Commerce, International Trade Administration (ITA), is organizing an Executive-led Cyber-security Business Development Mission to Japan, South Korea and Taiwan.

The purpose of the mission is to introduce U.S. firms and trade associations to East Asia's information and communication technology (ICT) security and critical infrastructure protection markets and to assist U.S. companies to find business partners and export their products and services to the region. The mission is intended to include representatives from U.S. companies and U.S. trade associations with members that provide cyber-security and critical infrastructure protection products and services. The mission will visit Japan, South Korea and Taiwan where U.S. firms will have access to business development opportunities across East Asia. Participating firms will gain market insights, make industry contacts, solidify business strategies, and advance specific projects, with the goal of increasing U.S. exports of products and services to East Asia. The mission will include customized one-on-one business appointments with pre-screened potential buyers, agents, distributors and joint venture partners; meetings with state and local government officials and industry leaders; and networking events.

The mission will help participating firms and trade associations to gain market insights, make industry contacts, solidify business strategies, and advance specific projects, with the goal of increasing U.S. exports to Japan, South Korea and Taiwan. By participating in an official U.S. industry delegation, rather than traveling to Japan, South Korea and Taiwan on their own, U.S. companies will enhance their ability to secure meetings in those countries and gain greater exposure to the region.

SCHEDULE

| | |
|---|---|
| Sunday, May 15 | Trade Mission Participants Arrive in Tokyo. |
| Monday, May 16 | Welcome and Country Briefing (Japan). |
| | One-on-One business matchmaking appointments. |
| | Networking Lunch. |
| | One-on-One business matchmaking appointments. |
| | Networking Reception at Ambassador's residence (TBC). |
| Tuesday, May 17 | Cabinet and Ministry Meetings. |
| | National Center of Incident Readiness and Strategy for Cybersecurity (NISC). |
| | Networking Lunch. |
| | One-on-One business matchmaking appointments or Ministry Meetings. |
| Wednesday, May 18 | Travel to Korea. |
| Thursday, May 19 | Welcome and Country Briefing (Korea). |
| | One-on-One business matchmaking appointments. |
| | Networking Lunch. |
| | One-on-One business matchmaking appointments. |
| | Networking Reception at Ambassador's residence (TBC). |
| Friday, May 20 | Ministry Meetings. |
| | Networking Lunch. |
| | One-on-One business matchmaking appointments or visit to Government Cyber-Security Center. |
| Saturday–Sunday, May 21–22 | Travel to Taiwan. |
| Monday, May 23 | Welcome and Country Briefing (Taiwan). |
| | One-on-One business matchmaking appointments. |
| | Networking Reception at AIT Director's residence (TBC). |
| Tuesday, May 24 | Cabinet and Ministry Meetings with selected delegates. |
| | Sightseeing tour (optional, paid by delegates). |
| Wednesday, May 25 | Trade Mission Participants Depart. |

*Web site:* Please visit our official mission Web site for more information: *http://export.gov/trademissions/cyberasia.*

**Participation Requirements**

All parties interested in participating in the trade mission must complete and submit an application package for consideration by the DOC. All applicants will be evaluated on their ability to meet certain conditions and best satisfy the selection criteria as outlined below. A minimum of 15 and maximum of 20 firms and/or trade associations will be selected to participate in the mission from the applicant pool.

**Fees and Expenses**

After a firm or trade association has been selected to participate on the mission, a payment to the Department of Commerce in the form of a participation fee is required. Expenses for travel, lodging, meals, and incidentals will be the responsibility of each mission participant. Interpreter and driver services can be arranged for additional cost. Delegation members will be able to take advantage of U.S. Embassy rates for hotel rooms.

Participation fee for small or medium sized enterprises (SME): $4400.00

Participation fee for large firms or trade associations: $5800.00

Fee for each additional firm representative (large firm or SME/trade organization): $1,000.

*Application*

All interested firms and associations may register via the following link: *https://emenuapps.ita.doc.gov/ePublic/TM/6R0R.*

**Exclusions**

The mission fee does not include any personal travel expenses such as lodging, most meals, local ground transportation, and air transportation from the U.S. to the mission sites, between mission sites, and return to the United States. Business visas may be required. Government fees and processing expenses to obtain such visas are also not included in the mission costs. However, the U.S. Department of Commerce will provide instructions to each participant on the procedures required to obtain necessary business visas.

**Timeline 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/trademissions*) 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 March 4, 2016. The U.S. Department of Commerce will review applications and inform applicants of selection decisions periodically during the recruitment period beginning August 17, 2015. All applications received subsequent to an evaluation date will be considered at the next evaluation. Applications received after March 4, 2016, will be considered only if space and scheduling constraints permit.

**Conditions for Participation**

The following criteria will be evaluated in selecting participants:

- Suitability of the company's (or in the case of a trade association/organization, represented companies') products or services to the mission goals and the markets to be visited as part of this trade mission.
- Company's (or in the case of a trade association/organization, represented companies') potential for business in each of the markets to be visited as part of this trade mission.
- Consistency of the applicant's (or in the case of a trade association/organization, represented companies') goals and objectives with the stated scope of the mission.

Diversity of company size and location may also be considered during the review process. 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 not considered during the selection process.

**FOR FURTHER INFORMATION CONTACT:** Mr. Gemal Brangman, Project Officer, U.S. Department of Commerce, Washington, DC, Tel: 202–482–3773, Fax: 202–482–9000, *Gemal.Brangman@trade.gov.*

**Anne Grey,**

*Trade Missions Program.*

[FR Doc. 2015–19859 Filed 8–12–15; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

**[C–533–864, C–475–833, C–570–027, C–580–879, C–583–857]**

### Countervailing Duty Investigations of Certain Corrosion-Resistant Steel Products From India, Italy, the People's Republic of China, the Republic of Korea, and Taiwan: Postponement of Preliminary Determinations

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

**FOR FURTHER INFORMATION CONTACT:** Matt Renkey or Jerry Huang at (202) 482–2312 and (202) 482– 4047, respectively (India); Robert Palmer at (202) 482–9068 (Italy); Myrna Lobo at (202) 482–2371 (the People's Republic of China, and the Republic of Korea); Kristen Johnson at (202) 482–4793 (Taiwan), AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

**SUPPLEMENTARY INFORMATION:**

**Background**

On June 23, 2015, the Department of Commerce (Department) initiated the countervailing duty investigations of certain corrosion-resistant steel products from India, Italy, the People's Republic of China, the Republic of Korea, and Taiwan.[1] Currently, the preliminary determinations are due no later than August 27, 2015.

**Postponement of Due Date for the Preliminary Determinations**

Section 703(b)(1) of the Tariff Act of 1930, as amended (Act), requires the Department to issue the preliminary determination in a countervailing duty investigation within 65 days after the date on which the Department initiated the investigation. However, section 703(c)(1) of the Act permits the Department to postpone making the preliminary determination until no later than 130 days after the date on which it initiated the investigation if, among other reasons, the petitioner makes a timely request for a postponement, or the Department concludes that the parties concerned are cooperating and determines that the investigation is extraordinarily complicated. On August 3, 2015, United States Steel Corporation;

[1] *See Certain Corrosion-Resistant Steel Products from the People's Republic of China, India, Italy, the Republic of Korea, and Taiwan: Initiation of Countervailing Duty Investigations,* 80 FR 37223 (June 30, 2015) (*Initiation Notice*).

Nucor Corporation; Steel Dynamics, Inc.; ArcelorMittal USA, LLC; AK Steel Corp.; and California Steel Industries (collectively, Petitioners) made a timely request to postpone the preliminary countervailing duty determinations.[2] Therefore, pursuant to the discretion afforded the Department under 703(c)(1)(A) of the Act and because the Department does not find any compelling reason to deny the request, we are fully extending the due date until 130 days after the Department's initiation for the preliminary determinations. The deadline for the completion of the preliminary determinations is now November 2, 2015.[3]

This notice is issued and published pursuant to section 703(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: August 6, 2015.

**Ronald K. Lorentzen,**

*Acting Assistant Secretary for Enforcement and Compliance.*

[FR Doc. 2015–19994 Filed 8–12–15; 8:45 am]

**BILLING CODE 3510–DS–P**

[2] *See* Petitioners' August 3, 2015 letter requesting postponement of the preliminary determination.

[3] The due date actually falls on October 31, 2015, which is a Saturday. Therefore, the deadline moves to the next business day, November 2, 2015. *See Notice of Clarification: Application of ''Next Business Day'' Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended,* 70 FR 24533 (May 10, 2008).

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XE097**

### Taking of Marine Mammals Incidental to Specified Activities; Front Street Transload Facility Construction

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

**ACTION:** Notice; proposed incidental harassment authorization; request for comments and information.

**SUMMARY:** NMFS has received a request from the Bergerson Construction, Inc. (Bergerson) for an authorization to take small numbers of two species of marine mammals, by Level B harassment, incidental to proposed construction activities for Front Street Transload Facility construction project in Newport, Oregon. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an authorization to Bergerson to incidentally take, by harassment, small numbers of marine mammals for a period of 1 year.

**DATES:** Comments and information must be received no later than September 14, 2015.

**ADDRESSES:** Comments on the application should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. The mailbox address for providing email comments is *itp.guan@noaa.gov.* NMFS is not responsible for email comments sent to addresses other than the one provided here. Comments sent via email, including all attachments, must not exceed a 25-megabyte file size.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.nmfs.noaa.gov/pr/permits/incidental.htm* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

A copy of the application may be obtained by writing to the address specified above or visiting the internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm.* Documents cited in this notice may also be viewed, by appointment, during regular business hours, at the aforementioned address.

**FOR FURTHER INFORMATION CONTACT:** Shane Guan, Office of Protected Resources, NMFS, (301) 427–8401.

**SUPPLEMENTARY INFORMATION:**

### Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''. . . an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the U.S. can apply for a one-year authorization to incidentally take small numbers of marine mammals by harassment, provided that there is no potential for serious injury or mortality to result from the activity. Section 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny the authorization.

### Summary of Request

On April 22, 2015, Bergerson submitted a request to NMFS requesting an IHA for the possible harassment of small numbers of Pacific harbor seal (*Phoca vitulina richardii*) and California sea lion (*Zalophus californianus*) incidental to construction associated with the Front Street Marine Transload Facility in the city of Newport, Oregon, for a period of one year starting November 2015. NMFS determined the IHA application was complete on July 29, 2015, and proposes to issue an IHA that would be valid between November 1, 2015, and October 31, 2016. NMFS is proposing to authorize the Level B harassment of Pacific harbor seal and California sea lion.

### Description of the Specified Activity

*Overview*

The purpose of the proposed Front Street Marine Transload Facility construction is to construct a new transload and fish buying facility at the current location of the Undersea Gardens. The new transload facility would provide local fisherman with an alternative location for selling their fish and shellfish in Newport, Oregon (see Figure 1 of Bergerson's IHA application).

The current Undersea Gardens and all associated structures would be removed prior to construction of the new facility. The new transload facility would consist of a 132-foot wide by 141-foot deep wharf comprised of precast concrete panels supported on steel

piles. Up to 112 24-inch diameter steel support piles and 14 18-inch diameter steel fender piles would be installed. The new wharf would sit level with Bay Boulevard, approximately 10 feet above mean sea level (msl), and would support a 4,000 square foot cold storage building and 500 square foot ice machine. Approximately 15,860 square feet of the new wharf would be suspended over water, resulting in approximately 9,160 square feet of net new overwater structure following removal of the existing Undersea Gardens and its associated structures (approximately 6,700 square feet).

The proposed project would result in a net removal of approximately 2,000 cubic yards of existing structural components from below the highest measured tide (HMT) of Yaquina Bay. Construction is scheduled to begin in November 2015, with completion of the wharf expected by September 2016. The associated cold storage building would be constructed after completion of the wharf. The proposed project would require approximately 12 weeks of in-water work. Construction crews and equipment would access the project site via existing roadways and two floating barges, including a crane barge (measuring 60 by 100 feet) secured with two spud piles, and a material barge (measuring 40 by 100 feet) moored to the crane barge. Piles would be installed using a vibratory hammer with some use of an impact hammer to seat the piles to their desired depth.

*Dates and Duration*

In-water construction is planned to take place between November 2015 and October 2016, with in-water pile removal and pile driving activities limited between November 1, 2015, and February 15, 2016.

*Specified Geographic Region*

The proposed activities will occur at the current Undersea Garden located in Yaquina Bay along Bay Boulevard in Newport, Oregon (see Figure 1 of Bergerson's IHA application).

*Detailed Description of Front Street Transload Facility Construction*

Details of each activity for the Front Street Transload Facility construction project are provided below.

(1) Removal of the Existing Undersea Gardens

The existing Undersea Gardens and all associated structures (including a wooden breakwater, small storage dock, access ramp, small section of pier, and approximately 25 pilings) would be removed prior to construction of the new transload facility. The Undersea Gardens is a floating structure that houses an underwater aquarium and gift shop. The structure itself would be towed from its current location (via tugboat) approximately 10 miles upstream to Yaquina Boatyard, where it would then be dismantled. In order to access the Undersea Gardens with a tugboat, the existing wooden breakwater that protects the structure would have to be removed. The breakwater is comprised of vertical wooden boards assembled in a line and supported by steel and wood piles. The boards would be removed by hand and the remaining support piles (including approximately five H-piles, five 12-inch diameter steel piles, and five 12-inch diameter wooden piles) would be removed with a vibratory hammer.

Following removal of the breakwater, approximately eight 12-inch diameter wooden support piles and a small section of pier, and two 12-inch diameter spud piles that anchor the storage dock would also be removed.

It is anticipated that piling removal would require approximately 15 minutes of vibratory hammer use per pile. All items removed would be placed in a contained area on a service barge and hauled to an upland location for recycling or disposal. Removal of the existing piles would require approximately 6 hours of total vibratory hammer use over a period of two to four in-water work days. Removal of the existing Undersea Gardens and associated structures would result in the removal of approximately 2,500 cubic yards of existing in-water structures from below the HMT of Yaquina Bay, and 6,700 square feet of existing overwater structures. No dredging or in-water excavation would be required.

(2) Construction of the New Transload Facility

*Wharf*

The new transload facility would consist of a 132-foot wide by 141-foot deep wharf comprised of precast concrete panels supported on up to 112 24-inch diameter steel support piles, and 14 18-inch diameter steel fender piles. The precast panels would be approximately 4 feet wide by 20 feet long, requiring seven panels supported on eight rows of piles spaced 10-foot on center across each row. The bottom of each panel would be painted with white, light reflecting paint to increase natural lighting under the new wharf. The new wharf would sit level with Bay Boulevard, approximately 10 feet above msl, and would result in approximately 9,360 square feet of net new overwater structure.

*Piling Installation*

The steel support piles and fender piles would be installed using a vibratory hammer and an impact hammer (operating from a barge-mounted crane) to a depth of approximately 30 feet within the substrate. All new piles would also be treated with a white, light reflective coating. Each new pile would require approximately 15 to 30 minutes of vibratory hammer use for installation. It is likely that the vibratory hammer would not fully embed the piles to the required depth given the presence of siltstone below the sediment. As such, an impact hammer would be used to seat the piles to the required depth. It is anticipated that use of an impact hammer would be needed for up to 10 feet of siltstone penetration. Up to 102 piles would be located below the HMT, resulting in approximately 300 square feet (555 cubic yards) of fill.

Based on a review of pile driving logs from previous piling installation projects, Bergerson anticipates that any piles that cannot be fully embedded with use of a vibratory hammer, may require an average of 10 minutes of impact hammer use, at an average rate of 40 strikes per minute. Given the amount of time it takes to set the crane barge, center each pile, and switch between the vibratory hammer and impact hammer, it is estimated that the average installation rate would be four piles per day. This equates to potentially 40 minutes of impact hammer use (1,600 pile strikes) per day. Pile driving would occur intermittently over the course of approximately 12 weeks. The contractor would be required to implement appropriate sound attenuation methods (*e.g.,* a confined or unconfined bubble curtain) as detailed in the Mitigation Measures below. It is expected that proper use of the bubble curtain would result in 10 decibel (dB) attenuation (NMFS 2011, ICF Jones & Stokes and Illingworth & Rodkin 2009). It is possible that proper use of a bubble curtain can result in up to 20 dB attenuation depending on site specific conditions (ICF Jones & Stokes and Illingworth & Rodkin 2009).

*Cold Storage Building*

The new wharf would sit level with Bay Boulevard (approximately 10 feet above msl) and would support a 4,000 square foot cold storage building and 500 square foot ice machine. The proposed building would be used to cold pack local fish and shellfish for distribution. There may be some limited

fish fillet processing for local distribution only. Small forklifts would be used on the wharf for unloading and loading of boats and truck trailers. Operation of the new transload facility would not require pumping of water from Yaquina Bay. All water would be provided by local utilities. In addition, no excavation or maintenance dredging would be required to construct or operate the new facility. Furthermore, operation of the new transload facility would not increase local boat traffic within the vicinity of the action area. The new facility would service local fisherman already operating within Yaquina Bay and local Newport marinas. The operation of the new transload facility is not expected to impact on marine mammals in the project vicinity.

A summary of piles to be removed and installed is provided in Table 1.

TABLE 1—PROJECT PILES TO BE REMOVED AND INSTALLED

| | Location | Pile type | Pile size (inch) | Hammer used | Number piles |
|---|---|---|---|---|---|
| Pile removal | Breakwater at Undersea Garden | H pile | | Vibratory | 5 |
| | | Steel pile | 12 | Vibratory | 5 |
| | | Wooden pile | 12 | Vibratory | 5 |
| | Storage dock at Undersea Garden | Wooden pile | 12 | Vibratory | 8 |
| | | Spud pile | 12 | Vibratory | 2 |
| Total | | | | | 25 |
| Pile driving | Wharf for the new transload facility | Steel pile | 24 | Vibratory/impact | 112 |
| | | Steer fender pile | 18 | Vibratory/impact | 14 |
| Total | | | | | *126* |

**Description of Marine Mammals in the Area of the Specified Activity**

The marine mammal species under NMFS jurisdiction most likely to occur in the proposed construction area include Pacific harbor seal (*Phoca vitulina richardsi*) and California sea lion (*Zalophus californianus*).

TABLE 2—MARINE MAMMAL SPECIES POTENTIALLY PRESENT IN REGION OF ACTIVITY

| Species | ESA Status | MMPA Status | Occurrence |
|---|---|---|---|
| Harbor Seal | Not listed | Non-depleted | Frequent |
| California Sea Lion | Not listed | Non-depleted | Frequent |

General information on the marine mammal species found in Oregon coastal waters can be found in Caretta *et al.* (2014), which is available at the following URL: *http://www.nmfs.noaa.gov/pr/sars/pdf/po2013.pdf.* Refer to that document for information on these species. A list of marine mammals in the vicinity of the action and their status are provided in Table 2. Specific information concerning these species in the vicinity of the proposed action area is provided in detail in the Bergerson's IHA application (Turner and Campbell, 2015).

**Potential Effects of the Specified Activity on Marine Mammals**

This section includes a summary and discussion of the ways that the types of stressors associated with the specified activity (*e.g.,* pile removal and pile driving) have been observed to impact marine mammals. This discussion may also include reactions that we consider to rise to the level of a take and those that we do not consider to rise to the level of a take (for example, with acoustics, we may include a discussion of studies that showed animals not reacting at all to sound or exhibiting barely measurable avoidance). This section is intended as a background of potential effects and does not consider either the specific manner in which this activity will be carried out or the mitigation that will be implemented, and how either of those will shape the anticipated impacts from this specific activity. The ''Estimated Take by Incidental Harassment'' section later in this document will include a quantitative analysis of the number of individuals that are expected to be taken by this activity. The ''Negligible Impact Analysis'' section will include the analysis of how this specific activity will impact marine mammals and will consider the content of this section, the ''Estimated Take by Incidental Harassment'' section, the ''Proposed Mitigation'' section, and the ''Anticipated Effects on Marine Mammal Habitat'' section to draw conclusions regarding the likely impacts of this activity on the reproductive success or survivorship of individuals and from that on the affected marine mammal populations or stocks.

When considering the influence of various kinds of sound on the marine environment, it is necessary to understand that different kinds of marine life are sensitive to different frequencies of sound. Based on available behavioral data, audiograms have been derived using auditory evoked potentials, anatomical modeling, and other data, Southall *et al.* (2007) designate ''functional hearing groups'' for marine mammals and estimate the lower and upper frequencies of functional hearing of the groups. The functional groups and the associated frequencies are indicated below (though animals are less sensitive to sounds at the outer edge of their functional range and most sensitive to sounds of frequencies within a smaller range somewhere in the middle of their functional hearing range):

• Low frequency cetaceans (13 species of mysticetes): Functional hearing is estimated to occur between approximately 7 Hz and 25 kHz (however, a study by Au *et al.,* (2006)

of humpback whale songs indicate that the range may extend to at least 24 kHz);

• Mid-frequency cetaceans (32 species of dolphins, six species of larger toothed whales, and 19 species of beaked and bottlenose whales): Functional hearing is estimated to occur between approximately 150 Hz and 160 kHz;

• High frequency cetaceans (eight species of true porpoises, six species of river dolphins, *Kogia,* the franciscana, and four species of cephalorhynchids): Functional hearing is estimated to occur between approximately 200 Hz and 180 kHz; and

• Pinnipeds in Water: Functional hearing is estimated to occur between approximately 75 Hz and 75 kHz, with the greatest sensitivity between approximately 700 Hz and 20 kHz.

As mentioned previously in this document, two marine mammal species (both are pinniped species) are likely to occur in the proposed seismic survey area.

Marine mammals exposed to high-intensity sound repeatedly or for prolonged periods can experience hearing threshold shift (TS), which is the loss of hearing sensitivity at certain frequency ranges (Kastak *et al.* 1999; Schlundt *et al.* 2000; Finneran *et al.* 2002; 2005). TS can be permanent (PTS), in which case the loss of hearing sensitivity is unrecoverable, or temporary (TTS), in which case the animal's hearing threshold will recover over time (Southall *et al.* 2007). Since marine mammals depend on acoustic cues for vital biological functions, such as orientation, communication, finding prey, and avoiding predators, hearing impairment could result in the reduced ability of marine mammals to detect or interpret important sounds. Repeated noise exposure that causes TTS could lead to PTS.

Experiments on a bottlenose dolphin (*Tursiops truncates*) and beluga whale (*Delphinapterus leucas*) showed that exposure to a single watergun impulse at a received level of 207 kPa (or 30 psi) peak-to-peak (p-p), which is equivalent to 228 dB (p-p) re 1 μPa, resulted in a 7 and 6 dB TTS in the beluga whale at 0.4 and 30 kHz, respectively. Thresholds returned to within 2 dB of the pre-exposure level within 4 minutes of the exposure (Finneran *et al.* 2002). No TTS was observed in the bottlenose dolphin. Although the source level of one hammer strike for pile driving is expected to be much lower than the single watergun impulse cited here, animals being exposed for a prolonged period to repeated hammer strikes could receive more noise exposure in terms of sound exposure level (SEL) than from the single watergun impulse (estimated at 188 dB re 1 $\mu Pa^2$-s) in the aforementioned experiment (Finneran *et al.* 2002).

Chronic exposure to excessive, though not high-intensity, noise could cause masking at particular frequencies for marine mammals that utilize sound for vital biological functions (Clark *et al.* 2009). Masking is the obscuring of sounds of interest by other sounds, often at similar frequencies. Masking generally occurs when sounds in the environment are louder than, and of a similar frequency as, auditory signals an animal is trying to receive. Masking can interfere with detection of acoustic signals, such as communication calls, echolocation sounds, and environmental sounds important to marine mammals. Therefore, under certain circumstances, marine mammals whose acoustical sensors or environment are being severely masked could also be impaired.

Masking occurs at the frequency band which the animals utilize. Since noise generated from in-water vibratory pile removal and driving is mostly concentrated at low frequency ranges, it may have little effect on high-frequency echolocation sounds by odontocetes (toothed whales), which may hunt California sea lion and harbor seal. However, the lower frequency man-made noises are more likely to affect the detection of communication calls and other potentially important natural sounds, such as surf and prey noise. The noises may also affect communication signals when those signals occur near the noise band, and thus reduce the communication space of animals (*e.g.,* Clark *et al.* 2009) and cause increased stress levels (*e.g.,* Foote *et al.* 2004; Holt *et al.* 2009).

Unlike TS, masking can potentially impact the species at community, population, or even ecosystem levels, as well as individual levels. Masking affects both senders and receivers of the signals and could have long-term chronic effects on marine mammal species and populations. Recent science suggests that low frequency ambient sound levels in the world's oceans have increased by as much as 20 dB (more than 3 times, in terms of SPL) from pre-industrial periods, and most of these increases are from distant shipping (Hildebrand 2009). All anthropogenic noise sources, such as those from vessel traffic and pile removal and driving, contribute to the elevated ambient noise levels, thus intensifying masking.

Finally, in addition to TS and masking, exposure of marine mammals to certain sounds could lead to behavioral disturbance (Richardson *et al.* 1995), such as: Changing durations of surfacing and dives, number of blows per surfacing, or moving direction and/or speed; reduced/increased vocal activities; changing/cessation of certain behavioral activities, such as socializing or feeding; visible startle response or aggressive behavior, such as tail/fluke slapping or jaw clapping; avoidance of areas where noise sources are located; and/or flight responses (*e.g.,* pinnipeds flushing into water from haulouts or rookeries). The onset of behavioral disturbance from anthropogenic noise depends on both external factors (characteristics of noise sources and their paths) and the receiving animals (hearing, motivation, experience, demography), and is therefore difficult to predict (Southall *et al.* 2007).The activities of workers in the project area may also cause behavioral reactions by marine mammals, such as pinnipeds flushing from the jetty or pier or moving farther from the disturbance to forage. However, observations of the area show that it is unlikely that more than 10 to 20 individuals of pinnipeds would be present in the project vicinity at any one time. Therefore, even if pinnipeds were flushed from the haul-out, a stampede is very unlikely, due to the relatively low number of animals onsite. In addition, proposed mitigation and monitoring measures would minimize the startle behavior of pinnipeds and prevent the animals from flushing into the water.

The biological significance of many of these behavioral disturbances is difficult to predict, especially if the detected disturbances appear minor. However, the consequences of behavioral modification could be expected to be biologically significant if the change affects growth, survival, or reproduction. Some of these types of significant behavioral modifications include: Drastic change in diving/surfacing patterns (such as those thought to be causing beaked whale strandings due to exposure to military mid-frequency tactical sonar); habitat abandonment due to loss of desirable acoustic environment; and cessation of feeding or social interaction.

**Potential Effects on Marine Mammal Habitat**

The primary potential impacts to marine mammal habitat are associated with elevated sound levels produced by vibratory pile removal and pile driving in the area. However, other potential impacts to the surrounding habitat from physical disturbance are also possible.

*Potential Impacts on Prey Species*

With regard to fish as a prey source for cetaceans and pinnipeds, fish are

known to hear and react to sounds and to use sound to communicate (Tavolga *et al.* 1981) and possibly avoid predators (Wilson and Dill 2002). Experiments have shown that fish can sense both the strength and direction of sound (Hawkins 1981). Primary factors determining whether a fish can sense a sound signal, and potentially react to it, are the frequency of the signal and the strength of the signal in relation to the natural background noise level.

The level of sound at which a fish will react or alter its behavior is usually well above the detection level. Fish have been found to react to sounds when the sound level increased to about 20 dB above the detection level of 120 dB (Ona 1988); however, the response threshold can depend on the time of year and the fish's physiological condition (Engas *et al.* 1993). In general, fish react more strongly to pulses of sound rather than non-pulse signals (such as noise from pile driving) (Blaxter *et al.* 1981), and a quicker alarm response is elicited when the sound signal intensity rises rapidly compared to sound rising more slowly to the same level.

During the coastal construction only a small fraction of the available habitat would be ensonified at any given time. Disturbance to fish species would be short-term and fish would return to their pre-disturbance behavior once the pile driving activity ceases. Thus, the proposed construction would have little, if any, impact on the abilities of marine mammals to feed in the area where construction work is planned.

Finally, the time of the proposed construction activity would avoid the spawning season of the ESA-listed salmonid species.

*Passage Obstructions*

Pile removal and driving operations at the Front Street Transload Facility will not obstruct movements of marine mammals. The operations at the construction will occur next to the shoreline, leaving the majority of the Yaquina Bay for marine mammals to pass.

**Proposed Mitigation Measures**

In order to issue an incidental take authorization under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable adverse impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses.

For Bergerson's proposed Front Street Transload Facility construction project, Bergerson worked with NMFS and proposed the following mitigation measures to minimize the potential impacts to marine mammals in the project vicinity. The primary purposes of these mitigation measures are to minimize sound levels from the activities, to monitor marine mammals within designated zones of influence (ZOI) corresponding to NMFS' current Level B harassment thresholds and, if marine mammals are detected within or approaching the exclusion zone, to initiate immediate shutdown or power down of the impact piling hammer, making it very unlikely potential injury or TTS to marine mammals would occur and ensuring that Level B behavioral harassment of marine mammals would be reduced to the lowest level practicable.

*Time Restriction*

Work would occur only during daylight hours, when visual monitoring of marine mammals can be conducted. In addition, all in-water construction will be limited to the period between November 1, 2015, and February 15, 2016.

*Air Bubble Curtain*

Bergerson would be required to install an air bubble curtain system around the pile during pile installation using an impact hammer.

*Establishment of Exclusion Zone and Level B Harassment Zones of Influence*

Before the commencement of in-water pile driving activities, Bergerson shall establish Level A exclusion zones and Level B zones of influence (ZOIs). The received underwater sound pressure levels (SPLs) within the exclusion zone would be 190 dB (rms) re 1 μPa and above. The Level B ZOIs would encompass areas where received underwater SPLs are higher than 160 dB (rms) and 120 dB (rms) re 1 μPa for impulse noise sources (impact pile driving) and non-impulses noise sources (vibratory pile driving and mechanic dismantling), respectively.

Based on measurements conducted in nearby in similar water depth and sediment type in the Yaquina Bay for the NOAA Marine Operation Center P Test Pile Program (Miner, 2010), average vibratory hammer sound pressure level for 24-inch steel pile at 10 meters from the pile is 157 dB re 1 μPa (Minor 2010; ICF Jones & Stokes and Illingworth &and Rodkin 2009). Based on practical spreading model with a transmission loss constant of 15, the distance at which the sound pressure levels fall below the 120 dB (rms) re 1 μPa is approximately 1.8 miles from the pile (Miner, 2010).

Modeling of exclusion zone and ZOIs for impact pile driving source level are based on measurements conducted at the nearby Tongue Point Facility in Astoria, Oregon, for installation of 24-in steel pile with an impact hammer (Illingworth and Rodkin, 2009). The result shows that the SPL at 10 m from the pile is 182 dB (rms) re 1 μPa. Nevertheless, a conservative 190 dB (rms) re 1 μPa value at 10 m and a practical spreading with a transmission loss constant of 15 are used to establish the exclusion zone and ZOI. The result shows that the distance at which the SPLs fall below the 160 dB (rms) re 1 μPa behavioral threshold for impact hammering is approximately 0.62 miles. With a bubble curtain and an estimated 10 dB reduction in sound levels, the distance at which the sound pressure levels fall below the 160 dB RMS behavioral threshold for impact hammering is approximately 707 feet. The exclusion zone with the air bubble curtain system would be 7 feet from the pile.

The exclusion zone for Level A harassment and ZOIs for Level B harassment are presented in Table 3 below.

TABLE 3—MODELED LEVEL A AND LEVEL B HARASSMENT ZONES FOR VIBRATORY AND IMPACT PILE DRIVING ACTIVITIES

| Pile driving methods | Distance to 190 dB (m) | Distance to 160 dB (m) | Distance to 120 dB (m) |
|---|---|---|---|
| Vibratory pile driving/removal | NA | NA | 2,900 |
| Impact pile driving | 10/2.1 (with air bubble system) | 1,000/215 (with air bubble system). | NA |

*Soft Start*

A ''soft-start'' technique is intended to allow marine mammals to vacate the area before the pile driver reaches full power. Whenever there has been downtime of 30 minutes or more without pile driving, the contractor will initiate the driving with ramp-up procedures described below.

For impact pile driving, the contractor would provide an initial set of strikes from the impact hammer at reduced energy, followed by a 30-second waiting period, then two subsequent sets. (The reduced energy of an individual hammer cannot be quantified because of variations between individual drivers. Also, the number of strikes will vary at reduced energy because raising the hammer at less than full power and then releasing it results in the hammer ''bouncing'' as it strikes the pile resulting in multiple ''strikes'').

For vibratory pile driving, the contractor will initiate noise from vibratory hammers for 15 seconds at reduced energy followed by a 30-second waiting period. The procedure shall be repeated two additional times.

*Shutdown Measures*

Bergerson shall implement shutdown measures if a marine mammal is sighted approaching the Level A exclusion zone. In-water construction activities shall be suspended until the marine mammal is sighted moving away from the exclusion zone, or if the animal is not sighted for 30 minutes after the shutdown.

*Mitigation Conclusions*

NMFS has carefully evaluated the applicant's proposed mitigation measures and considered a range of other measures in the context of ensuring that NMFS prescribes the means of effecting the least practicable impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another:

- The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals
- The proven or likely efficacy of the specific measure to minimize adverse impacts as planned
- The practicability of the measure for applicant implementation.

Any mitigation measure(s) prescribed by NMFS should be able to accomplish, have a reasonable likelihood of accomplishing (based on current science), or contribute to the accomplishment of one or more of the general goals listed below:

(1) Avoidance or minimization of injury or death of marine mammals wherever possible (goals 2, 3, and 4 may contribute to this goal).

(2) A reduction in the numbers of marine mammals (total number or number at biologically important time or location) exposed to received levels of pile driving and pile removal or other activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).

(3) A reduction in the number of times (total number or number at biologically important time or location) individuals would be exposed to received levels of pile driving and pile removal, or other activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).

(4) A reduction in the intensity of exposures (either total number or number at biologically important time or location) to received levels of pile driving, or other activities expected to result in the take of marine mammals (this goal may contribute to a, above, or to reducing the severity of harassment takes only).

(5) Avoidance or minimization of adverse effects to marine mammal habitat, paying special attention to the food base, activities that block or limit passage to or from biologically important areas, permanent destruction of habitat, or temporary destruction/disturbance of habitat during a biologically important time.

(6) For monitoring directly related to mitigation—an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation.

Based on our evaluation of the applicant's proposed measures, as well as other measures considered by NMFS, NMFS has preliminarily determined that the proposed mitigation measures provide the means of effecting the least practicable impact on marine mammals species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

**Proposed Monitoring and Reporting**

In order to issue an incidental take authorization (ITA) for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth, ''requirements pertaining to the monitoring and reporting of such taking.'' The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for ITAs must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area. Bergerson submitted a marine mammal monitoring plan as part of the IHA application. It can be found at *http://www.nmfs.noaa.gov/pr/permits/incidental.htm.* The plan may be modified or supplemented based on comments or new information received from the public during the public comment period.

Monitoring measures prescribed by NMFS should accomplish one or more of the following general goals:

(1) An increase in the probability of detecting marine mammals, both within the mitigation zone (thus allowing for more effective implementation of the mitigation) and in general to generate more data to contribute to the analyses mentioned below;

(2) An increase in our understanding of how many marine mammals are likely to be exposed to levels of pile driving that we associate with specific adverse effects, such as behavioral harassment, TTS, or PTS;

(3) An increase in our understanding of how marine mammals respond to stimuli expected to result in take and how anticipated adverse effects on individuals (in different ways and to varying degrees) may impact the population, species, or stock (specifically through effects on annual rates of recruitment or survival) through any of the following methods:

- Behavioral observations in the presence of stimuli compared to observations in the absence of stimuli (need to be able to accurately predict received level, distance from source, and other pertinent information);
- Physiological measurements in the presence of stimuli compared to observations in the absence of stimuli (need to be able to accurately predict received level, distance from source, and other pertinent information);
- Distribution and/or abundance comparisons in times or areas with concentrated stimuli versus times or areas without stimuli;

(4) An increased knowledge of the affected species; and

(5) An increase in our understanding of the effectiveness of certain mitigation and monitoring measures.

*Proposed Monitoring Measures*

During pile removal and installation, two land-based protected species observers (PSOs) would monitor the

area from the best observation points available. If weather conditions prevent adequate land-based observations of the entire ensonified zones, boat-based monitoring would be implemented.

The PSOs would observe and collect data on marine mammals in and around the project area for 30 minutes before, during, and for 30 minutes after all pile removal and pile installation work. If a PSO observes a marine mammal within or approaching the exclusion zone, the PSO would notify the work crew to initiate shutdown measures.

Monitoring of marine mammals around the construction site shall be conducted using high-quality binoculars (*e.g.,* Zeiss, 10 × 42 power).

Data collection during marine mammal monitoring would consist of a count of all marine mammals by species, a description of behavior (if possible), location, direction of movement, type of construction that is occurring, time that pile replacement work begins and ends, any acoustic or visual disturbance, and time of the observation. Environmental conditions such as weather, visibility, temperature, tide level, current, and sea state would also be recorded.

*Proposed Reporting Measures*

Bergerson would be required to submit a final monitoring report within 90 days after completion of the construction work or the expiration of the IHA (if issued), whichever comes earlier. This report would detail the monitoring protocol, summarize the data recorded during monitoring, and estimate the number of marine mammals that may have been harassed. NMFS would have an opportunity to provide comments on the report, and if NMFS has comments, Bergerson would address the comments and submit a final report to NMFS within 30 days.

In addition, NMFS would require Bergerson to notify NMFS' Office of Protected Resources and NMFS' Stranding Network within 48 hours of sighting an injured or dead marine mammal in the vicinity of the construction site. Bergerson shall provide NMFS with the species or description of the animal(s), the condition of the animal(s) (including carcass condition, if the animal is dead), location, time of first discovery, observed behaviors (if alive), and photo or video (if available).

In the event that Bergerson finds an injured or dead marine mammal that is not in the vicinity of the construction area, Bergerson would report the same information as listed above to NMFS as soon as operationally feasible.

**Estimated Take by Incidental Harassment**

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

As discussed above, in-water pile removal and pile driving (vibratory and impact) generate loud noises that could potentially harass marine mammals in the vicinity of Bergerson's proposed Front Street Transload Facility construction project.

As mentioned earlier in this document, currently NMFS uses 120 dB re 1 μPa and 160 dB re 1 μPa at the received levels for the onset of Level B harassment from non-impulse (vibratory pile driving and removal) and impulse sources (impact pile driving) underwater, respectively. Table 4 summarizes the current NMFS marine mammal take criteria.

TABLE 4—CURRENT ACOUSTIC EXPOSURE CRITERIA FOR NON-EXPLOSIVE SOUND UNDERWATER

| Criterion | Criterion definition | Threshold |
|---|---|---|
| Level A Harassment (Injury) | Permanent Threshold Shift (PTS) (Any level above that which is known to cause TTS). | 180 dB re 1 μPa (cetaceans) 190 dB re 1 μPa (pinnipeds) root mean square (rms). |
| Level B Harassment | Behavioral Disruption (for impulse noises) | 160 dB re 1 μPa (rms). |
| Level B Harassment | Behavioral Disruption (for non-impulse noise) | 120 dB re 1 μPa (rms). |

As explained above, exclusion and ZOIs will be established that encompass the areas where received underwater sound pressure levels (SPLs) exceed the applicable thresholds for Level A and Level B harassments. In the case of Bergerson's proposed Front Street Transload Facility construction project, the Level B harassment ZOIs for impact and vibratory pile driving are at 215 m and 2,900 m from the source, respectively. The Level A harassment exclusion from impact pile driving is 2.1 m from the source.

Incidental take is calculated for each species by estimating the likelihood of a marine mammal being present within a ZOI during active pile removal/driving. Expected marine mammal presence is determined by past observations and general abundance near the Front Street Transload Facility during the construction window. Ideally, potential take is estimated by multiplying the area of the ZOI by the local animal density. This provides an estimate of the number of animals that might occupy the ZOI at any given moment. However, there are no density estimates for any Puget Sound population of marine mammal. As a result, the take requests were estimated using local marine mammal data sets, and information from state and federal agencies.

The calculation for marine mammal exposures is estimated by:

Exposure estimate = N (number of animals in the area) * 30 days of pile removal/driving activity

Estimates include Level B acoustical harassment during pile removal and driving. All estimates are conservative, as pile removal/driving would not be continuous during the work day. Using this approach, a summary of estimated takes of marine mammals incidental to Bergerson's Front Street Transload Facility construction work are provided in Table 5.

TABLE 5—ESTIMATED NUMBERS OF MARINE MAMMALS THAT MAY BE EXPOSED BY LEVEL B HARASSMENT FROM PILE AND PILE DRIVING ACTIVITIES

| Species | Estimated marine mammal takes | Abundance | Percentage |
|---|---|---|---|
| Pacific harbor seal | 750 | 16,165 | 4.64 |
| California sea lion | 1,100 | 296,750 | 3.71 |

**Analysis and Preliminary Determinations**

*Negligible Impact*

Negligible impact is ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival'' (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of Level B harassment takes, alone, is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through behavioral harassment, NMFS must consider other factors, such as the likely nature of any responses (their intensity, duration, etc.), the context of any responses (critical reproductive time or location, migration, etc.), as well as the number and nature of estimated Level A harassment takes, the number of estimated mortalities, and effects on habitat.

To avoid repetition, this introductory discussion of our analyses applies to all the species listed in Table 5, given that the anticipated effects of Bergerson's Front Street Transload Facility construction on marine mammals are expected to be relatively similar in nature. There is no information about the nature or severity of the impacts, or the size, status, or structure of any species or stock that would lead to a different analysis for this activity, else species-specific factors would be identified and analyzed.

Bergerson's proposed Front Street Transload Facility construction project would involve vibratory pile removal and vibratory and impact pile driving activities. Elevated underwater noises are expected to be generated as a result of these activities. The exclusion zone for Level A harassment is extremely small (2.1 m from the source) with the use of air bubble curtain system, and with the implementation of the proposed monitoring and mitigation measures described above, there would be no Level A take of marine mammals. For vibratory pile removal and pile driving, noise levels are not expected to reach the level that may cause TTS, injury (including PTS), or mortality to marine mammals.

Additionally, the sum of noise from Bergerson's proposed Front Street Transload Facility construction activities is confined to a limited area by surrounding landmasses; therefore, the noise generated is not expected to contribute to increased ocean ambient noise. In addition, due to shallow water depths in the project area, underwater sound propagation of low-frequency sound (which is the major noise source from pile driving) is expected to be poor.

In addition, Bergerson's proposed activities are localized and of short duration. The entire project area is limited to Bergerson's Front Street Transload Facility construction work. The entire project would involve the removal of 25 existing piles and installation of 126 piles. The duration for pile removal and pile driving would be 30 days. These low-intensity, localized, and short-term noise exposures may cause brief startle reactions or short-term behavioral modification by the animals. These reactions and behavioral changes are expected to subside quickly when the exposures cease. Moreover, the proposed mitigation and monitoring measures are expected to reduce potential exposures and behavioral modifications even further. Additionally, no important feeding and/or reproductive areas for marine mammals are known to be near the proposed action area. Therefore, the take resulting from the proposed Front Street Transload Facility construction work is not reasonably expected to, and is not reasonably likely to, adversely affect the marine mammal species or stocks through effects on annual rates of recruitment or survival.

The proposed project area is not a prime habitat for marine mammals, nor is it considered an area frequented by marine mammals. Therefore, behavioral disturbances that could result from anthropogenic noise associated with Bergerson's construction activities are expected to affect only a small number of marine mammals on an infrequent and limited basis.

The project also is not expected to have significant adverse effects on affected marine mammals' habitat, as analyzed in detail in the ''Anticipated Effects on Marine Mammal Habitat'' section. The project activities would not modify existing marine mammal habitat. The activities may cause some fish to leave the area of disturbance, thus temporarily impacting marine mammals' foraging opportunities in a limited portion of the foraging range; but, because of the short duration of the activities and the relatively small area of the habitat that may be affected, the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS preliminarily finds that the total marine mammal take from Bergerson's Front Street Transload Facility construction project will have a negligible impact on the affected marine mammal species or stocks.

*Small Number*

Based on analyses provided above, it is estimated that approximately 750 harbor seals and 1,100 California sea lions could be exposed to received noise levels that could cause Level B behavioral harassment from the proposed construction work at the Front Street Transload Facility in Newport, Oregon. These numbers represent approximately 4.6% and 3.7% of the populations of harbor seal and California sea lion, respectively, that could be affected by Level B behavioral harassment, respectively (see Table 5 above), which are small percentages relative to the total populations of the affected species or stocks.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the mitigation and monitoring measures,

which are expected to reduce the number of marine mammals potentially affected by the proposed action, NMFS preliminarily finds that small numbers of marine mammals will be taken relative to the populations of the affected species or stocks.

**Impact on Availability of Affected Species for Taking for Subsistence Uses**

There are no subsistence uses of marine mammals in the proposed project area; and, thus, no subsistence uses impacted by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

**Endangered Species Act (ESA)**

NMFS has determined that issuance of the IHA will have no effect on listed marine mammals, as none are known to occur in the action area.

**National Environmental Policy Act (NEPA)**

NMFS prepared a draft Environmental Assessment (EA) for the proposed issuance of an IHA, pursuant to NEPA, to determine whether or not this proposed activity may have a significant effect on the human environment. This analysis will be completed prior to the issuance or denial of this proposed IHA.

**Proposed Authorization**

As a result of these preliminary determinations, NMFS proposes to issue an IHA to Bergerson for conducting the Front Street Transload Facility construction project, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. The proposed IHA language is provided next.

1. This Authorization is valid from November 1, 2015, through October 31, 2016.

2. This Authorization is valid only for activities associated in-water construction work at the Front Street Transload Facility construction project in Newport, Oregon.

3. (a) The species authorized for incidental harassment takings, Level B harassment only, are: Pacific harbor seal (*Phoca vitulina richardsi*) and California sea lion (*Zalophus californianus*).

(b) The authorization for taking by harassment is limited to the following acoustic sources and from the following activities:

- Vibratory and impact pile driving;
- Vibratory pile removal; and
- Work associated with above piling activities.

(c) The taking of any marine mammal in a manner prohibited under this Authorization must be reported within 24 hours of the taking to the West Coast Administrator (206–526–6150), National Marine Fisheries Service (NMFS) and the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, at (301) 427–8401, or her designee (301–427–8401).

4. The holder of this Authorization must notify the Chief of the Permits and Conservation Division, Office of Protected Resources, at least 48 hours prior to the start of activities identified in 3(b) (unless constrained by the date of issuance of this Authorization in which case notification shall be made as soon as possible).

5. Prohibitions

(a) The taking, by incidental harassment only, is limited to the species listed under condition 3(a) above and by the numbers listed in Table 5. The taking by Level A harassment, injury or death of these species or the taking by harassment, injury or death of any other species of marine mammal is prohibited and may result in the modification, suspension, or revocation of this Authorization.

(b) The taking of any marine mammal is prohibited whenever the required protected species observers (PSOs), required by condition 7(a), are not present in conformance with condition 7(a) of this Authorization.

6. Mitigation

(a) Time Restriction

In-water construction work shall occur only during daylight hours, when visual monitoring of marine mammals can be conducted.

(b) Air Bubble Curtain

Bergerson shall install an air bubble curtain system around the pile during pile installation using an impact hammer.

(c) Establishment of Level A Exclusion Zone

Before the commencement of in-water impact pile driving activities, Bergerson shall establish Level A exclusion zone where received underwater sound pressure levels (SPLs) are higher than 190 dB (rms) re 1 μPa. The modeled isopleths for exclusion zone 2.1 m from the source.

(d) Establishment of Level B Harassment Zones of Influence

Before the commencement of in-water pile driving activities, Bergerson shall establish Level B behavioral harassment zones of influence (ZOIs) where received underwater sound pressure levels (SPLs) are higher than 120 dB (rms) re 1 μPa for vibratory pile driving and pile removal, and 160 dB (rms) re 1 μPa for impact pile driving. The modeled isopleths for vibratory pile driving and pile removal ZOI is 2,900 m from the source, and the modeled isopleths for impact pile driving ZOI is 215 m from the source.

(e) Monitoring of marine mammals shall take place starting 30 minutes before pile driving begins until 30 minutes after pile driving ends.

(f) Soft Start

(i) When there has been downtime of 30 minutes or more without pile driving, the contractor will initiate the driving with ramp-up procedures described below.

(ii) For impact pile driving, the contractor would provide an initial set of strikes from the impact hammer at reduced energy, followed by a 30-second waiting period, then two subsequent sets.

(iii) For vibratory pile driving, the contractor will initiate noise from vibratory hammers for 15 seconds at reduced energy followed by a 30-second waiting period. The procedure shall be repeated two additional times.

(g) Shutdown Measures

(i) Bergerson shall implement shutdown measures if a marine mammal is sighted within or approaching the Level A exclusion zone. In-water construction activities shall be suspended until the marine mammal is sighted moving away from the exclusion zone, or if the animal is not sighted for 30 minutes after the shutdown.

(ii) Bergerson shall implement shutdown measures if the number of any allotted marine mammal takes reaches the limit under the IHA (if issued), if such marine mammals are sighted within the vicinity of the project area and are approaching the Level B ZOI during pile removal activities.

(iii) Bergerson shall implement shutdown measures if marine mammals with the ZOI appear disturbed by the work activity.

7. Monitoring:

(a) Protected Species Observers

Bergerson shall employ NMFS-approved PSOs to conduct marine mammal monitoring for its construction project.

(i) During pile removal and installation, two land-based protected species observers (PSOs) shall monitor the area from the best observation points available.

(ii) If weather conditions prevent adequate land-based observations of the entire ensonified zones, boat-based monitoring shall be implemented.

(ii) Experience or training in the field identification of marine mammals (cetaceans and pinnipeds).

(iii) Monitoring of marine mammals around the construction site shall be

conducted using high-quality binoculars (*e.g.,* Zeiss, 10 × 42 power).

(iv) Data collection during marine mammal monitoring would consist of a count of all marine mammals by species, a description of behavior (if possible), location, direction of movement, type of construction that is occurring, time that pile replacement work begins and ends, any acoustic or visual disturbance, and time of the observation. Environmental conditions such as weather, visibility, temperature, tide level, current, and sea state would also be recorded.

8. Reporting:

(a) Bergerson shall provide NMFS with a draft monitoring report within 90 days of the conclusion of the construction work or within 90 days of the expiration of the IHA, whichever comes first. This report shall detail the monitoring protocol, summarize the data recorded during monitoring, and estimate the number of marine mammals that may have been harassed.

(b) If comments are received from the NMFS West Coast Regional Administrator or NMFS Office of Protected Resources on the draft report, a final report shall be submitted to NMFS within 30 days thereafter. If no comments are received from NMFS, the draft report will be considered to be the final report.

(c) In the unanticipated event that the construction activities clearly cause the take of a marine mammal in a manner prohibited by this Authorization (if issued), such as an injury, serious injury, or mortality, Bergerson shall immediately cease all operations and immediately report the incident to the Chief, Permits and Conservation Division, Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinators. The report must include the following information:

(i) Time, date, and location (latitude/longitude) of the incident;

(ii) Description of the incident;

(iii) Status of all sound source use in the 24 hours preceding the incident;

(iv) Environmental conditions (*e.g.,* wind speed and direction, sea state, cloud cover, visibility, and water depth);

(v) Description of marine mammal observations in the 24 hours preceding the incident;

(vi) Species identification or description of the animal(s) involved;

(vii) The fate of the animal(s); and

(viii) Photographs or video footage of the animal (if equipment is available).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS shall work with Bergerson to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. Bergerson may not resume their activities until notified by NMFS via letter, email, or telephone.

(E) In the event that Bergerson discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (*i.e.,* in less than a moderate state of decomposition as described in the next paragraph), Bergerson will immediately report the incident to the Chief, Permits and Conservation Division, Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinators. The report must include the same information identified above. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with Bergerson to determine whether modifications in the activities are appropriate.

(F) In the event that Bergerson discovers an injured or dead marine mammal, and the lead PSO determines that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), Bergerson shall report the incident to the Chief, Permits and Conservation Division, Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinators, within 24 hours of the discovery. Bergerson shall provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network. Bergerson can continue its operations under such a case.

9. This Authorization may be modified, suspended or withdrawn if the holder fails to abide by the conditions prescribed herein or if the authorized taking is having more than a negligible impact on the species or stock of affected marine mammals, or if there is an unmitigable adverse impact on the availability of such species or stocks for subsistence uses.

10. A copy of this Authorization must be in the possession of each contractor who performs the construction work at the Front Street Transload Facility constructions.

Dated: August 10, 2015.

**Donna S. Wieting,**

*Director, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2015–19958 Filed 8–12–15; 8:45 am]

BILLING CODE 3510–22–P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Reserve Forces Policy Board (RFPB); Notice of Federal Advisory Committee Meeting

**AGENCY:** Office of the Secretary of Defense, Reserve Forces Policy Board, DoD.

**ACTION:** Notice of Federal Advisory Committee Meeting.

**SUMMARY:** The Department of Defense is publishing this notice to announce that the following Federal Advisory Committee meeting of the Reserve Forces Policy Board will take place.

**DATES:** Wednesday, September 2, 2015 from 8:20 a.m. to 4:30 p.m.

**ADDRESSES:** The address for the Open Session of the meeting is the Army Navy Country Club, 1700 Army Navy Drive, Arlington, VA 22202.

**FOR FURTHER INFORMATION CONTACT:** Mr. Alex Sabol, Designated Federal Officer, (703) 681–0577 (Voice), (703) 681–0002 (Facsimile), Email—*Alexander.J.Sabol.Civ@Mail.Mil.* Mailing address is Reserve Forces Policy Board, 5113 Leesburg Pike, Suite 601, Falls Church, VA 22041. Web site: *http://rfpb.defense.gov/.* The most up-to-date changes to the meeting can be found on the RFPB's Web site.

**SUPPLEMENTARY INFORMATION:** This meeting notice is being published under the provisions of the Federal Advisory Committee Act of 1972 (FACA) (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150.

*Purpose of the Meeting:* The purpose of the meeting is to obtain, review and evaluate information related to strategies, policies, and practices designed to improve and enhance the capabilities, efficiency, and effectiveness of the Reserve Components. Additionally, the Board will review its work from the past year and determine what matters to include in the annual report required by law to be transmitted to the President and the Congress by the Secretary of Defense.

*Agenda:* The RFPB will hold a meeting from 8:20 a.m. until 4:30 p.m. The meeting will be open to the public and will focus on discussions of the Service's personnel system reforms being considered under the Force of the Future initiative and its effects on the Reserve Components to the RFPB from the invited speakers to include the Acting Under Secretary of Defense (Personnel and Readiness), Chief of Naval Personnel, U.S. Navy; Deputy

Chief of Staff for Manpower, Personnel and Services, U.S. Air Force; Deputy Chief of Staff, G–1, U.S. Army; Deputy Commandant for Manpower and Reserve Affairs, U.S. Marine Corps; and Director, Reserve & Military Personnel, U.S. Coast Guard. Additionally, two of the RFPB subcommittee chairs will provide updates on the work of their respective subcommittee. The Ensuring a Ready, Capable, Available and Sustainable Operational Reserve Subcommittee will provide findings of their review of the Department's and Service's mobilization and dwell time policies and authorities affecting the Reserve Component operational availability, and will conclude with a briefing by the Institute for Defense Analyses (IDA) on the initial findings of their study on the Reserve Component effectiveness during Operation Iraqi Freedom (OIF). The Supporting & Sustaining Reserve Component Personnel Subcommittee plans to highlight issues and to recommend a change to the Service's management of their Individual Ready Reserve (IRR) programs.

*Meeting Accessibility:* Pursuant to 5 U.S.C. 552b, as amended and 41 CFR 102–3.140 through 102–3.165, and subject to the availability of space, the meeting is open to the public from 8:20 a.m. to 4:30 p.m. Seating is based on a first-come, first-served basis. All members of the public who wish to attend the public meeting must contact Mr. Alex Sabol, the Designated Federal Officer, not later than 12:00 p.m. on Thursday, August 27, 2015, as listed in the **FOR FURTHER INFORMATION CONTACT** section.

*Written Statements:* Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the FACA, interested persons may submit written statements to the RFPB at any time about its approved agenda or at any time on the Board's mission. Written statements should be submitted to the RFPB's Designated Federal Officer at the address or facsimile number listed in the **FOR FURTHER INFORMATION CONTACT** section. If statements pertain to a specific topic being discussed at the planned meeting, then these statements must be submitted no later than five (5) business days prior to the meeting in question. Written statements received after this date may not be provided to or considered by the RFPB until its next meeting. The Designated Federal Officer will review all timely submitted written statements and provide copies to all the committee members before the meeting that is the subject of this notice. Please note that since the RFPB operates under the provisions of the FACA, all submitted comments and public presentations will be treated as public documents and will be made available for public inspection, including, but not limited to, being posted on the RFPB's Web site.

Dated: August 10, 2015.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2015–19900 Filed 8–12–15; 8:45 am]

**BILLING CODE 5001–06–P**

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## DEPARTMENT OF EDUCATION

**[Docket No.: ED–2015–ICCD–0102]**

## Agency Information Collection Activities; Comment Request; Gap Analysis Tool Implementation and Outcomes Evaluation (Future Ready Leaders Study)

**AGENCY:** Office of the Secretary/Office of the Deputy Secretary (OS), Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a new information collection.

**DATES:** Interested persons are invited to submit comments on or before October 13, 2015.

**ADDRESSES:** To access and review all the documents related to the information collection listed in this notice, please use *http://wwww.regulations.gov* by searching the Docket ID number ED–2015–ICCD–0102. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E105, Washington, DC 20202–4537.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Bernadette Adams, (202) 205–9898.

**SUPPLEMENTARY INFORMATION:** The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

*Title of Collection:* Gap Analysis Tool Implementation and Outcomes Evaluation (Future Ready Leaders Study).

*OMB Control Number:* 1894–NEW.

*Type of Review:* A new information collection.

*Respondents/Affected Public:* Individuals or Households.

*Total Estimated Number of Annual Responses:* 362.

*Total Estimated Number of Annual Burden Hours:* 217.

*Abstract:* This submission requests approval of data collection activities that will be used to support Gap Analysis Tool Implementation and Outcomes Evaluation. The evaluation will assess the usability and the proximal impact of the Gap Analysis Tool on district leaders' attitudes and plans regarding future readiness.

Dated: August 10, 2015.

**Stephanie Valentine,**

*Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.*

[FR Doc. 2015–19897 Filed 8–12–15; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF EDUCATION

### Applications for New Awards; Rehabilitation Training: Vocational Rehabilitation Workforce Innovation Technical Assistance Center

**AGENCY:** Office of Special Education and Rehabilitative Services, Department of Education.

**ACTION:** Notice.

*Overview Information:*

*Rehabilitation Training:* Vocational Rehabilitation Workforce Innovation Technical Assistance Center Notice inviting applications for new awards for fiscal year (FY) 2015.

*Catalog of Federal Domestic Assistance (CFDA) Number:* 84.264G.

**DATES:**

*Applications Available:* August 13, 2015.

*Date of Pre-Application Webinar:* August 18, 2015.

*Deadline for Transmittal of Applications:* September 14, 2015.

**Full Text of Announcement**

**I. Funding Opportunity Description**

*Purpose of Program:* Under the Rehabilitation Act of 1973 (Rehabilitation Act), as amended by the Workforce Innovation and Opportunity Act (WIOA), the Rehabilitation Services Administration (RSA) makes grants to States and public or nonprofit agencies and organizations (including institutions of higher education (IHEs)) to support projects that provide training, traineeships, and technical assistance (TA) designed to increase the numbers of, and improve the skills of, qualified personnel, especially rehabilitation counselors, who are trained to: Provide vocational, medical, social, and psychological rehabilitation services to individuals with disabilities; assist individuals with communication and related disorders; and provide other services authorized under the Rehabilitation Act.

*Priority:* This notice includes one absolute priority. This priority is from the notice of final priority (NFP) for this program, published elsewhere in this issue of the **Federal Register**.

*Absolute Priority:* For FY 2015, this priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet this priority.

This priority is:

*Vocational Rehabilitation Workforce Innovation Technical Assistance Center.*

**Note:** The full text of this priority is included in the NFP for this program, published elsewhere in this issue of the **Federal Register**, and in the application package for this competition.

*Program Authority:* 29 U.S.C. 772(a)(1).

*Applicable Regulations:* (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, and 99. (b) The Office of Management and Budget 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. (d) 34 CFR part 385. (e) The NFP.

**Note:** The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

**Note:** The regulations in 34 CFR part 86 apply only to IHEs.

**II. Award Information**

*Type of Award:* Cooperative agreement.

*Estimated Available Funds:* $3,500,000.

*Maximum Award:* We will reject any application that proposes a budget exceeding $3,500,000 for a single budget period of 12 months. The Assistant Secretary for Special Education and Rehabilitative Services may change the maximum amount through a notice published in the **Federal Register**.

*Estimated Number of Awards:* 1.

**Note:** The Department is not bound by any estimates in this notice.

*Project Period:* Up to 60 months.

*Continuing the Fourth and Fifth Years of the Project:*

In deciding whether to continue funding the Vocational Rehabilitation Workforce Innovation Technical Assistance Center for the fourth and fifth years, the Department, as part of the review of the application narrative and annual performance reports, will consider the degree to which the program demonstrates substantial progress toward completing the tasks outlined in the Project Activities section of the priority, with particular emphasis on the successful delivery of intensive TA.

**III. Eligibility Information**

1. *Eligible Applicants:* States and public or nonprofit agencies and organizations, including Indian tribes and IHEs.

2. *Cost Sharing or Matching:* Cost sharing of at least 10 percent of the total cost of the project is required of grantees under the Rehabilitation Training Program. Any program income that may be incurred during the period of performance may only be directed towards advancing activities in the approved grant application and may not be used towards the 10 percent match requirement. The Secretary may waive part of the non-Federal share of the cost of the project after negotiations if the applicant demonstrates that it does not have sufficient resources to contribute the entire match (29 U.S.C. 772(a)(1)).

**Note:** Under 34 CFR 75.562(c), an indirect cost reimbursement on a training grant is limited to the recipient's actual indirect costs, as determined by its negotiated indirect cost rate agreement, or eight percent of a modified total direct cost base, whichever amount is less. Indirect costs in excess of the limit may not be charged directly, used to satisfy matching or cost-sharing requirements, or charged to another Federal award.

**IV. Application and Submission Information**

1. *Address to Request Application Package:* You can obtain an application package via the Internet, from the Education Publications Center (ED Pubs), or from the program office.

To obtain a copy via the Internet, use the following address: *www.ed.gov/fund/grant/apply/grantapps/index.html.*

To obtain a copy from ED Pubs, write, fax, or call the following: ED Pubs, U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. FAX: (703) 605–6794. If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *www.EDPubs.gov* or at its email address: *edpubs@inet.ed.gov.*

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.264G.

To obtain a copy from the program office, contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

Individuals with disabilities can obtain a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting the person or team listed under *Accessible Format* in section VIII of this notice.

2.a. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition. Page Limit: The application narrative (Part III of the application) is where you, the applicant,

address the selection criteria that reviewers use to evaluate your application. Because of the limited time available to review applications and make a recommendation for funding, we strongly encourage applicants to limit the application narrative to no more than 75 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman or Arial Narrow) will not be accepted.

In addition to the page-limit guidance on the application narrative section, we recommend that you adhere to the following page limits, using the standards listed above: (1) The abstract should be no more than one page, (2) the resumes of key personnel should be no more than two pages per person, and (3) the bibliography should be no more than three pages. The only optional materials that will be accepted are letters of support. Please note that our reviewers are not required to read optional materials.

Please note that any funded applicant's application abstract will be made available to the public.

b. *Submission of Proprietary Information:*

Given the types of projects that may be proposed in applications for the Rehabilitation Training: Vocational Rehabilitation Workforce Innovation Technical Assistance Center competition, an application may include business information that the applicant considers proprietary. The Department's regulations define ''business information'' in 34 CFR 5.11.

Because we plan to make the abstract of the successful application available to the public, you may wish to request confidentiality of business information.

Consistent with Executive Order 12600, please designate in your application any information that you feel is exempt from disclosure under Exemption 4 of the Freedom of Information Act. In the appropriate Appendix section of your application, under ''Other Attachments Form,'' please list the page number or numbers on which we can find this information. For additional information please see 34 CFR 5.11(c).

3. *Submission Dates and Times:*

*Applications Available:* August 13, 2015.

*Date of Pre-Application Webinar:* Interested parties are invited to participate in a pre-application Webinar. The pre-application Webinar with staff from the Department will be held on August 18, 2015. The Webinar will be recorded. For further information about the pre-application Webinar, contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

*Deadline for Transmittal of Applications:* September 14, 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 subject to Executive Order 12372 and the regulations in 34 CFR part 79. However, under 34 CFR 79.8(a), we waive intergovernmental review in order to make an award by the end of FY 2015.

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 Rehabilitation Training: Vocational Rehabilitation Workforce Innovation Technical Assistance Center, CFDA number 84.264G, 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 Rehabilitation Training: Vocational Rehabilitation Workforce Innovation Technical Assistance Center 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 84.264, not 84.264G).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *www.G5.gov.*
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: The Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- You must upload any narrative sections and all other attachments to your application as files in a PDF (Portable Document) read-only, non-modifiable format. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF or submit a password-protected file, we will not review that material.
- Your electronic application must comply with any page-limit requirements described in this notice.
- After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).
- We may request that you provide us original signatures on forms at a later date.

*Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System:* If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that the problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

**Note:** The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

*Exception to Electronic Submission Requirement:* You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are

unable to submit an application through the Grants.gov system because—

- You do not have access to the Internet; or
- You do not have the capacity to upload large documents to the Grants.gov system; *and*
- No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Jerry Elliott, U.S. Department of Education, 400 Maryland Avenue SW., Room 5021, Potomac Center Plaza (PCP), Washington, DC 20202–2800. FAX: (202) 245–7335.

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 84.264G) LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 202–4260.

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 84.264G), 550 12th Street SW., Room 7039, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

**Note for Mail or Hand Delivery of Paper Applications:** If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

## V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210 and are listed in the application package.

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. *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:* The Government Performance and Results Act of 1993 directs Federal departments and agencies to improve the effectiveness of programs by engaging in strategic planning, setting outcome-related goals for programs, and measuring program results against those goals.

The purpose of this priority is to fund a cooperative agreement to establish a Vocational Rehabilitation Workforce Innovation Technical Assistance Center to achieve, at a minimum, the following outcomes:

(a) Implementation of effective and efficient ''pre-employment transition services'' for students with disabilities, as set forth in section 113 of the Rehabilitation Act;

(b) Implementation by State VR agencies, in coordination with local and State educational agencies and with the Department of Labor, of the requirements in section 511 of the Rehabilitation Act that are under the purview of the Department of Education;

(c) Increased access to supported employment and customized employment services for individuals with the most significant disabilities, including youth with the most significant disabilities, receiving services under the State VR and Supported Employment programs;

(d) An increased percentage of individuals with disabilities who receive services through the State VR agency and who achieve employment outcomes in competitive integrated employment;

(e) Improved collaboration between State VR agencies and other core programs of the workforce development system; and

(f) Implementation of the new common performance accountability system under section 116 of WIOA.

The cooperative agreement will specify the short-term and long-term measures that will be used to assess the grantee's performance against the goals and objectives of the project and the outcomes listed in the preceding paragraph.

In its annual and final performance report to the Department, the grant recipient will be expected to report the data outlined in the cooperative agreement that is needed to assess its performance.

The cooperative agreement and annual report will be reviewed by RSA and the grant recipient between the third and fourth quarter of each project period. Adjustments will be made to the project accordingly in order to ensure demonstrated progress towards meeting the goals and outcomes of the project.

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 achieving 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:** Jerry Elliott, U.S. Department of Education, Rehabilitation Services Administration, 400 Maryland Avenue SW., Room 5021, PCP, Washington, DC 20202–2800. Telephone: (202) 245–7335 or by email: *jerry.elliott@ed.gov.*

If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

## VIII. Other Information

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

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

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

Dated: August 7, 2015.

**Michael K. Yudin,**

*Assistant Secretary for Special Education and Rehabilitative Services.*

[FR Doc. 2015–20003 Filed 8–12–15; 8:45 am]

BILLING CODE 4000–01–P

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## DEPARTMENT OF EDUCATION

### Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Assessing the Role of Noncognitive and School Environmental Factors in Students' Transitions to High School in New Mexico; Docket ID Number; Correction

**AGENCY:** Department of Education.

**ACTION:** Correction notice.

**SUMMARY:** On August 7, 2015 the U.S. Department of Education published a 30-day comment period notice in the **Federal Register** Page 47482, Columns 1, 2 and 3; seeking public comment for an information collection entitled, ''Assessing the Role of Noncognitive and School Environmental Factors in Students' Transitions to High School in New Mexico.'' ED is requesting a correction to the Docket ID Number listed under the Addresses section of the **Federal Register** Notice. The correct Docket ID Number is ED–2015–ICCD–0067.

The Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management, hereby issues a correction notice as required by the Paperwork Reduction Act of 1995.

Dated: August 10, 2015.

**Stephanie Valentine,**

*Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.*

[FR Doc. 2015–19898 Filed 8–12–15; 8:45 am]

BILLING CODE 4000–01–P

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. EL15–89–000]**

### Boston Energy Trading and Marketing LLC v. Midcontinent Independent System Operator, Inc.; Notice of Complaint

Take notice that on August 6, 2015, pursuant to section 206 of the Federal

Power Act, 16 U.S.C. 824e and Rule 206 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR 385.206 (2015), Boston Energy Trading and Marketing (Complainant or BETM), filed a formal complaint against Midcontinent Independent System Operator, Inc. (Respondent or MISO) alleging that MISO forced BETM to enter into a partnership for its market participant funded transmission project with a competitor even though BETM submitted its request for a market participant funded upgrade prior to its competitor J Aron & Company. BETM asserts that MISO's actions constitute an unjust and unreasonable practice that significantly affects rates under section 206.

BETM certifies that copies of the complaint were served on the contacts for MISO as listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

*Comment Date:* 5 p.m. Eastern Time on August 24, 2015.

Dated: August 7, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–19896 Filed 8–12–15; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

*Docket Numbers:* EC15–183–000.

*Applicants:* Allegheny Ridge Wind Farm, LLC, Aragonne Wind LLC, Blue Canyon Windpower LLC, Buena Vista Energy LLC, Caprock Wind LLC, Cedar Creek Wind Energy, LLC, Crescent Ridge LLC, Eurus Combine Hills I LLC, GSG, LLC, Kumeyaay Wind LLC, Mendota Hills, LLC.

*Description:* Application for Authorization for Disposition of Jurisdictional Facilities and Request for Expedited Action of Allegheny Ridge Wind Farm, LLC, et al.

*Filed Date:* 8/6/15.

*Accession Number:* 20150806–5027.

*Comments Due:* 5 p.m. ET 8/27/15.

Take notice that the Commission received the following exempt wholesale generator filings:

*Docket Numbers:* EG15–111–000.

*Applicants:* Chapman Ranch Wind I, LLC.

*Description:* Notice of Self-Certification of Exempt Wholesale Generator Status of Chapman Ranch Wind I, LLC.

*Filed Date:* 8/5/15.

*Accession Number:* 20150805–5140.

*Comments Due:* 5 p.m. ET 8/26/15.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER15–1721–000.

*Applicants:* energy.me midwest llc.

*Description:* Response to July 14, 2015 Commission Letter requesting additional information of energy.me midwest llc.

*Filed Date:* 8/5/15.

*Accession Number:* 20150805–5169.

*Comments Due:* 5 p.m. ET 8/19/15.

*Docket Numbers:* ER15–2386–000.

*Applicants:* PJM Interconnection, L.L.C., Virginia Electric and Power Company.

*Description:* Section 205(d) Rate Filing: Virginia Electric and Power submits revisions to OATT Attachment H16–C to be effective 6/15/2015.

*Filed Date:* 8/5/15.

*Accession Number:* 20150805–5142.

*Comments Due:* 5 p.m. ET 8/26/15.

*Docket Numbers:* ER15–2387–000.

*Applicants:* Midcontinent Independent System Operator, Inc.

*Description:* Section 205(d) Rate Filing: 2015–08–06_SA 2524 ITC Transmission-DTE Electric 3rd Rev. GIA (J235/J354) to be effective 8/7/2015.

*Filed Date:* 8/6/15.

*Accession Number:* 20150806–5097.

*Comments Due:* 5 p.m. ET 8/27/15.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 6, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–19885 Filed 8–12–15; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER11–1881–007; ER11–1882–007; ER11–1883–007; ER11–1885–007; ER11–1886–007; ER11–1887–007; ER11–1889–007; ER11–1890–007; ER11–1892–007; ER11–1893–007; ER11–1894–007.

*Applicants:* Burley Butte Wind Park, LLC, Golden Valley Wind Park, LLC, Milner Dam Wind Park, LLC, Oregon Trail Wind Park, LLC, Pilgrim Stage Station Wind Park, LLC, Thousand Springs Wind Park, LLC, Tuana Gulch Wind Park, LLC, Camp Reed Wind Park, LLC, Payne's Ferry Wind Park, LLC, Salmon Falls Wind Park, LLC, Yahoo Creek Wind Park, LLC.

*Description:* Notice of Non-Material Change in Status of the IWP Sellers.

*Filed Date:* 8/7/15.
*Accession Number:* 20150807–5051.
*Comments Due:* 5 p.m. ET 8/28/15.

*Docket Numbers:* ER15–2395–000.
*Applicants:* Tucson Electric Power Company.
*Description:* § 205(d) Rate Filing: Construction Agreements to be effective 10/7/2015.
*Filed Date:* 8/7/15.
*Accession Number:* 20150807–5123.
*Comments Due:* 5 p.m. ET 8/28/15.

*Docket Numbers:* ER15–2396–000.
*Applicants:* PacifiCorp.
*Description:* § 205(d) Rate Filing: Clatskanie PUD E&P Agreement Troutdale Sub to be effective 10/7/2015.
*Filed Date:* 8/7/15.
*Accession Number:* 20150807–5138.
*Comments Due:* 5 p.m. ET 8/28/15.

*Docket Numbers:* ER15–2397–000.
*Applicants:* PJM Interconnection, L.L.C., Public Service Electric and Gas Company.
*Description:* § 205(d) Rate Filing: PSE&G submits revisions to the OATT Attachment H–10A adjusting the PBOP to be effective 1/1/2015.
*Filed Date:* 8/7/15.
*Accession Number:* 20150807–5147.
*Comments Due:* 5 p.m. ET 8/28/15.

*Docket Numbers:* ER15–2398–000.
*Applicants:* New York Independent System Operator, Inc.
*Description:* § 205(d) Rate Filing: NYISO 205 joint filing re: IA among NYISO, NYSEG, TrAILCo and PJM to be effective 8/8/2015.
*Filed Date:* 8/7/15.
*Accession Number:* 20150807–5172.
*Comments Due:* 5 p.m. ET 8/28/15.

*Docket Numbers:* ER15–2399–000.
*Applicants:* PJM Interconnection, L.L.C., CMS Energy Resource Management Company.
*Description:* § 205(d) Rate Filing: Original Service Agreement No. 4174—NITSA among PJM and CMS ERM to be effective 12/31/9998.
*Filed Date:* 8/7/15.
*Accession Number:* 20150807–5178.
*Comments Due:* 5 p.m. ET 8/28/15.

*Docket Numbers:* ER15–2400–000.
*Applicants:* New York State Electric & Gas Corporation.
*Description:* Tariff Cancellation: Cancellation of Services Agreement with FirstEnergy Service Company to be effective 8/8/2015.
*Filed Date:* 8/7/15.
*Accession Number:* 20150807–5181.
*Comments Due:* 5 p.m. ET 8/28/15.

*Docket Numbers:* ER15–2401–000.
*Applicants:* Pennsylvania Electric Company, Trans-Allegheny Interstate Line Company, PJM Interconnection, L.L.C.
*Description:* § 205(d) Rate Filing: Penelec and TrAILCo submit Original SA No. 4239 and Revised SA No. 3963 to be effective 8/8/2015.
*Filed Date:* 8/7/15.
*Accession Number:* 20150807–5198.
*Comments Due:* 5 p.m. ET 8/28/15.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 7, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–19891 Filed 8–12–15; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. EL15–88–000]**

### Indicated Market Participants v. PJM Interconnection, L.L.C.; Notice of Complaint

Take notice that on August 6, 2015, pursuant to sections 206 and 306 of the Federal Power Act, 16 U.S.C. 824(e) and 825(e) and section 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206, Indicated Market Participants (Complainant), filed a formal complaint against PJM Interconnection, L.L.C. (Respondent), alleging that the Respondent's Open Access Transmission Tariff is unjust and unreasonable to the extent it does not allow the Respondent to consider total system costs in clearing sell offers in the Capacity Performance Resources Delivery Years 2016–2018 and 2017/2018, as more fully explained in the complaint.

The Complainant certifies that copies of the complaint were served on the contacts for the Respondent as listed on the Commission's list of Corporate Officials and Respondent's representatives of record in Docket No. ER15–623.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on August 17, 2015.

Dated: August 7, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–19895 Filed 8–12–15; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP15–538–000]**

### Columbia Gas Transmission, LLC; Notice of Request Under Blanket Authorization

Take notice that on July 29, 2015, Columbia Gas Transmission, LLC (Columbia) 5151 San Felipe Suite 2500,

Houston, Texas 77056, filed in Docket No. CP15–538–000, a prior notice request pursuant to sections 157.205, 157.13 and 157.216 of the Commission's regulations under the Natural Gas Act and Columbia's blanket certificate issued in Docket No. CP83–76–000. Columbia seeks authorization to convert Well No. 4604 from active injection/withdrawal status to observation status, and to abandon Line 29171, consisting of approximately 497 feet of 4-inch diameter pipeline located in its Victory Storage Field in Marshall County, West Virginia, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY at (202) 502–8659.

Any questions concerning this application may be directed to Matthew J. Agen, Senior Counsel, Columbia Gas Transmission, LLC, 5151 San Felipe Suite 2500, Houston, Texas 77056, at (713) 386–3619.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Any person may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention. Any person filing to intervene or the Commission's staff may, pursuant to section 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) (18 CFR 157.205) file a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*www.ferc.gov*) under the ''e-Filing'' link.

Dated: August 7, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–19893 Filed 8–12–15; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 2883–008]**

### Aquenergy Systems, LLC; Notice of Intent To File License Application, Filing of Pre-Application Document, and Approving Use of the Traditional Licensing Process

*Type of Filing:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

*Project No.:* 2883–008.

*Date Filed:* May 28, 2015.

*Submitted By:* Aquenergy Systems, LLC.

*Name of Project:* Fries Hydroelectric Project.

*Location:* On the New River, in Grayson County, Virginia. No federal lands are occupied by the project works or located within the project boundary.

*Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

*Applicant Contact:* Beth Harris, One Tech Drive, Suite 220, Andover, MA 01810; (864) 846–0042, extension 100; email—mailto: *beth.harris@enel.com.*

*FERC Contact:* Nick Ettema at (202) 502–6565; or email at *nicholas.ettema@ferc.gov.*

Aquenergy filed its request to use the Traditional Licensing Process on May 28, 2015. Aquenergy provided public notice of its request on June 8, 2015. In a letter dated August 6, 2015, the Director of the Division of Hydropower Licensing approved Aquenergy's request to use the Traditional Licensing Process.

With this notice, we are initiating informal consultation with the U.S. Fish and Wildlife Service under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, part 402. We are also initiating consultation with the Virginia State Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

With this notice, we are designating Aquenergy as the Commission's non-federal representative for carrying out informal consultation pursuant to section 7 of the Endangered Species Act and consultation pursuant to section 106 of the National Historic Preservation Act.

Aquenergy filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). A copy is also available for inspection and reproduction at the address in paragraph h.

The licensee states its unequivocal intent to submit an application for a new license for Project No. 2883. Pursuant to 18 CFR 16.8, 16.9, and 16.10 each application for a new license and any competing license applications must be filed with the Commission at

least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by May 31, 2018.

Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: August 6, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–19889 Filed 8–12–15; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP15–536–000]**

### Transcontinental Gas Pipe Line Company, LLC; Notice of Application

Take notice that on July 27, 2015, Transcontinental Gas Pipe Line Company, LLC (Transco), PO Box 1396, Houston, Texas 77251, filed in Docket No. CP15–536–000 an application pursuant to section 7(b) of the Natural Gas Act (NGA) and part 157 of the Commission's regulations, requesting authorization to abandon by sale approximately 26.55 miles of 20-inch-diameter gathering pipeline and appurtenances to Tana Exploration Company LLC (Tana). Transco states that the facilities extend from the point of interconnection in Matagorda Island Block 669 between Tana's 10-inch-diameter gathering pipeline and Transco's pipeline to Fieldwood Energy LLC's Platform A in Brazos Block A–133, located in federal waters offshore Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TYY, (202) 502–8659.

Any questions regarding this application should be directed to Scott C. Turkington, Director Rates & Regulatory, Transcontinental Gas Pipe Line Company, LLC, P.O. Box 1396, Houston, Texas 77251–1396, by telephone at (713) 215–3391, or by email at *sott.c.turkington@williams.com.*

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit five copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and five copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street NE., Washington, DC 20426.

Comment Date: 5 p.m. Eastern Time on August 27, 2015.

Dated: August 6, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–19892 Filed 8–12–15; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Notice of Effectiveness of Exempt Wholesale Generator Status

| | |
|---|---|
| Seville Solar One LLC | EG15–71–000 |
| Tallbear Seville LLC | EG15–72–000 |
| Garrison Energy Center LLC | EG15–73–000 |
| RE Mustang LLC | EG15–74–000 |
| RE Mustang 3 LLC | EG15–75–000 |
| RE Mustang 4 LLC | EG15–76–000 |
| Logan's Gap Wind LLC | EG15–77–000 |
| Fowler Ridge IV Wind Farm LLC | EG15–78–000 |
| Cameron Wind I, LLC | EG15–79–000 |
| 67RK 8me LLC | EG15–80–000 |
| 65HK 8me LLC | EG15–81–000 |
| Balko Wind Transmission, LLC | EG15–82–000 |
| Goodwell Wind Project, LLC | EG15–83–000 |
| Breckinridge Wind Project, LLC | EG15–84–000 |
| Alpaca Energy LLC | EG15–85–000 |
| Beaver Dam Energy LLC | EG15–86–000 |
| Milan Energy LLC | EG15–87–000 |
| Oxbow Creek Energy LLC | EG15–88–000 |
| Greenleaf Power Management LLC | EG15–89–000 |
| Adelanto Solar, LLC | EG15–90–000 |
| Adelanto Solar II, LLC | EG15–91–000 |

Take notice that during the month of June and July 2015, the status of the above-captioned entities as Exempt Wholesale Generators became effective by operation of the Commission's regulations. 18 CFR 366.7(a).

Dated: August 7, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–19894 Filed 8–12–15; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP15–537–000]**

### DBM Pipeline, LLC; Notice of Request Under Blanket Authorization

Take notice that on July 27, 2015, DBM Pipeline, LLC (DBM Pipeline), 1201 Lake Robbins Drive, The Woodlands, Texas 77380, filed in Docket No. CP15–537–000, a prior notice request pursuant to sections 157.205, 157.208, and 157.210 of the Commission's regulations under the Natural Gas Act (NGA). DBM Pipeline seeks authorization to construct and operate approximately 9 miles of 20-inch-diameter pipeline in Reeves and Culberson Counties, Texas, and Eddy County, New Mexico. DBM Pipeline proposes to perform these activities under its blanket certificate issued in Docket No. CP15–104–000 [152 FERC ¶ 62,056 (2015)], all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The filing may be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TYY, (202) 502–8659.

Any questions regarding this application should be directed to Philip H. Peacock, Vice President, General Counsel, and Corporate Secretary, DBM Pipeline, LLC, 1201 Lake Robbins Drive, The Woodlands, Texas, 77380, or by calling (832) 636–6000 (telephone) *philip.peacock@anadarko.com.*

Any person or the Commission's Staff may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and, pursuant to section 157.205 of the Commission's Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding, or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*www.ferc.gov*) under the ''e-Filing'' link. Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Dated: August 6, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–19886 Filed 8–12–15; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER15–2380–000]**

### Willey Battery Utility, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Willey Battery Utility, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is August 26, 2015.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the

Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 6, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–19888 Filed 8–12–15; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER13–1991–004*; ER13–1992–004.*

*Applicants:* Desert Sunlight 250, LLC, Desert Sunlight 300, LLC.

*Description:* Notice of Change in Status of Desert Sunlight 250, LLC and Desert Sunlight 300, LLC.

*Filed Date:* 8/6/15.

*Accession Number:* 20150806–5160.

*Comments Due:* 5 p.m. ET 8/27/15.

*Docket Numbers:* ER15–1759–000.

*Applicants:* Midcontinent Independent System Operator, Inc.

*Description:* Report Filing: 2015–08–07_SA 2789 Refund Report of ATC–ITC Midwest Operating Agreement to be effective N/A.

*Filed Date:* 8/7/15.

*Accession Number:* 20150807–5050.

*Comments Due:* 5 p.m. ET 8/28/15.

*Docket Numbers:* ER15–2388–000.

*Applicants:* NorthWestern Corporation.

*Description:* Initial rate filing: SA 754—MDT Utilities Agreement re Capitol-Cedar Interchange Project to be effective 10/6/2015.

*Filed Date:* 8/6/15.

*Accession Number:* 20150806–5124.

*Comments Due:* 5 p.m. ET 8/27/15.

*Docket Numbers:* ER15–2389–000.

*Applicants:* PJM Interconnection, L.L.C., PPL Electric Utilities Corporation.

*Description:* Section 205(d) Rate Filing: PPL submits Coordination Agreement No. 1014 with Borough of Blakley to be effective 1/1/2014.

*Filed Date:* 8/6/15.

*Accession Number:* 20150806–5126.

*Comments Due:* 5 p.m. ET 8/27/15.

*Docket Numbers:* ER15–2390–000

*Applicants:* PJM Interconnection, L.L.C., PPL Electric Utilities Corporation.

*Description:* Section 205(d) Rate Filing: PPL submits Coordination Agreement No. 1018 with Borough of Hatfield to be effective 1/1/2014.

*Filed Date:* 8/6/15.

*Accession Number:* 20150806–5129.

*Comments Due:* 5 p.m. ET 8/27/15.

*Docket Numbers:* ER15–2391–000.

*Applicants:* PJM Interconnection, L.L.C., PPL Electric Utilities Corporation.

*Description:* Section 205(d) Rate Filing: PPL submits Coordination Agreement No. 1019 with Borough of Lansdale to be effective 1/1/2014.

*Filed Date:* 8/6/15.

*Accession Number:* 20150806–5132.

*Comments Due:* 5 p.m. ET 8/27/15.

*Docket Numbers:* ER15–2392–000.

*Applicants:* PJM Interconnection, L.L.C., PPL Electric Utilities Corporation.

*Description:* Section 205(d) Rate Filing: PPL submits Coordination Agreement No. 1024 with Borough of Quakertown to be effective 1/1/2014.

*Filed Date:* 8/6/15.

*Accession Number:* 20150806–5137.

*Comments Due:* 5 p.m. ET 8/27/15.

*Docket Numbers:* ER15–2393–000.

*Applicants:* Southern California Edison Company.

*Description:* Section 205(d) Rate Filing: Agreement for Additional SCE Connection to Eldorado 500 kV Switchyard to be effective 8/7/2015.

*Filed Date:* 8/6/15.

*Accession Number:* 20150806–5145.

*Comments Due:* 5 p.m. ET 8/27/15.

*Docket Numbers:* ER15–2394–000.

*Applicants:* Alabama Power Company.

*Description:* Section 205(d) Rate Filing: Infigen Energy US Development (Georgia Sun I) SGIA Filing to be effective 7/24/2015.

*Filed Date:* 8/7/15.

*Accession Number:* 20150807–5001.

*Comments Due:* 5 p.m. ET 8/28/15.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 7, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–19890 Filed 8–12–15; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER15–1721–000]**

### Energy.Me Midwest LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Energy.Me Midwest LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is August 19, 2015.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 6, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–19887 Filed 8–12–15; 8:45 am]

**BILLING CODE 6717–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–RCRA–2012–0072; FRL–9929–37–OSWER]**

## Waste Management System; Testing and Monitoring Activities; Notice of Availability of Final Update V of SW–846

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA or Agency) is providing notice of the availability of ''Final Update V'' to the Third Edition of the manual, ''Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,'' EPA publication SW–846. Final Update V contains analytical methods, of which 8 are new and 15 are revised. The methods in Update V may be used in monitoring or complying with the Resource Conservation and Recovery Act (RCRA) hazardous waste regulations. This action includes revisions to the methods in response to comments received on a Notice published in the **Federal Register** on October 23, 2013 and finalizes the methods and guidance. In addition, the Agency is also finalizing revisions to Chapters One through Five of SW–846 and an Office of Resource Conservation and Recovery (ORCR) policy statement in the SW–846 methods compendium. The Agency is issuing this Update as guidance since the changes in this document to the SW–846 analytical methods are not required by RCRA's hazardous waste regulations. Any required analytical methods have not been changed.

**FOR FURTHER INFORMATION CONTACT:** Kim Kirkland, Office of Resource Conservation and Recovery (5304P), Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460–0002; telephone number: (703) 308–8855, fax number: (703) 308–0509, email address: *kirkland.kim@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. Does this action apply to me?*

This notice is directed to the public in general. It may, however, be of particular interest to those conducting waste sampling and analysis for RCRA-related activities. This universe might include any entity that generates, treats, stores, or disposes of hazardous or nonhazardous solid waste and might also include any laboratory that conducts waste sampling and analyses for such entities.

*B. How can I get copies of Final Update V and other related information?*

1. The Agency has established a docket for this action under Docket ID No. EPA–RCRA–2012–0072; FRL–9901–86–OSWER and FRL–9929–37–OSWER. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the OSWER RCRA Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, and 1301 Constitution Ave. NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OSWER RCRA Docket is (202) 566–0270.

*C. How can I get copies of the Third Edition of SW–846 its updates?*

The Third Edition of SW–846, as amended by Final Updates I, II, IIA, IIB, III, IIIA, IIIB, IVA, IVB, and V, is available in pdf format on the Internet at *http://www.epa.gov/SW-846.*

*D. How is the rest of this Notice organized?*

Sections:

II. What is the subject and purpose of this Notice?
III. Why is the Agency releasing Update V to SW–846?
IV. What does final Update V contain?
V. What revisions are discussed in this Notice?
VI. Summary

### II. What is the subject and purpose of this Notice?

The Agency is announcing publication of Final Update V to ''Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,'' EPA publication SW–846, which is now part of the SW–846 methods compendium. Specifically, Update V of SW–846 contains revisions to the first five chapters of SW–846 and 23 new and modified analytical methods that the Agency has evaluated, and/or revised and determined to be appropriate and may be used for monitoring or complying with the RCRA hazardous waste regulations. Eight of the 23 methods are new methods that have been fully validated, *i.e.,* they have completed technical and Agency workgroup review and approval. In addition these eight new methods are being announced in the **Federal Register** through this notice. Since the methods have completed the approval process, they will be removed from the ''Validated Methods'' link at: *http://www.epa.gov/epawaste/hazard/testmethods/sw846/new_meth.htm* and incorporated in the SW–846 methods compendium at: *http://www.epa.gov/epawaste/hazard/testmethods/sw846/online/index.htm.*

The 15 revised methods have replaced the previous versions in the final update package and will also be placed into the SW–846 methods compendium. Because the RCRA hazardous waste regulations do not require the analytical methods contained in Update V, the Agency is issuing this update as guidance. This guidance does not add or change the RCRA regulations, and does not have any impact on existing rulemakings associated with the RCRA program. To date, the Agency has finalized Updates I, II, IIA, IIB, III, IIIA, IIIB, IVA, and IVB to the SW–846 manual, which can be found on the Agency's ORCR Web page at: *http://www.epa.gov/SW-846.*

### III. Why is the Agency releasing final Update V to SW–846?

SW–846 is revised over time as new information and data become available. The Agency continually reviews advances in analytical instrumentation and techniques and periodically incorporates such advances into SW–846 as method updates by adding new methods to the manual, and replacing existing methods with revised versions of the same method. On October 23,

2013, the Agency published a FR Notice (78 FR 63185), announcing the availability of Update V to SW–846. When the comment period closed on January 23, 2014, the Agency received a total of 111 technical and general comments on the Update. The Agency revised the methods and chapters based on comments received, when it was appropriate to do so.

Revisions made were either editorial for clarity or technical for accuracy. A summary of significant changes are noted in Appendix A of each revised method.[1] In addition, significant revisions to the chapters are discussed in Section V of this Notice. These methods can be used for any RCRA applications, other than those specifically required by regulation. In cases that the regulation does not specify the method, the analyst should select an appropriate method in which the performance can be demonstrated and meet project-specific Data Quality Objectives (DQOs). On a related matter, the Agency is also finalizing an ORCR Policy Statement that responds to concerns the Environmental Laboratory Advisory Board (ELAB) has expressed regarding the official version and status of various methods. ELAB is a committee established under the Federal Advisory Committee Act (FACA) that advises the Agency on measurement, monitoring, and laboratory science issues. The ELAB contacted the Agency's Forum on Environmental Measurements (FEM)[2] with several issues regarding the use of SW–846, specifically seeking clarification about which versions of a revised method are recommended, and seeking clarification in defining terminology used to identify the category of methods.

The Agency did not receive any comments regarding the content of the ORCR Policy Statement and has finalized it without change. As a reminder, the Agency strongly recommends the use of the latest version of an SW–846 method. The Agency, however, is not imposing restrictions on the use of earlier versions of non-required SW–846 methods or precluding the use of previous guidance, if such use is appropriate. For example, earlier versions of an SW–846 method may be more appropriate for regulatory purposes (*e.g.,* for compliance with an existing permit or consent decree), or when new method versions may be more costly to run or perform, than necessary for meeting project-specific objectives.

## IV. What does final Update V contain?

Final Update V contains revisions to Chapters One through Five of EPA's publication SW–846. As noted above, no changes are made to Method Defined Parameters (MDPs), which are required by the RCRA regulation and must be followed prescriptively. Also, no changes were made to general sections of SW–846 to the extent they apply to MDPs. The analytical methods in Update V are considered guidance, provide a basic standard operating procedure, and may be modified where appropriate.

In addition, included in the original Update V Notice, was ''The ORCR Policy Statement,'' which was developed as a result of stakeholders' discussions regarding a need for clarification of the status and definitions (*e.g.,* validated, final, superseded) of methods in SW–846. For example, the policy statement is clear that ''the most recent version'' of an approved method in SW–846, should be used, unless an existing permit, consent decree, etc.) This policy statement appeared in the original Update V **Federal Register** Notice. See: October 23, 2013 (78 FR 63188–63190), and has been inserted in SW–846 in the table of contents after the Preface. For more information on the policy statement see: *http://www.epa.gov/wastes/hazard/testmethods/sw846/online/index.htm.* The Agency further notes that its Quality Assurance/Quality Control (QA/QC) guidance (*e.g.,* lower limit of quantitation (LLOQ), relative standard error (RSE), initial demonstration of proficiency (IDP), etc.), while it appears in Chapter One, is also discussed in appropriate sections of the individual methods. Updated V documents are dated July 2014, even though this Update is announced publicly in this 2015 **Federal Register** Notice. The July 2014 documents are identified as ''Update V'' in the document footer.

Table 1 provides a listing of the five revised chapters and 23 methods in this Update V.

TABLE 1—FINAL UPDATE V

[Methods, Chapters and Guidance]

| Analytical method No. | Method or chapter title |
|---|---|
| | Table of Contents. |
| | Chapter One—Quality Control. |
| | Chapter Two—Choosing the Correct Procedure. |
| | Chapter Three—Inorganic Analytes. |
| | Chapter Four—Organic Analytes. |
| | Chapter Five—Miscellaneous Test Methods. |
| 1030 | Ignitability of Solids. |
| 3200 * | Mercury Species Fractionation and Quantification by Microwave-Assisted Extraction, Selective Solvent Extraction and/or Solid Phase Extraction. |
| 3511 * | Organic Compounds in Water by Microextraction. |
| 3572 * | Extraction of Wipe Samples for Chemical Agents. |
| 3620C | Florisil Cleanup. |
| 4025 * | Screening for Polychlorinated Dibenzodioxins and Polychlorinated Dibenzofurans (PCDD/Fs) by Immunoassay. |
| 4430 * | Screening for Polychlorinated Dibenzo-p-Dioxins and Furans (PCDD/Fs) by Aryl Hydrocarbon Receptor PCR Assay. |
| 4435 * | Method for Toxic Equivalent (TEQS) Determination for Dioxin-Like Chemical Activity With the CALUX® Bioassay. |

[1] Specifically, this summary of significant changes (Appendix A) is included in each newly-revised method referenced in this notice, to assist users in identifying changes from the prior version of the method. EPA also intends to include such summaries in future method revisions.

[2] The FEM is a standing committee of senior EPA managers established in 2003 to promote consistency and consensus within the EPA on measurement issues, and provide an internal and external contact point for addressing measurement methodology, monitoring, and laboratory science issues with multi-program impacts.

TABLE 1—FINAL UPDATE V—Continued

[Methods, Chapters and Guidance]

| Analytical method No. | Method or chapter title |
|---|---|
| 5021A | Volatile Organic Compounds in Various Sample Matrices Using Equilibrium Headspace Analysis. |
| 6010D | Inductively Coupled Plasma-Atomic Emission Spectrometry. |
| 6020B | Inductively Coupled Plasma-Mass Spectrometry. |
| 6800 | Elemental and Speciated Isotope Dilution Mass Spectrometry. |
| 8000D | Determinative Chromatographic Separations. |
| 8021B | Aromatic and Halogenated Volatiles by Gas Chromatography Using Photoionization and/or Electrolytic Conductivity Detectors. |
| 8111 | Haloethers by Gas Chromatography. |
| 8270D | Semivolatile Organic Compounds by Gas Chromatography/Mass Spectrometry. |
| 8276* | Toxaphene and Toxaphene Congeners by Gas Chromatography/Negative Ion Chemical Ionization Mass Spectrometry (GC–NICI/MS). |
| 8410 | Gas Chromatography/Fourier Transform Infrared Spectrometry for Semivolatile Organics: Capillary Column. |
| 8430 | Analysis of Bis(2-Chloroethyl)Ester and Hydrolysis Products by Direct Aqueous Injection. |
| 9013A | Cyanide Extraction Procedure for Solids and Oils. |
| 9014 | Titrimetric and Manual Spectrophotometric Determinative Methods for Cyanide. |
| 9015* | Metal Cyanide Complexes by Anion Exchange Chromatography and UV Detection. |
| 9320 | Radium 228. |

*New Method

## V. What revisions are discussed in this notice?

### *A. SW–846 Chapters One Through Five and QA/QC Guidance*

SW–846 contains the following 13 chapters, which provide additional guidance when conducting sample collection, preparation, treatment and disposal. The first five chapters were revised and/or updated in accordance with Update V method revisions. All the chapter titles for SW–846 are listed in Table 2.

TABLE 2—SW–846 CHAPTERS

| | |
|---|---|
| CHAPTER ONE | QUALITY CONTROL. |
| CHAPTER TWO | CHOOSING THE CORRECT PROCEDURE. |
| CHAPTER THREE | INORGANIC ANALYTES. |
| CHAPTER FOUR | ORGANIC ANALYTES. |
| CHAPTER FIVE | MISSCELLANEOUS TEST METHODS. |
| CHAPTER SIX | PROPERTIES. |
| CHAPTER SEVEN | CHARACTERISTIC INTRODUCTION AND REGUALTORY DEFINITIONS. |
| CHAPTER EIGHT | METHODS FOR DETERMINING CHARACTERISTICS. |
| CHAPTER NINE | SAMPLING PLAN. |
| CHAPTER TEN | SAMPLING METHODS. |
| CHAPTER ELEVEN | GROUND WATER MONITORING. |
| CHAPTER TWELVE | LAND TREATMENT MONITORING. |
| CHAPTER THIRTEEN | INCINERATION. |

The date that the technical workgroup officially updated the methods is also displayed in the footer of Update V methods and chapters. Specifically, discussion of the comments and the Agency's responses follow:

Chapter One (Quality Control)

The Agency received 20 comments on Chapter One. Most comments were favorable. For those that were not, the comments mainly focused on the interpretation of terminology used (*e.g.,* Field Blank, Sensitivity, Limit of Quantitation (LOQ), Reproducibility, etc.). Changes to this terminology have been added to the glossary section. The Agency has revised Chapter One for clarity of terminology. The final guidance is more user friendly and more consistent with the Agency's official guidance on QA/QC implementation and procedures (*e.g.,* Quality Assurance Project Plans (QAPPs), DQOs, and the Flexible Approach to Environmental Measurement), located at: *http://www.epa.gov/quality/qa_docs.html#noneparqt.* Revisions were also made to improve and clarify the language on LLOQ and blank contamination. In addition, EPA added and revised several QA/QC concepts in Chapter One. The concepts are now included in Chapter One (Quality Control) and individual methods where appropriate. These changes are described below:

*Lower Limit of Quantitation* (LLOQ)—The Agency received 35 comments on the LLOQ concept. Most comments were favorable. As discussed in the October 2013 **Federal Register** notice, the Agency recommends establishing the LLOQ as the lowest point of quantitation, which in most cases is the concentration of the lowest calibration standard in the calibration curve that has been adjusted for the preparation mass and/or volume. The LLOQ value is a function of both the analytical method and the sample being evaluated.

The Method Detection Limit (MDL) procedure in 40 CFR part 136, Appendix B, for the determination of MDLs developed for the Clean Water Act (CWA) program uses a clean matrix (*i.e.,* reagent water for preparing ''spiked'' samples, or samples with known constituent concentrations). Analytical laboratories often have difficulty demonstrating they can meet

the MDL established using Part 136 when evaluating complex matrices, such as wastes (*e.g.,* soils, sludges, wipes, and spent materials). This MDL approach generally yields unrealistic and/or unachievable method detection limits for these complex matrices. Since the current Part 136 procedure is generally not suitable for RCRA wastes or materials encountered under the RCRA program, the Agency has chosen to finalize the LLOQ for SW–846. The procedure outlined in Part 136 is currently under review and is being revised for consideration in a future rulemaking effort. The LLOQ considers the effect of sample matrix (*e.g.,* components of a sample other than the analyte) by taking the LLOQ sample through the entire analytical process, including sample preparation, clean up (to remove sample interferences), and determinative procedures. Lastly, results above the LLOQ are quantifiable within acceptable precision and bias. Thus, the LLOQ approach better suits the needs of the RCRA program, because it provides reliable and defensible results, especially at the lower level of quantitation, and can be reported with a known level of confidence for the complex matrices being evaluated. The Agency uses MDLs in some of the MDPs and understands that other Agency programs may continue to use MDLs to meet their program use and needs (*e.g.,* the National Pollutant Discharge Elimination System (NPDES) permit program).

Since the current MDL procedure is not suitable for complex matrices found in RCRA waste, references to the MDL have been replaced with the LLOQ for non-regulatory methods (guidance). As the regulations are revised, the RCRA program will remove the MDL reference from the MDPs and replace it with the LLOQ concept where appropriate.

The Agency refined the procedure for establishing the LLOQ. This refinement considers sample matrix effects; includes a provision to verify the reasonableness of the reported quantitation limit (QL); and recommends a frequency of LLOQ verification (found in Chapter One and each method) to be balanced between rigor and practicality.

The Agency understands that previous versions of methods published in SW–846 may contain the MDL reference and as methods are updated, the Agency will remove references to the MDLs. The Agency will also remove MDL references in older methods that have not yet been updated, as time and resources allow. References in MDPs will be revised in a future effort since they can only be revised through a notice and comment rulemaking effort. The Agency recommends the use of LLOQ, as appropriate, for the non-MDP methods that have not yet been updated. See Section 9.8 in Method 6020B for Inorganic analytes and Section 9.7 in Method 8000 for Organic analytes on LLOQ for further information on implementation. Also, if method users choose to run the LLOQ sample, it must be run with each batch to see if it meets the established acceptance criteria. Lastly, results above the LLOQ are quantifiable within an acceptable precision and bias. Thus, the LLOQ approach better suits the needs of the RCRA program, because it provides reliable and defensible results, especially at the lower level of quantitation, and can be reported with a known level of confidence for the complex matrices being evaluated. Various programs use SW–846 methods in implementing different statutes, including RCRA, the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the Toxic Substances Control Act (TSCA), the Oil Pollution Act, Homeland Security Presidential Directives and Presidential Policy Directives, for waste and materials characterization, compliance testing, site/incident characterization and extent of contamination, risk assessment, and remediation for protection of human health and the environment, and better management and use of wastes and materials, for a wide range of difficult matrices. The Agency believes that the LLOQ approach is an important improvement and supports the essential need to provide data that are verified to meet the precision and accuracy requirements of the RCRA program.

*Establishing the LLOQ for Inorganic Analytes*—When performing methods for inorganic analyses, the LLOQ should be verified by the analysis of at least seven replicate samples (prepared in a clean matrix or control material) and spiked at the LLOQ and processed through all preparation and analysis steps of the method. The mean recovery and relative standard deviation (RSD) of these samples provide an initial statement of precision and bias at the LLOQ. In most cases, the mean recovery should be no more than ±35% of the true value and the RSD should be ≤20%. Ongoing LLOQ verification, at a minimum, is on a quarterly basis to validate quantitation capability at low analyte concentration levels. This verification may be accomplished either with clean control material (*e.g.,* reagent water, method blanks, Ottawa sand, diatomaceous earth, etc.) or a representative sample matrix free of target compounds. Optimally, the LLOQ should be less than the desired regulatory action levels based on the stated project-specific requirements. For more information, please see the individual methods (*e.g.,* Methods 6010 and 6020) and Chapter One of SW–846.

*Establishing LLOQ for Organic Analytes*—When performing methods for organic analyses, the LLOQ should be verified using either a clean control material (*e.g.,* reagent water, method blanks, Ottawa sand, diatomaceous earth, etc.) or a representative sample matrix free of target compounds. Optimally, the LLOQ should be less than the desired regulatory action levels based on the stated project-specific requirements.

For organic analyses, the acceptable recovery ranges of target analytes will vary more than for other types of analyses, such as inorganics. The recovery of target analytes in the LLOQ check sample should be within established limits, or other such project-required acceptance limits, for precision and bias to verify the data reporting limits. Until the laboratory has sufficient data to determine acceptance limits statistically, the laboratory control sample (LCS) criterion, +20% (*i.e.,* lower limit minus 20% and upper limit plus 20%) may be used for an acceptable range for the LLOQ. This approach acknowledges the poorer overall response at the low end of the calibration curve. Historically based LLOQ acceptance criteria should be determined as soon as practical once sufficient data points have been acquired.

In-house limits (which a laboratory establishes) for bias (*e.g.,* % Recovery) and precision (*e.g.,* Relative Percent Difference (%RPD)) of the LLOQ for a particular sample matrix may be calculated when sufficient data points exist. The laboratory should have a documented procedure for establishing its in-house acceptance ranges. Sometimes the laboratory instrument and/or analyst performance vary or test samples cause problems with the detector (*e.g.,* samples may have interferences; may clog the instruments cells, wall or tube; may cause contamination; etc.). Therefore, a laboratory establishes the limits of acceptance (for precision and bias) with sufficient data to demonstrate that they can report down to the LLOQ with a certain level of confidence. As an alternative, a QAPP may include the acceptance limits (for precision and bias) for LLOQ at the project level through the DQOs it includes. The

frequency of the LLOQ check is not specified for organic analytes.

**Note:** The LLOQ check sample should be spiked with the analytes of interest at the predicted LLOQ concentration levels and carried through the same preparation and analysis procedures as environmental samples and other QC samples. For more information, please see individual methods (*e.g.,* Method 8000) and Chapter One of SW–846.

*Use of the LLOQ*—The RCRA program deals with complex wastes and materials that are managed or used in many different ways (*e.g.,* landfilling, land application, incineration, recycling). The thresholds (*e.g.,* action or clean up levels) for data users (*e.g.,* engineers or risk assessors) to make their decisions, therefore, vary. Method users will need to properly plan their analytical strategy to ensure the LLOQs for targeted analytes are lower than the thresholds needed to generate data used to determine how waste or materials can be properly managed or used.

*Initial Demonstration of Performance (IDP)*—The IDP serves as a procedure that the laboratory conducts to demonstrate the ability to generate results with acceptable accuracy and precision for each preparation and determinative method they perform. Detailed discussion can be found in the October 23, 2013 **Federal Register** notice.

The Agency did not receive any comments on the IDP, and has finalized the language as presented in the original notice. Language regarding the IDP has been specified in the individual Update V methods where appropriate (*e.g.* Methods 6010D, 6020B, 8000D and many others). The IDP changes allow laboratories to use their time and resources effectively, especially for the organic analyses. The IDP section for the Determination of Organic Analytes was expanded to describe two situations: When a significant change to instrumentation or procedure occurs: Reliable performance of the methods depends on careful adherence to the instructions in the written method because many aspects of the method are mandatory to ensure the method performs as intended.

Therefore, if a major change to the sample preparation procedure is made (*e.g.,* a change of solvent), the IDP must be repeated for that preparation procedure to demonstrate the laboratory technician's continued ability to reliably perform the method. The Agency considers conducting IDPs as part of good laboratory practice procedures and has already included these procedures in the Agency's laboratories' practices. Alterations in instrumental procedures only (*e.g.,* changing Gas Chromatograph (GC) temperature programs or High Performance Liquid Chromatography (HPLC) mobile phases or the detector interface), require a new calibration, but not a new IDP because the preparation procedure is unchanged.

When new staff members are trained: A new analyst needs to be capable of performing the method, or portion of the method, for which he/she is responsible. For example, when analysts are trained for a subset of analytes for an 8000 series method, the new sample preparation analyst should prepare reference samples for a representative set of analytes (*e.g.,* the primary analyte mix for Method 8270, or a mixture of Aroclor 1016 and 1260 for Method 8082) for each preparation method the analyst will perform. The instrument analyst being trained will need to analyze the prepared samples (*e.g.,* semi-volatile extracts). After several training opportunities, the analyst will be expected to perform the preparation and determinative step on his/her own and meet the acceptable QA/QC criteria.

*Blank Contamination*—Another area that affects sample results and is expanded upon in this notice and addressed in Chapter One and the individual methods is blank contamination. The results from analyzing blanks are generally considered to be acceptable if target analyte concentrations are less than ½ the LLOQ or are less than project-specific requirements. Blanks may contain analyte concentrations greater than acceptance limits if the associated samples in the batch are unaffected (*i.e.,* targets are not present in samples or sample concentrations are ≥10X the blank). Other criteria may be used depending on the needs of the project. For method specific details see Methods 6010 and 6020 for inorganics and Method 8000 for organics.

*Relative Standard Error (RSE)*—The Agency included RSE as an option (in addition to calculation of the % error) in Update V of SW–846 for the determination of the acceptability for a linear or non-linear calibration curve. The Agency received several comments from two commenters on RSE. The Agency agrees that Method 8000D, Section 11.5.6.1 on RSE should not be grouped with RSD and $r^2$ (Regression Coefficient) but with % Error. Standard deviation (SD) and $r^2$ are indicators for checking the validity of different calibration methods of response factor and least square linear regression techniques, respectively. RSE is not equivalent or similar to RSD or $r^2$, but similar to % Error and may be used to evaluate the ''goodness of fit'' of a calibration curve.

To avoid confusion with RSD, RSE has been moved to Section 11.5.4.2 of Method 8000D. In addition, the first sentence in Section 11.5.6.1 of Method 8000D has been changed to read as follows: ''Corrective action may be needed if the calibration criteria (RSD/$r^2$ and % Error/RSE) are not met.'' Some corrective actions may include running a new calibration, preparing fresh standards or performing instrument maintenance. The laboratory's SOPs should address how to handle and document these types of problems when encountered.

RSE refits the calibration data back to the calibration model and evaluates the difference between the measured and the true amounts or concentrations used to create the model.

$$RSE = 100 \times \sqrt{\sum_{i=1}^{n} \left[\frac{x_i' - x_i}{x_i}\right]^2 \Big/ (n-p)}$$

Where:

$x_i$ = True amount of analyte in calibration level i, in mass or concentration units.

$x'_i$ = Measured amount of analyte in calibration level i, in mass or concentration units.

p = Number of terms in the fitting equation (average = 1, linear = 2, quadratic = 3, cubic = 4)

n = Number of calibration points.

The RSE acceptance limit criterion for the calibration model is the same as the RSD limit in the determinative method.

If the RSD limit is not defined in the determinative method, the RSE limit should be set at ≤20% for good performing compounds and ≤30% for poor performing compounds.

*Chapter Two (Choosing the Correct Procedure)*

The Agency received 12 comments on Chapter Two. Most comments were favorable, and others were editorial in nature. Therefore, the Agency has revised and finalized the Table of Contents to add the new and revised methods from Update V to the SW–846 compendium. Method titles from the 8000 series were added to Section 2.2.3 for completeness. Other tables were revised to include additional analytes as appropriate. In addition, a typographical error for bis(2-chloroisopropyl) ether was corrected to bis(2-chloro-1-methylethyl) ether in Tables 2–1, 2–4, 2–15, 2–22, and 2–34. This correction is consistent with the most common way to identify this compound. New compounds were also added to Tables 2–1, 2–6, 2–20, 2–23A, 2–29A, 2–30, 2–31, 2–35A, 2–36A, 2–41, 2–45 and 2–46.

Furthermore, Table 2–40(A) includes the current sample preservation guidance for styrene and vinyl chloride in aqueous samples (*i.e.,* deletion of previously recommended practice of collecting a second set of samples without acid preservatives and analyzing immediately, if styrene and vinyl chloride are analytes of interest), and Table 2–40(B) includes Mercury Speciation hold times in addition to totals. Figure 2–2 was updated to include the most up-to-date guidance and to streamline the flowchart.

*Chapter Three (Inorganic Analytes)*

The Agency received six comments on Chapter Three. Most comments were favorable, and the Agency made the appropriate editorial and clarification changes (*e.g.,* removed reference to trip blank in Section 3.3.2, title change to Table 3–2 Digestion Volume/Mass, etc.). The change included finalizing the revised definition for Instrument Detection Limit (IDL) to be consistent with the revised Methods 6010D and 6020B. In addition, the term ''bias'' has replaced ''accuracy'' where appropriate; the definition for linear range is now consistent with Methods 6010D and 6020B. The definition for the spectral interference check (SIC) solution has replaced the definition for the interference check sample (ICS) and is consistent with Methods 6010D and 6020B. The definition of LCS (laboratory control sample) recommends the use of a spiking solution from the same source as the calibration standards. Sections 3.6 and 3.7 were finalized to include the collision/reaction cell technology as an effective method for removing isobaric interferences when analyzing by ICP–MS. Table 3–2 now includes a minimum mass of 100 g for solid samples collected for sulfide analysis.

*Chapter Four (Organic Analytes)*

The Agency received nine comments on Chapter Four. Most comments focused on Table 4–1, which has now been finalized to exclude the recommendation to collect a second set of samples without adding an acid preservative and analyze in a shorter time frame if vinyl chloride and styrene are analytes of concern for aqueous samples. A study showed that there were no significant differences in sample recovery of those samples preserved with acid versus those not preserved. Other comments were minor, and appropriate revisions have been made adding additional methods to section 4.3.3.

*Chapter Five (Miscellaneous Test Methods)*

The Agency did not receive any comments on Chapter Five. Chapter 5's changes were general (*i.e.,* updated format changes and method reference to chapters), and it was finalized as appropriate.

*Chapter Nine (Sampling Plan)*

The Agency also received comments on Chapter Nine, which was not open for comment. However, the Agency will consider those comments in a future update.

*B. Methods Revisions*

Significant revisions were finalized regarding Methods 6010D, 6020B, and 8000D, and are discussed in this notice. Many methods were revised based on technical and editorial comments received during the comment period. More detailed discussions and responses to all comments received on Update V can be found in the Response to Comments Background Document in the RCRA Docket at: (EPA–HQ–RCRA–2012–0072). A summary of significant comments has been provided.

*Method 6010D (Inductively Coupled Plasma—Atomic Emission Spectrometry)*—The Agency received 12 comments on Method 6010D. Most comments were favorable and applauded consistency revisions between methods and chapters. Several commenters requested that the guidance should clarify how to establish the LLOQ for inorganic methods in instances when regulatory limits are much lower than the lowest calibration standard. In response, the Agency added language to address the reporting of flagged data and other options in interpreting data when the desired LLOQ has not been met. In addition, revisions were made where technical and editorial comments were appropriate (*e.g.,* title changes and relevant information specific to inorganics or organics). See section 9.8 of the method for more information on interpreting the LLOQ.

In addition, the Agency received other comments regarding clarification of the method blank acceptance criteria and definitions (such as Instrument Detection Limit procedure (IDL)) which can be found in detail in Method 6010D.

*Method 6020B (Inductively Coupled Plasma-Mass Spectrometry)*—The Agency received nine comments on Method 6020B. Many comments pertained to the Initial Calibration Blank (ICB), when multi-calibration standards are used, and the LLOQ. The Agency agreed with the commenter and revised the appropriate section in Method 6020 to read as follows: ''If the ICB consistently has target analyte concentrations greater than half the LLOQ, the LLOQ should be re-evaluated.'' In addition, the Agency has clarified the statement that if there is no regulatory limit and the method blank is >10% of the lowest sample concentration, then the method blank may be considered to be acceptable if <LLOQ. In addition, typographical errors were corrected.

*Method 8000D (Determinative Chromatographic Separations)*—The Agency received comments on Method 8000 during the public comment period and an additional four afterward. The comments received are summarized below in several categories.

Eight comments were related to the use and implementation of the LLOQ and its application to method blanks. Several additions and changes were made in the method as a result of these comments. The method blank language in Sections 9.2.6.9 through 9.2.6.11 was updated to reflect that blanks should be considered acceptable if the concentrations found were below one half of the LLOQ (or project DQOs). Blanks may contain hits for reported compounds if the results in the associated samples are >10X the concentration in the blank. The data may also be reported with flags, which is a new option in this version of Method 8000.

Seven comments were related to QC sample frequency and control limits. One commenter requested that a numerical limit for LLOQ standard recovery be used. The users are encouraged to develop statistical acceptance limits rather than to default to a set of numerical limits in the method. The suggested criteria remain ±20% of the laboratory's control sample (LCS) limits. Another commenter objected to removal of the word ''must'' from some calibration criteria (such as calibration coefficients). The Agency confirmed the intention to allow the project requirements to be flexible. The laboratories are also instructed to perform corrective actions whenever calibration criteria for their project requirements are not met. Some other suggestions were not adopted (such as a requirement to run an end continuing calibration verification (CCV) for every 8000 series method or to require all extraction QC from a batch to be run on the same instrument as every sample and/or dilutions thereof). The Agency's view is that the methods should remain flexible and more restrictive QC requirements (where needed) should be listed in the determinative methods.

One commenter requested the inclusion of an additional reference (the Department of Defense Quality Systems Manual, Version 5.0 (DOD QSM 5.0)) as The Agency used it in developing Update V. The Agency agrees, and added the reference.

*Methods 8021B (Aromatic and Halogenated Volatiles by Gas Chromatography Using Photoionization and/or Electrolytic Conductivity Detectors), 8111 (Haloethers by Gas Chromatography), and 8430 (Analysis of Bis(2-chloroethyl) Ether and Hydrolysis Products by Direct Aqueous Injection GC/FT–IR)*—The Agency received the same two comments for these three methods. Both comments concurred with the nomenclature change for bis(2-chloro-1-methylethyl)ether, which alleviated confusion.

*Method 8270D (Semivolatile Organic Compounds by Gas Chromatography/Mass Spectrometry (GC/MS))*—The Agency received two comments which concurred with the nomenclature change for bis(2-chloro-1-methylethyl)ether. Method 8270D also received one comment asking about the possibility of reporting flagged data from calibrations where some compounds were outside the specified criteria. The Agency's RCRA Organic Workgroup is discussing this issue and intends to address it in Update VI.

*Method 8410D Gas Chromatography/Fourier Transform Infrared (GC/FT–IR) Spectrometry for Semivolatile Organics: Capillary Column*—The Agency received two comments on Method 8410D which concurred with the nomenclature change for bis(2-chloro-1-methylethyl)ether. Method 8410D also received one comment discussing the acceptable temperature range of samples for preservation. The Agency accepted the updated change.

*Method 9014 (Titrimetric and Manual Spectrophotometric Determinative Methods for Cyanide)*—Detailed information on calibration models and their acceptance criteria are not included in each SW–846 method. This is because these methods are intended as general guidance, as are all of the methods discussed in this notice. For any test method which is not a method-defined parameter (MDP), the intention is to allow the laboratory flexibility under the Methods Innovation Rule (MIR).[3] The details of how a laboratory will conduct and approve calibrations should be included in the individual laboratory's Quality Management Plan (QMP) or in its Standard Operating Procedure (SOP) for each method.

*Method 9040 (pH Electrometric Measurement)*—This method is a Method Defined Parameter (MDP) and the Agency cannot revise an MDP through a Notice of Availability, but instead must use notice-and-comment rulemaking procedures. During a future rulemaking effort, the Agency will consider those comments on MDPs that may require rulemaking.

## V. Summary

These changes in Update V will assist method users in demonstrating method competency and in generating better quality data. For the convenience of the analytical community, the Agency will revise the OSWER Methods' Team homepage on The Agency's Web site to include the final Update V. Also, please see the Web site: *http://www.epa.gov/epawaste/hazard/testmethods/index.htm* for more information. Table 1 provides a listing of the five chapters and 23 methods (8 new methods and 15 revised methods) in Update V.

Dated: July 22, 2015.

**Barnes Johnson,**

*Director, Office of Resource Conservation and Recovery.*

[FR Doc. 2015–20030 Filed 8–12–15; 8:45 am]

BILLING CODE 6560–50–P

[3] See 70 FR 34537, June 14, 2005 **Federal Register**.

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## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–9927–87–OEI]**

## Cross-Media Electronic Reporting: Authorized Program Revision Approval, State of Washington

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This notice announces EPA's approval of the State of Washington's request to revise/modify its Approved State Hazardous Waste Management EPA-authorized program to allow electronic reporting.

**DATES:** EPA's approval is effective August 13, 2015.

**FOR FURTHER INFORMATION CONTACT:** Karen Seeh, U.S. Environmental Protection Agency, Office of Environmental Information, Mail Stop 2823T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, (202) 566–1175, *seeh.karen@epa.gov.*

**SUPPLEMENTARY INFORMATION:** On October 13, 2005, the final Cross-Media Electronic Reporting Rule (CROMERR) was published in the **Federal Register** (70 FR 59848) and codified as part 3 of title 40 of the CFR. CROMERR establishes electronic reporting as an acceptable regulatory alternative to paper reporting and establishes requirements to assure that electronic documents are as legally dependable as their paper counterparts. Subpart D of CROMERR requires that state, tribal or local government agencies that receive, or wish to begin receiving, electronic reports under their EPA-authorized programs must apply to EPA for a revision or modification of those programs and obtain EPA approval. Subpart D provides standards for such approvals based on consideration of the electronic document receiving systems that the state, tribe, or local government will use to implement the electronic reporting. Additionally, § 3.1000(b) through (e) of 40 CFR part 3, subpart D provides special procedures for program revisions and modifications to allow electronic reporting, to be used at the option of the state, tribe or local government in place of procedures available under existing program-specific authorization regulations. An application submitted under the subpart D procedures must show that the state, tribe or local government has sufficient legal authority to implement the electronic reporting components of the programs covered by the application and will use electronic document receiving systems that meet the applicable subpart D requirements. Once an authorized program has EPA's approval to accept electronic documents under certain programs, CROMERR § 3.1000(a)(4) requires that the program keep EPA apprised of any changes to laws, policies, or the electronic document receiving systems that have the potential to affect the program's compliance with CROMERR § 3.2000.

On May 21, 2009, the Washington State Department of Ecology (ECY WA) submitted an amended application titled ''Turbowaste.net'' or revisions/modifications to its EPA-approved program under title 40 CFR to allow new electronic reporting Part 262, 264–265, and 270 program under title 40 CFR to allow new electronic reporting. EPA reviewed ECY WA's request to revise/modify its EPA-authorized Part 272—Approved State Hazardous Waste Management Programs and, based on this review, EPA determined that the application met the standards for approval of authorized program revision/modification set out in 40 CFR part 3, subpart D. In accordance with 40 CFR 3.1000(d), this notice of EPA's decision to approve Washington's request to revise/modify its Part 272—Approved State Hazardous Waste

Management to allow electronic reporting under 40 CFR part 262, 264–265, and 270, is being published in the **Federal Register**.

ECY WA was notified of EPA's determination to approve its application with respect to the authorized program listed above.

**Matthew Leopard,**

*Director, Office of Information Collection.*

[FR Doc. 2015–19917 Filed 8–12–15; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OAR–2004–0082; FRL–9930–19–OEI]**

## Information Collection Request Submitted to OMB for Review and Approval; Comment Request; EPA's Natural Gas STAR Program (Renewal)

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency has submitted an information collection request (ICR), ''EPA's Natural Gas STAR Program'' (EPA ICR No. 1736.07, OMB Control No. 2060–0328) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through September 30, 2015. Public comments were previously requested via the **Federal Register** (80 FR 17742) on April 2, 2015, during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

**DATES:** Additional comments may be submitted on or before September 14, 2015.

**ADDRESSES:** Submit your comments, referencing Docket ID No. EPA–HQ–OAR–2004–0082, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *a-and-r-Docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

**FOR FURTHER INFORMATION CONTACT:** Jerome Blackman, Office of Atmospheric Programs, Climate Change Division, mail code: 6207A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 202–343–9630; fax number: 202–343–2342; email address: *Blackman.Jerome@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

*Abstract:* Natural Gas STAR is a voluntary program sponsored by the U.S. Environmental Protection Agency (EPA) that encourages oil and natural gas companies to adopt cost effective technologies and practice that improve operational efficiency and reduce methane emissions. Methane is the primary component of natural gas and a potent greenhouse gas. The Program works with oil and natural gas companies in the production, gathering & processing, transmission, and distribution sectors to remove barriers that inhibit the implementation of technologies and practices that reduce methane emissions. The Program effectively promotes the adoption of emission reduction technologies and practices by helping Natural Gas Star partners evaluate Best Management Practices (BMPs) and Partner Reported Opportunities (PROs) in the context of their current operations, and implement them where cost effective. Implementation of the Program's BMPs and PROs saves participant money, improves operational efficiency, and enhances the protection of the environment.

*Form Numbers:* 5900–105, 5900–96, 5900–98, 5900–101, 5900–108, 5900–103, 5900–109, 5900–97, 5900–100, 5900–106, 5900–104, 5900–95, 5900–99, 5900–102, and 5900–107.

*Respondents/affected entities:* The gathering and processing, production, transmission, and distribution sectors of the natural gas industry and the oil production sector.

*Respondent's obligation to respond:* Voluntary.

*Estimated number of respondents:* 124 (total).

*Frequency of response:* Annual, semi-annual.

*Total estimated burden:* 6,995 hours (per year). Burden is defined at 5 CFR 1320.03(b).

*Total estimated cost:* $390,185 (per year), there are no capital/start-up costs or O&M costs associated with this information collection.

*Changes in the Estimates:* There is an increase of 1,794 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This increase is due to information provided by partners consulted that the last estimate did not reflect the full average time burden of participation.

**Courtney Kerwin,**

*Director, Collection Strategies Division.*

[FR Doc. 2015–19935 Filed 8–12–15; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OAR–2015–0533; FRL–9932–31–OAR ]**

## Proposed Agency Information Collection Request: Comment Request; Servicing of Motor Vehicle Air Conditioners, EPA ICR Number 1617.08, OMB Control Number 2060–0247

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), ''Servicing of Motor Vehicle Air Conditioners'' (EPA ICR No. 1617.08, OMB Control No. 2060–0247) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through October 31, 2015. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it

displays a currently valid OMB control number.

**DATES:** Comments must be submitted on or before October 13, 2015.

**ADDRESSES:** Submit your comments, referencing Docket ID No. EPA–HQ–OAR–2015–0533, online using *www.regulations.gov* (our preferred method), by email to *a-and-r-docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

**FOR FURTHER INFORMATION CONTACT:** Rebecca von dem Hagen, Environmental Protection Agency, Stratospheric Protection Division, Office of Atmospheric Programs, MC 6205J, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 343–9445; fax number: (202) 343–2362; email address: *vondemhagen.rebecca@epa.gov*.

**SUPPLEMENTARY INFORMATION:** Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets*.

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) 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; (ii) 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; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) 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. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

*Abstract:* Section 609 of the Clean Air Act Amendments of 1990 (Act) provides general guidelines for the recovery and recycling of motor vehicle air conditioners. It states that ''no person repairing or servicing motor vehicles for consideration may perform any service on a motor vehicle air conditioner involving the refrigerant for such air conditioner without properly using approved refrigerant recovery and/or recovery and recycling equipment (hereafter referred to as ''refrigerant handling equipment'') and no such person may perform such service unless such person has been properly trained and certified.'' In 1992, EPA developed regulations under section 609 that were published in 57 FR 31240, and codified at 40 CFR Subpart B (Section 82.30 *et seq.*). The information required to be collected under the Section 609 regulations is: Approved refrigerant handling equipment; approved independent standards testing organizations; technician training and certification; and certification, reporting and recordkeeping.

*Form Numbers:* None.

*Respondents/affected entities:* The following is a list of NAICS codes for organizations potentially affected by the information requirements covered under this ICR. It is meant to include any establishment that may service or maintain motor vehicle air conditioners.

4411 Automobile Dealers
4413 Automotive Parts, Accessories, and Tire Stores
44711 Gasoline Stations with Convenience Stores
45299 All Other General Merchandise Stores
811198 All Other Automotive Repair and Maintenance

Other affected groups include:

—Independent Standards Testing Organizations
—Organizations with Technician Certification Programs

*Respondent's obligation to respond:* Mandatory (40 CFR 82.36, 82.38, 82.40, 82.42).

*Estimated number of respondents:* 52,616 per year.

*Frequency of response:* On occasion.

*Total estimated burden:* 4,523 hours per year. Burden is defined at 5 CFR 1320.03(b).

*Total estimated cost:* $208,307.40 per year, includes $0 annualized capital or operation & maintenance costs.

*Changes in Estimates:* The Agency anticipates that the total estimated respondent burden will stay substantially the same, or decrease compared with the ICR currently approved by OMB. The Agency anticipates a decrease in the respondent burden for new equipment certifications due to adjustments in the calculation to estimate the burden resulting from required submissions. The Agency also anticipates the respondent burden for updates to certification programs to increase slightly, while the number of new technician certification programs compiling documents for submission to EPA for verification of the program is expected to stay the same.

Dated: August 5, 2015.

**Sarah Dunham,**

*Director, Office of Atmospheric Programs.*

[FR Doc. 2015–20032 Filed 8–12–15; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OPPT–2014–0597; FRL 9932–02–OEI]**

## Agency Information Collection Activities; PCBs, Consolidated Reporting and Record Keeping Requirements; Submitted to OMB for Review and Approval; Comment Request

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** EPA has submitted the following information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (PRA): ''PCBs, Consolidated Reporting and Record Keeping Requirements'' and identified by EPA ICR No. 1446.11 and OMB Control No. 2070–0112. The ICR, which is available in the docket along with other related materials, provides a detailed explanation of the collection activities and the burden estimate that is only briefly summarized in this document. EPA has addressed the comments received in response to the previously provided public review opportunity issued in the **Federal Register** on October 10, 2014 (79 FR 61302). With this submission, EPA is

providing an additional 30 days for public review.

**DATES:** Comments must be received on or before September 14, 2015.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2014–0597, to both EPA and OMB as follows:

• To EPA online using *http://www.regulations.gov* (our preferred method) or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

• To OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.

**FOR FURTHER INFORMATION CONTACT:** Colby Lintner, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

*Docket:* Supporting documents, including the ICR that explains in detail the information collection activities and the related burden and cost estimates that are summarized in this document, are available in the docket for this ICR. The docket can be viewed online at *http://www.regulations.gov* or in person at the EPA Docket Center, West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is (202) 566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

*ICR status:* This ICR is currently scheduled to expire on August 31, 2015. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB.

Under PRA, 44 U.S.C. 3501 *et seq.,* an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers for certain EPA regulations is consolidated in 40 CFR part 9.

*Abstract:* Section 6(e)(1) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2605(e), directs EPA to regulate the marking and disposal of polychlorinated biphenyls (PCBs). Since 1978, EPA has promulgated numerous rules addressing all aspects of the life cycle of PCBs as required by the statute. To meet its statutory obligations to regulate PCBs, EPA must obtain sufficient information to conclude that specified activities do not result in an unreasonable risk of injury to health or the environment. EPA uses the information collected under the 40 CFR 761 requirements to ensure that PCBs are managed in an environmentally safe manner and that activities are being conducted in compliance with the PCB regulations. The information collected by these requirements will update the Agency's knowledge of ongoing PCB activities, ensure that individuals using or disposing of PCBs are held accountable for their activities, and demonstrate compliance with the PCB regulations. Specific uses of the information collected include determining the efficacy of a disposal technology; evaluating exemption requests and exclusion notices; targeting compliance inspections; and ensuring adequate storage capacity for PCB waste.

*Respondents/Affected Entities:* Entities potentially affected by this ICR are persons who currently possess PCB items, PCB-contaminated equipment, or other PCB waste.

*Respondent's obligation to respond:* Responses to the collection of information are mandatory (see 40 CFR part 761). Respondents may claim all or part of a response confidential. EPA will disclose information that is covered by a claim of confidentiality only to the extent permitted by, and in accordance with, the procedures in TSCA section 14 and 40 CFR part 2.

*Estimated total number of potential respondents:* 548,298.

*Frequency of response:* On occasion.

*Estimated total burden:* 745,926 hours (per year). Burden is defined at 5 CFR 1320.3(b).

*Estimated total costs:* $ 29,778,544 (per year), includes no annualized capital investment or maintenance and operational costs.

*Changes in the estimates:* There is an increase of 60,591 hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This increase reflects EPA's revisions to the estimated total number of respondents, resulting from new data gathered for this ICR effort as well as another recent PCB regulatory analysis, plus updated Agency data regarding total numbers of regulated entities. The ICR supporting statement provides a detailed analysis of the change in burden estimate. This change is an adjustment.

**Authority:** 44 U.S.C. 3501 *et seq.*

**Courtney Kerwin,**

*Acting Director, Collection Strategies Division.*

[FR Doc. 2015–19918 Filed 8–12–15; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–9920–72–OEI]**

## Cross-Media Electronic Reporting: Authorized Program Revision Approval, State of Alaska

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This notice announces EPA's approval of the State of Alaska's request to revise/modify certain of its EPA-authorized programs to allow electronic reporting.

**DATES:** EPA's approval is effective August 13, 2015.

**FOR FURTHER INFORMATION CONTACT:** Karen Seeh, U.S. Environmental Protection Agency, Office of Environmental Information, Mail Stop 2823T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, (202) 566–1175, *seeh.karen@epa.gov.*

**SUPPLEMENTARY INFORMATION:** On October 13, 2005, the final Cross-Media Electronic Reporting Rule (CROMERR) was published in the **Federal Register** (70 FR 59848) and codified as part 3 of title 40 of the CFR. CROMERR establishes electronic reporting as an acceptable regulatory alternative to paper reporting and establishes requirements to assure that electronic documents are as legally dependable as their paper counterparts. Subpart D of CROMERR requires that state, tribal or local government agencies that receive, or wish to begin receiving, electronic reports under their EPA-authorized programs must apply to EPA for a revision or modification of those programs and obtain EPA approval. Subpart D provides standards for such approvals based on consideration of the electronic document receiving systems

that the state, tribe, or local government will use to implement the electronic reporting. Additionally, § 3.1000(b) through (e) of 40 CFR part 3, subpart D provides special procedures for program revisions and modifications to allow electronic reporting, to be used at the option of the state, tribe or local government in place of procedures available under existing program-specific authorization regulations. An application submitted under the subpart D procedures must show that the state, tribe or local government has sufficient legal authority to implement the electronic reporting components of the programs covered by the application and will use electronic document receiving systems that meet the applicable subpart D requirements. Once an authorized program has EPA's approval to accept electronic documents under certain programs, CROMERR § 3.1000(a)(4) requires that the program keep EPA apprised of any changes to laws, policies, or the electronic document receiving systems that have the potential to affect the program's compliance with CROMERR § 3.2000.

On May 8, 2015, the Alaska Department of Environmental Conservation (ADEC) submitted an amended application titled Air Online Service System for revisions/modifications to its EPA-approved program under title 40 CFR to allow new electronic reporting. EPA reviewed ADEC's request to revise/modify its EPA-authorized programs and, based on this review, EPA determined that the application met the standards for approval of authorized program revisions/modifications set out in 40 CFR part 3, subpart D. In accordance with 40 CFR 3.1000(d), this notice of EPA's decision to approve Alaska's request to revise/modify its following EPA-authorized programs to allow electronic reporting under 40 CFR parts 51, 52, 60–63, and 70 is being published in the **Federal Register**: Part 52—Approval and Promulgation of Implementation Plans; Part 60—Standards Of Performance For New Stationary Sources: Part 62—Approval and Promulgation of State Plans for Designated Facilities and Pollutants; and Part 70—State Operating Permit Programs.

ADEC was notified of EPA's determination to approve its application with respect to the authorized programs listed above.

**Matthew Leopard,**

*Director, Office of Information Collection.*

[FR Doc. 2015–19916 Filed 8–12–15; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OECA–2014–0103; FRL—9932–38–OEI]**

## Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NSPS for Nitric Acid Plants for Which Construction, Reconstruction or Modification Commenced After October 14, 2011 (Renewal)

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency has submitted an information collection request (ICR), ''NSPS for Nitric Acid Plants for which Construction, Reconstruction or Modification Commenced after October 14, 2011 (40 CFR part 60, subpart Ga) (Renewal)'' (EPA ICR No. 2445.03, OMB Control No. 2060–0674), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through August 31, 2015. Public comments were previously requested via the **Federal Register** (79 *FR* 30117) on May 27, 2014 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may neither conduct nor sponsor and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

**DATES:** Additional comments may be submitted on or before September 14, 2015.

**ADDRESSES:** Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2014–0103, to (1) EPA online using *www.regulations.gov* (our preferred method), or by email to: *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

**FOR FURTHER INFORMATION CONTACT:** Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

*Abstract:* The NSPS for nitric acid plants (40 CFR part 60, subpart G) were proposed on August 17, 1971, and promulgated on June 14, 1974. This information collection is for a new Subpart Ga, which will apply to nitric acid production units which commence construction, modification, or reconstruction after October 14, 2011. Nitrogen oxide ($NO_X$) is the pollutant regulated under this subpart. The standards limit nitrogen oxides, expressed as nitrogen dioxide ($NO_2$), to 0.50 lb per ton of 100 percent nitric acid produced.

*Form Numbers:* None.

*Respondents/affected entities:* Nitric acid plants constructed, reconstructed or modified after October 14, 2011.

*Respondent's obligation to respond:* Mandatory (40 CFR part 60, subpart Ga).

*Estimated number of respondents:* 6 (total).

*Frequency of response:* Initially and occasionally.

*Total estimated burden:* 1,370 hours (per year). Burden is defined at 5 CFR 1320.3(b).

*Total estimated cost:* $386,000 (per year), which includes $248,000 in both annualized capital and operation & maintenance costs.

*Changes in the Estimates:* There is an adjustment increase in the respondent and Agency burden due to an increase in the estimated number of sources. Our research during the rule development indicated an average of 1.2 new sources per year will become subject to the rule. We assume the industry will continue to grow linearly at this rate. This also

results in an increase in annual O&M costs.

**Courtney Kerwin,**

*Acting-Director, Collection Strategies Division.*

[FR Doc. 2015–19936 Filed 8–12–15; 8:45 am]

BILLING CODE 6560–50–P

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Notice to All Interested Parties of the Termination of the Receivership of 10040, Pinnacle Bank Beaverton, OR

*Notice is hereby given* that the Federal Deposit Insurance Corporation (''FDIC'') as Receiver for Pinnacle Bank, Beaverton, OR (''the Receiver'') intends to terminate its receivership for said institution. The FDIC was appointed receiver of Pinnacle Bank on February 13, 2009. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this Notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this Notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 32.1, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated: August 7, 2015.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. 2015–19863 Filed 8–12–15; 8:45 am]

BILLING CODE 6714–01–P

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Notice of Termination; 10014, Ameribank, Inc., Northfork, West Virginia

The Federal Deposit Insurance Corporation (FDIC), as Receiver for 10014, Ameribank, Inc., Northfork, West Virginia (Receiver) has been authorized to take all actions necessary to terminate the receivership estate of Ameribank, Inc. (Receivership Estate); The Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective August, 01, 2015 the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: August 7, 2015.

Federal Deposit Insurance Corporation,

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. 2015–19862 Filed 8–12–15; 8:45 am]

BILLING CODE 6714–01–P

## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than August 28, 2015.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *The Donald Davis Living Trust, and Kiko Davis,* as trustee, both of West Bloomfield Township, Michigan; to retain voting shares of First Independence Corporation, and thereby indirectly retain voting shares of First Independence Bank, both in Detroit, Michigan.

Board of Governors of the Federal Reserve System, August 10, 2015.

**Margaret McCloskey Shanks,**

*Deputy Secretary of the Board.*

[FR Doc. 2015–19934 Filed 8–12–15; 8:45 am]

BILLING CODE 6210–01–P

## GULF COAST ECOSYSTEM RESTORATION COUNCIL

**[Docket No.: 108002015–1111–06]**

### Draft Funded Priorities List

**AGENCY:** Gulf Coast Ecosystem Restoration Council.

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** In accordance with the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf States Act (RESTORE Act or Act), the Gulf Coast Ecosystem Restoration Council (Council) announces the availability of the Initial Draft Funded Priorities List (draft FPL). The draft FPL sets forth the initial activities that the Council proposes to prioritize for funding and further consideration. This document is now available for public and tribal review and comment.

**DATES:** To ensure consideration, we must receive your written comments on the draft FPL by September 28, 2015.

**ADDRESSES:** You may submit comments on the draft FPL by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments by email to *DraftFPLcomments@restorethegulf.gov.*
- *Mail/Commercial Delivery:* Please send a copy of your comments to Gulf Coast Ecosystem Restoration Council, Attention: Draft FPL Comments, Hale Boggs Federal Building, 500 Poydras Street, Suite 1117, New Orleans, LA 70130.

In general, the Council will make such comments available for public inspection and copying on its Web site, *http://www.restorethegulf.gov/* without change, including any business or personal information provided, such as names, addresses, email addresses, or telephone numbers. All comments received, including attachments and other supporting materials, will be part of the public record and subject to public disclosure. You should only submit information that you wish to make publicly available.

**FOR FURTHER INFORMATION CONTACT:** Please send questions by email to *DraftFPLcomments@restorethegulf.gov*, or contact Will Spoon at (504) 239–9814.

**SUPPLEMENTARY INFORMATION:**

*Background:* In 2010, the *Deepwater Horizon* oil spill caused extensive damage to the Gulf Coast's natural resources, devastating the economies and communities that rely on it. In an effort to help the region rebuild in the wake of the spill, Congress passed and the President signed the RESTORE Act, Public Law 112–141, §§ 1601–1608, 126 Stat. 588 (Jul. 6, 2012). The Act created the Gulf Coast Ecosystem Restoration Trust Fund (Trust Fund) and dedicates eighty percent (80%) of any civil and administrative penalties paid by parties responsible for the *Deepwater Horizon* oil spill under the Clean Water Act, after the date of enactment, to the Trust Fund. The ultimate amount of administrative and civil penalties potentially available to the Trust Fund is currently not certain. On January 3, 2013, the United States announced that Transocean Deepwater Inc. and related entities agreed to pay $1 billion in civil penalties for violating the Clean Water Act in relation to their conduct in the *Deepwater Horizon* oil spill. The settlement was approved by the court in February 2013, and pursuant to the Act approximately $816 million (including interest) has been paid into the Trust Fund.

In addition to creating the Trust Fund, the Act established the Council, which is chaired by the Secretary of Commerce and includes the Governors of Alabama, Florida, Louisiana, Mississippi, and Texas, and the Secretaries of the U.S. Departments of Agriculture, the Army, Homeland Security, and the Interior, and the Administrator of the U.S. Environmental Protection Agency.

Under the Act, the Council will administer a portion of the Trust Fund known as the Council-Selected Restoration Component in order to ''undertake projects and programs, using the best available science, that would restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, coastal wetlands, and economy of the Gulf Coast.'' In August 2013 the Council approved an Initial Comprehensive Plan (Initial Plan) (*please see http://www.restorethegulf.gov/sites/default/files/GCERCCompPlanFactSheet_0.pdf* and *http://www.restorethegulf.gov/sites/default/files/FinalInitialComprehensivePlan.pdf)* that outlines an overarching vision for Gulf restoration and includes the following five goals: (1) Restore and conserve habitat; (2) restore water quality; (3) replenish and protect living coastal and marine resources; (4) enhance community resilience; and (5) restore and revitalize the gulf economy.

As a supplement to the Initial Plan and pursuant to the requirement in the Restore Act to draft a ''prioritized list of specific projects and programs to be funded,'' the Council is now publishing a draft FPL that proposes the activities which the Council intends to prioritize for funding and further consideration. The Council will carefully review public and tribal comments, make appropriate changes, and then finalize the FPL with appropriate notice in the **Federal Register**. Once finalized, the FPL will serve as the basis for allocating funds under the Council-Selected Restoration Component.

The Council seeks public and tribal comment on all aspects of the draft FPL, including comments related to the process used to develop the draft FPL, the projects and programs contained therein, and the associated environmental compliance documentation.

*Summary:* The Gulf Coast region is vital to our nation and our economy, providing valuable energy resources, abundant seafood, extraordinary beaches and recreational activities, and a rich natural and cultural heritage. Its waters and coasts are home to one of the most diverse natural environments in the world—including over 15,000 species of sea life and millions of migratory birds. The Gulf has endured catastrophes, including major hurricanes such as Katrina, Rita, Gustav and Ike in the last ten years alone. The region has also experienced the loss of critical wetland habitats, erosion of barrier islands, imperiled fisheries, water quality degradation and significant coastal land loss. More recently, the health of the region's ecosystem was significantly affected by the *Deepwater Horizon* oil spill. As a result of the oil spill, the Council has been given the great responsibility of helping to address ecological challenges across the Gulf.

The members of the Council collaborated in creating a draft FPL that responds to ecological needs regardless of jurisdictional boundaries. With the draft FPL, the Council seeks to provide near-term ''on-the-ground'' ecosystem benefits, while also building a planning and science foundation for future success. In the draft FPL, the Council proposes to focus on ten key watersheds across the Gulf in order to concentrate and leverage available funds in addressing critical ecological needs in high-priority locations. The draft FPL focuses on habitat and water quality, and includes restoration and conservation activities that can be implemented in the near term. It also supports project-specific planning efforts necessary to advance large-scale restoration. The comprehensive planning and monitoring efforts proposed in the draft FPL would provide Gulf-wide benefits into the future.

The Council intends to play a key role in helping to ensure that the Gulf's natural resources are sustainable and available for future generations. Currently available Gulf restoration funds and those that may become available in the future represent a great responsibility. The ongoing involvement of the people who live, work and play in the Gulf region is critical to ensuring that these monies are used wisely and effectively. The Council thanks all those who have participated in the process thus far, and offers thanks in advance to those who will take the time to again offer thoughts on how we can collectively help restore the Gulf.

*Document Availability:* Copies of the draft FPL are available at the following office during regular business hours: Gulf Coast Ecosystem Restoration Council, Hale Boggs Federal Building, 500 Poydras Street, Suite 1117, New Orleans, LA 70130.

Electronic versions of the draft FPL can be viewed and downloaded at *www.restorethegulf.gov.*

*Legal Authority:* The statutory program authority for the draft FPL is found at 33 U.S.C. 1321(t)(2).

Dated: August 13, 2015.

**Will D. Spoon,**

*Program Analyst, Gulf Coast Ecosystem Restoration Council.*

[FR Doc. 2015–19881 Filed 8–12–15; 8:45 am]

BILLING CODE P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[60Day–15–15BBU]; [Docket No. CDC–2015–0069]**

### Proposed Data Collection Submitted for Public Comment and Recommendations

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice with comment period.

**SUMMARY:** The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, 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. This notice invites comment on a proposed information collection request entitled ''*Efficacy Study of a Mobile Application to Provide Comprehensive and Medically Accurate Sexual Health Information for Adolescent Girls''*. The study will examine the efficacy of the mobile application in achieving two behavioral outcomes: Use of effective contraception and clinic utilization.

**DATES:** Written comments must be received on or before October 13, 2015.

**ADDRESSES:** You may submit comments, identified by Docket No. CDC–2015–0069 by any of the following methods:

*Federal eRulemaking Portal: Regulation.gov.* Follow the instructions for submitting comments.

*Mail:* Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road, NE., MS–D74, Atlanta, Georgia 30329.

*Instructions:* All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to *Regulations.gov*, including any personal information provided. For access to the docket to read background documents or comments received, go to *Regulations.gov*.

**Please note:** All public comment should be submitted through the Federal eRulemaking portal (*Regulations.gov*) or by U.S. mail to the address listed above.

**FOR FURTHER INFORMATION CONTACT:** To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact the Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road, NE., MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

**SUPPLEMENTARY INFORMATION:** Under the Paperwork Reduction Act of 1995 (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. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

**Proposed Project**

Efficacy Study of a Mobile Application to Provide Comprehensive and Medically Accurate Sexual Health Information for Adolescent Girls—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

*Background and Brief Description*

Despite drastic reductions in teen births across all racial and ethnic groups, Black and Latino girls continue to have disproportionately high rates of teen births. Increasing girls' access to medically accurate and comprehensive sexual health information is the first step in sustaining momentum in teen pregnancy reduction among all racial and ethnic groups, and in promoting healthy sexual behaviors, especially among minority girls.

CDC plans to collect the information needed to test the efficacy of a comprehensive and medically accurate mobile application, titled Crush, in increasing adolescent girls' contraception use and clinic visitation for sexual and reproductive health services. The information disseminated via Crush is similar to the sexual health information youth can access via other Web sites, sexual health promotion educational materials or in clinics.

The study will randomize a sample of 1,200 girls, ages 14–18, into two groups: The intervention group and the control group. The intervention group will have access to Crush and will receive weekly sexual health information via text to the phones for six months. The control group will have access to a fitness mobile application (''app'') and will receive general health information via text to their phones for six months. Participants are expected to access either app frequently throughout a six month period. As part of the analysis, sexual behavior and key psychosocial factors will be assessed three points in time: At baseline, and at three- and six-month follow-ups.

Efficacy testing will respond to the following research questions: Research Question #1 is: Does exposure to Crush increase consistent contraception use among participants? We hypothesize that participants in the intervention group will report increased intent to use effective contraception at three and six months post-intervention. Research Question #2 is: Does exposure to Crush increase clinic utilization rate among participants? We hypothesize that participants in the intervention group will report higher rates of intent to utilize clinic services at three and six months post intervention.

The study will also include a usability testing component to identify the content and features of Crush that are most attractive to participants, the frequency in which Crush was used, and the navigation patterns within Crush. Participants will create an account in the Enrollment Database. This database will host participants' enrollment information, basic demographic information, and will also track their navigation pattern to monitor Crush visitation frequency and visit duration. Navigation data will be used to assess intervention exposure and dosage to specific content areas of Crush. To test real-world utilization of Crush, control group participants will gain access to Crush six months after enrolling into the study, but will not receive weekly text messages. The study will track visitation frequency and duration of each visit. Usability testing will respond to Research Question #3*:* Is media content more attractive to participants? We hypothesize that participants in the intervention group

will spend more time using media features than text-based content.

All information will be collected electronically. This study will collect data through two mechanisms: (1) Self-administered online surveys, and (2) the Crush enrollment database. Participants will complete a total of three self-administered online surveys at baseline, three and six month follow-up. Survey questions will assess behavior, attitudes, social norms about sexual behavior, contraception and clinic utilization, and satisfaction with Crush.

The mobile response surveys will be sent to participants via text message which they can complete on a smartphone. The estimated burden per response is 13–20 minutes. Survey responses will be matched by each participant's unique identifying number. Each participant will receive up to two survey reminders starting one week after the initial survey link is sent, for two consecutive weeks. There are minor differences in survey content for the control and intervention groups.

Each participant will create a profile in the database upon enrollment. This database will collect initial demographic and contact information, informed consent signatures, and information about the participant's navigation pattern through Crush. Any information entered directly into Crush interactive features will not be stored in the system. The database only collects web analytics data about page visited and duration of each visit by User ID and IP address. Web analytics are generated for any Web site and are a standard evaluation mechanism for assessing the traffic patterns on Web pages. This technology permits development of an objective and quantifiable measure that tracks and records participants' exposure to Crush. This study component does not entail any response burden to participants.

Findings will be used to inform the development and delivery of effective health communications.

OMB approval is requested for one year. Participation is voluntary and there are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

| Type of respondent | Form name | Number of respondents | Number of responses per respondent | Average burden per response (in hrs.) | Total burden (in hrs.) |
|---|---|---|---|---|---|
| Girls Ages 14–18 Years | Enrollment | 1,200 | 1 | 5/60 | 100 |
| | Consent | 1,200 | 1 | 5/60 | 100 |
| Control Group | Baseline Survey | 600 | 1 | 13/60 | 130 |
| | 3-Month Follow-up Survey | 600 | 1 | 20/60 | 200 |
| | 6-Month Follow-up Survey | 600 | 1 | 20/60 | 200 |
| Intervention Group | Baseline Survey | 600 | 1 | 13 | 130 |
| | 3-Month Follow-up Survey | 600 | 1 | 20 | 200 |
| | 6-Month Follow-up Survey | 600 | 1 | 20 | 200 |
| Total | | | | | 1,260 |

**Leroy A. Richardson,**

*Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.*

[FR Doc. 2015–19860 Filed 8–12–15; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Submission for OMB Review; Comment Request

*Title:* Youth Education and Relationship Services (YEARS) Descriptive Study.

*OMB No.:* New Collection,

*Description:* Since 2006, Congress has authorized dedicated funding (currently at the level of $75 million annually) to support programs providing healthy marriage and relationship education (HMRE). In order to better understand the services that federally-funded HMRE programs are providing to youth and the populations the programs are reaching, The Office of Planning, Research and Evaluation (OPRE), within ACF/HHS, is proposing data collection activity as part of the Youth Education and Relationship Services (YEARS) descriptive study. The data that ACF proposes to collect includes information on funding spent serving youth, the number of youth being served, youth demographic characteristics, characteristics of the organizations or programs serving youth, information on program curricula and contents, and program implementation information. This data is to be collected through a web-based survey that is to be completed by HMRE grantee program staff. This information will be critical to inform future efforts to improve HMRE programs serving youth.

*Respondents:* Healthy marriage and relationship education (HMRE) grantee program staff.

**Note:** To fully address the objectives outlined for this project, it was determined that additional information collection beyond what was proposed in the 60 day **Federal Register** notice is necessary. Therefore, the proposed semi-structured interviews submitted with this request (including the site visit screener and semi structured interviews with Program directors/Administrators, Facilitators, and Partner organizations/providers) require additional burden beyond that originally estimated in the 60 day **Federal Register** notice.

ANNUAL BURDEN ESTIMATES

| Instrument | Total/annual number of respondents | Number of responses per respondent | Average burden hours per response | Annual burden hours |
|---|---|---|---|---|
| YEARS Web-based staff survey (Program director/Administrator) | 44 | 1 | 0.5 | 22 |
| YEARS Web-based staff survey (Facilitator) | 44 | 1 | 0.5 | 22 |
| Site visit screener (Program director/Administrator) | 12 | 1 | 0.083 | 1 |

ANNUAL BURDEN ESTIMATES—Continued

| Instrument | Total/annual number of respondents | Number of responses per respondent | Average burden hours per response | Annual burden hours |
|---|---|---|---|---|
| Semi-structured interview (Program director/Administrator) | 6 | 1 | 1.5 | 9 |
| Semi-structured interview (Facilitator) | 6 | 1 | 1.5 | 9 |
| Semi-structured interview (Partner organization/provider) | 3 | 1 | 1.5 | 5 |

*Estimated Total Annual Burden Hours:* 68.

*Additional Information:* Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: OPRE Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *OPREinfocollection@acf.hhs.gov*.

*OMB Comment:* OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Email: *OIRA_SUBMISSION@OMB.EOP.GOV,* Attn: Desk Officer for the Administration for Children and Families.

**Robert Sargis,**

*ACF Reports Clearance Officer.*

[FR Doc. 2015–19921 Filed 8–12–15; 8:45 am]

BILLING CODE 4184–73–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Submission for OMB Review; Comment Request

*Title:* Understanding the Intersection Between TANF and Refugee Cash Assistance Services.

*OMB No.:* New Collection.

*Description:* The Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS) is proposing data collection activities as part of a project to understand the intersection between Temporary Assistance for Needy Families (TANF) and Refugee Cash Assistance (RCA) programs. The goal of this project is to help ACF better understand how the variety of systems that assist refugees collaborate to promote common goals of self-sufficiency and employment, and how refugees' experiences might differ depending on the structure of the state (or local) program arrangements. To achieve this goal, this study aims to document what states are doing to help refugees gain self-sufficiency; if and how states are integrating RCA, TANF, and associated services to better meet the needs of refugees; and what data is collected currently, or might be collected in the future, to better understand refugee resettlement services and suggest future areas for inquiry.

The proposed data collection activities described in this notice will collect data about state policies and practices; how TANF, RCA, and associated services are provided; the respective roles of the various agencies and organizations in serving participants; how the agencies and organizations integrate services internally and/or collaborate with other organizations; refugee populations served; approaches to addressing the particular barriers refugees face; promising practices and strategies for assisting refugees; gaps in services; local labor market conditions; and experiences of refugees accessing services through these programs.

This **Federal Register** Notice provides the opportunity to comment on proposed new information collection activities for this study: (1) The *survey of state refugee coordinators and Wilson-Fish program coordinators* will be administered to state refugee coordinators in each state and the District of Columbia. The survey will collect information about state policies and practices.

(2) The four *site visit interview guides* will collect information about how TANF, RCA, and associated services are provided; the respective roles of the various agencies and organizations in serving participants; how the agencies and organizations integrate services internally and/or collaborate with other organizations; approaches to addressing the particular barriers refugees face; promising practices and strategies for assisting refugees; gaps in services; data maintained by programs serving refugees; and local labor market conditions.

(3) The *focus group guide* will collect information from program participants about the services they received, how they were delivered, their experiences attempting to achieve self—sufficiency within a rapid timeframe, and the challenges they have faced.

*Respondents:* Individuals receiving RCA, TANF, and related services; State Refugee Coordinators/Wilson-Fish Program Coordinators; Managers and staff at local TANF offices; local resettlement agency staff; community-based organization staff providing services to refugees; staff operating alternative cash assistance programs for refugees such as Public/Private Partnerships(s) and Wilson-Fish programs (if different from the local resettlement agency); and staff from other programs providing employability and social adjustment and cultural orientation services to refugees.

ANNUAL BURDEN ESTIMATES

| Instrument | Total number of respondents | Annual number of respondents | Number of responses per respondent | Average burden hours per response | Annual burden hours |
|---|---|---|---|---|---|
| Survey of State Refugee Coordinators and Wilson-Fish Program Coordinators | 51 | 26 | 1 | .5 | 13 |

ANNUAL BURDEN ESTIMATES—Continued

| Instrument | Total number of respondents | Annual number of respondents | Number of responses per respondent | Average burden hours per response | Annual burden hours |
|---|---|---|---|---|---|
| Site Visit Interview Guide for Public Agency Temporary Assistance for Needy Families Managers and Staff | 40 | 20 | 1 | 1.5 | 30 |
| Site Visit Interview Guide for Public Agency Refugee Cash Assistance Managers and Staff | 40 | 20 | 1 | 1.5 | 30 |
| Site Visit Interview Guide for Voluntary Agency Staff | 40 | 20 | 1 | 1.5 | 30 |
| Site Visit Interview Guide for Other Community- Based Organization Staff | 40 | 20 | 1 | 1.5 | 30 |
| Focus Group Guide for Service Recipients | 72 | 36 | 1 | 1.5 | 54 |

Estimated Total Annual Burden Hours: 187.

*Additional Information:* Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: OPRE Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *OPREinfocollection@acf.hhs.gov.*

*OMB Comment:* OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Email: *OIRA_SUBMISSION@OMB.EOP.GOV*, Fax: 202–395–6974, Attn: Desk Officer for the Administration for Children and Families.

**Robert Sargis,**

*ACF Reports Clearance Officer.*

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**BILLING CODE 4184–07–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

### Privacy Act of 1974; System of Records Notice

**AGENCY:** Department of Health and Human Services (HHS), Office of the Secretary (OS).

**ACTION:** Notice to establish a new system of records, to replace two existing systems.

**SUMMARY:** In accordance with the requirements of the Privacy Act of 1974 (5 U.S.C. 552a), HHS is proposing to establish a single, department-wide system of records to cover all HHS payroll records, to be numbered 09–90–1402 and titled ''HHS Payroll Records, HHS/OS.'' The new system will replace two existing systems of records covering payroll records for civilian and commissioned corps personnel (09–40–0006 ''Public Health Service (PHS) Commissioned Corps Payroll Records, HHS/PSC/HRS'' and 09–40–0010 ''Pay, Leave and Attendance Records, HHS/PSC/HRS''). The existing systems were last altered effective September 2012 (see Notice published August 15, 2012 at 77 FR 48984, amending System of Records Notices (SORNs) published December 11, 1998 at 63 FR 68596, to revise the routine use covering disclosures to contractors and to add a new routine use covering disclosures in the course of responding to a data security breach). The existing systems will be considered deleted upon the effective date of the proposed new system. The SORN for the new system includes updates or changes to the System Location, Routine Uses, System Manager, and Record Access Procedure sections, as more fully explained in the ''Supplementary Information'' section of this Notice.

**DATES:** Effective upon publication, with the exception of the routine uses. The routine uses for the new system will be effective 30 days after publication of this Notice, unless comments are received that warrant a revision to this Notice. Written comments on the routine uses should be submitted within 30 days. Until the routine uses for the new system are effective, the routine uses previously published for the existing systems will remain in effect.

**ADDRESSES:** The public should address written comments to: CAPT Eric Shih, Office of the Surgeon General (OSG), Division of Systems Integration (DSI), Tower Oaks Building, Plaza Level 100, 1101 Wootton Parkway, Rockville, Maryland 20852. Comments will be available for public viewing at the same location. To review comments in person, please contact the Office of the Surgeon General (OSG), Division of Systems Integration (DSI), Tower Oaks Building, Plaza Level 100, 1101 Wootton Parkway, Rockville, Maryland 20852.

**FOR FURTHER INFORMATION CONTACT:** *For information about civilian payroll records, contact:* Charles Dietz, HHS/Customer Care Services, 8455 Colesville Rd., Silver Spring, MD 20910, 301–504–3219.

*For information about commissioned corps payroll records, contact:* CAPT Eric Shih, Office of the Surgeon General (OSG), Division of Systems Integration (DSI), Tower Oaks Building, Plaza Level 100, 1101 Wootton Parkway, Rockville, Maryland 20852, 240–453–6085.

**SUPPLEMENTARY INFORMATION:**

### I. Background on the New System of Records

The proposed new system, 09–90–1402 ''HHS Payroll Records,'' will combine two payroll systems of records which, until December 11, 1998, were covered in a single system of records notice (SORN), under the former number 09–90–0017 and title ''Pay, Leave and Attendance Records.'' The two existing systems (09–40–0006 and 09–40–0010) replaced system number 09–90–0017 in 1998 (see 63 FR 68596 at 68612 and 68615), following a 1995 reorganization that transferred payroll functions to the Program Support Center (PSC), an Operating Division that was created in 1995 to perform Human

Resource (HR) functions. In 2001, PSC became a component of the Office of the Assistant Secretary for Administration (ASA), which is a Staff Division within the Office of the Secretary (OS). In 2005, HHS transferred processing of civilian payroll to the Defense Finance and Accounting Service (DFAS). In 2012, HHS transferred processing of Commissioned Corps payroll to the U.S. Coast Guard. HHS has decided to cover all HHS payroll records in a single system of records again, by establishing this proposed new system and deleting the two existing, separate systems. Differences between the existing systems and the new system are as follows:

• Updates have been made to the System Location and System Manager sections.

• The Record Access Procedures section has been changed for civilian payroll records, to no longer allow telephone requests, to be consistent with access procedures for commissioned corps payroll records which state that telephone requests for access to records will not be honored because positive identification of the caller cannot be established with sufficient certainty.

• One new routine use has been added, authorizing disclosures to the U.S. Department of Homeland Security (DHS) for cybersecurity monitoring purposes.

• Revisions have been made to the descriptions of certain purposes and routine uses common to both civilian and commissioned corps payroll records, in order to consolidate them. For example:

○ The congressional office routine use now includes the word ''written'' and excludes the word ''verified'' (both words were in the routine use published in SORN 09–40–0006; neither word was in the routine use published in SORN 09–40–0010).

○ Disclosures to tax authorities are now covered in three routine uses, consistent with the treatment in SORN 09–40–0006 (SORN 09–40–0010 covered them in two routine uses).

• Routine uses authorizing disclosures in response to court orders (*e.g.,* for divorce, alimony, child support, and personal debt collection actions) have been deleted as unnecessary, because the Privacy Act at 5 U.S.C. 552a(b)(11) authorizes disclosures ''pursuant to the order of a court of competent jurisdiction.''

• The following routine uses were previously published only for civilian payroll records, but now apply to both civilian and commissioned corps payroll records:

○ ''To financial institutions, organizations and companies administering charitable contribution payments, labor union dues payments (applicable to civilian personnel only), and benefit plan payments and reimbursements (*e.g.,* under savings plans, insurance plans, flexible spending account plans) to effect an individual's direct deposits, payroll deductions and other transactions, to administer the individual's plan accounts, loans and loan repayments, and to adjudicate any related claims.''

○ ''To a federal, state or local agency maintaining civil, criminal or other relevant enforcement records or other pertinent records, such as current licenses, if necessary to obtain a record relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.''

○ ''To thrift and savings institutions to conduct analytical studies of benefits being paid under such programs, provided such disclosure is consistent with the purpose for which the information was originally collected.''

○ ''To relevant agencies for purposes of conducting computer matching programs designed to reduce fraud, waste and abuse in federal, state and local public assistance programs and operations.''

• The following routine uses were previously published only for commissioned corps payroll records, but now apply to both civilian and commissioned corps payroll records:

○ ''To disclose information about the entitlements and benefits of a beneficiary of a deceased employee, retiree or annuitant for the purpose of making disposition of the decedent's estate.''

○ ''To the Office of Management and Budget (OMB) at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19, or for budgetary or management oversight purposes.''

• The following routine use has been reworded and moved from the list of routine uses and included as a ''Note'' at the end of the ''Routine Uses'' section, because it describes a disclosure authorized by subsection (b)(7) of the Privacy Act (5 U.S.C. 552a(b)(7)) for which no routine use is needed:

○ ''To a Federal agency in response to a written request from the agency head specifying the particular portion desired and the law enforcement activity for which the record is sought. The request for the record must be connected with the agency's auditing and investigative functions designed to reduce fraud, waste and abuse; it must be based on information which raises questions about an individual's eligibility for benefits or payments; and it must be made reasonably soon after the information is received.''

Because some of the changes are significant, a report on the proposed new system has been sent to Congress and OMB in accordance with 5 U.S.C. 552a(r).

## II. The Privacy Act

The Privacy Act (5 U.S.C. 552a) governs the means by which the U.S. Government collects, maintains, and uses information about individuals in a system of records. A ''system of records'' is a group of any records under the control of a Federal agency from which information about an individual is retrieved by the individual's name or other personal identifier. The Privacy Act requires each agency to publish in the **Federal Register** a system of records notice (SORN) identifying and describing each system of records the agency maintains, including the purposes for which the agency uses information about individuals in the system, the routine uses for which the agency discloses such information outside the agency, and how individual record subjects can exercise their rights under the Privacy Act (*e.g.,* to determine if the system contains information about them).

### SYSTEM NUMBER:

09–90–1402

### SYSTEM NAME:

HHS Payroll Records, HHS/OS

### SECURITY CLASSIFICATION:

Unclassified

### SYSTEM LOCATIONS:

*Civilian payroll records locations:*

• Defense Finance and Accounting Service (DFAS) and records storage facility at Rock Island, IL. For more information contact HHS/Customer Care Services, 8455 Colesville Rd., Silver Spring, MD 20910.

Retirement records: Federal Retirement Records Center, Boyers, PA.

Records are also maintained by timekeepers and payroll liaisons. Contact HHS/Customer Care Services for specific locations.

*Commissioned Corps payroll records locations:*

• PHS/Office of the Assistant Secretary for Health (OASH)/Office of the Surgeon General (OSG)/Division of

Commissioned Corps Personnel and Readiness (DCCPR)/Assignments and Career Management Branch (ACMB)/ Compensation Team, Silver Spring, MD.

• U.S. Coast Guard COMDT, Washington, DC.

Commissioned corps payroll records are kept at the addresses shown above when the person to whom the record pertains has an active relationship with the PHS commissioned corps personnel system. When an officer ceases the active relationship with the commissioned corps, the payroll records are combined with the Official Personnel Folder (OPF) covered in SORN 09–40–0001, ''PHS Commissioned Corps General Personnel Records, HHS/PSC/ESS'' and transferred to the appropriate facility as outlined in that SORN.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

The system collects and maintains records about HHS personnel (current and former civilian employees, and current and former PHS Commissioned Corps employees); current and former applicants for employment with HHS; and HHS employees' dependents, survivors, beneficiaries, and current and former spouses.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

The system includes the following categories of records containing personally identifiable information (PII). PII data elements include: name, email and telephone contact information, Social Security Number, date of birth, work and home addresses, pay plan and grade, dates and hours worked, dates, hours or amounts of leave accrued, used, awarded or donated, travel benefits and allowances and educational allowances (including educational allowances for dependents of commissioned corps personnel), certifications and licenses affecting pay, personnel orders, special positions (*e.g.,* hazardous duty) affecting pay, bank account information, and amounts withheld and allotted for income tax, insurance, retirement, Thrift Saving Plan, flexible spending account, voluntary leave transfers, charitable contributions, garnishments, and other purposes.

1. *Documents related to pay,* including forms used to process payroll deductions, leave, allotments, charitable contributions and garnishments; documentation of dependent status used to determine entitlement to or eligibility for benefits; debt collection documents; survivor benefit elections and pay records; worksheets, internal forms, internal memoranda and other documents which result in, or contribute, to a pay-related action.

2. *Special pay files,* containing special pay contracts, personnel orders and supporting documentation concerning special pay; worksheets, internal forms, internal memoranda and other documents which result in, or contribute, to a pay-related action.

3. *Retirement pay files,* containing personnel orders and supporting documentation concerning retirement pay; worksheets, internal forms, internal memoranda and other documents which result in, or contribute to, a pay-related action.

4. *Correspondence* relating to the above.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. Chapter 55—Pay Administration and Chapter 63—Leave; the Public Health Service Act (42 U.S.C. 202–217, 218a, and other pertinent sections); the Social Security Act (42 U.S.C. 410(m)); portions of Title 10, U.S.C., related to the uniformed services; portions of Title 37, U.S.C., related to pay and allowance for members of the uniformed services; portions of Title 38, U.S.C., related to benefits administered by the Department of Veterans Affairs; sections of 50 U.S.C. App., related to the selective service obligations and the Soldiers' and Sailors' Civil Relief Act; Executive Order (EO) 9397, as amended, ''Numbering System for Federal Accounts Relating to Individual Persons''; and E.O. 11140, as amended, which delegates the authority to administer the PHS Commissioned Corps from the President to the Secretary, HHS.

**PURPOSE(S) OF THE SYSTEM:**

HHS uses relevant information about individuals from this system on a need to know basis to:

• Determine the individual's eligibility for pay, allowances, entitlements, privileges, and benefits, and ensure that the individual receives proper pay and allowances, that proper deductions and authorized allowances are made from the individual's pay, and that the individual is credited and charged with the proper amount of sick and annual leave.

• Determine eligibility or entitlements of the individual's dependents and beneficiaries for benefits based on the individual's service records.

• Give legal force to personnel transactions and establish the individual's rights and obligations under the pertinent laws and regulations governing the applicable personnel system (civilian or commissioned corps).

• With the individual's consent, provide information to the HHS Voluntary Leave Transfer Program for Department-wide announcements.

• Produce management reports, summary descriptive statistics, and analytical studies in support of the functions for which the records are collected and maintained and for related personnel management functions compatible with the intent for which the record system was created.

• Provide information to HHS' Debt Management and Collection System to collect a delinquent debt owed to the federal government, but only to the extent necessary to document and collect the delinquent debt.

• Provide information to HHS components (the Office of Child Support Enforcement (OCSE) within the Administration for Children and Families) and HHS systems (the National Directory of New Hires (NDNH) and the Federal Parent Locator System (FPLS)), for use in locating individuals and identifying their income sources to establish paternity, to establish and modify orders of support and for enforcement actions in accordance with 42 U.S.C. 653.

• Provide information to OCSE to share with the Social Security Administration for purposes of verifying Social Security Numbers used in operating FPLS.

• Provide information to OCSE to release to the Department of the Treasury for purposes of administering 26 U.S.C. 32 (earned income tax credit), administering 26 U.S.C. 3507 (advance payment of earned income tax credit), and verifying a claim with respect to employment in a tax return.

• Upon the request of the individual, provide information to organizations and companies administering charitable contribution payments, labor organization dues payments, and benefit plan payments (*e.g.,* savings plans, insurance plans, flexible spending account plans) to effect the individual's payments through payroll deductions, to administer the individual's accounts, loans and loan repayments, and to adjudicate any related claims.

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

Relevant information about an individual may be disclosed from this system of records to the following parties outside HHS, without the individual's prior, written consent, for the following routine uses:

1. To federal agencies and Department contractors that have been engaged by

HHS to assist in accomplishment of an HHS function relating to the purposes of the system (*i.e.,* providing payroll services) and that need to have access to the records in order to assist HHS. Any contractor will be required to comply with the requirements of the Privacy Act of 1974 and maintain safeguards with respect to such records. These safeguards are explained in the ''Safeguards'' section.

2. To authorized officials in federal agencies where commissioned officers are assigned, for purposes described in the ''Purpose(s) of the System'' section.

3. To financial institutions, organizations and companies administering charitable contribution payments, labor organization dues payments (applicable to civilian personnel only), and benefit plan payments and reimbursements (*e.g.,* under savings plans, insurance plans, flexible spending account plans) to effect an individual's direct deposits, payroll deductions, and other transactions, to administer the individual's plan accounts, loans and loan repayments, and to adjudicate any related claims.

4. To the U.S. Department of the Treasury which performs federal payment and tax collection activities and needs information such as name, home address, Social Security Number, earned income amount, withholding status, and amount of taxes withheld, for purposes such as processing W–2 forms submitted to the Internal Revenue Service; issuing salary, retired pay and annuity checks or electronic payments; issuing U.S. savings bonds; recording income information; offsetting salary and other federal payments to collect delinquent federal debt owed by the individual; and collecting income taxes.

5. To state and local government agencies having taxing authority, which need pertinent records relating to employees, retirees, and annuitants, such as name, home address, Social Security Number, earned income amount, and amount of taxes withheld, when these agencies have entered into tax withholding agreements with the Secretary of Treasury, but only to those state and local taxing authorities for which an employee, retiree, or annuitant is or was subject to tax, regardless of whether tax is or was withheld.

6. To the Social Security Administration, which requires pertinent records relating to employees, retirees, and annuitants, including name, home address, Social Security Number, earned income amount, and amount of taxes withheld to administer the Social Security program.

7. To respond to interrogatories in the prosecution of a divorce action or settlement for purposes stated in 10 U.S.C. 1408 (The Former Spouses Protection Act) pertaining to commissioned corps personnel.

8. To disclose information about the entitlements and benefits of a beneficiary of a deceased employee, retiree or annuitant for the purpose of making disposition of the decedent's estate.

9. To the U.S. Department of Justice (DOJ) or to a court or other tribunal when:

a. The agency or any component thereof; or

b. any employee of the agency in his or her official capacity, or

c. any employee of the agency in his or her individual capacity where DOJ has agreed to represent the employee, or

d. the United States Government,

is a party to litigation or has an interest in such litigation and, by careful review, HHS determines that the records are both relevant and necessary to the litigation and that, therefore, the use of such records by the DOJ, court or other tribunal is deemed by HHS to be compatible with the purpose for which the agency collected the records.

10. When a record on its face, or in conjunction with other records, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, disclosure may be made to the appropriate public authority, whether federal, foreign, state, local, tribal, or otherwise, responsible for enforcing, investigating or prosecuting the violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto, if the information disclosed is relevant to the enforcement, regulatory, investigative or prosecutorial responsibility of the receiving entity.

11. To a Member of Congress or to a Congressional staff member in response to a written inquiry of the Congressional office made at the written request of the constituent about whom the record is maintained. The Member of Congress does not have any greater authority to obtain records than the individual would have if requesting the records directly.

12. To the Office of Management and Budget (OMB) at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19, or for budgetary or management oversight purposes.

13. To a federal, foreign, state, local, tribal or other public authority of the fact that this system of records contains information relevant to the hiring or retention of an employee, the issuance or retention of a security clearance, the letting of a contract, or the issuance or retention of a license, grant or other benefit. The other agency or licensing organization may then make a request supported by the written consent of the individual for further information if it so chooses. HHS will not make an initial disclosure unless the information has been determined to be sufficiently reliable to support a referral to another office within the agency or to another federal agency for criminal, civil, administrative, personnel, or regulatory action.

14. To thrift and savings institutions to conduct analytical studies of benefits being paid under such programs, provided such disclosure is consistent with the purpose for which the information was originally collected.

15. To relevant agencies for the purpose of conducting computer matching programs designed to reduce fraud, waste and abuse in federal, state and local public assistance programs and operations.

16. To the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the federal sector, examination of federal affirmative employment programs, or other functions vested in the Commission.

17. To the Office of Personnel Management, to the extent it requires information to carry out its role as the oversight agency responsible for promoting the effectiveness of civilian personnel management and ensuring compliance with civilian personnel laws and regulations, if the information is relevant and necessary for that purpose.

18. To the Merit Systems Protection Board (including its Office of the Special Counsel) if relevant and necessary for its oversight responsibility, to protect the integrity of federal merit systems and the rights of federal civilian employees working in the systems.

19. To the Federal Labor Relations Authority (including the General Counsel of the Authority and the Federal Service Impasses Panel) if relevant and necessary for its oversight of the federal service labor-management relations program, pertaining to civilian employees.

20. To a labor organization recognized under E.O. 11491 or 5 U.S.C. Chapter

71, when a contract between a component of the Department and the labor organization provides that the agency will disclose civilian personnel records when relevant and necessary to the labor organization's duties of exclusive representation concerning civilian personnel policies, practices, and matters affecting working conditions.

21. To the Department of Labor to make a compensation determination in connection with a claim filed by a civilian employee for worker's compensation on account of a job-connected injury or disease.

22. To state officers of unemployment compensation in connection with claims filed by former HHS civilian employees for unemployment compensation.

23. To the U.S. Department of Homeland Security (DHS) if captured in an intrusion detection system used by HHS and DHS pursuant to a DHS cybersecurity program that monitors Internet traffic to and from federal government computer networks to prevent a variety of types of cybersecurity incidents.

24. To appropriate federal agencies and Department contractors that have a need to know the information for the purpose of assisting the Department's efforts to respond to a suspected or confirmed breach of the security or confidentiality of information maintained in this system of records, when the information disclosed is relevant and necessary for that assistance.

Information about an individual may also be disclosed to parties outside the agency without the individual's prior, written consent for any of the uses authorized directly in the Privacy Act at 5 U.S.C. 552a(b)(2) and (b)(4)–(11). Note: The following requirements apply to a disclosure to another federal agency pursuant to 5 U.S.C. 552a(b)(7) (*i.e.,* in response to a written request from the head of that agency for a civil or criminal law enforcement activity authorized by law, specifying the particular portion desired and the law enforcement activity for which the record is sought): The request must be connected with the agency's auditing and investigative functions designed to reduce fraud, waste and abuse; it must be based on information that raises questions about an individual's eligibility for benefits or payments; and it must be made reasonably soon after the information is received.

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

**STORAGE:**

Automated files are stored on secured electronic storage applications, disks, electronic medium and magnetic tapes. Non-automated (hard-copy) files are kept in offices, and may be stored in shelves, safes, cabinets, bookcases or desks.

**RETRIEVABILITY:**

*Civilian payroll records:* Records are retrieved by pay period and name and/or Social Security Number and timekeeper number within each pay period.

*Commissioned corps payroll records:* Records are retrieved by name, by PHS serial number, by Direct AccessEmplId and/or by Social Security Number.

**SAFEGUARDS:**

Safeguards conform to the HHS Information Security and Privacy Program, *http://www.hhs.gov/ocio/securityprivacy/index.html.*

1. Authorized Users

*Automated Records.* Access to and use of automated records is limited to: (1) Authorized personnel within HHS who perform payroll and personnel office functions, and authorized personnel of any contractors or federal agencies assisting HHS with those functions; (2) authorized officials in offices where commissioned officers are assigned—at HHS and at other federal agencies—whose official duties require such access; and (3) authorized personnel in other federal agencies, such as the U.S. Treasury with respect to federal payment and tax collection activities, acting on behalf of HHS for payroll-related activities.

*Non-automated records.* Access to and use of non-automated records is limited to HHS-employees whose official duties require such access or to parties outside HHS who need access to the information for purposes stated under routine uses. These individuals are permitted access to records only after they have satisfactorily identified themselves as having an official need to review the information and have provided satisfactory proof of their identities. Access is also granted to individuals who have permission to review the record when that permission has been obtained in writing and in advance from the individual to whom the record pertains. All individuals from outside the Department, to whom disclosure is made pursuant to a routine use, must complete Privacy Act nondisclosure oaths and must submit written requests for access to these records showing the name and employing office of the requester, the date on which the record is requested, and the purpose for reviewing the information in the records. This written request is then placed into the record.

2. Physical safeguards

*Automated records.* Terminals by which automated records are accessed are kept in offices secured with locks. Automated records on magnetic tape, disks and other computer equipment are kept in rooms designed to protect the physical integrity of the records media and equipment. These rooms are within inner offices to which access is permitted only with special clearance. The data is encrypted using NIST-approved encryption methods. Outer offices are secured with locks. During non-work hours, all cabinets, storage facilities, rooms and offices are locked and the premises are patrolled regularly by building security forces.

*Non-automated records.* Non-automated records are kept in such a way as to prevent observation by unauthorized individuals while the records are actively in use by an authorized employee. When records are not in use, they are closed and secured in desk drawers with locks, filing cabinets with locks, or other security equipment, all of which are kept inside authorized office space which is locked whenever it is not in use. Keys to furniture and equipment are kept only by the individual who is assigned to that furniture or equipment and by security officers.

3. Procedural safeguards

*Automated records.* Automated records are secured by assigning individual access codes to authorized personnel, and by the use of passwords for specific records created by authorized personnel. Access codes and passwords are changed on a random schedule. In addition, programming for automated record allows authorized personnel to access only those records that are essential to their duties. Remote access to automated data from remote terminals is restricted to a limited number of HHS personnel, HHS contractor personnel, and personnel at other federal agencies engaged by HHS who perform payroll and personnel office functions; similar personnel at other federal agencies where commissioned officers are assigned; and personnel at federal agencies (such as U.S. Treasury) that act on behalf of HHS for payroll-related activities. No access is permitted to organizations that do not have automated personnel record-keeping systems that comply with Privacy Act requirements.

*Non-automated records.* All files are secured when employees are absent from the premises and are further protected by locks on entry ways and by the building security force. Official records may not be removed; when records are needed at a remote location, copies of the records are provided. When copying records for authorized purposes, care is taken to ensure that any imperfect or extra copies are not left in the copier room where they can be read, but are destroyed or obliterated.

4. Contractor Guidelines

A contractor given records under routine use 1 must maintain the records in a secured area, allow only those individuals immediately involved in the processing of the records to have access to them, prevent any unauthorized persons from gaining access to the records, and return the records to the System Manager immediately upon completion of the work specified in the contract. Contractor compliance is assured though inclusion of Privacy Act requirements in contract clauses, and through monitoring by contract and project officers. Contractors who maintain records are instructed to make no disclosure of the records except as authorized by the System Manager and stated in the contract.

**RETENTION AND DISPOSAL:**

*Civilian payroll records:* Records are retained and disposed of in accordance with General Records Schedule 2 (GRS 2), ''Payrolling and Pay Administration Records,'' which prescribes retention periods ranging from as short as a few months or years to as long as 56 years. When an employee is separated, leave records are incorporated into the Official Personnel File (OPF) maintained by the servicing personnel office (SPO), and payroll retirement information is transferred to the Federal Retirement Records Center in Boyers, Pennsylvania. The OPF is forwarded to the new employing agency by the SPO. These procedures are in accordance with U.S. Office of Personnel Management policies and procedures.

*Commissioned corps payroll records:* When an officer is separated, records are incorporated into the OPF and transferred to a Federal Records Center in accordance with 09–40–0001, ''PHS Commissioned Corps General Personnel Records, HHS/OS'' procedures. When an officer retires from the commissioned corps, a retirement payment file is generated and maintained in Compensation. When the officer and/or annuitant dies, the file is retained in Compensation for 3 years, then is incorporated into the OPF and transferred to a Federal Records Center in accordance with 09–40–0001, ''PHS Commissioned Corps General Personnel Records, HHS/PSC/HRS'' procedures.

*Destruction methods:* Records that are eligible for destruction are securely disposed of using destruction methods prescribed by NIST SP 800–88.

**SYSTEM MANAGER AND ADDRESS:**

*System Manager for civilian payroll records:* DFAS. For more information, contact HHS/Customer Care Services, 8455 Colesville Rd., Silver Spring, MD.

*System Manager for commissioned corps payroll records:* Director, OASH/OSG/Division of Systems Integration, Plaza Level, Suite 100, Tower Building, 1101 Wootton Parkway, Rockville, MD 20852.

**NOTIFICATION PROCEDURE:**

An individual who wishes to know if this system contains records about him or her should submit a written request to the applicable System Manager. The request should include the full name of the individual, appropriate personal identification, and the individual's current address.

**RECORD ACCESS PROCEDURE:**

*Procedure for accessing civilian payroll records:*

1. *General procedures.* A subject individual, or parent, or legal guardian of an incompetent individual, who appears at a specific location seeking access to or disclosure of records relating to him/her may initially contact his/her agency personnel office or payroll liaison for information about obtaining access to the records. Such individuals will be required to verify their identity to the satisfaction of the agency employee providing access. Refusal to provide sufficient proof of identity will result in denial of the request for access until such time as proof of identity can be obtained.

2. *Requests by mail.* Written requests must be addressed to the System Manager or the appropriate payroll liaison. A comparison will be made of that signature and the signature maintained in a file prior to release of the material requested. Copies of the records to which access has been requested will be mailed to the individual.

3. *Requests by phone.* Because positive identification of the caller cannot be established with sufficient certainty, telephone requests for access to records will not be honored.

4. *Accounting of disclosures.* An individual who is the subject of the records in this system may also request an accounting of all disclosures outside the Department, if any, that have been made from the individual's records.

*Procedure for accessing commissioned corps payroll records:*

1. *General procedures.* An individual (and/or the individual's legal representative) seeking access to his/her records may initially contact the DCCPR Privacy Act Coordinator for information about obtaining access to the records. Each individual seeking access will be required to verify his/her identity to the satisfaction of the DCCPR Privacy Act Coordinator. Refusal to provide sufficient proof of identity will result in denial of the request for access until such time as proof of identity can be obtained. The System Manager has authority to release records to authorized officials within DCCPR, HHS and other organizations where commissioned officers are assigned.

2. *Requests in person.* An individual who is the subject of a record and who appears in person seeking access shall provide his/her name and at least one piece of tangible identification (*e.g.,* PHS Commissioned Corps Identification Card, driver's license or passport). Identification cards with current photograph are required. The records will be reviewed in the presence of an appropriate Compensation employee, who will answer questions and ensure that the individual neither removes nor inserts any material into the record without the knowledge of the Compensation employee. If the individual requests a copy of any records reviewed, the Compensation employee will provide them to the individual. The Compensation employee will record the name of the individual granted access, the date of access, and information about the verification of identity on a separate log sheet maintained in the office of the Privacy Act Coordinator, DCCPR.

3. *Requests by mail.* Written requests must be addressed to the System Manager or the DCCPR Privacy Act Coordinator at the address shown as the System Location above. All written requests must be signed by the individual seeking access. A comparison will be made of that signature and the signature maintained on file prior to release of the material requested. Copies of the records to which access has been requested will be mailed to the individual. The original version of a record will not be released except in very unusual situations when only the original will satisfy the purpose of the request.

4. *When an individual to whom a record pertains is mentally incompetent or under other legal disability,* information in the individual's records may be disclosed to any person who is legally responsible for the care of the

individual, to the extent necessary to assure payment of benefits to which the individual is entitled.

5. *Requests by phone.* Because positive identification of the caller cannot be established with sufficient certainty, telephone requests for access to records will not be honored.

6. *Accounting of disclosures.* An individual who is the subject of records maintained in this records system may also request an accounting of all disclosures outside the Department, if any, that have been made from that individual's records.

**CONTESTING RECORD PROCEDURES:**

An individual seeking to contest the content of information about him or her in this system should contact the applicable System Manager at the address specified under ''System Manager'' above and reasonably identify the record, specify the information contested, state the corrective action sought, and provide the reasons for the correction, with supporting justification.

**RECORD SOURCE CATEGORIES:**

Information is obtained from individual personnel members (civilian employees and Public Health Service officers) and applicants, their dependents and former spouses, governmental and private training facilities, health professional licensing and credentialing organizations (*e.g.,* organizations that verify license and credential information), government officials and employees, and from records contained in or transferred from predecessor payroll systems.

**EXEMPTIONS CLAIMED FOR THIS SYSTEM:**

None.

Dated: July 30, 2015.

**John W. Gill,**

*Deputy Assistant Secretary, ASA.*

[FR Doc. 2015–19855 Filed 8–12–15; 8:45 am]

**BILLING CODE 4151–17–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Aging Special Emphasis Panel; Physiological Studies on Aging.

*Date:* September 28, 2015.

*Time:* 12:00 p.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute on Aging, Gateway Building, Suite 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Maurizio Grimaldi, Ph.D., MD Scientific Review Officer, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Room 2C218, Bethesda, MD 20892, 301–496–9374, *grimaldim2@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: August 10, 2015.

**Melanie J. Gray,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2015–19946 Filed 8–12–15; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Government-Owned Inventions; Availability for Licensing

**AGENCY:** National Institutes of Health, HHS.

**ACTION:** Notice.

**SUMMARY:** The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 209 and 37 CFR part 404 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

**FOR FURTHER INFORMATION CONTACT:** Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301–496–7057; fax: 301–402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

**SUPPLEMENTARY INFORMATION:** Technology descriptions follow.

**Rabbit Antisera to Various Matrix, Matricellular, and Other Secreted Proteins**

*Description of Technology:* The extracellular matrix (ECM) is composed of a group of proteins that regulate many cellular functions, such as cell shape, adhesion, migration, proliferation, and differentiation. Deregulation of ECM protein production or function contributes to many pathological conditions, including asthma, chronic obstructive pulmonary disease, arthrosclerosis, and cancer. Scientists at the NIH have developed antisera against various ECM components such as proteoglycan, sialoprotein, collagen, etc. (*http://www.nidcr.nih.gov/Research/NIDCRLaboratories/CranioSkeletal/Antisera.htm*). These antisera can be used as research tools to study the biology of extracellular matrix molecules.

*Potential Commercial Applications:* Studying the biology of extracellular matrix molecules.

*Development Stage:* Early-stage.

*Inventor:* Larry Fisher (NIDCR).

*Intellectual Property:* HHS Reference No. E–135–2008/0—Research Tool. Patent protection is not being pursued for this technology.

*Licensing Contact:* Sally Hu, Ph.D., M.B.A.; 301–435–5606; *hus@mail.nih.gov*

*Collaborative Research Opportunity:* The National Institute for Dental and Craniofacial Research is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize antibodies for studying the biology of extracellular matrix molecules. For collaboration opportunities, please contact David Bradley, Ph.D. at *bradleyda@nidcr.nih.gov.*

**mNFHcre Transgenic Mice**

*Description of Technology:* Knockout mouse is a valuable model to study biological functions of target genes. When Cre expressing mice are bred with mice containing a loxP-flanked gene, the gene between the loxP sites will be deleted in the offsprings. Scientists at the NIH have generated mNF–H-*cre* transgenic mouse lines that express Cre recombinase under the control of the promoter of the neurofilament-H gene, which is expressed in the late stage of neuronal maturation. The transgenic mice express *cre* in neurons (but not astrocytes) with highest expression in

the cortex and hippocampus. The mNF–H-*cre* transgenic mouse line can be used to generate conditional knockout mice with targeted excision of neuron-specific genes during the late stage of mouse development. This mouse model will be useful for the study of neuronal functions of particular genes.

*Potential Commercial Applications:* Generating conditional knockout mice for neurobiological, neuro-developmental, or aging studies involving neurons of the brain and the spinal cord.

*Competitive Advantages:* Transgenic mice express Cre recombinase selectively in neurons (but not in astrocytes) in the late stage of brain development.

*Development Stage:* In vivo data available (animal)

*Inventor:* Ashok Kulkarni (NIDCR)

*Publications*

1. Hirasawa M,*et al.* Neuron-specific expression of Cre recobinase during the late phase of brain development. Neurosci Res. 2001 Jun; 40(2):125–32. [PMID 11377750].

2. Hirasawa M, *et al.* Perinatal abrogation of Cdk5 expression in brain results in neuronal migration defects. Proc Natl Acad Sci USA. 2004 Apr 20; 101(16):6249–54. [PMID 15067135]

*Intellectual Property:* HHS Reference No. E–293–2009/0—Research Tool. Patent protection is not being pursued for this technology.

*Licensing Contact:* Sally Hu, Ph.D., M.B.A.; 301–435–5606; *hus@mail.nih.gov*

*Collaborative Research Opportunity:* The National Institute for Dental and Craniofacial Research is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize knockout mice for neurobiological studies. For collaboration opportunities, please contact David Bradley, Ph.D. at *bradleyda@nidcr.nih.gov.*

**Novel Vaccine for Prevention and Treatment of Chlamydia Infection**

*Description of Technology:* The invention provides novel vectors, attenuated pathogens, compositions, methods and kits for preventing and/or treating chlamydia infections.

*Chlamydia trachomatis* is an obligate intracellular human pathogen with a unique biphasic developmental growth cycle. It's the etiological agent of trachoma, the world's leading cause of preventable blindness and the most common cause of bacterial sexually transmitted disease. *C. trachomatis* isolates maintain a highly conserved plasmid and naturally occurring plasmidless clinical isolates are rare, implicating its importance in chlamydial pathogenesis. Understanding the plasmid's role in chlamydial pathogenesis at a molecular level is an important objective for the future control of chlamydial infections. The NIAID inventor had studied chlamydia strains in both non-human primate and murine infectious models providing evidence that plasmids play an important role in chlamydial pathogenesis. In addition, the study results of macaque model of trachoma supports the use of plasmid-deficient organisms as novel live-attenuated chlamydial vaccines.

*Potential Commercial Applications:* Novel live-attenuated chlamydial vaccines.

*Competitive Advantages*

- Virulence attenuated vectors that can be used as vaccines against chlamydia.
- Combination of vector with attenuated pathogenic agent improves the stability and replicative capacity of the pathogen.
- Features nucleic acids, attenuated pathogens, compositions, methods and kits to treat and prevent chlamydia infections.

*Development Stage*

- In vitro data available.
- In vivo data available (animal).
- In vivo data available (human).
- Prototype.

*Inventor:* Harlan D. Caldwell (NIAID).

*Publications*

1. Song L, *et al.* Chlamydia trachomatis plasmid-encoded Pgp4 is a transcriptional regulator of virulence associated genes. Infect Immun. 2013 Mar;81(3):636–44. [PMID 23319558].

2. Kari L, *et al.* A live-attenuated chlamydial vaccine protects against trachoma in nonhuman primates. J Exp Med. 2011 Oct 24;208(11):2217–23. [PMID 21987657].

*Intellectual Property:* HHS Reference No. E–133–2012/0—

- US Provisional Application No. 61/753,320 filed 16 Jan 2013.
- PCT Application No. PCT/US2014/011799 filed 16 Jan 2014, which published as WO 2014/113541 on 24 Jul 2014.

*Licensing Contact:* Peter Soukas; 301–435–4646; *ps193c@nih.gov.*

*Collaborative Research Opportunity:* The National Institute of Allergy and Infectious Diseases, Laboratory of Clinical Infectious Diseases, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize chlamydia vaccine. For collaboration opportunities, please contact Harlan D. Caldwell, Ph.D. at *hcaldwell@niaid.nih.gov.*

**Anti-CD47 Antibodies for the Treatment of Cancer**

*Summary:* Researchers at the National Cancer Institute found that CD47 enhances renewal of breast cancer stem cells, and antibody targeting of CD47 forces these stem cells to differentiate.

*Description of Technology:* High expression of CD47, a cell surface receptor on several types of cancer cells, has been identified as a 'don't eat me signal' that inhibits their killing by macrophages, cytotoxic T cells, and NK cells. Conversely, the CD47 antibody B6H12 that blocks SIRPα binding enhances macrophage-dependent clearance of tumors in several mouse models, although others have shown that such clearance can be independent of SIRPα signaling.

Cancer stems cells (CSCs) are tumorigenic cells that are difficult to target with conventional chemotherapies due to their undifferentiated state. Stem cells also play an important role in the pathogenesis of cancer. CSCs have been reported to express elevated CD47 levels, but the role of CD47 in directly regulating cancer stem cell function has not been examined.

Researchers at the National Cancer Institute's Laboratory of Pathology found in nonmalignant cells and tissues that the absence of CD47 enhances stem cell renewal *in vitro* and *in vivo* by increasing expression of four stem cell transcription factors (see related technologies below). Conversely, cancer stem cells often express high levels of CD47, and decreasing CD47 is associated with loss of stem cell characteristics. More recently, they discovered methods to force differentiation of breast cancer stem cells by targeting the receptor CD47. These methods disrupt EGF receptor signaling and up-regulate tumor suppressor gene expression in breast cancer stem cells from triple negative breast cancers, but have no effect on normal mammary epithelial cells.

*Potential Commercial Applications*

- Treatment for breast cancer and other cancers.
- Antibodies for biomedical research.

*Competitive Advantages:* Monoclonal antibodies that directly target CD47-expressing cancers.

*Development Stage:* Pre-clinical (in vivo).

*Inventors:* David D. Roberts and Sukhbir Kaur (NCI).

*Publication*

Kaur S, *et al.* Role of CD47 in triple negative breast cancer. FASEB J. 2015 April;29(1 Supplement); Abstract 890.5. [*http://www.fasebj.org/content/29/1_Supplement/890.5*]

*Intellectual Property:* HHS Reference No. E–263–2014/0—US Application No. 62/062,675 filed October 10, 2014.

*Related Technologies*

- HHS Reference No. E–227–2006/5—US Patent 8,236,313 issued August 7, 2012; US Patent 8,557,788 issued October 15, 2013; US Patent 8,865,672 issued October 21, 2014.
- HHS Reference No. E–153–2008/0—US Patent No. 8,951,527 issued February 10, 2015.
- HHS Reference No. E–086–2012/1—US Patent Application No. 61/735,701 filed December 11, 2012.
- HHS Reference No. E–296–2011/0—Application PCT/US2014/025989 filed March 13, 2014.

*Licensing Contact:* Jaime M. Greene; 301–435–5559; *jaime.greene@mail.nih.gov.*

*Collaborative Research Opportunity:* The National Cancer Institute, Center for Cancer Research, Laboratory of Pathology, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize methods to differentiate cancer stem cells. For collaboration opportunities, please contact John D. Hewes, Ph.D. at *hewesj@mail.nih.gov.*

**Prevention or Treatment of Viral Infections by Inhibition of the Histone Methyltransferases EZH1/2**

*Description of Technology:* Herpes simplex viral infections, including herpes simplex virus type 1 (HSV–1) and type 2 (HSV–2), are exceptionally common worldwide. These viruses establish lifelong persistent infections with cycles of lytic reactivation to produce recurrent diseases including oral and genital lesions, herpetic keratitis/blindness, congenital-developmental syndromes, and viral encephalitis. Infection with HSV–2 increases the rate of human immunodeficiency virus (HIV) transmission in coinfected individuals. DNA replication inhibitors are typically used to treat herpesvirus infections. However, these compounds do not completely suppress infection, viral shedding, reactivation from latency, and the inflammation that contributes to diseases such as keratitis. An unmet need continues to exist for methods of preventing or treating herpesviral infections. The application claims methods of preventing or treating herpesviral infection of a host, comprising administering to the host an effective amount of an inhibitor of the EZH1/2 histone methyltransferase activities. The application is not limited to herpes simplex virus but rather is applicable to other viral infections as well.

*Potential Commercial Applications*

- HSV therapeutics
- HSV vaccines

*Competitive Advantages*

- Low-cost production
- Ease of synthesis

*Development Stage*

- In vitro data available
- In vivo data available (animal)

*Inventors: Thomas* M. Kristie and Jesse H. Arbuckle (NIAID)

*Intellectual Property:* HHS Reference E–141–2015/0—US Provisional Patent Application 62/155,704 filed 01 May 2015

*Related Technologies*

- HHS Reference E–275–2008/0—US Patent Number 8,916,596 issued 23 Dec 2014; US Application No. 14/543,321 filed 17 Nov 2014; PCT Application No. PCT/US2009/051557 filed 23 Jul 2009
- HHS Reference E–184–2010/0—US Patent Number 8,871,789 issued 28 Oct 2014; PCT Application No. PCT/US2011/044835 filed 21 Jul 2011

*Licensing Contact:* Peter Soukas; 301–435–4646; *ps193c@nih.gov*

Dated: August 7, 2015.

**Richard U. Rodriguez,**

*Acting Director, Office of Technology Transfer, National Institutes of Health.*

[FR Doc. 2015–19912 Filed 8–12–15; 8:45 am]

**BILLING CODE 4140–01–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Board of Scientific Counselors, NIDDK.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Board of Scientific Counselors, NIDDK.

*Date:* September 10–11, 2015.

Open: September 10, 2015, 8:00 a.m. to 8:20 a.m.

*Agenda:* Introductions and Overview.

*Place:* National Institutes of Health, Building 5, Room 127, 5 Memorial Drive, Bethesda, MD 20892.

Closed: September 10, 2015, 8:20 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate personal qualifications and performance, and competence of individual investigators.

*Place:* National Institutes of Health, Building 5, Room 127, 5 Memorial Drive, Bethesda, MD 20892.

Closed: September 11, 2015, 8:00 a.m. to 4:00 p.m.

*Agenda:* To review and evaluate personal qualifications and performance, and competence of individual investigators.

*Place:* National Institutes of Health, Building 5, Room 127, 5 Memorial Drive, Bethesda, MD 20892.

*Contact Person:* Michael W. Krause, Ph.D., Scientific Director, National Institute of Diabetes and Digestive and Kidney Diseases, National Institute of Health, Building 5, Room B104, Bethesda, MD 20892–1818, (301) 402–4633, *mwkrause@helix.nih.gov.*

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: August 10, 2015.

**Melanie J. Gray,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2015–19940 Filed 8–12–15; 8:45 am]

**BILLING CODE 4140–01–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, July 30, 2015, 11 a.m. to July 31, 2015, 6 p.m., National Cancer Institute Shady Grove, 9609 Medical Center Drive, 2W032/034, Rockville, MD 20850 which was published in the **Federal Register** on June 9, 2015, 80 FR 32577.

The meeting notice is amended to change the end date from July 31, 2015 to July 30, 2015, this meeting conclude in one day. The meeting is closed to the public.

Dated: August 10, 2015.

**Melanie J. Gray,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2015–19943 Filed 8–12–15; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Aging; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Advisory Council on Aging.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Advisory Council on Aging.

*Date:* September 16–17, 2015.

*Closed:* September 16, 2015, 3:00 p.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Building 31, C Wing 6th Floor Conference Room 10, 9000 Rockville Pike, Bethesda, MD 20892.

*Open:* September 17, 2015, 8:00 a.m. to 1:00 p.m.

*Agenda:* Call to order and report from the Director; discussion of future meeting dates; consideration of minutes of last meeting; reports from Task Force on Minority Aging Research, Council of Councils, DGCG Program Review, Working Group on Program; Council Speaker; Program Highlights.

*Place:* National Institutes of Health, Building 31, C Wing 6th Floor Conference Room 10, 9000 Rockville Pike, Bethesda, MD 20892.

*Contact Person:* Robin Barr, Ph.D. Director, National Institute on Aging Office of Extramural ActivitiesGateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20814, (301) 496–9322, *barrr@nia.nih.gov*.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *www.nih.gov/nia/naca/,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: August 10, 2015.

**Melanie J. Gray,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2015–19944 Filed 8–12–15; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Cancer Institute, Special Emphasis Panel; NCI Provocative Questions 9.

*Date:* September 24, 2015.

*Time:* 9 a.m. to 1 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Cancer Institute, Shady Grove, 9609 Medical Center Drive, Room 7W124, Rockville, MD 20850 (Telephone Conference Call).

*Contact Person:* David G. Ransom, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W124, Rockville, MD 20850, 240–276–6351, *david.ransom@nih.gov.*

*Name of Committee:* National Cancer Institute, Special Emphasis Panel; NCI Provocative Questions 4.

*Date:* September 24, 2015.

*Time:* 2 p.m. to 3 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W124, Rockville, MD 20850 (Telephone Conference Call).

*Contact Person:* David G. Ransom, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W124, Rockville, MD 20850, 240–276–6351, *david.ransom@nih.gov.*

*Name of Committee:* National Cancer Institute Special Emphasis Panel; NCI Provocative Questions 12.

*Date:* September 24, 2015.

*Time:* 4 p.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W124, Rockville, MD 20850 (Telephone Conference Call).

*Contact Person:* David G. Ransom, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W124, Rockville, MD 20850, 240–276–6351, *david.ransom@nih.gov.*

*Name of Committee:* National Cancer Institute, Special Emphasis Panel; NCI Provocative Questions 3.

*Date:* September 25, 2015.

*Time:* 9 a.m. to 12 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W124, Rockville, MD 20850 (Telephone Conference Call).

*Contact Person:* David G. Ransom, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, 9609 Medical Center Drive, Room 7W124, Rockville, MD 20850, 240–276–6351, *david.ransom@nih.gov.*

*Name of Committee:* National Cancer Institute, Special Emphasis Panel; NCI Provocative Questions 11.

*Date:* September 25, 2015.

*Time:* 1 p.m. to 3:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W124, Rockville, MD 20850 (Telephone Conference Call).

*Contact Person:* David G. Ransom, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W124, Rockville, MD 20850, 240–276–6351, *david.ransom@nih.gov.*

*Name of Committee:* National Cancer Institute, Special Emphasis Panel; NCI Provocative Questions 7.

*Date:* September 25, 2015.

*Time:* 3:30 p.m. to 4:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W124, Rockville, MD 20850 (Telephone Conference Call).

*Contact Person:* David G. Ransom, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W124, Rockville, MD 20850, 240–276–6351, *david.ransom@nih.gov.*

*Name of Committee:* National Cancer Institute, Special Emphasis Panel; NCI Omnibus SEP–7

*Date:* October 20–21, 2015.

*Time:* 8 a.m. to 6 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Hilton Washington DC/Rockville Hotel & Executive Meeting Center, 1750 Rockville Pike, Rockville, MD 20852.

*Contact Person:* Majed M. Hamawy, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W120, Bethesda, MD 20892, 240–276–6457, *mh101v@nih.gov.*

(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: August 10, 2015.

**Melanie J. Gray-Pantoja,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2015–19942 Filed 8–12–15; 8:45 am]

**BILLING CODE 4140–01–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIH Support for Conferences and Scientific Meetings (R13).

*Date:* September 10, 2015.

*Time:* 1:00 p.m. to 2:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Conference Room 3G62B, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

*Contact Person:* Travis J. Taylor, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, Room 3G62B, 5601 Fishers Lane, MSC 9823, Bethesda, MD 20892–9823, (240) 669–5082, *Travis.Taylor@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: August 10, 2015.

**Melanie J. Gray,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2015–19947 Filed 8–12–15; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Aging Special Emphasis Panel; Sleep and Aging.

*Date:* September 11, 2015.

*Time:* 10 a.m. to 4 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute on Aging, Gateway Building, Suite 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Alicja L. Markowska, Ph.D., DSC, Scientific Review Branch, National Institute on Aging, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–496–9666, *markowsa@nia.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: August 10, 2015.

**Melanie J. Gray,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2015–19945 Filed 8–12–15; 8:45 am]

**BILLING CODE 4140–01–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial

property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Program Project Drug Addiction.
*Date:* September 15–16, 2015.
*Time:* 8:00 a.m. to 6:00 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
*Contact Person:* John Bishop, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5182, MSC 7844, Bethesda, MD 20892, (301) 408–9664, *bishopj@csr.nih.gov*.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; RFA Panel: Animal/Biological Resource Facilities.
*Date:* September 16–17, 2015.
*Time:* 11:00 a.m. to 4:00 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
*Contact Person:* Andrea B. Kelly, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7770, Bethesda, MD 20892, (301) 455–1761, *kellya2@csr.nih.gov*.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; PAR 14–226: Limited Competition: National Primate Research Centers (P51).
*Date:* September 16–18, 2015.
*Time:* 5:00 p.m. to 5:00 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* Courtyard Riverwalk Marriott, 207 N. St. Mary's Street, San Antonio, TX 78205.
*Contact Person:* Maribeth Champoux, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3170, MSC 7848, Bethesda, MD 20892, 301–594–3163, *champoum@csr.nih.gov*.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; PAR Panel: High Throughput Screening.
*Date:* September 24, 2015.
*Time:* 8:00 a.m. to 6:00 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.
*Contact Person:* Nancy Templeton, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5168, MSC 7849, Bethesda, MD 20892, 301–408–9694, *templetonns@mail.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: August 10, 2015.

**Melanie J. Gray,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2015–19941 Filed 8–12–15; 8:45 am]

BILLING CODE 4140–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Proposed Collection; 60-Day Comment Request: Scientific Information Reporting System (SIRS) NIGMS

**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 Institute of General Medical Sciences (NIGMS), the 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 to address 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 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: W. Fred Taylor Ph.D., Acting Director, Center for Research Capacity Building NIGMS, NIH, 45 Center Drive, Room 2AS43S, MSC 6200, Bethesda MD 20892 or call non-toll-free number (301) 594–3900 or Email your request, including your address to: *taylorwf@mail.nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

*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:* Scientific Information Reporting System (SIRS), 0925–NEW, National Institute of General Medical Sciences (NIGMS), National Institutes of Health (NIH).

*Need and Use of Information Collection:* The SIRS is an online data collection system whose purpose is to obtain supplemental information to the annual Research Performance Progress Report (RPPR) submitted by grantees of the Institutional Development Award (IDeA) Program and the Native American Research Centers for Health (NARCH) Program. The SIRS will collect program-specific data not requested in the RPPR data collection system. The IDeA Program is a congressionally mandated, long-term interventional program administered by NIGMS aimed at developing and/or enhancing the biomedical research competitiveness of States and Jurisdictions that lag in NIH funding. The NARCH Program is an interagency initiative that provides support to American Indian and Alaska Native (AI/AN) tribes and organizations for conducting research in their communities in order to address health disparities, and to develop a cadre of competitive AI/AN scientists and health professionals. The data collected by SIRS will provide valuable information for the following purposes: (1) Evaluation of progress by individual grantees towards achieving grantee-designated and program-specified goals and objectives, (2) evaluation of the overall program for effectiveness, efficiency, and impact in building biomedical research capacity and capability, and (3) analysis of outcome measures to determine need for refinements and/or adjustments of different program features including but not limited to initiatives and eligibility criteria. Data collected from SIRS will be used for various regular or *ad hoc* reporting requests from interested stakeholders that include members of Congress, state and local officials, other federal agencies, professional societies, media, and other parties.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 613.

ESTIMATED ANNUALIZED BURDEN HOURS

| Form name | Respondents | Number of respondents | Number of responses per respondent | Average burden in hours per response | Total annual burden hours |
|---|---|---|---|---|---|
| SIRS | Principal Investigators, COBRE Phase I | 37 | 1 | 3.5 | 129.5 |
| SIRS | Principal Investigators, COBRE Phase II | 36 | 1 | 3.5 | 126 |
| SIRS | Principal Investigators, COBRE Phase III | 35 | 1 | 3.5 | 122.5 |
| SIRS | Principal Investigators, INBRE | 24 | 1 | 5.5 | 132 |
| SIRS | Principal Investigators, IDeA–CTR | 5 | 1 | 3.5 | 17.5 |
| SIRS | Principal Investigators, NARCH | 19 | 1 | 4.5 | 85.5 |

Dated: August 6, 2015.

**Tammy Dean-Maxwell,**

*Paperwork Reduction Act Liaison, NIGMS, NIH.*

[FR Doc. 2015–19849 Filed 8–12–15; 8:45 am]

BILLING CODE 4140–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Substance Abuse and Mental Health Services Administration

### Center for Substance Abuse Treatment: Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given that the Substance Abuse and Mental Health Services Administration's (SAMHSA's) Center for Substance Abuse Treatment (CSAT) National Advisory Council will meet on August 26, 2015, from 9 a.m.–5 p.m. (EDT) and will include a session that is closed to the public.

The open session of the meeting will be held 9 a.m.–3:30 p.m. and will include consideration of minutes from the SAMHSA CSAT NAC meeting of April 15, 2015, the CSAT Director's report, budget update, a presentation on the Science of Recovery, an overview of Recovery Month, and a presentation related to CSAT's role in responding to public health crisis events in communities.

The closed session will be held 3:30 p.m.–5 p.m. and will include discussion and evaluation of grant applications reviewed by Initial Review Groups, and involve an examination of confidential financial and business information as well as personal information concerning the applicants. Therefore, this portion of the meeting will be closed to the public, as determined by the SAMHSA Administrator, in accordance with Title 5 U.S.C. 552b(c)(4) and (6) and (c)(9)(B) and 5 U.S.C. App. 2, Section 10(d).

The meeting will be held at the SAMHSA building, 1 Choke Cherry Road, Sugarloaf Conference Room, Rockville, MD 20850. Attendance by the public will be limited to space available and will be limited to the open sessions of the meeting. Interested persons may present data, information, or views, orally or in writing, on issues pending before the Council. Written submissions should be forwarded to the contact person on or before August 16, 2015. Oral presentations from the public will be scheduled at the conclusion of the meeting. Individuals interested in making oral presentations are encouraged to notify the contact on or before August 16, 2015. Five minutes will be allotted for each presentation.

The open meeting session may be accessed via telephone. To attend on site, obtain the call-in number and access code, submit written or brief oral comments, or request special accommodations for persons with disabilities, please register on-line at *http://nac.samhsa.gov/Registration/meetingsRegistration.aspx,* or communicate with LCDR Holly Berilla, SAMHSA/CSAT NAC Designated Federal Officer (see contact information below).

Substantive meeting information and a roster of Council members may be obtained either by accessing the SAMHSA Council Web site at: *http://www.samhsa.gov/about-us/advisory-councils/csat-national-advisory-council* or by contacting LCDR Berilla.

Substantive program information may be obtained after the meeting by accessing the SAMHSA Council Web site, *http://nac.samhsa.gov/,* or by contacting LCDR Berilla.

*Council Name:* SAMHSA's Center for Substance Abuse Treatment, National Advisory Council.

*Date/Time/Type:* August 26, 2015, 9 a.m.–3:30 p.m. EDT, OPEN; August 26, 2015, 3:30 p.m.–5 p.m. EDT, CLOSED.

*Place:* SAMHSA Building, 1 Choke Cherry Road, Sugarloaf Conference Room, Rockville, Maryland 20850.

*Contact:* LCDR Holly Berilla, Designated Federal Officer, CSAT National Advisory Council, 1 Choke Cherry Road, Rockville, Maryland 20857 (mail), Telephone: (240) 276–1252, Fax: (240) 276–2252, Email: *holly.berilla@samhsa.hhs.gov.*

**Janine Cook,**

*Chemist, SAMHSA.*

[FR Doc. 2015–19937 Filed 8–12–15; 8:45 am]

BILLING CODE 4162–20–P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

**[USCG–2015–0689; OMB Control Number 1625–0070]**

### Information Collection Request to Office of Management and Budget

**AGENCY:** Coast Guard, DHS.

**ACTION:** Sixty-day notice requesting comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICRs) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting approval of a revision of a currently approved collection: 1625–0070, Vessel Identification System. Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

**DATES:** Comments must reach the Coast Guard on or before October 13, 2015.

**ADDRESSES:** You may submit comments identified by Coast Guard docket number [USCG–2015–0689] to the Docket Management Facility (DMF) at the U.S. Department of Transportation (DOT). To avoid duplicate submissions, please use only one of the following means:

(1) *Online: http://www.regulations.gov.*

(2) *Mail:* DMF (M–30), DOT, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(3) *Hand delivery:* Same as mail address above, between 9 a.m. and 5

p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(4) *Fax:* 202–493–2251. To ensure your comments are received in a timely manner, mark the fax, to attention Desk Officer for the Coast Guard.

The DMF maintains the public docket for this Notice. Comments and material received from the public, as well as documents mentioned in this Notice as being available in the docket, will become part of the docket and will be available for inspection or copying at room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find the docket on the Internet at *http://www.regulations.gov.*

Copies of the ICR(s) are available through the docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–612), Attn Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE., Stop 7710, Washington, DC 20593–7710.

**FOR FURTHER INFORMATION CONTACT:** Contact Mr. Anthony Smith, Office of Information Management, telephone 202–475–3532, or fax 202–372–8405, for questions on these documents. Contact Ms. Cheryl Collins, Program Manager, Docket Operations, 202–366–9826, for questions on the docket.

**SUPPLEMENTARY INFORMATION:**

## Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether these ICRs should be granted based on the Collections being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. In response to your comments, we may revise these ICRs or decide not to seek approval of revisions of the Collection. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2015–0689], and must be received by October 13, 2015. We will post all comments received, without change, to *http://www.regulations.gov.* They will include any personal information you provide. We have an agreement with DOT to use their DMF. Please see the ''Privacy Act'' paragraph below.

## Submitting Comments

If you submit a comment, please include the docket number [USCG–2015–0689], indicate the specific section of the document to which each comment applies, providing a reason for each comment. You may submit your comments and material online (via *http://www.regulations.gov*), by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via *www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the DMF. We recommend you include your name, mailing address, an email address, or other contact information in the body of your document so that we can contact you if we have questions regarding your submission.

You may submit your comments and material by electronic means, mail, fax, or delivery to the DMF at the address under **ADDRESSES**; but please submit them by only one means. To submit your comment online, go to *http://www.regulations.gov,* and type ''USCG–2015–0689'' in the ''Search'' box. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and will address them accordingly.

*Viewing comments and documents:* To view comments, as well as documents mentioned in this Notice as being available in the docket, go to *http://www.regulations.gov,* click on the ''read comments'' box, which will then become highlighted in blue. In the ''Search'' box insert ''USCG–2015–0689'' and click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. You may also visit the DMF 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., Monday through Friday, except Federal holidays.

## Privacy Act

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

## Information Collection Request

1. *Title:* Vessel Identification System.

*OMB Control Number:* 1625–0070.

*Summary:* The Coast Guard established a nationwide vessel identification system (VIS) and centralized certain vessel documentation functions. VIS provides participating States and Territories with access to data on vessels numbered by States and Territories. Participation in VIS is voluntary.

*Need:* Title 46 U.S.C. 12501 mandates the establishment of a VIS. Title 33 CFR part 187 prescribe the requirements of VIS.

*Forms:* None.

*Respondents:* Governments of States and Territories.

*Frequency:* On occasion.

*Burden Estimate:* The estimated burden has decreased from 5,456 hours to 5,164 hours a year due to a decrease in the estimated annual number of responses.

**Authority:** The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: August 1, 2015.

**Thomas P. Michelli,**

*Deputy Chief Information Officer, U.S. Coast Guard.*

[FR Doc. 2015–20004 Filed 8–12–15; 8:45 am]

BILLING CODE 9110–04–P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

**[USCG–2015–0636; OMB Control Number 1625–0088]**

### Information Collection Request to Office of Management and Budget

**AGENCY:** Coast Guard, DHS.

**ACTION:** Sixty-day notice requesting comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICRs) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting approval of a revision of a currently approved collection: 1625–0088, Voyage Planning for Tank Barge Transits in the Northeast United States. Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

**DATES:** Comments must reach the Coast Guard on or before October 13, 2015.

**ADDRESSES:** You may submit comments identified by Coast Guard docket number [USCG–2015–0636] to the Docket Management Facility (DMF) at the U.S. Department of Transportation (DOT). To avoid duplicate submissions, please use only one of the following means:

(1) *Online: http://www.regulations.gov.*

(2) *Mail:* DMF (M–30), DOT, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

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

(4) *Fax:* 202–493–2251. To ensure your comments are received in a timely manner, mark the fax, to attention Desk Officer for the Coast Guard.

The DMF maintains the public docket for this Notice. Comments and material received from the public, as well as documents mentioned in this Notice as being available in the docket, will become part of the docket and will be available for inspection or copying at room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find the docket on the Internet at *http://www.regulations.gov.*

Copies of the ICR(s) are available through the docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–612), Attn Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King, Jr. Ave. SE., Stop 7710, Washington, DC 20593–7710.

**FOR FURTHER INFORMATION CONTACT:** Mr. Anthony Smith, Office of Information Management, telephone 202–475–3532, or fax 202–372–8405, for questions on these documents. Contact Ms. Cheryl Collins, Program Manager, Docket Operations, 202–366–9826, for questions on the docket.

**SUPPLEMENTARY INFORMATION:**

### Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether these ICRs should be granted based on the Collections being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. In response to your comments, we may revise these ICRs or decide not to seek approval of revisions of the Collection. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2015–0636], and must be received by October 13, 2015. We will post all comments received, without change, to *http://www.regulations.gov.* They will include any personal information you provide. We have an agreement with DOT to use their DMF. Please see the ''Privacy Act'' paragraph below.

### Submitting Comments

If you submit a comment, please include the docket number [USCG–2015–0636], indicate the specific section of the document to which each comment applies, providing a reason for each comment. You may submit your comments and material online (via *http://www.regulations.gov*), by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via *www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the DMF. We recommend you include your name, mailing address, an email address, or other contact information in the body of your document so that we can contact you if we have questions regarding your submission.

You may submit your comments and material by electronic means, mail, fax, or delivery to the DMF at the address under **ADDRESSES**; but please submit them by only one means. To submit your comment online, go to *http://www.regulations.gov,* and type ''USCG–2015–0636'' in the ''Search'' box. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and will address them accordingly.

*Viewing comments and documents:* To view comments, as well as documents mentioned in this Notice as being available in the docket, go to *http://www.regulations.gov,* click on the ''read comments'' box, which will then become highlighted in blue. In the ''Search'' box insert ''USCG–2015–0636'' and click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. You may also visit the DMF 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., Monday through Friday, except Federal holidays.

**Privacy Act**

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

**Information Collection Request**

1. *Title:* Voyage Planning for Tank Barge Transits in the Northeast United States.

*OMB Control Number:* 1625–0088.

*Summary:* The information collection requirement for a voyage plan serves as a preventive measure and assists in ensuring the successful execution and completion of a voyage in the First Coast Guard District. This rule (33 CFR 165.100) applies to primary towing vessels engaged in towing tank barges carrying petroleum oil in bulk as cargo.

*Need:* Section 311 of the Coast Guard Authorization Act of 1998, Public Law 105–383, 33 U.S.C. 1231, and 46 U.S.C. 3719 authorize the Coast Guard to promulgate regulations for towing vessel and barge safety for the waters of the Northeast subject to the jurisdiction of the First Coast Guard District. This regulation is contained in 33 CFR 165.100. The information for a voyage plan will provide a mechanism for assisting vessels towing tank barges to identify those specific risks, potential equipment failures, or human errors that may lead to accidents.

*Forms:* None.

*Respondents:* Owners and operators of towing vessels.

*Frequency:* On occasion.

*Burden Estimate:* The estimated burden has decreased from 1,116 hours to 880 hours a year due to a decrease in the estimated annual number of responses.

**Authority:** The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: August 1, 2015.

**Thomas P. Michelli,**

*Deputy Chief Information Officer, U.S. Coast Guard.*

[FR Doc. 2015–20000 Filed 8–12–15; 8:45 am]

BILLING CODE 9110–04–P

## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

**[USCG–2015–0631; OMB Control Number 1625–0048]**

## Information Collection Request to Office of Management and Budget

**AGENCY:** Coast Guard, DHS.

**ACTION:** Sixty-day notice requesting comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICRs) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting approval of an extension of a currently approved collection: 1625–0048, Vessel Reporting Requirements. Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

**DATES:** Comments must reach the Coast Guard on or before October 13, 2015.

**ADDRESSES:** You may submit comments identified by Coast Guard docket number [USCG–2015–0631] to the Docket Management Facility (DMF) at the U.S. Department of Transportation (DOT). To avoid duplicate submissions, please use only one of the following means:

(1) *Online: http://www.regulations.gov.*

(2) *Mail:* DMF (M–30), DOT, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

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

(4) *Fax:* 202–493–2251. To ensure your comments are received in a timely manner, mark the fax, to attention Desk Officer for the Coast Guard.

The DMF maintains the public docket for this Notice. Comments and material received from the public, as well as documents mentioned in this Notice as being available in the docket, will become part of the docket and will be available for inspection or copying at room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find the docket on the Internet at *http://www.regulations.gov.*

Copies of the ICR(s) are available through the docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–612), Attn Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King, Jr. Ave. SE., Stop 7710, Washington, DC 20593–7710.

**FOR FURTHER INFORMATION CONTACT:** Mr. Anthony Smith, Office of Information Management, telephone 202–475–3532, or fax 202–372–8405, for questions on these documents. Contact Ms. Cheryl Collins, Program Manager, Docket Operations, 202–366–9826, for questions on the docket.

**SUPPLEMENTARY INFORMATION:**

**Public Participation and Request for Comments**

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether these ICRs should be granted based on the Collections being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. In response to your comments, we may revise these ICRs or decide not to seek approval of revisions of the Collection. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2015–0631], and must be received by October 13, 2015. We will post all comments received, without change, to *http://www.regulations.gov.* They will include any personal information you provide.

We have an agreement with DOT to use their DMF. Please see the ''Privacy Act'' paragraph below.

**Submitting Comments**

If you submit a comment, please include the docket number [USCG–2015–0631], indicate the specific section of the document to which each comment applies, providing a reason for each comment. You may submit your comments and material online (via *http://www.regulations.gov*), by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via *www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the DMF. We recommend you include your name, mailing address, an email address, or other contact information in the body of your document so that we can contact you if we have questions regarding your submission.

You may submit your comments and material by electronic means, mail, fax, or delivery to the DMF at the address under **ADDRESSES**; but please submit them by only one means. To submit your comment online, go to *http://www.regulations.gov,* and type ''USCG–2015–0631'' in the ''Search'' box. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and will address them accordingly.

*Viewing comments and documents:* To view comments, as well as documents mentioned in this Notice as being available in the docket, go to *http://www.regulations.gov,* click on the ''read comments'' box, which will then become highlighted in blue. In the ''Search'' box insert ''USCG–2015–0631'' and click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. You may also visit the DMF 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., Monday through Friday, except Federal holidays.

**Privacy Act**

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

**Information Collection Request**

1. *Title:* Vessel Reporting Requirements.

*OMB Control Number:* 1625–0048.

*Summary:* Owners, Charterers, Managing Operators, or Agents of U.S. vessels must immediately notify the Coast Guard if they believe the vessel may be lost or in distress. The Coast Guard uses this information to investigate the situation and, when necessary, plan appropriate search and rescue operations.

*Need:* Section 2306(a) of 46 U.S.C. requires the owner, charterer, managing operator, or an agent of vessels of the United States to immediately notify the Coast Guard if: (1) There is reason to believe that the vessel may have been lost or imperiled, or (2) more than 48 hours have passed since last receiving communication from the vessel. These reports must be followed by written confirmation submitted to the Coast Guard within 24 hours. The implementing regulations are contained in 46 CFR part 4.

*Forms:* None.

*Respondents:* Businesses or other for profit organizations.

*Frequency:* On occasion.

*Burden Estimate:* The estimated annual burden has increased from 137 hours to 138 hours a year due to an adjustment in agencies estimate.

**Authority:** The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: August 1, 2015.

**Thomas P. Michelli,**

*Deputy Chief Information Officer, U.S. Coast Guard.*

[FR Doc. 2015–19999 Filed 8–12–15; 8:45 am]

BILLING CODE 9110–04–P

## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

**[USCG–2015–0692; OMB Control Number 1625–0103]**

## Information Collection Request to Office of Management and Budget

**AGENCY:** Coast Guard, DHS.

**ACTION:** Sixty-day notice requesting comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICRs) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting approval of a revision of a currently approved collection: 1625–0103, Mandatory Ship Reporting System for the Northeast and Southeast Coasts of the United States. Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

**DATES:** Comments must reach the Coast Guard on or before October 13, 2015.

**ADDRESSES:** You may submit comments identified by Coast Guard docket number [USCG–2015–0692] to the Docket Management Facility (DMF) at the U.S. Department of Transportation (DOT). To avoid duplicate submissions, please use only one of the following means:

(1) *Online: http://www.regulations.gov.*

(2) *Mail:* DMF (M–30), DOT, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

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

(4) *Fax:* 202–493–2251. To ensure your comments are received in a timely manner, mark the fax, to attention Desk Officer for the Coast Guard.

The DMF maintains the public docket for this Notice. Comments and material received from the public, as well as documents mentioned in this Notice as being available in the docket, will become part of the docket and will be available for inspection or copying at room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find the docket on the Internet at *http://www.regulations.gov.*

Copies of the ICR(s) are available through the docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–612), Attn Paperwork Reduction Act Manager, US Coast Guard, 2703 Martin Luther King Jr. Ave. SE., Stop 7710, Washington DC 20593–7710.

**FOR FURTHER INFORMATION CONTACT:** Mr. Anthony Smith, Office of Information

Management, telephone 202–475–3532, or fax 202–372–8405, for questions on these documents. Contact Ms. Cheryl Collins, Program Manager, Docket Operations, 202–366–9826, for questions on the docket.

**SUPPLEMENTARY INFORMATION:**

## Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether these ICRs should be granted based on the Collections being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. In response to your comments, we may revise these ICRs or decide not to seek approval of revisions of the Collection. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2015–0692], and must be received by October 13, 2015. We will post all comments received, without change, to *http://www.regulations.gov.* They will include any personal information you provide. We have an agreement with DOT to use their DMF. Please see the ''Privacy Act'' paragraph below.

## Submitting Comments

If you submit a comment, please include the docket number [USCG–2015–0692], indicate the specific section of the document to which each comment applies, providing a reason for each comment. You may submit your comments and material online (via *http://www.regulations.gov*), by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via *www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the DMF. We recommend you include your name, mailing address, an email address, or other contact information in the body of your document so that we can contact you if we have questions regarding your submission.

You may submit your comments and material by electronic means, mail, fax, or delivery to the DMF at the address under **ADDRESSES**; but please submit them by only one means. To submit your comment online, go to *http://www.regulations.gov,* and type ''USCG–2015–0692'' in the ''Search'' box. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and will address them accordingly.

*Viewing comments and documents:* To view comments, as well as documents mentioned in this Notice as being available in the docket, go to *http://www.regulations.gov,* click on the ''read comments'' box, which will then become highlighted in blue. In the ''Search'' box insert ''USCG–2015–0692'' and click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. You may also visit the DMF 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., Monday through Friday, except Federal holidays.

## Privacy Act

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

## Information Collection Request

1. *Title:* Mandatory Ship Reporting System for the Northeast and Southeast Coasts of the United States.

*OMB Control Number:* 1625–0103.

*Summary:* The information is needed to reduce the number of ship collisions with endangered northern right whales. Coast Guard rules at 33 CFR part 169 establish two mandatory ship reporting systems off the northeast and southeast coasts of the United States.

*Need:* The collection involves ships' reporting by radio to a shore-based authority when entering the area covered by the reporting system. The ship will receive, in return, information to reduce the likelihood of collisions between themselves and northern right whales—an endangered species—in the areas established with critical-habitat designation.

*Forms:* None.

*Respondents:* Operators of certain vessels.

*Frequency:* On occasion.

*Burden Estimate:* The estimated burden has decreased from 200 hours to 188 hours a year due to a decrease in the estimated annual number of responses.

**Authority:** The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: August 1, 2015.

**Thomas P. Michelli,**

*Deputy Chief Information Officer, U.S. Coast Guard.*

[FR Doc. 2015–19997 Filed 8–12–15; 8:45 am]

BILLING CODE 9110–04–P

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# DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

**[USCG–2015–0691; OMB Control Number 1625–0099]**

## Information Collection Request to Office of Management and Budget

**AGENCY:** Coast Guard, DHS.

**ACTION:** Sixty-day notice requesting comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICRs) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting approval of a revision of a currently approved collection: 1625–0099, Requirements for the Use of Liquefied Petroleum Gas and Compressed Natural Gas as Cooking Fuel on Passenger Vessels. Our ICR describes the information we seek to collect from the

public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

**DATES:** Comments must reach the Coast Guard on or before October 13, 2015.

**ADDRESSES:** You may submit comments identified by Coast Guard docket number [USCG–2015–0691] to the Docket Management Facility (DMF) at the U.S. Department of Transportation (DOT). To avoid duplicate submissions, please use only one of the following means:

(1) *Online: http://www.regulations.gov.*

(2) *Mail:* DMF (M–30), DOT, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

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

(4) *Fax:* 202–493–2251. To ensure your comments are received in a timely manner, mark the fax, to attention Desk Officer for the Coast Guard.

The DMF maintains the public docket for this Notice. Comments and material received from the public, as well as documents mentioned in this Notice as being available in the docket, will become part of the docket and will be available for inspection or copying at Room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find the docket on the Internet at *http://www.regulations.gov.*

Copies of the ICR(s) are available through the docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–612), Attn Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr Ave SE., Stop 7710, Washington DC 20593–7710.

**FOR FURTHER INFORMATION CONTACT:** Mr. Anthony Smith, Office of Information Management, telephone 202–475–3532, or fax 202–372–8405, for questions on these documents. Contact Ms. Cheryl Collins, Program Manager, Docket Operations, 202–366–9826, for questions on the docket.

**SUPPLEMENTARY INFORMATION:**

## Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether these ICRs should be granted based on the Collections being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. In response to your comments, we may revise these ICRs or decide not to seek approval of revisions of the Collection. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2015–0691], and must be received by October 13, 2015. We will post all comments received, without change, to *http://www.regulations.gov.* They will include any personal information you provide. We have an agreement with DOT to use their DMF. Please see the ''Privacy Act'' paragraph below.

## Submitting comments

If you submit a comment, please include the docket number [USCG–2015–0691], indicate the specific section of the document to which each comment applies, providing a reason for each comment. You may submit your comments and material online (via *http://www.regulations.gov*), by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via *www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the DMF. We recommend you include your name, mailing address, an email address, or other contact information in the body of your document so that we can contact you if we have questions regarding your submission.

You may submit your comments and material by electronic means, mail, fax, or delivery to the DMF at the address under **ADDRESSES**; but please submit them by only one means. To submit your comment online, go to *http://www.regulations.gov,* and type ''USCG–2015–0691'' in the ''Search'' box. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and will address them accordingly.

*Viewing comments and documents:* To view comments, as well as documents mentioned in this Notice as being available in the docket, go to *http://www.regulations.gov,* click on the ''read comments'' box, which will then become highlighted in blue. In the ''Search'' box insert ''USCG–2015–0691'' and click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. You may also visit the DMF 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., Monday through Friday, except Federal holidays.

## Privacy Act

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

## Information Collection Request

1. *Title:* Requirements for the Use of Liquefied Petroleum Gas and Compressed Natural Gas as Cooking Fuel on Passenger Vessels.

*OMB Control Number:* 1625–0099.

*Summary:* This collection of information requires passenger vessels to post two placards that contain safety and operating instructions on the use of cooking appliances that use liquefied gas or compressed natural gas.

*Need:* Title 46 U.S.C. 3306 (a) (5) authorizes the Coast Guard to prescribe regulations for the use of vessel stores of a dangerous nature. These regulations

are prescribed in both uninspected and inspected passenger vessel regulations.

*Forms:* None.

*Respondents:* Owners and operators of passenger vessels.

*Frequency:* On occasion.

*Burden Estimate:* The estimated burden has increased from 5,948 hours to 6,429 hours a year due to an increase in the estimated annual number of respondents.

**Authority:** The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: August 1, 2015.

**Thomas P. Michelli,**

*Deputy Chief Information Officer, U.S. Coast Guard.*

[FR Doc. 2015–20002 Filed 8–12–15; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–5880–N–02]**

## Notice of Second Extension of Time for Completion of Manufacturer Notification and Correction Plan

**AGENCY:** Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (HUD).

**ACTION:** Notice of second extension of time.

**SUMMARY:** This notice advises the public that HUD received a request from Clayton Homes, Inc. (Clayton) for an extension of time to fully implement its plan to notify purchasers and correct certain manufactured homes that were installed with TruVent plastic range hood exhaust ducts, an item that Clayton agreed to recall after a HUD audit questioned whether the duct complied with HUD's Manufactured Home Construction and Safety Standards. The recall includes homes built by the following Clayton manufacturing subsidiaries: CMH Manufacturing, Inc.; CMH Manufacturing West, Inc.; Southern Energy Homes, Inc.; Giles Industries, Inc.; and Cavalier Homes, Inc. Clayton initiated the recall on April 6, 2015. On May 30, 2015, Clayton requested additional time to complete repairs on affected homes. After reviewing Clayton's request, HUD determined that Clayton had shown good cause and granted its request for an extension until August 3, 2015. HUD notified the public regarding its determination on June 15, 2015. Due to additional difficulties in notifying all affected homeowners, however, Clayton requested a second extension on July 23, 2015. After reviewing Clayton's second request, HUD determined that Clayton has shown good cause and granted its second request for an extension. Clayton's extension is granted until September 2, 2015.

**DATES:** *Effective Date:* August 3, 2015.

**FOR FURTHER INFORMATION CONTACT:** Pamela Beck Danner, Administrator, Office of Manufactured Housing Programs, Department of Housing and Urban Development, 451 Seventh Street SW., Room 9166, Washington, DC 20410, telephone 202–708–6423 (this is not a toll-free number). Persons who have difficulty hearing or speaking may access this number via TTY by calling the toll-free Federal Information Relay Service at 800–877–8339.

**SUPPLEMENTARY INFORMATION:** The National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401–5426) (the Act) authorizes HUD to establish the Federal Manufactured Home Construction and Safety Standards (Construction and Safety Standards), codified in 24 CFR part 3280. Section 615 of the Act (42 U.S.C. 5414) requires that manufacturers of manufactured homes notify purchasers if the manufacturer determines, in good faith, that a defect exists or is likely to exist in more than one home manufactured by the manufacturer and the defect relates to the Construction and Safety Standards or constitutes an imminent safety hazard to the purchaser of the manufactured home. The notification shall also inform purchasers whether the defect is one that the manufacturer will have corrected at no cost or is one that must be corrected at the expense of the purchaser/owner. The manufacturer is responsible to notify purchasers of the defect within a reasonable time after discovering the defect.

HUD's procedural and enforcement provisions at 24 CFR part 3282, subpart I (Subpart I), implement these notification and correction requirements. If a manufacturer determines that it is responsible for providing notification under § 3282.405 and correction under § 3282.406, the manufacturer must prepare a plan for notifying purchasers of the homes containing the defect pursuant to §§ 3282.408 and 3282.409. Notification of purchasers must be accomplished by certified mail or other more expeditious means that provides a receipt. Notification must be provided to each retailer or distributor to whom any manufactured home in the class of homes containing the defect was delivered, to the first purchaser of each manufactured home in the class of manufactured homes containing the defect, and to other persons who are registered owners of a manufactured home in the class of homes containing the defect. The manufacturer must complete the implementation of the plan for notification and correction on or before the deadline approved by the State Administrative Agency or the Department. Under § 3282.410(c), the manufacturer may request an extension of the deadline if it shows good cause for the extension and the Secretary decides that the extension is justified and not contrary to the public interest. If the request for extension is approved, § 3282.410(c) requires that the Department publish notice of the extension in the **Federal Register**.

During a HUD audit of the CMH Manufacturing Savannah, TN, facility, the use of TruVent plastic expanding vent pipes for the range hood exhaust was questioned as not being in compliance with § 3280.710(e) of HUD's Construction and Safety Standards. On April 6, 2015, after reviewing the matter, Clayton agreed to begin a recall of homes sold with the plastic expanding vent pipes and repair the homes by installing new metal ducts. On May 30, 2015, Clayton requested an extension of time to complete the correction process. On June 4, 2015, HUD granted the extension until August 3, 2015. HUD notified the public regarding its determination on June 15, 2015 (80 FR 34165). However, on July 23, 2015, Clayton requested an additional 30 days to complete its repairs. With its request, Clayton submitted an update on the implementation on its plan of notification and correction. Specifically, Clayton stated that it was still attempting to contact approximately 162 homeowners that had not responded to its certified notification letter. To contact these homeowners, Clayton stated that it was attempting to contact these homeowners by telephone based upon the purchaser information on record. In addition, Clayton stated that it had requested that personnel in its retail locations physically go to purchasers' addresses to attempt to contact the homeowner personally.

Given Clayton's continued efforts to contact these homeowners, this notice advises the public that HUD determined that Clayton has shown good cause for the extension and that the extension is justified and not contrary to the public interest. As a result, HUD granted Clayton's requested extension until September 2, 2015, to permit it to continue its good faith efforts to continue repairs on the remaining homes affected by this recall.

Dated: August 7, 2015

**Pamela Beck Danner,**

*Administrator, Office of Manufactured Housing Programs.*

[FR Doc. 2015–19858 Filed 8–12–15; 8:45 am]

**BILLING CODE 4210–67–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

**[156A2100DD/AAKC001030/ A0A501010.999900 253G]**

### Renewal of Agency Information Collection for Data Elements for Student Enrollment in Bureau-Funded Schools

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of request for comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, the Bureau of Indian Education (BIE) is seeking comments on the renewal of Office of Management and Budget (OMB) approval for the collection of information for Data Elements for Student Enrollment in Bureau-funded Schools. This information collection is currently authorized by OMB Control Number 1076–0122, which expires August 31, 2015.

**DATES:** Interested persons are invited to submit comments on or before September 14, 2015.

**ADDRESSES:** You may submit comments on the information collection to the Desk Officer for the Department of the Interior at the Office of Management and Budget, by facsimile to (202) 395–5806 or you may send an email to: *OIRA_Submission@omb.eop.gov.* Please send a copy of your comments to: Dr. Joe Herrin, Bureau of Indian Education, 1951 Constitution Avenue, MS–312–SIB, Washington, DC 20240; facsimile: (202) 208–3271; email: *Joe.Herrin@BIE.edu.*

**FOR FURTHER INFORMATION CONTACT:** Dr. Joe Herrin, phone: (202) 208–7658. You may review the information collection request online at *http://www.reginfo.gov.* Follow the instructions to review Department of the Interior collections under review by OMB.

**SUPPLEMENTARY INFORMATION:**

#### I. Abstract

The BIE is requesting renewal of OMB approval for the admission forms for the Student Enrollment Application in Bureau-funded Schools. School registrars collect information on this form to determine the student's eligibility for enrollment in a Bureau-funded school, and if eligible, is shared with appropriate school officials to identify the student's base and supplemental educational and/or residential program needs. The BIE compiles the information into a national database to facilitate budget requests and the allocation of congressionally appropriated funds.

#### II. Request for Comments

On April 30, 2015, the BIA published a notice announcing the renewal of this information collection and provided a 60-day comment period in the **Federal Register** (80 FR 24274). There were no comments received in response to this notice.

The BIE requests your comments on this collection concerning: (a) The necessity of this information collection for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) The accuracy of the agency's estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) Ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) Ways we could minimize the burden of the collection of the information on the respondents.

Please note that an agency may not conduct or sponsor, and an individual need not respond to, a collection of information unless it displays a valid OMB Control Number.

It is our policy to make all comments available to the public for review at the location listed in the **ADDRESSES** section. 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.

#### III. Data

*OMB Control Number:* 1076–0122.

*Title:* Data Elements for Student Enrollment in Bureau-funded Schools.

*Brief Description of Collection:* This annual collection provides Bureau-funded schools with data about students that impacts placement, special needs assessments, and funding for individuals and assists schools in developing a plan for the school year. The information is collected on a Student Enrollment Application form.

*Type of Review:* Extension without change of currently approved collection.

*Respondents:* Contract and Grant schools; Bureau-operated schools.

*Number of Respondents:* 48,000 per year, on average.

*Frequency of Response:* Once per year.

*Estimated Time per Response:* 15 minutes.

*Estimated Total Annual Hour Burden:* 12,000 hours.

*Estimated Total Annual Non-Hour Dollar Cost:* $0.

**Elizabeth K. Appel,**

*Director, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.*

[FR Doc. 2015–19883 Filed 8–12–15; 8:45 am]

**BILLING CODE 4437–15–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

**[156A2100DD/AAKC001030/ A0A501010.999900 253G]**

### Indian Gaming

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of extension of Tribal-State Class III Gaming Compact.

**SUMMARY:** This publishes notice of the extension of the Class III gaming compact between the Crow Creek Sioux Tribe and the State of South Dakota.

**DATES:** *Effective Date:* August 13, 2015.

**FOR FURTHER INFORMATION CONTACT:** Ms. Paula L. Hart, Director, Office of Indian Gaming, Office of the Deputy Assistant Secretary—Policy and Economic Development, Washington, DC 20240, (202) 219–4066.

**SUPPLEMENTARY INFORMATION:** Pursuant to 25 CFR 293.5, an extension to an existing tribal-state Class III gaming compact does not require approval by the Secretary if the extension does not include any amendment to the terms of the compact. The Crow Creek Sioux Tribe and the State of South Dakota have reached an agreement to extend the expiration of their existing Tribal-State Class III gaming compact to December 26, 2015. This publishes notice of the new expiration date of the compact.

Dated: August 6, 2015.

**Kevin K. Washburn,**

*Assistant Secretary—Indian Affairs.*

[FR Doc. 2015–19970 Filed 8–12–15; 8:45 am]

**BILLING CODE 4337–15–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

**[156A2100DD/AAKC001030/ A0A501010.999900 253G]**

### Notice of Intent To Prepare an Environmental Impact Statement for the Tejon Indian Tribe's Proposed Trust Acquisition and Casino Project, Kern County, California

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice.

**SUMMARY:** This notice advises the public that the Bureau of Indian Affairs (BIA) as lead agency and the Tejon Indian Tribe (Tribe) as cooperating agency intend to gather information necessary to prepare an Environmental Impact Statement (EIS) for the Tribe's Proposed Trust Acquisition and Casino Project, Kern County, California. This notice also opens public scoping to identify potential issues, concerns and alternatives to be considered in the EIS.

**DATES:** To ensure consideration during the development of the EIS, written comments on the scope of the EIS should be sent as soon as possible and no later than September 14, 2015. The date of the public scoping meeting will be announced at least 15 days in advance through a notice to be published in the local newspaper (the Bakersfield Californian) and online at *http://www.tejoneis.com*.

**ADDRESSES:** You may mail or hand-deliver written comments to Amy Dutschke, Regional Director, Bureau of Indian Affairs, Pacific Region, 2800 Cottage Way, Sacramento, California 95825. Please include your name, return address, and ''NOI Comments, Tejon Indian Tribe Project'' on the first page of your written comments. The location of the public scoping meeting will be announced at least 15 days in advance through a notice to be published in the local newspaper (the Bakersfield Californian) and online at *http://www.tejoneis.com*.

**FOR FURTHER INFORMATION CONTACT:** Mr. John Rydzik, Chief, Division of Environmental, Cultural Resource Management and Safety, Bureau of Indian Affairs, Pacific Regional Office, 2800 Cottage Way, Sacramento, Room W–2820, Sacramento, California 95825, telephone (916) 978–6051, email *john.rydzik@bia.gov*.

**SUPPLEMENTARY INFORMATION:** The proposed action and a reasonable range of alternatives, including a no-action alternative, will be analyzed in the EIS. The Tribe has submitted a request to the Department of the Interior (Department) for the placement of approximately 306 acres of fee land in trust by the United States upon which the Tribe would construct a gaming facility. The facility would initially be approximately 250,000 square feet, and in a subsequent phase, an approximately 300-room hotel and banquet space would be added. Accordingly, the proposed action for the Department is the acquisition requested by the Tribe. The proposed fee-to-trust property is located in unincorporated Kern County, immediately west of the town of Mettler and approximately 14 miles south of the City of Bakersfield. The property is comprised of four parcels, Assessor's Parcel Numbers (APN's) 238–204–02, 238–204–04, 238–204–07 and 238–204–14. The purpose of the proposed action is to improve the economic status of the Tribal government so it can better provide housing, health care, education, cultural programs, and other services to its members.

The proposed action encompasses the various Federal approvals which may be required to implement the Tribe's proposed economic development project, including approval of the Tribe's fee-to-trust application. The EIS will identify and evaluate issues related to these approvals, and will also evaluate a range of reasonable alternatives. Other possible alternatives currently under consideration are a reduced-intensity casino alternative, an alternate-use (non-casino) alternative and one or more off-site alternatives. The range of issues and alternatives may be expanded based on comments received during the scoping process.

Areas of environmental concern preliminarily identified for analysis in the EIS include land resources; water resources; air quality; noise; biological resources; cultural/historical/archaeological resources; resource use patterns; traffic and transportation; public health and safety; hazardous materials and hazardous wastes; public services and utilities; socioeconomics; environmental justice; visual resources/aesthetics; and cumulative, indirect, and growth-inducing effects. Additional information, including a map of the project site, is available by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

*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 a.m. to 4:30 p.m., Monday through Friday, except holidays. Before including your address, telephone 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 sections 1503.1 and 1506.6 of the Council on Environmental Quality Regulations (40 CFR parts 1500 through 1508) implementing the procedural requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321–4345 *et seq.*), and the Department of the Interior National Environmental Policy Act Regulations (43 CFR part 46), and is in the exercise of authority delegated to the Assistant Secretary—Indian Affairs by 209 DM 8.

Dated: August 6, 2015.

**Kevin K. Washburn,**

*Assistant Secretary—Indian Affairs.*

[FR Doc. 2015–19973 Filed 8–12–15; 8:45 am]

BILLING CODE 4337–15–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

**[156A2100DD/AAKC001030/ A0A501010.999900 253G]**

### Indian Gaming

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of Tribal-State Class III Gaming Compacts taking effect.

**SUMMARY:** The Department provides notice that the Indian Gaming Compact between the State of New Mexico and Ohkay Owingeh governing Class III gaming (Compact) is in effect pursuant to the Indian Gaming Regulatory Act.

**DATES:** Effective Date: August 13, 2015.

**FOR FURTHER INFORMATION CONTACT:** Ms. Paula L. Hart, Director, Office of Indian Gaming, Office of the Deputy Assistant Secretary—Policy and Economic Development, Washington, DC 20240, (202) 219–4066.

**SUPPLEMENTARY INFORMATION:** Under section 11 of the Indian Gaming Regulatory Act (IGRA) Public Law 100–497, 25 U.S.C. 2701 *et seq.,* the Secretary of the Interior shall publish in the **Federal Register** notice of approved Tribal-State compacts for the purpose of engaging in Class III gaming activities on Indian lands. As required by 25 CFR 293.4, all compacts are subject to review

and approval by the Secretary. The Secretary took no action on the Compact within 45 days of its submission. Therefore, the Compact is considered to have been approved, but only to the extent the Compact is consistent with IGRA. *See* 25 U.S.C. 2710(d)(8)(C).

Dated: August 6, 2015.

**Kevin K. Washburn,**

*Assistant Secretary—Indian Affairs.*

[FR Doc. 2015–19972 Filed 8–12–15; 8:45 am]

**BILLING CODE 4337–15–P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–WASO NRSS–SSB–19011; PX.XBSAD0104.00.1)]**

### Information Collection Request Sent to the Office of Management and Budget (OMB) for Approval; A Survey of National Parks and Federal Recreational Lands Pass Holders

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice; request for comments.

**SUMMARY:** We (National Park Service, NPS) have sent an Information Collection Request (ICR) to OMB for review and approval. We summarize the ICR below and describe the nature of the collection and the estimated burden and cost. We may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB Control Number. However, under OMB regulations, we may continue to conduct or sponsor this information collection while it is pending at OMB.

**DATES:** You must submit comments on or before September 14, 2015.

**ADDRESSES:** Send your comments and suggestions on this information collection to the Desk Officer for the Department of the Interior at OMB–OIRA at (202) 395–5806 (fax) or *OIRA_Submission@omb.eop.gov* (email). Please provide a copy of your comments to the Phadrea Ponds, Information Collection Coordinator, National Park Service, 1201 Oakridge Drive, Fort Collins, CO 80525 (mail); or *phadrea_ponds@nps.gov* (email). Please reference Information Collection 1024–ATB in the subject line. You may also access this ICR at *www.reginfo.gov.*

**FOR FURTHER INFORMATION CONTACT:** Joshua Nadas, National Park Service. 1201 Eye Street NW., 9th Floor. Washington, DC 20005. *Joshua_Nadas@nps.gov* (email); or (202) 354–6909 (phone).

**SUPPLEMENTARY INFORMATION:**

**I. Abstract**

The National Parks and Federal Recreational Lands Pass program is a cooperative effort between five federal agencies: National Park Service, U.S. Forest Service, Bureau of Reclamation, U.S. Fish and Wildlife Service, and Bureau of Land Management. A survey will be used to understand how passes are being used in recreational areas managed by the five partnering agencies. These passes are intended to provide ease of use and potential cost savings to the public, however there is no centralized tracking system available to determine where, when and how often the passes are used; and with that, there is no way to estimate the division of revenue between the agencies for the sale and use of the passes. The proposed survey will be used to gather information on use patterns from current pass holders to provide data that could be used to develop strategies for the equitable division of pass revenues between participating agencies.

**II. Data**

*OMB Control Number:* 1024—NEW.

*Title:* A Survey of National Parks and Federal Recreational Lands Pass Holders.

*Service Form Number(s):* None.

*Type of Request:* New Collection.

*Description of Respondents:* Individuals and general public.

*Respondent's Obligation:* Voluntary.

*Frequency of Collection:* One-time.

*Estimated Annual Number of Responses:* 2,610 respondents and 1,967 Non-respondents.

*Estimated Completion Time per Response:* 15 minutes per respondent and 3 minutes per non-respondent.

*Estimated Total Annual Burden Hours:* 751 hours.

*Estimated Annual Nonhour Burden Cost:* There are none.

**III. Comments**

On December 23, 2014 we published in the **Federal Register** (79 FR 77032) a notice of our intent to request that OMB renew approval for this information collection. In that notice, we solicited comments for 60 days, ending on February 23, 2015. We did not receive any comments in response to that notice.

We again invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. 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 OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

Dated: August 7, 2015.

**Madonna L. Baucum,**

*Information Collection Clearance Officer, National Park Service.*

[FR Doc. 2015–19905 Filed 8–12–15; 8:45 am]

**BILLING CODE 4310–70–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Reclamation

**[RR83550000, 15XR0680A1, RX.31580001.0090104]**

### Agency Information Collection Activities Under OMB Review; Renewal of a Currently Approved Information Collection (OMB Control Number 1006–0005)

**AGENCY:** Bureau of Reclamation, Interior.

**ACTION:** Notice of renewal and request for comments.

**SUMMARY:** We, the Bureau of Reclamation, have forwarded the following Information Collection Request to the Office of Management and Budget (OMB) for review and approval: Individual Landholder's and Farm Operator's Certification and Reporting Forms for Acreage Limitation, 43 CFR part 426 and 43 CFR part 428 (OMB Control Number 1006–0005). The Information Collection Request describes the nature of the information collection and its expected cost burden.

**DATES:** OMB has up to 60 days to approve or disapprove this information collection request, but may respond after 30 days; therefore, public comments must be received on or before September 14, 2015.

**ADDRESSES:** Send written comments to the Desk Officer for the Department of the Interior at the Office of Management and Budget, Office of Information and

Regulatory Affairs, via facsimile to (202) 395–5806, or email to *oira_submission@omb.eop.gov*. A copy of your comments should also be directed to Stephanie McPhee, Bureau of Reclamation, 84–55000, P.O. Box 25007, Denver, CO 80225–0007; or via email to *smcphee@usbr.gov*. Please reference OMB Control Number 1006–0005 in your comments.

**FOR FURTHER INFORMATION CONTACT:** Stephanie McPhee, Bureau of Reclamation, at (303) 445–2897. You may also view the Information Collection Request at *www.reginfo.gov*.

**SUPPLEMENTARY INFORMATION:**

## I. Abstract

This information collection is required under the Reclamation Reform Act of 1982 (RRA), Acreage Limitation Rules and Regulations, 43 CFR part 426, and Information Requirements for Certain Farm Operations In Excess of 960 Acres and the Eligibility of Certain Formerly Excess Land, 43 CFR part 428. This information collection requires certain landholders (direct or indirect landowners or lessees) and farm operators to complete forms demonstrating their compliance with the acreage limitation provisions of Federal reclamation law. The forms in this information collection are submitted to districts that use the information to establish each landholder's status with respect to landownership limitations, full-cost pricing thresholds, lease requirements, and other provisions of Federal reclamation law. In addition, forms are submitted by certain farm operators to provide information concerning the services they provide and the nature of their farm operating arrangements. All landholders whose entire westwide landholdings total 40 acres or less are exempt from the requirement to submit RRA forms. Landholders who are ''qualified recipients'' have RRA forms submittal thresholds of 80 acres or 240 acres depending on the district's RRA forms submittal threshold category where the land is held. Only farm operators who provide multiple services to more than 960 acres held in trusts or by legal entities are required to submit forms.

## II. Data.

*OMB Control Number:* 1006–0005.

*Title:* Individual Landholder's and Farm Operator's Certification and Reporting Forms for Acreage Limitation, 43 CFR part 426 and 43 CFR part 428.

*Form Number:* Form 7–2180, Form 7–2180EZ, Form 7–2181, Form 7–2184, Form 7–2190, Form 7–2190EZ, Form 7–2191, Form 7–2194, Form 7–21TRUST, Form 7–21PE, Form 7–21PE–IND, Form 7–21FARMOP, Form 7–21VERIFY, Form 7–21FC, Form 7–21XS, Form 7–21XSINAQ, Form 7–21CONT–I, Form 7–21CONT–L, Form 7–21CONT–O, and Form 7–21INFO.

*Frequency:* Annually.

*Respondents:* Landholders and farm operators of certain lands in our projects, whose landholdings exceed specified RRA forms submittal thresholds.

*Estimated Annual Total Number of Respondents:* 13,960.

*Estimated Number of Responses per Respondent:* 1.02.

*Estimated Total Number of Annual Responses:* 14,239.

*Estimated Total Annual Burden on Respondents:* 10,437 hours.

*Estimated Completion Time per Respondent:* See table below:

| Form No. | Burden estimate per form (in minutes) | Number of respondents | Annual number of responses | Annual burden on respondents (in hours) |
|---|---|---|---|---|
| Form 7–2180 | 60 | 3,595 | 3,667 | 3,667 |
| Form 7–2180EZ | 45 | 373 | 380 | 285 |
| Form 7–2181 | 78 | 1,050 | 1,071 | 1,392 |
| Form 7–2184 | 45 | 32 | 33 | 25 |
| Form 7–2190 | 60 | 1,601 | 1,633 | 1,633 |
| Form 7–2190EZ | 45 | 96 | 98 | 74 |
| Form 7–2191 | 78 | 777 | 793 | 1,031 |
| Form 7–2194 | 45 | 4 | 4 | 3 |
| Form 7–21PE | 75 | 135 | 138 | 173 |
| Form 7–21PE–IND | 12 | 4 | 4 | 1 |
| Form 7–21TRUST | 60 | 694 | 708 | 708 |
| Form 7–21VERIFY | 12 | 5,069 | 5,170 | 1,034 |
| Form 7–21FC | 30 | 214 | 218 | 109 |
| Form 7–21XS | 30 | 144 | 147 | 74 |
| Form 7–21FARMOP | 78 | 172 | 175 | 228 |
| Totals | | 13,960 | 14,239 | 10,437 |

## III. Request for Comments

We invite comments concerning this information collection on:

(a) Whether the proposed collection of information is necessary for the proper performance of our functions, including whether the information will have practical use;

(b) The accuracy of our burden estimate for the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, usefulness, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the collection of information on respondents.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. Reclamation will display a valid OMB control number on the forms.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on February 17, 2015 (80 FR 8342). No comments were received.

## IV. Public Disclosure

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we

cannot guarantee that we will be able to do so.

Dated: July 27, 2015.

**Roseann Gonzales,**

*Director, Policy and Administration.*

[FR Doc. 2015–19913 Filed 8–12–15; 8:45 am]

**BILLING CODE 4332–90–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Reclamation

**[RR83550000, 15XR0680A1, RX.31580001.0090104]**

### Agency Information Collection Activities Under OMB Review; Renewal of a Currently Approved Information Collection

**AGENCY:** Bureau of Reclamation, Interior.

**ACTION:** Notice of renewal and request for comments.

**SUMMARY:** We, the Bureau of Reclamation, have forwarded the following Information Collection Request to the Office of Management and Budget (OMB) for review and approval: Certification Summary Form and Reporting Summary Form for Acreage Limitation, 43 CFR part 426 and 43 CFR part 428 (OMB Control Number 1006–0006). The Information Collection Request describes the nature of the information collection and its expected cost burden.

**DATES:** OMB has up to 60 days to approve or disapprove this Information Collection Request, but may respond after 30 days; therefore, public comments must be received on or before September 14, 2015.

**ADDRESSES:** Send written comments to the Desk Officer for the Department of the Interior at the Office of Management and Budget, Office of Information and Regulatory Affairs, via facsimile to (202) 395–5806, or email to *oira_submission@omb.eop.gov.* A copy of your comments should be directed to Stephanie McPhee, Bureau of Reclamation, 84–55000, P.O. Box 25007, Denver, CO 80225–0007; or via email to *smcphee@usbr.gov.* Please reference OMB Control Number 1006–0006 in your comments.

**FOR FURTHER INFORMATION CONTACT:** Stephanie McPhee, Bureau of Reclamation, at (303) 445–2897. You may also view the Information Collection Request at *www.reginfo.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Abstract

This information collection is required under the Reclamation Reform Act of 1982 (RRA), Acreage Limitation Rules and Regulations, 43 CFR part 426, and Information Requirements for Certain Farm Operations In Excess of 960 Acres and the Eligibility of Certain Formerly Excess Land, 43 CFR part 428. The forms in this information collection are to be used by district offices to summarize individual landholder (direct or indirect landowner or lessee) and farm operator certification and reporting forms. This information allows us to establish water user compliance with Federal reclamation law.

### II. Data

*OMB Control Number:* 1006–0006.

*Title:* Certification Summary Form and Reporting Summary Form for Acreage Limitation, 43 CFR part 426 and 43 CFR part 428.

*Form Number:* Form 7–21SUMM–C and Form 7–21SUMM–R.

*Frequency:* Annually.

*Respondents:* Contracting entities that are subject to the acreage limitation provisions of Federal reclamation law.

*Estimated Annual Total Number of Respondents:* 177.

*Estimated Number of Responses per Respondent:* 1.25.

*Estimated Total Number of Annual Responses:* 221.

*Estimated Total Annual Burden on Respondents:* 8,840 hours.

*Estimated Completion Time per Respondent:* See table below.

*Estimated non-hour cost burden:* $154,759.

| Form No. | Burden estimate per form (in hours) | Number of respondents | Annual number of responses | Annual burden on respondents (in hours) |
|---|---|---|---|---|
| 7–21SUMM–C and associated tabulation sheets | 40 | 169 | 211 | 8,440 |
| 7–21SUMM–R and associated tabulation sheets | 40 | 8 | 10 | 400 |
| Totals | | 177 | 221 | 8,840 |

### III. Request for Comments

We invite comments concerning this information collection on:

(a) Whether the proposed collection of information is necessary for the proper performance of our functions, including whether the information will have practical use;

(b) The accuracy of our burden estimate for the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, usefulness, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the collection of information on respondents.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. Reclamation will display a valid OMB control number on the forms.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on February 17, 2015 (80 FR 8341). No comments were received.

### IV. Public Disclosure

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: July 27, 2015.

**Roseann Gonzales,**

*Director, Policy and Administration.*

[FR Doc. 2015–19923 Filed 8–12–15; 8:45 am]

**BILLING CODE 4332–90–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Reclamation

**[RR83550000, 15XR0680A1, RX.31580001.0090104]**

### Agency Information Collection Activities Under OMB Review; Renewal of a Currently Approved Information Collection

**AGENCY:** Bureau of Reclamation, Interior.

**ACTION:** Notice of renewal and request for comments.

**SUMMARY:** We, the Bureau of Reclamation, have forwarded the following Information Collection Request to the Office of Management and Budget (OMB) for review and approval: Forms to Determine Compliance by Certain Landholders, 43 CFR part 426 (OMB Control Number 1006–0023). The Information Collection Request describes the nature of the information collection and its expected cost burden.

**DATES:** OMB has up to 60 days to approve or disapprove this Information Collection Request, but may respond after 30 days; therefore, public comments must be received on or before September 14, 2015.

**ADDRESSES:** Send written comments to the Desk Officer for the Department of the Interior at the Office of Management and Budget, Office of Information and Regulatory Affairs, via facsimile to (202) 395–5806, or email to *oira_submission@omb.eop.gov.* A copy of your comments should also be directed to Stephanie Mcphee, Bureau of Reclamation, 84–55000, P.O. Box 25007, Denver, CO 80225–0007; or via email to *smcphee@usbr.gov.* Please reference OMB Control Number 1006–0023 in your comments.

**FOR FURTHER INFORMATION CONTACT:** Stephanie McPhee, Bureau of Reclamation, at (303) 445–2897. You may also view the Information Collection Request at *www.reginfo.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Abstract

*Identification of limited recipients*—Some entities that receive Reclamation irrigation water may believe that they are under the Reclamation Reform Act of 1982 (RRA) forms submittal threshold and, consequently, may not submit the appropriate RRA form(s). However, some of these entities may in fact have a different RRA forms submittal threshold than what they believe it to be due to the number of natural persons benefiting from each entity and the location of the land held by each entity. In addition, some entities that are exempt from the requirement to submit RRA forms due to the size of their landholdings (directly and indirectly owned and leased land) may in fact be receiving Reclamation irrigation water for which the full-cost rate must be paid because the start of Reclamation irrigation water deliveries occurred after October 1, 1981 [43 CFR 426.6(b)(2)]. The information obtained through completion of the Limited Recipient Identification Sheet (Form 7–2536) allows us to establish entities' compliance with Federal reclamation law. The Limited Recipient Identification Sheet is disbursed at our discretion.

*Trust review*—In order to administer section 214 of the RRA and 43 CFR 426.7, we are required to review and approve all trusts. Land held in trust generally will be attributed to the beneficiaries of the trust rather than the trustee if the criteria specified in the RRA and 43 CFR 426.7 are met. We may extend the option to complete and submit for our review the Trust Information Sheet (Form 7–2537) instead of actual trust documents when we become aware of trusts with a relatively small landholding (40 acres or less in districts subject to the prior law provisions of Federal reclamation law, 240 acres or less in districts subject to the discretionary provisions of Federal reclamation law). If we find nothing on the completed Trust Information Sheet that would warrant the further investigation of a particular trust, that trustee will not be burdened with submitting trust documents to us for in-depth review. The Trust Information Sheet is disbursed at our discretion.

*Acreage limitation provisions applicable to public entities*—Land farmed by a public entity can be considered exempt from the application of the acreage limitation provisions provided the public entity meets certain criteria pertaining to the revenue generated through the entity's farming activities (43 CFR 426.10 and the Act of July 7, 1970, Public Law 91–310). We are required to ascertain whether or not public entities that receive Reclamation irrigation water meet such revenue criteria regardless of how much land the public entities hold (directly or indirectly own or lease) [43 CFR 426.10(a)]. In order to minimize the burden on public entities, standard RRA forms are submitted by a public entity only when the public entity holds more than 40 acres subject to the acreage limitation provisions westwide, which makes it difficult to apply the revenue criteria as required to those public entities that hold less than 40 acres. When we become aware of such public entities, we request those public entities complete and submit for our review the Public Entity Information Sheet (Form 7–2565), which allows us to establish compliance with Federal reclamation law for those public entities that hold 40 acres or less and, thus, do not submit a standard RRA form because they are below the RRA forms submittal threshold. In addition, for those public entities that do not meet the exemption criteria, we must determine the proper rate to charge for Reclamation irrigation water deliveries. The Public Entity Information Sheet is disbursed at our discretion.

*Acreage limitation provisions applicable to religious or charitable organizations*—Some religious or charitable organizations that receive Reclamation irrigation water may believe that they are under the RRA forms submittal threshold and, consequently, may not submit the appropriate RRA form(s). However, some of these organizations may in fact have a different RRA forms submittal threshold than what they believe it to be depending on whether these organizations meet all of the required criteria for full special application of the acreage limitations provisions to religious or charitable organizations [43 CFR 426.9(b)]. In addition, some organizations that (1) do not meet the criteria to be treated as a religious or charitable organization under the acreage limitation provisions, and (2) are exempt from the requirement to submit RRA forms due to the size of their landholdings (directly and indirectly owned and leased land), may in fact be receiving Reclamation irrigation water for which the full-cost rate must be paid because the start of Reclamation irrigation water deliveries occurred after October 1, 1981 [43 CFR 426.6(b)(2)]. The Religious or Charitable Organization Identification Sheet (Form 7–2578) allows us to establish certain religious or charitable organizations' compliance with Federal reclamation law. The Religious or Charitable Organization Identification Sheet is disbursed at our discretion.

## II. Data.

*OMB Control Number:* 1006–0023.

*Title:* Forms to Determine Compliance by Certain Landholders, 43 CFR part 426.

*Form Number:* Form 7–2536, Form 7–2537, Form 7–2565, and Form 7–2578.

*Frequency:* Generally, these forms will be submitted only once per identified entity, trust, public entity, or religious or charitable organization.

Each year, we expect new responses in accordance with the following numbers.

*Respondents:* Entity landholders, trusts, public entities, and religious or charitable organizations identified by Reclamation that are subject to the acreage limitation provisions of Federal reclamation law.

*Estimated Annual Total Number of Respondents:* 500.

*Estimated Number of Responses per Respondent:* 1.0.

*Estimated Total Number of Annual Responses:* 500.

*Estimated Total Annual Burden on Respondents:* 72 hours.

*Estimated Completion Time per Respondent:* See table below:

| Form No. | Burden estimate per form (in minutes) | Number of respondents | Annual number of responses | Annual burden on respondents (in hours) |
|---|---|---|---|---|
| Limited Recipient Identification Sheet | 5 | 175 | 175 | 15 |
| Trust Information Sheet | 5 | 150 | 150 | 13 |
| Public Entity Information Sheet | 15 | 100 | 100 | 25 |
| Religious or Charitable Identification Sheet | 15 | 75 | 75 | 19 |
| Totals | | 500 | 500 | 72 |

## III. Request for Comments

We invite comments concerning this information collection on:

(a) Whether the proposed collection of information is necessary for the proper performance of our functions, including whether the information will have practical use;

(b) The accuracy of our burden estimate for the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, usefulness, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the collection of information on respondents.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. Reclamation will display a valid OMB control number on the forms.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on February 17, 2015 (80 FR 8343). No comments were received.

## IV. Public Disclosure

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: July 27, 2015.

**Roseann Gonzales,**

*Director, Policy and Administration.*

[FR Doc. 2015–19920 Filed 8–12–15; 8:45 am]

BILLING CODE 4332–90–P

## DEPARTMENT OF JUSTICE

**[OMB Number 1110–0048]**

## Agency Information Collection Activities: Proposed eCollection, eComments Requested; Extension of a Currently Approved Collection Cargo Theft Incident Report

**AGENCY:** Federal Bureau of Investigation, Department of Justice

**ACTION:** 60 day notice.

**SUMMARY:** The Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division (CJIS) has submitted the following Information Collection Request to the Office of Management and Budget (OMB) for review and clearance in accordance with the established review procedures of the Paperwork Reduction Act of 1995.

**DATES:** The **Federal Register** will October 13, 2015.

**FOR FURTHER INFORMATION CONTACT:** All comments, suggestions, or questions regarding additional information, to include obtaining a copy of the proposed information collection instrument with instructions, should be directed to Mr. Samuel Berhanu, Unit Chief, Federal Bureau of Investigation, CJIS Division, Module E–3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306; facsimile (304) 625–3566.

**SUPPLEMENTARY INFORMATION:** Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques of other forms of information technology, *e.g.,* permitting electronic submission of responses.

### Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *The Title of the Form/Collection:* Cargo Theft Incident Report.

(3) *The agency form number, if any, and the applicable component of the department sponsoring the collection:* Form Number 1110–0048.

Sponsor: Criminal Justice Information Services Division, Federal Bureau of Investigation, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: City, county, state, federal, and tribal law enforcement agencies. Abstract: This collection is needed to collect information on cargo theft incidents committed throughout the United States.

(5) *An estimate of the total number of respondents and the amount of time*

*estimated for an average respondent to respond:* There are approximately 18,415 law enforcement agency respondents that submit monthly for a total of 220,980 responses with an estimated response time of 5 minutes per response.

(6) *An estimate of the total public burden (in hours) associated with this collection:* There are approximately 18,415 hours, annual burden, associated with this information collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, United States Department of Justice, Two Constitution Square, 145 N Street NE., Room 3E.405, Washington, DC 20530.

Dated: August 10, 2015.

**Jerri Murray,**

*Department Clearance Officer for PRA, United States Department of Justice.*

[FR Doc. 2015–19938 Filed 8–12–15; 8:45 am]

BILLING CODE 4410–02–P

## DEPARTMENT OF JUSTICE

**[OMB Number 1140–0096]**

### Agency Information Collection Activities: Proposed eCollection eComments Requested; Environmental Information

**AGENCY:** Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

**ACTION:** 30-Day notice.

**SUMMARY:** The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. This proposed information collection was previously published in the 80 FR 33291, on June 11, 2015, allowing for a 60 day comment period.

**DATES:** The purpose of this notice is to allow for an additional 30 days for public comment until September 14, 2015.

**FOR FURTHER INFORMATION CONTACT:** If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Christopher Reeves at *Christopher.Reeves@atf.gov.* Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or send email to *OIRA_submission@omb.eop.gov.*

**SUPPLEMENTARY INFORMATION:** This process is conducted in accordance with 5 CFR 1320.10. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

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

**Overview of This Information Collection 1140–0096**

(1) *Type of Information Collection:* Extension of an existing collection.

(2) *Title of the Form/Collection:* Environmental Information.

(3) Agency form number, if any, and the applicable component of the Department sponsoring the collection:

*Form number:* ATF Form 5000.29.

*Component:* Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract:

*Primary:* Individual or households.

*Other:* None.

Abstract: The information will help ATF identify any waste product(s) generated as a result of the operations by the applicant and the disposal of the products. The information will help determine if there is any adverse impact on the environment.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: An estimated 680 respondents will take 30 minutes to complete the form.

(6) An estimate of the total public burden (in hours) associated with the collection: The estimated annual public burden associated with this collection is 340 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3E–405B, Washington, DC 20530.

Dated: August 10, 2015.

**Jerri Murray,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2015–19906 Filed 8–12–15; 8:45 am]

BILLING CODE 4410–FY–P

## DEPARTMENT OF JUSTICE

**[OMB Number 1121–0065]**

### Agency Information Collection Activities; Proposed eCollection eComments Requested; Proposed Collection: Extension of Currently Approved Collection; Survey: National Corrections Reporting Program

**AGENCY:** Bureau of Justice Statistics, Department of Justice.

**ACTION:** 30-Day notice.

**SUMMARY:** The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. This proposed information collection was previously published in the **Federal Register** at 80 FR 32607, on June 9, 2015, allowing for a 60 day comment period.

**DATES:** Comments are encouraged and will be accepted for an additional 30 days until September 14, 2015.

**FOR FURTHER INFORMATION CONTACT:** If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Elizabeth Ann Carson, Statistician, Bureau of Justice Statistics, 810 Seventh Street NW., Washington, DC 20531 (email: *elizabeth.carson@usdoj.gov;* telephone: 202/616.3496). Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention

Department of Justice Desk Officer, Washington, DC 20530 or sent to *OIRA_submissions@omb.eop.gov.*

**SUPPLEMENTARY INFORMATION:** Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, 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;
—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

**Overview of This Information Collection**

(1) *Type of Information Collection:* Extension of a Currently Approved Collection.

(2) *The Title of the Form/Collection:* National Corrections Reporting Program. The collection includes the forms: Prisoner Admission Report, Prisoner Release Report, Prisoners in Custody at Yearend Report, Post-Custody Community Supervision Entry Report, Post-Custody Community Supervision Exit Report.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form number(s): NCRP–1A, NCRP–1B, NCRP–1D, NCRP–1E, NCRP–1F. The applicable component within the Department of Justice is the Bureau of Justice Statistics (Corrections Unit), in the Office of Justice Programs.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State departments of corrections. Others: State government and Federal government. The National Corrections Reporting Program (NCRP) is the only national data collection furnishing annual individual-level information for state prisoners at five points in the incarceration process: Prison admission; prison release; annual yearend prison custody census; entry to post-custody community corrections supervision; and exits from post-custody community corrections supervision. BJS, the U.S. Congress, researchers, and criminal justice practitioners use these data to describe annual movements of adult offenders through state correctional systems, as well as to examine long term trends in time served in prison, demographic and offense characteristics of inmates, sentencing practices in the states that submit data, transitions between incarceration and community corrections, and recidivism. Providers of the data are personnel in the states' Departments of Corrections and Parole, and all data are submitted on a voluntary basis. The NCRP collects the following administrative data on each inmate in participating states' custody:

- County of sentencing
- State and federal inmate identification numbers
- Dates of: Birth; prison admission; prison release; projected prison release; mandatory prison release; eligibility hearing for post-custody community corrections supervision; post-custody community corrections supervision entry, post-custody community corrections supervision exit
- First and last names
- Demographic information: Sex; race; Hispanic origin; education level; prior military service; date and type of last discharge from military
- Offense type and number of counts per inmate for a maximum of three convicted offenses per inmate
- Prior time spent in prison and jail, and prior felony convictions
- Total sentence length imposed
- Additional offenses and sentence time imposed since prison admission
- Type of facility where inmate is serving sentence (for yearend custody census records only, the name of the facility is also requested)
- Type of prison admission
- Type of prison release
- Whether inmate was AWOL/escape during incarceration
- Agency assuming custody of inmate released from prison (post-custody community supervision records only)
- Supervision status prior to discharge from post-custody community supervision and type of discharge
- Location of post-custody community supervision exit or post-custody community supervision office (post-custody community supervision records only)

In addition, BJS is requesting OMB clearance to add the following items to the NCRP collection, all of which are likely available from the same databases as existing data elements, and should therefore pose minimal additional burden to the respondents, while greatly enhancing BJS' ability to better characterize the corrections systems and populations it serves:

- 9-digit social security number
- Address of last residence prior to incarceration
- Custody security level at which the inmate is held

BJS uses the information gathered in NCRP in published reports and statistics. The reports will be made available to the U.S. Congress, Executive Office of the President, practitioners, researchers, students, the media, others interested in criminal justice statistics, and the general public via the BJS Web site.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* BJS anticipates 57 respondents to NCRP for report year 2015: 50 state respondents and seven separate state parole boards. Each respondent currently submitting NCRP prison and post-custody community supervision data will require an estimated 27 hours of time to supply the information for their annual caseload and an additional 3 hours documenting or explaining the data for a total of 1,317 hours. For the one state which has not submitted prison data since 2004, and the 19 states that do not currently submit post-custody community supervision data, the total first year's burden estimate is 510 hours, which includes the time required for developing or modifying computer programs to extract the data, performing and checking the extracted data, and submitting it electronically to BJS' data collection agency via SFTP. The total burden for all 57 NCRP data providers is 1,827 hours for report year 2015. All states submit data via a secure file transfer protocol (SFTP) electronic upload.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 1,827 total burden hours associated with this collection for report year 2015.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: August 10, 2015.

**Jerri Murray,**

*Department Clearance Officer for PRA, U.S. Department of Justice*

[FR Doc. 2015–19909 Filed 8–12–15; 8:45 am]

**BILLING CODE 4410–18–P**

## DEPARTMENT OF JUSTICE

**[OMB Number 1121–0325]**

### Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Currently Approved Collection; Comments Requested Research To Support the National Crime Victimization Survey (NCVS)

**AGENCY:** Bureau of Justice Statistics, Department of Justice.

**ACTION:** 60-Day notice.

**SUMMARY:** The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

**DATES:** Comments are encouraged and will be accepted for 60 days until November 12, 2015.

**FOR FURTHER INFORMATION CONTACT:** If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Jennifer Truman, Statistician, Bureau of Justice Statistics, 810 Seventh Street NW., Washington, DC 20531 (email: *Jennifer.Truman@usdoj.gov;* telephone: 202–307–0765).

**SUPPLEMENTARY INFORMATION:** Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, 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;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

**Overview of This Information Collection**

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *The Title of the Form/Collection:* Methodological research to support the redesign of the National Crime Victimization Survey (NCVS).

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form numbers not available for generic clearance. The applicable component within the Department of Justice is the Bureau of Justice Statistics, in the Office of Justice Programs.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Persons 12 years or older living in sampled households located throughout the United States. The National Crime Victimization Survey (NCVS) collects, analyzes, publishes, and disseminates statistics on the criminal victimization in the U.S.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimate of the total number of respondents is 20,000. The average length of interview will vary by the type of interview conducted. Completing the crime screener and incident report is estimated to take the average interviewed respondent 15–30 minutes to respond, while a cognitive interview for testing alternative methods for measuring victimization may take 1–2 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 12,075 total burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: August 10, 2015.

**Jerri Murray,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2015–19907 Filed 8–12–15; 8:45 am]

**BILLING CODE 4410–18–P**

## DEPARTMENT OF JUSTICE

**[OMB Number 1110–0058]**

### Agency Information Collection Activities: Proposed Collection, Comments Requested; Revision of a Currently Approved Collection; National Incident-Based Reporting System (NIBRS)

**AGENCY:** Federal Bureau of Investigation, Department of Justice.

**ACTION:** 60-Day notice.

**SUMMARY:** The Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with established review procedures of the Paperwork Reduction Act of 1995.

**DATES:** The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted until October 13, 2015.

**FOR FURTHER INFORMATION CONTACT:** All comments, suggestions, or questions regarding additional information, to include obtaining a copy of the proposed information collection instrument with instructions, should be directed to Mr. Samuel Berhanu, Unit Chief, Federal Bureau of Investigation, Criminal Justice Information Services (CJIS) Division, Module E–3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306, or facsimile to (304) 625–3566.

**SUPPLEMENTARY INFORMATION:** Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques of other forms of information technology, *e.g.,* permitting electronic submission of responses.

**Overview of This Information Collection**

(1) *Type of information collection:* Revision of a currently approved collection.

(2) *The Title of the Form/Collection:* National Incident-Based Reporting System.

(3) *The agency form number, if any, and the applicable component of the department sponsoring the collection:* Form Number: 1110–0058. Sponsor: Criminal Justice Information Services Division, Federal Bureau of Investigation, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

*Primary:* City, county, state, tribal, and federal law enforcement agencies.

*Abstract:* Under U.S. Code, Title 28, Section 534, Acquisition, Preservation, and Exchange of Identification Records; Appointment of Officials, June 11, 1930; Public Law 109–177 (H.R. 3199), March 9, 2006, USA Patriot Improvement and Reauthorization Act of 2005; PL 110–457, Title II, Section 237(a), (b), December 23, 2008, the William Wilberforce Trafficking Victims Reauthorization Act of 2008, and Matthew Shepard Hate Crimes Prevention Act, April 28, 2009, this collection requests Incident data from city, county, state, tribal and federal law enforcement agencies in order for the FBI UCR Program to serve as the national clearinghouse for the collection and dissemination of incident data and to publish these statistics in Crime in the United States, Hate Crime Statistics, and Law Enforcement Officers Killed and Assaulted. NIBRS is an incident-based reporting system in which law enforcement collects data on each crime occurrence. Designed to be generated as a byproduct of local, state, and federal automated records systems, currently, the NIBRS collects data on each incident and arrest within 23 crime categories made up of 49 specific crimes called Group A offenses. For each of the offenses coming to the attention of law enforcement, various facts about the crime are collected. In addition to the Group A offenses, there are 10 Group B offense categories for which only arrest data are reported. The most significant difference between NIBRS and the traditional Summary Reporting System (SRS) is the degree of detail in reporting. In reporting data via the traditional SRS, law enforcement agencies tally the occurrences of eight Part I crimes. NIBRS is capable of producing more detailed, accurate, and meaningful data because data are collected about when and where crime takes place, what form it takes, and the characteristics of its victims and perpetrators. Although most of the general concepts for collecting, scoring, and reporting UCR data in the SRS apply in the NIBRS, such as jurisdictional rules, there are some important differences in the two systems. The most notable differences that give the NIBRS an advantage over the SRS are: No Hierarchy Rule, in a multiple-offense incident NIBRS reports every offense occurring during the incident where SRS would report just the most serious offense and the lower-listed offense would not be reported; NIBRS provides revised, expanded, and new offense definitions; NIBRS provides more specificity in reporting offenses, using NIBRS offense and arrest data for 23 Group A offense categories can be reported while in the SRS eight Part I offenses can be reported; NIBRS can distinguish between attempted and completed Group A crimes; NIBRS also provides crimes against society while the SRS does not; the victim-to-offender data, circumstance reporting, drug related offenses, offenders suspected use of drugs, and computer crime is expanded in NIBRS; the NIBRS update reports are directly tied to the original incident submitted. The Group A offense categories include arson, assault offenses, bribery, burglary/breaking and entering, counterfeiting/forgery, destruction/damage/vandalism of property, drug/narcotic offenses, embezzlement, extortion/blackmail, fraud offenses, gambling offenses, homicide offenses, human trafficking, kidnapping/abduction, larceny/theft offenses, motor vehicle theft, pornography/obscene material, prostitution offenses, robbery, sex offenses, sex offenses/non-forcible, stolen property offenses, and weapon law violations. The Group B offense categories include bad checks, curfew/loitering/vagrancy violations, disorderly conduct, DUI, drunkenness, family offenses/nonviolent, liquor law violations, peeping tom, trespass of real property, and all other offenses.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There are approximately 6,420 law enforcement agencies. The amount of time estimated for an average respondent to respond is two hours monthly which totals to an annual hour burden of 24 hours. The 2 hours to respond is the time it takes for the agencies records management system (RMS) to download the NIBRS and send to the FBI. By design, law enforcement agencies generate NIBRS data as a by-product of their RMS. Therefore, a law enforcement agency builds its system to suit its own individual needs, including all of the information required for administration and operation; then forwards only the data required by the NIBRS to participate in the FBI UCR Program.

(6) *An estimate of the total public burden (in hours) associated with this collection:* There are approximately 154,080 hours, annual burden, associated with this information collection. The total number of respondents is 6,420 with a total annual hour burden of 24 hours, (6,420 × 24 = 154,080 total annual hours).

If additional information is required contact: Jerri Murray, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, United States Department of Justice, Two Constitution Square, 145 N Street NE., Room 3E.405B, Washington, DC 20530.

**Jerri Murray,**

*Department Clearance Officer for PRA, United States Department of Justice.*

[FR Doc. 2015–19939 Filed 8–12–15; 8:45 am]

BILLING CODE 4410–02–P

## DEPARTMENT OF JUSTICE

**[OMB Number 1121–0317]**

## Agency Information Collection Activities; Proposed eCollection eComments Requested; 2016/2018 Identity Theft Supplement (ITS)

**AGENCY:** Bureau of Justice Statistics, Department of Justice.

**ACTION:** 30-Day notice; Reinstatement, with change, of a previously approved collection for which approval has expired.

**SUMMARY:** The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

**DATES:** Comments are encouraged and will be accepted for 30 days until September 14, 2015.

**FOR FURTHER INFORMATION CONTACT:** If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Erika Harrell, Statistician, Bureau of Justice Statistics, 810 Seventh Street NW., Washington, DC 20531 (email: *Erika.Harrell@usdoj.gov;* telephone: 202–307–0758). Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20530 or sent to *OIRA_submissions@omb.eop.gov.*

**SUPPLEMENTARY INFORMATION:** Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, 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;
—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

**Overview of This Information Collection**

(1) *Type of Information Collection:* Reinstatement of the Identity Theft Supplement, with changes, a previously approved collection for which approval has expired.

(2) *The Title of the Form/Collection:* 2016/2018 Identity Theft Supplement

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number for the questionnaire is ITS–1. The applicable component within the Department of Justice is the Bureau of Justice Statistics, in the Office of Justice Programs.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Respondents will be persons 16 years or older living in households located throughout the United States sampled for the National Crime Victimization Survey (NCVS). The ITS will be conducted as a supplement to the NCVS in all sample households for a six (6) month period. The ITS is primarily an effort to measure the prevalence of identity theft among persons, the characteristics of identity theft victims, and patterns of reporting to the police, credit bureaus, and other authorities. The ITS was also designed to collect important characteristics of identity theft such as how the victim's personal information was obtained; the physical, emotional and financial impact on victims; offender information; and the measures people take to avoid or minimize their risk of becoming an identity theft victim. BJS plans to publish this information in reports and reference it when responding to queries from the U.S. Congress, Executive Office of the President, the U.S. Supreme Court, state officials, international organizations, researchers, students, the media, and others interested in criminal justices statistics.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimate of the total number of respondents is 113,000. About 93% of respondents (101,090) will have no identity theft and will complete the short interview with an average burden of five minutes. Among the 7% of respondents (7,910) who experienced at least one incident of identity theft, the time to ask the detailed questions regarding the aspects of the most recent incident of identity theft is estimated to take an average of 14 minutes. Respondents will be asked to respond to this survey only once during the six month period. The burden estimate is based on data from prior administrations of the ITS.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There is an estimated 10,227 total burden hours associated with this collection.

*If additional information is required contact:* Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: August 10, 2015.

**Jerri Murray,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2015–19908 Filed 8–12–15; 8:45 am]

**BILLING CODE 4410–18–P**

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## DEPARTMENT OF JUSTICE

### Office of Justice Programs

**[OJP (OJJDP) Docket No. 1692]**

### Webinar Meeting of the Federal Advisory Committee on Juvenile Justice

**AGENCY:** Office of Juvenile Justice and Delinquency Prevention, Justice.

**ACTION:** Notice of webinar meeting.

**SUMMARY:** The Office of Juvenile Justice and Delinquency Prevention (OJJDP) has scheduled a webinar meeting of the Federal Advisory Committee on Juvenile Justice (FACJJ).

**DATES:** *Dates and Location:* The webinar meeting will take place online on Monday, August 24, 2015, 1:00–4:00 p.m. (ET).

**FOR FURTHER INFORMATION CONTACT:** Scott Pestridge, Acting Designated Federal Official, OJJDP, *Scott.Pestridge@ojp.usdoj.gov* or (202) 514–5655. [This is not a toll-free number.]

**SUPPLEMENTARY INFORMATION:** The Federal Advisory Committee on Juvenile Justice (FACJJ), established pursuant to Section 3(2)A of the Federal Advisory Committee Act (5 U.S.C. App. 2), will meet to carry out its advisory functions under Section 223(f)(2)(C–E) of the Juvenile Justice and Delinquency Prevention Act of 2002. The FACJJ is composed of representatives from the states and territories. FACJJ member duties include: Reviewing Federal policies regarding juvenile justice and delinquency prevention; advising the OJJDP Administrator with respect to particular functions and aspects of OJJDP; and advising the President and Congress with regard to State perspectives on the operation of OJJDP and Federal legislation pertaining to juvenile justice and delinquency prevention. More information on the FACJJ may be found at *www.facjj.org.*

*Meeting Agenda:* The proposed agenda includes: (a) Opening Remarks; Introductions; Webinar Logistics; (b) Remarks of Robert L. Listenbee, Administrator, OJJDP; (c) FACJJ Subcommittee Reports (Legislation; Expungement/Sealing of Juvenile Court Records; Research/Publications); (d) FACJJ Administrative Business; and (e) Summary; Next Steps; and Meeting Adjournment.

To participate in or view the webinar meeting, FACJJ members and the public must pre-register online. Members and interested persons must link to the webinar registration portal through *www.facjj.org,* no later than Wednesday, August 19, 2015. Upon registration, information will be sent to you at the email address you provide to enable you to connect to the webinar. Should problems arise with webinar registration, please call Callie Long Murray at (703) 334–1591. [This is not a toll-free telephone number.] Note: Members of the public will be able to listen to and view the webinar as observers, but will not be able to participate actively in the webinar.

An on-site room is available for members of the public interested in viewing the webinar in person. If members of the public wish to view the webinar in person, they must notify Marshall Edwards by email message at *Marshall.Edwards@usdoj.gov,* no later than Wednesday, August 19, 2015.

With the exception of the FACJJ Chair, FACJJ members will not be physically present in Washington, DC for the webinar. They will participate in the webinar from their respective home jurisdictions.

*Written Comments:* Interested parties may submit written comments by email message in advance of the webinar to Scott Pestridge, Acting Designated Federal Official, at *Scott.Pestridge@ojp.usdoj.gov* no later than Wednesday, August 19, 2015. In the alternative, interested parties may fax comments to (202) 353–9093 and contact Marshall D. Edwards at (202) 514–0929 to ensure that they are received. [These are not toll-free numbers.]

**Robert L. Listenbee,**

*Administrator, Office of Juvenile Justice and Delinquency Prevention.*

[FR Doc. 2015–19866 Filed 8–12–15; 8:45 am]

**BILLING CODE 4410–18–P**

## DEPARTMENT OF LABOR

### Office of the Secretary

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Notification of Methane Detected in Underground Metal and Nonmetal Mine Atmospheres

**ACTION:** Notice.

**SUMMARY:** The Department of Labor (DOL) is submitting the Mine Safety and Health Administration (MSHA) sponsored information collection request (ICR) titled, ''Notification of Methane Detected in Underground Metal and Nonmetal Mine Atmospheres,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA), 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 September 14, 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=201502–1219–002* (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 by email at *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–MSHA, 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 by email at *DOL_PRA_PUBLIC@dol.gov*.

**Authority:** 44 U.S.C. 3507(a)(1)(D).

**SUPPLEMENTARY INFORMATION:** This ICR seeks to extend PRA authority for the Notification of Methane Detected in Underground Metal and Nonmetal Mine Atmospheres information collection requirements codified in regulations 30 CFR part 57. Regulations 30 CFR 57.22004(c) requires a Metal/Non-Metal mine operator to notify the MSHA as soon as possible when any of the following events occur: There is an outburst that results in 0.25 percent or more methane in the mine atmosphere, there is a blowout that results in 0.25 percent or more methane in the mine atmosphere, there is an ignition of methane, or air sample results indicate 0.25 percent or more methane in the mine atmosphere of a I–B, I–C, II–B, V–B, or Category VI mine. Under §§ 57.22239 and 57.22231, if methane reaches 2.0 percent in a Category IV mine or if methane reaches 0.25 percent in the mine atmosphere of a Subcategory I–B, II–B, V–B, or VI mine, the MSHA is to be immediately notified. Regulations 30 CFR 57.22229 and 57.22230 require that the mine atmosphere be tested for either or both methane and carbon dioxide at least once every seven days by a competent person or atmospheric monitoring system or a combination of both. Section 57.2229 applies to an underground Metal/Non-Metal mine categorized as I–A, III, and V–A mines where the atmosphere is tested for both methane and carbon dioxide. Section 57.22230 applies to an underground Metal/Non-Metal mine categorized as II–A mines where the atmosphere is tested for methane. Where an examination discloses hazardous conditions, affected miners must be informed. Sections 57.22229(d) and 57.22230(c) require that the person performing a test certify by signature and date that the test has been conducted. Certifications of examinations are to be kept for at least one year and made available to authorized representatives of the Secretary of Labor. Federal Mine Safety and Health Act of 1977 sections 101(a) and 103(h) and (i) authorize this information collection. *See* 30 U.S.C. 811(a); 813(h) and (i).

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 1219–0103.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on September 30, 2015. The DOL seeks to extend PRA authorization for this information collection for three (3) more

years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on May 28, 2015 (80 FR 30495).

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 1219–0103. 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–MSHA.

*Title of Collection:* Notification of Methane Detected in Underground Metal and Nonmetal Mine Atmospheres.

*OMB Control Number:* 1219–0103.

*Affected Public:* Private Sector—businesses or other for-profits.

*Total Estimated Number of Respondents:* 4.

*Total Estimated Number of Responses:* 213.

*Total Estimated Annual Time Burden:* 18 hours.

*Total Estimated Annual Other Costs Burden:* $0.

Dated: August 7, 2015.

**Michel Smyth,**

*Departmental Clearance Officer.*

[FR Doc. 2015–19931 Filed 8–12–15; 8:45 am]

**BILLING CODE 4510–43–P**

## DEPARTMENT OF LABOR

### Office of the Secretary

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Reports of Injuries to Employees Operating Mechanical Power Presses

**ACTION:** Notice.

**SUMMARY:** The Department of Labor (DOL) is submitting the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, ''Reports of Injuries to Employees Operating Mechanical Power Presses,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA), 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 September 14, 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=201507-1218-001* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (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:** Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

**Authority:** 44 U.S.C. 3507(a)(1)(D).

**SUPPLEMENTARY INFORMATION:** This ICR seeks to extend PRA authority for the Reports of Injuries to Employees Operating Mechanical Power Presses information collection. In the event a worker is injured while operating a mechanical power press, regulations 29 CFR 1910.217(g) makes it mandatory for an Occupational Safety and Health Act (OSH Act) covered employer to report, within thirty (30) days of the occurrence, all point-of-operation injuries to operators or other employees either to the Director of the Directorate of Standards or to the State agency administering a plan approved by the Assistant Secretary of Labor for Occupational Safety and Health. Particularly, this information identifies the equipment used and conditions associated with these injuries. These reports are a source of up-to-date information on power press machines. OSH Act sections 2(b)(9), 6, and 8(c) authorize this information collection. *See* 29 U.S.C. 651(b)(9), 655, and 657(c).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1218–0070.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on October 31, 2015. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on April 29, 2015 (80 FR 23820).

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 1218–0070. The OMB is particularly interested in comments that:

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

*Agency:* DOL–OSHA.

*Title of Collection:* Reports of Injuries to Employees Operating Mechanical Power Presses.

*OMB Control Number:* 1218–0070.

*Affected Public:* Private Sector—businesses or other for-profits.

*Total Estimated Number of Respondents:* 1,210.

*Total Estimated Number of Responses:* 1,210.

*Total Estimated Annual Time Burden:* 400 hours.

*Total Estimated Annual Other Costs Burden:* $0.

Dated: August 7, 2015.

**Michel Smyth,**

*Departmental Clearance Officer.*

[FR Doc. 2015–19930 Filed 8–12–15; 8:45 am]

BILLING CODE 4510–26–P

## POSTAL SERVICE

### Product Change—Priority Mail Express and 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:* August 13, 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 August 7, 2015, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Express & Priority Mail Contract 20 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2015–78, CP2015–123.

**Stanley F. Mires,**

*Attorney, Federal Compliance.*

[FR Doc. 2015–19864 Filed 8–12–15; 8:45 am]

BILLING CODE 7710–12–P

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–75646; File No. SR–MSRB–2015–07]**

### Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing of a Proposed Rule Change Consisting of Revisions to the Content Outlines for the Municipal Fund Securities Limited Principal Qualification Examination, Municipal Securities Representative Qualification Examination and Municipal Securities Principal Qualification Examination and Revisions to the Selection Specifications for the Municipal Securities Principal Qualification Examination

August 7, 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 July 31, 2015, the Municipal Securities Rulemaking Board (the ''MSRB'' or ''Board'') filed with the Securities and Exchange Commission (the ''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the MSRB. 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 MSRB filed with the Commission proposed revisions to the content outlines for the Municipal Fund Securities Limited Principal Qualification Examination (Series 51), Municipal Securities Representative Qualification Examination (Series 52) and Municipal Securities Principal Qualification Examination (Series 53). As a result of changes to MSRB rules, revisions to the content outlines are necessary to more accurately indicate the current rule requirements and rule citations. Additionally, the MSRB is proposing revisions to the selection specifications for the Series 53 qualification examination (collectively, the ''proposed rule change'').[3] The MSRB is not proposing any textual changes to its rules.

The text of the proposed rule change is available on the MSRB's Web site at *www.msrb.org/Rules-and-Interpretations/SEC-Filings/2015-Filings.aspx,* at the MSRB's principal office, and at the Commission's Public Reference Room.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the MSRB 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 MSRB 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

Section 15B(b)(2)(A) of the Act [4] authorizes the MSRB to prescribe for municipal securities brokers or municipal securities dealers and their associated persons standards of training, experience, competence, and such other qualifications as the Board finds necessary or appropriate in the public

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The MSRB is also proposing changes to the question banks for the Series 51, Series 52 and Series 53 examinations, but based upon instructions from the Commission staff, the MSRB is submitting SR–MSRB–2015–07 for immediate effectiveness pursuant to Section 19(b)(3)(A)(i) of the Act and Rule 19b–4(f)(6) thereunder, and is not filing the question banks for Commission review. *See* letter to Diane G. Klinke, General Counsel, MSRB, from Belinda Blaine, Associate Director, Division of Market Regulation, SEC, dated July 24, 2000, attached as Exhibit 3d. The question banks are available for Commission review. The selection specifications for the Series 53 examination, Exhibit 3e, have been omitted and filed separately with the Commission for confidential treatment pursuant to Rule 24b–2 of the Securities Exchange Act.

[4] 15 U.S.C. 78*o*–4(b)(2)(A).

interest or for the protection of investors and municipal entities or obligated persons. The MSRB has developed examinations that are designed to establish that persons associated with brokers, dealers and municipal securities dealers that effect transactions in municipal securities and municipal advisors who engage in municipal advisory activities have attained specified levels of competence and knowledge. The content outline for each examination serves as a guide to the subject matter tested on the examination and provides learning objectives associated with each subject matter to assist candidates in preparing for the examination. Each content outline also provides sample questions similar to the type of questions that may be found on the examination. The arrangement of the subject matter in the content outline reflects the various job functions performed within a broker, dealer or municipal securities dealer. The MSRB periodically reviews the content outline for each examination to determine whether revisions are necessary or appropriate in view of changes pertaining to the subject matter covered by the examination. Below is a summary of the proposed revisions to the Series 51, Series 52 and Series 53 content outlines.

The selection specifications for the Series 53 examination, which the MSRB has submitted under separate cover with a request for confidential treatment to the Commission's

Secretary pursuant to Rule 24b–2 under the Act,[5] describe additional confidential information regarding the Series 53 examination.

MUNICIPAL FUND SECURITIES LIMITED PRINCIPAL QUALIFICATION EXAMINATION—SERIES 51

The Municipal Fund Securities Limited Principal Qualification Examination is designed to determine whether an individual meets the MSRB's qualification standards for municipal fund securities limited principals applicable to the activities described in Rule G–3(b)(iv).[6] To do this, the examination measures a candidate's knowledge of MSRB rules, rule interpretations and federal statutory provisions applicable to the activities listed above. It also measures the candidate's ability to apply these rules, interpretations and federal statutory provisions to given fact situations in the context of municipal fund securities activities. In addition to passing the Series 51 examination, to qualify as a municipal fund securities limited principal, a candidate must also have previously or concurrently qualified as a general securities principal or investment company/variable contracts limited principal. Candidates are allowed one and one-half hours to complete the Series 51 examination consisting of 60 multiple-choice questions.

As a result of recent changes to MSRB rules, revisions to the Series 51 content outline are necessary to indicate the current rule requirements and rule citations. A summary of the changes to the content outline for the Series 51 examination, detailed by major topic headings, is provided below:

Introduction

• Footnote 2 will be changed to footnote 3.

• The rule citation and quotation in footnote 3 regarding the ''Confidentiality of Qualification Examinations'' is being revised from ''Rule G–3(e)'' to ''Rule G–3(f)'' to conform to amendments to Rule G–3.

Part Three: General Supervision

Qualification and Registration

• The sub-topic ''Registration with the MSRB and payment of initial fee and annual fee A–12; A–14'' is being revised to ''Registration requirements A–12(a)'' to reflect that the relevant provision (which is now included in Rule A–12) is no longer included in Rule A–14, as amended.

• The rule citation and sub-topic ''Notification to the MSRB of change in status, name or address A–15'' is being revised to ''Form A–12 updates and withdrawal A–12(j)'' to conform to recent amendments of Rule A–12.

• The rule citation and sub-topic ''Requirement to submit email contact to MSRB G–40'' is being revised to ''Designated contacts A–12(f)'' to conform to recent amendments of Rule A–12.

Associated Persons

• The sub-topic ''financial and operations principals G–3(d)(i) and (ii)'' is being rescinded to reflect that this registration category is no longer referenced in Rule G–3.

• The sub-topic ''municipal advisor representatives G–3(d)'' and ''municipal advisor principals G–3(e)'' are being added to reflect the new registration category as referenced in Rule G–3.

• The sub-topic ''Apprenticeship requirement G–3(a)(iii)'' is being rescinded to reflect that, as amended, Rule G–3 no longer has this requirement.

• The sub-topic ''Restrictions on apprentices G–3(a)(iii)(A)'' is being rescinded to reflect that, as amended, Rule G–3 no longer has this requirement.

Supervisory Responsibilities

• The rule citation for sub-topic ''1. Responsible for municipal securities business and activities of associated persons'' is being revised from ''G–27(b)(i)'' to ''G–27(b)(ii)'' to reflect the reorganization of Rule G–27, as amended.

Part Four: Fair Practice and Conflicts of Interest

Conduct of Business

• The rule citation for sub-topic ''Prices and Commissions'' is being revised from ''G–30(b); G–18'' to ''G–30(b)'' to reflect that the relevant requirements are included in Rule G–30, as amended.

• The rule citation for sub-topic ''Advertising, 1. Definition'' is being revised from ''G–21(a)'' to ''G–21(a)(i)'' to reflect the reorganization of Rule G–21, as amended.

Part Five: Sales Supervision

Opening Customer Accounts

• The rule citation for sub-topic ''Requirement to obtain customer account information'' is being revised from ''G–19(a)'' to ''G–19'' to reflect the reorganization of Rule G–19, as amended.

• The sub-topic ''Transactions with employees and partners of other dealers G–28'' is being revised to ''Transactions

[5] 17 CFR 240.24b–2.

[6] MSRB Rule G–3(b)(iv) states that the municipal fund securities limited principal has responsibility to oversee the municipal securities activities of a securities firm or bank dealer solely as such activities relate to transactions in municipal fund securities. In this capacity, the municipal fund securities limited principal manages, directs or supervises one or more of the following activities relating to municipal fund securities as described in Rule G–3(b)(i)(A)–(G):

(A) Underwriting, trading or sales of municipal securities;

(B) financial advisory or consultant services for issuers in connection with the issuance of municipal securities;

(C) processing, clearance, and, in the case of brokers, dealers and municipal securities dealers other than bank dealers, safekeeping of municipal securities;

(D) research or investment advice with respect to municipal securities;

(E) any other activities which involve communication, directly or indirectly, with public investors in municipal securities;

(F) maintenance of records with respect to the activities described in subparagraphs (A) through (E); or

(G) training of municipal securities principals or municipal securities representatives;

*provided, however,* that the activities enumerated in subparagraphs (D) and (E) above shall be limited to such activities as they relate to the activities enumerated in subparagraphs (A) or (B) above.

with employees and partners of other municipal securities professionals G–28'' to reflect the reorganization of Rule G–28, as amended.

Suitability

• The rule citation for sub-topic ''Knowledge of customer'' is being revised from ''G–19(b)'' to ''G–19 [Supp. .04 and .06]'' to reflect that the relevant requirements are included in paragraphs .04 and .06 of the Supplementary Material of Rule G–19, as amended.

• The rule citation for sub-topic ''Suitability of recommendations'' is being revised from ''G–19(c)'' to ''G–19 [Supp. .05]'' to reflect that the relevant requirements are included in paragraph .05 of the Supplementary Material of Rule G–19, as amended.

Improper Activities

• The title of topic ''Improper Activities'' is being revised to ''Improper Use of Customer Assets.''

• The sub-topic and rule citation ''Churning G–19(e)'' are being revised to ''Quantitative suitability G–19 [Supp. .05(c)]'' to reflect that the relevant requirements are included in paragraph .05 of the Supplementary Material of Rule G–19, as amended.

Part Six: Underwriting and Disclosure Obligations

Disclosures to Customers

• The sub-topic and related rule citation ''Material disclosures at time of trade G–17'' are being revised to ''Time of trade disclosure G–47'' to reflect that the requirements are included in new Rule G–47.

Part Seven: Operations

Confirmation of Transactions

• The rule citation for sub-topic ''Periodic statements'' is being revised from ''G–15(a)(viii)'' to ''G–15(a)(viii)(B)(1)'' to reflect the reorganization of Rule G–15, as amended.

Sample Questions

• Sample question number 2 is being removed from the outline because the topic (apprenticeship) is no longer tested on the examination.

MUNICIPAL SECURITIES REPRESENTATIVE EXAMINATION—SERIES 52

The Municipal Securities Representative Qualification Examination is designed to determine whether an individual meets the MSRB's qualification standards for municipal securities representatives by measuring a candidate's knowledge of MSRB rules, rule interpretations and federal statutory provisions applicable to the activities listed in Rule G–3(a)(i).[7] The Series 52 examination also measures a candidate's ability to apply the rules and interpretations to given fact situations in the context of a representative's municipal securities activities. Candidates are allowed three and one-half hours to complete the examination consisting of 115 multiple-choice questions.

As a result of recent changes to MSRB rules, revisions to the Series 52 content outline are necessary to indicate the current rule requirements and rule citations. A summary of the changes to the content outline for the Series 52 examination, detailed by major topic headings, is provided below:

Introduction

• The rule citation and quote in the ''Confidentiality'' section is being revised from ''Rule G–3(e)'' to ''Rule G–3(f)'' and added as footnote 2, to conform to amendments to Rule G–3.

Part Four: Federal Legal Considerations

III. MSRB Rules

• The rule citation ''Professional Qualifications (G–2 through G–7)'' is being revised to ''Standards of Professional Qualification and Professional Qualification Requirements (G–2 through G–3)'' to conform to the current titles of the Rules, as amended.

• The rule citation ''Recordkeeping (G–8)'' is being revised to ''Books and Records to be Made by Brokers, Dealers, Municipal Securities Dealers, and Municipal Advisors (G–8)'' to conform to the current title of Rule G–8, as amended.

• The rule citation ''Preservation of Records (G–9)'' is being added, to reflect the relevant requirements included in Rule G–9.

• The rule citation ''Investor Brochure (G–10)'' is being revised to ''Delivery of Investor Brochure (G–10)'' to conform to the current title of Rule G–10.

• The rule citation ''New Issue Syndicate Practices (G–11)'' is being revised to ''Primary Offering Practices (G–11)'' to conform to the current title of Rule G–11.

• The rule citation ''Conduct of Municipal Securities Activities (G–17)'' is being revised to ''Conduct of Municipal Securities and Municipal Advisory Activities (G–17)'' to conform to the current title of Rule G–17, as amended.

• The rule citation ''Execution of Transactions (G–18)'' is being revised to ''Best Execution (G–18)'' to conform to the current title of Rule G–18, as amended.

• The rule citation ''Suitability of Recommendations and Transactions; Discretionary Accounts (G–19)'' is being revised to ''Suitability of Recommendations and Transactions (G–19)'' to conform to the current title of Rule G–19, as amended.

• The rule citation ''Disclosure of Control Relationships (G–22)'' is being revised to ''Control Relationships (G–22)'' to conform to the current title of Rule G–22, as amended.

• The rule citation ''Transactions with Employees of Other Municipal Securities Professionals (G–28)'' is being revised to ''Transactions with Employees and Partners of Other Municipal Securities Professionals (G–28)'' to conform to the current title of Rule G–28, as amended.

• The rule citation ''Calculations (G–33)'' is being added to reflect the requirements included in Rule G–33.

• The rule citation ''Broker's Broker (G–43)'' is being added to reflect the requirements included in Rule G–43.

• The rule citation ''Time of Trade Disclosure (G–47)'' is being added to reflect the requirements included in Rule G–47.

• The rule citation ''Transactions with Sophisticated Municipal Market Professionals (G–48)'' is being added to reflect the relevant requirements included in Rule G–48, as amended.

MUNICIPAL SECURITIES PRINCIPAL EXAMINATION—SERIES 53

The Municipal Securities Principal Qualification Examination (Series 53) is designed to determine whether an individual meets the Board's qualification standards for municipal securities principals. The Series 53 examination measures a candidate's knowledge of Board rules, rule interpretations and federal statutory provisions applicable to municipal securities activities. It also measures an

[7] MSRB Rule G–3(a)(i) states:

(A) The term ''municipal securities representative'' means a natural person associated with a broker, dealer or municipal securities dealer, other than a person whose functions are solely clerical or ministerial, whose activities include one or more of the following:

(1) underwriting, trading or sales of municipal securities;

(2) financial advisory or consultant services for issuers in connection with the issuance of municipal securities;

(3) research or investment advice with respect to municipal securities; or

(4) any other activities which involve communication, directly or indirectly, with public investors in municipal securities;

*provided, however,* that the activities enumerated in subparagraphs (3) and (4) above shall be limited to such activities as they relate to the activities enumerated in subparagraphs (1) and (2) above.

individual's ability to apply these rules and interpretations to given fact situations. Candidates are allowed three hours to complete the examination consisting of 100 multiple-choice questions.[8]

The selection specifications for the Series 53 examination, which the MSRB has submitted under separate cover with a request for confidential treatment to the Commission's Secretary pursuant to Rule 24b–2 under the Act,[9] describe additional confidential information regarding the Series 53 examination. Due to the changes in the selection specifications the weighting for 5 of the 6 topic areas of the Series 53 content outline have changed. The first topic area, Federal Regulation, remains the same at 4% of the exam. The second topic area, General Supervision, is 23% of the exam. The third topic area, Sales Supervision, is 25% of the exam. The fourth topic area, Origination and Syndication, is 23% of the exam. The fifth topic area, Trading, is 10% of the exam. The sixth topic area, Operations, is 15% of the exam.

As a result of recent changes to MSRB rules, revisions to the Series 53 content outline are necessary to indicate the current rule requirements and rule citations. A summary of the changes to the content outline for the Series 53 examination, detailed by major topic headings, is provided below:

Introduction

• The rule citation and quotation in footnote 2 regarding ''Confidentiality'' is being revised from ''Rule G–3(e)'' to ''Rule G–3(f)'' to conform to amendments to Rule G–3.

Part One: Federal Regulations

Rules of the Securities and Exchange Commission

• The rule citation ''Dodd-Frank Wall Street Financial Reform and Consumer Protection Act'' is being added to reflect the current status of federal securities law.

Part Two: General Supervision

Definitional Rules

• The rule citation ''Associated person D–11'' is being added to reflect the requirements included in Rule D–11, as amended.

• The rule citation ''Sophisticated Municipal Market Professional (SMMP) D–15'' is being added to reflect the requirements included in Rule D–15, as amended.

Qualification and Registration

• The rule citation ''Registration with the MSRB and payment of initial fee A–12'' is being revised to ''Registration A–12'' to conform to amendments to Rule A–12.

• The topic ''MSRB annual fee A–14'' is being removed to reflect that the relevant provision of Rule A–14 is now included in Rule A–12, as amended.

• The rule citation ''Assessments for Municipal Advisor Professionals A–11'' is being added to reflect the new requirement in Rule A–11.

• The topic ''Electronic mail contacts G–40'' is being removed because Rule G–40 has been rescinded.

• The rule citation ''Notification to the MSRB of change in status, name or address A–15'' is being removed to reflect that the relevant provision of Rule A–15 is now included in Rule A–12, as amended.

• The rule citation ''Limited representative—investment company and variable contracts products G–3(a)(i)(C)'' is being added to reflect the requirements included in Rule G–3, as amended.

• The rule citation ''Municipal advisor representative G–3(d)'' is being added to reflect the requirements included in Rule G–3, as amended.

• The rule citation ''Municipal advisor principal G–3(e)'' is being added to reflect the requirements included in Rule G–3, as amended.

• The topic ''financial and operations principals G–3d(i) and (ii)'' is being removed to reflect the rescission of the requirement in Rule G–3d(i) and (ii), as amended.

• The rule citation ''Continuing education requirements G–3(h)'' is being revised to ''Continuing education requirements G–3(i)'' to reflect the reorganization of Rule G–3, as amended.

• The rule citation ''Confidentiality of qualification examinations G–3(e)'' is being revised to ''Confidentiality of qualification examinations G–3(f)'' to reflect the reorganization of Rule G–3, as amended.

• The topic ''Apprenticeship requirement G–3(a)(iii)'' is being removed to reflect the rescission of the requirement.

Supervisory Responsibilities

• The rule citation ''Responsibility for municipal securities business and activities of associated persons G–27(b)(i)'' is being revised to ''Responsibility for municipal securities business and activities of associated persons G–27(b)'' to reflect the reorganization of Rule G–27.

• The topic and rule citation ''Internal inspections G–27(d)'' is being added to reflect the requirements included in Rule G–27.

• The topic area ''Definition G–22(a)'' is being revised to ''Definition of control relationship G–22(a)'' to provide clarity to the title of the topic area.

• The topic area ''Definitions G–20(e)'' is being revised to ''Definitions of 'non-cash compensation', 'cash compensation', 'offeror' and 'primary offering' G–20(e)'' to provide clarity to the title of the topic area.

• The topic area ''Prohibition from engaging in municipal securities business'' is being revised to ''Political contributions and prohibition from engaging in municipal securities business'' to provide clarity to the title of the topic area.

• The topic area ''Definitions G–37(g)'' is being revised to ''Definitions including 'municipal finance professional,' 'municipal securities businesses' and 'issuer official' G–37(g)'' to provide clarity to the title of the topic area.

• The topic area ''Period of prohibition G–37(b)'' is being revised to ''Ban on municipal securities business; *de minimis* exemption G–37(b)'' to conform to the title of Rule G–37.

• The topic area and rule citation ''Prohibition on Soliciting and Coordinating Contributions G–37(c)'' is being added to reflect the requirements included in Rule G–37.

• The topic area ''Definitions G–21(a)'' is being revised to ''Definitions; General standard for advertisements G–21(a)(iii)'' to provide clarity to the title of the topic area.

[8] MSRB Rule G–3(b)(i) states:

(i) Definition. The term ''municipal securities principal'' means a natural person (other than a municipal securities sales principal), associated with a broker, dealer or municipal securities dealer who is directly engaged in the management, direction or supervision of one or more of the following activities:

(A) underwriting, trading or sales of municipal securities;

(B) financial advisory or consultant services for issuers in connection with the issuance of municipal securities;

(C) processing, clearance, and, in the case of brokers, dealers and municipal securities dealers other than bank dealers, safekeeping of municipal securities;

(D) research or investment advice with respect to municipal securities;

(E) any other activities which involve communication, directly or indirectly, with public investors in municipal securities;

(F) maintenance of records with respect to the activities described in subparagraphs (A) through (E); or

(G) training of municipal securities principals or municipal securities representatives;

*provided, however,* that the activities enumerated in subparagraphs (D) and (E) above shall be limited to such activities as they relate to the activities enumerated in subparagraphs (A) or (B) above.

[9] 17 CFR 240.24b–2.

Part Three: Sales Supervision

Opening Customer Accounts

• The rule citation ''Requirement to obtain customer account information G–19(a)'' is being revised to ''Requirement to obtain customer account information G–19'' to reflect the reorganization of Rule G–19, as amended.

• The topic area ''Transactions with employees and partners of other dealers'' is being revised to ''Transactions with employees and partners of other municipal securities professionals'' to provide clarity to the title of the topic area.

• The topic area ''Exemption for municipal fund securities G–28(c)'' is being added to reflect the relevant requirements included in Rule G–28.

Communications With Customers

• The topic area and rule citation ''Restrictions on apprentices G–3(a)(iii)(A)'' is being removed to reflect the rescission of the requirement in Rule G–3, as amended.

• The topic area and rule citation ''Tape recording of conversations G–27(c)(ii)'' is being added to reflect the requirements included in Rule G–27.

Suitability

• The rule citation for topic area ''Knowledge of customer G–19(b)'' is being revised to ''Knowledge of customer G–19 [Supp. .04]'' to reflect that the relevant requirements are included in paragraph .04 of the Supplementary Material of Rule G–19, as amended.

• The rule citation for topic area ''Suitability of recommendations G–19(c)'' is being revised to ''Suitability of recommendations and transactions G–19'' to reflect that the relevant requirements are included in Rule G–19, as amended.

• The topic area and rule citation ''Time of trade disclosure G–47'' is being added to reflect the requirements included in Rule G–47.

• The topic area and rule citation ''Sophisticated Municipal Market Professionals (SMMP) G–48'' is being added to reflect the requirements included in Rule G–48, as amended.

• The section header ''Improper Activities'' is being revised to ''Supervisory Concerns'' to provide clarity to the title of the section.

• The topic area and rule citation ''Churning G–19(e)'' is being revised to ''Quantitative Suitability G–19 [Supp. .05]'' to reflect that the relevant requirements are included in paragraph .05 of the Supplementary Material of Rule G–19, as amended.

• The topic area ''Prohibition against soliciting and coordinating political contributions G–37(c) and (d)'' is being revised to ''Prohibition against soliciting and coordinating political contributions; and circumvention of rule, G–37(c) and (d)'' to reflect that the relevant requirements are included in Rule G–37.

Discretionary Accounts

• The topic area and rule citation ''Suitability G–19(d)'' is being moved to the suitability section in Part three of the content outline.

• The topic area and rule citation ''Written supervisory procedures G–27(c)(i)'' is being revised to ''Approval of transactions G–27(c)(i)(G)(2)'' to reflect the reorganization of Rule G–27.

Customer Complaints

• The rule citation for topic area ''Review by a principal G–27(c)(ii)'' is being revised to ''Review by a principal G–27(c)(i)(B)'' to reflect the reorganization of Rule G–27.

Part Four: Orientation and Syndication

New Issue Syndicate Practices

• The topic area and rule citation ''Retail order period and required disclosures G–11(k)'' are being added to reflect the requirements included in Rule G–11.

• The topic area ''Definitions A–13(f)'' is being revised to ''Definition of primary offering A–13(f)'' to provide clarity to the title of the topic area.

Part Five: Trading

Execution of Transactions

• The topic area ''Transactions as agent G–18'' is being revised to ''Best execution G–18'' to reflect the requirements included in Rule G–18.

• The topic area ''Prices and Commissions'' is being added to reflect the requirements included in Rule G–30.

• The topic area and rule citation ''Principal transactions G–30(a)'' is being moved from section two regarding general supervision to section five regarding trading.

• The topic area and rule citation ''Agency transactions G–30(b)'' is being moved from section two regarding general supervision to section five regarding trading.

• The topic area and rule citation ''Time of trade disclosure G–47'' is being added to reflect the requirements included in Rule G–47, as amended.

Reports of Sales or Purchases

• The topic area ''Definitions G–14, RTRS Procedures, Sect. (d)'' is being revised to ''Definitions relating to reporting requirements for specific types of transactions'' to provide clarity to the title of the topic area.

2. Statutory Basis

The MSRB believes that the proposed rule change is consistent with the provisions of Section 15B(b)(2)(A) of the Act,[10] which authorizes the MSRB to prescribe for municipal securities brokers or municipal securities dealers and their associated persons standards of training, experience, competence, and such other qualifications as the Board finds necessary or appropriate in the public interest or for the protection of investors and municipal entities or obligated persons. Section 15B(b)(2)(A) of the Act [11] also provides that the Board may appropriately classify municipal securities brokers, municipal securities dealers, and municipal advisors and persons associated with municipal securities brokers, municipal securities dealers and municipal advisors and require persons in any such class to pass tests prescribed by the Board.

The MSRB believes that the proposed revisions to the content outline for the Series 51, Series 52, and Series 53 examinations and changes to the selection specifications for the Series 53 examination are consistent with the provisions of Section 15B(b)(2)(A) of the Act [12] in that the revisions will ensure that certain key concepts and rules are tested on each of the examinations in order to test the competency of individuals seeking to qualify as a municipal fund securities limited principal, municipal securities representative and municipal securities principal with respect to their knowledge of MSRB rules and the municipal securities market.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The MSRB does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The updated Series 51, Series 52, and Series 53 content outlines align with the functions and associated tasks currently performed by municipal fund securities limited principals, municipal securities representatives, and municipal securities principals and tests knowledge of the most current laws, rules, and regulations and skills relevant to those functions and associated tasks. As such, the proposed rule change would make the examinations more efficient and effective.

[10] 15 U.S.C. 78*o*–4(b)(2)(A).

[11] *Id.*

[12] *Id.*

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments were neither solicited nor received on the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [13] and Rule 19b–4(f)(6) thereunder.[14] The examination content outlines for the Series 51, Series 52 and Series 53 examinations and the Series 52 selection specifications will become operative on August 31, 2015.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–MSRB–2015–07 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

All submissions should refer to File Number SR–MSRB–2015–07. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the MSRB. 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–MSRB–2015–07 and should be submitted on or before September 3, 2015.

For the Commission, pursuant to delegated authority.[15]

**Jill M. Peterson,**

*Assistant Secretary.*

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[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6).

[15] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–75641; File No. SR–NYSEArca–2015–65]**

## Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 6.15 To Establish Exchange Rules Governing the Give Up of a Clearing Member by Options Trading Permit Holders and OTP Firms and Conforming Changes to Rules 6.66 and 6.79

August 7, 2015.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on July 27, 2015, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule 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 6.15 to establish Exchange rules governing the give up of a Clearing Member by Options Trading Permit Holders and OTP Firms and proposes conforming changes to Rules 6.66 and 6.79. 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 Exchange proposes to amend Rule 6.15 to establish Exchange rules governing the ''give up'' of a Clearing Member [4] by Options Trading Permit Holders and OTP Firms (each an ''OTP,'' collectively, ''OTPs''). In addition, the Exchange proposes changes to Rules 6.66 and 6.79 to reflect proposed amendments to Rule 6.15. The Exchange believes that this proposal to include the give-up process in Exchange rules would result in the fair and reasonable use of resources by both the Exchange and OTPs. In addition, the proposed change would align the Exchange with competing options

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] Rule 6.1(3) defines ''Clearing Member'' as an Exchange OTP Firm or OTP Holder which has been admitted to membership in the Options Clearing Corporation pursuant to the provisions of the Rules of the Options Clearing Corporation.

exchanges that have recently adopted rules consistent with this proposal.[5]

By way of background, to enter transactions on the Exchange, an OTP must either be a Clearing Member or must have a Clearing Member agree to accept financial responsibility for all of its transactions. Specifically, Rule 6.15 provides that every Clearing Member will be responsible for the clearance of Exchange option transactions of each OTP that gives up the Clearing Member's name in an Exchange option transaction, provided the clearing member has authorized such member or member organization to give up its name with respect to Exchange option transactions. Similarly, Rule 6.79 provides, in relevant part, that every Clearing Member will be responsible for the clearance of Exchange transactions of each OTP that gives up the Clearing Member's name pursuant to a Letter of Authorization, Letter of Guarantee, or other authorization given by the Clearing Member to the executing OTP. In addition, Rule 6.66(a) (Order Identification) provides that for each transaction in which an OTP participates, the OTP must give up the name of the Clearing Member through whom the transaction will be cleared. The Exchange has determined that it would be beneficial to amend Rule 6.15 and specify in detail the give-up process and to modify Rules 6.66 and 6.79, as described below. The Exchange believes the proposed changes would result in a more comprehensive streamlined give up process.

Designated Give Ups and Guarantors

The Exchange proposes to amend current Rule 6.15 by replacing the current rule text[6] with details regarding the give up procedure for OTPs executing transactions on the Exchange, and to re-title this rule ''Give Up of a Clearing Member.''[7] As amended, Rule 6.15 would provide that an OTP may only give up a ''Designated Give Up'' or its ''Guarantor,'' as those roles would be defined in the Rule.

Specifically, amended Rule 6.15 would introduce and define the term ''Designated Give Up'' as any Clearing Member that an OTP (other than a Market Maker)[8] identifies to the Exchange, in writing, as a Clearing Member the OTP requests the ability to give up. To designate a ''Designated Give Up,'' an OTP must submit written notification to the Exchange, in a form and manner prescribed by the Exchange (''Notification Form''). A copy of the proposed Notification Form is included with this filing in Exhibit 3. Similarly, should an OTP no longer want the ability to give up a particular Designated Give Up, as proposed, the OTP would have to submit written notification to the Exchange, in a form and manner prescribed by the Exchange.

The Exchange notes that, as proposed, an OTP may designate any Clearing Member as a Designated Give Up. Additionally, there would be no minimum or maximum number of Designated Give Ups that an OTP must identify. The Exchange would notify a Clearing Member, in writing and as soon as practicable, of each OTP that has identified it as a Designated Give Up. The Exchange, however, would not accept any instructions, and would not give effect to any previous instructions, from a Clearing Member not to permit an OTP to designate the Clearing Member as a Designated Give Up. Further, the Exchange notes that there is no subjective evaluation of an OTP's list of proposed Designated Give Ups by the Exchange. Rather, the Exchange proposes to process each list as submitted and ensure that the Clearing Members identified as Designated Give Ups are in fact current Clearing Members, as well as confirm that the Notification Forms are complete (*e.g.,* contain appropriate signatures) and that the Options Clearing Corporation (''OCC'') numbers listed for each Clearing Member are accurate.

As amended, Rule 6.15 would also define the term ''Guarantor'' as a Clearing Member that has issued a Letter of Guarantee or Letter of Authorization for the executing OTP, pursuant to Rules of the Exchange[9] that is in effect at the time of the execution of the applicable trade. An executing OTP may give up its Guarantor without such Guarantor being a ''Designated Give Up.'' The Exchange notes that Rule 6.36 provides that a Letter of Guarantee is required to be issued and filed by each Clearing Member through which a Market Maker clears transactions. Accordingly, a Market Maker would only be enabled to give up a Guarantor that had executed a Letter of Guarantee on its behalf pursuant to Rule 6.36. Thus, Market Makers would not identify any Designated Give Ups.

As noted above, amended Rule 6.15 would provide that an OTP may give up only (i) the name of a Clearing Member that has previously been identified and processed by the Exchange as a Designated Give Up for that OTP, if not a Market Maker or (ii) its Guarantor.[10] This proposed requirement would be enforced by the Exchange's trading systems. Specifically, the Exchange has configured its trading systems to only accept orders from an OTP that identifies a Designated Give Up or Guarantor for that OTP and would reject any order entered by an OTP that designates a give up that is not at the time a Designated Give Up or Guarantor of the OTP.[11] The Exchange notes that it would notify an OTP in writing when an identified Designated Give Up becomes ''effective'' (*i.e.,* when a Clearing Member that has been identified by the OTP as a Designated Give Up has been enabled by the Exchange's trading systems to be given up). A Guarantor for an OTP, by virtue of having an effective Letter of Authorization or Letter of Guarantee on file with the Exchange, would be enabled to be given up for that OTP without any further action by the OTP. The Exchange notes that this configuration (*i.e.,* the trading system accepting only orders that identify a Designated Give Up or Guarantor) is intended to help reduce ''keypunch errors'' and prevent OTPs from mistakenly giving up the name of a

[5] *See* Securities and Exchange Act Release No. 72668 (July 24, 2014), 79 FR 44229 (July 30, 2014) (SR–CBOE–2014–048) (order approving proposed rule change relating to the ''give up'' process, the process by which a Trading Permit Holder ''gives up'' or selects and indicates the Clearing Trading Permit Holder responsible for the clearance of an Exchange transaction). *See also* Securities Exchange Act Release No. 72325 (June 5, 2014), 79 FR 33614 (June 11, 2014) (Notice). The Exchange notes that this proposal is a copycat filing, which is substantially similar in all material respects to the give-up process approved on CBOE, except as noted herein. *See infra* n. 13 (regarding rule text in amended Rule 6.15(f) explicitly describing procedures for Guarantors to reject a trade).

[6] *See* Rule 6.15 (Responsibility of Clearing OTP Holders and OTP Firms for Exchange Option Transactions) (''Every OTP Holder and OTP Firm which is a clearing member of the Options Clearing Corporation shall be responsible for the clearance of the Exchange option transactions of such OTP Holder and OTP Firm and of each OTP Holder and OTP Firm which gives up the name of such clearing member in an Exchange option transaction, provided the clearing member has authorized such OTP Holder and OTP Firm to give up its name with respect to Exchange option transactions.'').

[7] As discussed below, proposed paragraph (h) of amended Rule 6.15 addresses and clarifies the financial responsibility of Clearing Members, and, as such, the Exchange believes the original rule text is rendered unnecessary.

[8] For purposes of this rule, references to ''Market Maker'' refer to OTPs acting in the capacity of a Market Maker and include all Exchange Market Maker capacities *e.g.*, Lead Market Makers. As explained below, Market Makers give up Guarantors that have executed a Letter of Guarantee on behalf of the Marker Maker, pursuant to Rule 6.36; Market Makers need not give up Designated Give Ups.

[9] *See* Rule 6.36 (Letters of Guarantee); Rule 6.45 (Letters of Authorization).

[10] As described below, amended Rule 6.15(f) provides that a Designated Give Up or Guarantor may, under certain circumstances, reject a trade on which it is given up and another Clearing Member may agree to accept the subject trade.

[11] *See id.*

Clearing Member that it does not have the ability to give up a trade.

Acceptance of a Trade

The Exchange proposes in paragraph (e) of amended Rule 6.15 that a Designated Give Up and a Guarantor may, in certain circumstances, determine not to accept a trade on which its name was given up. If a Designated Give Up or Guarantor determines not to accept a trade, the proposed Rule would provide that it may reject the trade in accordance with the procedures described more fully below under ''Procedures to Reject a Trade.''

As proposed, a Designated Give Up may determine to not accept a trade on which its name was given up so long as it believes in good faith that it has a valid reason not to accept the trade and follows the procedures to reject a trade in proposed paragraph (f) of the amended Rule.[12]

The Exchange also proposes to provide that a Guarantor may opt to not accept (and thereby reject) a non-Market Maker trade on which its name was given up, provided that the following steps are completed: (i) Another Clearing Member agrees to be the give up on the trade; (ii) that other Clearing Member has notified both the Exchange and executing OTP in writing of its intent to accept the trade; and (iii) the procedures in Rule 6.15(f) are followed. In addition, the give up must be changed to the Clearing Member that has agreed to accept the trade in accordance with the procedures in paragraph (f) of Rule 6.15. A Guarantor may not reject a trade given up by a Market Maker.

The Exchange notes that only a Designated Give Up or Guarantor whose name was initially given up on a trade is permitted to reject the trade, subject to the conditions noted above. The Clearing Member or Guarantor that becomes the give up on a rejected trade may not also reject the trade.

Procedures To Reject a Trade

The Exchange proposes to include in amended Rule 6.15 procedures that must be followed and completed in order for a Designated Give Up or Guarantor[13] to reject a trade. Specifically, a Designated Give Up can only change the give up to (1) another Clearing Member that has agreed to be the give up on the subject trade (''New Clearing Member''), provided the New Clearing Member has notified the Exchange and the executing OTP in writing of its intent to accept the trade in a form and manner prescribed by the Exchange (''Give-Up Change Form for Accepting Clearing Member''); [14] or (2) a Guarantor for the executing OTP, provided the Designated Give Up has notified the Guarantor in writing that it is changing the give up on the trade to the Guarantor.[15] Further, as proposed, a Guarantor, can only reject a non-Market Maker trade[16] for which its name was the initial give up by an OTP and change the give up to another Clearing Member that has agreed to be the give up on the subject trade, provided the New Clearing Member has notified the Exchange and the executing OTP in writing of its intent to accept the trade (*i.e.,* by filling out a Give-Up Change Form for Accepting Clearing Member). A Guarantor that becomes the give up on a trade as a result of the Designated Give Up rejecting the trade is prohibited from not accepting the trade/rejecting the trade. This prohibition would provide finality to the trade and ensure that the trade is not repeatedly reassigned from one Clearing Member to another.

As proposed, a Guarantor may only reject a non-Market Maker trade for which its name was the initial give up by an OTP, if another Clearing Member has agreed to be the give up on the trade and has notified the Exchange and executing OTP in writing of its intent to accept the trade. If a Guarantor of an OTP decides to reject a trade on the trade date, it must follow the same procedures to change the give up as would be followed by a Designated Give Up. The ability to make any changes, either by the Designated Give Up or Guarantor, to the give up pursuant to this procedure would end at the Trade Date Cutoff Time.

Finally, once the give up on a trade has been changed, the Designated Give Up or Guarantor making the change must immediately thereafter notify, in writing, the Exchange, the parties to the trade, and the Clearing Member given up, of the change.

Rejection on Trade Date

As proposed, a trade may only be rejected on (i) the trade date or (ii) the business day following the trade date (''T+1'') (except that transactions in expiring options series on the last trading day prior to expiration may not be rejected on T+1).

If, on the trade date, a Designated Give Up decides to reject a trade, or another Clearing Member agrees to be the give up on a trade for which a Guarantor's name was given up, the Exchange proposes that the rejecting Designated Give Up or Guarantor must notify, in writing, the executing OTP or its designated agent, as soon as possible and attempt to resolve the disputed give up. This requirement puts the executing OTP on notice that the give up on the trade may be changed and provides the executing OTP and Designated Give Up or Guarantor an opportunity to resolve the dispute. The Exchange notes that a Designated Give Up or Guarantor may request from the Exchange the contact information of the executing OTP or its designated agent for any trade it intends to reject.

Following notification to the executing OTP on the trade date, a Designated Give Up or Guarantor may request the ability from the Exchange to change the give up on the trade, in a form and manner prescribed by the Exchange (''Give-Up Change Form''). A copy of the proposed Give-Up Change Form is included with this filing in Exhibit 3. Provided that the Exchange is able to process the request prior to the trade input cutoff time established by the OCC (or the applicable later time if the Exchange receives and is able to process a request to extend its time of final trade submission to the OCC) (''Trade Date Cutoff Time''), the Exchange would provide the Designated Give Up or Guarantor the ability to make the change to the give up on the trade to either (1) another Clearing Member or, as applicable, (2) the executing OTP's Guarantor.

Rejection on T+1

The Exchange acknowledges that some clearing firms may not reconcile their trades until after the Trade Date Cutoff Time. A clearing firm, therefore, may not realize that a valid reason exists to not accept a particular trade until after the close of the trading day or until the following morning. Accordingly, the Exchange proposes to establish a

[12] An example of a valid reason to reject a trade may be that the Designated Give Up does not have a customer for that particular trade.

[13] The Exchange notes that amended Rule 6.15(f) contains rule text explicitly describing procedures for Guarantors to reject a trade that is not contained in the rule text approved in SR–CBOE–2014–048. *See supra* n. 5. The Exchange, however, believes that this additional description serves only to clarify, as opposed to alter, the procedure approved in SR–CBOE–2014–048.

[14] A copy of the proposed Give-Up Change Form for Accepting Clearing Member is included with this filing in Exhibit 3. Also, as noted above, a New Clearing Member cannot later reject the trade. Requiring the New Clearing Member to provide notice to the Exchange of its intent to accept the trade and prohibiting the New Clearing Member from later rejecting the trade would provide finality to the trade and ensure that the trade is not repeatedly reassigned from one Clearing Member to another.

[15] The Guarantor would not need to notify the Exchange of its intent to accept the trade.

[16] A Guarantor of an OTP that is a Market Maker may not reject a trade for which its name was given up in relation to such Market Maker.

procedure for a Designated Give Up or Guarantor of an OTP that is not a Market Maker to reject a trade on the following trade day (''T+1'').[17] The Exchange notes that a separate procedure must be established for T+1 changes because to effectively change the give up on a trade on T+1 an offsetting reversal must occur—as opposed to merely identifying a different Clearing Member on the trade.

Consistent with amended Rule 6.15(f), a Designated Give Up or Guarantor [18] that wishes to reject a trade on T+1 would have to notify the executing OTP, in writing, to try to attempt and resolve the dispute. In addition, a Designated Give Up or Guarantor may contact the Exchange and request the ability to reject the trade on T+1. Provided that the Exchange is receives the request prior to 12:00 p.m. (ET) on T+1 (''T+1 Cutoff Time''), the Exchange would provide the Designated Give Up or Guarantor the ability to enter trade records into the Exchange's systems that would effect a transfer of the trade to another Clearing Member. As noted above, if a New Clearing Member agrees to the give up on a trade, it would be required to inform the Exchange of its acceptance via the Give-Up Change Form for Accepting Clearing Members. A Guarantor that becomes the new give up on T+1 would not need to notify the Exchange of its intent to accept the trade, nor would it need to submit any notification or form. The Designated Give Up however, would be required to provide written notice to the Guarantor that it will be making this change on T+1. The Exchange notes that the ability for either a Designated Give Up or Guarantor to make these changes would end at the T+1 Cutoff Time and would provide finality and certainty as to which Clearing Member will be the give up on the subject trade.

In addition, once any change to the give up has been made, the Designated Give Up or Guarantor making the change would be required to immediately thereafter notify, in writing, the Exchange, the parties to the trade and the Clearing Member given up, of the change.

As discussed above, the Exchange proposes to allow OTPs that are not Market Makers to identify any Clearing Member as a Designated Give Up. The Exchange's proposal does not permit a Clearing Member to provide the Exchange instructions to prohibit a particular OTP from giving up the Clearing Member's name. This limitation prevents the Exchange from being placed in the position of arbiter among a Clearing Member, an OTP and a customer. The Exchange recognizes, however, that OTPs should not be given the ability to give up any Clearing Member without also providing a method of recourse to those Clearing Members which, for the prescribed reasons discussed above,[19] should not be obligated to clear certain trades for which they are given up. Accordingly, the Exchange is proposing to provide Designated Give Ups and Guarantors the ability to reject a trade, provided each has a good faith basis for doing so. Ultimately, however, the trade must clear with a clearing firm and there must be finality to the trade. The Exchange believes that the executing OTP's Guarantor, absent a Clearing Member that agrees to accept the trade, should become the give up on any trade which a Designated Give Up determines to reject in accordance with these proposed rule provisions, because the Guarantor, by virtue of having issued a Letter of Guarantee or Letter of Authorization, has already accepted financial responsibility for all Exchange transactions made by the executing OTP. The Exchange, however, does not want to prevent a Clearing Member that agrees to accept the trade from being able to do so, and accordingly, the Exchange also provides that a New Clearing Member may become the give up on a trade in accordance with the procedure discussed above.

Other Give Up Changes

The Exchange proposes to modify the text of Rule 6.66(a), related to the give up requirement for OTPs, to simply cross reference amended Rule 6.15 given the detailed give up process proposed by the Exchange in that Rule.

The Exchange also proposes in paragraph (g) of amended Rule 6.15 three scenarios in which a give up on a transaction may be changed without Exchange involvement. First, if an executing OTP has the ability through an Exchange system to do so, it could change the give up on a trade to another Designated Give Up or its Guarantor. The Exchange notes that OTPs often make these changes when, for example, there is a keypunch error (*i.e.,* an error that involves the erroneous entry of an intended clearing firm's OCC clearing number). The ability of the executing OTP to make any such change would end at the Trade Date Cutoff Time.[20]

Next, the modified rule would provide that, if a Designated Give Up has the ability to do so, it may change the give up on a transaction for which it was given up to (i) another Clearing Member affiliated with the Designated Give Up or (ii) a Clearing Member for which the Designated Give Up is a back office agent. The ability to make such a change would end at the Trade Date Cutoff Time. The procedures to reject a trade, as set forth in proposed subparagraph (f) of Rule 6.15 and described above, would not apply in these instances. The Exchange notes that often Clearing Members themselves have the ability to change a give up on a trade for which it was given up to another Clearing Member affiliate or Clearing Member for which the Designated Give Up is a back office agent. Therefore, Exchange involvement in these instances is not necessary.

In addition, the proposed rule provides that if both a Designated Give Up or Guarantor and a Clearing Member have the ability through an Exchange system to do so, the Designated Give Up or Guarantor and Clearing Member may each enter trade records into the Exchange's systems on T+1 that would effect a transfer of the trade in a non-expired option series from that Designated Give Up to that Clearing Member. Likewise, if a Guarantor of an OTP trade (that is not a Market Maker trade) and a Clearing Member have the ability through an Exchange system to do so, the Guarantor and Clearing Member may each enter trade records into the Exchange's systems on T+1 that would effect a transfer of the trade in a non-expired option series from that Guarantor to that Clearing Member. The Designated Give Up or Guarantor could not make any such change after the T+1 Cutoff Time. The Exchange notes that a Designated Give Up (or Guarantor) must notify, in writing, the Exchange and all the parties to the trade, of any such change made pursuant to this provision. This notification alerts the parties and the Exchange that a change to the give up has been made. Finally, the Designated Give Up (or Guarantor) would be responsible for monitoring the trade and ensuring that the other Clearing Member has entered its side of the transaction timely and correctly. If

[17] The Exchange proposes that no changes to the give up on trades in expiring options series that take place on the last trading day prior to their expiration may take place on T+1. Rather, a Designated Give Up or Guarantor may only reject these transactions on the trade date until the Trade Date Cutoff Time in accordance with the trade date procedures described above.

[18] The Exchange again notes that, as proposed, only a Guarantor whose name was initially given up is permitted to reject a trade (*i.e.,* a Guarantor cannot reject a trade on T+1 for which it has become the give up as a result of a Designated Give Up not accepting the trade).

[19] *See supra* n. 12.

[20] After that time, the OTP would no longer have the ability to make this type of change, as the trade will have been submitted to OCC.

either a Designated Give Up (or Guarantor) or Clearing Member cannot themselves enter trade records into the Exchange's systems to effect a transfer of the trade from one to the other, the Designated Give Up (or Guarantor) may request the ability from the Exchange to enter both sides of the transaction in accordance with amended Rule 6.15 and pursuant to the procedures set forth in subparagraph (f)(3) of that Rule.

Responsibility

The Exchange proposes in paragraph (h) of amended Rule 6.15 to state that a Clearing Member would be financially responsible for all trades for which it is the give up at the Applicable Cutoff Time (for purposes of the proposed rule, the ''Applicable Cutoff Time'' shall refer to the T+1 Cutoff Time for non-expiring option series and to the Trade Date Cutoff Time for expiring option series). The Exchange notes, however, that nothing in the proposed rule shall preclude a different party from being responsible for the trade outside of the Rules of the Exchange pursuant to OCC Rules, any agreement between the applicable parties, other applicable rules and regulations, arbitration, court proceedings or otherwise.[21] Moreover, in processing a request to provide a Designated Give Up the ability to change a give up on a trade, the Exchange would not consider or validate whether the Designated Give Up has satisfied the requirements of this Rule in relation to having a good faith belief that it has a valid reason not to accept a trade or having notified the executing OTP and attempting to resolve the disputed give up prior to changing the give up. Rather, upon request, the Exchange would always provide a Designated Give Up or Guarantor the ability to change the give up or to reject a trade pursuant to the proposed Rule so long as the Designated Give Up or Guarantor, and New Clearing Member, if applicable, have provided a completed set of give up Change Forms within the prescribed time period.

The Exchange notes that given the inherent time constraints in making a change to a give up on a transaction, the Exchange would not be able to adequately consider the above-mentioned requirements and make a determination within the prescribed period of time. Rather, the Exchange would examine trades for which a give up was changed pursuant to subparagraphs (e) and (f) after the fact to ensure compliance with the requirements set forth in amended Rule 6.15. Particularly, the Exchange notes that the give up Change Forms that Designated Give Ups, Guarantors and New Clearing Members must submit, would help to ensure that the Exchange obtains, in a uniform format, the information that it needs to monitor and regulate this Rule and these give up changes in particular. This information, for example, would better allow the Exchange to determine whether the Designated Give Up had a valid reason to reject the trade, as well as assist the Exchange in cross checking and confirming that what the Designated Give Up or Guarantor said it was going to do is what it actually did (*e.g.,* check that the New Clearing Member identified in the give up Change Form was the Clearing Member that actually was identified on the trade as the give up). Additionally, the proposed Rule does not preclude these factors from being considered in a different forum (*e.g.,* court or arbitration), nor does it preclude any Clearing Member that violates any provision of amended Rule 6.15 from being subject to discipline in accordance with Exchange rules.

Finally, the Exchange proposes to eliminate language in Rule 6.79 that addresses the financial responsibility of transactions clearing through Clearing Members. Under the proposal, financial responsibility would be addressed and clarified in amended Rule 6.15, and as such, the Exchange believes this language in Rule 6.79 is unnecessary.[22]

Implementation

The Exchange proposes to announce the implementation of the proposed rule change via Trader Update, to be published no later than thirty (30) days following the effectiveness of this proposal. The implementation date will be no sooner than fourteen (14) day and no later than thirty (30) days following publication of the Trader Update. This additional time would afford the Exchange and OTPs the time to submit and process the forms required under the proposed rule.

2. Statutory Basis

The Exchange believes that the proposed change is consistent with Section 6(b) of the Act,[23] in general, and furthers the objectives of Section 6(b)(5),[24] in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitation transactions in securities, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[25] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

First, detailing in the rules how OTPs would give up Clearing Members and how Clearing Members may ''reject'' a trade provides transparency and operational certainty. The Exchange believes additional transparency removes a potential impediment to, and would contribute to perfecting, the mechanism for a free and open market and a national market system, and, in general, would protect investors and the public interest. Moreover, the Exchange notes that amended Rule 6.15 requires OTPs to adhere to a standardized process to ensure a seamless administration of the Rule. For example, all notifications relating to a change in give up must be made in writing. The Exchange believes that these requirements will aid the Exchange's efforts to monitor and regulate OTPs and Clearing Members as they relate to amended Rule 6.15 and changes in give ups, thereby protecting investors and the public interest.

Additionally, the Exchange believes that its proposed give up rule strikes the right balance between the various views and interests of market participants. For example, although the rule allows OTPs that are not Market Makers to identify any Clearing Member as a Designated Give Up, it also provides that OTPs would receive notice of any OTP that has designated it as a Designated Give Up and provides for a procedure for a Clearing Member to ''reject'' a trade in accordance with the Rules, both on the trade date and T+1.

The Exchange recognizes that OTPs should not be given the ability to give up any Clearing Members without also providing a method of recourse to those Clearing Members which, for the prescribed reasons discussed above, should not be obligated to clear certain

[21] *See* proposed Commentary .01 to Rule 6.15 (''Nothing herein will be deemed to preclude the clearance of Exchange transactions by a non-OTP Holder or non-OTP Firm pursuant to the By-Laws of the Options Clearing Corporation so long as a Clearing Member who is a OTP Holder or OTP Firm is also designated as having responsibility under these Rules for the clearance and comparison of such transactions.'').

[22] The Exchange also proposes to capitalize the two references to ''clearing member'' in this rule to signify the defined term, which the Exchange believes would add clarity and consistency to Exchange rules.

[23] 15 U.S.C. 78f(b).

[24] 15 U.S.C. 78f(b)(5).

[25] *Id.*

trades for which they are given up. The Exchange believes that providing Designated Give Ups the ability to reject a trade within a reasonable amount of time is consistent with the Act as, pursuant to the proposed rule, the Designated Give Ups may only do so if they have a valid reason and because ultimately, the trade can always be assigned to the Guarantor of the executing OTP if a New Clearing Firm is not willing to step in and accept the trade. A trade must clear with a clearing firm and there must be finality to the trade. Absent a New Clearing Member that agrees to accept the trade, the Exchange believes that the executing OTP's Guarantor should become the give up on any trade that a Designated Give Up determines to reject, in accordance with the proposed rule provisions, because the Guarantor, by virtue of having issued a Letter of Guarantee or Letter of Authorization, has already accepted financial responsibility for all Exchange transactions made by the executing OTP. Therefore, Rule 6.15, as modified, is reasonable and provides certainty that a Clearing Member will always be responsible for a trade, which protects investors and the public interest.

The Exchange notes that amended Rule 6.15 does not preclude a different party than the party given up from being responsible for the trade outside of the Rules of the Exchange, pursuant to OCC Rules, any agreement between the applicable parties, other applicable rules and regulations, arbitration, court proceedings or otherwise. The Exchange acknowledges that it would not consider whether the Designated Give Up has satisfied the requirements of this Rule in relation to having a good faith belief that it has a valid reason not to accept a trade or having notified the executing OTP and attempting to resolve the disputed give up prior to changing the give up, due to inherent time restrictions. However, the Exchange believes investor and public interest are still protected as the Exchange will still examine trades for which a give up was changed pursuant to subparagraphs (e) and (f) of amended Rule 6.15 after the fact to ensure compliance with the requirements set forth in the Rule. As noted above, the implementation of a standardized process and the requirement that certain notices be in writing would assist monitoring any give up changes and enforcing amended Rule 6.15.

Further, the Exchange notes that the Rule does not preclude these factors from being considered in a different forum (*e.g.,* court or arbitration) nor does it preclude any OTP or Clearing Member that violates any provision of amended Rule 6.15 from being subject to discipline by the Exchange.

Finally, the Exchange believes that making non-substantive, technical corrections to the rule text (*i.e.,* capitalizing the defined term ''clearing member'') would add clarity and consistency to Exchange rules to the benefit of investors and the general public.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that this proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change would impose an unnecessary burden on intramarket competition because it would apply equally to all similarly situated OTPs. The Exchange also notes that, should the proposed changes make the Exchange more attractive for trading, market participants trading on other exchanges can always elect to become OTPs on the Exchange to take advantage of the trading opportunities. In addition, as noted above, the Exchange believes the proposed rule change is pro-competitive and would allow the Exchange to compete more effectively with other options exchanges that have already adopted changes to their give up process that are substantially identical to the changes proposed by this filing.[26]

*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

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, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[27] and Rule 19b–4(f)(6) thereunder.[28]

A proposed rule change filed under Rule 19b–4(f)(6)[29] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[30] 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 proposal may become operative immediately upon filing. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because the proposal is substantially similar to that of another exchange that has been approved by the Commission.[31] Waiver of the 30-day operative delay will allow the Exchange to implement the proposed rule change, which is designed to bring greater operational certainty and efficiency to the give up process, in accordance with the implementation schedule outlined above. Therefore, the Commission designates the proposed rule change to be operative upon filing.[32]

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)[33] 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

[26] *See supra* n. 5.

[27] 15 U.S.C. 78s(b)(3)(A).

[28] 17 CFR 240.19b–4(f)(6). As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the 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.

[29] 17 CFR 240.19b–4(f)(6).

[30] 17 CFR 240.19b–4(f)(6)(iii).

[31] *See supra* n. 5.

[32] 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).

[33] 15 U.S.C. 78s(b)(2)(B).

• Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2015–65 on the subject line.

*Paper comments*

• Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2015–65. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written 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 will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2015–65 and should be submitted on or before September 3, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[34]

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2015–19871 Filed 8–12–15; 8:45 am]

**BILLING CODE 8011–01–P**

[34] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–75648; File No. SR–NYSE–2015–34]**

## Self-Regulatory Organizations; New York Stock Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Modifying the Manner in Which It Calculates Certain Volume, Liquidity and Quoting Thresholds Applicable to Billing on the Exchange in Relation to a Suspension of Trading on the Exchange on July 8, 2015

August 7, 2015.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on July 30, 2015, New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to modify the manner in which it calculates certain volume, liquidity and quoting thresholds applicable to billing on the Exchange in relation to a suspension of trading on the Exchange on July 8, 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange is proposing to modify the manner in which it calculates certain volume, liquidity and quoting thresholds applicable to billing on the Exchange in relation to a suspension of trading on the Exchange on July 8, 2015 (''trading suspension'').[4]

The trading suspension resulted in a more than 40% decrease in trading volume on the Exchange on July 8, 2015 for that day as compared to average daily volume (''ADV'') on the Exchange for the prior trading days in July 2015. The Exchange believes that the trading suspension prevented member organizations on the Exchange, including Designated Market Makers (''DMMs''), Supplemental Liquidity Providers (''SLPs'') and Retail Liquidity Providers (''RLPs''), from engaging in normal trading, quoting and liquidity in their assigned securities, leading to decreased quoting and trading volume compared to ADV.

As provided in the Exchange's Price List, many of the Exchange's transaction fees and credits are based on trading, quoting and liquidity thresholds that member organizations must satisfy in order to qualify for the particular rates. The Exchange believes that the trading suspension may affect the ability of member organizations to meet certain of these thresholds during July 2015.[5] Accordingly, the Exchange proposes to exclude July 8, 2015 from such calculations, in order to reasonably ensure that a member organization that would otherwise qualify for a particular threshold during July 2015, and the corresponding transaction rate, would not be negatively impacted by the trading suspension.

First, the Exchange proposes to exclude July 8, 2015 for purposes of determining transaction fees and credits that are based on ADV executed by the member organization during the billing month, either directly or as a percentage of consolidated average daily volume in NYSE-listed securities (''NYSE CADV''). If the Exchange did not exclude July 8, 2015 when calculating ADV for July, the numerator for the calculation (*e.g.,*

[4] *See* NYSE Informational Message, ''NYSE/NYSE MKT—Outage Description'' July 9, 2015, available at *https://www.nyse.com/market-status/history.* Trading at the Exchange's market affiliate, NYSE MKT LLC, was also suspended.

[5] The Exchange notes that it does not perform the calculations necessary to determine whether these thresholds have been met until after the particular billing month has ended.

trading volume) would be lower as a result of the decreased trading volume on July 8, 2015, but the denominator for the threshold calculations (*e.g.,* the number of trading days) would not be smaller. Excluding July 8, 2015 from the calculation of ADV for the month of July would reasonably ensure that a member organization that would otherwise qualify for a particular threshold during July 2015, and the corresponding transaction rate, would not be negatively impacted by the trading suspension on July 8, 2015.

Second, the Exchange proposes to exclude July 8, 2015 for purposes of determining transaction fees and credits that are based on quoting and/or liquidity levels of DMMs, SLPs and RLPs. The calculations of such quoting and liquidity levels include the amount of time that the relevant DMM, SLP or RLP quoted at the National Best Bid or Offer (''NBBO'').[6] This proposed change would exclude July 8, 2015 for purposes of the DMM thresholds in the Price List that are based on NYSE Quoted Size or the DMM Quoted Size.[7] The Exchange also proposes to adjust the calculation of the NYSE total intraday adding liquidity to exclude July 8, 2015. NYSE total intraday adding liquidity includes all NYSE adding liquidity, excluding NYSE open and NYSE Close volume, by all NYSE participants, including SLPs, customers, Floor brokers and DMMs. If the Exchange did not exclude July 8, 2015 when calculating these quoting and liquidity levels for July, the numerator for the calculation (*e.g.,* time during which the DMM, SLP or RLP quoted at the NBBO) would be lower as a result of the decreased trading volume on July 8, 2015, but the denominator (*e.g.,* total time that the U.S. equity markets quote during regular trading hours) would not be decreased. Excluding July 8, 2015 from the calculation of these quoting and liquidity levels for the month of July would reasonably ensure that a member organization that would otherwise qualify for a particular threshold during July 2015, and the corresponding transaction rate, would not be negatively impacted by the trading suspension on July 8, 2015.

The Exchange notes that the proposed exclusions would be similar to the current provision in the Price List whereby, for purposes of transaction fees and SLP credits, ADV calculations exclude early closing days.[8] Generally, this applies to certain days before or after a holiday observed by the Exchange.[9]

Finally, the Exchange does not propose to exclude July 8, 2015 for purposes of the DMM thresholds in the Price List that are based solely on U.S. consolidated average daily volume (''CADV''),[10] including CADV as used in the definition of More Active Securities and Less Active Securities. The thresholds that are based solely on CADV consider volume across all markets, not only the Exchange's, and, unlike the transaction fees and credits discussed above that are based on ADV during the billing month as a percentage of NYSE CADV, the DMM thresholds based solely on CADV and do not take CADV as a percentage of another metric. Therefore the trading suspension would not be expected to significantly impact CADV.

The Exchange notes that the proposed change is not otherwise intended to address any other issues surrounding billing for activity on the Exchange and the Exchange is not aware of any negative impact on member organizations that would result from the proposed change.

2. Statutory Basis

The Exchange believes that the proposed change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[11] in general, and furthers the objectives of Section 6(b)(4) of the Act,[12] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

Specifically, the Exchange believes that excluding July 8, 2015 for purposes of determining transaction fees and credits that are based on ADV during the billing month, either directly or as a percentage of NYSE CADV, is reasonable because trading suspension resulted in a significant decrease in trading volume on the Exchange. This proposed change is reasonable because, without this exclusion, the numerator for the calculations of ADV (*e.g.,* trading volume) would be lower as a result of the decreased trading volume on July 8, 2015, but the denominator for the calculations (*e.g.,* the number of trading days) would not be smaller. The Exchange believes that excluding activity on July 8, 2015 for purposes of determining transaction fees and credits that are based on ADV during the billing month is equitable and not unfairly discriminatory because it would apply equally to all market participants on the Exchange. In this regard, excluding July 8, 2015 from such ADV calculations is equitable and not unfairly discriminatory because the exclusion would reasonably ensure that a member organization that would otherwise qualify for a particular threshold for July 2015, and the corresponding transaction rate, would not be negatively impacted by the trading suspension.

The Exchange also believes that excluding July 8, 2015 for purposes of determining transaction fees and credits that are based on quoting and/or liquidity levels of DMMs, SLPs and RLPs is reasonable because the calculations of such quoting and liquidity levels include the amount of time that the relevant DMM, SLP or RLP quoted at the NBBO. In this regard, excluding July 8, 2015 from these quoting and liquidity calculations is reasonable because, without this exclusion, the numerator for the calculations (*e.g.,* time during which the DMM, SLP or RLP quoted at the NBBO) would be lower as a result of the decreased trading volume on July 8, 2015, but the denominator for the threshold calculations (*e.g.,* total time that the U.S. equity markets quote during regular trading hours) would not be decreased. As a result, without this exclusion, a member organization that would otherwise qualify for a particular threshold for July 2015, and the corresponding transaction rate may be negatively impacted by the trading suspension. This is equitable and not unfairly discriminatory because DMMs, SLPs and RLPs have specific performance metrics that must be satisfied for assigned securities in order to qualify for the particular rates in the Price List.

Finally, the Exchange believes that not excluding activity on July 8, 2015 for purposes of determining transaction fees and credits related to the DMM thresholds in the Price List that are based solely on CADV is reasonable. This is because the thresholds that are based solely on CADV consider volume across all markets, not only the

[6] *See* Rules 107B(g) and 107C(f).

[7] The NYSE Quoted Size is calculated by multiplying the average number of shares quoted on the NYSE at the NBBO by the percentage of time the NYSE had a quote posted at the NBBO. The DMM Quoted Size is calculated by multiplying the average number of shares of the applicable security quoted at the NBBO by the DMM by the percentage of time during which the DMM quoted at the NBBO.

[8] *See* footnote 4 in the Price List.

[9] For example, the Exchange is closed on Thanksgiving Day and closes early on the Friday immediately following Thanksgiving Day (*e.g.,* Friday, November 28, 2014).

[10] CADV includes all volume reported to the Consolidated Tape Association Plan for Tapes A, B and C securities.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(4).

Exchange's, and, unlike the transaction fees and credits discussed above that are based on ADV during the billing month as a percentage of NYSE CADV, the DMM thresholds based solely on CADV do not take CADV as a percentage of another metric. Therefore the trading suspension would not be expected to significantly impact CADV. This is equitable and not unfairly discriminatory because, in addition to applying to all DMMs on the Exchange, the Exchange believes that the trading suspension did not have a significant impact on these thresholds and, therefore, including activity on July 8, 2015 will have an equal impact for all DMMs.

The Exchange also believes that the proposed rule change furthers the objectives of Section 6(b)(5) of the Act,[13] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed exclusions would remove impediments to and perfect the mechanism of a free and open market and a national market system because they would reasonably ensure that a member organization that would otherwise qualify for a particular threshold during the month, and the corresponding transaction rate, would not be negatively impacted by the trading suspension. In particular, the Exchange believes that the proposed exclusions promote just and equitable principles of trade because they account for the impact on trading volume, liquidity and quoting that resulted from the trading suspension for all securities traded on the Exchange. The Exchange further believes that the proposed exclusions remove impediments to and perfect the mechanism of a free and open market and a national market system because they provide transparency for member organizations and the public regarding the manner in which the Exchange will calculate certain volume, liquidity and quoting thresholds related to billing for activity on the Exchange on July 8, 2015 and for the month of July 2015. In this regard, the Exchange believes that the proposed exclusions are consistent with the Act because they address inquiries from member organizations regarding how the Exchange will treat July 8, 2015 for purposes of billing. Also, the proposed exclusions are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers, but are instead designed to provide transparency for all member organizations and the public regarding the manner in which the Exchange will calculate certain volume, liquidity and quoting thresholds in relation to the trading suspension. The Exchange is not aware of any negative impact on member organizations that would result from the proposed change.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

In accordance with Section 6(b)(8) of the Act,[14] the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change would treat all market participants on the Exchange equally by excluding July 8, 2015 from NYSE CADV, ADV, quoting level and liquidity level calculations described in the Price List. Moreover, the Exchange believes that the proposed change would enhance competition between competing marketplaces by enabling the Exchange to exclude July 8, 2015 for the purposes of determining transaction fees and credits based on volume, quoting and/or liquidity levels as set forth in the Price List.

*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 foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [15] and Rule 19b–4(f)(6) [16] thereunder because the proposal does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) by its terms, become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.[17]

A proposed rule change filed under Rule 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) [18] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay period. The Commission believes that waiver of the 30-day operative delay period is consistent with the protection of investors and the public interest. Specifically, the Commission believes that the proposal would allow the Exchange to immediately implement the calculation related to the trading suspension, thereby reducing the potential for confusion among member organizations regarding the volume, liquidity, and quoting thresholds applicable to billing in July 2015. The Commission believes that the waiver would also assist the Exchange in determining transaction fees and credits for member organizations in a timely manner after the end of the billing month of July 2015. For these reasons, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, and designates the proposed rule change to be operative upon filing with the Commission.[19]

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.[20]

## 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.

[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78f(b)(8).

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(6).

[17] 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.

[18] 17 CFR 240.19b–4(f)(6)(iii).

[19] 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).

[20] 15 U.S.C. 78s(b)(3)(C).

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–2015–34 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2015–34. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and 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–NYSE–2015–34 and should be submitted on or before September 3, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2015–19876 Filed 8–12–15; 8:45 am]

**BILLING CODE 8011–01–P**

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–75637; File No. SR–NASDAQ–2015–093]**

## Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Update Public Disclosure of Exchange Usage of Market Data

August 7, 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 August 5, 2015, The NASDAQ Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by 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 update Exchange Rule 4759 and to amend the public disclosure of the sources of data that the Exchange utilizes when performing (1) order handling and execution; (2) order routing; and (3) related compliance processes.

The text of the proposed rule change is below. Proposed new language is italicized; proposed deletions are bracketed.

* * * * *

### 4759. Data Feeds Utilized

The NASDAQ System utilizes the below proprietary and network processor feeds [utilized by the System] for the handling, routing, and execution of orders, as well as for the regulatory compliance processes related to those functions. The Secondary Source of data is, *where applicable*, utilized only in emergency market conditions and only until those emergency conditions are resolved.

| Market center | Primary source | Secondary source |
|---|---|---|
| A—NYSE MKT (AMEX) | [CQS/UQDF] *NYSE MKT OpenBook Ultra* | [n/a] *CQS/UQDF* |
| B—NASDAQ OMX BX | BX ITCH [4.1] *5.0* | CQS/UQDF |
| *C—NSX* | *CQS/UQDF* | *n/a* |
| D—FINRA ADF | CQS/UQDF | n/a |
| J—DirectEdge A | [EdgeBook] *BATS PITCH* | CQS/UQDF |
| K—DirectEdge X | [EdgeBook*]* *BATS PITCH* | CQS/UQDF |
| M—CSX | CQS/UQDF | n/a |
| N—NYSE | NYSE OpenBook Ultra | CQS/UQDF |
| P—NYSE Arca | [ArcaBook Binary uncompacted] *NYSE ARCA XDP* | CQS/UQDF |
| T/Q—NASDAQ | ITCH [4.1] *5.0* | CQS/UQDF |
| X—NASDAQ OMX PSX | PSX ITCH [4.1] *5.0* | CQS/UQDF |
| Y—BATS Y-Exchange | BATS PITCH | CQS/UQDF |
| Z—BATS Exchange | BATS PITCH | CQS/UQDF |

* * * * *

(b) Not applicable.

(c) Not applicable.

### 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.

[21] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to update and amend the table in Exchange Rule 4759 that sets forth on a market-by-market basis the specific network processor and proprietary data feeds that the Exchange utilizes for the handling, routing, and execution of orders, and for performing the regulatory compliance checks related to each of those functions.

Specifically, the table will be amended to include National Stock Exchange (''NSX''), which has informed the UTP Securities Information Processor (''UTP SIP'') that, subject to regulatory approval, it is projecting to reactivate its status as an operating participant for quotation and trading of NASDAQ-listed securities under the Unlisted Trading Privileges (''UTP'') Plan on or about August 31, 2015. The other changes to the table merely reflect updates to mirror the current network processor and proprietary data feeds utilized by the Exchange for the handling, routing, and execution of orders, and for performing the regulatory compliance checks related to each of those functions.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[3] in general and with Sections 6(b)(5) of the Act,[4] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange believes that its proposal to update the table in Exchange Rule 4759 to make certain it is current, as well as to amend the table to include NSX, would ensure that Exchange Rule 4759 correctly identifies and publicly states on a market-by-market basis all of the specific network processor and proprietary data feeds that the Exchange utilizes for the handling, routing, and execution of orders, and for performing the regulatory compliance checks related to each of those functions, and that the proposed rule change removes impediments to and perfects the mechanism of a free and open market and protects investors and the public interest because it provides additional specificity, clarity and transparency.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. To the contrary, the Exchange believes the proposal would enhance competition because including all of the exchanges enhances transparency and enables investors to better assess the quality of the Exchange's execution and routing services.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) [5] of the Act and Rule 19b–4(f)(6) thereunder.[6] The Exchange believes that this proposed rule change is properly designated as non-controversial because it enhances clarity and operational transparency without modifying members' rights or obligations. The Exchange provided notice of the proposed rule change on July 27, 2015.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2015–093 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2015–093. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–NASDAQ–2015–093 and should be submitted on or before September 3, 2015.

[3] 15 U.S.C. 78f.

[4] 15 U.S.C. 78f(b)(5).

[5] 15 U.S.C. 78s(b)(3)(A).

[6] 17 CFR 240.19b–4(f)(6).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2015–19868 Filed 8–12–15; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–75649; File No. SR–NYSEMKT–2015–60]**

## Self-Regulatory Organizations; NYSE MKT, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Modifying the Manner in Which It Calculates Certain Volume and Quoting Thresholds Applicable to Billing on the Exchange in Relation to a Suspension of Trading on the Exchange on July 8, 2015

August 7, 2015.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on July 30, 2015, NYSE MKT LLC (Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to modify the manner in which it calculates certain volume and quoting thresholds applicable to billing on the Exchange in relation to a suspension of trading on the Exchange on July 8, 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 Exchange is proposing to modify the manner in which it calculates certain volume and quoting thresholds applicable to billing on the Exchange in relation to a suspension of trading on the Exchange on July 8, 2015 (''trading suspension'').[4]

The trading suspension resulted in a more than 40% decrease in trading volume on the Exchange on July 8, 2015 for that day as compared to average daily volume (''ADV'') on the Exchange for the prior trading days in July 2015. The Exchange believes that the trading suspension prevented member organizations on the Exchange, including Designated Market Makers (''DMMs''), Supplemental Liquidity Providers (''SLPs'') and Retail Liquidity Providers (''RLPs''), from engaging in normal trading and quoting in their assigned securities, leading to decreased quoting and trading volume compared to ADV.

As provided in the Exchange's Price List, certain of the Exchange's transaction fees and credits are based on trading and quoting thresholds that member organizations must satisfy in order to qualify for the particular rates. The Exchange believes that the trading suspension may affect the ability of member organizations to meet certain of these thresholds during July 2015.[5] Accordingly, the Exchange proposes to exclude July 8, 2015 from such calculations, in order to reasonably ensure that a member organization that would otherwise qualify for a particular threshold during July 2015, and the corresponding transaction rate, would not be negatively impacted by the trading suspension.

First, the Exchange proposes to exclude July 8, 2015 for purposes of determining transaction fees and credits that are based on quoting levels of DMMs, SLPs and RLPs. The calculations of such quoting levels include the amount of time that the relevant DMM, SLP or RLP quoted at the National Best Bid or Offer (''NBBO'').[6] If the Exchange did not exclude July 8, 2015 when calculating these quoting levels for July, the numerator for the calculation (*e.g.,* time during which the DMM, SLP or RLP quoted at the NBBO) would be lower as a result of the decreased trading volume on July 8, 2015, but the denominator (*e.g.,* total time that the U.S. equity markets quote during regular trading hours) would not be decreased. Excluding July 8, 2015 from the calculation of these quoting levels for the month of July would reasonably ensure that a member organization that would otherwise qualify for a particular threshold during July 2015, and the corresponding transaction rate, would not be negatively impacted by the trading suspension on July 8, 2015.

Second, the Exchange proposes to exclude July 8, 2015 for purposes of determining transaction credits applicable to executions in the Retail Liquidity Program that are based on ADV executed by a non-RLP member organization during the billing month. If the Exchange did not exclude July 8, 2015 when calculating ADV for July, the numerator for the calculation (*e.g.,* trading volume) would be lower as a result of the decreased trading volume on July 8, 2015, but the denominator for the threshold calculations (*e.g.,* the number of trading days) would not be smaller. Excluding July 8, 2015 from the calculation of ADV for the month of July would reasonably ensure that a non-RLP member organization that would otherwise qualify for that would otherwise qualify for the applicable credit for July 2015, would not be negatively impacted by the trading suspension on July 8, 2015. The Exchange notes that the proposed exclusions would be similar to the current provision in the Price List whereby, for purposes of these non-RLP member organization credits, the calculation of the average daily volume during the month excludes early closing days. Generally, this applies to certain days before or after a holiday observed by the Exchange.[7]

Finally, the Exchange does not propose to exclude July 8, 2015 from the calculation of consolidated average daily volume (''CADV'') for purposes of determining the qualification for certain

[7] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* NYSE MKT Informational Message, ''NYSE/NYSE MKT—Outage Description'' July 9, 2015, available *at https://www.nyse.com/market-status/history.* Trading at the Exchange's affiliate, New York Stock Exchange LLC, was also suspended.

[5] The Exchange notes that it does not perform the calculations necessary to determine whether these thresholds have been met until after the particular billing month has ended.

[6] *See* Rules 107B(g) and 107C(f).

[7] For example, the Exchange is closed on Thanksgiving Day and closes early on the Friday immediately following Thanksgiving Day (*e.g.,* Friday, November 28, 2014).

DMM thresholds in the Price List.[8] The thresholds that are based on CADV consider volume across all markets, not only the Exchange's, and therefore the trading suspension would not be expected to significantly impact CADV.

The Exchange notes that the proposed change is not otherwise intended to address any other issues surrounding billing for activity on the Exchange and the Exchange is not aware of any negative impact on member organizations that would result from the proposed change.

2. Statutory Basis

The Exchange believes that the proposed change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[9] in general, and furthers the objectives of Section 6(b)(4) of the Act,[10] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that excluding July 8, 2015 for purposes of determining transaction fees and credits that are based on quoting levels of DMMs, SLPs and RLPs is reasonable because the calculations of such quoting levels include the amount of time that the relevant DMM, SLP or RLP quoted at the NBBO. In this regard, excluding July 8, 2015 from these quoting calculations is reasonable because, without this exclusion, the numerator for the calculations (*e.g.,* time during which the DMM, SLP or RLP quoted at the NBBO) would be lower as a result of the decreased trading volume on July 8, 2015, but the denominator for the threshold calculations (*e.g.,* total time that the U.S. equity markets quote during regular trading hours) would not be decreased. As a result, without this exclusion, a member organization that would otherwise qualify for a particular threshold for July 2015, and the corresponding transaction rate, may be negatively impacted by the trading suspension. This is equitable and not unfairly discriminatory because DMMs, SLPs and RLPs have specific performance metrics that must be satisfied for assigned securities in order to qualify for the particular rates in the Price List.

The Exchange also believes that excluding July 8, 2015 for purposes of determining transaction fees and credits applicable to executions in the Retail Liquidity Program that are based on ADV executed by a non-RLP member organization during the billing month, is reasonable because trading suspension resulted in a significant decrease in trading volume on the Exchange. This proposed change is reasonable because, without this exclusion, the numerator for the calculations of ADV (*e.g.,* trading volume) would be lower as a result of the decreased trading volume on July 8, 2015, but the denominator for the calculations (*e.g.,* the number of trading days) would not be smaller. The Exchange believes that excluding activity on July 8, 2015 for purposes of determining transaction fees and credits that are based on ADV during the billing month is equitable and not unfairly discriminatory because it would apply equally to all market participants on the Exchange. In this regard, excluding July 8, 2015 from such ADV calculations is equitable and not unfairly discriminatory because the exclusion would reasonably ensure that a non-RLP member organization that would otherwise qualify for the applicable credit for July 2015 would not be negatively impacted by the trading suspension.

Finally, the Exchange believes that not excluding activity on July 8, 2015 from the calculation of CADV for purposes of determining the qualification for certain DMM thresholds in the Price List is reasonable. This is because the thresholds that are based on CADV consider volume across all markets, not only the Exchange's, and therefore the trading suspension would not be expected to significantly impact CADV. This is equitable and not unfairly discriminatory because, in addition to applying to all DMMs on the Exchange, the Exchange believes that the trading suspension did not have a significant impact on these thresholds and, therefore, including activity on July 8, 2015 will have an equal impact for all DMMs.

The Exchange also believes that the proposed rule change furthers the objectives of Section 6(b)(5) of the Act,[11] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed exclusions would remove impediments to and perfect the mechanism of a free and open market and a national market system because they would reasonably ensure that a member organization that would otherwise qualify for a particular threshold during the month, and the corresponding transaction rate, would not be negatively impacted by the trading suspension. In particular, the Exchange believes that the proposed exclusions promote just and equitable principles of trade because they account for the impact on trading volume and quoting that resulted from the trading suspension for all securities traded on the Exchange. The Exchange further believes that the proposed exclusions remove impediments to and perfect the mechanism of a free and open market and a national market system because they provide transparency for member organizations and the public regarding the manner in which the Exchange will calculate certain volume and quoting thresholds related to billing for activity on the Exchange on July 8, 2015 and for the month of July 2015. In this regard, the Exchange believes that the proposed exclusions are consistent with the Act because they address inquiries from member organizations regarding how the Exchange will treat July 8, 2015 for purposes of billing. Also, the proposed exclusions are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers, but are instead designed to provide transparency for all member organizations and the public regarding the manner in which the Exchange will calculate certain volume and quoting thresholds in relation to the trading suspension. The Exchange is not aware of any negative impact on member organizations that would result from the proposed change.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

In accordance with Section 6(b)(8) of the Act,[12] the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change would treat all market participants on the Exchange equally by excluding July 8, 2015 from

[8] CADV includes all volume reported to the Consolidated Tape Association Plan for Tapes A, B and C securities.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(4).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78f(b)(8).

quoting level and ADV calculations described in the Price List. Moreover, the Exchange believes that the proposed change would enhance competition between competing marketplaces by enabling the Exchange to exclude July 8, 2015 for the purposes of determining transaction fees and credits based on volume and quoting levels as set forth in the Price List.

*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 foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [13] and Rule 19b–4(f)(6) [14] thereunder because the proposal does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) by its terms, become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.[15]

A proposed rule change filed under Rule 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) [16] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay period. The Commission believes that waiver of the 30-day operative delay period is consistent with the protection of investors and the public interest. Specifically, the Commission believes that the proposal would allow the Exchange to immediately implement the calculation related to the trading suspension, thereby reducing the potential for confusion among member organizations regarding the volume, liquidity, and quoting thresholds applicable to billing in July 2015. The Commission believes that the waiver would also assist the Exchange in determining transaction fees and credits for member organizations in a timely manner after the end of the billing month of July 2015. For these reasons, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, and designates the proposed rule change to be operative upon filing with the Commission.[17]

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.[18]

**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–2015–60 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–2015–60. 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 a.m. and 3 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–NYSEMKT–2015–60 and should be submitted on or before September 3, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2015–19877 Filed 8–12–15; 8:45 am]

**BILLING CODE 8011–01–P**

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6).

[15] 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.

[16] 17 CFR 240.19b–4(f)(6)(iii).

[17] 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).

[18] 15 U.S.C. 78s(b)(3)(C).

[19] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–75643; File No. SR–BX–2015–049]**

## Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to a Delay of Implementation Relate to the Volume-Based and Multi-Trigger Threshold

August 7, 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 August 6, 2015, NASDAQ OMX BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to extend the implementation timeframe for adopting

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

two new BX Market Maker [3] risk protections, a volume-based threshold and a multi-trigger threshold.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxbx.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

### *A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The purpose of the proposal is to extend the implementation of the timeframe for the Exchange's amendments to BX's Rules at Chapter VII, Section 6(f) entitled ''Market Maker Quotations.'' [4] In its rule change adopting the two new risk protections in Chapter VII, Section 6(f), the Exchange stated that it proposed to ''. . . implement this rule within thirty (30) days of the operative date.'' The Exchange stated that it would issue an Options Trader Alert in advance to inform market participants of such date.[5] At this time, the Exchange desires to extend the implementation of this rule change to within (60) days of the operative date. The Exchange will announce the date of implementation by issuing an Options Trader Alert.

By way of background, the risk protections provided for in Chapter VII, Section 6(f) are intended to assist BX Market Makers in controlling their trading risks.[6] Specifically, the risk protections establish: (1) A threshold used to calculate each BX Market Maker's total volume executed in all series of an underlying security within a specified time period and to compare that to a pre-determined threshold (''Volume-Based Threshold''), and (2) a threshold used to measure the number of times the System has triggered [7] based on the Risk Monitor Mechanism (''Percentage-Based Threshold'') pursuant to Chapter VI, Section 19 and Volume-Based Thresholds within a specified time period and to compare that total to a pre-determined threshold (''Multi-Trigger Threshold'').[8]

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [9] in general, and furthers the objectives of Section 6(b)(5) of the Act [10] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by enhancing the risk protections available to Exchange members. The proposal promotes policy goals of the Commission, which has encouraged execution venues, exchange and non-exchange alike, to enhance risk protection tools and other mechanisms to decrease risk and increase stability.

The delay of the implementation of BX Rules at Chapter VII, Section 6(f) will permit the Exchange an additional thirty days within which to implement these risk protections that will be utilized by BX Market Makers.

### *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. With respect to the risk protections, the proposal will not impose a burden on intra-market or inter-market competition; rather it provides BX Market Makers with the opportunity to avail themselves of similar risk tools that are currently available on other exchanges.[11] The proposal does not impose a burden on inter-market competition, because members may choose to become market makers on a number of other options exchanges, which may have similar but not identical features.[12] The proposed rule change is meant to protect BX Market Makers from inadvertent exposure to excessive risk. Accordingly, the proposed rule change will have no impact on competition.

The delay of the implementation of BX Rules at Chapter VII, Section 6(f) will permit the Exchange additional time to implement these risk protections that will be utilized by BX Market Makers.

### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) by its terms, become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act [13] and subparagraph (f)(6) of Rule 19b–4 thereunder.[14] The Exchange has requested that the Commission waive the thirty-day operative delay so that the proposal may become operative immediately. The Exchange states that waiving the thirty-day operative delay will enable it to implement these risk protections within the new timeframe. The Commission believes that waiving the thirty-day operative delay is

[3] The term ''BX Market Maker'' means a Participant that has registered as a Market Maker on BX pursuant to Chapter VII, Section 2, and which remains in good standing pursuant to Chapter VII, Section 4.

[4] This rule became immediately effective on June 23, 2015. Securities Exchange Release No. 75392 (July 8, 2015), 80 FR 41114 (July 14, 2015) (SR–BX–2015–036).

[5] *See* note 4.

[6] Pursuant to BX Rules at Chapter VII, Section 5, entitled ''Obligations of Market Makers'', in registering as a market maker, an Options Participant commits himself to various obligations. Transactions of a BX Market Maker must constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and Market Makers should not make bids or offers or enter into transactions that are inconsistent with such course of dealings. Further, all Market Makers are designated as specialists on BX for all purposes under the Act or rules thereunder. *See* Chapter VII, Section 2.

[7] A trigger is defined as the event which causes the System to automatically remove all quotes in all options series in an underlying issue.

[8] The details of the two risk protections are described in the initial filing. *See* Securities Exchange Release No. 75392 (July 8, 2015), 80 FR 41114 (July 14, 2015) (SR–BX–2015–036).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] *See* Section 8 of Form 19b–4, *infra.*

[12] *See* BATS Rule 21.16, BOX Rules 8100 and 8110, C2 Rule 8.12, CBOE Rule 8.18, ISE Rule 804(g), MIAX Rule 612, NYSE MKT Rule 928NY and NYSE Arca Rule 6.40.

[13] 15 U.S.C. 78s(b)(3)(a)(ii).

[14] 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.

consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the thirty-day operative delay and designates the proposal effective 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: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

**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–BX–2015–049 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2015–049. 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 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2015–049 and should be submitted on or before September 3, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2015–19873 Filed 8–12–15; 8:45 am]

**BILLING CODE 8011–01–P**

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–75640; File No. SR–Phlx–2015–70]**

## Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Update the Public Disclosure of Sources of Data Utilized by PSX

August 7, 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 August 6, 2015, NASDAQ OMX PHLX LLC (''PHLX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to update the public disclosure of the sources of data that PHLX utilizes when performing (1) order handling and execution; (2) order routing; and (3) related compliance processes through the inclusion of the National Stock Exchange (''NSX'').

The text of the proposed rule change is below. Proposed new language is italicized.

* * * * *

3304. Data Feeds Utilized

The PSX System utilizes the below proprietary and network processor feeds [utilized by the System] for the handling, routing, and execution of orders, as well as for the regulatory compliance processes related to those functions. The Secondary Source of data is, *where applicable,* utilized only in emergency market conditions and only until those emergency conditions are resolved.

| Market center | Primary source | Secondary source |
|---|---|---|
| A—NYSE MKT (AMEX) | [CQS/UQDF] *NYSE MKT OpenBook Ultra* | [n/a] *CQS/UQDF* |
| B—NASDAQ OMX BX | BX ITCH 5.0 | CQS/UQDF |
| *C—NSX* | *CQS/UQDF* | *n/a* |
| D—FINRA ADF | CQS/UQDF | n/a |
| J—DirectEdge A | [EdgeBook] *BATS PITCH* | CQS/UQDF |
| K—DirectEdge X | [EdgeBook] *BATS PITCH* | CQS/UQDF |
| M—CSX | CQS/UQDF | n/a |
| N—NYSE | NYSE OpenBook Ultra | CQS/UQDF |
| P—NYSE Arca | [ArcaBook Binary uncompacted] *NYSE ARCA XDP* | CQS/UQDF |
| T/Q—NASDAQ | ITCH 5.0 | CQS/UQDF |
| X—NASDAQ OMX PSX | PSX ITCH 5.0 | CQS/UQDF |

[15] For purposes 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).

[16] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

| Market center | Primary source | Secondary source |
|---|---|---|
| Y—BATS Y-Exchange | BATS PITCH | CQS/UQDF |
| Z—BATS Exchange | BATS PITCH | CQS/UQDF |

* * * * *

(b) Not applicable.

(c) Not applicable.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxphlx.cchwallstreet.com/*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to update and amend the table in Exchange Rule 3304 that sets forth on a market-by-market basis the specific network processor and proprietary data feeds that the Exchange utilizes for the handling, routing, and execution of orders, and for performing the regulatory compliance checks related to each of those functions.

Specifically, the table will be amended to include National Stock Exchange (''NSX''), which has informed the UTP Securities Information Processor (''UTP SIP'') that, subject to regulatory approval, it is projecting to reactivate its status as an operating participant for quotation and trading of NASDAQ-listed securities under the Unlisted Trading Privileges (''UTP'') Plan on or about August 31, 2015. The other changes to the table merely reflect updates to mirror the current network processor and proprietary data feeds utilized by the Exchange for the handling, routing, and execution of orders, and for performing the regulatory compliance checks related to each of those functions.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[3] in general and with Sections 6(b)(5) of the Act,[4] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange believes that its proposal to update the table in Exchange Rule 3304 to make certain it is current, as well as to amend the table to include NSX, would ensure that Exchange Rule 3304 correctly identifies and publicly states on a market-by-market basis all of the specific network processor and proprietary data feeds that the Exchange utilizes for the handling, routing, and execution of orders, and for performing the regulatory compliance checks related to each of those functions, and that the proposed rule change removes impediments to and perfects the mechanism of a free and open market and protects investors and the public interest because it provides additional specificity, clarity and transparency.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. To the contrary, the Exchange believes the proposal would enhance competition because including all of the exchanges enhances transparency and enables investors to better assess the quality of the Exchange's execution and routing services.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)[5] of the Act and Rule 19b–4(f)(6) thereunder.[6] The Exchange believes that this proposed rule change is properly designated as non-controversial because it enhances clarity and operational transparency without modifying members' rights or obligations. The Exchange provided notice of the proposed rule change on July 27, 2015.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2015–70 on the subject line.

[3] 15 U.S.C. 78f.

[4] 15 U.S.C. 78f(b)(5).

[5] 15 U.S.C. 78s(b)(3)(A).

[6] 17 CFR 240.19b–4(f)(6).

*Paper Comments*

• Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2015–70. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–Phlx–2015–70 and should be submitted on or before September 3, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2015–19870 Filed 8–12–15; 8:45 am]

**BILLING CODE 8011–01–P**

[7] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–75642; File No. SR–NYSEMKT–2015–55]**

## Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 961 To Establish Exchange Rules Governing the Give Up of a Clearing Member by ATP Holders and Conforming Changes to Rules 960 and 954NY

August 7, 2015

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on July 27, 2015, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 961 to establish Exchange rules governing the give up of a Clearing Member by ATP Holders and proposes conforming changes to Rules 960 and 954NY. 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend Rule 961 to establish Exchange rules governing the ''give up'' of a Clearing Member [4] by ATP Holders. In addition, the Exchange proposes changes to Rules 960 and 954NY to reflect proposed amendments to Rule 961. The Exchange believes that this proposal to include the give-up process in Exchange rules would result in the fair and reasonable use of resources by both the Exchange and ATP Holders. In addition, the proposed change would align the Exchange with competing options exchanges that have recently adopted rules consistent with this proposal.[5]

By way of background, to enter transactions on the Exchange, an ATP Holder must either be a Clearing Member or must have a Clearing Member agree to accept financial responsibility for all of its transactions. Specifically, Rule 961 provides that every Clearing Member will be responsible for the clearance of Exchange option transactions of ATP Holder that gives up the Clearing Member's name in an Exchange option transaction, provided the clearing member has authorized such member or member organization to give up its name with respect to Exchange option transactions.[6] In addition, Rule 954NY(a) (Order Identification) provides that for each transaction in which an ATP Holder participates, the ATP Holder must give up the name of the Clearing Member through whom the transaction will be cleared. The

[4] Rule 900.2NY (11) defines ''Clearing Member'' as an Exchange ATP Holder which has been admitted to membership in the Options Clearing Corporation pursuant to the provisions of the Rules of the Options Clearing Corporation.

[5] *See* Securities and Exchange Act Release No. 72668 (July 24, 2014), 79 FR 44229 (July 30, 2014) (SR–CBOE–2014–048) (order approving proposed rule change relating to the ''give up'' process, the process by which a Trading Permit Holder ''gives up'' or selects and indicates the Clearing Trading Permit Holder responsible for the clearance of an Exchange transaction). *See also* Securities Exchange Act Release No. 72325 (June 5, 2014), 79 FR 33614 (June 11, 2014) (Notice). The Exchange notes that this proposal is a copycat filing, which is substantially similar in all material respects to the give-up process approved on CBOE, except as noted herein. *See infra* n. 14 (regarding rule text in amended Rule 961(f) explicitly describing procedures for Guarantors to reject a trade).

[6] *See also* Rule 960 (General Comparison and Clearance Rule) (providing that all Exchange transactions shall be submitted to the Exchange for comparison of trade information, and all compared transactions shall be cleared through the Options Clearing Corporation and shall be subject to the Rules of the Options Clearing Corporation).

Exchange has determined that it would be beneficial to amend Rule 961 and specify in detail the give-up process and to modify Rules 960 and 954NY, as described below. The Exchange believes the proposed changes would result in a more comprehensive streamlined give up process.

Designated Give Ups and Guarantors

The Exchange proposes to amend current Rule 961 by replacing the current rule text [7] with details regarding the give up procedure for ATP Holders executing transactions on the Exchange, and to re-title this rule ''Give Up of a Clearing Member.'' [8] As amended, Rule 961 would provide that an ATP Holder may only give up a ''Designated Give Up'' or its ''Guarantor,'' as those roles would be defined in the Rule.

Specifically, amended Rule 961 would introduce and define the term ''Designated Give Up'' as any Clearing Member that an ATP Holder (other than a Market Maker [9]) identifies to the Exchange, in writing, as a Clearing Member the ATP Holder requests the ability to give up. To designate a ''Designated Give Up,'' an ATP Holder must submit written notification to the Exchange, in a form and manner prescribed by the Exchange (''Notification Form''). A copy of the proposed Notification Form is included with this filing in Exhibit 3. Similarly, should an ATP Holder no longer want the ability to give up a particular Designated Give Up, as proposed, the ATP Holder would have to submit written notification to the Exchange, in a form and manner prescribed by the Exchange.

The Exchange notes that, as proposed, an ATP Holder may designate any Clearing Member as a Designated Give Up. Additionally, there would be no minimum or maximum number of Designated Give Ups that an ATP Holder must identify. The Exchange would notify a Clearing Member, in writing and as soon as practicable, of each ATP Holder that has identified it as a Designated Give Up. The Exchange, however, would not accept any instructions, and would not give effect to any previous instructions, from a Clearing Member not to permit an ATP Holder to designate the Clearing Member as a Designated Give Up. Further, the Exchange notes that there is no subjective evaluation of an ATP Holder's list of proposed Designated Give Ups by the Exchange. Rather, the Exchange proposes to process each list as submitted and ensure that the Clearing Members identified as Designated Give Ups are in fact current Clearing Members, as well as confirm that the Notification Forms are complete (*e.g.,* contain appropriate signatures) and that the Options Clearing Corporation (''OCC'') numbers listed for each Clearing Member are accurate.

As amended, Rule 961 would also define the term ''Guarantor'' as a Clearing Member that has issued a Letter of Guarantee or Letter of Authorization for the executing ATP Holder, pursuant to Rules of the Exchange [10] that is in effect at the time of the execution of the applicable trade. An executing ATP Holder may give up its Guarantor without such Guarantor being a ''Designated Give Up.'' The Exchange notes that Rule 924NY provides that a Letter of Guarantee is required to be issued and filed by each Clearing Member through which a Market Maker clears transactions. Accordingly, a Market Maker would only be enabled to give up a Guarantor that had executed a Letter of Guarantee on its behalf pursuant to Rule 932NY. Thus, Market Makers would not identify any Designated Give Ups.

As noted above, amended Rule 961 would provide that an ATP Holder may give up only (i) the name of a Clearing Member that has previously been identified and processed by the Exchange as a Designated Give Up for that ATP Holder, if not a Market Maker or (ii) its Guarantor.[11] This proposed requirement would be enforced by the Exchange's trading systems. Specifically, the Exchange has configured its trading systems to only accept orders from an ATP Holder that identifies a Designated Give Up or Guarantor for that ATP Holder and would reject any order entered by an ATP Holder that designates a give up that is not at the time a Designated Give Up or Guarantor of the ATP Holder.[12] The Exchange notes that it would notify an ATP Holder in writing when an identified Designated Give Up becomes ''effective'' (*i.e.,* when a Clearing Member that has been identified by the ATP Holder as a Designated Give Up has been enabled by the Exchange's trading systems to be given up). A Guarantor for an ATP Holder, by virtue of having an effective Letter of Authorization or Letter of Guarantee on file with the Exchange, would be enabled to be given up for that ATP Holder without any further action by the ATP Holder. The Exchange notes that this configuration (*i.e.,* the trading system accepting only orders that identify a Designated Give Up or Guarantor) is intended to help reduce ''keypunch errors'' and prevent ATP Holders from mistakenly giving up the name of a Clearing Member that it does not have the ability to give up a trade.

Acceptance of a Trade

The Exchange proposes in paragraph (e) of amended Rule 961 that a Designated Give Up and a Guarantor may, in certain circumstances, determine not to accept a trade on which its name was given up. If a Designated Give Up or Guarantor determines not to accept a trade, the proposed Rule would provide that it may reject the trade in accordance with the procedures described more fully below under ''Procedures to Reject a Trade.''

As proposed, a Designated Give Up may determine to not accept a trade on which its name was given up so long as it believes in good faith that it has a valid reason not to accept the trade and follows the procedures to reject a trade in proposed paragraph (f) of the amended Rule.[13]

The Exchange also proposes to provide that a Guarantor may opt to not accept (and thereby reject) a non-Market Maker trade on which its name was given up, provided that the following steps are completed: (i) Another Clearing Member agrees to be the give up on the trade; (ii) that other Clearing Member has notified both the Exchange and executing ATP Holder in writing of its intent to accept the trade; and (iii) the procedures in Rule 961(f) are

[7] *See* Rule 961 (Responsibility of Clearing Members for Exchange Option Transactions) (''Every member organization which is a clearing member of the Options Clearing Corporation shall be responsible for the clearance of the Exchange option transactions of such member organization and of each member or member organization who gives up the name of such clearing member in an Exchange option transaction, provided the clearing member has authorized such member or member organization to give up its name with respect to Exchange option transactions.'').

[8] As discussed below, proposed paragraph (h) of amended Rule 961 addresses and clarifies the financial responsibility of Clearing Members, and, as such, the Exchange believes the original rule text is rendered unnecessary.

[9] For purposes of this rule, references to ''Market Maker'' refer to ATP Holders acting in the capacity of a Market Maker and include all Exchange Market Maker capacities *e.g.,* Lead Market Makers. As explained below, Market Makers give up Guarantors that have executed a Letter of Guarantee on behalf of the Marker Maker, pursuant to Rule 932NY; Market Makers need not give up Designated Give Ups.

[10] *See* Rule 924NY (Letters of Guarantees); Rule 932NY (Letters of Authorization).

[11] As described below, amended Rule 961(f) provides that a Designated Give Up or Guarantor may, under certain circumstances, reject a trade on which it is given up and another Clearing Member may agree to accept the subject trade.

[12] *See id.*

[13] An example of a valid reason to reject a trade may be that the Designated Give Up does not have a customer for that particular trade.

followed. In addition, the give up must be changed to the Clearing Member that has agreed to accept the trade in accordance with the procedures in paragraph (f) of Rule 961. A Guarantor may not reject a trade given up by a Market Maker.

The Exchange notes that only a Designated Give Up or Guarantor whose name was initially given up on a trade is permitted to reject the trade, subject to the conditions noted above. The Clearing Member or Guarantor that becomes the give up on a rejected trade may not also reject the trade.

Procedures to Reject a Trade

The Exchange proposes to include in amended Rule 961 procedures that must be followed and completed in order for a Designated Give Up or Guarantor [14] to reject a trade. Specifically, a Designated Give Up can only change the give up to (1) another Clearing Member that has agreed to be the give up on the subject trade (''New Clearing Member''), provided the New Clearing Member has notified the Exchange and the executing ATP Holder in writing of its intent to accept the trade in a form and manner prescribed by the Exchange (''Give-Up Change Form for Accepting Clearing Member'');[15] or (2) a Guarantor for the executing ATP Holder, provided the Designated Give Up has notified the Guarantor in writing that it is changing the give up on the trade to the Guarantor.[16] Further, as proposed, a Guarantor, can only reject a non-Market Maker trade[17] for which its name was the initial give up by an ATP Holder and change the give up to another Clearing Member that has agreed to be the give up on the subject trade, provided the New Clearing Member has notified the Exchange and the executing ATP Holder in writing of its intent to accept the trade (*i.e.,* by filling out a Give-Up Change Form for Accepting Clearing Member). A Guarantor that becomes the give up on a trade as a result of the Designated Give Up rejecting the trade is prohibited from not accepting the trade/rejecting the trade. This prohibition would provide finality to the trade and ensure that the trade is not repeatedly reassigned from one Clearing Member to another.

As proposed, a Guarantor may only reject a non-Market Maker trade for which its name was the initial give up by an ATP Holder, if another Clearing Member has agreed to be the give up on the trade and has notified the Exchange and executing ATP Holder in writing of its intent to accept the trade. If a Guarantor of an ATP Holder decides to reject a trade on the trade date, it must follow the same procedures to change the give up as would be followed by a Designated Give Up. The ability to make any changes, either by the Designated Give Up or Guarantor, to the give up pursuant to this procedure would end at the Trade Date Cutoff Time.

Finally, once the give up on a trade has been changed, the Designated Give Up or Guarantor making the change must immediately thereafter notify in writing the Exchange, the parties to the trade and the Clearing Member given up of the change.

Rejection on Trade Date

As proposed, a trade may only be rejected on (i) the trade date or (ii) the business day following the trade date (''T+1'') (except that transactions in expiring options series on the last trading day prior to expiration may not be rejected on T+1).

If, on the trade date, a Designated Give Up decides to reject a trade, or another Clearing Member agrees to be the give up on a trade for which a Guarantor's name was given up, the Exchange proposes that the rejecting Designated Give Up or Guarantor must notify, in writing, the executing ATP Holder or its designated agent, as soon as possible and attempt to resolve the disputed give up. This requirement puts the executing ATP Holder on notice that the give up on the trade may be changed and provides the executing ATP Holder and Designated Give Up or Guarantor an opportunity to resolve the dispute. The Exchange notes that a Designated Give Up or Guarantor may request from the Exchange the contact information of the executing ATP Holder or its designated agent for any trade it intends to reject.

Following notification to the executing ATP Holder on the trade date, a Designated Give Up or Guarantor may request the ability from the Exchange to change the give up on the trade, in a form and manner prescribed by the Exchange (''Give-Up Change Form''). A copy of the proposed Give-Up Change Form is included with this filing in Exhibit 3. Provided that the Exchange is able to process the request prior to the trade input cutoff time established by the OCC (or the applicable later time if the Exchange receives and is able to process a request to extend its time of final trade submission to the OCC) (''Trade Date Cutoff Time''), the Exchange would provide the Designated Give Up or Guarantor the ability to make the change to the give up on the trade to either (1) another Clearing Member or, as applicable, (2) the executing ATP Holder's Guarantor.

Rejection on T+1

The Exchange acknowledges that some clearing firms may not reconcile their trades until after the Trade Date Cutoff Time. A clearing firm, therefore, may not realize that a valid reason exists to not accept a particular trade until after the close of the trading day or until the following morning. Accordingly, the Exchange proposes to establish a procedure for a Designated Give Up or Guarantor of an ATP Holder that is not a Market Maker to reject a trade on the following trade day (''T+1'').[18] The Exchange notes that a separate procedure must be established for T+1 changes because to effectively change the give up on a trade on T+1 an offsetting reversal must occur—as opposed to merely identifying a different Clearing Member on the trade.

Consistent with amended Rule 961(f), a Designated Give Up or Guarantor [19] that wishes to reject a trade on T+1 would have to notify the executing ATP Holder, in writing, to try to attempt and resolve the dispute. In addition, a Designated Give Up or Guarantor may contact the Exchange and request the ability to reject the trade on T+1. Provided that the Exchange is receives the request prior to 12:00 p.m. (ET) on T+1 (''T+1 Cutoff Time''), the Exchange would provide the Designated Give Up or Guarantor the ability to enter trade records into the Exchange's systems that would effect a transfer of the trade to

[14] The Exchange notes that amended Rule 961(f) contains rule text explicitly describing procedures for Guarantors to reject a trade that is not contained in the rule text approved in SR–CBOE–2014–048. *See supra* n. 5. The Exchange, however, believes that this additional description serves only to clarify, as opposed to alter, the procedure approved in SR–CBOE–2014–048.

[15] A copy of the proposed Give-Up Change Form for Accepting Clearing Member is included with this filing in Exhibit 3. Also, as noted above, a New Clearing Member cannot later reject the trade. Requiring the New Clearing Member to provide notice to the Exchange of its intent to accept the trade and prohibiting the New Clearing Member from later rejecting the trade would provide finality to the trade and ensure that the trade is not repeatedly reassigned from one Clearing Member to another.

[16] The Guarantor would not need to notify the Exchange of its intent to accept the trade.

[17] A Guarantor of an ATP Holder that is a Market Maker may not reject a trade for which its name was given up in relation to such Market Maker.

[18] The Exchange proposes that no changes to the give up on trades in expiring options series that take place on the last trading day prior to their expiration may take place on T+1. Rather, a Designated Give Up or Guarantor may only reject these transactions on the trade date until the Trade Date Cutoff Time in accordance with the trade date procedures described above.

[19] The Exchange again notes that, as proposed, only a Guarantor whose name was initially given up is permitted to reject a trade (*i.e.,* a Guarantor cannot reject a trade on T+1 for which it has become the give up as a result of a Designated Give Up not accepting the trade).

another Clearing Member. As noted above, if a New Clearing Member agrees to the give up on a trade, it would be required to inform the Exchange of its acceptance via the Give-Up Change Form for Accepting Clearing Members. A Guarantor that becomes the new give up on T+1 would not need to notify the Exchange of its intent to accept the trade, nor would it need to submit any notification or form. The Designated Give Up however, would be required to provide written notice to the Guarantor that it will be making this change on T+1. The Exchange notes that the ability for either a Designated Give Up or Guarantor to make these changes would end at the T+1 Cutoff Time and would provide finality and certainty as to which Clearing Member will be the give up on the subject trade.

In addition, once any change to the give up has been made, the Designated Give Up or Guarantor making the change would be required to immediately thereafter notify, in writing, the Exchange, the parties to the trade and the Clearing Member given up, of the change.

As discussed above, the Exchange proposes to allow ATP Holders that are not Market Makers to identify any Clearing Member as a Designated Give Up. The Exchange's proposal does not permit a Clearing Member to provide the Exchange instructions to prohibit a particular ATP Holder from giving up the Clearing Member's name. This limitation prevents the Exchange from being placed in the position of arbiter among a Clearing Member, an ATP Holder and a customer. The Exchange recognizes, however, that ATP Holders should not be given the ability to give up any Clearing Member without also providing a method of recourse to those Clearing Members which, for the prescribed reasons discussed above,[20] should not be obligated to clear certain trades for which they are given up. Accordingly, the Exchange is proposing to provide Designated Give Ups and Guarantors the ability to reject a trade, provided each has a good faith basis for doing so. Ultimately, however, the trade must clear with a clearing firm and there must be finality to the trade. The Exchange believes that the executing ATP Holder's Guarantor, absent a Clearing Member that agrees to accept the trade, should become the give up on any trade which a Designated Give Up determines to reject in accordance with these proposed rule provisions, because the Guarantor, by virtue of having issued a Letter of Guarantee or Letter of Authorization, has already accepted financial responsibility for all Exchange transactions made by the executing ATP Holder. The Exchange, however, does not want to prevent a Clearing Member that agrees to accept the trade from being able to do so, and accordingly, the Exchange also provides that a New Clearing Member may become the give up on a trade in accordance with the procedure discussed above.

Other Give Up Changes

The Exchange proposes to modify the text of Rule 954NY(a), related to the give up requirement for ATP Holders, to simply cross reference Rule 961 given the detailed give up process proposed by the Exchange in that Rule.

The Exchange also proposes in paragraph (g) of amended Rule 961 three scenarios in which a give up on a transaction may be changed without Exchange involvement. First, if an executing ATP Holder has the ability through an Exchange system to do so, it could change the give up on a trade to another Designated Give Up or its Guarantor. The Exchange notes that ATP Holders often make these changes when, for example, there is a keypunch error (*i.e.,* an error that involves the erroneous entry of an intended clearing firm's OCC clearing number). The ability of the executing ATP Holder to make any such change would end at the Trade Date Cutoff Time.[21]

Next, the modified rule would provide that, if a Designated Give Up has the ability to do so, it may change the give up on a transaction for which it was given up to (i) another Clearing Member affiliated with the Designated Give Up or (ii) a Clearing Member for which the Designated Give Up is a back office agent. The ability to make such a change would end at the Trade Date Cutoff Time. The procedures to reject a trade, as set forth in proposed subparagraph (f) of Rule 961 and described above, would not apply in these instances. The Exchange notes that often Clearing Members themselves have the ability to change a give up on a trade for which it was given up to another Clearing Member affiliate or Clearing Member for which the Designated Give Up is a back office agent. Therefore, Exchange involvement in these instances is not necessary.

In addition, the proposed rule provides that if both a Designated Give Up or Guarantor and a Clearing Member have the ability through an Exchange system to do so, the Designated Give Up or Guarantor and Clearing Member may each enter trade records into the Exchange's systems on T+1 that would effect a transfer of the trade in a non-expired option series from that Designated Give Up to that Clearing Member. Likewise, if a Guarantor of an ATP Holder trade (that is not a Market Maker trade) and a Clearing Member have the ability through an Exchange system to do so, the Guarantor and Clearing Member may each enter trade records into the Exchange's systems on T+1 that would effect a transfer of the trade in a non-expired option series from that Guarantor to that Clearing Member. The Designated Give Up or Guarantor could not make any such change after the T+1 Cutoff Time. The Exchange notes that a Designated Give Up (or Guarantor) must notify, in writing, the Exchange and all the parties to the trade, of any such change made pursuant to this provision. This notification alerts the parties and the Exchange that a change to the give up has been made. Finally, the Designated Give Up (or Guarantor) would be responsible for monitoring the trade and ensuring that the other Clearing Member has entered its side of the transaction timely and correctly. If either a Designated Give Up (or Guarantor) or Clearing Member cannot themselves enter trade records into the Exchange's systems to effect a transfer of the trade from one to the other, the Designated Give Up (or Guarantor) may request the ability from the Exchange to enter both sides of the transaction in accordance with amended Rule 961 and pursuant to the procedures set forth in subparagraph (f)(3) of that Rule.

Responsibility

The Exchange proposes in paragraph (h) of amended Rule 961 to state that a Clearing Member would be financially responsible for all trades for which it is the give up at the Applicable Cutoff Time (for purposes of the proposed rule, the ''Applicable Cutoff Time'' shall refer to the T+1 Cutoff Time for non-expiring option series and to the Trade Date Cutoff Time for expiring option series). The Exchange notes, however, that nothing in the proposed rule shall preclude a different party from being responsible for the trade outside of the Rules of the Exchange pursuant to OCC Rules, any agreement between the applicable parties, other applicable rules and regulations, arbitration, court proceedings or otherwise.[22] Moreover,

[20] *See supra* n. 13.

[21] After that time, the ATP Holder would no longer have the ability to make this type of change, as the trade will have been submitted to OCC.

[22] *See* proposed Commentary .01 to Rule 691 (''Nothing herein will be deemed to preclude the clearance of Exchange transactions by a non- ATP Holder to the By-Laws of the Options Clearing Corporation so long as a Clearing Member who is

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in processing a request to provide a Designated Give Up the ability to change a give up on a trade, the Exchange would not consider or validate whether the Designated Give Up has satisfied the requirements of this Rule in relation to having a good faith belief that it has a valid reason not to accept a trade or having notified the executing ATP Holder and attempting to resolve the disputed give up prior to changing the give up. Rather, upon request, the Exchange would always provide a Designated Give Up or Guarantor the ability to change the give up or to reject a trade pursuant to the proposed Rule so long as the Designated Give Up or Guarantor, and New Clearing Member, if applicable, have provided a completed set of give up Change Forms within the prescribed time period.

The Exchange notes that given the inherent time constraints in making a change to a give up on a transaction, the Exchange would not be able to adequately consider the above-mentioned requirements and make a determination within the prescribed period of time. Rather, the Exchange would examine trades for which a give up was changed pursuant to subparagraphs (e) and (f) after the fact to ensure compliance with the requirements set forth in amended Rule 961. Particularly, the Exchange notes that the give up Change Forms that Designated Give Ups, Guarantors and New Clearing Members must submit, would help to ensure that the Exchange obtains, in a uniform format, the information that it needs to monitor and regulate this Rule and these give up changes in particular. This information, for example, would better allow the Exchange to determine whether the Designated Give Up had a valid reason to reject the trade, as well as assist the Exchange in cross checking and confirming that what the Designated Give Up or Guarantor said it was going to do is what it actually did (*e.g.,* check that the New Clearing Member identified in the give up Change Form was the Clearing Member that actually was identified on the trade as the give up). Additionally, the proposed Rule does not preclude these factors from being considered in a different forum (*e.g.,* court or arbitration), nor does it preclude any Clearing Member that violates any provision of amended Rule 961 from being subject to discipline in accordance with Exchange rules.

Finally, the Exchange proposes to eliminate as obsolete the reference in Rule 960 requiring that ''[a]ll option transactions involving orders stored in the Opening Automated Report Service shall be cleared and compared in accordance with the provisions of Rule 950(m) and Commentary thereto,'' [23] which the Exchange believes will add clarity and consistency to Exchange rules

Implementation

The Exchange proposes to announce the implementation of the proposed rule change via Trader Update, to be published no later than thirty (30) days following the effectiveness of this proposal. The implementation date will be no sooner than fourteen (14) day and no later than thirty (30) days following publication of the Trader Update. This additional time would afford the Exchange and ATP Holders the time to submit and process the forms required under the proposed rule.

2. Statutory Basis

The Exchange believes that the proposed change is consistent with Section 6(b) of the Act,[24] in general, and furthers the objectives of Section 6(b)(5),[25] in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitation transactions in securities, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [26] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

First, detailing in the rules how ATP Holders would give up Clearing Members and how Clearing Members may ''reject'' a trade provides transparency and operational certainty. The Exchange believes additional transparency removes a potential impediment to, and would contribute to perfecting, the mechanism for a free and open market and a national market system, and, in general, would protect investors and the public interest. Moreover, the Exchange notes that amended Rule 961 requires ATP Holders to adhere to a standardized process to ensure a seamless administration of the Rule. For example, all notifications relating to a change in give up must be made in writing. The Exchange believes that these requirements will aid the Exchange's efforts to monitor and regulate ATP Holders and Clearing Members as they relate to amended Rule 961 and changes in give ups, thereby protecting investors and the public interest.

Additionally, the Exchange believes that its proposed give up rule strikes the right balance between the various views and interests of market participants. For example, although the rule allows ATP Holders that are not Market Makers to identify any Clearing Member as a Designated Give Up, it also provides that ATP Holders would receive notice of any ATP Holder that has designated it as a Designated Give Up and provides for a procedure for a Clearing Member to ''reject'' a trade in accordance with the Rules, both on the trade date and T+1.

The Exchange recognizes that ATP Holders should not be given the ability to give up any Clearing Members without also providing a method of recourse to those Clearing Members which, for the prescribed reasons discussed above, should not be obligated to clear certain trades for which they are given up. The Exchange believes that providing Designated Give Ups the ability to reject a trade within a reasonable amount of time is consistent with the Act as, pursuant to the proposed rule, the Designated Give Ups may only do so if they have a valid reason and because ultimately, the trade can always be assigned to the Guarantor of the executing ATP Holder if a New Clearing Firm is not willing to step in and accept the trade. A trade must clear with a clearing firm and there must be finality to the trade. Absent a New Clearing Member that agrees to accept the trade, the Exchange believes that the executing ATP Holder's Guarantor, should become the give up on any trade that a Designated Give Up determines to reject, in accordance with the proposed rule provisions, because the Guarantor, by virtue of having issued a Letter of Guarantee or Letter of Authorization, has already accepted financial responsibility for all Exchange transactions made by the executing ATP Holder. Therefore, amended Rule 961 is reasonable and provides certainty that a Clearing Member will always be responsible for a trade, which protects investors and the public interest.

The Exchange notes that amended Rule 961 does not preclude a different party than the party given up from being

an ATP Holder is also designated as having responsibility under these Rules for the clearance and comparison of such transactions.'').

[23] The Exchange also proposes to capitalize the two references to ''clearing member'' in this rule to signify the defined term, which the Exchange believes would add clarity and consistency to Exchange rules.

[24] 15 U.S.C. 78f(b).

[25] 15 U.S.C. 78f(b)(5).

[26] *Id.*

responsible for the trade outside of the Rules of the Exchange, pursuant to OCC Rules, any agreement between the applicable parties, other applicable rules and regulations, arbitration, court proceedings or otherwise. The Exchange acknowledges that it would not consider whether the Designated Give Up has satisfied the requirements of this Rule in relation to having a good faith belief that it has a valid reason not to accept a trade or having notified the executing ATP Holder and attempting to resolve the disputed give up prior to changing the give up, due to inherent time restrictions. However, the Exchange believes investor and public interest are still protected as the Exchange will still examine trades for which a give up was changed pursuant to subparagraphs (e) and (f) of amended Rule 961 after the fact to ensure compliance with the requirements set forth in the Rule. As noted above, the implementation of a standardized process and the requirement that certain notices be in writing would assist monitoring any give up changes and enforcing amended Rule 961.

Further, the Exchange notes that the Rule does not preclude these factors from being considered in a different forum (*e.g.,* court or arbitration) nor does it preclude any ATP Holder or Clearing Member that violates any provision of amended Rule 961 from being subject to discipline by the Exchange.

Finally, the Exchange believes that making non-substantive, technical corrections to the rule text (*i.e.,* capitalizing the defined term ''clearing member'') and deleting obsolete references in Rule 960 would add clarity and consistency to Exchange rules to the benefit of investors and the general public.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that this proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change would impose an unnecessary burden on intramarket competition because it would apply equally to all similarly situated ATP Holders. The Exchange also notes that, should the proposed changes make the Exchange more attractive for trading, market participants trading on other exchanges can always elect to become ATP Holders on the Exchange to take advantage of the trading opportunities. In addition, as noted above, the Exchange believes the proposed rule change is pro-competitive and would allow the Exchange to compete more effectively with other options exchanges that have already adopted changes to their give up process that are substantially identical to the changes proposed by this filing.[27]

*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**

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, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[28] and Rule 19b–4(f)(6) thereunder.[29]

A proposed rule change filed under Rule 19b–4(f)(6)[30] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[31] 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 proposal may become operative immediately upon filing. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because the proposal is substantially similar to that of another exchange that has been approved by the Commission.[32] Waiver of the 30-day operative delay will allow the Exchange to implement the proposed rule change, which is designed to bring greater operational certainty and efficiency to the give up process, in accordance with the implementation schedule outlined above. Therefore, the Commission designates the proposed rule change to be operative upon filing.[33]

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)[34] 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–2015–55 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–2015–55. 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.,

[27] *See supra* n. 5.

[28] 15 U.S.C. 78s(b)(3)(A).

[29] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the 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.

[30] 17 CFR 240.19b–4(f)(6).

[31] 17 CFR 240.19b–4(f)(6)(iii).

[32] *See supra* n. 5.

[33] 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).

[34] 15 U.S.C. 78s(b)(2)(B).

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–NYSEMKT–2015–55, and should be submitted on or before September 3, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[35]

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2015–19872 Filed 8–12–15; 08:45 am]

**BILLING CODE P**

[35] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–75650; File No. SR–EDGX–2015–18]**

## Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing of Amendment Nos. 1 and 2 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment Nos. 1, 2, and 3 Thereto, To Establish Rules Governing the Trading of Options on the EDGX Options Market

August 7, 2015.

### I. Introduction

On April 30, 2015, EDGX Exchange, Inc. (''EDGX'' or ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt rules to govern the trading of options on the Exchange (referred to herein as ''EDGX Options Exchange'' or ''EDGX Options''). The proposed rule change was published for comment in the **Federal Register** on May 19, 2015.[3] On June 25, 2015, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] On August 3, 2015, EDGX filed Amendment No. 1 to the proposed rule change.[6] On August 6, 2015, EDGX filed Amendment No. 2 to the proposed rule change.[7] On August 7, 2015, the Exchange filed Amendment No. 3 to the proposed rule change.[8] The Commission received three comment letters on the proposal.[9] On August 7, 2015, the Exchange responded to the comment letters.[10] The Commission is publishing this notice to solicit comment on Amendment Nos. 1 and 2 to the proposed rule change and is approving the proposed rule change, as modified by Amendment Nos. 1, 2, and 3 thereto, on an accelerated basis.

### II. Comment Summary

The Commission received three comments letters regarding the proposal and the Exchange's Response thereto.[11] One commenter opposed the proposal because ''we do not need additional options exchanges.''[12] The commenter stated that additional options exchanges would lead to fragmentation causing ''a thinner order book at all options exchange[s] and allows fast intermediaries to take advantage of retail orders.''[13]

Another commenter stated that it opposes any priority model for an options exchange other than price-time priority.[14] The commenter believed that ''pure price-time priority is the best and fairest model for a healthy and robust market.''[15] The commenter further noted that price-time priority ''is the best and fairest model because it rewards firms who are the first people willing to trade at a better price.''[16] The commenter states that exchanges with pro-rata allocation models adopt rules which allow directed orders and preferences without justification. According to the commenter, ''[p]ro-rata allocation rewards firms that simply quote large size, for no particularly clear benefit to the market.''[17]

In response to the commenters' concerns, EDGX notes that both the ISE Letter and the Hardcastle Letter ''raised concerns with proposed paragraph (f)(2) of proposed [EDGX Options] Rule 21.8, which would have provided a small size order . . . allocation to Directed Market Makers . . . .''[18] The Exchange further notes that it eliminated that subparagraph from the proposed rule change in Amendment No. 1.[19] The Response also states that the ''additional points raised in the Hardcastle Letter and the Shatto Letter are either not responsive to the issues raised in Proposal or are aimed at existing elements of U.S. market structure that have been previously approved by the Commission and are available on other exchanges and in the marketplace generally.''[20] Consequently, EDGX does not believe these comments are ''germane to the proposal.''[21]

### III. Discussion and Commission Findings

After careful review of the proposal, as modified by Amendment Nos. 1, 2,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 74949 (May 13, 2015), 80 FR 28745 (''Notice'').

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 75297, 80 FR 37672 (July 1, 2015).

[6] Amendment No. 1 deleted proposed EDGX Options Rule 21.8(f)(2), which would have granted participation entitlements to Directed Market Makers trading against small size orders defined as five or fewer contracts. In addition, Amendment No. 1 provided more detailed information regarding participation entitlements for Directed Market Makers. Among other things, the Exchange represented that the proposed rules provide the necessary protections against coordinated action between a Directed Market Maker and order entry firms and that EDGX Options will proactively conduct surveillance for, and enforce against, such violations.

[7] In Amendment No. 2, the Exchange represented that it is a participant in the Plan for the Selection and Reservation of Securities Symbols. Amendment No. 2 also clarified that the Penny Pilot Program (discussed below) is scheduled to expire on June 30, 2016 and the Exchange would be permitted to replace any penny pilot issues that have been delisted with the next most actively traded multiply listed options classes that are not yet included in the penny pilot, based on trading activity in the previous six months. The replacement issues may be added to the penny pilot on the second trading day following July 1, 2015 and January 1, 2016.

[8] Amendment No. 3 made technical changes to Amendments Nos. 1 and 2. Because Amendment No. 3 is technical in nature, the Commission is not required to publish it for public comment.

[9] *See* letters to Brent J. Fields, Secretary, Commission, from Suzanne H. Shatto, dated July 7, 2015 (''Shatto Letter''); from Michael J. Simon, Secretary and General Counsel, International Securities Exchange, LLC (''ISE''), dated July 28, 2015 (''ISE Letter''); and from Mark D. Wilson, Director of Technical Risk Management & Exchange Relations and Brent E. Hippert, President and Chief Compliance Officer, Hardcastle Trading USA, LLC, dated August 3, 2015 (''Hardcastle Letter'').

[10] *See* letter to Brent J. Fields, Secretary, Commission, from Anders Franzon, VP, Associate General Counsel, EDGX, dated August 7, 2015 (''Response'').

[11] *See supra* notes 9 and 10. The ISE Letter focused exclusively on the proposed five lot entitlement for Directed Market Makers and did not address any other aspect of the proposed EDGX Options rules. The Exchange subsequently deleted this provision from the proposed rule change and therefore the Commission has not addressed the ISE Letter in this order.

[12] *See* Shatto Letter, *supra* note 9.

[13] *See id.*

[14] *See* Hardcastle Letter, *supra* note 9, at 1.

[15] *Id.*

[16] *See* Hardcastle Letter, *supra* note 9, at 3.

[17] *See* Hardcastle Letter, *supra* note 9, at 3. The Hardcastle Letter was received after the expiration of the comment period and raises broader market structure policy concerns that are outside of the scope of the present proposal.

[18] *See* Response, supra *note* 10, at 2.

[19] *See id.*

[20] *See id.*

[21] *See id.*

and 3 thereto, and consideration of the comment letters and the Exchange's Response thereto, the Commission finds that the proposed rule change, as modified by Amendment Nos. 1, 2, and 3, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[22] Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[23] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices; to promote just and equitable principles of trade; to foster cooperation and coordination with persons engaged in regulating, clearing, settling, and processing information with respect to, and facilitating transactions in securities; to remove impediments to and perfect the mechanism of a free and open market and a national market system; and, in general, to protect investors and the public interest. Section 6(b)(5) also requires that the rules of an exchange not be designed to permit unfair discrimination among customers, issuers, brokers, or dealers. Further, the Commission finds that the proposal is consistent with Sections 6(b)(1) of the Act,[24] which requires, among other things, that a national securities exchange be so organized and have the capacity to carry out the purposes of the Act, and to comply and enforce compliance by its members and persons associated with its members, with the provisions of the Act, the rules and regulation thereunder, and the rules of the exchange.

This discussion does not review every detail of the proposal, but focuses on the most significant rules and policy issues considered in review of the proposal.

*A. EDGX Options Members*

EDGX Options will operate an electronic trading system for trading options (''System'') that will provide for the electronic display and execution of orders.[25] EDGX Options will have only one category of members, known as ''Options Members.'' [26] Only Options Members will be permitted to transact business on the System.[27] There will be two types of Options Members: (1) Options Order Entry Firms (''OEFs'') and (2) Options Market Makers. An Options Member must be a member of the Exchange and another registered options exchange that is not registered solely under Section 6(g) of the Act [28] or the Financial Industry Regulatory Authority (''FINRA'').[29] Further, an OEF may only transact business with public customers if such Options Member also is a member of another registered national securities exchange or association with which the Exchange has entered into an agreement under Rule 17d-2 under the Act pursuant to which such other exchange or association shall be the designated options examining authority for the OEF.[30] In addition, Options Members that transact business with Public Customers must at all times be a member of FINRA.[31]

Among other things, each Options Member must be registered as a broker-dealer and have as the principal purpose of being an Options Member the conduct of a securities business, which shall be deemed to exist if and so long as: (1) The Options Member has qualified and acts in respect of its business on EDGX Options as either an OEF or an Options Market Maker or both; and (2) all transactions effected by the Options Member are in compliance with Section 11(a) of the Act [32] and the rules and regulation adopted thereunder.[33] Options Members may trade options for their own proprietary accounts or, if authorized to do so under applicable law, may conduct business on behalf of customers.[34]

OEFs are Options Members representing customer orders as agent on EDGX Options or non-market maker participants conducting proprietary trading as principal.[35] Options Market Makers are Options Members registered with the Exchange as Options Market Makers and registered to make markets in individual series of options.[36] Options Market Makers will be eligible to participate as Directed Market Makers, Primary Market Makers and Market Makers.[37] A Market Maker that engages in specified Other Business Activities, or that is affiliated with a broker-dealer that engages in Other Business Activities, including functioning as an OEF, must have an Information Barrier between the market making activities and the Other Business Activities.[38] To become an Options Market Maker, an Options Member is required to register by filing a written application with the Exchange, which will consider an applicant's market making ability and such other factors as it deems appropriate in determining whether to approve an applicant's registration as a Market Maker.[39] An unlimited number of Market Makers may be registered in each class unless the number of Market Makers registered to make a market in a particular option class should be limited whenever, in the Exchange's judgment, quotation system capacity in an option class or classes is not sufficient to support additional Market Makers in such class or classes.[40] The Exchange will not restrict access in any particular option class until such time as the Exchange has submitted objective standards for restricting access to the Commission for its review and approval.[41]

In addition, the Exchange may appoint one Primary Market Maker per option class.[42] Market Makers may select from among any option issues traded on the Exchange to request appointment as a Primary Market

[22] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[23] 15 U.S.C. 78f(b)(5).

[24] 15 U.S.C. 78f(b)(1).

[25] The proposed rules of EDGX Options are based on, and virtually identical to, the rules of the Exchange's affiliate, BATS Exchange, Inc. (''BZX Options''), with the exception of the proposed priority model and certain other limited differences. *See* Notice, *supra* note 3, at 28745.

[26] The term ''Options Member'' means a firm, or organization that is registered with the Exchange pursuant to Chapter XVII of EDGX Options proposed rules for purposes of participating in options trading on EDGX Options as an Order Entry Firm or Options Market Maker. *See* proposed EDGX Options Rules, Chapter XVI, Rule 16.1(a)(38). All Exchange members will be eligible to participate in EDGX Options provided that the Exchange specifically authorizes them to trade in the System and they become Options Members. A prospective Options Member must be an existing member or become a Member of the Exchange, pursuant to Chapter II (Members of the Exchange), and continue to abide by the requirements of the Chapter II Exchange Rules with respect to participation in EDGX Options. *See* proposed EDGX Options Rules, Chapter XVII, Rule 17.1(b)(3).

[27] *See* proposed EDGX Options Rules, Chapter XVII, Rule 17.1(a).

[28] 15 U.S.C. 78f(g).

[29] *See* proposed EDGX Options Rules, Chapter XVII, Rule 17.2(f).

[30] *See* proposed EDGX Options Rules, Chapter XXVI, Rule 26.1.

[31] *See* proposed EDGX Options Rules, Chapter XVII, Rule 17.2(f).

[32] 15 U.S.C. 78k(a).

[33] *See* proposed EDGX Options Rules, Chapter XVII, Rule 17.2(e).

[34] *See* proposed EDGX Options Rules, Chapter XVII, Rule 17.1(a).

[35] *See* proposed EDGX Options Rules, Chapter XVI, Rule 16.1(a)(36).

[36] *See* proposed EDGX Options Rules, Chapter XXII, Rule 22.2. All Market Makers are designated as specialists on EDGX Options for all purposes under the Exchange Act or Rules thereunder.

[37] *See* Notice, *supra* note 3, at 28746.

[38] *See* proposed EDGX Options Rules, Chapter XXII, Rule 22.10(a).

[39] *See* proposed EDGX Options Rules, Chapter XXII, Rule 22.2(a).

[40] *See* proposed EDGX Options Rules, Chapter XXII, Rule 22.2(c).

[41] *See id.*

[42] *See id.*

Maker, subject to the approval of the Exchange. In considering the approval of the appointment of a Primary Market Maker in each security, the Exchange will consider: The Market Maker's preference; the financial resources available to the Market Maker; the Market Maker's experience, expertise and past performance in making markets, including the Market Maker's performance in other securities; the Market Maker's operational capability; and the maintenance and enhancement of competition among Market Makers in each security in which they are registered, including pursuant to the performance standards set forth in proposed Rule 22.2(i).[43] Options Market Makers are required to electronically engage in a course of dealings to enhance liquidity available on EDGX Options and to assist in the maintenance of fair and orderly markets.[44] Among other things, an Options Market Maker must: (1) On a daily basis maintain a two-sided market on a continuous basis in at least 75% of the individual options series in which it is registered; (2) engage, to a reasonable degree under the existing circumstances, in dealings for their own accounts when there exists, or it is reasonably anticipated that there will exist, a lack of price continuity, a temporary disparity between the supply of (or demand for) a particular option contract, or a temporary distortion of the price relationships between option contracts of the same class; (3) compete with other Market Makers in all series in which the Market Maker is registered to trade; and (4) maintain minimum net capital in accordance with Commission and the Exchange rules.[45] Substantial or continued failure by an Options Market Maker to meet any of its obligations and duties would subject the Options Market Maker to disciplinary action, suspension, or revocation of the Options Market Maker's registration in one or more options series.[46]

The Commission finds that the Options Market Maker qualification requirements are consistent with the Act and notes that they are similar to those of other options exchanges.[47] The Commission also finds that the Options Market Maker participation requirements are consistent with the Act. Market makers receive certain benefits for carrying out their responsibilities. For example, a broker-dealer or other lender may extend ''good faith'' credit to a member of a national securities exchange or registered broker-dealer to finance its activities as a market maker or specialist.[48] In addition, market makers are exempted from the prohibition in Section 11(a) of the Act. The Commission believes that a market maker must have sufficient affirmative obligations, including the obligation to hold itself out as willing to buy and sell options for its own account on a regular or continuous basis, to justify this favorable treatment. The Commission believes that EDGX Options Market Maker participation requirements impose sufficient affirmative obligations on Options Market Makers and, accordingly, that these EDGX Options requirements are consistent with the Act.[49]

*B. EDGX Options Trading System*

The Exchange's options trading system will leverage the Exchange's current technology, including its customer connectivity, messaging protocols, quotation and execution engine, order router, data feeds, and network infrastructure. As a result, the EDGX Options Exchange will closely resemble the Exchange's affiliate, BZX Options, with the exception of the proposed priority model and certain other limited differences.[50] As noted above, EDGX Options will maintain a pro rata allocation model with execution priority dependent on the capacity of an order (*e.g.,* Customer or non-Customer) as well as status as a Primary Market Maker or Directed Market Maker, as applicable.[51] The System will include a proprietary data feed, Multicast PITCH, which will display depth of book quotations and execution information based on orders received by EDGX Options using the minimum price variation applicable to that security.[52]

Options Members will be able to enter the following types of orders into the System: Limit Orders;[53] Minimum Quantity Orders;[54] Market Orders;[55] Price Improving Orders;[56] Book Only

[43] *See* proposed EDGX Options Rules, Chapter XXII, Rule 22.2(d). The Exchange will periodically conduct an evaluation of Primary Market Makers to determine whether they have fulfilled performance standards relating to, among other things, quality of markets, competition among Market Makers, observance of ethical standards, and administrative factors. The Exchange may consider any relevant information including, but not limited to, the results of a Market Maker evaluation, trading data, a Market Maker's regulatory history and such other factors and data as may be pertinent in the circumstances. *See* proposed EDGX Options Rules, Chapter XXII, Rule 22.2(i).

[44] *See* proposed EDGX Options Rules, Chapter XXII, Rule 22.5.

[45] *See, e.g.,* proposed EDGX Options Rules, Chapter XXII, Rule 22.5(a).

[46] *See* proposed EDGX Options Rules, Chapter XXII, Rule 22.5(c).

[47] *See, e.g.,* Rules of NOM, Chapter VII, Sections 4, 5, and 6; and BATS Rules 22.4, 22.5 and 22.6.

[48] *See* 12 CFR 221.5 and 12 CFR 220.7; *see also* 17 CFR 240.15c3–1(a)(6) (capital requirements for market makers).

[49] The Commission notes that the participation requirements are similar to those of other options exchanges. *See, e.g.,* NOM Rules, Chapter VII, Sections 5 and 6; and BATS Rules 22.5 and 22.6.

[50] *See* Notice, *supra* note 3, at 28745.

[51] *See id.* at 28747. The System includes: (1) An order execution service that enables Users to automatically execute transactions in System Securities; and provides Users with sufficient monitoring and updating capability to participate in an automated execution environment; (2) a trade reporting service that submits ''locked-in'' trades for clearing to a registered clearing agency for clearance and settlement; transmits last-sale reports of transactions automatically to the Options Price Reporting Authority for dissemination to the public and industry, and provides participants with monitoring and risk management capabilities to facilitate participation in a ''locked-in'' trading environment; and (3) a data feed(s) that can be used to display with or without attribution to Options Members' MPIDs Displayed Orders on both the bid and offer side of the market for price levels then within EDGX Options using the minimum price variation applicable to that security. *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.1(a). *See* Notice, supra note 3, for a more complete description of EDGX Options operation and rules. The Commission notes that the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information (''OPRA Plan'') requires each party to the Plan to collect and promptly transmit to the OPRA all last sale reports relating to its market. *See* OPRA Plan, Article V, Section 5.2(a).

[52] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.15.

[53] Limit Orders are orders to buy or sell an option at a specified price or better. A limit order is marketable when, for a limit order to buy, at the time it is entered into the System, the order is priced at the current inside offer or higher, or for a limit order to sell, at the time it is entered into the System, the order is priced at the inside bid or lower. *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.1(d)(2).

[54] Minimum Quantity Orders are orders that require that a specified minimum quantity of contracts be obtained, or the order is cancelled. Minimum Quantity Orders will only execute against multiple, aggregated orders if such execution would occur simultaneously. The Exchange will only honor a specified minimum quantity on a Book Only Order entered with a time-in-force designation of Immediate or Cancel and will disregard a minimum quantity on any other order. *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.1(d)(3).

[55] Market Orders are orders to buy or sell at the best price available at the time of execution. Market Orders to buy or sell an option traded on EDGX Options will be rejected if they are received when the underlying security is subject to a ''Limit State'' or ''Straddle State'' as defined in the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS under the Act (the ''Limit Up-Limit Down Plan''). Any portion of a Market Order that would execute at a price more than $0.50 or 5 percent worse than the NBBO at the time the order initially reaches EDGX Options, whichever is greater, will be cancelled. *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.1(d)(5).

[56] Price Improving Orders are orders to buy or sell an option at a specified price at an increment smaller than the minimum price variation in the security. Price Improving Orders may be entered in increments as small as (1) one cent. Price Improving Orders shall be displayed at the minimum price variation in that security and shall be rounded up for sell orders and rounded down for buy orders. Unless a User has entered instructions not to do so, Price Improving Orders will be subject to the

Orders;[57] Post Only Orders;[58] and Intermarket Sweep Orders;[59] with characteristics and functionality similar to what is currently approved for use on BZX Options.[60] Orders entered into the System will be designated for display (price and size) on either an attributable or non-attributable basis in the order display service of the System.[61] Options Members will be permitted to enter multiple orders at single or multiple price levels.[62]

All trading interest on the System will be automatically executable. The System shall execute trading interest within the System in price priority, meaning it will execute all trading interest at the best price level within the System before executing trading interest at the next best price. After considering price priority, all orders will be matched according to pro-rata priority. In addition, Customer, Primary Market Maker and/or Directed Market Maker priority overlays are also available at the Exchange's discretion on a class-by-class basis.[63] For example, (i) the Customer Overlay provides Customers with priority over all non-Customer interest at the same price; (ii) the Directed Market Maker overlay (which may only be in effect if the Customer Overlay is also in effect) provides the Directed Market Maker with priority over other Market Makers for a certain percentage of contracts allocated at the same price (60% or 40% depending upon the number of other Market Makers at the NBBO); and (iii) the Primary Market Maker overlay (which may only be in effect if the Customer Overlay is also in effect) provides Primary Market Makers with priority over other Market Makers for a certain percentage of contracts allocated at the same price (60% or 40% depending upon the number of other Market Makers at the NBBO) and for small size orders.[64]

After executions resulting from the priority overlays, orders and quotes within the System for the accounts of non-Customers, including Professional Customers, have next priority.[65] If there is more than one highest bid or more than one lowest offer in the Consolidated Book for the account of a non-Customer, then such bids or offers will be afforded priority on a ''size pro rata'' basis.[66] Any price improvement resulting from an execution in the System will accrue to the party taking liquidity.[67]

The Exchange notes that a Directed Market Maker will have to be quoting at or improving the NBBO at the time the order is received to capitalize on the participation entitlement and will only receive a participation entitlement at one such price point. The Directed Market Maker must be publicly quoting at that price when the order is received. In this regard, the proposal prohibits an order flow provider from notifying a Directed Market Maker regarding its intention to submit a Directed Order so that such Directed Market Maker could change its quotation immediately prior to submission of the directed order. The Exchange believes the proposed rules provide the necessary protections against coordinated action as between a Directed Market Maker and an order entry firm.[68] Furthermore, the Exchange has represented that it will proactively conduct surveillance for, and enforce against, such violations.[69]

Any incoming order designated with a Match Trade Prevention (''MTP'') modifier will be prevented from executing against a resting opposite side order also designated with an MTP modifier and originating from the same market participant identifier (''MPID''), Exchange Member identifier, trading group identifier, or Exchange Sponsored Participant identifier.[70] In such a case, the MTP modifier on the incoming order controls the interaction between two orders marked with MTP modifiers.[71]

The Commission believes that EDGX Options' proposed execution priority rules and order types are consistent with the Act, and in particular, with the requirements in Section 6(b)(5) of the Act, which requires an exchange's rules be, among other things, 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, and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission notes that a Directed Market Maker on EDGX Options will have to be quoting at, or better than, the NBBO at the time a Directed Order is received in order to obtain the guarantee. The Commission believes that it is critical that a Directed Market Maker must not be permitted to step up and match the NBBO after it receives a directed order in order to receive the participation entitlement. In this regard, the Exchange's proposal prohibits notifying a Directed Market Maker of an intention to submit a Directed Order so that such Directed Market Maker could change its quotation to match the NBBO immediately prior to submission of the Directed Order, and then fade its quote.

display-price sliding process as set forth in proposed EDGX Options Rule 21.1(h). *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.1(d)(6).

[57] Book Only Orders are orders that are to be ranked and executed on the Exchange pursuant to Rule 21.8 (Order Display and Book Processing) or cancelled, as appropriate, without routing away to another options exchange. A Book Only Order will be subject to the display-price sliding process unless a User has entered instructions not to use the display-price sliding process as set forth in proposed EDGX Options Rule 21.1(h). *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.1(d)(7).

[58] Post Only Orders are orders that are to be ranked and executed on the Exchange pursuant to Rule 21.8 (Order Display and Book Processing) or cancelled, as appropriate, without routing away to another options exchange except that the order will not remove liquidity from the EDGX Options Book. A Post Only Order cannot be designated with instructions to use the display-price sliding process described in proposed EDGX Options Rule 21.1(h), and any such order will be rejected. A Post Only Order that is not subject to the Price Adjust process that would lock or cross a Protected Quotation of another options exchange or the Exchange will be cancelled. *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.1(d)(8). The Exchange notes that Post Only Orders on BZX Options are permitted to remove liquidity under certain circumstances and can be designated for the display-price sliding process under BZX Options Rules. The Exchange has not proposed to adopt these features. *See* Notice, *supra* note 3, at 28748.

[59] Intermarket Sweep Orders (''ISOs'') means a limit order for an options series that: (1) When routed to an eligible exchange, the order is identified as an ISO; and (2) simultaneously with the routing of the order, one or more additional ISOs, as necessary, are routed to execute against the full displayed size of any Protected Bid, in the case of a limit order to sell, or any Protected Offer, in the case of a limit order to buy, for the options series with a price that is superior to the limit price of the ISO, which such additional orders also marked as ISOs. *See* proposed EDGX Options Rules, Chapter XXVII, Rule 27.1(a)(9). *See also* proposed EDGX Options Rules, Chapter XXI, Rule 21.1(d)(10).

[60] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.1. Options Members entering orders into the System may designate such orders to remain in force and available for display and/or potential execution for varying periods of time. Unless cancelled earlier, once these time periods expire, the order (or the unexecuted portion thereof) is returned to the entering party.

[61] *See* Notice, *supra* note 3, at 28749.

[62] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.6(a).

[63] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.8(d).

[64] *See* Amendment 1, *supra* note 6, at 1.

[65] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.8.

[66] *Id.*

[67] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.8(i).

[68] *See* proposed EDGX Rule 22.10, Limitation on Dealings. The proposed rule would prohibit an order flow provider from notifying a Directed Market Maker of its intention to submit a Directed Order so that the Directed Market Maker could change its quotation to match the national best bid or offer (''NBBO'') immediately prior to the submission of the Directed Order.

[69] *See* letter to Ted Venuti, Senior Special Counsel, Commission, from Anders Franzon, VP, Associate General Counsel, EDGX, dated August 7, 2015 (''Surveillance Letter'').

[70] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.1(g).

[71] *See id.* An exception exists for orders marked with the MTP Decrement and Cancel (''MDC'') modifier. *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.1(g)(3).

EDGX submitted a letter to the Commission representing that it will provide the necessary protections against that type of conduct, and will proactively conduct surveillance for, and enforce against, such violations.[72]

The Commission further finds that EDGX Options' proposed trading rules are consistent with the requirements of the Options Order Protection and Locked/Crossed Market Plan (''Linkage Plan''). Specifically, subject to the exceptions contained in proposed EDGX Options Rules, Chapter XXVII, the System will ensure that an order is not executed at a price that trades through another options exchange.[73] In this regard, the Commission notes that EDGX Options is required under Rule 608(c) of Regulation NMS to comply with and enforce compliance by its members with the Linkage Plan, including the requirement to avoid trading through better prices available on other markets.[74] As noted below, EDGX Options will be a participant in the Linkage Plan. To meet their regulatory responsibilities under the Linkage Plan, including the requirement to avoid trading through better-priced protected quotations available on other markets, other options exchanges that are Linkage Plan participants must have sufficient notice of new protected quotations, as well as all necessary information (such as final technical specifications). Therefore, the Commission believes that it would be a reasonable policy and procedure under the Linkage Plan for options exchanges to begin treating EDGX Options' best bid and best offer as a protected quotation within 60 days after the date of this order.

Proposed EDGX Options Rules, Chapter XXII, Rule 22.12, prohibits Options Members from executing, as principal, orders they represent as agent unless the agency order is first exposed on EDGX Options for at least one second or the Options Members has been bidding or offering on EDGX Options for at least one second prior to receiving an agency order that is executable against such bid or offer.

The Commission believes that in the electronic environment of EDGX Options, a one second exposure period could facilitate the prompt execution of orders while continuing to provide Options Members with an opportunity to compete for exposed bids and offers. In addition, the EDGX Options System is based upon technology and functionality currently approved for use in the Exchange's equities trading system and the Exchange's affiliate, BZX Options and this order exposure requirement is comparable to that which currently applies on other registered options exchanges.[75] Accordingly, the Commission believes this proposed rule of EDGX Options is consistent with the Act.

*C. Opening and Halt Cross*

The System will determine a single price at which a particular option series will be opened (the ''Opening Price'') as calculated by the System within 30 seconds of the first transaction on the primary listing market after 9:30 a.m. Eastern Time in the securities underlying the options as reported on the first print disseminated pursuant to an effective national market system plan (''First Listing Market Transaction') or immediately after a halt in an option series due to the primary listing market for the applicable underlying security declaring a regulatory trading halt, suspension, or pause with respect to such security (''Regulatory Halt'') has been lifted.[76]

Specifically, EDGX Options will accept market and limit orders and quotes for inclusion in the opening process (the ''Opening Process'') beginning at 8:00 a.m. Eastern Time or immediately upon trading being halted in an option series due Regulatory Halt) and will continue to accept market and limit orders and quotes until such time as the Opening Process is initiated in that option series (the ''Order Entry Period''), other than index options.[77] Orders may be entered and cancelled throughout the Order Entry Period.

After establishing an Opening Price,[78] orders and quotes in the System that are priced equal to or more aggressively than the Opening Price will be matched based on the Exchange's proposed priority rules.[79] After the matching concludes, orders will be handled in time sequence, beginning with the order with the oldest time stamp and may, in whole or in part, be placed on the EDGX Options Book, cancelled, executed, or routed.[80] Other than the differences with respect to the market model described above, the Opening Process or re-opening after a Regulatory Halt are nearly identical to those that exist on the Exchange's affiliate, BZX Options.

The Commission believes that the proposed EDGX Options Rules regarding the opening of trading on EDGX Options are reasonably designed to provide for an orderly opening and are consistent with the Act. The Commission further believes that the procedure for re-opening trading in an option following the conclusion of a trading halt in the underlying security is reasonably designed to provide for an orderly re-opening of trading in the option and is consistent with the Act.

*D. Routing*

EDGX Options Members may designate orders to be routed to another options exchange when trading interest is not available on EDGX Options or to execute only on the Exchange. The Exchange proposed that its routing functionality will be limited to only routing System securities, which are options listed for trading on EDGX Options.[81] The Exchange has proposed to offer a variety of routing options: Parallel D,[82] Parallel 2D,[83] Destination Specific[84] and Directed ISO,[85] which may be combined with all available order types and time-in-force designations, with the exception of

[72] *See* Surveillance Letter, *supra* note 69.

[73] *See* proposed EDGX Options Rules, Chapter XXVII, Rule 27.2.

[74] *See* 17 CFR 242.608(c). *See also* EDGX Options Rules, Chapter XXVII, Rule 27.2(a).

[75] *See, e.g.,* Rules of NOM, Chapter VII, Section 12. In addition, the proposed rules governing priority on the System are consistent with other options exchanges that have similar market models, including Amex and MIAX. *See, e.g.,* Amex Rule 964NY and MIAX Rule 514.

[76] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.7.

[77] The Exchange will not accept IOC or FOK orders for queuing prior to the completion of the Opening Process. The Exchange will convert all ISOs entered for queuing prior to the completion of the Opening Process into non-ISOs.

[78] An Opening Price must be a Valid Price as defined in proposed EDGX Options Chapter XXI, Rule 21.7(a)(2).

[79] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.7(a)(3). *See also* proposed EDGX Options Rules, Chapter XXI, Rule 21.8.

[80] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.7(a)(3). *See also* proposed EDGX Options Rules, Chapter XXI, Rule 21.9.

[81] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.9(a).

[82] Parallel D is a routing option under which an order checks the System for available contracts and then is sent to destinations on the System routing table. The System may route to multiple destinations at a single price level simultaneously through Parallel D routing. *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.9(a)(2)(A).

[83] Parallel 2D is a routing option under which an order checks the System for available contracts and then is sent to destinations on the System routing table. The System may route to multiple destinations and at multiple price levels simultaneously through Parallel 2D routing. *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.9(a)(2)(B).

[84] Destination Specific is a routing option under which an order checks the System for available contracts and then is sent to a specified away options exchange. *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.9(a)(2)(C).

[85] Directed ISO is a routing option under which an ISO entered by a User bypasses the System and is sent by the System to another options exchange specified by the User. It is the entering Member's responsibility, not the Exchange's responsibility, to comply with the requirements relating to Intermarket Sweep Orders. *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.9(a)(2)(D).

order types and time-in-force designations whose terms are inconsistent with the terms of a particular routing option.[86] The Exchange also proposes to offer two optional Re-Route instructions: Aggressive Re-Route[87] and Super Aggressive Re-Route,[88] either of which can be assigned to routable orders. An order that is designated as routable will be routed to other options exchanges to be executed when EDGX Options is not at the NBBO consistent with the Options Order Protection and Locked/Crossed Market Plan.[89] Orders routed to other options exchanges do not retain time priority with respect to orders in the System, and the System will continue to execute orders while routed orders are away at another exchange.[90] If a routed order is returned, in whole or in part, that order (or its remainder) will receive a new time stamp reflecting the time of its return to the System.[91] Options members whose orders are routed away will be obligated to honor trades executed on other options exchanges to the same extent they would be obligated to honor a trade executed on EDGX Options.[92]

The Exchange will route options orders via BATS Trading, Inc. (''BATS Trading''), which serves as the Outbound Router of the Exchange, as defined in Rule 2.11.[93] The function of the Outbound Router will be to route orders in options listed and open for trading on EDGX Options to other exchanges pursuant to EDGX Options rules solely on behalf of EDGX Options.[94] The Outbound Router will be subject to regulation as a facility of the Exchange, including the requirement to file proposed rule changes under Section 19 of the Act.[95]

Pursuant to Rule 2.11, BATS Trading is required to be a member of an SRO unaffiliated with EDGX that is its designated examining authority, and BATS Trading is required to establish and maintain procedures and internal controls reasonably designed to restrict the flow of confidential and proprietary information between EDGX and its facilities, including BATS Trading, and any other entity.[96] In addition, the books, records, premises, officers, directors, agents, and employees of BATS Trading, as a facility of EDGX, are deemed to be those of the Exchange for purposes of and subject to oversight pursuant to the Act.[97]

In the event the Exchange is not able to provide order routing services through its affiliated broker-dealer, the Exchange will route orders to other options exchanges in conjunction with one or more routing brokers that are not affiliated with the Exchange (''Routing Services'').[98] The Exchange will determine the logic that provides when, how, and where orders are routed away to other options exchanges.[99] The routing broker will receive routing instructions from the Exchange to route orders to other options exchanges and report the executions back to the Exchange.[100] The routing broker cannot change the terms of an order or the routing instructions, nor does the routing broker have any discretion about where to route an order.[101] The Exchange would enter into an agreement with each routing broker used by the Exchange that would, among other things, restrict the use of any confidential and proprietary information that the routing broker receives to legitimate business purposes necessary for the routing of the order at the direction of the Exchange.[102] Further, the Exchange would establish and maintain procedures and internal controls reasonably designed to adequately restrict the flow of confidential and proprietary information between (1) the Exchange and the routing broker, and any other entity, including any affiliate of the routing broker, and (2) if the routing broker or any of its affiliates engage in any other business activities, other than providing routing services to the Exchange, between the segment of the routing broker or affiliate that provides the other business activities and the segment of the routing broker that provides the routing services.[103]

The Exchange may not use a routing broker for which the Exchange or any affiliate of the Exchange is the designated examining authority.[104] In addition, the Exchange will provide its Routing Services in compliance with the provisions of the Act and the rules thereunder, including but not limited to, the requirements in Section 6(b)(4) and (5) of the Act that the rules of a national securities exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.[105] Any bid or offer entered on the Exchange routed to another options exchange through a routing broker that results in an execution shall be binding on the Options Member that entered such bid or offer.[106]

Use of BATS Trading or the Routing Services to route orders to other market centers is optional.[107] Parties that do not desire to use BATS Trading for routing or other Routing Services provided by the Exchange must designate orders as not available for routing.[108]

In light of these protections, for both the use of BATS Trading or an unaffiliated router, the Commission believes that the EDGX Options rules and procedures regarding the use of BATS Trading or an unaffiliated router to route order to away exchanges are consistent with the Act.

*E. Minimum Quoting and Trading Increments*

The Exchange is proposing to apply the following minimum quoting increments: (1) If the option price is less than $3.00, five (5) cents; and (2) if the option price is $3.00 or higher, ten (10) cents.[109] In addition, the Exchange

[86] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.9(a)(2). These routing options are identical to the routing options offered on BZX. *See* Notice, *supra* note 3, at 28750.

[87] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.9(a)(3)(A). To the extent the unfilled balance of a routable order has been posted to the EDGX Options Book, should the order subsequently be crossed by another accessible options exchange, the System shall route the order to the crossing options exchange if the User has selected the Aggressive Re-Route instruction.

[88] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.9(a)(3)(B). To the extent the unfilled balance of a routable order has been posted to the EDGX Options Book, should the order subsequently be locked or crossed by another accessible options exchange, the System shall route the order to the locking or crossing options exchange if the User has selected the Super Aggressive Re-Route instruction.

[89] *See* Notice, *supra* note 3, at 28750.

[90] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.9(b).

[91] *See id.*

[92] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.9(c).

[93] *See* Notice, *supra* note 3, at 28750.

[94] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.9(d).

[95] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.9(d).

[96] *See* EDGX Rules, Chapter II, Rule 2.11(a)(5).

[97] *See* EDGX Rules, Chapter II, Rule 2.11(b).

[98] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.9(e).

[99] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.9(e)(5).

[100] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.9(e)(6).

[101] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.9(e)(6).

[102] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.9(e)(1).

[103] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.9(e)(2).

[104] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.9(e)(3).

[105] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.9(e)(4).

[106] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.9(e)(7).

[107] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.9(d).

[108] *See id.*

[109] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.5(a).

proposes to participate in a pilot program, until June 30, 2016, to allow quoting in certain options in smaller increments (''Pilot Program'').[110] The Exchange will include in the Pilot Program all classes that are included by other options exchanges in substantially similar pilot programs. If an options class is included in the Pilot Program, the Exchange will allow quoting in one (1) cent increments any option priced less than $3.00 or options on QQQQs, IWM, and SPY.[111] Options priced at $3.00 or higher that are in the Pilot Program will be quoted in five (5) cent increments.[112] In addition, the Exchange is proposing that the minimum *trading* increment for options contracts traded on EDGX Options would be one (1) cent for all series.[113] The Exchange is also proposing to offer trading in Mini Options, and the minimum trading increment for Mini Options will be the same as the minimum trading increment permitted for standard options on the same underlying security.[114]

The Commission believes that the Exchange's proposed minimum quoting and trading increments, including its proposal to commence quoting pursuant to the Pilot Program, which are consistent with the rules of the other options exchanges,[115] are consistent with the Act. As the Commission noted in approving the latest expansion of the Pilot Program, allowing market participants to quote in smaller increments in Pilot options has been shown to reduce spreads, thereby lowering costs to investors.[116] In addition, permitting options to be quoted in smaller increments pursuant to the Pilot Program provides the opportunity for reduced spreads for a significant amount of trading volume.[117] Further, although the Commission anticipates that the Exchange's proposal will contribute to further increases in quotation message traffic, the Commission believes that the Exchange's proposal is sufficiently limited such that it is unlikely on its own to increase quotation message traffic beyond the capacity of market participants' systems.

*F. Securities Traded on EDGX Options*

The Exchange proposes to adopt initial and continued listing standards for equity and index options traded on EDGX Options that are substantially similar to the listing standards adopted by other options exchanges.[118] The Commission believes that the Exchange's proposed initial and continued listing standards are consistent with the Act, including Section 6(b)(5), in that they are designed to protect investors and the public interest and to promote just and equitable principles of trade. EDGX's operation of the EDGX Options Exchange is conditioned on EDGX becoming a Plan Sponsor in the Plan for the Purpose of Developing and Implementing Procedures designed to Facilitate the Listing and Trading of Standardized Options Submitted Pursuant to Section 11A(a)(3)(B) of the Act (''OLPP''). The Exchange has represented that it will join the OLPP.[119] In addition, EDGX has represented that it will become an exchange member in the Options Clearing Corporation (''OCC'').[120]

*G. Participation in National Market System Plans*

The Exchange represented that it will operate as a participant in various national market system plans for options trading established under Section 11A of the Act.[121] Specifically, the Exchange represented that EDGX Options Exchange will become a member of the Options Order Protection and Locked/Crossed Market Plan, the Options Price Reporting Authority (''OPRA''), and the Options Regulatory Surveillance Authority (''ORSA''). EDGX further represented that it is currently a participant in the Plan for the Selection and Reservation of Securities Symbols, and the OLPP.[122]

*H. Regulation*

According to the Exchange, the Exchange will regulate EDGX Options using the Exchange's existing regulatory structure. The Exchange's Chief Regulatory Officer will have general supervision of the regulatory operations of EDGX Options, including responsibility for overseeing the surveillance, examination, and enforcement functions and for administering all regulatory services agreements applicable to EDGX Options.[123] Similarly, the Exchange's existing Regulatory Oversight Committee (''ROC'') will be responsible for overseeing the adequacy and effectiveness of the Exchange's regulatory and SRO responsibilities, including those applicable to EDGX Options.[124]

As members of the Exchange, the Exchange's existing rules governing members will apply to Options Members and their associated persons. The Exchange's By-laws provide that it has disciplinary jurisdiction over its members, including Options Participants, so that it can enforce its members' compliance with its rules and the federal securities laws.[125] The Exchange's rules also permit it to sanction members, including Options Members, for violations of its rules and of the federal securities laws by, among other things, expelling or suspending members, limiting members' activities, functions, or operations, fining or censuring members, or suspending or barring a person from being associated with a member.[126] The Exchange's rules also provide for the imposition of fines for minor rule violations in lieu of commencing disciplinary proceedings.[127]

Moreover, the Exchange will: (1) Join the existing options industry agreements pursuant to Section 17(d) of the Act; (2) amend, as necessary, the Exchange's existing Regulatory Services Agreement (''RSA'') with FINRA to cover many aspects of the regulation and discipline of the Exchange's Options Members that participate in options trading on EDGX Options; (3) perform options listing regulation, as well as authorize Options Members to trade on EDGX Options; and (4) perform automated surveillance of trading on EDGX Options for the purpose of maintaining a fair and orderly market at all times.[128]

[110] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.5, Interpretations and Policies .01. *See also* Amendment No. 2, *supra* note 7.

[111] *See* proposed EDGX Options Rules, Chapter XXI, Rule 21.5(a).

[112] *See id.*

[113] *See* EDGX Options Rules, Chapter XXI, Rule 21.5(b).

[114] *See* EDGX Options Rules, Chapter XXI, Rule 21.5(c).

[115] *See, e.g.,* Rules of NOM, Chapter VI, Section 5.

[116] *See* Securities Exchange Act Release No. 60711 (September 23, 2009), 74 FR 49419, 49424 (September 28, 2009) (SR–NYSEArca–2009–44) (partially approving a proposed rule change to expand the Pilot Program).

[117] *See id.*

[118] *See* Notice, *supra* note 3, at 28751. *See, e.g.,* Rules of BZX Options, Chapters XIX and XXIX.

[119] *See* Notice, *supra* note 3, at 28753.

[120] *See* Notice, *supra* note 3, at 28747.

[121] *See* Notice, *supra* note 3, at 28753.

[122] *See id. See also* Amendment No. 2, *supra* note 7.

[123] *See* Notice, *supra* note 3, at 28754.

[124] *See id.* Pursuant to a regulatory services agreement, FINRA would perform certain regulatory functions on behalf of the Exchange. *See infra* note 133 and accompanying text.

[125] *See, e.g.,* Fourth Amended and Restated By-laws of EDGX Exchange, Inc., Article X, Section 2.

[126] *See, e.g.,* EDGX Rules, Chapter II, Rule 2.2.

[127] *See* proposed EDGX Options Rules, Chapter XXV, Rule 25.3 and *infra* notes 145–148 and accompanying text. *See also* EDGX Options Rules, Chapter VIII, Rule 8.15.

[128] *See* Notice, *supra* note 3, at 28753–54. EDGX Options will be monitored to identify unusual trading patterns and determine whether particular trading activity requires further regulatory investigation by FINRA. *See id.* at 28754.

In addition, the Exchange will oversee the process for determining and implementing trading halts, identifying and responding to unusual market conditions, and administering the Exchange's process for identifying and remediating ''obvious errors'' by and among its Options Members.[129] The proposed EDGX Options rules (Chapter XX) regarding halts, unusual market conditions, extraordinary market volatility, obvious errors, and audit trail are identical to the rules of BZX Options.[130]

The Commission finds that the Exchange's proposed rules and regulatory structure with respect to EDGX Options are consistent with the requirements of the Act, and in particular with Section 6(b)(1) of the Act, which requires an exchange to be so organized and have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its members and persons associated with its members, with the Act and the rules and regulations thereunder, and the rules of the Exchange,[131] and with Section 6(b)(6) and 6(b)(7) of the Act,[132] which require an Exchange to provide fair procedures for the disciplining of members and persons associated with members.

1. Regulatory Services Agreement

Currently, the Exchange and FINRA are parties to an existing RSA, pursuant to which FINRA personnel operate as agents for the Exchange in performing certain functions. The Exchange represented that it intends to amend the existing RSA in order to capture certain aspects of regulation specifically applicable to EDGX Options and the regulation and discipline of Options Members.[133] The Exchange further represents that it will supervise FINRA and continue to bear ultimate regulatory responsibility for functions performed on the Exchange's behalf under the RSA.[134] Further, the Exchange will retain ultimate legal responsibility for the regulation of its Options Members and its market.

The Commission believes that it is consistent with the Act to allow the Exchange to contract with FINRA to perform functions relating to the regulation and discipline of members and the regulation of EDGX Options.[135] These functions are fundamental elements to a regulatory program and constitute core self-regulatory functions. The Commission believes that FINRA has the expertise and experience to perform these functions on behalf of the Exchange.[136]

As noted, unless relieved by the Commission of its responsibility,[137] the Exchange bears the responsibility for self-regulatory conduct and primary liability for self-regulatory failures, not the SRO retained to perform regulatory functions on the Exchange's behalf. In performing these functions, however, FINRA may nonetheless bear liability for causing or aiding and abetting the failure of the Exchange to perform its regulatory functions.[138] Accordingly, although FINRA will not act on its own behalf under its SRO responsibilities in carrying out these regulatory services for the Exchange relating to the operation of EDGX Options, FINRA also may have secondary liability if, for example, the Commission finds the contracted functions are being performed so inadequately as to cause a violation of the federal securities laws by the Exchange.[139]

2. 17d–2 Agreements

Rule 17d–2 under the Act permits SROs to file with the Commission plans under which the SROs allocate among each other the responsibility to receive regulatory reports from, and examine and enforce compliance with specified provisions of the Act and rules thereunder and SRO rules by, firms that are members of more than one SRO (''common members''). If such a plan is declared effective by the Commission, an SRO that is a party to the plan is relieved of regulatory responsibility as to any common member for whom responsibility is allocated under the plan to another SRO.[140]

Pursuant to Rule 17d–2 under the Act, all of the options exchanges, FINRA, and the New York Stock Exchange LLC (''NYSE'') have entered into the Options Sales Practices Agreement, a Rule 17d–2 Agreement, which allocates to certain SROs (''examining SROs'') regulatory responsibility for common members with respect to certain options-related sales practice matters.[141] Under this Agreement, the examining SROs would examine firms that are common members of the Exchange and the particular examining SRO for compliance with certain provisions of the Act, certain of the rules and regulations adopted thereunder, certain examining SRO rules, and certain Exchange Rules. The Exchange's rules contemplate participation in this Agreement by requiring that any Options Member also be a member of at least one of the examining SROs.[142]

Moreover, pursuant to Rule 17d–2 under the Act, all of the options exchanges and FINRA have entered into the Options Related Market Surveillance Agreement, which allocates regulatory responsibility for certain options-related market surveillance matters among the participants.[143] Under this agreement, the examining SRO would assume regulatory responsibility with respect to firms that are common members of the Exchange and the particular examining SRO for compliance with applicable common rules for certain accounts. As a condition to operation, the Exchange must be a party to each of these 17d–2 Agreements, which will cover EDGX members that are Options Members.

[129] *See* Notice, *supra* note 3, at 28754.

[130] *See, e.g.,* Rules of BZX, Chapter XX, *see also* Rules of NOM, Chapter V, and BOX, Chapter V.

[131] 15 U.S.C. 78f(b)(1).

[132] 15 U.S.C. 78f(b)(6) and (b)(7).

[133] *See* Notice, *supra* note 3 at 28754.

[134] *See id.*

[135] *See, e.g.,* Regulation of Exchanges and Alternative Trading Systems, Securities Exchange Act Release No. 40760 (December 8, 1998), 63 FR 70844 (December 22, 1998). *See also, e.g.,* Securities Exchange Act Release Nos. 50122 (July 29, 2004), 69 FR 47962 (August 6, 2004) (SR–Amex–2004–32) (approving rule that allowed Amex to contract with another SRO for regulatory services) (''Amex Regulatory Services Approval Order''); 57478 (March 12, 2008), 73 FR 14521 (March 18, 2008) (SR–NASDAQ–2007–004) (''NOM Approval Order''); 53128 (January 13, 2006), 71 FR 3550 (January 23, 2006) (File No. 10–131) (''Nasdaq Exchange Registration Order''); and 61419 (January 26, 2010), 75 FR 5157 (February 1, 2010) (SR–BATS–2009–031) (''BATS Options Approval Order'').

[136] *See* Amex Regulatory Services Approval Order; NOM Approval Order; Nasdaq Exchange Registration Order, and BATS Options Approval Order, *id.* The Commission notes that the RSA is not before the Commission and, therefore, the Commission is not acting on it.

[137] *See* Section 17(d)(1) of the Act and Rule 17d–2 thereunder (15 U.S.C. 78q(d)(1) and 17 CFR 240.17d–2).

[138] For example, if failings by FINRA have the effect of leaving the Exchange in violation of any aspect of the Exchange's self-regulatory obligations, the Exchange would bear direct liability for the violation, while FINRA may bear liability for causing or aiding and abetting the violation. *See* Nasdaq Exchange Registration Order, *supra* note 135. *See also* Securities Exchange Act Release No. 42455 (February 24, 2000), 65 FR 11388 (March 2, 2000) (File No. 10–127) (approving the International Securities Exchange LLC's application for registration as a national securities exchange).

[139] *See id.*

[140] Rule 17d–2 provides that any two or more SROs may file with the Commission a plan for allocating among such SROs the responsibility to receive regulatory reports from persons who are members or participants of more than one of such SROs to examine such persons for compliance, or to enforce compliance by such persons, with specified provisions of the Act, the rules and regulations thereunder, and the rules of such SROs, or to carry out other specified regulatory functions with respect to such persons. *See* 17 CFR 240.17d–2.

[141] *See* Securities Exchange Act Release No. 57987 (June 18, 2008), 73 FR 36156 (June 25, 2008) (File No. S7–966).

[142] *See* proposed EDGX Options Rule, Chapter XVII, Rule 17.2(f).

[143] *See* Securities Exchange Act Release No. 58765 (October 9, 2008), 73 FR 62344 (October 20, 2008) (File No. 4–551).

EDGX represented that it will join the existing options industry agreements pursuant to Section 17d of the Act.[144]

3. Minor Rule Violation Plan

The Commission approved the EDGX Exchange's Minor Rule Violation Plan (''MRVP'') in 2010.[145] The Exchange's MRVP specifies those uncontested minor rule violations with sanctions not exceeding $2,500 that would not be subject to the provisions of Rule 19d–1(c)(1) under the Act[146] requiring that an SRO promptly file notice with the Commission of any final disciplinary action taken with respect to any person or organization.[147] The Exchange's MRVP includes the policies and procedures included in Exchange Rule 8.15 (Imposition of Fines for Minor Violation(s) of Rules) and in Rule 8.15, Interpretation and Policy .01.

The Exchange proposes to amend its MRVP and Rule 8.15, Interpretation and Policy .01 to include proposed Rule 25.3 (Penalty for Minor Rule Violations).[148] The Commission believes that this change is consistent with the Act because it clarifies that the proposed rules listed in Rule 25.3 of the proposed EDGX Options Rules will be included in EDGX's MRVP.

The Commission notes that the rules included in proposed Rule 25.3 are similar to rules included in the MRVPs of other options exchanges.[149] The Commission finds that the EDGX MRVP, as amended to include the rules listed in proposed EDGX Options Rule 25.3, is consistent with Sections 6(b)(1), 6(b)(5), and 6(b)(6) of the Act, which require, in part, that an exchange have the capacity to enforce compliance with, and provide appropriate discipline for, violations of the rules of the Commission and of the exchange.[150] In addition, because EDGX Rule 8.15 will offer procedural rights to a person sanctioned for a violation listed in proposed EDGX Options Rule 25.3, the Commission believes that the Exchange's rules provide a fair procedure for the disciplining of members and associated persons, consistent with Section 6(b)(7) of the Act.[151]

The Commission also finds that the proposal to include the provisions in proposed EDGX Options Rule 25.3 in EDGX's MRVP is consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act, as required by Rule 19d–1(c)(2) under the Act,[152] because it should strengthen the Exchange's ability to carry out its oversight and enforcement responsibilities as an SRO in cases where full disciplinary proceedings are unsuitable in view of the minor nature of the particular violation.

In approving the proposed change to the Exchange's MRVP, the Commission in no way minimizes the importance of compliance with the Exchange's rules and all other rules subject to the imposition of fines under the Exchange's MRVP. The Commission believes that the violation of any SRO rules, as well as Commission rules, is a serious matter. However, the Exchange's MRVP provides a reasonable means of addressing rule violations that do not rise to the level of requiring formal disciplinary proceedings, while providing greater flexibility in handling certain violations. The Commission expects that the Exchange will continue to conduct surveillance with due diligence and make a determination based on its findings, on a case-by-case basis, whether a fine of more or less than the recommended amount is appropriate for a violation under the Exchange's MRVP or whether a violation requires a formal disciplinary action.

*I. Section 11(a) of the Act*

Section 11(a)(1) of the Act[153] prohibits a member of a national securities exchange from effecting transactions on that exchange for its own account, the account of an associated person, or an account over which it or its associated person exercises discretion (collectively, ''covered accounts'') unless an exception applies. Rule 11a2–2(T) under the Act,[154] known as the ''effect versus execute'' rule, provides exchange members with an exemption from the Section 11(a)(1) prohibition. Rule 11a2–2(T) permits an exchange member, subject to certain conditions, to effect transactions for covered accounts by arranging for an unaffiliated member to execute transactions on the exchange. To comply with Rule 11a2–2(T)'s conditions, a member: (i) Must transmit the order from off the exchange floor; (ii) may not participate in the execution of the transaction once it has been transmitted to the member performing the execution;[155] (iii) may not be affiliated with the executing member; and (iv) with respect to an account over which the member has investment discretion, neither the member nor its associated person may retain any compensation in connection with effecting the transaction except as provided in the Rule.

In a letter to the Commission, the Exchange requests that the Commission concur with the Exchange's conclusion that Options Members that enter orders into the System satisfy the requirements of Rule 11a2–2(T).[156] For the reasons set forth below, the Commission believes that Options Members entering orders into the System would satisfy the conditions of the Rule.

The Rule's first condition is that orders for covered accounts be transmitted from off the exchange floor. The System will receive orders electronically through remote terminals or computer-to-computer interfaces. In the context of other automated trading systems, the Commission has found that the off-floor transmission requirement is met if a covered account order is transmitted from a remote location directly to an exchange's floor by electronic means.[157] Because the System receives orders electronically through remote terminals or computer-to-computer interfaces, the Commission

[144] *See* Notice, *supra* note 3 at 28753.

[145] *See* Securities Exchange Act Release No. 62036 (May 5, 2010), 75 FR 26822 (May 12, 2010) (File No. 4–594) (''MRVP Order'').

[146] 17 CFR 240.19d–1(c)(1).

[147] The Commission adopted amendments to paragraph (c) of Rule 19d–1 to allow SROs to submit for Commission approval plans for the abbreviated reporting of minor disciplinary infractions. *See* Securities Exchange Act Release No. 21013 (June 1, 1984), 49 FR 23828 (June 8, 1984) (File No. S7–983A). Any disciplinary action taken by an SRO against any person for violation of a rule of the SRO which has been designated as a minor rule violation pursuant to such a plan filed with and declared effective by the Commission would not be considered ''final'' for purposes of Section 19(d)(1) of the Act if the sanction imposed consists of a fine not exceeding $ 2,500 and the sanctioned person has not sought an adjudication, including a hearing, or otherwise exhausted his administrative remedies.

[148] In the MRVP Order, the Commission noted that the Exchange proposed that any amendments to Rule 8.15.01 made pursuant to a rule filing submitted under Rule 19b-4 of the Act would automatically be deemed a request by the Exchange for Commission approval of a modification to its MRVP. *See* MRVP Order, *supra* note 145, at note 5.

[149] *See, e.g.,* Rules of NOM, Chapter X, Section 7.

[150] 15 U.S.C. 78f(b)(1), 78f(b)(5), and 78f(b)(6).

[151] 15 U.S.C. 78f(b)(7).

[152] 17 CFR 240.19d–1(c)(2).

[153] 15 U.S.C. 78k(a)(1).

[154] 17 CFR 240.11a2–2(T).

[155] The member may, however, participate in clearing and settling the transaction.

[156] *See* Letter to Brent J. Fields, Secretary, Commission, from Anders Franzon, VP, Associate General Counsel, EDGX, dated August 3, 2015 (''EDGX 11(a) Letter'').

[157] *See, e.g.,* NOM Approval Order, *supra* note 135; Securities Exchange Act Release Nos. 53128 (January 13, 2006), 71 FR 3550 (January 23, 2006) (File No. 10–131) (approving Nasdaq Stock Market LLC); 44983 (October 25, 2001), 66 FR 55225 (November 1, 2001) (SR–PCX–00–25) (approving Archipelago Exchange); 29237 (May 24, 1991), 56 FR 24853 (May 31, 1991) (SR–NYSE–90–52 and SR–NYSE–90–53) (approving NYSE's Off-Hours Trading Facility); and 15533 (January 29, 1979), 44 FR 6084 (January 31, 1979) (''1979 Release'').

believes that the System satisfies the off-floor transmission requirement.

Second, the Rule requires that the member not participate in the execution of its order once it has been transmitted to the member performing the execution. The Exchange represented that at no time following the submission of an order is an Options Members able to acquire control or influence over the result or timing of an order's execution.[158] According to the Exchange, the execution of a member's order is determined solely by what other orders, bids, or offers are present in the System at the time the Options Member submits the order and on the priority of those orders, bids, and offers.[159] Accordingly, the Commission believes that an Options Member does not participate in the execution of an order submitted to the System.

Third, Rule 11a2–2(T) requires that the order be executed by an exchange member who is unaffiliated with the member initiating the order. The Commission has stated that this requirement is satisfied when automated exchange facilities are used, as long as the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange.[160] EDGX represented that the design of the System ensures that no Options Member has any special or unique trading advantage in the handling of its orders after transmitting its orders to the Exchange.[161] Based on the Exchange's representation, the Commission believes that the System satisfies this requirement.

Fourth, in the case of a transaction effected for an account with respect to which the initiating member or an associated person thereof exercises investment discretion, neither the initiating member nor any associated person thereof may retain any compensation in connection with effecting the transaction, unless the person authorized to transact business for the account has expressly provided otherwise by written contract referring to Section 11(a) of the Act and Rule 11a2–2(T)(a)(2)(iv).[162] EDGX Options Members trading for covered accounts over which they exercise investment discretion must comply with this condition in order to rely on the rule's exemption.[163]

## IV. Exemption From Section 19(b) of the Act With Regard to CBOE, NYSE, and FINRA Rules Incorporated by Reference

The Exchange proposes to incorporate by reference as EDGX Options Rules certain rules of the CBOE, NYSE, and FINRA.[164] Thus, for certain EDGX Options rules, Exchange members will comply with an EDGX Options rule by complying with the CBOE, NYSE, or FINRA rule referenced. In connection with its proposal to incorporate CBOE, NYSE, and FINRA rules by reference, the Exchange requested, pursuant to Rule 240.0–12 under the Act,[165] an exemption under Section 36 of the Act from the rule filing requirements of Section 19(b) of the Act for changes to those EDGX Options rules that are effected solely by virtue of a change to a cross-referenced CBOE, NYSE, or FINRA rule.[166] The Exchange proposes to incorporate by reference categories of rules (rather than individual rules within a category) that are not trading rules. The Exchange agrees to provide written notice to Options Member prior to the launch of EDGX Options of the specific CBOE, NYSE, and FINRA rules that it will incorporate by reference.[167] In addition, the Exchange will notify Options Members whenever CBOE, NYSE, or FINRA proposes a change to a cross-referenced CBOE, NYSE, or FINRA rule.[168]

Using its authority under Section 36 of the Act, the Commission previously exempted certain SROs from the requirement to file proposed rule changes under Section 19(b) of the Act.[169] Each such exempt SRO agreed to be governed by the incorporated rules, as amended from time to time, but is not required to file a separate proposed rule change with the Commission each time the SRO whose rules are incorporated by reference seeks to modify its rules. In addition, each SRO incorporated by reference only regulatory rules (*e.g.,* margin, suitability, arbitration), not trading rules, and incorporated by reference whole categories of rules (*i.e.,* did not ''cherry-pick'' certain individual rules within a category). Each exempt SRO had reasonable procedures in place to provide written notice to its members each time a change is proposed to the incorporated rules of another SRO in order to provide its members with notice of a proposed rule change that affects their interests, so that they would have an opportunity to comment on it.

The Commission is granting the Exchange's request for exemption, pursuant to Section 36 of the Act, from the rule filing requirements of Section 19(b) of the Act with respect to the rules that the Exchange proposes to incorporate by reference into EDGX

[158] *See* EDGX 11(a) Letter, *supra* note 156, at 6.

[159] *See id.* The member may cancel or modify the order, or modify the instruction for executing the order, but only from off the floor. The Commission has stated that the non-participation requirement is satisfied under such circumstances, so long as such modifications or cancellations are also transmitted from off the floor. *See* Securities Exchange Act Release No. 14713 (April 27, 1978), 43 FR 18557 (May 1, 1978) (''1978 Release'') (stating that the ''non-participation requirement does not prevent initiating members from canceling or modifying orders (or the instructions pursuant to which the initiating member wishes orders to be executed) after the orders have been transmitted to the executing member, provided that any such instructions are also transmitted from off the floor'').

[160] In considering the operation of automated execution systems operated by an exchange, the Commission has noted that while there is not an independent executing exchange member, the execution of an order is automatic once it has been transmitted into the system. Because the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange, the Commission has stated that executions obtained through these systems satisfy the independent execution requirement of Rule 11a2–2(T). *See* 1979 Release, *supra* note 157.

[161] *See* EDGX 11(a) Letter, *supra* note 156, at 6.

[162] 17 CFR 240.11a2–2(T)(a)(2)(iv). In addition, Rule 11a2–2(T)(d) requires a member or associated person authorized by written contract to retain compensation, in connection with effecting transactions for covered accounts over which such member or associated persons thereof exercises investment discretion, to furnish at least annually to the person authorized to transact business for the account a statement setting forth the total amount of compensation retained by the member in connection with effecting transactions for the account during the period covered by the statement. *See* 17 CFR 240.11a2–2(T)(d). *See also* 1978 Release, *supra* note 159 (stating ''[t]he contractual and disclosure requirements are designed to assure that accounts electing to permit transaction-related compensation do so only after deciding that such arrangements are suitable to their interests'').

[163] *See* EDGX 11(a) Letter, *supra* note 156, at 6.

[164] Specifically, the Exchange proposes to incorporate by reference: (1) CBOE rules governing position and exercise limits for equity and index options, which are referenced in proposed EDGX Options Rules 18.7, 18.9, 29.5, and 29.7; (2) the margin rules of the CBOE or the NYSE, which are referenced in proposed EDGX Options Rule 28.3; and (3) FINRA's rules governing communications with the public, which are referenced in proposed EDGX Options Rule 26.16.

[165] 17 CFR 240.0–12.

[166] *See* Letter to Brent J. Fields, Secretary, Commission, from Anders Franzon, VP, Associate General Counsel, EDGX, dated August 3, 2015 (''Exemption Request Letter'').

[167] *See id.*

[168] The Exchange will provide such notice through a posting on the same Web site location where the Exchange will post its own rule filings pursuant to Rule 19b–4(l) under Act, within the time frame required by that rule. The Web site posting will include a link to the location on the CBOE, NYSE, or FINRA Web site where the proposed rule change is posted. *See id.*

[169] *See* Securities Exchange Act Release No. 49260 (February 17, 2004), 69 FR 8500 (February 24, 2004). *See also* Securities Exchange Act Release Nos. 57478 (March 12, 2008), 73 FR 14521, 14539–40 (March 18, 2008) (order approving SR–NASDAQ–2007–004 and SR–NASDAQ–2007–080) and 53128 (January 13, 2006), 71 FR 3550, 3565–66 (January 23, 2006) (File No. 10–131) (approving The NASDAQ Stock Market LLC's exchange application).

Options Rules. The Commission believes that this exemption is appropriate in the public interest and consistent with the protection of investors because it will promote more efficient use of Commission and SRO resources by avoiding duplicative rule filings based on simultaneous changes to identical rule text sought by more than one SRO. Consequently, the Commission grants the Exchange's exemption request for EDGX Options. This exemption is conditioned upon the Exchange providing written notice to Options Members whenever the CBOE, NYSE, or FINRA proposes to change a rule that EDGX Options has incorporated by reference.[170]

## V. Solicitation of Comments on Amendment Nos. 1 and 2

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether Amendment Nos. 1 and 2 to the proposed rule change are 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–EDGX–2015–18 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–EDGX–2015–18. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–EDGX–2015–18 and should be submitted on or before September 3, 2015.

## VI. Accelerated Approval of Proposed Rule Change, as Modified by Amendment Nos. 1, 2, and 3

The Commission finds good cause to approve the proposed rule change, as modified by Amendment Nos. 1, 2, and 3 [171] thereto, prior to the 30th day after the date of publication of notice of Amendment Nos. 1 and 2 in the **Federal Register**. As discussed above, Amendment No. 1 revised the proposed rule change by deleting proposed EDGX Options Rule 21.8(f)(2), which would have granted participation entitlements to Directed Market Makers trading against small size orders defined as five or fewer contracts in addition to providing more detailed information regarding participation entitlements for Directed Market Makers. The Commission believes that the revisions in Amendment No. 1 are being made in response to concerns raised by commenters regarding internalization in the options market. As discussed above, Amendment No. 2 revised the proposed rule change by representing that the Exchange is a participant in the Plan for the Selection and Reservation of Securities Symbols and clarified that the Penny Pilot is scheduled to expire on June 30, 2016. The Commission believes Amendment Nos. 1 and 2 are consistent with the purpose of the proposed rule change and are consistent with the protection of investors and the public interest. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[172] to approve the proposed rule change, as modified by Amendment Nos. 1, 2, and 3 thereto, on an accelerated basis.

## VII. Conclusion

*It is therefore ordered,* pursuant to Section 19(b)(2) of the Act,[173] that the proposed rule change (SR–EDGX–2015–18), as modified by Amendment Nos. 1, 2, and 3 thereto, be, and hereby is, approved on an accelerated basis.

Although the Commission's approval of the proposed rule change is final, and the proposed rules are therefore effective, it is further ordered that the operation of EDGX Options is conditioned on the satisfaction of the requirements below:

A. *Participation in National Market System Plans Relating to Options Trading.* EDGX must join: (1) The OPRA Plan; (2) the OLPP; (3) the Linkage Plan; and (4) the Plan of the Options Regulatory Surveillance Authority.

B. *RSA and Rule 17d–2 Agreements.* EDGX must ensure that all necessary changes are made to its Regulatory Services Agreement with FINRA and must be a party to the multi-party Rule 17d–2 agreements concerning options sales practice regulation and market surveillance.[174]

C. *Participation in the Options Clearing Corporation.* EDGX must join the Options Clearing Corporation.

D. *Participation in the Intermarket Surveillance Group.* EDGX must be a member of the Intermarket Surveillance Group.

*It is further ordered,* pursuant to Section 36 of the Act,[175] that EDGX shall be exempted from the rule filing requirements of Section 19(b) of the Act with respect to the CBOE, FINRA, and NYSE rules that EDGX proposes to incorporate by reference, subject to the conditions specified in this Order.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[176]

**Jill M. Peterson,**

*Assistant Secretary.*

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[170] As discussed above, the Exchange has represented that it will notify Options Members whenever the CBOE, NYSE, or FINRA proposes a change to a cross-referenced CBOE, NYSE, or FINRA rule. *See supra* note 168 and accompanying text.

[171] As noted above, because Amendment No. 3 is technical in nature, the Commission is not required to publish it for public comment. *See supra* note 8.

[172] 15 U.S.C. 78s(b)(2).

[173] 15 U.S.C. 78s(b)(2).

[174] *See supra* notes 141 and 143 and accompanying text. *See also* 17 CFR 240.17d–2.

[175] 15 U.S.C. 78mm.

[176] 17 CFR 200.30(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–75638; File No. SR–BX–2015–048]**

## Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to a Proposal to Update the Public Disclosure of Sources of Data BX Utilizes

August 7, 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 August 5, 2015, NASDAQ OMX BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to update Exchange Rule 4759 and to amend the public disclosure of the sources of data that the Exchange utilizes when performing (1) order handling and execution; (2) order routing; and (3) related compliance processes.

The text of the proposed rule change is below. Proposed new language is in italics; proposed deletions are bracketed.

* * * * *

4759. Data Feeds Utilized

The BX System utilizes the below proprietary and network processor feeds [utilized by the System] for the handling, routing, and execution of orders, as well as for the regulatory compliance processes related to those functions. The Secondary Source of data is*, where applicable,* utilized only in emergency market conditions and only until those emergency conditions are resolved.

| Market center | Primary source | Secondary source |
|---|---|---|
| A—NYSE MKT (AMEX) | [CQS/UQDF] *NYSE MKT OpenBook Ultra* | [n/a] *CQS/UQDF* |
| B—NASDAQ OMX BX | BX ITCH 5.0 | CQS/UQDF |
| *C—NSX* | *CQS/UQDF* | *n/a* |
| D—FINRA ADF | CQS/UQDF | n/a |
| J—DirectEdge A | [EdgeBook] *BATS PITCH* | CQS/UQDF |
| K—DirectEdge X | [EdgeBook] *BATS PITCH* | CQS/UQDF |
| M—CSX | CQS/UQDF | n/a |
| N—NYSE | NYSE OpenBook Ultra | CQS/UQDF |
| P—NYSE Arca | [ArcaBook Binary uncompacted] *NYSE ARCA XDP* | CQS/UQDF |
| T/Q—NASDAQ | ITCH 5.0 | CQS/UQDF |
| X—NASDAQ OMX PSX | PSX ITCH 5.0 | CQS/UQDF |
| Y—BATS Y-Exchange | BATS PITCH | CQS/UQDF |
| Z—BATS Exchange | BATS PITCH | CQS/UQDF |

* * * * *

(b) Not applicable.

(c) Not applicable.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to update and amend the table in Exchange Rule 4759 that sets forth on a market-by-market basis the specific network processor and proprietary data feeds that the Exchange utilizes for the handling, routing, and execution of orders, and for performing the regulatory compliance checks related to each of those functions.

Specifically, the table will be amended to include National Stock Exchange (''NSX''), which has informed the UTP Securities Information Processor (''UTP SIP'') that, subject to regulatory approval, it is projecting to reactivate its status as an operating participant for quotation and trading of NASDAQ-listed securities under the Unlisted Trading Privileges (''UTP'') Plan on or about August 31, 2015. The other changes to the table merely reflect updates to mirror the current network processor and proprietary data feeds utilized by the Exchange for the handling, routing, and execution of orders, and for performing the regulatory compliance checks related to each of those functions.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[3] in general and with Sections 6(b)(5) of the Act,[4] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange believes that its proposal to update the table in Exchange Rule 4759 to make certain it is current, as well as to amend the table to include NSX, would ensure that Exchange Rule 4759 correctly identifies and publicly states on a market-by-market basis all of the specific network processor and proprietary data feeds that the Exchange utilizes for the handling, routing, and execution of orders, and for performing the regulatory compliance checks related to each of those functions, and that the proposed rule change removes impediments to and perfects the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78f.

[4] 15 U.S.C. 78f(b)(5).

mechanism of a free and open market and protects investors and the public interest because it provides additional specificity, clarity and transparency.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. To the contrary, the Exchange believes the proposal would enhance competition because including all of the exchanges enhances transparency and enables investors to better assess the quality of the Exchange's execution and routing services.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) [5] of the Act and Rule 19b-4(f)(6) thereunder.[6] The Exchange believes that this proposed rule change is properly designated as non-controversial because it enhances clarity and operational transparency without modifying members' rights or obligations. The Exchange provided notice of the proposed rule change on July 27, 2015.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

**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–BX–2015–048 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number *SR–BX–2015–048.* This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).*

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–BX–2015–048 and should be submitted on or before September 3, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2015–19879 Filed 8–12–15; 8:45 am]

**BILLING CODE 8011–01–P**

[5] 15 U.S.C. 78s(b)(3)(A).

[6] 17 CFR 240.19b–4(f)(6).

[7] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–75647; File No. SR–NASDAQ–2015–090]**

## Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Chapter XV, Section 2 Entitled ''NASDAQ Options Market—Fees and Rebates''

August 7, 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 July 31, 2015, The NASDAQ Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by 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 the Exchange's transaction fees at Chapter XV, Section 2 entitled ''NASDAQ Options Market—Fees and Rebates,'' which governs pricing for NASDAQ members using the NASDAQ Options Market (''NOM''), NASDAQ's facility for executing and routing standardized equity and index options.

While the changes proposed herein are effective upon filing, the Exchange has designated such changes to become operative on August 3, 3015.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to expand eligibility for one of the incentives under the Penny Pilot Options Rebates to Add Liquidity. The Penny Pilot was established in March 2008 and has since been expanded and extended through June 30, 2016.[3] Today, the Exchange pays Customers[4] and Professionals[5] a Penny Pilot Options Rebate to Add Liquidity based on the following tiered rebate structure:

| Monthly volume | Rebate to add liquidity |
|---|---|
| Tier 1—Participant adds Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of up to 0.10% of total industry customer equity and ETF option average daily volume ("ADV") contracts per day in a month | $0.20 |
| Tier 2—Participant adds Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.10% to 0.20% of total industry customer equity and ETF option ADV contracts per day in a month | 0.25 |
| Tier 3—Participant adds Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.20% to 0.30% of total industry customer equity and ETF option ADV contracts per day in a month | 0.42 |
| Tier 4—Participant adds Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.30% to 0.40% of total industry customer equity and ETF option ADV contracts per day in a month | 0.43 |
| Tier 5—Participant adds Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.40% to 0.75% of total industry customer equity and ETF option ADV contracts per day in a month, or Participant adds (1) Customer and/or Professional liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 25,000 or more contracts per day in a month, (2) the Participant has certified for the Investor Support Program set forth in Rule 7014, and (3) the Participant executed at least one order on NASDAQ's equity market | 0.45 |
| Tier 6—Participant has Total Volume of 100,000 or more contracts per day in a month, of which 25,000 or more contracts per day in a month must be Customer and/or Professional liquidity in Penny Pilot Options | 0.45 |
| Tier 7—Participant has Total Volume of 150,000 or more contracts per day in a month, of which 50,000 or more contracts per day in a month must be Customer and/or Professional liquidity in Penny Pilot Options | 0.47 |
| Tier 8—Participant adds Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.75% or more of total industry customer equity and ETF option ADV contracts per day in a month or Participant adds (1) Customer and/or Professional liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 30,000 or more contracts per day in a month, (2) the Participant has certified for the Investor Support Program set forth in Rule 7014, and (3) the Participant qualifies for rebates under the Qualified Market Maker ("QMM") Program set forth in Rule 7014. | 0.48 |

The Exchange is proposing to expand eligibility for one of the incentives applicable to Tier 8 Customer Penny Pilot Options Rebate to Add Liquidity. The Tier 8 Customer and Professional Penny Pilot Options Rebate to Add Liquidity is currently $0.48 per contract if Participants add Customer, Professional, Firm,[6] Non-NOM Market Maker[7] and/or Broker-Dealer[8] liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.75% of total industry customer equity and ETF option ADV of contracts traded in a month. This rebate also applies if (1) the Participant adds Customer and/or Professional liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 30,000 or more contracts per day in a month, (2) the Participant has certified for the Investor Support

[3] *See* Securities Exchange Act Release Nos. 57579 (March 28, 2008), 73 FR 18587 (April 4, 2008) (SR–NASDAQ–2008–026) (notice of filing and immediate effectiveness establishing Penny Pilot); 60874 (October 23, 2009), 74 FR 56682 (November 2, 2009) (SR–NASDAQ–2009–091) (notice of filing and immediate effectiveness expanding and extending Penny Pilot); 60965 (November 9, 2009), 74 FR 59292 (November 17, 2009) (SR–NASDAQ–2009–097) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 61455 (February 1, 2010), 75 FR 6239 (February 8, 2010) (SR–NASDAQ–2010–013) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 62029 (May 4, 2010), 75 FR 25895 (May 10, 2010) (SR–NASDAQ–2010–053) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 65969 (December 15, 2011), 76 FR 79268 (December 21, 2011) (SR–NASDAQ–2011–169) (notice of filing and immediate effectiveness extension and replacement of Penny Pilot); 67325 (June 29, 2012), 77 FR 40127 (July 6, 2012) (SR–NASDAQ–2012–075) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through December 31, 2012); 68519 (December 21, 2012), 78 FR 136 (January 2, 2013) (SR–NASDAQ–2012–143) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through June 30, 2013); 69787 (June 18, 2013), 78 FR 37858 (June 24, 2013) (SR–NASDAQ–2013–082) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through December 31, 2013); 71105 (December 17, 2013), 78 FR 77530 (December 23, 2013) (SR–NASDAQ–2013–154) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through June 30, 2014); 79 FR 31151 (May 23, 2014), 79 FR 31151 (May 30, 2014) (SR–NASDAQ–2014–056) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through December 31, 2014); 73686 (December 2, 2014), 79 FR 71477 (November 25, 2014) (SR–NASDAQ–2014–115) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through June 30, 2015) and 75283 (June 24, 2015), 80 FR 37347 (June 30, 2015) (SR–NASDAQ–2015–063) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Extension of the Exchange's Penny Pilot Program and Replacement of Penny Pilot Issues That Have Been Delisted.) *See also* NOM Rules, Chapter VI, Section 5.

[4] The term "Customer" refers to a customer in a transaction that is marked by a Participant in the Customer range for clearing purposes at The Options Clearing Corporation ("OCC"). Such a transaction is not for the account of a broker, dealer or "Professional" (see next footnote).

[5] The term "Professional" means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s), *See* Chapter I, Section 1(a)(48). All Professional orders must be appropriately marked by Participants.

[6] The term "Firm" refers to a firm participating in a transaction marked by a Participant in the Firm range for clearing purposes at OCC.

[7] The term "NOM Market Maker" is a Participant that has registered as a Market Maker on NOM pursuant to Chapter VII, Section 2, and must also remain in good standing pursuant to Chapter VII, Section 4. In order to receive NOM Market Maker pricing in all securities, the Participant must be registered as a NOM Market Maker in at least one security.

[8] The term "Broker-Dealer" refers to a broker or dealer participating in a transaction when such transaction is not subject to transaction fees applicable to specific categories of transaction participants (other than brokers and dealers).

Program [9] set forth in Rule 7014, and (3) the Participant qualifies for rebates under the Qualified Market Maker (''QMM'') Program [10] set forth in Rule 7014.

Participants that qualify for the Tier 8 rebate *and* add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non- Penny Pilot Options of 1.25% or more of total industry customer equity and ETF option ADV of contracts traded in a month today also receive an additional $0.02 per contract Penny Pilot Options Customer [11] Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options in that month.[12]

The Exchange is proposing to expand eligibility for this additional incentive under the Tier 8 Customer rebate by amending the qualification as follows: ''Participants that add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non- Penny Pilot Options of *1.15*% or more of total industry customer equity and ETF option ADV contracts per day in a month will receive an additional $0.02 per contract Penny Pilot Options Customer Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options in that month.'' By lowering the percentage of total industry customer equity and ETF options ADV of contracts in a month required to be reached in order to qualify for the additional $0.02 per contract rebate, the Exchange expects that a greater number of Participants qualifying for the Tier 8 rebate will also receive the added incentive.

The Exchange expects that expanded eligibility for this incentive will encourage Participants to add greater liquidity to NOM. While the changes proposed herein are effective upon filing, the Exchange has designated such changes to become operative on August 3, 3015.

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[13] in general, and with Section 6(b)(4) and 6(b)(5) of the Act,[14] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which NASDAQ operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange's proposal to expand incentive eligibility is reasonable because it will incentivize Participants to add liquidity in Penny Pilot Options and/or Non-Penny Pilot Options. Participants that qualify for the Tier 8 rebate may choose to add greater liquidity to NOM because of the lower percentage qualifier (1.25% to 1.15%) to obtain the additional $0.02 per contract Customer rebate.

The Exchange's proposal to expand incentive eligibility is equitable and not unfairly discriminatory because all eligible Participants may qualify for the Tier 8 Customer Penny Pilot Options Rebate to Add Liquidity, provided they have the requisite volume. The added $0.0.2 per contract incentive will be uniformly paid in addition to the Tier 8 rebate. Customer liquidity is critically important to the market and all market participants. Greater customer liquidity benefits all market participants by providing more trading opportunities, which attracts market makers. An increase in the activity by market makers in turn facilitates tighter spreads and further order flow.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The proposed rule change will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed expanded incentive will incentivize market participants to add greater liquidity on NOM to obtain the added $0.02 per contract Customer rebate. Customer liquidity is critically important to the market and benefits all market participants. Greater customer liquidity benefits all market participants by providing more trading opportunities and attracting greater participation by specialists and market makers. An increase in the activity of these market participants in turn facilitates tighter spreads. All Participants are eligible for the rebates if they transact the requisite volume.

The Exchange operates in a highly competitive market in which many sophisticated and knowledgeable market participants can readily and do send order flow to competing exchanges if they deem fee levels or rebate incentives at a particular exchange to be excessive or inadequate. These market forces ensure that the Exchange's fees and rebates remain competitive with the fee structures at other trading platforms.

*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 foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[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: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov. Please include File Number SR–NASDAQ–2015–090 on the subject line.*

[9] For a detailed description of the ISP, *see* Securities Exchange Act Release No. 63270 (November 8, 2010), 75 FR 69489 (November 12, 2010) (NASDAQ–2010–141) (notice of filing and immediate effectiveness) (the ''ISP Filing''). See also Securities Exchange Act Release Nos. 63414 (December 2, 2010), 75 FR 76505 (December 8, 2010) (NASDAQ–2010–153) (notice of filing and immediate effectiveness); and 63628 (January 3, 2011), 76 FR 1201 (January 7, 2011) (NASDAQ–2010–154) (notice of filing and immediate effectiveness).

[10] A QMM is a NASDAQ member that makes a significant contribution to market quality by providing liquidity at the national best bid and offer (''NBBO'') in a large number of stocks for a significant portion of the day. In addition, the NASDAQ equity member must avoid imposing the burdens on NASDAQ and its market participants that may be associated with excessive rates of entry of orders away from the inside and/or order cancellation. The designation ''QMM'' reflects the QMM's commitment to provide meaningful and consistent support to market quality and price discovery by extensive quoting at the NBBO in a large number of securities. In return for its contributions, certain financial benefits are provided to a QMM with respect to a particular MPID (a ''QMM MPID''), as described under Rule 7014(e).

[11] This $0.02 per contract incentive applies only to the Tier 8 Customer rebate, and not the Professional rebate.

[12] *See* note ''e'' in Chapter XV, Section 2(1).

[13] 15 U.S.C. 78f.

[14] 15 U.S.C. 78f(b)(4) and (5).

[15] 15 U.S.C. 78s(b)(3)(A)(ii).

*Paper comments*

• Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number *SR–NASDAQ–2015–090.* This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2015–090 and should be submitted on or before September 3, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2015–19875 Filed 8–12–15; 8:45 am]

**BILLING CODE 8011–01–P**

[16] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–75639; File No. SR–FINRA–2015–028]**

## Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Tier Size Pilot of FINRA Rule 6433 (Minimum Quotation Size Requirements for OTC Equity Securities)

August 7, 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 July 28, 2015, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a ''non-controversial'' rule change under paragraph (f)(6) of Rule 19b–4 under the Act,[3] which renders the proposal effective upon receipt of this filing by 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

FINRA is proposing to amend FINRA Rule 6433 (Minimum Quotation Size Requirements for OTC Equity Securities) to extend the Tier Size Pilot, which currently is scheduled to expire on August 14, 2015, until December 11, 2015.

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA 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, FINRA 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. FINRA 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

FINRA proposes to amend FINRA Rule 6433 (Minimum Quotation Size Requirements for OTC Equity Securities) (the ''Rule'') to extend, until December 11, 2015, the amendments set forth in File No. SR–FINRA–2011–058 (''Tier Size Pilot'' or ''Pilot''), which currently are scheduled to expire on August 14, 2015.[4]

The Tier Size Pilot was filed with the SEC on October 6, 2011,[5] to amend the minimum quotation sizes (or ''tier sizes'') for OTC Equity Securities.[6] The goals of the Pilot were to simplify the tier structure, facilitate the display of customer limit orders, and expand the scope of the Rule to apply to additional quoting participants. During the course of the pilot, FINRA collected and provided to the SEC specified data with which to assess the impact of the Pilot tiers on market quality and limit order display.[7] On September 13, 2013, FINRA provided to the Commission an assessment on the operation of the Tier Size Pilot utilizing data covering the period from November 12, 2012 through June 30, 2013.[8] As noted in the 2013 Assessment, FINRA believed that the analysis of the data generally showed that the Tier Size Pilot had a neutral to positive impact on OTC market quality for the majority of OTC Equity Securities and tiers; and that there was an overall increase of 13% in the number of customer limit orders that met the minimum quotation sizes to be eligible for display under the Pilot tiers. In the 2013 Assessment, FINRA recommended adopting the tiers as

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

[4] *See* Securities Exchange Act Release No. 74927 (May 12, 2015), 80 FR 28327 (May 18, 2015) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2015–010); *see also* Securities Exchange Act Release No. 67208 (June 15, 2012), 77 FR 37458 (June 21, 2012) (Order Approving File No. SR–FINRA–2011–058, as amended).

[5] *See* Securities Exchange Act Release No. 65568 (October 14, 2011), 76 FR 65307 (October 20, 2011) (Notice of Filing of File No. SR–FINRA–2011–058).

[6] ''OTC Equity Security'' means any equity security that is not an ''NMS stock'' as that term is defined in Rule 600(b)(47) of SEC Regulation NMS; provided, however, that the term OTC Equity Security shall not include any Restricted Equity Security. *See* FINRA Rule 6420.

[7] FINRA ceased collecting Pilot data for submission to the Commission on February 13, 2015.

[8] The assessment is part of the SEC's comment file for SR–FINRA–2011–058 and also is available on FINRA's Web site at: *http://www.finra.org/Industry/Regulation/RuleFilings/2011/P124615* (''Pilot Assessment'').

permanent, but extended the pilot period to allow more time to gather and analyze data after the November 12, 2012 through June 30, 2013 assessment period.[9] On January 29, 2015, FINRA further extended the Pilot period to permit FINRA and the Commission to consider the implications of the data collected since June 30, 2013.[10] FINRA has reviewed this post-June 30, 2013 data, and believes that the impact described in the 2013 Assessment has continued to hold (and has improved in certain areas).

The purpose of this filing is to extend the operation of the Tier Size Pilot until December 11, 2015, to provide FINRA with additional time to finalize its recommendation with regard to the Tier Size Pilot.

FINRA has filed the proposed rule change for immediate effectiveness. The operative date of the proposed rule change will be August 14, 2015.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[11] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA also believes that the proposed rule change is consistent with the provisions of Section 15A(b)(11) of the Act.[12] Section 15A(b)(11) requires that FINRA rules include provisions governing the form and content of quotations relating to securities sold otherwise than on a national securities exchange which may be distributed or published by any member or person associated with a member, and the persons to whom such quotations may be supplied.

FINRA believes that the extension of the Tier Size Pilot until December 11, 2015, is consistent with the Act in that it would provide the Commission and FINRA with additional time to determine whether the pilot tiers should be made permanent.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments were neither solicited nor received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days 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[13] and Rule 19b–4(f)(6) thereunder.[14]

A proposed rule change filed under Rule 19b–4(f)(6)[15] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[16] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

FINRA has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because such waiver will allow the pilot program to continue without interruption. Therefore, the Commission designates the proposal operative upon filing.[17]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2015–028 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2015–028. 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 St. 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 FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2015–028 and should be submitted on or before September 3, 2015.

[9] *See* Securities Exchange Act Release No. 70839 (November 8, 2013), 78 FR 68893 (November 15, 2013) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2013–049).

[10] *See* Securities Exchange Act Release No. 74251 (February 11, 2015), 80 FR 8741 (February 18, 2015) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2015–002).

[11] 15 U.S.C. 78*o*–3(b)(6).

[12] 15 U.S.C. 78*o*–3(b)(11).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6). 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.

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6)(iii).

[17] 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).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2015–19869 Filed 8–12–15; 8:45 am]

**BILLING CODE 8011–01–P**

[18] 17 CFR 200.30–3(a)(12).

## SMALL BUSINESS ADMINISTRATION

### Advisory Committee on Veterans Business Affairs Meeting

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice of open Federal Advisory Committee meeting.

**SUMMARY:** The SBA is issuing this notice to announce the location, date, time, and agenda for the next meeting of the Advisory Committee on Veterans Business Affairs. The meeting will be open to the public.

**DATES:** Wednesday, September 9, 2015 from 9 a.m. to 12 p.m.

**ADDRESSES:** U.S. Small Business Administration, 409 3rd Street SW., Washington, DC 20416. *Room:* Eisenhower Conference room A, located on the Concourse Level Floor.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2), SBA announces the meeting of the Advisory Committee on Veterans Business Affairs. The Advisory Committee on Veterans Business Affairs serves as an independent source of advice and policy recommendation to the Administrator of the U.S. Small Business Administration.

*Purpose:* The purpose of this meeting is to finalize preparations for the 2015 Annual Report to SBA's Administrator, Associate Administrator for Veterans Business Development, Congress, and the President and to discuss current and future programs for veterans' small business owners. For information regarding our veterans' resources and partners, please visit our Web site at *www.sba.gov/vets.*

*Additonal information:* The meeting is open to the public, however, advance notice of attendance is requested. Anyone wishing to attend and/or make a presentation to the Advisory Committee must contact Cheryl Simms, by September 1, 2015, by email below in order to be placed on the agenda. Comments for the Record including verbal presentations, should be emailed prior to the meeting for inclusion in the public record comments will be limited to five minutes in the interest of time and to accommodate as many presenters as possible. Written comments should be emailed to Cheryl Simms, Program Liaison, Office of Veterans Business Development, U.S. Small Business Administration, 409 3rd Street SW., Washington, DC 20416. Additionally, if participants need accommodations because of a disability or require additional information, please contact Cheryl Simms, Designated Federal Official for the Advisory Committee on Veterans Business Affairs at (202) 205–6773; or by email at *cheryl.simms@sba.gov.* For more information, please visit our Web site at *www.sba.gov/vets.*

Dated: August 7, 2015.

**Miguel J. L'Heureux,**

*SBA Committee Management Officer.*

[FR Doc. 2015–19956 Filed 8–12–15; 8:45 am]

**BILLING CODE 8025–01–P**

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #14407 and #14408]**

### Northern Mariana Islands Disaster #MP–00006

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Northern Mariana Islands (FEMA–4235–DR), dated 08/05/2015.

*Incident:* Typhoon Soudelor.

*Incident Period:* 08/01/2015 through 08/03/2015.

*Effective Date:* 08/05/2015.

*Physical Loan Application Deadline Date:* 10/05/2015.

*Economic Injury (EIDL) Loan Application Deadline Date:* 05/05/2016.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of the President's major disaster declaration on 08/05/2015, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

*Primary Counties:* Rota, Saipan, Tinian.

The Interest Rates are:

| | Percent |
|---|---|
| *For Physical Damage:* | |
| Non-Profit Organizations With Credit Available Elsewhere ... | 2.625 |
| Non-Profit Organizations Without Credit Available Elsewhere ... | 2.625 |
| *For Economic Injury:* | |
| Non-Profit Organizations Without Credit Available Elsewhere ... | 2.625 |

The number assigned to this disaster for physical damage is 14407E and for economic injury is 14408E.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

**James E. Rivera,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 2015–19959 Filed 8–12–15; 8:45 am]

**BILLING CODE 8025–01–P**

## SMALL BUSINESS ADMINISTRATION

**[ Disaster Declaration #14405 and #14406]**

### Northern Mariana Islands Disaster #MP–00005

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice

**SUMMARY:** This is a Notice of the Presidential declaration of a major disaster for the State of Northern Mariana Islands (FEMA–4235–DR), dated 08/05/2015.

*Incident:* Typhoon Soudelor.

*Incident Period:* 08/01/2015 through 08/03/2015.

*Effective Date:* 08/05/2015.

Physical Loan Application Deadline Date: 10/05/2015.

*Economic Injury (EIDL) Loan Application Deadline Date:* 05/05/2016.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of the President's major disaster declaration on 08/05/2015, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

*Primary Counties (Physical Damage and Economic Injury Loans):* Saipan.

Contiguous Counties (Economic Injury Loans Only): None

The Interest Rates are:

| | Percent |
|---|---|
| For Physical Damage: | |
| Homeowners With Credit Available Elsewhere | 3.750 |
| Homeowners Without Credit Available Elsewhere | 1.875 |
| Businesses With Credit Available Elsewhere | 6.000 |
| Businesses Without Credit Available Elsewhere | 4.000 |
| Non-Profit Organizations With Credit Available Elsewhere | 2.265 |
| Non-Profit Organizations Without Credit Available Elsewhere | 2.625 |
| For Economic Injury: | |
| Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere | 4.000 |
| Non-Profit Organizations Without Credit Available Elsewhere | 2.625 |

The number assigned to this disaster for physical damage is 144058 and for economic injury is 144060.

Federal Domestic Assistance Numbers 59002 and 59008)

**James E. Rivera,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 2015–19960 Filed 8–12–15; 8:45 am]

**BILLING CODE 8025–01–P**

## SMALL BUSINESS ADMINISTRATION

### Interagency Task Force on Veterans Small Business Development

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice of open Federal Interagency Task Force Meeting.

**SUMMARY:** This public meeting is to discuss recommendations identified by the Interagency Task Force (IATF) to further enable veteran entrepreneurship policy and programs. In addition, the Task Force will allow public comment regarding the focus areas.

**DATES:** Thursday, September 10, 2015, from 9 a.m. to noon.

**ADDRESSES:** SBA Headquarters, 409 3rd Street SW., Washington, DC 20416, in the Eisenhower Conference Room B, Concourse Level.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2), SBA announces the meeting of the Interagency Task Force on Veterans Small Business Development. The Task Force is established pursuant to Executive Order 13540 and focused on coordinating the efforts of Federal agencies to improve capital, business development opportunities and pre-established Federal contracting goals for small business concerns owned and controlled by veterans (VOB's) and service-disabled veterans (SDVOSB'S). Moreover, the Task Force shall coordinate administrative and regulatory activities and develop proposals relating to ''six focus areas'': (1) Access to capital (loans, surety bonding and franchising); (2) Ensure achievement of pre-established contracting goals, including mentor protégé and matching with contracting opportunities; (3) Increase the integrity of certifications of status as a small business; (4) Reducing paperwork and administrative burdens in accessing business development and entrepreneurship opportunities; (5) Increasing and improving training and counseling services; and (6) Making other improvements to support veteran's business development by the Federal government.

*Additional Information:* Advance notice of attendance is requested. Anyone wishing to attend and/or make a presentation to the Task Force must contact Cheryl Simms by September 1, 2015 by email in order to be placed on the agenda. Comments for the record should be applicable to the ''six focus areas'' of the Task Force and emailed prior to the meeting for inclusion in the public record. Comments will be limited to five minutes in the interest of time and to accommodate as many presenters as possible. Written comments should be emailed to Cheryl Simms, Program Liaison for the Task Force, Office of Veterans Business Development at *vetstaskforce@sba.gov.* If participants need accommodations because of a disability or require additional information, please contact Cheryl Simms, Program Liaison at (202) 205–6773, or by email at *vetstaskforce@sba.gov.* For more information, please visit our Web site at *www.sba.gov/vets.*

Dated: August 7, 2015.

**Miguel J. L'Heureux,**

*SBA Committee Management Officer.*

[FR Doc. 2015–19957 Filed 8–12–15; 8:45 am]

**BILLING CODE 8025–01–P**

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #14336 and #14337]**

### Texas Disaster Number TX–00448

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Amendment 5.

**SUMMARY:** This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Texas (FEMA–4223–DR), dated 05/29/2015.

*Incident:* Severe Storms, Tornadoes, Straight Line Winds and Flooding.

*Incident Period:* 05/04/2015 through 06/22/2015.

*Effective Date:* 08/04/2015.

*Physical Loan Application Deadline Date:* 07/28/2015.

*Economic Injury (EIDL) Loan Application Deadline Date:* 02/29/2016.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of TEXAS, dated 05/29/2015, is hereby amended to include the following areas as adversely affected by the disaster.

*Primary Counties:* Bosque, Brazoria, Collingsworth, Colorado, Coryell, Duval, Erath, Hall, Hardin, Jim Wells, Lubbock, Mclennan, Palo Pinto, Shelby, Smith, Somervell, Tom Green, Washington, Young.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

**James E. Rivera,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 2015–19961 Filed 8–12–15; 8:45 am]

**BILLING CODE 8025–01–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Notice of Intent To Release Certain Properties From All Terms, Conditions, Reservations and Restrictions of a Quitclaim Deed Agreement Between the City of Orlando and the Federal Aviation Administration for the Orlando International Airport, Orlando, FL

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

**ACTION:** Request for public comment.

**SUMMARY:** The FAA hereby provides notice of intent to release approximately 44.30 acres at the Orlando International Airport, Orlando, FL from the conditions, reservations, and restrictions as contained in a Quitclaim Deed agreement between the FAA and the City of Orlando, dated September 27,1976. The release of property will allow the City of Orlando to dispose of the property for other than aeronautical purposes. The property is located along the south side of SR 528 (Beachline), curves south at Semoran Blvd./Jeff Fuqua Blvd., and continues to an area located to the north of Boggy Creek Road within the Orlando International Airport. The parcels are currently designated as non-aeronautical use. The property will be released of its federal obligations to grant an easement for multimodal transportation corridor purposes. The fair market value of this parcel has been determined to be $12,549,000. Documents reflecting the Sponsor's request are available, by appointment only, for inspection at the Greater Orlando Aviation Authority at Orlando International Airport and the FAA Airports District Office.

**DATES:** Comments are due on or before September 14, 2015.

**ADDRESSES:** Documents are available for review at the Greater Orlando Aviation Authority at Orlando International Airport, and the FAA Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822. Written comments on the Sponsor's request must be delivered or mailed to: Marisol C. Elliott, Program Manager, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822–5024.

**FOR FURTHER INFORMATION CONTACT:** Marisol C. Elliott, Program Manager, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822–5024.

**SUPPLEMENTARY INFORMATION:** Section 125 of The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR–21) requires the FAA to provide an opportunity for public notice and comment prior to the ''waiver'' or ''modification'' of a sponsor's Federal obligation to use certain airport land for non-aeronautical purposes.

Issued in Orlando, Florida on August 7, 2015.

**Bart Vernace,**

*Manager, Orlando Airports District Office, Southern Region.*

[FR Doc. 2015–19955 Filed 8–12–15; 8:45 a.m.]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Noise Exposure Map Notice, Fort Lauderdale Executive Airport, Fort Lauderdale, FL

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Federal Aviation Administration (FAA) announces its determination that the Noise Exposure Maps submitted by the City of Fort Lauderdale for the Fort Lauderdale Executive Airport under the provisions of 49 U.S.C. 47501 *et seq.* (Aviation Safety and Noise Abatement Act) and 14 CFR part 150 are in compliance with applicable requirements.

**DATES:** *Effective Date:* The effective date of the FAA's determination on the noise exposure maps is August 7, 2015.

**FOR FURTHER INFORMATION CONTACT:** Allan Nagy, Federal Aviation Administration, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL, 32822, (407) 813–6331.

**SUPPLEMENTARY INFORMATION:** This notice announces that the FAA finds that the Noise Exposure Maps submitted for Fort Lauderdale Executive Airport are in compliance with applicable requirements of Title 14 Code of Federal Regulations (CFR) Part 150, effective August 7, 2015. Under 49 U.S.C. 47503 of the Aviation Safety and Noise Abatement Act (the Act), an airport operator may submit to the FAA Noise Exposure Maps which meet applicable regulations and which depict non-compatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport. An airport operator who has submitted Noise Exposure Maps that are found by FAA to be in compliance with the requirements of 14 CFR part 150, promulgated pursuant to the Act, may submit a Noise Compatibility Program for FAA approval which sets forth the measures the airport operator has taken or proposes to take to reduce existing non-compatible uses and prevent the introduction of additional non-compatible uses.

The FAA has completed its review of the Noise Exposure Maps and accompanying documentation submitted by the City of Fort Lauderdale. The documentation that constitutes the ''Noise Exposure Maps'' as defined in 14 CFR § 150.7 includes: Section 4; Section 5; Figure 3.1— Permanent Noise Monitor Locations; Figure 4.1— 2015 Existing Conditions Noise Exposure Map; Figure 4.2— 2020 Five—Year Forecast Conditions Noise Exposure Map; Figure 4.3— Comparison of DNL Contours for 2015 Existing Conditions and 2002 Existing Conditions from the 2002 Part 150 Study; Figure 4.4— Airport Layout for Fort Lauderdale Executive Airport; Figure 4.5— Comparison of Jet Arrival Model Tracks to Radar Sample; Figure 4.6— Comparison of Jet Departure Model Tracks to Radar Sample; Figure 4.7— Comparison of Propeller Arrival Model Tracks to Radar Sample; Figure 4.8— Comparison of Propeller Departure Model Tracks to Radar Sample; Figure 4.9— Comparison of Pattern Model Tracks to Radar Sample; Figure 4.10— Comparison of Helicopter Model Tracks to Radar Sample; Table 1.1— Part 150 Noise Exposure Map Checklist; Table 2.1— Part 150 Noise/Land Use Compatibility Guidelines; Table 4.1— 2015 and 2020 NEM Operation by Aircraft Category; Table 4.2— 2015 Existing Conditions Average Annual Day Operations; Table 4.3— Forecast 2020 Average Annual Day Operations; Table 4.4— Estimated Existing and Future Run—up Operations; Table 4.5— Runway Dimensions; Table 4.6— Runway Use; Table 4.7— Arrival Track Utilization; Table 4.8— Departure Track Utilization; Table 4.9— Pattern Track Utilization; Table 4.10— Arrival Helicopter Track Utilization, and Table 4.11— Departure Helicopter Track Utilization. The FAA has determined that these Noise Exposure Maps and accompanying documentation are in compliance with applicable requirements. This determination is effective on August 7, 2015.

FAA's determination on the airport operator's Noise Exposure Maps is limited to a finding that the maps were developed in accordance with the

procedures contained in Appendix A of 14 CFR part 150. Such determination does not constitute approval of the airport operator's data, information or plans, or a commitment to approve a Noise Compatibility Program or to fund the implementation of that Program. If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a Noise Exposure Map submitted under Section 47503 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise exposure contours, or in interpreting the Noise Exposure Maps to resolve questions concerning, for example, which properties should be covered by the provisions of Section 47506 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under 14 CFR part 150 or through FAA's review of Noise Exposure Maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator that submitted those maps, or with those public agencies and planning agencies with which consultation is required under Section 47503 of the Act. The FAA has relied on the certification by the airport operator, under 14 CFR § 150.21, that the statutorily required consultation has been accomplished.

Copies of the full Noise Exposure Maps documentation and of the FAA's evaluation of the maps are available for examination by appointment at the following locations:

Federal Aviation Administration, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL, 32822.

To arrange an appointment to review the documents and any questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT**.

Issued in Orlando, FL on August 7, 2015.

**Bart Vernace,**

*Manager, Orlando Airports District Office.*

[FR Doc. 2015–19954 Filed 8–12–2015; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Commercial Air Tour Operator Reports

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

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The commercial air tour operational data provided to the FAA and NPS will be used by the agencies as background information useful in the development of air tour management plans and voluntary agreements for purposes of meeting the mandate of the National Parks Air Tour Management Act (NPATMA) of 2000.

**DATES:** Written comments should be submitted by October 13, 2015.

**ADDRESSES:** Send comments to the FAA at the following address: Ronda Thompson, Room 300, Federal Aviation Administration, ASP–110, 950 L'Enfant Plaza SW., Washington, DC 20024.

**PUBLIC COMMENTS INVITED:** You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

**FOR FURTHER INFORMATION CONTACT:** Ronda Thompson at (202) 267–1416, or by email at: *Ronda.Thompson@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 2120–0750.

*Title:* Commercial Air Tour Operator Reports.

*Form Numbers:* There are no FAA forms associated with this collection of information.

*Type of Review:* Renewal of an information collection.

*Background:* The FAA Modernization and Reform Act of 2012 included amendments to the National Parks Air Tour Management Act (NPATMA) of 2000. One of these amendments requires commercial air tour operators conducting tours over national park units to report on the number of operations they conduct and any such other information prescribed by the FAA Administrator and the Director of the National Park Service (NPS).

*Respondents:* Approximately 75 air tour operators.

*Frequency:* Information is collected quarterly, or annually for park units with fewer than 50 tours per year.

*Estimated Average Burden per Response:* 11.66 hours.

*Estimated Total Annual Burden:* 3,200 hours.

Issued in Washington, DC, on August 4, 2015.

**Ronda Thompson,**

*FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, ASP–110.*

[FR Doc. 2015–19813 Filed 8–12–15; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Pipeline and Hazardous Materials Safety Administration

**[Docket No. PHMSA–2015–0139]**

### Pipeline Safety: PHMSA Pipeline Risk Modeling Methodologies Public Workshop

**AGENCY:** Pipeline and Hazardous Materials Safety Administration, DOT.

**ACTION:** Notice of public meeting.

**SUMMARY:** This notice is to announce a public workshop to discuss the advancement of risk modeling methodologies of gas transmission and hazardous liquid pipelines, and the risk modeling methodologies used for non-pipeline systems. This workshop will bring industry, Federal and state regulators, interested members of the public, and other stakeholders together to share knowledge and experience on risk modeling within the pipeline industry and other fields, ways to advance pipeline risk models, and practical ways that operators can adopt and/or adapt them to the analyses of their systems.

**DATES:** The public workshop will be held on Wednesday, September 9, 2015, from 8:00 a.m. to 5:00 p.m., EST, and Thursday, September 10, 2015, from 8:00 a.m. to 12:00 p.m. EST. (Changes to start or finish times will be updated on the PHMSA meeting page Web site, along with the meeting agenda *https://primis.phmsa.dot.gov/meetings/MtgHome.mtg?mtg=104.*)

**ADDRESSES:** The workshop will be held at the Crystal City Marriott at Reagan National Airport, 1999 Jefferson Davis Highway, Arlington, VA 22202. Please see the meeting Web site for hotel room block information at *https://primis.phmsa.dot.gov/meetings/MtgHome.mtg?mtg=104*.

The meeting agenda and any additional information will also be published on the PHMSA meeting page Web site.

*Registration:* Members of the public may attend this free workshop. To help assure that adequate space is provided, all attendees should register for the workshop in advance at the PHMSA meeting page Web site.

Please note that the public workshop will be webcast. The details on this meeting, including the location, times, agenda items, and link to the webcast, will be available on the meeting page Web site (*https://primis.phmsa.dot.gov/meetings/MtgHome.mtg?mtg=104*) as they become available. Attendees, both in person and by webcast, are strongly encouraged to register to help ensure accommodations are adequate.

Presentations will also be available online at the meeting page Web site within 30 days following the meeting.

*Comments:* Members of the public may also submit written comments either before or after the workshop. Comments should reference Docket No. PHMSA–2015–0139. Comments may be submitted in the following ways:

- *E-Gov Web site: http://www.regulations.gov.* This site allows the public to enter comments on any **Federal Register** notice issued by any agency. Follow the instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management System, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590.

*Hand Delivery:* DOT Docket Management System, Room W12–140, on the ground floor of the West Building, 1200 New Jersey Avenue SE., Washington, DC between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

*Instructions:* Identify the docket number at the beginning of your comments. If you submit your comments by mail, submit two copies. If you wish to receive confirmation that PHMSA has received your comments, include a self-addressed stamped postcard. Internet users may submit comments at *http://www.regulations.gov.*

*Note:* Comments will be posted without changes or edits to *http://www.regulations.gov* including any personal information provided. Please see the Privacy Act Statement heading below for additional information.

**Privacy Act Statement**

Anyone may search the electronic form of all comments received for any of our dockets. You may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000 (65 FR 19476).

**Information on Services for Individuals With Disabilities**

For information on facilities or services for individuals with disabilities, or to request special assistance at the meeting, please contact Mr. Kenneth Lee, Director, Engineering and Research Division, at (202) 366–2694 or *Kenneth.lee@dot.gov*.

**FOR FURTHER INFORMATION CONTACT:** Kenneth Lee, Director, Engineering and Research Division, at 202–366–2694 or *Kenneth.lee@dot.gov* about the subject matter in this notice.

**SUPPLEMENTARY INFORMATION:**

**Introduction**

The Federal pipeline safety regulations (49 CFR part 192 Subpart O; 49 CFR § 195.452) requires operators to continually examine ways to reduce the threats to pipelines in order to minimize the likelihood of a release, and ways to reduce the consequences of potential releases. A primary tool to implement this process is generally referred to as a ''risk analysis'' or ''risk assessment.''

To support integrity management requirements, a risk analysis modeling approach must be able to adequately characterize all pipeline integrity threats and consequences concurrently, and the impact of measures to reduce risk must be evaluated.

This workshop will focus on advancing risk modeling approaches by looking at risk modelling methodologies for pipeline and non-pipeline systems, and practical ways that operators can adopt and/or adapt them to the analyses of their systems.

**Background**

Subsequent to implementation of the integrity management rules, industry has adopted a variety of approaches to risk analysis. Many of these approaches are variations of the ''risk index'' models. Index models and other basic approaches to risk modeling have been implemented by industry for purposes such as risk-ranking pipeline segments to prioritize initial integrity management-required baseline assessments. Additional opportunities to utilize these approaches to do more investigative oriented analyses in order to identify specific ways to reduce risks are being explored.

As summarized and discussed in past public forums and workshops on pipeline safety (*e.g., 2014 Government/Industry Pipeline R&D Forum*), industry and PHMSA are in general agreement that risk models need to evolve in such a way as to be more investigative in nature.

PHMSA believes that improving risk models is important for further reducing the risk of pipelines to the public health and safety. In particular, PHMSA is interested in specific ways to advance pipeline risk models, and in practical ways that operators can adopt and/or adapt risk models to the analyses of their systems.

Issued in Washington, DC, on August 10, 2015, under authority delegated in 49 CFR 1.97.

**Linda Daugherty,**

*Deputy Associate Administrator for Field Operations.*

[FR Doc. 2015–19929 Filed 8–12–15; 8:45 am]

BILLING CODE 4910–60–P

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[Docket No. FD 35945]**

### Regional Rail Holdings, LLC—Acquisition of Control Exemption—Regional Rail, LLC

**AGENCY:** Surface Transportation Board, DOT.

**ACTION:** Correction to notice of exemption.

On July 22, 2015, Regional Rail Holdings, LLC, a noncarrier, filed a verified notice of exemption under 49 CFR 1180.2(d)(2) to acquire control of Regional Rail, LLC, a holding company for three Class III rail carriers, East Penn Railroad, LLC, Middletown & New Jersey Railroad, LLC, and Tyburn Railroad LLC.

On August 7, 2015, notice of the exemption was served and published in the **Federal Register** (80 FR 47557). The notice erroneously stated that the effective date of the exemption would be August 22, 2015, and that petitions to stay must be filed no later than August 15, 2015. This notice corrects those statements. The effective date of the exemption is August 21, 2015, and petitions to stay must be filed no later than August 14, 2015. All other information in the notice is correct.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: August 10, 2015.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

**Kenyatta Clay,**

*Clearance Clerk.*

[FR Doc. 2015–19971 Filed 8–12–15; 8:45 am]

**BILLING CODE 4915–01–P**

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

### Application of Harris Aircraft Services, Inc. for Certificate Authority

**AGENCY:** Department of Transportation.

**ACTION:** Notice of Order to Show Cause (Order 2015–8–10) Docket DOT–OST–2014–0145.

**SUMMARY:** The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding Harris Aircraft Services, Inc., fit, willing, and able, and awarding it a certificate of public convenience and necessity to conduct interstate scheduled air transportation of persons, property and mail.

**DATES:** Persons wishing to file objections should do so no later than August 27, 2015.

**ADDRESSES:** Objections and answers to objections should be filed in Docket DOT–OST–2014–0145 and addressed to Docket Operations, (M–30, Room W12–140), U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590, and should be served upon the parties listed in Attachment A to the order.

**FOR FURTHER INFORMATION CONTACT:** Barbara Snoden, Air Carrier Fitness Division (X–56, Room W86–471), U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590, (202) 366–4834.

Dated: August 7, 2015.

**Susan L. Kurland,**

*Assistant Secretary for Aviation and International Affairs.*

[FR Doc. 2015–19910 Filed 8–12–15; 8:45 am]

**BILLING CODE 4910–9X–P**

## DEPARTMENT OF VETERANS AFFAIRS

### Enhanced-Use Lease of Department of Veterans Affairs (VA) Real Property for the Development of a Housing Facility on Approximately 3 Acres of Land in St. Cloud, Minnesota.

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Amended Notice of Intent to Enter into an Amended Enhanced-Use Lease (EUL).

**SUMMARY:** The Secretary of VA intends to amend the scope and terms of an existing EUL that was entered into on December 27, 2011, on approximately 6 acres of land for the purpose of developing 35 units of supportive housing for Veterans. This notice provides updated details on the scope of the amended EUL. The EUL lessee will finance, design, develop, manage, maintain, and operate approximately 37 units of housing on approximately 3 acres of land for eligible homeless Veterans, or Veterans at risk of homelessness, and their families, on a priority placement basis, and provide supportive services that guide resident Veterans toward attaining long-term self-sufficiency.

**FOR FURTHER INFORMATION CONTACT:** Edward L. Bradley III, Office of Asset Enterprise Management (044), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461–7778.

**SUPPLEMENTARY INFORMATION:** As required under Section 211(b)(2)(B) of Public Law 112–154, because the EUL was entered into prior to January 1, 2012, this amended EUL will adhere to the prior version of VA's EUL statute as in effect on August 5, 2011.

### Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Robert A. McDonald, Secretary of Veterans Affairs, approved this document on August 10, 2015 for publication.

Approved: August 10, 2015.

**Jeffrey M. Martin,**

*Program Office Manager, Regulation Policy and Management, Office of General Counsel.*

[FR Doc. 2015–20035 Filed 8–12–15; 8:45 am]

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Part II

## Department of Energy

10 CFR Part 430

Energy Conservation Program: Energy Conservation Standards for Ceiling Fan Light Kits; Proposed Rules

**DEPARTMENT OF ENERGY**

**10 CFR Part 430**

**[Docket Number EERE–2012–BT–STD–0045]**

**RIN 1904–AC87**

## Energy Conservation Program: Energy Conservation Standards for Ceiling Fan Light Kits

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

**ACTION:** Notice of proposed rulemaking (NOPR) 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 ceiling fan light kits (CFLKs). 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 notice, DOE proposes amended energy conservation standards for CFLKs, and 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 Tuesday, August 18, 2015 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 NOPR before and after the public meeting, but no later than October 13, 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 4A–104, 1000 Independence Avenue SW., Washington, DC 20585. Any foreign national wishing to participate in the meeting should advise DOE as soon as possible by contacting *regina.washington@ee.doe.gov* to initiate the necessary procedures. Please also note that any person wishing to bring a laptop 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.

*Instructions:* Any comments submitted must identify the NOPR on Energy Conservation Standards for ceiling fan light kits, and provide docket number EE–2012–BT–STD–0045 and/or regulatory information number (RIN) 1904–AC87. 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: CeilingFanLightKits2012STD0045@ee.doe.gov.* Include the docket number and/or RIN in the subject line of the message. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption.

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 publicly available, such as those containing information that is exempt from public disclosure.

A link to the docket Web page can be found at: *www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/66.* 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 CONTACT:** Ms. Lucy deButts, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 287–1604. Email: *ceiling_fan_light_kits@ee.doe.gov.*

Ms. Elizabeth Kohl, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–7796. Email: *Elizabeth.Kohl@hq.doe.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.*

**SUPPLEMENTARY INFORMATION:**

### Table of Contents

I. Synopsis of the Proposed Rule
A. Benefits and Costs to Consumers
B. Impact on Manufacturers
C. National Benefits and Costs
D. Conclusion
II. Introduction
A. Authority
B. Background
1. Current Standards
2. History of Standards Rulemaking for CFLKs
III. General Discussion
A. Product Classes and Scope of Coverage
B. Test Procedure
1. Standby and Off-Mode Energy Consumption
C. Technological Feasibility
1. General
2. Maximum Technologically Feasible Levels
D. Energy Savings
1. Determination of Savings
2. Significance of Savings
E. Economic Justification
1. Specific Criteria
a. Economic Impact on Manufacturers and Consumers
b. Savings in Operating Costs Compared to Increase in Price (LCC and PBP)
c. Energy Savings
d. Lessening of Utility or Performance of Products
e. Impact of Any Lessening of Competition

f. Need for National Energy Conservation
g. Other Factors
2. Rebuttable Presumption
IV. Methodology and Discussion of Related Comments
A. Market and Technology Assessment
1. Product Classes
2. Metrics
3. 190 W Limitation
4. Technology Options
B. Screening Analysis
1. Screened-Out Technologies
2. Remaining Technologies
C. Engineering Analysis
1. General Approach
2. Representative Product Classes
3. Baseline Lamps
4. More Efficacious Substitutes
5. Efficacy Levels
6. Scaling to Other Product Classes
D. Product Price Determination
E. Energy Use Analysis
1. Operating Hours
a. Residential Sector
b. Commercial Sector
2. Input Power
3. Lighting Controls
F. Life-Cycle Cost and Payback Period Analysis
1. Product Cost
2. Disposal Cost
3. Electricity Prices
4. Electricity Price Trends
5. Lamp Replacements
6. Product Lifetime
7. Residual Value
8. Discount Rates
9. Efficacy Distributions
10. LCC Savings Calculation
11. Payback Period Analysis
G. Shipments Analysis
H. National Impact Analysis
1. National Energy Savings
2. Net Present Value Analysis
I. Consumer Subgroup Analysis
J. Manufacturer Impact Analysis
1. Overview
2. GRIM Analysis and Key Inputs
a. Capital and Product Conversion Costs
b. Manufacturer Production Costs
c. Shipment Scenarios
d. Markup Scenarios
3. Discussion of Comments
4. Manufacturer Interviews
a. Duplicative Regulation
b. Shift to Air Conditioning
K. Emissions Analysis
L. Monetizing Carbon Dioxide and Other Emissions Impacts
1. Social Cost of Carbon
a. Monetizing Carbon Dioxide Emissions
b. Development of Social Cost of Carbon Values
c. Current Approach and Key Assumptions
2. Social Cost of Other Air Pollutants
M. Utility Impact Analysis
N. Employment Impact Analysis
V. Analytical Results
A. Trial Standard Levels
B. Economic Justification and Energy Savings
1. Economic Impacts on Individual Consumers
a. Life-Cycle Cost and Payback Period
b. Consumer Subgroup Analysis
c. Rebuttable-Presumption Payback
2. Economic Impacts on Manufacturers
a. Industry Cash-Flow Analysis Results
b. Impacts on Employment
c. Impacts on Manufacturing Capacity
d. Impacts on Subgroups of Manufacturers
e. Cumulative Regulatory Burden
3. National Impact Analysis
a. Significance of Energy Savings
b. Net Present Value of Consumer Costs and Benefits
c. Indirect Impacts on Employment
4. Impact on Utility or Performance of Products
5. Impact of Any Lessening of Competition
6. Need of the Nation To Conserve Energy
7. Other Factors
8. Summary of National Economic Impacts
C. Conclusion
1. Benefits and Burdens of TSLs Considered for CFLK Standards
2. Summary of Annualized Benefits and Costs of the Proposed Standards
VI. Procedural Issues and Regulatory Review
A. Review Under Executive Orders 12866 and 13563
B. Review Under the Regulatory Flexibility Act
1. Description on Estimated Number of Small Entities Regulated
2. Description and Estimate of Compliance Requirements
3. Duplication, Overlap, and Conflict With Other Rules and Regulations
4. Significant Alternatives to the Rule
C. Review Under the Paperwork Reduction Act
D. Review Under the National Environmental Policy Act of 1969
E. Review Under Executive Order 13132
F. Review Under Executive Order 12988
G. Review Under the Unfunded Mandates Reform Act of 1995
H. Review Under the Treasury and General Government Appropriations Act, 1999
I. Review Under Executive Order 12630
J. Review Under the Treasury and General Government Appropriations Act, 2001
K. Review Under Executive Order 13211
L. Review Under the Information Quality Bulletin for Peer Review
VII. Public Participation
A. Attendance at the Public Meeting
B. Procedure for Submitting Prepared General Statements for Distribution
C. Conduct of the Public Meeting
D. Submission of Comments
E. Issues on Which DOE Seeks Comment
VIII. Approval of the Office of the Secretary

## I. Synopsis of the Proposed Rule

Title III, Part B [1] of the Energy Policy and Conservation Act of 1975 (EPCA or the Act) (42 U.S.C. 6291, *et. seq.*), established the Energy Conservation Program for Consumer Products Other Than Automobiles.[2] These products include CFLKs, the subject of this document.

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 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))

In accordance with these and other statutory provisions discussed in this document, DOE proposes amended energy conservation standards for CFLKs. The proposed standards, which are expressed in minimum lumen output per watt (lm/W) of a lamp, or lamp efficacy, are shown in Table I.1. These proposed standards, if adopted, would apply to all CFLKs listed in Table I.1 and manufactured in, or imported into, the United States on and after the date three years after the publication of any final rule for this rulemaking.

TABLE I.1—PROPOSED ENERGY CONSERVATION STANDARDS FOR CEILING FAN LIGHT KITS

| Product type | Lumens | Proposed level (lm/W) |
|---|---|---|
| All CFLKs | <120 | 50 |
| | >120 | $74 - 29.42 \times 0.9983^{\text{lumens}}$ |

[1] For editorial reasons, upon codification in the U.S. Code, Part B was re-designated Part A.

[2] All references to EPCA in this document refer to the statute as amended through the Energy Efficiency Improvement Act of 2015, Pub. L. 114–11 (Apr. 30, 2015).

*A. Benefits and Costs to Consumers*

Table I.2 presents DOE's evaluation of the economic impacts of the proposed standards on consumers of CFLKs, as measured by the average life-cycle cost (LCC) savings and the simple payback period (PBP).[3] The average LCC savings are positive for the product class, and the PBP is less than the average lifetime of CFLKs, which is estimated to be 13.8 years (see section IV.F).

TABLE I.2—IMPACTS OF PROPOSED ENERGY CONSERVATION STANDARDS ON CONSUMERS OF CFLKS (TSL 2)

| Product class | Average LCC savings (2014$) | Simple payback period (years) |
|---|---|---|
| **Residential Sector** | | |
| All CFLKs ..... | 24.3 | 1.2 |
| **Commercial Sector** | | |
| All CFLKs ..... | 53.4 | 0.3 |

DOE's analysis of the impacts of the proposed standards on consumers is described in section IV.F of this notice.

*B. Impact on Manufacturers*

The industry net present value (INPV) is the sum of the discounted cash flows to the industry from the base year through the end of the analysis period (2015 to 2048). Using a real discount rate of 7.4 percent, DOE estimates that the INPV for manufacturers of CFLKs in the no-standards case is $94.8 million in 2014$. Under the proposed standards, DOE expects that manufacturers may lose up to 8.4 percent of this INPV, which is approximately $7.9 million. Additionally, based on DOE's interviews with the manufacturers of CFLKs, DOE does not expect significant impacts on manufacturing capacity or loss of employment for the industry as a whole to result from the proposed standards for CFLKs.

DOE's analysis of the impacts of the amended standards on manufacturers is described in section IV.J of this notice.

*C. National Benefits and Costs* [4]

DOE's analyses indicate that the proposed energy conservation standards for CFLKs would save a significant amount of energy. Relative to the case where no amended energy conservation standard is set (hereinafter referred to as the ''no-standards case''), the lifetime energy savings for CFLKs purchased in the 30-year period that begins in the anticipated year of compliance with the amended standards (2019–2048) amount to 0.047 quadrillion Btu (quads).[5] This represents a savings of 3.6 percent relative to the energy use of these products in the no-standards case.

The cumulative net present value (NPV) of total consumer costs and savings of the proposed standards for CFLKs ranges from $0.65 billion (at a 7-percent discount rate) to $0.82 billion (at a 3-percent discount rate). This NPV expresses the estimated total value of future operating-cost savings minus the estimated increased product costs for CFLKs purchased in 2019–2048.

In addition, the proposed standards for CFLKs would have significant environmental benefits. DOE estimates that the proposed standards would result in cumulative emission reductions of 3.3 million metric tons (Mt) [6] of carbon dioxide ($CO_2$), 3.5 thousand tons of sulfur dioxide ($SO_2$), 4.7 thousand tons of nitrogen oxides ($NO_X$), 11.2 thousand tons of methane ($CH_4$), 0.037 thousand tons of nitrous oxide ($N_2O$), and 0.011 tons of mercury (Hg).[7] The cumulative reduction in $CO_2$ emissions through 2030 amounts to 3.08 Mt, which is equivalent to the emissions resulting from the annual electricity use of almost 400 thousand homes.

The value of the $CO_2$ reductions is calculated using a range of values per metric ton of $CO_2$ (otherwise known as the Social Cost of Carbon, or SCC) developed by a recent Federal interagency process.[8] The derivation of the SCC values is discussed in section IV.L. Using discount rates appropriate for each set of SCC values (see Table I.3), DOE estimates the present monetary value of the $CO_2$ emissions reduction (not including $CO_2$ equivalent emissions of other gases with global warming potential) is between $0.03 billion and $0.40 billion, with a value of $0.13 billion using the central SCC case represented by $41.2/t in 2015. DOE also estimates the present monetary value of the $NO_X$ emissions reduction to be $0.02 billion at a 7-percent discount rate and $0.03 billion at a 3-percent discount rate.[9]

Table I.3 summarizes the national economic benefits and costs expected to result from the proposed standards for CFLKs.

TABLE I.3—SUMMARY OF NATIONAL ECONOMIC BENEFITS AND COSTS OF PROPOSED ENERGY CONSERVATION STANDARDS FOR CFLKS (TSL 2) *

| Category | Present value (billion 2014$) | Discount rate (%) |
|---|---|---|
| **Benefits** | | |
| Consumer Operating-Cost Savings ..... | 0.56 | 7 |
| | 0.73 | 3 |
| $CO_2$ Reduction Monetized Value ($12.2/t case) ** ..... | 0.03 | 5 |
| $CO_2$ Reduction Monetized Value ($41.2/t case) ** ..... | 0.13 | 3 |
| $CO_2$ Reduction Monetized Value ($63.4/t case) ** ..... | 0.21 | 2.5 |
| $CO_2$ Reduction Monetized Value ($121/t case) ** ..... | 0.40 | 3 |

[3] The average LCC savings are measured relative to the no-standards case efficacy distribution, which depicts the market in the compliance year in the absence of standards (see section IV.F.9). The simple PBP, designed to compare specific efficacy levels, is measured relative to the least efficient model on the market (see section IV.F).

[4] All monetary values in this section are expressed in 2014 dollars and, where appropriate, are discounted to 2015 unless explicitly stated otherwise. Energy savings in this section refer to the full-fuel-cycle savings (see section IV.H for discussion).

[5] A quad is equal to $10^{15}$ British thermal units (Btu).

[6] A metric ton is equivalent to 1.1 short tons. Results for emissions other than $CO_2$ are presented in short tons.

[7] DOE calculated emissions reductions relative to the no-standards case, which reflects key assumptions in the *Annual Energy Outlook 2014* (*AEO 2014*) Reference case. *AEO 2014* generally represents current legislation and environmental regulations for which implementing regulations were available as of October 31, 2013.

[8] *Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866,* Interagency Working Group on Social Cost of Carbon, U.S. 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).*

[9] DOE is currently investigating valuation of avoided $SO_2$ and Hg emissions.

TABLE I.3—SUMMARY OF NATIONAL ECONOMIC BENEFITS AND COSTS OF PROPOSED ENERGY CONSERVATION STANDARDS FOR CFLKS (TSL 2) *—Continued

| Category | Present value (billion 2014$) | Discount rate (%) |
|---|---|---|
| $NO_X$ Reduction Monetized Value | 0.02<br>0.02 | 7<br>3 |
| Total Benefits † | 0.71<br>0.89 | 7<br>3 |
| **Costs** | | |
| Consumer Incremental Installed Costs | 0.06<br>0.07 | 7<br>3 |
| Total Net Benefits: | | |
| Including Emissions Reduction Monetized Value † | 0.65<br>0.82 | 7<br>3 |

* This table presents the costs and benefits associated with CFLKs shipped in 2019–2048. These results include benefits to consumers which accrue after 2048 from the products purchased in 2019–2048. 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 2014$, 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 incorporate an escalation factor.

† Total Benefits for both the 3% and 7% cases are derived using the series corresponding to average SCC with 3-percent discount rate ($41.2/t case).

The benefits and costs of the proposed standards, for CFLKs sold in 2019–2048, can also be expressed in terms of annualized values. The annualized monetary values are the sum of: (1) The annualized national economic value of the benefits from consumer operation of products that meet the new or amended standards (consisting primarily of operating-cost savings from using less energy, minus increases in product purchase prices and installation costs, which is another way of representing consumer NPV), and (2) the annualized monetary value of the benefits of emission reductions, including $CO_2$ emission reductions.[10]

Although combining the values of operating savings and $CO_2$ emission reductions is relevant to DOE's determination, 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 CFLKs shipped in 2019–2048. Because $CO_2$ emissions have a very long residence time in the atmosphere,[11] the SCC values after 2050 reflect future climate-related impacts resulting from the emission of $CO_2$ that continue beyond 2100.

Estimates of annualized benefits and costs of the proposed standards are shown in Table I.4. The results under the Primary Estimate are as follows. Using a 7-percent discount rate for benefits and costs other than $CO_2$ reduction (for which DOE used a 3-percent discount rate along with the average SCC series that has a value of $41.2/t in 2015), the estimated cost of the standards proposed in this rule is $6.0 million per year in increased equipment costs, while the estimated annual benefits are $55 million in reduced equipment operating costs, $7.5 million in $CO_2$ reductions, and $1.6 million in reduced $NO_X$ emissions. In this case, the net benefit amounts to $59 million per year. Using a 3-percent discount rate for all benefits and costs and the average SCC series that has a value of $41.2/t in 2015, the estimated cost of the proposed CFLK standards is $4.0 million per year in increased equipment costs, while the estimated annual benefits are $41 million in reduced operating costs, $7.5 million in $CO_2$ reductions, and $1.3 million in reduced $NO_X$ emissions. In this case, the net benefit amounts to $46 million per year.

[10] To convert the time-series of costs and benefits into annualized values, DOE calculated a present value in 2015, 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 2015. 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.3. 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.

[11] The atmospheric lifetime of $CO_2$ is estimated of the order of 30–95 years. Jacobson, MZ (2005), ''Correction to 'Control of fossil-fuel particulate black carbon and organic matter, possibly the most effective method of slowing global warming,' '' *J. Geophys. Res.* 110. pp. D14105.

TABLE I.4—ANNUALIZED BENEFITS AND COSTS OF PROPOSED ENERGY CONSERVATION STANDARDS FOR CFLKS (TSL 2)

| | Discount rate | (million 2014$/year) | | |
|---|---|---|---|---|
| | | Primary estimate * | Low net benefits estimate * | High net benefits estimate * |
| **Benefits** | | | | |
| Consumer Operating-Cost Savings | 7% | 55 | 36 | 59 |
| | 3% | 41 | 24 | 43 |
| $CO_2$ Reduction Monetized Value ($12.2/t case) * | 5% | 2.6 | 1.4 | 2.7 |
| $CO_2$ Reduction Monetized Value ($41.2/t case) * | 3% | 7.5 | 3.9 | 7.9 |
| $CO_2$ Reduction Monetized Value ($63.4/t case) * | 2.5% | 11 | 5 | 11 |
| $CO_2$ Reduction Monetized Value ($112.1/t case) * | 3% | 22 | 12 | 24 |
| $NO_X$ Reduction Monetized Value | 7% | 1.6 | 0.90 | 1.6 |
| | 3% | 1.3 | 0.65 | 1.3 |
| Total Benefits † | 7% plus $CO_2$ range | 60 to 79 | 38 to 48 | 63 to 85 |
| | 7% | 65 | 40 | 69 |
| | 3% plus $CO_2$ range | 45 to 64 | 26 to 36 | 47 to 68 |
| | 3% | 49 | 28 | 53 |
| **Costs** | | | | |
| Consumer Incremental Installed Product Costs | 7% | 6.0 | 3.5 | 6.4 |
| | 3% | 4.0 | 2.3 | 4.2 |
| **Net Benefits** | | | | |
| Total † | 7% plus $CO_2$ range | 54 to 73 | 34 to 44 | 57 to 78 |
| | 7% | 59 | 37 | 62 |
| | 3% plus $CO_2$ range | 41 to 60 | 24 to 34 | 43 to 64 |
| | 3% | 46 | 26 | 48 |

* This table presents the annualized costs and benefits associated with CFLKs shipped in 2019–2048. These results include benefits to consumers which accrue after 2048 from the products purchased in 2019–2048. 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 Estimate assumes the reference case electricity prices and housing starts from *AEO 2015* and decreasing product prices for LED CFLKs, due to price learning. The Low Benefits Estimate uses the Low Economic Growth electricity prices and housing starts from *AEO 2015* and a faster decrease in product prices for LED CFLKs. The High Benefits Estimate uses the High Economic Growth electricity prices and housing starts from *AEO 2015* and the same product price decrease for LED CFLKs as in the Primary Estimate.

** The $CO_2$ values represent global monetized values of the SCC, in 2014$, 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 incorporate an escalation factor.

† 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 ($41.2/t case). In the rows labeled ''7% plus $CO_2$ range'' and ''3% plus $CO_2$ range,'' the operating-cost and $NO_X$ benefits are calculated using the labeled discount rate, and those values are added to the full range of $CO_2$ values.

DOE's analysis of the national impacts of the proposed standards is described in sections IV.H, IV.K and IV.L of this notice.

*D. Conclusion*

DOE has tentatively concluded that the proposed standards 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- and less-stringent efficacy levels (EL)s 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 ELs would outweigh the projected benefits. Based on consideration of the public comments DOE receives in response to this notice and related information collected and analyzed during the course of this rulemaking effort, DOE may adopt ELs presented in this notice 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 this proposed rule, as well as some of the relevant historical background related to the establishment of standards for CFLKs.

*A. Authority*

Title III, Part B of EPCA, 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''), which includes the CFLKs that are the subject of this rulemaking. (42 U.S.C. 6295(ff)) EPCA, as amended, authorized DOE to conduct future rulemakings to determine whether to amend these standards. (42 U.S.C. 6295(ff)(5)–(6)) Under 42 U.S.C. 6295(m), DOE must also periodically review its already established energy conservation standards 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) the establishment of 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 develop test procedures to measure the energy efficiency, energy use, or estimated annual operating cost of each covered product. (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 CFLKs appear at title 10 of the Code of Federal Regulations (CFR) part 430, subpart B, appendix V.

DOE must follow specific statutory criteria for prescribing new or amended standards for covered products, including CFLKs. Any new or 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 CFLKs, if no test procedure has been established for the product, or (2) if DOE determines by rule that the 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, 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 after receiving comments on the proposed standard, and by considering, to the greatest extent practicable, the following seven statutory 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 the evidence that the standard is likely to result in the unavailability in the United States of any covered product type (or class) of performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the United States. (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 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 which 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)).

EPCA also requires that 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)) In a test procedure NOPR for ceiling fan light kits (hereafter ''CFLK TP NOPR''), DOE proposed that the energy use from standby mode and off mode associated with CFLKs be attributed to the ceiling fan to which they are attached, and thus any standby mode energy use is accounted for in the ceiling fan test procedure. Therefore, the CFLK metric accounts for energy consumption only in active mode. 79 FR 64688 (October 31, 2014). DOE will account for active mode energy use in any final amended energy conservation standards.

*B. Background*

1. Current Standards

The current energy conservation standards apply to CFLKs with medium screw base and pin-based sockets manufactured on and after January 1, 2007, and CFLKs with all other socket types manufactured on or after January 1, 2009. 70 FR 60407, 60413 (October 18, 2005). These standards are set forth in DOE's regulations at 10 CFR 430.32(s) as follows:

(2)(i) Ceiling fan light kits with medium screw base sockets manufactured on or after January 1, 2007, must be packaged with screw-based lamps to fill all screw base sockets.

(ii) The screw-based lamps required under paragraph (2)(i) of this section must—

(A) Be compact fluorescent lamps that meet or exceed the following requirements or be as described in paragraph (2)(ii)(B) of this section:

| Factor | Requirements |
|---|---|
| Rated Wattage (Watts) & Configuration [1] | Minimum Initial Lamp Efficacy (lumens per watt).[2] |
| *Bare Lamp:* | |
| Lamp Power <15 | 45.0. |
| Lamp Power ≥15 | 60.0. |
| *Covered Lamp (no reflector):* | |
| Lamp Power <15 | 40.0. |
| 15 ≤ Lamp Power <19 | 48.0. |
| 19 ≤ Lamp Power <25 | 50.0. |
| Lamp Power ≥25 | 55.0. |
| *With Reflector:* | |
| Lamp Power <20 | 33.0. |
| Lamp Power ≥20 | 40.0. |
| Lumen Maintenance at 1,000 hours | ≥90.0%. |
| Lumen Maintenance at 40 Percent of Lifetime | ≥80.0%. |
| Rapid Cycle Stress Test | At least 5 lamps must meet or exceed the minimum number of cycles. |
| Lifetime | ≥6,000 hours for the sample of lamps. |

[1] Use rated wattage to determine the appropriate minimum efficacy requirements in this table.
[2] Calculate efficacy using measured wattage, rather than rated wattage, and measured lumens to determine product compliance. Wattage and lumen values indicated on products or packaging may not be used in calculation.

(B) Light sources other than compact fluorescent lamps that have lumens per watt performance at least equivalent to comparably configured compact fluorescent lamps meeting the energy conservation standards in paragraph (2)(ii)(A) of this section.

(3) Ceiling fan light kits manufactured on or after January 1, 2007, with pin-based sockets for fluorescent lamps must use an electronic ballast and be packaged with lamps to fill all sockets. These lamp ballast platforms must meet the following requirements:

| Factor | Requirement |
|---|---|
| System Efficacy per Lamp Ballast Platform in Lumens per Watt (lm/w) | ≥50 lm/w for all lamps below 30 total listed lamp watts.<br>≥60 lm/w for all lamps that are ≤24 inches and ≥30 total listed lamp watts.<br>≥70 lm/w for all lamps that are >24 inches and ≥30 total listed lamp watts. |

(4) Ceiling fan light kits with socket types other than those covered in paragraphs (2) and (3) of this section, including candelabra screw base sockets, manufactured on or after January 1, 2009—

(i) Shall not be capable of operating with lamps that total more than 190 watts; and

(ii) Shall be packaged to include the lamps described in clause (i) with the ceiling fan light kits. 10 CFR 430.32(s)

2. History of Standards Rulemaking for CFLKs

Current energy conservation standards for CFLKs (42 U.S.C. 6295(ff)) were established by the Energy Policy Act of 2005 (EPAct 2005) (Title I, Subtitle C, section 135(c)), which were later amended by EPCA. Specifically, EPAct 2005 established individual energy conservation standards for three groups of CFLKs: (1) Those having medium screw base sockets (hereafter ''Medium Screw Base product class''); (2) those having pin-based sockets for fluorescent lamps (hereafter ''Pin-Based product class''); and (3) any CFLKs other than those included in the Medium Screw Base product class or the Pin-Based product class (hereafter ''Other Base Type product class''). (42 U.S.C. 6295(ff)(2)–(4)) In a technical amendment published on October 18, 2005, DOE codified the statute's requirements for the Medium Screw Base and Pin-Based product classes. 70 FR 60413. EPAct 2005 also specified that if DOE failed to issue a final rule on energy conservation standards for Other Base Type product class CFLKs by January 1, 2007, a 190 W limit would apply to those products. (42 U.S.C. 6295(ff)(4)(C)) Because DOE did not issue a final rule on standards for CFLKs by that date, on January 11, 2007, DOE published a technical amendment that codified the statute's requirements for Other Base Type product class CFLKs, which applied to Other Base Type product class CFLKs manufactured on or after January 1, 2009. 72 FR 1270. Another technical amendment final rule published on March 3, 2009 (74 FR 12058), added a provision that CFLKs with sockets for pin-based fluorescent lamps must be packaged with lamps to fill all sockets. (42 U.S.C. 6295(ff)(4)(C)(ii)) These standards for CFLKs are codified in 10 CFR 430.32(s)(2)–(4).

To initiate the rulemaking cycle to consider amended energy conservation standards for ceiling fans and CFLKs, on March 15, 2013, DOE published a notice announcing the availability of the framework document, ''Energy Conservation Standards Rulemaking Framework Document for Ceiling Fans and Ceiling Fan Light Kits,'' and a public meeting to discuss the proposed analytical framework for the rulemaking. 76 FR 56678. DOE also posted the framework document on its Web site, in which DOE described the procedural and analytical approaches DOE anticipated using to evaluate the establishment of energy conservation standards for ceiling fans and CFLKs.

DOE held the public meeting for the framework document on March 22, 2013,[12] to present the framework document, describe the analyses DOE planned to conduct during the rulemaking, seek comments from stakeholders on these subjects, and inform stakeholders about and facilitate their involvement in the rulemaking. At the public meeting, and during the comment period, DOE received many comments that both addressed issues raised in the framework document and identified additional issues relevant to this rulemaking.

DOE issued the preliminary analysis for the CFLK energy conservation standards rulemaking on October 27, 2014, and published it in the **Federal Register** on October 31, 2014. 78 FR 13563. DOE posted the preliminary analysis, as well as the complete preliminary technical support document (TSD), on its Web site.[13] The preliminary TSD includes the results of the following DOE preliminary analyses: (1) Market and technology assessment; (2) screening analysis; (3) engineering analysis; (4) energy use analysis; (5) product price determination; (6) LCC and PBP analyses; (7) shipments analysis; (8) national impact analysis (NIA); and (9) preliminary manufacturer impact analysis (MIA).

## III. General Discussion

DOE developed this proposal after considering comments, data, and information from interested parties that represent a variety of interests. The following discussion addresses issues raised by these commenters.

### *A. Product Classes and Scope of Coverage*

EPCA defines a ''ceiling fan light kit'' as ''equipment designed to provide light from a ceiling fan that can be: (1) Integral, such that the equipment is attached to the ceiling fan prior to the time of retail sale; or (2) attachable, such that at the time of retail sale the equipment is not physically attached to the ceiling fan, but may be included inside the ceiling fan at the time of sale or sold separately for subsequent attachment to the fan.'' [14] (42 U.S.C. 6291(50)(A), (B)) In the CFLK TP NOPR, DOE proposed to withdraw the current guidance [15] on accent lighting and to consider all lighting packaged with any CFLK to be subject to energy conservation requirements. 79 FR 64688, 64692 (October 31, 2014). Additionally, in the ceiling fan test procedure NOPR published on October 17, 2014, DOE proposed to reinterpret the definition of a ceiling fan to include hugger fans. 79 FR 62521, 62525–26 (October 17, 2014). For additional details on DOE's reasoning for proposing these changes, please see the proposed rulemaking documents.

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 justifies 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 determines are appropriate. (42 U.S.C. 6295(q)) For further details on product classes, see section IV.A.1 and chapter 3 of the NOPR TSD.

### *B. Test Procedure*

EPCA sets forth generally applicable criteria and procedures for DOE's adoption and amendment of test procedures. (42 U.S.C. 6293) Manufacturers of covered products must use these test procedures to certify to DOE that their product complies with energy conservation standards and to quantify the efficiency of their product. As noted, the test procedures for CFLKs are provided in appendix V. As noted, DOE published a NOPR to amend these test procedures on October 31, 2014. 79 FR 64688.

With respect to the process of establishing test procedures and standards for a given product, DOE notes that, while not legally obligated to do so, it generally follows the approach laid out in guidance found in 10 CFR part 430, subpart C, Appendix A (Procedures, Interpretations and Policies for Consideration of New or Revised Energy Conservation Standards for Consumer Products). That guidance provides, among other things, that, when necessary, DOE will issue final, modified test procedures for a given product prior to publication of the NOPR proposing energy conservation standards for that product. While DOE strives to follow the procedural steps outlined in its guidance, there may be circumstances in which it may be necessary or appropriate to deviate from it. In such instances, the guidance indicates that DOE will provide notice and an explanation for the deviation. Accordingly, DOE is providing notice that it continues to develop the final test procedure for CFLKs. DOE received comment on the proposed test procedure regarding the applicability of the CFLK test procedures and energy conservation standards to accent lighting. DOE also received comments on the appropriate metric for CFLKs with integrated SSL circuitry. DOE continues to consider those comments in the development of the final test procedure rule. DOE will attempt to issue the final test procedure within the comment period provided for this proposed standards rule. In the event that additional time to comment on the proposed standards in light of the final test procedure rule is desired, interested parties can seek an extension or reopening of the comment period upon issuance of the final test procedure.

#### 1. Standby and Off-Mode Energy Consumption

EPCA directs DOE to update its test procedures to account for standby mode and off-mode energy consumption, with such energy consumption integrated into the overall energy efficiency, energy consumption, or other energy descriptor, unless the current test procedure already accounts for standby mode and off-mode energy use. (42 U.S.C. 6295(gg)(2)(A)) Furthermore, if an integrated test procedure is technically infeasible, DOE must prescribe a separate standby mode and off-mode test procedure for the covered product, if technically feasible.

In the preliminary analysis, DOE determined that energy use from standby mode and off mode associated with CFLKs be attributed to the ceiling fan to which they are attached. DOE's research indicates that standby power is relevant only to combined ceiling fan and light kit systems operated by remote control. The remote control receiver, which is almost always installed in the ceiling fan housing and used to receive signals for both the ceiling fan and the CFLK, is the component that constitutes the standby power consumption in the ceiling fan and light kit system. DOE therefore proposed to account for standby power in the ceiling fan test procedures. 79 FR 64688, 64690 (October 31, 2014). DOE further notes if standby mode were included into a single metric for CFLKs with remote controls, the CFLK would have a different efficacy than its lamps. Therefore, DOE has proposed to only include active mode energy

[12] The framework document and public meeting information are available at regulations.gov under docket number EERE–2012–BT–STD–0045–0001.

[13] The preliminary analysis, preliminary TSD, and preliminary analysis public meeting information are available at regulations.gov under docket number EERE–2012–BT–STD–0045–0072.

[14] Ceiling fan is defined as ''a nonportable device that is suspended from a ceiling for circulating air via the rotation of fan blades.'' (42 U.S.C. 6291(49))

[15] Guidance on accent lighting is available at *www1.eere.energy.gov/guidance/detail_search.aspx?IDQuestion=470&pid=2&spid=1.*

consumption in the CFLK test procedure. Id. See the preliminary analysis TSD or the CFLK TP NOPR for further details.

Based on its review of products currently on the market, DOE concludes that CFLKs do not consume power in off mode. Therefore DOE did not propose to measure off-mode power consumption in the ceiling fan light kit test procedure rulemaking.

*C. Technological Feasibility*

1. General

In each energy conservation standards rulemaking, DOE conducts a screening analysis based on information gathered on all current technology options and prototype designs that could improve the efficiency of the products or equipment that are the subject of the rulemaking. As the first step in such an analysis, DOE develops a list of technology options for consideration in consultation with manufacturers, design engineers, and other interested parties. DOE then determines which of those means for improving efficiency are technologically feasible. 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 EL. Section IV.B of this notice discusses the results of the screening analysis for CFLKs, 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 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 CFLKs, 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.5 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 CFLKs that are the subject of this rulemaking purchased in the 30-year period that begins in the year of compliance with any amended standards (2019–2048).[16] The savings are measured over the entire lifetime of CFLKs purchased in the above 30-year period. DOE quantified the energy savings attributable to each TSL as the difference in energy consumption between each standards case and the no-standards case. The no-standards case represents a projection of energy consumption in the absence of amended energy conservation standards, and it considers market forces and policies that may affect future demand for more-efficient products.

DOE used its NIA spreadsheet model to estimate energy savings from potential amended standards for CFLKs. The NIA spreadsheet model (described in section IV.H of this notice) calculates energy savings in site energy, which is the energy directly consumed by products at the locations where they are used. For electricity, DOE calculates national energy savings on an annual basis in terms of primary energy savings, which is the savings in the energy that is used to generate and transmit the site electricity. To calculate primary energy savings from site electricity savings, DOE derives annual conversion factors from data provided in the Energy Information Administration's (EIA) most recent *Annual Energy Outlook* (*AEO*).

In addition to primary energy savings, DOE also calculates full-fuel-cycle (FFC) energy savings. As discussed in DOE's statement of policy, the 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 conservation standards. 76 FR 51282 (August 18, 2011), as amended at 77 FR 49701 (August 17, 2012). DOE's approach is based on the calculation of an FFC multiplier for each of the energy types used by covered products or equipment. For more information, see section IV.H.1.

2. Significance of Savings

To adopt any new or amended 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 TSLs considered in this rulemaking, including the proposed standards (presented in section IV.H.1), 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 an MIA, as discussed in section IV.J. DOE first uses an annual cash-flow approach to determine the quantitative impacts. This step includes both a short-term assessment—based on the cost and capital requirements during the period between when a regulation is issued and when entities must comply with the regulation—and a long-term assessment over a 30-year period. The industry-wide impacts analyzed include: (1) 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

[16] DOE also presents a sensitivity analysis that considers impacts for products shipped in a 9-year period.

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 payback period (PBP) associated with new or amended standards. These measures are discussed further in the following section. For consumers in the aggregate, DOE also calculates the national NPV of the consumer costs and benefits expected to result from particular standards. DOE also evaluates the impacts of potential standards on identifiable subgroups of consumers that may be affected disproportionately by a 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 analysis.

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. The PBP is the estimated amount of time (in years) it takes consumers to recover the increased purchase cost of a more-efficient product through lower operating costs. DOE calculates the PBP by dividing the change in purchase cost by the initial change in annual operating cost for the year that standards are assumed to take effect.

For its LCC and PBP analysis, DOE assumes that consumers will purchase the covered products in the first year of compliance with amended standards. The LCC savings for the considered ELs are calculated relative to a no-standards case that reflects projected market trends in the absence of amended standards. DOE's LCC and PBP analysis is 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 III.D.1, DOE uses the NIA spreadsheet models 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 notice 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 the proposed 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.

The proposed standards also are likely to result in environmental benefits in the form of reduced emissions of air pollutants and greenhouse gases (GHGs) associated with energy production and use. DOE conducts an emissions analysis to estimate how potential standards may affect these emissions, as discussed in section IV.K; the emissions impacts are reported in section V.C.2 of this notice. 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 IV.F of this proposed rule.

## IV. Methodology and Discussion of Related Comments

This section addresses the analyses DOE has performed for this rulemaking with regard to CFLKs. Separate subsections address each component of DOE's analyses.

DOE used several analytical tools to estimate the impact of the standards proposed in this document. The first tool is a spreadsheet that calculates the LCC and PBP of potential amended or new energy conservation standards. The NIA uses a second spreadsheet set that provides shipments forecasts and calculates national energy savings and NPV resulting from potential energy conservation standards. DOE uses the third spreadsheet tool, the Government Regulatory Impact Model (GRIM), to assess manufacturer impacts of potential standards. These three spreadsheet tools are available on the DOE Web site for this rulemaking: *http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/66.* Additionally, DOE used output from the latest version of EIA's *AEO,* a widely known energy forecast for the United States, for the emissions and utility impact analyses.

### *A. Market and Technology Assessment*

DOE develops information in the market and technology assessment 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. This activity includes both quantitative and qualitative assessments, based primarily on publicly available information. (See chapter 3 of the NOPR TSD for further discussion of the market and technology assessment.) DOE received comments regarding product classes, the metric to determine the energy efficiency of CFLKs, and technology options identified that can improve the efficiency of CFLKs. Responses to these comments are discussed in the following sections.

#### 1. Product Classes

DOE divides covered products into classes by: (a) The type of energy used; (b) the capacity of the product; or (c) other performance-related features that justify different standard levels, considering the consumer utility of the feature and other relevant factors. (42 U.S.C. 6295(q)) The current product class structure for CFLKs, which was established by EPACT 2005, divides CFLKs into three product classes: CFLKs with medium screw base (E26) sockets (Medium Screw Base product class), CFLKs with pin-based sockets for fluorescent lamps (Pin-Based product class), and any CFLKs other than those in the Medium Screw Base or Pin-Based product classes (Other Base Type product class). In the preliminary analysis, DOE restructured the current three CFLK product classes to the following two product classes: (1) CFLKs with Externally Ballasted or Driven Lamps and (2) All Other CFLKs. DOE received several comments related to the restructuring of product classes.

ASAP noted that they support DOE's proposed adjustments to the product class structure. (ASAP, Public Meeting Transcript, No. 82 at p. 85) [17] In a joint comment, ASAP, the American Council for an Energy-Efficient Economy, the National Resources Defense Council, and the Northwest Energy Efficiency Alliance (hereafter the ''Joint Comment'') specified that changing the product class structure in this way would correct unintended market distortions caused by the original CFLK standards. The Joint Comment continued that as CFLKs all use the same type of energy, do not have different capabilities requiring different energy conservation standards, and can provide a full range of illumination with different socket types equipped with light-emitting diode (LED) lamps or compact fluorescent lamps (CFLs), they support DOE's redefinition of product classes. (Joint Comment, No. 95 at pp. 1–2) Available information indicates that all CFLKs use the same type of energy and different socket types do not represent dissimilar capacities or require different standard levels. Therefore, as in the preliminary analysis, DOE proposes not to define CFLK product classes by socket type.

The Joint Comment did recommend, however, that DOE reconsider establishing a separate product class for externally ballasted or driven CFLKs. The Joint Comment noted that the market share of these products is small and is unlikely to grow due to the difficulty for consumers in diagnosing ballast or driver failure and finding the correct replacements. (Joint Comment, No. 95 at p. 2) The Minka Group and Lamps Plus agreed that with externally driven CFLKs, consumers will replace the entire CFLK rather than change a failed ballast. (The Minka Group, Public Meeting Transcript, No. 82 at p. 155; Lamps Plus, Public Meeting Transcript, No. 82 at p. 156) Emerson Electric noted that consumers are often unable to replace a ballast because the model is no longer available from the manufacturer, and thus consumers select a new CFLK instead. (Emerson Electric, Public Meeting Transcript, No. 82 at p. 156)

DOE also received comments that externally driven solid-state lighting (SSL) CFLKs (*i.e.,* with LED module and driver systems) typically do not come with consumer replaceable parts. Emerson Electric commented that they offer an LED array with an integrated driver and heat sink as a repair part. (Emerson Electric, Public Meeting Transcript, No. 82 at pp. 105–106) Hunter Fans commented that only the serviceable driver can be replaced in the SSL CFLKs that they offer. (Hunter Fans, Public Meeting Transcript, No. 82 at p. 219) Westinghouse Lighting (Westinghouse) commented that their limited offerings of integrated SSL CFLKs did not include consumer replaceable parts. Westinghouse noted that in the commercial marketplace, while there is interest in replaceable drivers and modules, it is unclear if manufacturers are planning to offer drivers and modules as consumer replaceable parts instead of repair parts. (Westinghouse, Public Meeting Transcript, No. 82 at pp. 106; 218–219) Further, Westinghouse noted that replacing an externally driven fluorescent lamp with an externally driven LED lamp would require an entire CFLK change, as they were unaware of any retrofit LED lamps for pin-based lamps. (Westinghouse, No. 82 at p. 157) Westinghouse added that this product class is only 1 percent or less of the market. (Westinghouse, No. 82 at p. 157) As a result of the market's reluctance to embrace externally ballasted or driven products, The Joint Comment questioned whether this product group provides a distinct utility. (Joint Comment, No. 95 at p. 2)

In the preliminary analysis, DOE placed externally ballasted or driven lamps in a separate product class based on their unique utility in that they allow consumers to replace the lamp, and potentially the ballast or driver, separately if one fails independently of the other. However, feedback from stakeholders and interviews with manufacturers indicated that most consumers of CFLKs will typically replace both the lamp and ballast/driver

[17] A notation in this form provides a reference for information that is in the docket of DOE's rulemaking to develop energy conservation standards for CFLKs (Docket No. EERE–2012–BT–STD–0045), which is maintained at *www.regulations.gov.* This notation indicates that the statement preceding the reference was made by ASAP, is included in a public meeting transcript, is from document number 82 in the docket, and appears at page 85 of that document.

system or the entire CFLK rather than a failed component. Thus, DOE no longer identified the externally ballasted or driven lamps as providing a unique utility to consumers, and is not proposing a separate product class for these lamp types in the NOPR.

DOE received comments regarding maintaining a separate product class for CFLKs with sockets other than medium screw base lamps and pin-based fluorescent lamps. The Joint Comment noted that most CFLKs used medium screw base lamps prior to the previous CFLK standards, but once the existing standard set separate product classes and thereby different requirements for CFLKs with medium screw base sockets, those with pin-based sockets, and those with all other sockets, manufacturers switched to producing CFLKs with all other sockets, specifically candelabra and intermediate-base sockets. The Joint Comment stated that the switch to these small bases has decreased the anticipated savings of the previous CFLK standards, and also the impact of the previous general service lamp (GSL) standards. The Joint Comment noted that current CFLK sales are 80 percent intermediate and candelabra based sockets, even though there is no utility advantage over medium screw base sockets. (Joint Comment, No. 95 at p. 1)

Westinghouse disagreed, stating that the two product classes considered in the preliminary analysis make sense from the lamp manufacturer perspective, but limit design options for fan manufacturers. (Westinghouse, Public Meeting Transcript, No. 82 at pp. 117, 129) Westinghouse asserted that consumers look for fashion and style in CFLKs and therefore design is a utility that is met by different types of CFLKs. Westinghouse reported that medium screw base lamps are usually A-shape lamps and physically larger, whereas candelabra-base lamps are typically bullet, flame, or B-shape lamps, which fulfill a decorative purpose rather than providing improved efficacy or light output. Westinghouse also noted that halogen lamps with specialty bases, such as E11 and bipin, are able to provide a lot of light in very small spaces. (Westinghouse, Public Meeting Transcript, No. 82 at pp. 121–123)

Finally, American Lighting Association (ALA) commented that the All Other CFLKs product class would eliminate incandescent and halogen lamps in CFLKs. ALA and Westinghouse asserted that more efficacious substitutes, such as CFLs and LED lamps, currently do not serve as adequate replacements for the halogen lamps, especially those with smaller or specialty bases. Specifically, ALA and Westinghouse noted that it is difficult for LED lamps to have the same lumen package and lifetime as existing candelabra based lamps in CFLKs in the same small space without issues such as heat dissipation, especially while also meeting proposed efficacy standards. (ALA, No. 93 at p. 8; Westinghouse, Public Meeting Transcript, No. 82 at p. 100) Westinghouse noted that to use the LED lamps currently on the market, an entire luminaire design would be required to adequately dissipate heat. (Westinghouse, Public Meeting Transcript, No. 82 at pp. 121–123)

While Westinghouse noted that LED lamps will soon be able to meet these challenges, they expressed concern about finalizing a rulemaking that requires products that are not yet equivalent to existing lamps. (Westinghouse, Public Meeting Transcript, No. 82 at p. 100) Hunter Fans commented that they agree with Westinghouse's concerns with design utility being adversely affected by the use of more efficacious light sources in CFLKs. (Hunter Fans, Public Meeting Transcript, No. 82 at p. 124) ALA noted that CFLK manufacturers have no control over the rate of LED technology advancement. (ALA, No. 93 at p. 8) NEMA stated that there can be a predilection towards moving to solely LED technology due to ELs, but while LED technology is feasible in the smaller lamp sizes, the market is very small and few manufacturers have moved to supply LED options. NEMA continued that this may be the same issue with the ceiling fan industry. (NEMA, Public Meeting Transcript, No. 82 at pp. 115–116) Westinghouse commented that DOE needs to make sure that less efficient candelabra bases and small profile SSL options are viable for manufacturers and priced at an acceptable level for consumers if DOE stays with a two product class system. (Westinghouse, Public Meeting Transcript, No. 82 at pp. 116–177, 138)

Based on an evaluation of lamp efficacies reported in manufacturer catalogs, DOE has determined that small base LED lamps are currently available at the highest ELs proposed. (See section IV.C.4 for further details on this analysis.) DOE has found that these small base lamps have lifetimes at or above that of the baseline lamp selected in the engineering analysis. (See section IV.C.3 for further details on the baseline lamp selected.) While the lumen package of these small base LED lamps may not be comparable to small base halogen lamps, modifications in the CFLK design (*e.g.,* number of sockets) can achieve the targeted light output regardless of the lamp used. DOE also confirmed, based on information in manufacturer catalogs and product specifications, that there are commercially available small base lamps available at the highest proposed efficacy level and these lamps are marketed as being suitable for use in enclosed spaces. Thus, issues such as heat dissipation should not be a concern.

In this NOPR, DOE is proposing one product class for CFLKs, including CFLKs packaged with all lamp types, regardless of socket type, and CFLKs with consumer replaceable or non-consumer-replaceable LED modules and drivers.

Summary of CFLK Product Classes

In summary, DOE is no longer considering a separate product class for externally ballasted or driven lamps in CFLKs, as the ability to change the ballast/driver or lamp when one of these components fail rather than replacing the entire system is not a utility to consumers. Upon further analysis, DOE did not identify any class setting factors for CFLKs that use a different type of energy, offer a different capacity of the product, or provide unique performance-related features to consumers, and thereby warrant a separate product class. Therefore, in this NOPR analysis, DOE is proposing a single ''All CFLKs'' product class. (See chapter 3 of the NOPR TSD for further details on the CFLK product class.) DOE requests comment on the product class structure proposed in this document.

2. Metrics

In the preliminary analysis, DOE indicated that it is considering using luminous efficacy as the efficiency metric for all CFLKs. DOE considered using lamp efficacy where possible, and using luminaire efficacy where the lamp component in the CFLK is not designed to be consumer replaceable from the CFLK (*i.e.,* for CFLKs with SSL circuitry, such as those with inseparable LED lighting).

ASAP expressed support for the use of lamp efficacy as the primary metric. (ASAP, Public Meeting Transcript, No. 82 at p. 85) Westinghouse initially agreed with using lamp efficacy as the efficiency metric for CFLKs and luminaire efficacy for CFLKs with integrated SSLs. Specifically, Westinghouse approved of the method for this rulemaking, given current practices and test procedures, and suggested that DOE wait until industry or ENERGY STAR developed an alternative to adopt something else. (Westinghouse, Public Meeting Transcript, No. 82 at p. 59) However,

upon further reflection, Westinghouse remarked that integrated SSLs should use the system efficacy, or ''light engine efficacy,'' based on IES LM–79. Westinghouse noted that this method would be less expensive and burdensome for manufacturers. Westinghouse added that products without existing test procedures would still use luminaire efficacy. (Westinghouse, No. 82 at pp. 81–82)

In the NOPR, DOE continued to base its analysis on luminous efficacy as the efficiency metric for CFLKs. DOE used lamp efficacy where possible and luminaire efficacy where the lamp component in the CFLK is not designed to be consumer replaceable from the CFLK. As proposed in the CFLK TP NOPR (79 FR 64688, 64694 [October 31, 2014]), IES LM–79–08 would be used to test the luminaire efficacy of CFLKs with integrated SSL circuitry (*i.e.,* light sources, drivers, or intermediate circuitry that is not consumer replaceable). DOE determined that for CFLKs with integrated SSL circuitry, luminaire efficacy was an appropriate metric because either destructive disassembly would be required to determine the lamp efficacy or, where non-destructive disassembly was possible, lamp efficacy measurements may not be consistent or accurate. 79 FR 64688, 64693, 64703–64704 (October 31, 2014).

Westinghouse noted that while an efficacy metric was acceptable, due to the combination of the existing product classes, the proposed standards may need to allow for more flexibility. (Westinghouse, Public Meeting Transcript, No. 82 at pp. 58–59) The proposed standards account for the effects of the product class combination. DOE established the baseline level as discussed in section IV.C.3. DOE then evaluated each efficacy level to determine if it is technologically feasible and economically justified.

ALA stated that DOE's position to not include the energy savings potential of lighting controls might not be valid. ALA noted that lighting controls can be as powerful as efficacy in generating energy savings. ALA followed that DOE should be open to new test procedures for incorporating the energy savings of lighting controls. (ALA, Public Meeting Transcript, No. 82 at pp. 118–119)

DOE notes that CFLKs are not typically integrated with and/or sold with all components necessary to utilize lighting controls. Further, when a CFLK is set up to function with lighting controls, the use of controls is dependent on various factors, thereby making it difficult to generate consistent and repeatable results across product types that can be measured to a single standard. Therefore, DOE is not proposing to include lighting controls in the efficacy metric for CFLKs. However, DOE did assess various factors related to the use of controls and conducted an analysis to determine potential energy savings from controls. See section IV.E.3 for further information on energy savings from lighting controls.

Westinghouse commented that lifetime testing is burdensome for CFLK manufacturers because of the time associated with the testing, especially because product development of CFLKs trails the development of lamps. (Westinghouse, Public Meeting Transcript, No. 82 at pp. 141–142) Additionally, ALA remarked that lifetime should not be a metric because CFLK manufacturers have limited control over lamp performance, but that if it is included, the standard should be 10,000 hours. ALA added that DOE can harmonize with ENERGY STAR Program Requirements for Lamps version 1.1, which specifies 10,000 hours for all CFLs and 15,000 hours for decorative LED lamps. (ALA, No. 93 at pp. 9, 12)

Current standards specify that CFLKs packaged with medium screw base CFLs must also meet the ENERGY STAR Program requirements for Compact Fluorescent Lamps, version 3.0. The additional requirements specify a minimum lifetime of 6,000 hours. DOE is proposing to maintain this requirement for medium screw base CFLs packaged with CFLKs.

3. 190 W Limitation

Current standards require that CFLKs with medium screw base sockets, or pin-based sockets for fluorescent lamps, be packaged with lamps that meet certain efficiency requirements. All other CFLKs must not be capable of operating with lamps that exceed 190 W. In the final rule for energy conservation standards for certain CFLKs published on January 11, 2007, DOE interpreted this 190 W limitation requirement as a statutory requirement to incorporate an electrical device or measure that ensures the light kit is not capable of operating with a lamp or lamps that draw more than a total of 190 W. 72 FR 1270, 1271 (Jan. 11, 2007).

Westinghouse questioned whether the 190 W limitation was needed in CFLKs with candelabra or intermediate-base lamps, noting that EPACT limits candelabra lamps to 60 W and intermediate-base lamps to 40 W, and thus a CFLK with three or fewer sockets would never have a total wattage exceeding 190 W. (Westinghouse, Public Meeting Transcript, No. 82 at pp. 50–51) CFLKs, however, can have more than three sockets, and there are socket adapters available that can enable the use of medium base lamps in sockets intended for candelabra lamps. As a result, DOE has determined that the EPACT wattage restrictions on candelabra and intermediate-base lamps provides an insufficient basis for DOE to remove the 190 W limit requirement.

ALA stated that DOE should eliminate the 190 W limit for CFLKs with SSL technology or recognize that as such CFLKs use a fixed number of LEDs and a current-limiting device, they meet the 190 W limitation requirement by design. (ALA, Public Meeting Transcript, No. 82 at pp. 16, 42) The Minka Group asked for clarification on whether an LED driver counts as a wattage limiting device. (The Minka Group, Public Meeting Transcript, No. 82 at p. 39) ALA requested that DOE clarify that the design of a CFLK, with such an SSL system that (1) has an SSL driver and/or SSL light source that is not designed to be consumer replaceable; (2) has a rated wattage of 190 W or fewer; and (3) does not use any other light source, meets the requirement of an electrical device or measure that renders the CFLK incapable of operating lamps that total more than 190 W. (ALA, No. 93 at pp. 1–2, 4; ALA, No. 102 at pp. 1–4)

ALA provided several arguments supporting its recommendation. Noting that SSL technology is highly efficient, ALA stated that a 190 W SSL system in a CFLK would provide too much light for a typical consumer and manufacturers generally offer CFLKs with SSL systems rated at no more than 50 W. ALA also stated that the SSL driver, light source, and thermal management system are designed to operate together at the rated wattage and attempts to operate the system at a higher wattage would result in failure of these parts. Specifically, ALA commented that the thermal management system cannot be modified to handle the additional heat from operating at higher wattages. Thus, ALA concluded the SSL electrical and thermal system design acts as an electrical device or measure that limits the power the CFLK can draw, and the systems inherently limit the power that can be consumed during operation. (ALA, No. 93 at pp. 1–2, 4; ALA, No. 102 at p. 2)

ALA also argued that as long as either the SSL driver and/or light source are not consumer replaceable, the CFLK cannot be operated at a wattage higher than the rated wattage. ALA explained that the SSL light source and driver must match in terms of the design wattage or the system will fail.

Therefore, if the consumer replaceable part is replaced to operate the system above the rated wattage, the non-consumer replaceable part must also be replaced, which would require destructive disassembly. ALA stated that this would be beyond the capability of a typical consumer and would invalidate the CFLK's manufacturer warranty and Underwriters Laboratories (UL) listing. (ALA, No. 93 at pp. 1–2; ALA, No. 102 at p. 3) ALA also provided figures of a CFLK with SSL technology that consumes fewer than 20 W. In these figures, ALA noted that the CFLK has a non-consumer replaceable thermal management system that is customized for the CFLK and a consumer replaceable LED driver that is customized for the CFLK. (ALA, No. 93 at pp. 2–3; ALA, No. 102 at pp. 3–4)

Available information indicates that in some scenarios, CFLKs with only SSL technology could be considered to be inherently current limiting. These scenarios are (1) neither SSL drivers and nor SSL light sources are consumer replaceable, (2) SSL drivers are non-replaceable but SSL light sources are replaceable, and (3) SSL light sources are non-replaceable but SSL drivers are replaceable. In the scenario where the CFLK has a consumer replaceable SSL light source, once the light source is replaced with one that can operate at a higher wattage, the non-replaceable SSL driver would act as a limiting device and not allow the system to operate higher than the rated wattage. In the scenario where the consumer replaceable SSL driver is replaced with a driver that can operate at a higher wattage, rapid failure of the SSL light source would likely occur as it would be operated beyond the current, voltage, and/or temperature design limits. Moreover, significant increases in the rated wattage of drivers result in significant size increases in the drivers and the physical constraints of CFLK designs would not allow for such modification. Further, requiring that no other light source besides the SSL system be included in the CFLK would prevent any other means of operating the CFLK at a wattage higher than the rated wattage. Therefore, DOE proposes that CFLKs with SSL circuitry that (1) have SSL drivers and/or light sources that are not consumer replaceable, (2) do not have both an SSL driver and light source that are consumer replaceable, (3) do not include any other light source, and (4) include SSL drivers with a maximum operating wattage of no more than 190 W are considered to incorporate some electrical device or measure that ensures they do not exceed the 190 W limit. DOE proposes to incorporate this clarification in this rulemaking.

DOE is also considering whether all CFLKs with SSL circuitry should be determined to not exceed the 190 W limit. DOE seeks comment on this approach.

4. Technology Options

The technology assessment identifies technology options that improve CFLK efficacy. This assessment provides the technical background and structure on which DOE bases its screening and engineering analyses. The technology assessment begins with a description of the basic structure and operation of CFLKs and then develops a list of technology options considered in the screening analysis.

In the preliminary analysis, DOE identified more efficacious light sources as the technology option that could increase CFLK efficacy. In the preliminary analysis, DOE considered but decided not to include lighting controls and luminaire designs as technology options. Regarding lighting controls, DOE determined that CFLK controls are mostly manual (dimming or multi-level) that can be operated by remote control or at the wall switch and are usually combined with those of the ceiling fan into a single device. The CFLK TP does not provide test procedures for measuring energy savings from controls used on CFLKs, nor is such data available at a comprehensive level for the residential sector. DOE decided not to consider luminaire designs as a technology option because the metric of efficiency for CFLKs proposed in this rulemaking is lamp efficacy, and only in certain cases where lamp efficacy test procedures cannot be used is luminaire efficacy required (see section IV.A.2 for further details.) ALA and Westinghouse agreed with DOE's decision to consider more efficacious lamps as a technology option, and not to include lighting controls. (ALA, No. 93 at p. 8; Westinghouse, Public Meeting Transcript, No. 82 at pp. 113–115) ALA also agreed with DOE's decision not to include luminaire design as a technology option. (ALA, No. 93 at p. 8)

In the NOPR analysis, DOE broke down the more efficacious light sources technology option into specific technology options to identify the different mechanisms for increasing the efficacy of lamps packaged with CFLKs. DOE reviewed manufacturer catalogs, recent trade publications, technical journals, and patent filings to identify these technology options.

For CFLs, DOE is considering technology options related to improvements in electrode coatings, fill gas, phosphors, glass coatings, cold spot optimization, and ballast components. For LED lamps, DOE is considering technology options related to improvements in down converters, package architectures, emitter materials, substrate materials, thermal interface materials, heat sink design, thermal management, device-level optics, light utilization, driver design, and electric current.

Summary of CFLK Technology Options

In summary, DOE has developed the list of technology options shown in Table IV.1 to increase efficacy of CFLKs. See chapter 3 of the NOPR TSD for more information on the proposed CFLK technology options. DOE requests comment on the CFL and LED technology options being proposed for CFLKs and any additional options that should be included.

TABLE IV.1—CFLK TECHNOLOGY OPTIONS

| Lamp type | Name of technology option | Description |
|---|---|---|
| CFL | Highly Emissive Electrode Coatings. | Improved electrode coatings allow electrons to be more easily removed from electrodes, reducing lamp power and increasing overall efficacy. |
| | Higher-Efficiency Lamp Fill Gas Composition. | Fill gas compositions improve cathode thermionic emission or increase mobility of ions and electrons in the lamp plasma. |
| | Higher-Efficiency Phosphors | Techniques to increase the conversion of ultraviolet (UV) light into visible light. |
| | Glass Coatings | Coatings on inside of bulb enable the phosphors to absorb more UV energy, so that they emit more visible light. |
| | Multi-Photon Phosphors | Emitting more than one visible photon for each incident UV photon. |
| | Cold Spot Optimization | Improve cold spot design to maintain optimal temperature and improve light output. |
| | Improved Ballast Components | Use of higher-grade components to improve efficiency of integrated ballasts. |

TABLE IV.1—CFLK TECHNOLOGY OPTIONS—Continued

| Lamp type | Name of technology option | Description |
|---|---|---|
| | Improved Ballast Circuit Design. | Better circuit design to improve efficiency of integrated ballasts. |
| | Change in Technology | Replace CFL with LED technology. |
| LED | Efficient Down Converters | New high-efficiency wavelength conversion materials, including optimized phosphor conversion, quantum-dots and nano-phosphors, have the potential for creating warm-white LED emitters with improved spectral efficiency, high color quality, and improved thermal stability. |
| | Improved Package Architectures. | Novel package architectures such as RGB+, system-in-package, hybrid color, and chip-on-heat-sink have the potential to improve thermal management, color-efficiency, and optical distribution, as well as electrical integration to greatly improve overall lamp and luminaire efficacy. |
| | Improved Emitter Materials | The development of efficient red, green, or amber LED emitters, will allow for optimization of spectral efficiency with high color quality over a range of CCT and which also exhibit color and efficiency stability with respect to operating temperature. |
| | Alternative Substrate Materials | Alternative substrates such as gallium nitride (GaN), silicon (Si), GaN-on-Si, and silicon carbide to enable high-quality epitaxy for improved device quality and efficacy. |
| | Improved Thermal Interface Materials (TIM). | Develop TIMs that enable high-efficiency thermal transfer for long-term reliability and performance optimization of the LED device and overall lamp product. |
| | Optimized Heat Sink Design | Improve thermal conductivity and heat dissipation from the LED chip, thus reducing efficacy loss from rises in junction temperature. |
| | Active Thermal Management Systems. | Devices such as internal fans, vibrating membranes, and circulated liquid cooling systems to improve thermal dissipation from the LED chip. |
| | Device-Level Optics | Enhancements to the primary optic of the LED package that would simplify or remove entirely the secondary optic, and thereby reduce losses due to absorption at interfaces. |
| | Increased Light Utilization | Reduce optical losses from the lamp housing, diffusion, beam shaping and color-mixing to increase the efficacy of the LED lamp. |
| | Improved Driver Design | Increase driver efficiency through novel and intelligent circuit design. |
| | AC LEDs | Reduce or eliminate the requirements of a driver and therefore the effect of driver efficiency on lamp efficacy. |
| | Reduced Current Density | Increase the number of LEDs in a lamp to reduce current density while maintaining lumen output. This reduces the efficiency losses associated with higher current density. |

*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 it is determined that mass production and 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 projected 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).

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.

1. Screened-Out Technologies

In the preliminary analysis, DOE did not screen out more efficacious light sources as a technology option because more efficacious light sources were found to be commercially available products that met the four screening criteria. ALA stated that they agreed with the screening analysis, and DOE did not receive any further comments on retaining more efficacious light sources as a design option. (ALA, No. 93 at p. 9)

In the NOPR, as noted, DOE identified the specific technologies underlying more efficacious light sources. Of these technology options, several technology options were screened out based on the four screening criteria. Table IV.2 summarizes the technology options DOE is proposing to screen out and the associated screening criteria.

TABLE IV.2—CFLK TECHNOLOGY OPTIONS SCREENED OUT OF THE ANALYSIS

| Technology | Design option excluded | Screening criteria |
|---|---|---|
| CFL | Multi-Photon Phosphors | Technological feasibility. |
| LED | Colloidal Quantum Dot Phosphors | Technological feasibility. |
| | Improved Emitter Materials | Technological feasibility. |

2. Remaining Technologies

Through a review of each technology, DOE tentatively concludes that all of the other identified technologies listed in section IV.A.3 meet all four screening criteria to be examined further as design options in DOE's NOPR analysis. In summary, DOE did not screen out the following technology options:

CFL Design Options

- Highly Emissive Electrode Coatings
- Higher-Efficiency Lamp Fill Gas Composition
- Higher-Efficiency Phosphors
- Glass Coatings
- Cold Spot Optimization
- Improved Ballast Components
- Improved Ballast Circuit Design

LED Design Options

- Efficient Down Converters (with the exception of colloidal quantum-dots phosphors)
- Improved Package Architectures
- Alternative Substrate Materials
- Improved Thermal Interface Materials
- Optimized Heat Sink Design
- Active Thermal Management Systems
- Device-Level Optics
- Increased Light Utilization
- Improved Driver Design
- AC LEDs
- Reduced Current Density

DOE determined that these technology options are technologically feasible because they are being used in commercially available products or working prototypes. DOE also finds that all of the remaining technology options 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). (See chapter 4 of the NOPR TSD for further details on the CFLK screening analysis.)

*C. Engineering Analysis*

DOE derives ELs in the engineering analysis and consumer prices in the product price determination. By combining the results of the engineering analysis and the product price determination, DOE derives typical inputs for use in the LCC and NIA.

1. General Approach

The engineering analysis is generally based on commercially available lamps that incorporate the design options identified in the technology assessment and screening analysis. (See chapters 3 and 4 of the NOPR TSD for further information on technology and design options.) The methodology consists of the following steps: (1) Selecting representative product classes, (2) selecting baseline lamps, (3) identifying more efficacious substitutes, and (4) developing ELs by directly analyzing representative product classes and then scaling those ELs to non-representative product classes. The details of the engineering analysis are discussed in chapter 5 of the NOPR TSD. The following discussion summarizes the general steps of the engineering analysis:

*Representative product classes:* DOE first reviews CFLKs covered under the scope of the rulemaking and the associated product classes. When a product has multiple product classes, DOE selects certain classes as ''representative'' and concentrates its analytical effort on these classes. DOE selects representative product classes primarily because of their high market volumes and/or distinct characteristics.

*Baseline lamps:* For each representative product class, DOE selects a baseline lamp as a reference point against which to measure changes resulting from energy conservation standards. Typically, a baseline lamp is the most common, least efficacious lamp in a CFLK sold in a given product class. DOE also considers other lamp characteristics in choosing the most appropriate baseline for each product class, such as wattage, lumen output, and lifetime.

*More efficacious substitutes:* DOE selects higher efficacy lamps as replacements for each of the baseline lamps considered. When selecting higher efficacy lamps, DOE considers only design options that meet the criteria outlined in the screening analysis (see section IV.B or chapter 4 of the NOPR TSD).

*Efficacy levels:* After identifying the more efficacious substitutes for each baseline lamp, DOE develops ELs. DOE bases its analysis on three factors: (1) The design options associated with the specific lamps studied; (2) the ability of lamps across wattages (or lumen outputs) to comply with the standard level of a given product class; [18] and (3) the max-tech EL. DOE then scales the ELs of representative product classes to any classes not directly analyzed.

2. Representative Product Classes

In the preliminary analysis, DOE established two product classes and identified both the CFLKs with Externally Ballasted or Driven Lamps and the All Other CFLKs product classes as representative. Although the All Other CFLKs product class constituted the majority of CFLKs sold, DOE also considered the CFLKs with Externally Ballasted or Driven Lamps product class as representative because the CFLKs in this class offered a unique utility in their ability to allow the consumer to replace the lamp or ballast/driver. DOE did not receive any comments on the representative product classes identified in the preliminary analysis.

As discussed in section IV.A.1, DOE is no longer establishing a separate product class for products that are externally ballasted or driven and proposes to include all CFLKs in one product class. Therefore, in this NOPR DOE analyzes one product class as representative.

3. Baseline Lamps

Once DOE identifies the representative product classes for analysis, it selects baseline lamps to analyze in each product class. DOE selects baseline lamps that are typically the most common, least efficacious lamps in a CFLK that meet existing energy conservation standards. Specific lamp characteristics are used to characterize the most common lamps packaged with CFLKs today (*e.g.,* wattage and light output). To identify baseline lamps, DOE reviews product offerings in catalogs and manufacturer feedback obtained during interviews.

In the preliminary analysis, DOE selected lamps representative of the most common, least efficacious lamps packaged with CFLKs that just meet existing CFLK standards. To calculate efficacy for lamps in the All Other CFLKs product class, DOE used the catalog lumens and the catalog wattage of the lamp. DOE used the catalog lumens and the American National Standards Institute (ANSI) rated wattage, or the catalog wattage if the ANSI rated wattage was not available, to calculate the efficacy for externally ballasted or driven lamps. (For further detail on the baseline lamps selected in the preliminary analysis, see chapter 5 of the preliminary TSD.) DOE received several comments regarding these baseline selections.

For the CFLKs with Externally Ballasted or Driven Lamps product class, Westinghouse commented that the selected circline fluorescent baseline lamp is accurate because it represents the only product used in externally ballasted or driven CFLKs. (Westinghouse, Public Meeting Transcript, No. 82 at p. 175) For the All Other CFLKs product class, Westinghouse remarked that the baseline lamp DOE selected is not the least efficacious lamp used in CFLKs because the least efficacious lamp is not currently subject to an efficiency standard. (Westinghouse, Public

[18] ELs span multiple lamps of different wattages. In selecting ELs, DOE considered whether these multiple lamps can meet the standard levels.

Meeting Transcript, No. 82 at pp. 134–135)

DOE notes that incandescent lamps, such as those that have candelabra bases, are commonly used in CFLKs, and are subject to a maximum wattage standard rather than an efficacy standard. As stated by Westinghouse, these lamps have lower efficacy values than the CFL used as the baseline lamp in DOE's analysis. As explained in the paragraphs that follow, DOE selected the baseline lamps consistent with the revised product class structure for the NOPR.

In the product class structure analyzed in the preliminary analysis, DOE determined that lamps in the All Other CFLKs product class, such as the candelabra-base lamps, must comply with a minimum standard of 45.0 lm/W for lamps less than 15 W and 60.0 lm/W for lamps greater than or equal to 15 W. The Joint Comment agreed with DOE's determination of the 45 lm/W minimum efficacy for the All Other CFLKs product class. (Joint Comment, No. 95 at p. 2).

DOE revised the product class structure in the NOPR and determined that, consistent with 42 U.S.C. 6295(o)(1) lamps packaged with CFLKs must comply with a minimum standard of 50.0 lm/W for lamps less than 15 W, 60.0 lm/W for lamps greater than or equal to 15 W and less than 30 W, and 70.0 lm/W for lamps greater than or equal to 30 W. The following discussion provides further detail on this change.

Existing standards for CFLKs, codified at 10 CFR 430.32(s), are currently divided into three product classes: (1) Ceiling fan light kits with medium screw base sockets (Medium Screw Base product class); (2) Ceiling fan light kits with pin-based sockets for fluorescent lamps (Pin-Based product class); and, (3) Ceiling fan light kits with socket types other than those covered in the previous two product classes, including candelabra screw base sockets (Other Base Type product class). In the preliminary analysis, DOE combined these three product classes for CFLKs and conducted a product class analysis that identified the following two product classes for consideration: CFLKs with Externally Ballasted or Driven Lamps product class and All Other CFLKs product class. See section IV.A.1 for further details.

Current standards require lamps in the Medium Screw Base product class to ''meet the ENERGY STAR Program requirements for Compact Fluorescent Lamps, version 3.'' 10 CFR 430.32(s). In the preliminary analysis, DOE determined that the products in the All Other CFLKs product class are subject to the same efficacy standards as the existing Medium Screw Base product class. These minimum efficacy standards are specific to wattage bins and whether the lamp is bare or covered. Because DOE determined that lamp cover was not a class setting factor in the preliminary analysis product class structure, the minimum efficacy requirements for this product class were determined by lamp wattage. Therefore, for products less than 15 W, DOE determined that the minimum efficacy for products in the All Other CFLKs product class is 45 lm/W, the highest of the existing standards for that wattage bin. For products greater than or equal to 15 W, DOE determined that the minimum efficacy is 60 lm/W, the highest of the existing standards for that wattage bin.

Current standards require lamps in the Pin-Based product class to ''meet the ENERGY STAR Program Requirements for Residential Light Fixtures version 4.0.'' 10 CFR 430.32(s) In the preliminary analysis, DOE determined that the products in the CFLKs with Externally Ballasted or Driven Lamps product class are subject to the same efficacy standards as the existing Pin-Based product class. These minimum efficacy standards are specific to wattage bins and lamp length. Because DOE determined that lamp length was not a class setting factor in the preliminary analysis product class structure, the minimum efficacy requirements for this product class were determined by lamp wattage. DOE determined that lamps in the CFLKs with Externally Ballasted or Driven Lamps product class must comply with a minimum standard of 50 lm/W for lamps less than 30 W and 70 lm/W for lamps greater than or equal to 30 W.

In the NOPR, DOE is proposing a single product class, and thus re-evaluated the minimum standard efficacy. Products in the All CFLKs product class are subject to either ENERGY STAR Program Requirements for Residential Light Fixtures version 4.0 (10 CFR 430.32(s)) or ENERGY STAR Program requirements for Compact Fluorescent Lamps, version 3. (10 CFR 430.32(s)). ENERGY STAR Program Requirements for Residential Light Fixtures version 4.0 minimum efficacy requirements are specific to wattage and length and ENERGY STAR Program requirements for Compact Fluorescent Lamps version 3 are specific to wattage and whether the lamp is bare or covered. Because DOE is not proposing length or lamp cover as product class setting factors, minimum efficacy requirements for this product class were determined by lamp wattage. Consistent with 42 U.S.C. 6295(o)(1), DOE determined that products in the All CFLKs product class are subject to the highest of the existing standards for each wattage bin. Therefore, for products less than 15 W, DOE set the minimum baseline efficacy at 50 lm/W. For products greater than or equal to 15 W and less than 30 W, DOE set the baseline efficacy at 60 lm/W. For products greater than or equal to 30 W, DOE set the baseline efficacy at 70 lm/W. The combined minimum efficacy requirements based on wattage are shown in Table IV.3.

TABLE IV.3—ALL CFLKS PRODUCT CLASS CURRENT STANDARD EFFICACY REQUIREMENTS

| Lamp power (W) | Minimum efficacy (lm/W) |
|---|---|
| <15 | 50.0 |
| ≥15 and <30 | 60.0 |
| ≥30 | 70.0 |

In the preliminary analysis, DOE identified a 14 W spiral CFL with 730 lumens as the baseline lamp. However, DOE found product literature indicating that the lamp is marketed for rough service applications, a feature DOE did not find to be utilized in CFLKs. DOE also received feedback that CFLK manufacturers typically purchase the least expensive lamp available and a rough service lamp would command a premium. Further, market information indicated that many 14 W CFLs with low lumen outputs typically had an additional feature (*e.g.,* a cover or a coating for rough service operation) that was not used for lamps packaged in CFLKs. Thus, in the NOPR analysis, DOE modeled a 14 W CFL as the baseline lamp without these additional features and a light output of 800 lumens, which is a common lumen output for this lamp. DOE assumed the modeled baseline lamp would have the same characteristics (spiral shape, 82 Color Rendering Index [CRI], 2,700 kelvin [K] correlated color temperature [CCT], and 10,000-hour lifetime) as the most common commercially available lamps. The modeled baseline that DOE is proposing for the All CFLKs product class is specified in Table IV.4. (See chapter 5 of the NOPR TSD for further details.) DOE requests comment on the baseline lamp analyzed in the NOPR analysis.

TABLE IV.4—ALL CFLKS PRODUCT CLASS BASELINE LAMP

| Bulb shape | Base type | Lamp type | Lamp wattage (W) | Initial light output (lm) | Efficacy (lm/W) | Lamp lifetime (hr) | CRI | CCT (K) |
|---|---|---|---|---|---|---|---|---|
| Spiral | E26 | CFL | 14 | 800 | 57.1 | 10,000 | 80 | 2,700 |

4. More Efficacious Substitutes

After choosing a baseline lamp, DOE identifies commercially available lamps that can serve as more efficacious substitutes. DOE utilized a database of commercially available lamps and selected substitute lamps that both save energy and maintain comparable light output to the baseline lamp. Specifically, in the preliminary analysis, DOE ensured that potential substitutions maintained light output within 10 percent of the baseline lamp lumen output for the lamp replacement scenario and within 10 percent of the baseline fixture lumen output for the light kit replacement scenario. Further, DOE considered only technologies that met all four criteria in the screening analysis. Regarding the lamp characteristics of the substitutes, DOE selected replacement lamp units with lifetimes greater than or equal to that of the lifetime of the baseline lamp. DOE also selected replacement lamp units with a CRI, CCT, and bulb shape comparable to that of the baseline representative lamp unit. (For further detail on the more efficacious substitutes selected in the preliminary analysis, see chapter 5 of the preliminary TSD.)

In the preliminary analysis, DOE considered more efficacious lamps under two different substitution scenarios: (1) A lamp replacement scenario and (2) a light kit replacement scenario. DOE selected the baseline light kit for both scenarios as a two-socket medium base light kit because it was representative of the most common basic CFLK product. In the lamp replacement scenario, DOE assumed that manufacturers would maintain the original fixture design, including the number of sockets, and only replace the lamp. Thus, DOE selected the base types of the more efficacious substitutes to be the same as that of the baseline lamp. In the light kit replacement scenario, DOE accounted for the possibility that manufacturers may change fixture designs. Thus, the base types of the more efficacious substitutes were not required to be the same as that of the baseline lamp and the number of sockets could be changed. Specifically, DOE considered replacement light kits with between one and four sockets and non-medium screw base types. For example, the candidate standard level (CSL) 1 light kit replacement option utilized one medium screw base 23 W CFL, and the CSL 3 light kit replacement option included four medium screw base 5 W LED lamps in the preliminary analysis.

DOE received several comments on the two substitution scenarios. Westinghouse and Hunter Fans commented that the lamp replacement scenario is preferred to the light kit replacement scenario because it is less cumbersome in terms of design changes and product cost. (Westinghouse, Public Meeting Transcript, No. 82 at pp. 132–133; Hunter Fans, Public Meeting Transcript, No. 82 at p. 173) Further, Westinghouse commented that the lamp replacement scenario is the primary method used by manufacturers, but that an increase in integrated SSL CFLKs might make the light kit replacement scenario more popular. In the short term, however, Westinghouse stated that the split between manufacturers replacing lamps versus changing light kits to meet standards is unlikely to be equal. (Westinghouse, Public Meeting Transcript, No. 82 at p. 173) When it was clarified that the light kit replacement scenario referred to a change in the number of sockets, and not replacement with integrated LED CFLKs, however, Westinghouse indicated that an even split between the lamp replacement and light kit replacement scenarios would be a reasonable estimate. (Westinghouse, Public Meeting Transcript, No. 82 at p. 175)

While comments from some stakeholders indicated that the light kit replacement scenario may not be the likely choice taken by manufacturers, it remains an option and one that may become more common in the future. A change in the number of sockets allows for a wider variety of lamp types, wattages, and lumen packages to be considered, including CFLKs that utilize integrated LEDs. Therefore, DOE retained the light kit replacement scenario for the NOPR because changing the light kit is a path that manufacturers may take to comply with standards. For further discussion of the percentage allocated to the likelihood of manufacturers choosing each scenario, see section IV.G.

DOE also received several comments from stakeholders on the more efficacious substitute lamps selected for CFLKs in the preliminary analysis. ALA agreed with the criteria used to select more efficacious substitute lamps, and with the proposed substitute lamps that DOE selected. (ALA, No. 93 at p. 9) The Joint Comment noted that many CFLKs on the market already exceed the minimum standard of 45 lm/W, and that there are ample CFL and LED CFLK options already offered by retailers. (Joint Comment, No. 95 at p. 2)

Westinghouse noted that the medium base, 800 lumen, 60 W equivalent product used as the basis for DOE's analysis is not used in 70 percent of CFLKs. (Westinghouse, Public Meeting Transcript, No. 82 at pp. 231–232) DOE acknowledges that the majority of CFLKs currently reside in the existing Other Base Type product class, typically using lamps with candelabra bases. However, as a result of the revised product class structure discussed in section IV.C.3, DOE selected an 800-lumen baseline lamp because it was the most common lamp with an efficacy near the baseline level of the revised product class structure. DOE selects more efficacious substitutes with lumens within 10 percent of the baseline, but does not limit these substitutes to products found in CFLKs.

The Minka Group commented that the LED representative lamp units are not omnidirectional. (The Minka Group, Public Meeting Transcript, No. 82 at pp. 149–150) ALA stated that it is not currently aware of an LED lamp that offers the omnidirectional lighting of halogen lamps at a comparable size to halogens. (ALA, No. 93 at pp. 8) DOE performed a review of lamp catalog data and confirmed that the A-shape general service LED lamps used as more efficacious substitutes are marketed as omnidirectional.

Westinghouse commented that medium base A19 LED lamps are more efficacious than LED lamps with other base types and sizes, noting that candelabra-base LED lamps are about 10 percent lower in efficacy than medium base A-shape LED lamps. Further, Westinghouse stated that medium base

A-shape LED lamps would not fit in CFLKs with candelabra sockets or be aesthetically pleasing. (Westinghouse, Public Meeting Transcript, No. 82 at pp. 137–140) Westinghouse recommended that DOE ensure that the standard would allow products with small bases to comply. (Westinghouse, Public Meeting Transcript, No. 82 at pp. 145–147) The Minka Group commented that LED lamps are not suitable replacements from a decorative perspective. (The Minka Group, Public Meeting Transcript, No. 82 at pp. 149–150) The Minka Group specifically recommended that DOE analyze G9 bases in the analysis and Westinghouse urged DOE to include base types smaller than G9 bases. (The Minka Group, Public Meeting Transcript, No. 82 at p. 140; Westinghouse, Public Meeting Transcript, No. 82 at p. 140) The Joint Comment, however, remarked that LED lamps provide the same amenities as incandescent lamps, and that LED lamps will only improve by the 2019 compliance date of this rulemaking. (Joint Comment, No. 95 at p. 2) Hunter Fans noted that it is not possible to estimate the efficacies of future LED lamps, especially externally driven LED CFLKs, but the market does have potential. (Hunter Fans, Public Meeting Transcript, No. 82 at pp. 158, 207–208)

DOE performed a survey of lamps with small bases (*e.g.,* E12, E17, and G9) and small form factors (*e.g.,* candle, flame tip, torpedo) based on catalog data and concluded that these lamp types are available at all ELs. For example, DOE identified a 3 W LED with a G9 base, a light output of 275 lm, and an efficacy of 91.7 lm/W, and also a 2 W LED with an E12 base, a light output of 200 lm, and an efficacy of 100 lm/W, with T4 and B11 shapes, respectively. These lamps meet the max-tech level, EL 4, which is discussed further in section IV.C.5.

Further, DOE notes that CFLKs with LED modules and driver systems can offer similar modular design options as CFLKs that use lamps with small bases. DOE applied thermal and driver losses estimated from the DOE Multi-Year Program Plan for Solid-State Lighting Research and Development [19] to commercially available LED modules and drivers to determine their lamp efficacy if they were incorporated as a consumer replaceable system in a CFLK. Per the CFLK test procedure NOPR, lamp efficacy is used to measure the efficiency of SSL CFLKs unless a CFLK has any light sources, drivers, or intermediate circuitry, such as wiring between a replaceable driver and a replaceable light source, that are not consumer replaceable. 79 FR 64688, 64693 (October 31, 2014). DOE determined that these CFLKs would meet EL 4, the max-tech level.

The Minka Group commented that the warranty of LED lamps labeled as 50,000 hours is actually 25,000 hours, which is an industry standard. (The Minka Group, Public Meeting Transcript, No. 82 at p. 142) ALA agreed, remarking that the 50,000 hour lifetimes for LED lamps are very optimistic and do not hold in the field. ALA noted that ENERGY STAR life ratings would be more appropriate. (ALA, Public Meeting Transcript, No. 82 at pp. 140–141)

In the preliminary analysis, LED replacement lamps selected at higher CSLs had lifetimes of 50,000 hours. DOE revised its selection of more efficacious substitutes for the NOPR analysis. DOE performed a review of data from lamp catalogs and the ENERGY STAR database of certified products [20] and determined that the lifetime of the LED lamps selected as representative lamp units in the NOPR is between 25,000 and 30,000 hours.

Several stakeholders commented on dimming. ALA commented that dimmable CFLs are unacceptable for CFLKs because they have a larger form factor, a slower startup time, and poor dimming performance. (ALA, No. 93 at p. 7) Westinghouse agreed, commenting that CFLs usually do not dim well, and the ones that do are more expensive. (Westinghouse, Public Meeting Transcript, No. 82 at pp. 110–111) ALA added that CFLK controls are not typically designed for use with dimmable CFLs. (ALA, No. 93 at p. 7) DOE notes that although dimmable CFLs are not available at all levels, dimmable LED lamps are available at higher ELs; thus this functionality is maintained in the analysis.

ALA remarked that there are issues with dimmable LED compatibility with controls, but it expects this to change over time. ALA projected that LED CFLKs will increase to 15 percent of the market in five years, and that 25–50 percent of these CFLKs will be dimmable, with 7.5 percent having acceptable dimming functionality. (ALA, No. 93 at p. 8) Fanimation also commented that a high percentage of LED lamps will have dimming functionality. (Fanimation, Public Meeting Transcript, No. 82 at p. 112) Westinghouse commented that dimmable LED lamps are more functional than dimmable CFLs, but noted that their cost is very high compared to incandescent and halogen technologies, which represent 80 percent of the CFLK market. Westinghouse added that dimmable LED lamps may be unsatisfactory to the consumer compared to incandescent lamps. Westinghouse opined that if a rule is promulgated that creates consumer dissatisfaction, the consumer will switch to less efficient products that are not currently regulated. (Westinghouse, Public Meeting Transcript, No. 82 at pp. 110–111)

In response to these comments, DOE reviewed catalog data and feedback from stakeholders. Through this research, DOE confirmed that dimmable lamps are available at all of the analyzed levels, and that the ability to dim has a negligible impact on efficacy. Based on feedback from manufacturers and DOE's research, DOE has found that current issues regarding dimming mainly relate to compatibility with controls originally intended to be used with incandescent lamps. Further, NEMA is actively addressing the issue with SSL 7A–2013,[21] which seeks to minimize compatibility issues by providing design and testing guidelines for both LED dimmers and lamps. Therefore, DOE agrees that issues with dimming LED lamps in conjunction with controls will be minimal at the time of compliance with any amended standards, and that the proposed ELs will not result in a loss of dimming functionality in CFLKs. Further, because all of the representative lamp units analyzed are dimmable, the consumer prices determined for these representative lamp units include the cost of dimming functionality and are used as inputs to determine the first cost of these lamps in the LCC analysis and NIA. Hence, the results of these analyses incorporate any additional costs due to dimming functionality.

DOE made several key changes in the NOPR analysis that impacted the selection of more efficacious substitutes. First, using the baseline updated for the NOPR, DOE selected more efficacious substitute lamps that have a light output within 10 percent of 800 lumens, the light output of the new baseline lamp. Second, at EL 2, DOE analyzed two

[19] U.S. Department of Energy. Solid-State Lighting Research and Development Multi-Year Program Plan. April 2013. <*http://apps1.eere.energy.gov/buildings/publications/pdfs/ssl/ssl_mypp2013_web.pdf*>.

[20] ENERGY STAR. *ENERGY STAR Certified Bulbs*. Last accessed February 20, 2015. <*http://www.energystar.gov/productfinder/product/certified-light-bulbs/*>.

[21] National Electrical Manufacturers Association. *Phase Cut Dimming for Solid State Lighting—Basic Compatibility*. April 22, 2013. <*http://www.nema.org/Standards/Pages/Phase-Cut-Dimming-for-Solid-State-Lighting-Basic-Compatibility.aspx*>.

representative lamp units (a CFL and LED lamp) because DOE found that efficacies meeting this level were common for both CFLs and LED lamps, but there was a difference in price between the two options. Third, using updated catalog information, DOE found commercially available lamps at levels of efficacy higher than the max-tech level identified in the preliminary analysis. DOE also found that for representative lamp units above EL 2 (which are LED lamps), the end-user price decreased as efficacy increased. Therefore, DOE analyzed the most efficient commercially available LED lamp as a more efficacious substitute because it was at the lowest incremental first cost for an available product above EL 2: an 8.5 W LED lamp with 94.1 lm/W at EL 3. Finally, as described in the paragraph that follows, DOE also modeled an 8 W LED lamp with 102.5 lm/W at the max-tech level, EL 4.

At the time of this NOPR analysis, DOE has determined that a commercially available 3-way LED lamp when operated at its middle setting is more efficacious than any other commercially available lamp that could be considered an adequate replacement for the baseline lamp (*i.e.,* has a non-reflector shape, a lumen output within 10 percent of the baseline lamp, a CCT around 2,700 K, a CRI greater than or equal to 80, a lifetime greater than or equal to that of the baseline, and a medium screw base). Specifically, the 3-way lamp is 8 W at its middle setting, and has a light output of 820 lumens, an efficacy of 102.5 lm/W, and a lifetime of 25,000 hours. DOE concluded that the higher efficacy level achieved by the middle setting demonstrated the potential for a standard, non-3-way, 8 W LED lamp to achieve this efficacy level. Therefore, DOE modeled an 8 W lamp with 820 lumens and an efficacy of 102.5 lm/W. DOE assumed the modeled lamp would have similar characteristics to the most common commercially available LED lamps in the 800-lumen range. Hence, DOE modeled the lamp to have an A19 shape, medium base type, 25,000-hour lifetime, 2,700 K CCT, 80 CRI, and dimming functionality. DOE requests comment on the 3-way lamp used as a basis for the modeled max-tech LED lamp and information on whether such a lamp would meet DOE's screening criteria and should be maintained for the final rule analysis.

As EL 4 is based on a modeled product, a lamp suitable for direct replacement that complies with EL 4 is not currently commercially available. DOE learned through interviews that most CFLK manufacturers do not manufacture lamps, but rather purchase lamps from another supplier or manufacturer to package in CFLKs. As lamp manufacturers are not required to comply with standards promulgated by this rulemaking, DOE is uncertain as to whether such a lamp meeting EL 4 would be commercially available at the time CFLK manufacturers would need to comply with any amended standards.

DOE has determined that EL 4 can be met by other methods available to CFLK manufacturers; however, most of these options require redesigns of existing fixtures. Some commercially available lamps with smaller base types meet EL 4, but these are available with low lumen outputs and would therefore require several lamps to be incorporated into a new CFLK to provide the same amount of light. Some commercially available lamps with the same base type as the baseline lamp are available at EL 4, but these have higher lumen outputs such that a CFLK would have to be redesigned with fewer sockets to maintain the same light output. Alternatively, a few LED modules and drivers with a similar lumen output as the baseline lamp could be incorporated as consumer replaceable parts in CFLKs. However, all of these methods of meeting EL 4 reflect the fact that, for most situations, direct lamp replacement would not be a means of meeting the efficacy level.

The representative lamp unit at EL 3 is the most efficacious commercially available LED lamp that could be considered an adequate substitute for the baseline lamp (*i.e.,* has a non-reflector shape, a lumen output within 10 percent of the baseline lamp, a CCT around 2,700 K, a CRI greater than or equal to 80, a lifetime greater than or equal to that of the baseline, and a medium screw base). Small base lamps are only available with low lumen outputs at EL 3 and LED modules and drivers are only available in a limited lumen range.

The representative lamp units at EL 2 are a commercially available LED lamp and CFL and the representative lamp unit at EL 1 is a commercially available CFL, all of which are considered adequate substitutes for the baseline lamp (*i.e.,* have a non-reflector shape, a lumen output within 10 percent of the baseline lamp, a CCT around 2,700 K, a CRI greater than or equal to 80, a lifetime greater than or equal to that of the baseline, and a medium screw base). At EL 2 and EL 1, CFLK manufacturers can choose from a large number of suitable options for direct lamp replacements, as well as fixture redesigns to meet this level. In particular, LED modules and drivers are available with lumen outputs that are not an option at higher ELs.

The CFLK representative lamp units that DOE analyzed in the NOPR are shown in Table IV.5 for the lamp replacement scenario and in Table IV.6 for the light kit replacement scenario. DOE requests comment on the criteria used in selecting more efficacious substitute lamps, as well as the characteristics of the lamps selected.

TABLE IV.5—ALL CFLKs PRODUCT CLASS DESIGN OPTIONS: LAMP REPLACEMENT SCENARIO

| Efficacy level | Lamp type | Base type | Bulb shape | Wattage (W) | Initial light output (lm) | Efficacy (lm/W) | CRI | CCT (K) | Lamp lifetime (hr) |
|---|---|---|---|---|---|---|---|---|---|
| Baseline | CFL | E26 | Spiral | 14 | 800 | 57.1 | 80 | 2,700 | 10,000 |
| EL 1 | CFL | E26 | Spiral | 13 | 800 | 61.5 | 80 | 2,700 | 10,000 |
| EL 2 | CFL | E26 | Spiral | 11 | 730 | 66.4 | 82 | 2,700 | 10,000 |
| | LED | E26 | A19 | 12 | 800 | 66.7 | 82 | 2,700 | 25,000 |
| EL 3 | LED | E26 | A19 | 8.5 | 800 | 94.1 | 81 | 2,700 | 25,000 |
| EL 4 | LED | E26 | A19 | 8 | 820 | 102.5 | 80 | 2,700 | 25,000 |

TABLE IV.6—ALL CFLKS PRODUCT CLASS DESIGN OPTIONS: LIGHT KIT REPLACEMENT SCENARIO

| Efficacy level | Lamp type | Base type | Bulb shape | Fixture sockets | Lamp wattage (W) | Fixture wattage (W) | Lamp initial light output (lm) | Fixture initial light output (lm) | Efficacy (lm/W) | CRI | CCT (K) | Lamp life (hr) |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Baseline | CFL | E26 | Spiral | 2 | 14 | 28 | 800 | 1,600 | 57.1 | 80 | 2,700 | 10,000 |
| EL 1 | CFL | E26 | Spiral | 3 | 9 | 27 | 520 | 1,560 | 57.8 | 80 | 2,700 | 10,000 |
| EL 2 | LED | E26 | G25 | 3 | 8 | 24 | 500 | 1,500 | 62.5 | 82 | 2,700 | 25,000 |
| EL 3 | LED | E26 | A21 | 1 | 16 | 16 | 1,600 | 1,600 | 100.0 | 80 | 2,700 | 25,000 |
| EL 4 | LED | E26 | A21 | 1 | 15 | 15 | 1,600 | 1,600 | 106.7 | 82 | 2,700 | 25,000 |

5. Efficacy Levels

DOE adopted an equation-based approach to establish ELs for CFLKs. In the preliminary analysis, DOE developed the general form of the equation by evaluating lamps with similar characteristics, such as technology, bulb shape, and lifetime, across a range of wattages. The continuous equations specified a minimum lamp efficacy requirement across wattages and represented the efficacy a lamp achieves. DOE received several comments regarding the EL equations.

The Joint Comment agreed with the equation-based lm/W standard, remarking that it is the most effective metric for establishing lighting standards for CFLKs. (Joint Comment, No. 95 at pp. 2–3) The Joint Comment opposed the use of lumen bins, and remarked that for general service incandescent lamps (GSILs), lumen bins have resulted in manufacturers selecting the lowest allowable light output within a bin. (Joint Comment, No. 95 at p. 3) However, Westinghouse commented that wattage-based efficacy equations would be confusing for CFLK manufacturers because they do not manufacture lamps. (Westinghouse, Public Meeting Transcript, No. 82 at pp. 144–145) The Joint Comment suggested that, similar to the European Union, DOE should use an equation-based approach to establish minimum ELs as a function of light output. (Joint Comment, No. 95 at p. 3)

DOE analyzed commercially available lamps and found that a continuous equation best describes the relationship between efficacy and lamp wattage rather than bins. In the NOPR analysis, DOE altered its approach to base ELs on continuous equations as a function of light output rather than wattage. Available information indicates that the primary utility provided by a lamp is lumen output, which can be achieved through a range of wattages depending on the lamp technology. Further, fixed losses in lamps, such as power consumed by the integrated ballast/driver, become proportionally smaller at higher lumen outputs, thereby increasing efficacy proportionally to light output. For these reasons, DOE believes that lamps providing equivalent lumen output should be subject to the same minimum efficacy requirements.

Westinghouse commented that while DOE is setting an energy conservation standard, consumers value utility, and price points have been set for certain aspects, such as lamp size, dimmability, and lifetime. If the standard is too high, CFLK manufacturers trying to balance efficacy and utility at a consumer price point may not have any suitable products. (Westinghouse, Public Meeting Transcript, No. 82 at pp. 148–149) DOE analyzed each EL to maintain the products' existing utility to the consumer including lifetime, dimming functionality, and availability of CFLK design options. DOE then analyzed the cost associated with each EL in the LCC analysis; see section IV.F for discussion on the cost effectiveness to consumers.

ALA suggested that DOE use minimum LCC as a criterion in developing its TSLs and selecting its proposed standard, and that DOE propose a standard that is no more stringent than CSL 2. (ALA, No. 93 at p. 11) ALA recommended that DOE propose a standard level that permits both CFLs and LED lamps, allowing CFLK manufacturers to select the best lighting technology to meet necessary utilities. (ALA, No. 93 at pp. 9–10, 12) DOE developed TSLs as described in section V.A. When proposing a standard, DOE weighs a variety of factors, including the maximum energy savings and NPV to the nation, as well as product availability and the costs and benefits to the individual consumer. See section V.C.1 for more information on the rationale used in selecting the proposed level.

As mentioned previously, DOE considered two scenarios: A lamp replacement scenario and a light kit replacement scenario. DOE selected ELs that could be met by the more efficacious substitutes identified in the lamp replacement scenario. DOE also identified more efficacious lamp substitutes for the light kit replacement scenario that had efficacies equal to or greater than the efficacies of the corresponding EL based on the lamp replacement scenario.

In the preliminary analysis, DOE had considered one CSL for the CFLKs with Externally Ballasted or Driven Lamps product class and five CSLs for the All Other CFLKs product class. (For further details, see chapter 5 of the preliminary TSD.) In the NOPR analysis, DOE analyzed all covered CFLKs in one product class. DOE surveyed the market, analyzed product catalogs, and took into account feedback from manufacturers to develop ELs. Based on this assessment, DOE identified varying levels of efficacy that reflected technology changes and met the criteria for developing ELs previously outlined. In the NOPR, DOE is considering four ELs.

Table IV.7 presents the ELs for CFLKs. See chapter 5 of the NOPR TSD for additional information on the methodology and results of the engineering analysis.

TABLE IV.7—SUMMARY OF EFFICACY LEVELS FOR ALL CFLKS

| Representative product class | Efficacy level | Light output (lm) | Minimum required efficacy (lm/W) |
|---|---|---|---|
| All CFLKs | EL 1 | <260 | 50 |
| | | ≥260 and ≤2040 | $69 - 29.42 \times 0.9983^{lumens}$ |
| | | >2040 and <2100 | $>(1/30) \times$ lumens |
| | | ≥2100 | 70 |

TABLE IV.7—SUMMARY OF EFFICACY LEVELS FOR ALL CFLKS—Continued

| Representative product class | Efficacy level | Light output (lm) | Minimum required efficacy (lm/W) |
|---|---|---|---|
| | EL 2 | <120 | 50 |
| | | ≥120 | $74 - 29.42 \times 0.9983^{lumens}$ |
| | EL 3 | All | $101 - 29.42 \times 0.9983^{lumens}$ |
| | EL 4 | All | $106 - 29.42 \times 0.9983^{lumens}$ |

As shown in Table IV.7, DOE made adjustments to EL 1 and EL 2 to ensure that, consistent with 42 U.S.C. 6295(o), the efficacy remains above the current minimum standards summarized in Table IV.3. See Sections II.A and IV.C.3 for further discussion of this issue. For lamps less than 15 W, the minimum efficacy is 50 lm/W. For a light output of less than 260 lumens, DOE found that the EL 1 equation could potentially allow lamps that are less than 50 lm/W to meet standards and therefore set the minimum efficacy requirement at 50 lm/W for lamps in this lumen range. For a light output of less than 120 lumens, DOE found that the EL 2 equation could potentially allow lamps that are less than 50 lm/W to meet standards and therefore set the minimum efficacy requirement at 50 lm/W for lamps in this lumen range. DOE determined that no adjustments to any ELs were necessary to meet the 60 lm/W current standard applicable to lamps *greater than* 15 W and less than 30 W.

For lamps *greater than* 30 W, DOE determined that the minimum efficacy is 70 lm/W. DOE found that the equation for EL 1 could potentially allow lamps that are less than 70 lm/W to meet standards. Therefore, for lumens greater than 2040 and less than 2100, DOE set the minimum efficacy requirement at greater than (1/30) × lumens for EL 1. For lumens greater than or equal to 2100, DOE set the minimum efficacy requirement at 70 lm/W. DOE requests comment on the equations used to define the efficacy requirements at each EL. See chapter 5 of the NOPR TSD for further information on the anti-backsliding adjustments that DOE made to the ELs.

6. Scaling to Other Product Classes

Typically DOE determines ELs for product classes that were not directly analyzed (''non-representative product classes'') by scaling from the ELs of the representative product classes. As DOE only identified one product class for CFLKs, no scaling was required.

*D. Product Price Determination*

Because the efficiency of a CFLK is based on the efficacy of the lamps with which it is packaged, DOE developed a product price determination for the lamp component of the CFLK. Typically, DOE develops manufacturer selling prices (MSPs) for covered products and applies markups to create consumer prices to use as inputs to the LCC analysis and NIA. Because lamps are difficult to reverse-engineer (*i.e.,* not easily disassembled), DOE directly derives consumer prices for the lamps in this rulemaking.

In the preliminary analysis, DOE determined premiums on CFLKs by comparing distributor net prices [22] to the retail prices of these products in each distribution channel. DOE identified three main distribution channels for CFLKs: Electrical/specialty centers, home centers (*e.g.,* Home Depot, Lowes), and lighting showrooms. DOE then developed an average premium weighted by estimated shipments that go through each distribution channel. DOE applied the average shipment-weighted premium to the distributor net prices of CFLKs packaged with the representative lamp unit to obtain the average CFLK consumer price. Based on manufacturer feedback received during the preliminary analysis, DOE determined that a fluorescent lamp, CFL, or LED in a CFLK comprises 15 percent of the CFLK consumer price. DOE applied this percentage to the CFLK consumer price to obtain the consumer price of the representative lamp unit packaged with the CFLK. DOE received several comments on the pricing methodology.

ALA agreed that for CFLKs packaged with ceiling fans, a CFL would comprise 15 percent of the CFLK price. (ALA, No. 93 at p. 10) Hunter Fans also agreed with the 15 percent estimate for CFLs in a CFLK. (Hunter Fans, Public Meeting Transcript, No. 82 at p. 164) Hunter Fans, Westinghouse, Lamps Plus, and The Minka Group remarked that the percentage of consumer price attributable to an LED in a CFLK was too low, and that it is actually closer to 30 percent. (Hunter Fans, Public Meeting Transcript, No. 82 at p. 164; Westinghouse, Public Meeting Transcript, No. 82 at p. 165; Lamps Plus, Public Meeting Transcript, No. 82 at p. 165; The Minka Group, Public Meeting Transcript, No. 82 at p. 165) ALA commented that for CFLKs packaged with ceiling fans, an LED would comprise 30 percent of the consumer CFLK price and for a CFLK sold alone, an LED would comprise over 50 percent of the consumer price. (ALA, No. 93 at p. 10)

In the preliminary analysis, DOE used the methodology of applying a percentage of the CFLK consumer price attributable to the lamp only for CSL 1 because the representative lamp unit at this level is sold with CFLKs for which distributor net prices were available. Specifically, DOE applied 15 percent to CFLK consumer prices to obtain the consumer lamp price for a 13 W spiral CFL, the representative lamp unit at CSL 1. The CFL representative lamp unit at the baseline is also sold with CFLKs, but distributor net prices were not available for these CFLKs. The LED representative lamp units at all other levels are not sold with CFLKs. For these cases, DOE developed a ratio between the consumer price of the 13 W spiral CFL representative lamp unit when sold with a CFLK to the blue-book [23] price of the lamp when sold alone. DOE then applied this ratio to the blue-book price of the representative lamp unit when sold alone to obtain the consumer price of the lamp if it were sold with a CFLK. Therefore, with the exception of the 13 W spiral CFL representative lamp unit, the consumer lamp prices for the other CFL representative lamp units are not necessarily 15 percent of the total CFLK consumer price nor 30 percent for the LED representative lamp units. Maintaining this same methodology, in the NOPR analysis, DOE also analyzed an 11 W spiral CFL at EL 2, a lamp that is also not sold with CFLKs. In this case DOE applied the methodology described above except used retail prices instead of blue-book prices, a change in the analysis that is expanded on further in this section.

[22] Prices suggested by manufacturers that distributors pay for a product.

[23] Blue-book prices refer to suggested retail prices issued by lamp manufacturers and are usually specified for bulk quantity purchases.

Westinghouse noted that assuming that an LED lamp is 15 or 30 percent of the CFLK consumer price, the consumer price of the lamp at CSL 5, which requires an LED lamp, would imply that a CFLK at that level costs about $100. Westinghouse stated that $100 for a CFLK was unreasonably high, especially when compared to CFLKs packaged with CFLs sold at Home Depot for $25–$30, and could potentially put manufacturers out of business. (Westinghouse, Public Meeting Transcript, No. 82 at pp. 204–207) However, Westinghouse commented that it is difficult to know whether the considered LED lamp price is too high or not, as price projections for LED lamps are difficult to estimate. (Westinghouse, Public Meeting Transcript, No. 82 at pp. 210–211) Lamps Plus stated that regardless, if the price of a CFLK attributable to an LED was higher than 27 percent, sales would be significantly affected. (Lamps Plus, Public Meeting Transcript, No. 82 at p. 217) Lamps Plus added that at the $100 price point, consumers may choose to buy a lower cost light fixture instead of the CFLK. (Lamps Plus, Public Meeting Transcript, No. 82 at pp. 213–214)

In the preliminary analysis, DOE calculated the remaining CFLK consumer price (*i.e.,* CFLK price excluding the lamps and sockets) based on the lamp and socket prices [24] and total CFLK consumer price determined for CSL 1. DOE assumed that this remaining CFLK consumer price was the same at all levels, and the only changes in the total CFLK consumer price were a function of the lamp and socket consumer prices at a particular level. DOE maintained this approach in the NOPR analysis using the lamp, socket, and total CFLK consumer prices determined for EL 1. The total CFLK consumer price at all ELs for both the lamp and light kit replacement scenario remained under approximately $60. For further clarity, DOE presents the consumer prices for the lamp, socket, remaining CFLK consumer price, and total CFLK consumer price at each level in chapter 7 of the NOPR TSD.

Noting that lamps meeting higher CSLs were not currently sold in CFLKs, Westinghouse commented that the consumer lamp price and socket price were not being analyzed correctly because the analysis leaves out the current cost to consumers. (Westinghouse, Public Meeting Transcript, No. 82 at pp. 182) Westinghouse commented that DOE did not determine the price of an incandescent lamp packaged with a CFLK in this analysis. (Westinghouse, Public Meeting Transcript, No. 82 at p. 167) Westinghouse added that the baseline price for a CFLK uses a medium base CFL, but that this product is more expensive than a CFLK with incandescent lamps. (Westinghouse, Public Meeting Transcript, No. 82 at p. 117)

Because representative lamp units at the baseline and ELs under consideration did not utilize incandescent technology, DOE did not develop prices for incandescent lamps. For further information on the selection of the representative lamp units, see section IV.C.

Overall, DOE maintained the general methodology used in the preliminary analysis to determine consumer prices of lamps sold with CFLKs in the NOPR analysis. However, in addition to updating the price data used, to more accurately reflect prices consumers will pay, DOE made the following modifications.

When developing consumer prices for representative lamp units not currently sold in CFLKs, in the NOPR analysis DOE used home center channel retail prices of the representative lamp units when sold alone instead of using the blue-book prices of the lamps. Because the home center channel has the highest volume of CFLKs, DOE determined that these prices more closely represent prices paid by CFLK consumers.

As noted, an average shipment-weighted premium on distributor net prices is used to calculate the consumer price of a CFLK packaged with the 13 W spiral CFL representative lamp unit. DOE updated the CFLK retail prices used to determine this premium for the NOPR analysis. Additionally, because DOE did not have distributor net price lists from all manufacturers, DOE adjusted the premium to ensure that it reflected the majority of the CFLK market. DOE based this adjustment on a ratio of CFLK retail prices from manufacturers that represent a majority of the market to the manufacturers for which DOE had distributor net prices.

In the preliminary analysis, to determine the consumer price of the 13 W spiral CFL representative lamp unit sold with a CFLK, DOE applied 15 percent to the consumer price of CFLKs sold with a ceiling fan and CFLKs sold alone. While comments from stakeholders verified that 15 percent should be applied to obtain the price of a CFL packaged with a CFLK sold with a ceiling fan, it is not clear that the same percentage would apply to CFLKs sold alone. Further CFLKs are primarily sold with ceiling fans. Therefore, in the NOPR analysis DOE only used consumer prices of CFLKs sold with ceiling fans to determine the consumer price of the 13 W spiral CFL representative lamp unit. (See chapter 7 of the NOPR TSD for further information on the methodology and results of the pricing analysis.) DOE welcomes feedback on the pricing methodology and results.

*E. Energy Use Analysis*

The purpose of the energy use analysis is to determine the annual energy consumption of CFLKs at different efficacies in representative U.S. homes and commercial buildings, and to assess the energy savings potential of increased CFLK efficacy. To develop annual energy use estimates, DOE multiplied CFLK input power by the number of hours of use (HOU) per year. The energy use analysis estimates the range of operating hours of CFLKs in the field (*i.e.,* as they are actually used by consumers). The energy use analysis provides the basis for other analyses that DOE performed, particularly assessments of the energy savings and the savings in consumer operating costs that could result from adoption of amended standards.

1. Operating Hours

a. Residential Sector

To determine the average HOU of CFLKs in the residential sector, DOE collected data from a number of sources. Consistent with the approach taken in the GSL preliminary analysis,[25] DOE used data from various field metering studies of GSL operating hours in the residential sector. To account for any difference in CFLK HOU compared to GSL HOU, DOE considered two factors: (1) The relative HOU for GSLs installed in ceiling light fixtures compared to all GSLs based on data from the Residential Lighting End-Use Consumption Study (RLEUCS),[26] and (2) the HOU associated with the specific room types in which CFLKs are installed based on installation location data from a Lawrence Berkeley National Laboratory survey of ceiling fan and CFLK owners

[24] For consumer prices of sockets, DOE estimated the manufacturer production cost of different socket types based on feedback received in manufacturer interviews and then applied the appropriate manufacturer and distributor markups.

[25] DOE has published a framework document and preliminary analysis for amending energy conservation standards for general service lamps. Further information is available at *www.regulations.gov* under Docket ID: EERE–2013–BT–STD–0051.

[26] DNV KEMA Energy and Sustainability and Pacific Northwest National Laboratory. *Residential Lighting End-Use Consumption Study: Estimation Framework and Baseline Estimates.* 2012. *http://apps1.eere.energy.gov/buildings/publications/pdfs/ssl/2012_residential-lighting-study.pdf.*

(LBNL survey)[27] and room-specific HOU data from RLEUCS. As in the GSL preliminary analysis, DOE assumed that CFLK operating hours do not vary by light source technology.

DOE determined the regional variation in average HOU using average HOU data from regional metering studies, all of which are listed in the energy use chapter (chapter 6 of the NOPR TSD). DOE organized regional variation in HOU by each EIA Residential Energy Consumption Survey (RECS) reportable domain (*i.e.,* state, or group of states). For regions without HOU metered data, DOE used data from adjacent regions.

To estimate the variability in CFLK HOU by room type, DOE developed HOU distributions for each room type using data from the Northwest Energy Efficiency Alliance's Residential Building Stock Assessment Metering Study (RBSAM),[28] which is a metering study of 101 single-family houses in the Northwest. DOE assumed that the shape of the HOU distribution for a particular room type would be the same across the United States, even if the average HOU for that room type varied by geographic location. To determine the room and geographic location-specific HOU distributions, DOE scaled the HOU distribution for a given room type from the RBSAM study by the average HOU in a given region, adjusted based on the geographic location-specific variability in HOU between different room types from RLEUCS.

Based on the approach described in this section, DOE estimated the national weighted-average HOU of CFLKs to be 2.0 hours per day. For more details on the methodology DOE used to estimate the HOU for CFLKs in the residential sector, see chapter 6 of the NOPR TSD. DOE requests comment on the data and methodology used to estimate operating hours for CFLKs in the residential sector, as well as on the assumption that CFLK operating hours do not vary by light source technology (see section VII.E).

b. Commercial Sector

The HOU for CFLKs in commercial buildings were developed using lighting data for 15 commercial building types obtained from the 2010 U.S. Lighting Market Characterization (LMC).[29] For each commercial building type presented in the LMC, DOE determined average HOU based on the fraction of installed lamps utilizing each of the light source technologies typically used in CFLKs and the HOU for each of these light source technologies. A national-average HOU for the commercial sector was then estimated by weighting the building-specific HOU for lamps used in CFLKs by the relative floor space of each building type as reported in in the 2003 EIA Commercial Buildings Energy Consumption Survey (CBECS).[30] To capture the variability in HOU for individual consumers in the commercial sector, DOE applied a triangular distribution to each building type's weighted-average HOU with a minimum of 80 percent and a maximum of 120 percent of the weighted-average HOU value. For further details on the commercial sector operating hours, see chapter 6 of the NOPR TSD.

2. Input Power

DOE developed its estimate of the power consumption of CFLKs by scaling the input power and lumen output of the representative lamp units for CFLKs characterized in the engineering analysis to account for the lumen output of CFLKs in the market. DOE estimated average CFLK lumen output based on a weighted average of CFLK models from data collected in 2014 from in-store shelf surveys and product offerings on the Internet. DOE estimated the market share of each identified CFLK model based on price. See chapter 6 of the NOPR TSD for details on the price-weighting market share adjustment and how DOE estimated average weighted lumen output for all CFLKs

3. Lighting Controls

In response to the energy use analysis presented in the preliminary analysis, stakeholders provided comment only on DOE's handling of dimmable CFLKs. In the preliminary analysis, DOE did not account for energy savings resulting from dimming. Fanimation expects that a high percentage of CFLKs will have dimming functionality in the future. (Fanimation, Public Meeting Transcript, No. 82 at p. 112) ALA and Westinghouse added that dimmable CFLs are not a viable option for use in CFLKs due to their size, slow startup time, insufficient dimming capability, and cost, which leads to consumer dissatisfaction. (ALA, No. 93 at p. 7; Westinghouse, Public Meeting Transcript, No. 82 at pp. 110–111) ALA and Westinghouse also believe that the current control incompatibility issues associated with dimmable LED CFLKs prevent dimmable LEDs from being a viable option, but ALA believes that in five years LED CFLKs with acceptable dimming functionality could represent up to 7.5 percent of the CFLK market. (Id.)

Based on the technical issues ALA and Westinghouse raised, as well as the significant price premium for dimmable CFLs, DOE assumed that CFLKs are not likely to feature dimmable CFL lamps. DOE requests comments on this assumption (see section VII.E). In the NOPR analyses, DOE did not assume CFL CFLKs were operated with controls. On the other hand, DOE does believe that some fraction of LED and incandescent CFLKs are likely to be operated with a dimmer, which DOE considers to be the only relevant lighting control for CFLKs. For the NOPR analyses, DOE used the results of an LBNL survey[31] to estimate that 11 percent of CFLKs are operated with dimmers. DOE assumed that the fraction of CFLKs used with dimmers is the same in the residential sector and the commercial sector, and DOE requests comment on this assumption (see section VII.E). Furthermore, DOE has assumed that an equal fraction of LED and incandescent CFLKs are operated with dimmers, based on the increasing fraction of commercially available dimmers that are now compatible with LEDs, the increase in LED lamps that are being designed to operate on legacy dimmers, and the assumption that integral LEDs have built-in dimming capability with no compatibility issues. DOE used the 2010 LMC[32] and the aforementioned LBNL survey to account for the likelihood that a CFLK with a dimmer will be installed in a given room type. This affects the impact of dimming controls on energy use because, as discussed previously, average HOU varies by room type.

For dimmable CFLKs, DOE assumed an average energy reduction of 30 percent. This estimate was based on a meta-analysis of field measurements of

[27] Kantner, C.L.S., S.J. Young, S.M. Donovan, and K. Garbesi. *Ceiling Fan and Ceiling Fan Light Kit Use in the U.S.—Results of a Survey on Amazon Mechanical Turk.* 2013. Lawrence Berkeley National Laboratory: Berkeley, CA. Report No. LBNL–6332E. *http://www.escholarship.org/uc/item/3r67c1f9.*

[28] Ecotope Inc. *Residential Building Stock Assessment: Metering Study.* 2014. Northwest Energy Efficiency Alliance: Seattle, WA. Report No. E14–283. *http://neea.org/docs/default-source/reports/residential-building-stock-assessment-metering-study.pdf?sfvrsn=6.*

[29] Navigant Consulting, Inc. *Final Report: 2010 U.S. Lighting Market Characterization.* 2012. *http://apps1.eere.energy.gov/buildings/publications/pdfs/ssl/2010-lmc-final-jan-2012.pdf.*

[30] U.S. Department of Energy–Energy Information Administration. *2003 CBECS Survey Data.* (Last accessed October 6, 2014.) *http://www.eia.gov/consumption/commercial/data/2003/index.cfm?view=microdata.*

[31] Kantner, et al. (2013), op. cit.

[32] Navigant Consulting, Inc. *Final Report: 2010 U.S. Lighting Market Characterization.* 2012. *http://apps1.eere.energy.gov/buildings/publications/pdfs/ssl/2010-lmc-final-jan-2012.pdf.*

energy savings from commercial lighting controls by Williams, *et al.*[33] Because field measurements of energy savings from controls in the residential sector are very limited, DOE assumed that controls would have the same impact as in the commercial sector. DOE requests comments on this approach (see section VII.E). In addition, following publication of the GSL preliminary analysis, NEMA agreed with a similar assumption made in that analysis (*i.e.,* that 30 percent energy savings due to dimming in the residential sector is a reasonable estimate).[34] DOE was able to find a single study [35] that suggests energy savings from dimming may be larger than 30 percent in the residential sector. However, because of the very small sample size of this study (the findings were based on metered data from two houses in California), DOE did not base its analysis on the findings of this study. Chapter 6 of the NOPR TSD provides details on how DOE accounted for the impact of dimmers on CFLK energy use. DOE requests comments on the assumption that the only lighting controls used with CFLKs are dimmers, and the energy savings estimate from dimmers in the residential sector (see section VII.E).

*F. Life-Cycle Cost and Payback Period Analysis*

DOE conducts LCC and PBP analyses to evaluate the economic impacts on individual consumers of potential energy conservation standards. The effect of new or amended energy conservation standards on individual consumers usually involves a reduction in operating cost and an increase in purchase cost. DOE uses the following two metrics to measure consumer impacts:

- The LCC is the total consumer expense of an appliance or product over the life of that product, consisting of total installed cost (product price, sales tax, and installation costs) plus operating costs (expenses for energy use, maintenance, and repair). To compute the operating costs, DOE discounts future operating costs to the time of purchase and sums them over the lifetime of the product.
- The PBP (payback period) 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 at higher efficiency levels by the initial change in annual operating cost when amended or new standards are assumed to take effect.

For each CFLK standards case (*i.e.,* case where a standard would be in place at a particular TSL), DOE measures the change in LCC based on the estimated change in efficacy distribution in the standards case relative to the estimated efficacy distribution in the no-standards case. These efficacy distributions include market trends for products that may exceed the efficacy associated with a given TSL as well as the current energy conservation standards. In contrast, the PBP only considers the average time required to recover any increased first cost associated with a purchase at a particular efficacy level relative to the least efficient product on the market.

For each considered efficacy level, DOE calculated the LCC and PBP for a nationally representative consumer sample in each of the residential and commercial sectors. DOE developed consumer samples based on the 2009 RECS and the 2003 CBECS, for the residential and commercial sectors, respectively. For each consumer in the sample, DOE determined the energy consumption of CFLKs and the appropriate electricity price. By developing consumer samples, the analysis captured the variability in energy consumption and energy prices associated with the use of CFLKs.

DOE added sales tax, which varied by state, to the cost of the product developed in the product price determination to determine the total installed cost. DOE assumed that the installation costs did not vary by efficacy level, and therefore did not consider them in the analysis. DOE welcomes comments on this assumption (see section VII.E). Inputs to the calculation of operating expenses include annual energy consumption, energy prices and price projections, repair and maintenance costs, product lifetimes, and discount rates. DOE created distributions of values for product lifetime and discount rates, with probabilities attached to each value, to account for their uncertainty and variability.

The computer model DOE uses to calculate the LCC and PBP relies on a Monte Carlo simulation to incorporate uncertainty and variability into the analysis. The Monte Carlo simulations randomly sample input values from the probability distributions and CFLK user samples. The model calculated the LCC and PBP for products at each efficacy level for sample of 10,000 consumers per simulation run.

DOE calculated the LCC and PBP for all consumers as if each were to purchase a new product in the year that compliance with any amended standards is expected to be required. For this NOPR, DOE estimates publication of a final rule in 2016. Consistent with 42 U.S.C. 6295(m) and 6295(ff), DOE used 2019 as the first year of compliance with any amended standards.

Table IV.8 summarizes the approach and data DOE used to derive inputs to the LCC and PBP calculations. The subsections that follow provide further discussion. Details of the spreadsheet model, and of all the inputs to the LCC and PBP analyses, are contained in chapter 8 and its appendices of the NOPR TSD.

TABLE IV.8—SUMMARY OF INPUTS AND METHODS FOR THE LCC AND PBP ANALYSIS *

| Inputs | Source/method |
|---|---|
| Product Cost | Multiplied the weighted-average consumer price of each CFLK lamp and socket (determined in the product price determination) with a scaling factor to account for the total weighted-average CFLK lumen output.<br>For LED lamps, DOE used a price learning analysis to project CFLK lamp prices to the compliance year. |
| Sales Tax | Derived 2019 population-weighted-average tax values for each state based on Census population projections and sales tax data from Sales Tax Clearinghouse. |
| Disposal Cost | Assumed 35% of commercial CFLs are disposed of at a cost of $0.70 per CFL.<br>Assumptions based on industry expert feedback and a Massachusetts Department of Environmental Protection mercury lamp recycling rate report. |

[33] Williams, A., B. Atkinson, K. Garbesi, E. Page, and F. Rubinstein. Lighting Controls in Commercial Buildings. *LEUKOS.* 2012. 8(3): pp. 161–180.

[34] NEMA's comment (NEMA, No. 34, at p.21) is available at the GSL rulemaking docket available at *http://www.regulations.gov/#!documentDetail;D=EERE–2013-BT-STD-0051-0034.*

[35] Consortium for Energy Efficiency. Residential Lighting Controls Market Characterization. Available at: *http://library.cee1.org/sites/default/files/library/11458/CEE_LightingMarketCharacterization.pdf.*

TABLE IV.8—SUMMARY OF INPUTS AND METHODS FOR THE LCC AND PBP ANALYSIS *—Continued

| Inputs | Source/method |
|---|---|
| Energy Use | Derived in the energy use analysis. Varies by geographic location and room type in the residential sector and by building type in the commercial sector. |
| Energy Prices | Electricity: Based on 2014 marginal electricity price data from the Edison Electric Institute.<br>Variability: Marginal electricity prices vary by season, U.S. region, and baseline electricity consumption level. |
| Energy Price Trends | Based on *AEO 2015* price forecasts. |
| Lamp Replacements | For lamp failures during the lifetime of the CFLK, consumers replace lamps with lamp options available in the market that have the same base type and provide a similar lumen output to the initially packaged lamps. |
| Residual Value | Represents the value of surviving lamps at the end of the CFLK lifetime. DOE discounts the residual value to the start of the analysis period and calculates it based on the remaining lamp's lifetime and price in the year the CFLK is retired. |
| Product Lifetime | Based on a ceiling fan lifetime distribution, with a mean of 13.8 years. |
| Discount Rates | Approach involves identifying all possible debt or asset classes that might be used to purchase the considered appliances, or might be affected indirectly.<br>Primary data source was the Federal Reserve Board's Survey of Consumer Finances. |
| Efficacy Distribution | Estimated by the market-share module of shipments model. See chapter 9 of the NOPR TSD for details. |
| Assumed Compliance Date | 2019. |

* References for the data sources mentioned in this table are provided in the sections following the table or in chapter 8 of the NOPR TSD.

1. Product Cost

DOE developed the weighted-average CFLK socket costs and consumer prices for all representative lamp units presented in the engineering analysis in the product price determination (chapter 7 of the NOPR TSD). DOE did not account for the remaining price of the CFLK (*i.e.,* CFLK price excluding the lamps and sockets) in the LCC calculation because these are assumed to be the same for all CFLKs regardless of efficacy. As discussed earlier, DOE scaled the lumen output of each representative lamp unit by a factor equal to the ratio of the market-weighted average total lumen output to the baseline lamp lumen output. For consistency, DOE also multiplied the price of the lamp and socket by the same scaling factor to determine the total product cost.

DOE also used a price learning analysis to account for changes in lamp prices that are expected to occur between the time for which DOE has data for lamp prices (2014) and the assumed compliance date of the rulemaking (2019). For details on the price learning analysis, see section IV.G.

DOE applied sales tax, which varies by geographic location, to the total product cost. DOE collected sales tax data from the Sales Tax Clearinghouse [36] and used population projections from the Census Bureau [37] to develop population-weighted-average sales tax values for each state in 2019.

2. Disposal Cost

Disposal cost is the cost a consumer pays to dispose of their retired CFLK. In the preliminary analysis, DOE assumed that 10 percent of commercial consumers pay $1 per lamp to dispose of CFL and LED lamps. Westinghouse agreed with DOE's assumed disposal cost of $1 per lamp for CFL lamps, but disagreed with DOE's assumption that LED lamps have a disposal cost associated with them. (Westinghouse, Public Meeting Transcript, No. 82 at p. 195) ALA agreed with Westinghouse regarding disposal costs for LED lamps, stating that LEDs would not have equivalent disposal costs to CFLs because LEDs do not contain mercury. (ALA, No. 93 at p. 10)

Because LED lamps do not contain mercury, DOE assumed in the NOPR analyses that LED CFLKs do not have an associated disposal cost. In the preliminary analysis, DOE assumed that 10 percent of commercial consumers pay a $1 per lamp disposal cost for CFLs. DOE also assumed that the fraction of commercial consumers who pay to recycle CFLs is smaller than the fraction who pay to recycle linear fluorescent lamps. However, DOE received comments from stakeholders during the GSL preliminary analysis public meeting indicating that the commercial consumers who pay to recycle linear fluorescent lamps also pay to recycle CFLs.[38] DOE estimates that the fraction of commercial consumers who pay disposal fees for fluorescent lamps will increase to 35 percent by 2019 based on a 2004 report from the Association of Lighting and Mercury Recyclers,[39] which estimated a 29 percent commercial recycling rate, and a 2009 draft report from the Massachusetts Department of Environmental Protection [40] that indicated a recycling rate of approximately 34 percent. Given this increased recycling percentage and DOE's assumption that the rate of commercial fluorescent lighting recycling would increase by the compliance date of this rulemaking, DOE has assumed that 35 percent of consumers of commercial CFLs pay to recycle their lamps by 2019. DOE assumes that this fraction will have saturated by 2019 and will remain constant throughout the analysis period due to the availability of free options for recycling small numbers of CFLs and the likelihood that some CFLs in the commercial sector will not be disposed of through recommended methods. DOE also reduced the disposal cost from $1 per lamp to $0.70 per lamp based on feedback from a lighting industry expert and stakeholder comments received on the GSL preliminary analysis TSD.[41] DOE requests comment and relevant data on the disposal cost assumptions used in its analyses (see section VII.E).

3. Electricity Prices

In the preliminary analysis, DOE used average retail electricity prices to conduct its analyses. In response to this methodology, ALA suggested DOE use marginal retail electricity prices rather

[36] *https://thestc.com/STRates.stm.* Last accessed March 5th 2015.

[37] U.S. Census Bureau, Population Division, Interim State Population Projections, 2005. Table A1: Interim Projections of the Total Population for the United States and States: April 1, 2000 to July 1, 2030.

[38] The public meeting transcript for the energy conservation standards preliminary analysis for GSLs is available at: *http://www.regulations.gov/#!documentDetail;D=EERE-2013-BT-STD-0051-0029.*

[39] *http://www.lamprecycle.org/wp-content/uploads/2014/02/ALMR_capacity_statement.2004.-pdf.pdf.*

[40] *http://www.mass.gov/eea/docs/dep/toxics/stypes/09hglrrd.pdf.*

[41] These comments can be viewed on the General Service Lamps Energy Conservation Standards docket Web site: *http://www.regulations.gov/#!docketDetail;D=EERE-2013-BT-STD-0051.*

than average retail electricity prices. (ALA, No. 93 at p. 5) Marginal electricity prices may provide a better representation of consumer costs than average electricity prices because marginal electricity prices more accurately reflect the expected change in a consumer's electric utility bill due to an increase in end-use efficiency. Therefore, DOE used marginal electricity prices to calculate the operating costs associated with each efficacy level in the NOPR analyses. In the LCC analysis, marginal electricity prices vary by season, region, and baseline household electricity consumption level. DOE estimated these prices using data published with the Edison Electric Institute (EEI) Typical Bills and Average Rates reports for summer and winter 2014.[42] DOE assigned seasonal marginal prices to each household or commercial building in the LCC sample based on its location and its baseline monthly electricity consumption for an average summer or winter month. For a detailed discussion of the development of electricity prices, see appendix 8B of the NOPR TSD.

4. Electricity Price Trends

To arrive at electricity prices in future years, DOE multiplied the marginal 2014 electricity prices by the forecast of annual residential or commercial electricity price changes for each Census division from EIA's *AEO 2015,* which has an end year of 2040.[43] For each purchase sampled, DOE applied the projection for the Census division in which the purchase was located. The *AEO* electricity price trends do not distinguish between marginal and average prices, so DOE used the *AEO 2015* trends for the marginal prices. DOE reviewed the EEI data for the years 2007 to 2014 and determined that there is no systematic difference in the trends for marginal vs. average electricity prices in the data.

DOE used the electricity price trends associated with the *AEO* reference case scenarios for the nine Census divisions. The reference case is a business-as-usual estimate, given known market, demographic, and technological trends. DOE also included *AEO* High Growth and *AEO* Low-Growth scenarios in the analysis. The high- and low-growth cases show the projected effects of alternative economic growth assumptions on energy markets. To estimate the trends after 2040, DOE used the average rate of change during 2025–2040.

5. Lamp Replacements

In the LCC analysis, DOE assumes that in both the commercial and residential sectors, lamps fail only at the end of the lamp service life. The service life (in years) is determined by dividing the lamps' rated lifetime (in hours) by the lamps' average operating hours per year.

Replacement costs include, in principle, both the lamps and labor associated with replacing a CFLK lamp at the end of its lifetime. However, DOE assumes that labor costs for lamp replacements are negligible and therefore did not include them in the analysis. Thus, DOE considers that the only first costs associated with lamp replacements are lamp purchase costs to consumers.

DOE assumed that consumers replace failed lamps with new lamps chosen from options available in the lighting market that have the same base type and provide an equivalent lumen output. DOE modeled this decision using a consumer-choice model, which incorporates consumer sensitivity to first cost and operation and maintenance (O&M) cost. DOE accounted for the first cost associated with purchasing a replacement lamp, the electricity consumption and operating costs depending on replacement lamp wattage, and the residual value of the lamp at the end of the CFLK lifetime. For details, see chapter 8 of the NOPR TSD.

6. Product Lifetime

DOE accounted for variability in the CFLK lifetimes by assigning a lifetime distribution[44] that is tied to the lifetime of the ceiling fan[45] to which the CFLK is attached. DOE used the ceiling fan lifetime distribution determined in the preliminary analysis of the energy conservation standards rulemaking for ceiling fans.[46] If originally packaged lamps fail before the end of the CFLK lifetime, DOE assumed that consumers replace those lamps with lamps of the same socket type and equivalent lumen output, as described in the previous section.

7. Residual Value

The residual value represents the remaining dollar value of surviving lamps at the end of the CFLK lifetime, discounted to the compliance year. DOE assumed that all lamps with lifetimes shorter than the CFLK lifetime are replaced. To account for the value of any initially packaged or replacement lamps with remaining life to the consumer, the LCC model applies this residual value as a ''credit'' at the end of the CFLK lifetime, which is discounted back to the start of the analysis period. Because DOE estimates that LED lamps undergo price learning, the residual value of these lamps is calculated based on the LED lamp price in the year the CFLK is retired.

8. Discount Rates

In the calculation of LCC, DOE applies discount rates appropriate to households to estimate the present value of future operating costs. DOE estimated a distribution of residential discount rates for CFLKs based on consumer financing costs and opportunity cost of funds related to appliance energy cost savings and maintenance costs.

To establish residential discount rates for the LCC analysis, DOE identified all relevant household debt or asset classes to approximate a consumer's opportunity cost of funds related to appliance energy cost savings. It 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[47] (SCF) for 1995, 1998, 2001, 2004, 2007, and 2010. Using the SCF and other sources, DOE developed a distribution of rates for each type of debt and asset by income group to represent the 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 rate across all types of household debt and equity and income groups, weighted by the shares of each type, is 4.4 percent. See chapter 8 of the NOPR TSD for further details on the development of consumer discount rates.

[42] Edison Electric Institute. Typical Bills and Average Rates Report. Winter 2014 published April 2014, Summer 2014 published October 2014. See *http://www.eei.org/resourcesandmedia/products/Pages/Products.aspx.*

[43] U.S. Energy Information Administration. *Annual Energy Outlook 2015 with Projections to 2040.* 2015. Washington, DC Report No. DOE/EIA–0383(2015). *http://www.eia.gov/forecasts/aeo/pdf/0383(2015).pdf.*

[44] DOE used a Weibull distribution to model the lifetime of ceiling fans. Weibull distributions are commonly used to model appliance lifetimes.

[45] The lifetime of the ceiling fan, rather than that of the CFLK, is used because the fan, having moving parts, is likely to have a shorter life, and the available data suggest that when fans cease to function, their light kit is also retired.

[46] DOE has published a framework document and preliminary analysis for establishing energy conservation standards for ceiling fans. Further information is available at *www.regulations.gov* under Docket ID: *EERE–2012–BT–STD–0045.*

[47] Board of Governors of the Federal Reserve System. Survey of Consumer Finances. 1995, 1998, 2001, 2004, 2007, and 2010. (Last accessed October 10, 2014.) *http://www.federalreserve.gov/econresdata/scf/scfindex.htm.*

To establish commercial discount rates for the LCC analysis, DOE estimated the cost of capital for companies that purchase CFLKs. The weighted-average cost of capital is commonly used to estimate the present value of cash flows to be derived from a typical company project or investment. Most companies use both debt and equity capital to fund investments, so their cost of capital is the weighted average of the cost to the firm of equity and debt financing, as estimated from financial data for publicly traded firms in the sectors that purchase CFLKs. For this analysis, DOE used Damodaran online [48] as the source of information about company debt and equity financing. The average rate across all types of companies, weighted by the shares of each type, is 5.0 percent. See chapter 8 of the NOPR TSD for further details on the development of commercial sector discount rates.

9. Efficacy Distributions

To accurately estimate the share of consumers that would be affected by a potential energy conservation standard at a particular efficacy level, DOE's LCC analysis considered the projected distribution (*i.e.,* market shares) of product efficacies that consumers purchase under the no-standards case and each of the standards cases (*i.e.,* the cases where a standard would be set at each TSL) at the assumed compliance year. The estimated market shares for the no-standards case and each standards case for CFLKs are determined by the shipments analysis and are shown in Table IV.9. See section IV.G of this notice and chapter 9 of the NOPR TSD for further information on the derivation of the market efficacy distributions.

TABLE IV.9—MARKET EFFICACY DISTRIBUTION BY TRIAL STANDARD LEVEL IN 2019

| Trial standard level | Sub-baseline (%) | EL 0 (%) | EL 1 (%) | EL 2 (%) | EL 3 (%) | EL 4 (%) | Total (%) |
|---|---|---|---|---|---|---|---|
| No-Standards | 55.9 | 0.0 | 26.3 | 10.2 | 3.5 | 4.1 | 100 |
| TSL 0 | 0.0 | 0.0 | 82.2 | 10.2 | 3.5 | 4.1 | 100 |
| TSL 1 | 0.0 | 0.0 | 82.2 | 10.2 | 3.5 | 4.1 | 100 |
| TSL 2 | 0.0 | 0.0 | 0.0 | 51.3 | 3.5 | 45.2 | 100 |
| TSL 3 | 0.0 | 0.0 | 0.0 | 0.0 | 3.5 | 96.5 | 100 |
| TSL 4 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 100.0 | 100 |

10. LCC Savings Calculation

In the reference scenario, DOE calculated the LCC savings at each TSL based on the change in LCC for each standards case compared to the no-standards case, considering the efficacy distribution of products derived by the shipments analysis. Unlike the roll-up approach applied in the preliminary analysis, where the market share of ELs below the standard level 'rolls up' to the least efficient EL still available in each standards case, the reference approach allows consumers to choose more-efficient (and sometimes less expensive) products at higher ELs and is intended to more accurately reflect the impact of a potential standard on consumers.

DOE also performed the roll-up approach as an alternative scenario to calculate LCC savings. For details on both the market-transformation and the roll-up approach, see chapter 8 of the NOPR TSD.

11. 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 the least efficient products on the market, through energy cost savings. Payback periods are expressed in years. Payback periods that exceed the life of the product mean that the increased total installed cost is not recovered in reduced operating expenses.

The inputs to the PBP calculation for each efficacy level are the change in total installed cost of the product and the change in the initial annual operating expenditures relative to the least efficient product on the market. The PBP calculation uses the same inputs as the LCC analysis, except that discount rates and energy price trends are not needed. DOE did not consider the impact of replacement lamps (that replace the initially packaged lamps when they fail) in the calculation of the PBP.

As noted above, EPCA, as amended, 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 first year's energy savings resulting from the standard, as calculated under the applicable test procedure. (42 U.S.C. 6295(o)(2)(B)(iii)) For each considered efficacy level, DOE determined the value of the first year's energy savings by calculating the energy savings in accordance with the applicable DOE test procedure, and multiplying those savings by the average energy price forecast for the year in which compliance with the amended standards would be required.

*G. Shipments Analysis*

DOE uses projections of product shipments to calculate the national impacts of potential amended energy conservation standards on energy use, NPV, and future manufacturer cash flows. Historical shipments data are used to build up an equipment stock, and to calibrate the shipments model to project shipments over the course of the analysis period based on the estimated future demand for CFLKs. Details of the shipments analysis are described in chapter 9 of the NOPR TSD.

The shipments model projects total shipments and market share efficacy distributions in each year of the 30-year analysis period (2019–2048) for the no-standards case and each of the standards cases. Shipments are calculated for the residential and commercial sectors assuming 95 percent of shipments are to the residential sector and 5 percent are to the commercial sector. DOE requests comments on this assumed breakdown of CFLK usage (see section VII.E). DOE further assumed in its analysis that CFLKs are primarily found on low-volume ceiling fans. DOE requests any information regarding shipments of CFLKs intended for high-volume ceiling fans. DOE also assumed that the distribution of CFLKs by light source

[48] Damodaran, A. *Cost of Capital by Sector.* January 2014. (Last accessed September 25, 2014.) *http://people.stern.nyu.edu/adamodar/New_Home_Page/datafile/wacc.htm.*

technology in the commercial sector is the same as the light source technology distribution in the residential sector, and DOE welcomes comments and input on this assumption (see section VII.E).

The shipments model consists of three main components: (1) A demand model that determines the total demand for new CFLKs in each year of the analysis period, (2) a stock model that tracks the age distribution of the stock over the analysis period, and (3) a modified consumer-choice model that determines the market shares of purchased CFLKs across ELs.

The CFLK shipments demand model considers four market segments that impact the net demand for total shipments: Replacements for retired stock, additions due to new building construction, additions due to expanding demand in existing buildings, and reductions due to building demolitions, which erodes demand from replacements and existing buildings.

The stock accounting model tracks the age (vintage) distribution of the installed CFLK stock. The age distribution of the stock is a key input to both the national energy savings (NES) and NPV calculations, because the operating costs for any year depend on the age distribution of the stock. Older, less efficient units may have higher operating costs, while newer, more-efficient units have lower operating costs. The stock accounting model is initialized using historical shipments data and accounts for additions to the stock (*i.e.,* shipments) and retirements. The age distribution of the stock in 2012 is estimated using results from the LBNL survey of ceiling fan owners.[49] The stock age distribution is updated in subsequent years using projected shipments and retirements determined by the stock age distribution and a product retirement function.

The modified consumer-choice model estimates the market shares of purchases in each year in the analysis period for each efficacy level presented in the engineering analysis. In the case of CFLKs, the lamps included with the CFLK are chosen by the CFLK manufacturer. A key assumption of DOE's CFLK consumer-choice model is that when LED lamps reach price parity with comparable CFL lamps, manufacturers will purchase LED lamps to package with a CFLK, making only those lamps available to the consumer. In other words, DOE assumes that CFLK manufacturers will not pay a price premium to package with CFLs compared to LED lamps. DOE requests feedback on this assumption (see section VII.E). Prior to the point when LED lamps reach price parity with CFLs, market share to LED CFLKs is allocated following an adoption curve discussed in more detail below.

As described in the engineering analysis, DOE assumed that CFLK manufacturers could respond in two ways to an amended energy conservation standard. Manufacturers could maintain the current base type and number of lamps in a CFLK design and simply replace lamps currently packaged with CFLKs with a more-efficient option (lamp replacement scenario), or they could reconfigure CFLKs to include a different base type and/or number of lamps, in addition to packaging with more-efficient lamp options (light kit replacement scenario). DOE assumed that there was no inherent preference between the two scenarios and split market share evenly between them. DOE requests comment on the likelihood of CFLK manufacturers selecting each substitution scenario and information on any alternative scenarios that manufacturers may choose (see section VII.E).

DOE's shipments model estimates the adoption of LED technologies using an incursion curve and a modified consumer-choice model in both the no-standards and amended standards cases. In the preliminary analysis, DOE estimated the market share of LED CFLKs in the compliance year would be approximately 27 percent in its reference scenario. This estimate was based on the market shares of LED A-type lamps presented in the report, *Energy Savings Potential of Solid-State Lighting in General Illumination Applications*[50] (SSL report). DOE assumed that LED incursion into CFLKs would lag behind general service applications by two years. Westinghouse tentatively agreed with this projected market share of LED CFLKs in the compliance year (2019). (Westinghouse, Public Meeting Transcript, No. 82 at p. 234) Westinghouse appreciated that DOE's estimated LED CFLK adoption rate is projected to trail the LED GSL adoption rate, but also noted that CFLK manufacturers are dependent on what products are available to them. (Id.) ALA believes DOE's LED incursion estimate is too high and estimates that LED CFLKs will have no more than 15 percent market share in 2018. (ALA, No. 93 at p. 4)

Based on the current market share of LED CFLKs, a market share lower than 27 percent in the compliance year is a reasonable assumption. For the NOPR analysis, DOE used the Bass diffusion curve developed in the SSL report for GSLs to estimate the market share apportioned to LED ELs. DOE assumed the adoption of LEDs in the CFLK market would trail behind adoption of LED technology in the GSL market by 3.5 years. In the NOPR analysis, DOE's LED incursion curve for CFLKs results in a market share of 14 percent for LED lamps in 2019. DOE requests comment on this approach (see section VII.E). Based on observed trends in the efficacy of LED lamps on the market over time, DOE assumed the market for LED lamps would naturally move to more efficacious ELs in the no-standards case as well as the standards cases. DOE requests comment on this assumption (see section VII.E).

In the preliminary analysis, DOE assumed that only LEDs will continue to undergo significant cost reduction due to price learning, and DOE estimated the learning rate based on price learning projections for the general LED market. Westinghouse and ALA agree with DOE's assumption that only LEDs will continue to undergo significant cost reduction due to price learning; however, ALA believes DOE's LED price learning assumption estimate is too high. (Westinghouse, Public Meeting Transcript, No. 82 at pp. 231–233; ALA, No. 93 at p. 10) Westinghouse, on the other hand, was tentatively in agreement with DOE's LED price learning estimates for CFLKs. (Westinghouse, Public Meeting Transcript, No. 82 at pp. 231–233)

In the NOPR analysis, DOE again assumed that price learning would occur only for LEDs. DOE requests comment on this assumption (see section VII.E). DOE used the price trends developed in the GSLs preliminary analysis for the reference scenario in the base case of that rulemaking (*i.e.,* shipments of LED GSLs were affected by the EISA 2007 backstop but not by a GSL final rule). That scenario assumed that LED GSLs would experience the same learning rate historically observed for CFLs. Most recent estimates for LED GSL price trends indicate faster historic price decline;[51] therefore DOE believes the

[49] Kantner, et al. (2013), op. cit.

[50] Navigant Consulting, Inc. *Energy Savings Potential of Solid-State Lighting in General Illumination Applications.* 2012. *http://apps1.eere.energy.gov/buildings/publications/pdfs/ssl/ssl_energy-savings-report_jan-2012.pdf.*

[51] Navigant Consulting, Inc. *Energy Savings Forecast of Solid-State Lighting in General Illumination Applications.* 2014. U.S. Department of Energy. Report No. DOE/EE–1133. *http://apps1.eere.energy.gov/buildings/publications/pdfs/ssl/energysavingsforecast14.pdf.*

scenario it used may be a conservative estimate of LED GSL price trends. Details on the development of the price trends are in chapter 9 of the NOPR TSD and chapter 9 of the GSL preliminary analysis TSD.[52]

In the preliminary analysis for the concurrent GSL energy conservation standards rulemaking,[53] DOE considered lamps that have base types specified by ANSI, have a lumen output of at least 310 lumens, and are intended to serve in general lighting applications to meet the GSL definition. Therefore, DOE considers candelabra-base lamps that meet the lumen output and general application requirements to meet the GSL definition, which available information indicates would include all candelabra-base lamps currently packaged with CFLKs. All lamps that meet the GSL definition would be subject to the EISA 2007 backstop requirement prohibiting the sale of any GSL that does not meet a minimum efficacy standard of 45 lm/W if the concurrent GSL rulemaking is not completed by January 1, 2017, or if the energy savings of the GSL final rule are not greater than or equal to the savings from a minimum efficacy standard of 45 lumens per watt. 42 U.S.C. 6295(i)(6)(A)(v)

The Consolidated and Further Continuing Appropriations Act, 2015 (Public Law 113–235, Dec. 16, 2014), in relevant part, restricts the use of appropriated funds in connection with several aspects of DOE's incandescent lamps energy conservation standards program. Specifically, section 313 states that none of the funds made available by the Act may be used to implement or enforce standards for GSILs, intermediate base incandescent lamps and candelabra base incandescent lamps. Thus, DOE is not considering GSILs in the GSL rulemaking. Because GSILs are not included in the scope of the GSL rulemaking, DOE assumed that any GSL final rule would not yield sufficient energy savings to avoid triggering the EISA 2007 45 lm/W backstop requirement in 2020. Accordingly, DOE has assumed in both the no-standards and the standards-case shipment projections that candelabra-base lamps with efficacy below the minimum requirement of 45 lm/W will no longer be an option available for packaging with CFLKs beginning January 1, 2020.

In the preliminary analysis, DOE used an initial relative price elasticity of demand of −0.34, which is the value DOE has typically used for residential appliances. DOE notes that the fractional drop in CFLK shipments in the standards cases is proportional to the change in CFLK purchase price compared to the total price of a ceiling fan and CFLK system. Given that the CFLK price is relatively small compared to the ceiling fan price, DOE will address comments related to price elasticity in the ceiling fan ECS NOPR. For the CFLK NOPR analyses, DOE again used an initial relative price elasticity of demand of −0.34.

In the preliminary analysis, DOE assumed that the vast majority of CFLKs were sold with ceiling fans and noted that a standard for ceiling fans could also reduce CFLK shipments (and vice versa). For this NOPR, DOE did not assume a standard on ceiling fans in its projections for CFLK shipments because DOE has not yet proposed a ceiling fan standard.[54] In any ECS NOPR for ceiling fans, DOE will consider the impact of these proposed CFLK standards in its projections of ceiling fan shipments. In any CFLK ECS final rule, DOE will take into account the impact of a potential proposed ceiling fan standard on CFLK shipments and will consider taking comment on its revised analysis as appropriate.

### *H. National Impact Analysis*

The NIA assesses the NES and the NPV from a national perspective of total consumer costs and savings that would be expected to result from new or amended standards at specific ELs. (''Consumer'' in this context refers to consumers of the product being regulated.) DOE calculates the NES and NPV based on projections of annual product shipments, along with the annual energy consumption, total installed cost, and the costs of relamping. For the NOPR analysis, DOE projected the energy savings, operating-cost savings, product costs, and NPV of consumer benefits over the lifetime of CFLKs shipped from 2019 through 2048.

DOE evaluates the impacts of amended standards by comparing a no-standards-case projection with standards-case projections. The no-standards-case projection characterizes energy use and consumer costs in the absence of amended energy conservation standards. The standards-case projections characterize energy use and consumer cost for the market distribution where CFLKs that do not meet the TSL being analyzed are excluded as options available to the consumer. As described in section IV.G of this notice, DOE developed market share distributions for CFLKs at each EL in the no-standards case and each of the standards cases in its shipments analysis.

DOE uses a spreadsheet model to calculate the energy savings and the national consumer costs and savings from each TSL. Interested parties can review DOE's analyses by changing various input quantities within the spreadsheet. The NIA spreadsheet model uses typical values (as opposed to probability distributions) as inputs.

Table IV.10 summarizes the inputs and methods DOE used for the NIA analysis for the NOPR. Discussion of these inputs and methods follows the table. See chapter 10 of the NOPR TSD for further details.

TABLE IV.10—SUMMARY OF INPUTS AND METHODS FOR THE NATIONAL IMPACT ANALYSIS

| Inputs | Method |
|---|---|
| Shipments | Annual shipments from shipments model. |
| Assumed Compliance Date of Standard. | 2019. |
| No Standard-Case Forecasted Efficacies. | Estimated by market-share module of shipments model including impact of SSL incursion. |
| Standards-Case Forecasted Efficacies. | Estimated by market-share module of shipments model including impact of SSL incursion. |

[52] U.S. Department of Energy—Office of Energy Efficiency and Renewable Energy. Preliminary Technical Support Document: Energy Efficiency Program for Consumer Products and Commercial and Industrial Equipment: General Service Lamps. 2014. Washington, DC *http://www.regulations.gov/#!documentDetail;D=EERE-2013-BT-STD-00051-0022.*

[53] The GSL energy conservation standards preliminary analysis technical support document and public meeting information are available at regulations.gov under docket ID EERE–2013–BT–STD–0051–0022: *http://www.regulations.gov/#!docketDetail;D=EERE-2013-BT-STD-0051.*

[54] The ceiling fans energy conservation standards docket (docket number EERE-2012-BT-STD-0045-0065) is located at regulations.gov: *http://www.regulations.gov/#!docketDetail;D=EERE-2012-BT-STD-0045.*

TABLE IV.10—SUMMARY OF INPUTS AND METHODS FOR THE NATIONAL IMPACT ANALYSIS—Continued

| Inputs | Method |
|---|---|
| Annual Energy Consumption per Unit. | Annual weighted-average values are a function of energy use at each EL including impacts of relamping over the CFLK lifetime. |
| Total Installed Cost per Unit | Annual weighted-average values are a function of cost at each EL.<br>Incorporates projection of future LED lamp prices based on historical data. |
| Annual Energy Cost per Unit | Annual weighted-average values as a function of the annual energy consumption per unit and energy prices. |
| Repair and Maintenance Cost per Unit. | Annual repair values do not change with efficacy level.<br>Replacement lamp costs are calculated for each efficacy level over the analysis period. |
| Energy Prices | *AEO 2015* forecasts (to 2040) and extrapolation thereafter. |
| Energy Site-to-Primary Conversion. | A time-series conversion factor based on *AEO 2014.* |
| Discount Rate | Three and seven percent. |
| Present Year | 2015. |

1. National Energy Savings

The NES analysis involves a comparison of national energy consumption of the considered products in each potential standards case (TSL) with consumption in the case with no new or amended energy conservation standards. DOE calculated the national energy consumption by multiplying the number of units (stock) of each product (by vintage or age) by the unit energy consumption (also by vintage). DOE accounts for changes in unit energy consumption as the lamps packaged with the CFLK are retired at the end of the lamp lifetime and new lamps are purchased as replacements for the existing CFLK. DOE uses a consumer-choice model, described in section IV.G, to determine the mix of lamps chosen as replacements.

DOE calculated annual NES based on the difference in national energy consumption for the no-standards case and for the case where a standard is set at each TSL. DOE estimated energy consumption and savings based on site energy and converted the electricity consumption and savings to primary energy (*i.e.,* the energy consumed by power plants to generate site electricity) using annual conversion factors derived from *AEO 2014.* Cumulative energy savings are the sum of the NES for each year over the timeframe of the analysis.

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 Sciences, DOE announced its intention to use 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 which DOE explained its determination that EIA's National Energy Modeling System (NEMS) is the most appropriate tool for its FFC analysis and its intention to use NEMS for that purpose. 77 FR 49701 (August 17, 2012). NEMS is a public domain, multi-sector, partial equilibrium model of the U.S. energy sector [55] that EIA uses to prepare its *AEO.* The approach used for deriving FFC measures of energy use and emissions is described in appendix 10B of the NOPR TSD.

In response to the calculated NES presented in the preliminary analysis, the Joint Comment requested that DOE review the savings estimates to confirm that they accurately represent the effect of a standard set at each CSL. The Joint Comment conducted an analysis of energy savings per unit for CFLKs packaged with sub-baseline lamps compared to CFLKs packaged with lamps corresponding to each of several ELs considered by DOE. The Joint Comment compared the results of this analysis to the NES reported by DOE for each case when a standard is set at a particular efficacy level, and suggested that the estimated energy savings in the preliminary analysis for CSL 0 may be too low. (Joint Comment, No. 95 at p. 3)

DOE has reviewed and confirmed its analysis of NES at each efficacy level. ASAP, *et al.'*s analysis does not take into account two significant factors that account for the divergence in estimated energy savings. First, ASAP *et al.'*s analysis does not take into account significant changes in the CFLK market efficacy distribution over the course of the analysis period, even in the absence of an amended standard for CFLKs, instead assuming a persistent, significant fraction of CFLKs are packaged with sub-baseline products. DOE's analysis, on the other hand, assumed significant and rapid LED incursion into the CFLK market, which displaced CFLKs packaged with sub-baseline products early in the analysis period, even in the absence of amended standards. Second, ASAP *et al.'*s analysis does not take into account the lifetime of the lamps originally packaged with a CFLK and appears to assume that when the originally packaged lamps are retired, those lamps are always replaced by lamps with the same efficacy. DOE's analysis, in contrast, assumes significant LED incursion into the market for lamps that replace the originally packaged lamps, which can have a significant impact on the efficacy and energy consumption of a CFLK over its lifetime, particularly for CFLKs originally packaged with sub-baseline lamps. As a result, DOE's calculation of the lifetime energy consumption for a CFLK originally packaged with sub-baseline lamps yields a lower value than an analysis that assumes that the efficacy of that CFLK is constant. Thus, the energy savings potential associated with a standard set at any given CSL is lower. DOE notes that the aforementioned assumption that the 45 lm/W standard requirement will take effect on January 1, 2020 further reduces the energy savings potential for this rulemaking by impacting both the lamps available for packaging with a CFLK and the replacement lamps available to consumers.

2. Net Present Value Analysis

The inputs for determining the NPV of the total costs and benefits experienced by consumers are: (1) Total annual installed cost; (2) total annual savings in operating costs; and (3) a discount factor to calculate the present value of costs and savings. DOE calculates net savings each year as the difference between the no-standards case and each standards case in terms of total savings in operating costs versus

[55] For more information on NEMS, refer to *The National Energy Modeling System: An Overview,* DOE/EIA–0581 (98) (Feb.1998) (Available at: *http://www.eia.gov/oiaf/aeo/overview/).*

total increases in installed costs. DOE calculates operating-cost savings over the lifetime of each product shipped during the forecast period.

The operating-cost savings are primarily energy cost savings, which are calculated using the estimated energy savings in each year and the projected price of electricity. To estimate electricity prices in future years, DOE multiplied the average regional electricity prices by the forecast of annual national-average residential or commercial electricity price changes in the reference case from *AEO 2015,* which has an end year of 2040. To estimate price trends after 2040, DOE used the average annual rate of change in prices from 2025 to 2040. As part of the NIA, DOE also analyzed scenarios that used inputs from the *AEO 2015* Low Economic Growth and High Economic Growth cases.

Operating-cost savings are also impacted by the costs incurred by consumers to relamp their CFLK over the course of the CFLK lifetime, as well as any impact the new lamps may have on the efficacy of the CFLK. Any remaining residual life in lamps at the end of the CFLK lifetime (for either the initially packaged lamps or replacement lamps) is expressed as a credit that is deducted from the operating cost.

DOE estimated the range of potential impacts of amended standards by considering high and low benefit scenarios. In the high benefits scenario, DOE used the High Economic Growth *AEO 2015* estimates for new housing starts and electricity prices along with its reference LED price learning trend. As discussed in section IV.G, the reference LED price trend assumes the learning rate measured from historical CFL price trends can be applied to cumulative LED shipments to determine future LED prices. In the low benefits scenario, DOE used the Low Economic Growth *AEO 2015* estimates for housing starts and electricity prices, along with a high LED learning rate. The high LED learning rate is estimated from historical LED price trends and shows a faster price decline in comparison to the CFL learning rate as estimated by LBNL.[56] The benefits to consumers from amended CFLK standards are lower if LED prices decline faster because consumers convert to LED CFLKs more quickly in the no-standards case. NIA results based on these alternative scenarios are presented in appendix 10C of the NOPR TSD.

In calculating the NPV, DOE multiplies the net savings in future years by a discount factor to determine their present value. For this NOPR, DOE estimated the NPV of consumer benefits using both a 3-percent and a 7-percent real discount rate. DOE uses these discount rates in accordance with guidance provided by the Office of Management and Budget (OMB) to Federal agencies on the development of regulatory analysis.[57] The discount rates for the determination of NPV are in contrast to the discount rates used in the LCC analysis, which are designed to reflect a consumer's perspective. The 7-percent real value is an estimate of the average before-tax rate of return to private capital in the U.S. economy. The 3-percent real value represents the ''social rate of time preference,'' which is the rate at which society discounts future consumption flows to their present value.

*I. Consumer Subgroup Analysis*

In analyzing the potential impact of new or amended standards on consumers, DOE evaluates the impact on identifiable subgroups of consumers that may be disproportionately affected by a new or amended national standard. DOE evaluates impacts on particular subgroups of consumers by analyzing the LCC impacts and PBP for those particular consumers from alternative standard levels. For this NOPR, DOE analyzed the impacts of the considered standard levels on low-income households and small businesses. Chapter 11 of the NOPR TSD describes the consumer subgroup analysis.

*J. Manufacturer Impact Analysis*

1. Overview

DOE conducted an MIA for CFLKs to estimate the financial impact of proposed standards on manufacturers of CFLKs. The MIA has both quantitative and qualitative aspects. The quantitative part of the MIA relies on the GRIM, an industry cash-flow model customized for the CFLKs covered in this rulemaking. The key GRIM inputs are data on the industry cost structure, equipment costs, shipments, and assumptions about markups, and conversion costs. The key MIA output is INPV. DOE used the GRIM to calculate cash flows using standard accounting principles and to compare changes in INPV between a no-standards case and various TSLs (the standards case). The difference in INPV between the base and standards cases represents the financial impact of amended energy conservation standards on CFLK manufacturers. Different sets of assumptions (scenarios) produce different INPV results. The qualitative part of the MIA addresses factors such as manufacturing capacity; characteristics of, and impacts on, any particular subgroup of manufacturers; and impacts on competition.

DOE conducted the MIA for this rulemaking in three phases. In the first phase, DOE prepared an industry characterization based on the market and technology assessment, preliminary manufacturer interviews, and publicly available information. In the second phase, DOE estimated industry cash flows in the GRIM using industry financial parameters derived in the first phase and the shipment scenarios used in the NIA. In the third phase, DOE conducted interviews with a variety of CFLK manufacturers that account for more than 30 percent of domestic CFLK sales covered by this rulemaking. During these interviews, DOE discussed engineering, manufacturing, procurement, and financial topics specific to each company and obtained each manufacturer's view of the CFLK industry as a whole. The interviews provided information that DOE used to evaluate the impacts of amended standards on manufacturers' cash flows, manufacturing capacities, and direct domestic manufacturing employment levels. See section V.B.2.b of this NOPR for the discussion on the estimated changes in the number of domestic employees involved in manufacturing CFLKs covered by standards. See section IV.J.4 of this NOPR for a description of the key issues that manufacturers raised during the interviews.

During the third phase, DOE also used the results of the industry characterization analysis in the first phase and feedback from manufacturer interviews to group manufacturers that exhibit similar production and cost structure characteristics. DOE identified one manufacturer subgroup for a separate impact analysis—small business manufacturers—using the small business employee threshold of 750 total employees published by the Small Business Administration (SBA). This threshold includes all employees in a business' parent company and any other subsidiaries. Based on this classification, DOE identified 34 CFLK manufacturers that qualify as small businesses. The complete MIA is presented in chapter 12 of the NOPR TSD, and the analysis required by the

[56] Gerke, B., A. Ngo, A. Alstone, and K. Fisseha. *The Evolving Price of Household LED Lamps: Recent Trends and Historical Comparisons for the US Market.* 2014. Lawrence Berkeley National Laboratory: Berkeley, CA. Report No. LBNL–6854E.

[57] U.S. Office of Management and Budget. Circular A–4: Regulatory Analysis,'' (Sept. 17, 2003), section E (Available at: *www.whitehouse.gov/omb/memoranda/m03–21.html*).

Regulatory Flexibility Act, 5 U.S.C. 601, *et. seq.,* is presented in section VI.B of this NOPR and chapter 13 of the NOPR TSD.

2. GRIM Analysis and Key Inputs

DOE uses the GRIM to quantify the changes in cash flows over time due to amended energy conservation standards. These changes in cash flows result in either a higher or lower INPV for the standards case compared to the no-standards case (the case where a new standard is not set). The GRIM analysis uses a standard annual cash-flow analysis that incorporates manufacturer costs, markups, shipments, and industry financial information as inputs. It then models changes in costs, investments, and manufacturer margins that result from amended energy conservation standards. The GRIM uses these inputs to calculate a series of annual cash flows beginning with the base year of the analysis, 2015, and continuing to 2048. DOE computes INPV by summing the stream of annual discounted cash flows during the analysis period. DOE used a real discount rate of 7.4 percent for CFLK manufacturers. Initial discount rate estimates were derived from industry corporate annual reports to the Securities and Exchange Commission (SEC 10-Ks). DOE initially derived a real discount rate of 5.9 percent from publicly available SEC 10-Ks. During manufacturer interviews, CFLK manufacturers were asked to provide feedback on this discount rate. Based on manufacturer feedback that the 5.9 percent discount was too low for the CFLK industry and that 7.4 percent was a more accurate reflection of their typical rate of return on their investments, DOE revised the real discount rate to be 7.4 percent for this analysis. Many inputs into the GRIM come from the engineering analysis, the NIA, manufacturer interviews, and other research conducted during the MIA. The major GRIM inputs are described in detail in the following sections.

a. Capital and Product Conversion Costs

DOE expects amended CFLK energy conservation standards to cause manufacturers to incur conversion costs by bringing their tooling and product designs into compliance with amended standards in the light kit replacement scenario. 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 investments in property, plant, and equipment necessary to adapt or change existing tooling equipment such that new product designs can be fabricated and assembled. Product conversion costs are investments in research, development, testing, marketing, certification, and other non-capitalized costs necessary to make product designs comply with amended standards.

Using feedback from manufacturer interviews, DOE conducted a bottom-up analysis to calculate the capital and product conversion costs for CFLK manufacturers for each product class at each EL. To conduct this bottom-up analysis, DOE used manufacturer input from manufacturer interviews regarding the types and dollar amounts of discrete capital and product expenditures that would be necessary to convert specific production lines for CFLKs at each EL. DOE examined conversion costs for each replacement scenario separately. In the lamp replacement scenario, CFLK manufacturers comply with amended standards by replacing the lamps in the CFLKs with more efficacious lamps that meet amended standards. DOE assumed that there would be no capital or product conversion costs for the lamp replacement scenario because CFLK manufacturers are not required to adjust the type or number of lamps in their CFLK, nor are they required to make any adjustments to the existing fixtures. In the light kit replacement scenario, CFLK manufacturers can comply with amended standards by changing the fixture designs (*i.e.,* changing the number of sockets and/or using more efficacious substitutes with different base types and/or shapes than the baseline lamp). In the light kit replacement scenario, however, manufacturers would incur product and capital conversion costs at ELs that require LED lamps. Based on manufacturer feedback DOE determined that some CFLKs would need to be redesigned due to potential heat sink issues associated with LED lamps and the potentially larger size of LED lamps. Manufacturers would also need to purchase tooling equipment necessary to produce these redesigned CFLKs. Once DOE compiled these capital and product conversion costs, DOE took average values (*i.e.,* average number of hours or average dollar amounts) based on the range of responses given by manufacturers for each capital and product conversion cost at each EL. See chapter 12 of the NOPR TSD for a complete description of DOE's assumptions for the capital and product conversion costs and section IV.C.4 of this NOPR for further discussion on more efficacious substitutes and replacement scenarios.

b. Manufacturer Production Costs

Manufacturing more efficacious CFLKs can result in changes in manufacturer production costs (MPCs) as a result of varying components required to meet ELs at each TSL. Changes in MPCs for these more efficacious components can impact the revenue, gross margin, and the cash flows of CFLK manufacturers. Typically, DOE develops MPCs for the covered products and uses the prices as an input to the LCC analysis and NIA. However, because the CFLK standard is based on the efficacy of the lamps with which it is packaged and lamps are difficult to reverse-engineer, DOE directly derived end-user prices and used them to calculate the MPCs for CFLKs in this rulemaking.

To determine MPCs of CFLKs from end-user prices, DOE divided the end-user price of CFLKs at each EL by a manufacturer markup and by a distributor markup. DOE determined the manufacturer markup by examining the SEC 10-Ks of all publicly traded CFLK manufacturers to estimate an average CFLK manufacturer markup of 1.37. DOE determined the distributor markup by surveying distributor net prices in the three main CFLK distribution channels to estimate a distributor markup of 1.52 for CFLKs. Feedback from manufacturer interviews indicated that the respective markups were appropriate for the CFLK industry. In the no-standards case, the MSP is represented by the end-user price divided by the distributor markup. For a complete description of end-user prices, see the product price determination in section IV.D of this NOPR.

c. Shipment Scenarios

INPV, which is the key GRIM output, depends on industry revenue, which depends on the quantity and prices of CFLKs shipped in each year of the analysis period. Industry revenue calculations require forecasts of: (1) Total annual shipment volume of CFLKs; (2) the distribution of shipments across the product class (because prices vary by product class); and, (3) the distribution of shipments across ELs (because prices vary with lamp efficacy).

Since the majority of CFLKs are sold with ceiling fans, DOE modeled CFLK shipments based on ceiling fan shipments. DOE modeled ceiling fan shipments and the growth of ceiling fan shipments using replacements shipments of failed ceiling fan units, new construction starts as projected by *AEO 2015,* and the number of additions

to existing buildings due to expanding demand throughout the analysis period. DOE then determined that 88 percent of ceiling fan shipments included a CFLK, which was used as the basis for CFLKs shipped in this analysis.

In the standards case, the change in the number of shipments is driven by changes in average CFLK price as a result of the standard. The lifetime of CFLKs is estimated to be the same as the lifetime of a ceiling fan in this analysis, and is not projected to impact the shipments of CFLKs. For a complete description of the shipments, see the shipments analysis discussion in section IV.G of this NOPR.

d. Markup Scenarios

As discussed in the previous manufacturer production costs section, the MPCs for CFLKs are the manufacturers' costs for those units. These costs include materials, labor, depreciation, and overhead, which are collectively referred to as the cost of goods sold (COGS). The MSP is the price received by CFLK manufacturers from their consumers, typically a distributor, regardless of the downstream distribution channel through which the CFLKs are ultimately sold. The MSP is not the cost the end user pays for CFLKs because there are typically multiple sales along the distribution chain and various markups applied to each sale. The MSP equals the MPC multiplied by the manufacturer markup. The manufacturer markup covers all the CFLK manufacturer's non-production costs (*i.e.,* selling, general and administrative expenses [SG&A], research and development [R&D], interest) as well as profit. Total industry revenue for CFLK manufacturers equals the MSPs at each EL multiplied by the number of shipments at that EL.

Modifying these manufacturer markups in the standards case yields a different set of impacts on CFLK manufacturers than in the no-standards case. For the MIA, DOE modeled two standards-case markup scenarios for CFLKs to represent the uncertainty regarding the potential impacts on prices and profitability for CFLK manufacturers following the implementation of amended energy conservation standards. The two scenarios are: (1) A preservation of gross margin, or flat, markup scenario; and (2) a two-tiered markup scenario. Each scenario leads to different manufacturer markup values, which, when applied to the inputted MPCs, result in varying revenue and cash-flow impacts on CFLK manufacturers.

The preservation of gross margin markup scenario assumes that the COGS for each product is marked up by a preservation of gross margin percentage to cover SG&A expenses, R&D expenses, interest expenses, and profit. This allows manufacturers to preserve the same gross margin percentage in the standards case as in the no-standards case. This markup scenario represents the upper bound of the CFLK industry's profitability in the standards case because CFLK manufacturers are able to fully pass additional costs due to standards to their consumers.

To derive the preservation of gross margin markup percentages for CFLKs, DOE examined the SEC 10-Ks of all publicly traded CFLK manufacturers to estimate the industry average gross margin percentage. Manufacturers were then asked to verify the industry gross margin percentage derived from SEC 10-Ks during manufacturer interviews.

DOE also modeled a two-tiered markup scenario, which reflects the industry's high and low efficacy product pricing structure. DOE modeled the two-tiered markup scenario because multiple manufacturers stated in interviews that they offer multiple tiers of product lines that are differentiated, in part, by efficacy level. The higher efficacy tiers typically earn premiums (for the manufacturer) over the baseline efficacy tier. Several manufacturers suggested that amended standards would lead to a reduction in premium markups and reduce the profitability of higher efficacy products. During the MIA interviews, manufacturers provided information on the range of typical ELs in those tiers and the change in profitability at each level. DOE used this information to estimate markups for CFLKs under a two-tiered pricing strategy in the no-standards 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. Discussion of Comments

Interested parties commented on the assumptions and results of the preliminary analysis. Hunter Fans stated that because CFLK manufacturers are not lamp manufacturers, if the standard requires a more efficacious LED lamp than the lamp manufacturers produce for CFLKs, the fan manufacturers would have to stop producing CFLKs. (Hunter Fans, Public Meeting Transcript, No. 82 at pp. 208–209) Westinghouse agreed, emphasizing that CFLK product development trails the development of applicable lamps. If the standard is set beyond the efficacy of commercially available lamps, CFLK manufacturers would be forced to wait, and choose between significantly redesigning existing products and exiting the market. (Westinghouse, Public Meeting Transcript, No. 82 at pp. 141–142) Westinghouse also noted that it becomes somewhat burdensome for fan manufacturers to lead the efficacy on lamps instead of lamps manufacturers as a result of a lamps rulemaking such as the ongoing GSL energy conservation standards rulemaking. (Westinghouse, Public Meeting Transcript, No. 82 at p. 192).

DOE understands that most CFLK manufacturers do not manufacture lamps but rather purchase lamps from another supplier or manufacturer. DOE has determined that the proposed TSL can be met with replacement lamps currently available on the market. See section V.C of this NOPR for more information on the selection of the proposed TSL.

4. Manufacturer Interviews

DOE conducted additional interviews with manufacturers following the preliminary analysis as part of the NOPR analysis. In these interviews, DOE asked manufacturers to describe their major concerns with this CFLK rulemaking. Manufacturers identified two major areas of concern: (1) Duplicative regulation and (2) shift to air conditioning.

a. Duplicative Regulation

Some manufacturers commented that a separate regulation specifically for CFLKs was unnecessary, as most lamps placed in CFLKs would be covered by other lighting energy conservation standards, such as the ongoing GSLs rulemaking. 78 FR 73737 (December 9, 2013). These manufacturers claimed that there would not be significant additional energy savings from separate CFLK standards.

b. Shift to Air Conditioning

Manufacturers were also concerned about a potential technology shift in the CFLK market as a result of energy conservation standards. Manufacturers stated that CFLK standards may require that more efficacious lamps be used in CFLKs, which could significantly increase the price of the overall ceiling fan. Manufacturers pointed out that this could cause consumers to choose air conditioning systems rather than ceiling fans. These manufacturers claimed that this could result in more energy use, since ceiling fans could be more efficient at cooling rooms than air conditioners.

*K. Emissions Analysis*

In the emissions analysis, DOE estimated the change in power sector

emissions of carbon dioxide ($CO_2$), nitrogen oxides ($NO_X$), sulfur dioxide ($SO_2$), and mercury (Hg) from potential energy conservation standards for CFLKs. In addition, DOE estimated emissions impacts in production activities (extracting, processing, and transporting fuels) that provide the energy inputs to power plants. These are referred to as ''upstream'' emissions. Together, these emissions account for the FFC. In accordance with DOE's FFC Statement of Policy (76 FR 51281 (August 18, 2011), as amended at 77 FR 49701 (August 17, 2012)), the FFC analysis includes impacts on emissions of methane ($CH_4$) and nitrous oxide ($N_2O$), both of which are recognized as greenhouse gases.

DOE primarily conducted the emissions analysis using emissions factors for $CO_2$ and 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.[58] 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 ($CO_2$eq). Gases are converted to $CO_2$eq by multiplying each ton of gas by the gas' global warming potential (GWP) over a 100-year time horizon. Based on the Fifth Assessment Report of the Intergovernmental Panel on Climate Change,[59] DOE used GWP values of 28 for $CH_4$ and 265 for $N_2O$.

The *AEO 2014* projections incorporate the projected impacts of existing air quality regulations on emissions. *AEO 2014* generally represents current legislation and environmental regulations, including recent government actions, for which implementing regulations were available as of October 31, 2013. DOE's estimation of impacts accounts for the presence of the emissions control programs discussed in the following paragraphs.

$SO_2$ 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). CAIR created an allowance-based trading program that operates along with the Title IV program. In 2008, CAIR was remanded to EPA by the U.S. Court of Appeals for the District of Columbia Circuit, but it remained in effect.[60] In 2011, EPA issued a replacement for CAIR, the Cross-State Air Pollution Rule (CSAPR). 76 FR 48208 (August 8, 2011). On August 21, 2012, the DC Circuit issued a decision to vacate CSAPR,[61] and the court ordered EPA to continue administering CAIR. 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.[62] On October 23, 2014, the DC Circuit lifted the stay of CSAPR.[63] Pursuant to this action, CSAPR went into effect (and CAIR ceased to be in effect) as of January 1, 2015.

Because *AEO 2014* was prepared prior to the Supreme Court's opinion, it assumed that CAIR remains a binding regulation through 2040. Thus, DOE's analysis used emissions factors that assume that CAIR, not CSAPR, is the regulation in force. However, the difference between CAIR and CSAPR is not relevant for the purpose of DOE's analysis of emissions impacts from energy conservation standards.

The attainment of emissions caps is typically flexible among EGUs and is enforced through the use of emissions allowances and tradable permits. Under existing EPA regulations, any excess $SO_2$ emissions allowances resulting from the lower electricity demand caused by the adoption of an energy conservation standard could be used to permit offsetting increases in $SO_2$ emissions by any regulated EGU. In past rulemakings, DOE recognized that there was uncertainty about the effects of energy conservation standards on $SO_2$ emissions covered by the existing cap-and-trade system, but it concluded that negligible reductions in power sector $SO_2$ emissions would occur as a result of standards.

Beginning in 2016, however, $SO_2$ emissions will fall as a result of the Mercury and Air Toxics Standards (MATS) for power plants. 77 FR 9304 (Feb. 16, 2012). In the 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 unlikely that excess $SO_2$ emissions allowances resulting from the lower electricity demand would be needed or used to permit offsetting increases in $SO_2$ emissions by any regulated EGU. Therefore, DOE believes that energy conservation standards will generally reduce $SO_2$ emissions in 2016 and beyond.

CAIR established a cap on $NO_X$ emissions in 28 eastern states and DC.[64] Energy conservation standards are expected to have little effect on $NO_X$ emissions in those states covered by CAIR because excess $NO_X$ emissions allowances resulting from the lower electricity demand could be used to permit offsetting increases in $NO_X$ emissions. However, standards would be expected to reduce $NO_X$ emissions in the states not affected by the caps, so DOE estimated $NO_X$ emissions reductions from the standards considered in this NOPR for these states.

[58] See *http://www.epa.gov/climateleadership/inventory/ghg-emissions.html.*

[59] IPCC, 2013: *Climate Change 2013: The Physical Science Basis. Contribution of Working Group I to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change* [Stocker, T.F., D. Qin, G.-K. Plattner, M. Tignor, S.K. Allen, J. Boschung, A. Nauels, Y. Xia, V. Bex and P.M. Midgley (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA. Chapter 8.

[60] 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).

[61] See *EME Homer City Generation, LP* v. *EPA,* 696 F.3d 7, 38 (D.C. Cir. 2012), *cert. granted,* 81 U.S.L.W. 3567, 81 U.S.L.W. 3696, 81 U.S.L.W. 3702 (U.S. June 24, 2013) (No. 12–1182).

[62] *See EPA* v. *EME Homer City Generation,* 134 S.Ct. 1584, 1610 (U.S. 2014). 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.

[63] *See Georgia* v. *EPA,* Order *(DC. Cir. filed October 23, 2014)* (*No. 11–1302),*

[64] 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 $NO_X$ emissions is slight.

The MATS limit mercury emissions from power plants, but they do not include emissions caps and, as such, DOE's energy conservation standards would likely reduce Hg emissions. DOE estimated mercury emissions reduction using emissions factors based on *AEO 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. To make this calculation analogous to the calculation of the NPV of consumer benefit, DOE considered the reduced emissions expected to result over the lifetime of products 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 NOPR.

For this NOPR, DOE relied on a set of values for the SCC that was developed by a Federal interagency process. The basis for these values is summarized in the next section, and a more detailed description of the methodologies used is provided in appendices 14A and 14B 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 $CO_2$. A domestic SCC value is meant to reflect the value of damages in the United States resulting from a unit change in $CO_2$ emissions, while a global SCC value is meant to reflect the value of damages worldwide.

Under section 1(b) 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 the many uncertainties involved and with a clear understanding that they should be updated over time to reflect increasing knowledge of the science and economics of climate impacts.

As part of the interagency process that developed these SCC estimates, technical experts from numerous agencies met on a regular basis to consider public comments, explore the technical literature in relevant fields, and discuss key model inputs and assumptions. The main objective of this process was to develop a range of SCC values using a defensible set of input assumptions grounded in the existing scientific and economic literatures. In this way, key uncertainties and model differences transparently and consistently inform the range of SCC estimates used in the rulemaking process.

a. Monetizing Carbon Dioxide Emissions

When attempting to assess the incremental economic impacts of $CO_2$ emissions, the analyst faces a number of challenges. A report from the National Research Council [65] points out that any assessment will suffer from uncertainty, speculation, and lack of information about: (1) Future emissions of GHGs; (2) the effects of past and future emissions on the climate system; (3) the impact of changes in climate on the physical and biological environment; and (4) the translation of these environmental impacts into economic damages. As a result, any effort to quantify and monetize the harms associated with climate change will raise questions of science, economics, and ethics and should be viewed as provisional.

Despite the limits of both quantification and monetization, SCC estimates can be useful in estimating the social benefits of reducing $CO_2$ emissions. The agency can estimate the benefits from reduced (or costs from increased) emissions in any future year by multiplying the change in emissions in that year by the SCC values appropriate for that year. The NPV 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.

The interagency process is committed to updating these estimates as the science and economic understanding of climate change and its impacts on society improves over time. In the meantime, the interagency group will continue to explore the issues raised by this analysis and consider public comments as part of the ongoing interagency process.

b. Development of Social Cost of Carbon Values

In 2009, an interagency process was initiated to offer a preliminary assessment of how best to quantify the benefits from reducing carbon dioxide emissions. To ensure consistency in how benefits are evaluated across Federal agencies, the Administration sought to develop a transparent and defensible method, specifically designed for the rulemaking process, to quantify avoided climate change damages from reduced $CO_2$ emissions. The interagency group did not undertake any original analysis. Instead, it combined SCC estimates from the existing literature to use as interim values until a more comprehensive analysis could be conducted. The outcome of the preliminary assessment by the interagency group was a set of five interim values: global SCC estimates for 2007 (in 2006$) of $55, $33, $19, $10, and $5 per metric ton of $CO_2$. These interim values represented the first sustained interagency effort within the U.S. government to develop an SCC for use in regulatory analysis. The results of this preliminary effort were presented in several proposed and final rules.

c. Current Approach and Key Assumptions

After the release of the interim values, the interagency group reconvened on a regular basis to generate improved SCC estimates. Specially, the group considered public comments and further explored the technical literature in relevant fields. The interagency group relied on three integrated assessment models commonly used to estimate the SCC: the FUND, DICE, and PAGE models. These models are frequently cited in the peer-reviewed literature and were used in the last assessment of the Intergovernmental Panel on Climate Change (IPCC). Each model was given equal weight in the SCC values that were developed.

Each model takes a slightly different approach to model how changes in emissions result in changes in economic damages. A key objective of the interagency process was to enable a consistent exploration of the three models, while respecting the different approaches to quantifying damages taken by the key modelers in the field. An extensive review of the literature was conducted to select three sets of input parameters for these models:

[65] National Research Council, *Hidden Costs of Energy: Unpriced Consequences of Energy Production and Use,* National Academies Press: Washington, DC (2009).

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 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, was 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 7 percent to 23 percent should be used to adjust the global SCC to calculate domestic effects,[66] although preference is given to consideration of the global benefits of reducing $CO_2$ emissions. Table IV.11 presents the values in the 2010 interagency group report,[67] which is reproduced in appendix 14A of the NOPR TSD.

TABLE IV.11—ANNUAL SCC VALUES FROM 2010 INTERAGENCY REPORT, 2010–2050

[2007$ per metric ton $CO_2$]

| Year | Discount rate | | | |
|---|---|---|---|---|
| | 5% | 3% | 2.5% | 3% |
| | Average | Average | Average | 95th percentile |
| 2010 | 4.7 | 21.4 | 35.1 | 64.9 |
| 2015 | 5.7 | 23.8 | 38.4 | 72.8 |
| 2020 | 6.8 | 26.3 | 41.7 | 80.7 |
| 2025 | 8.2 | 29.6 | 45.9 | 90.4 |
| 2030 | 9.7 | 32.8 | 50.0 | 100.0 |
| 2035 | 11.2 | 36.0 | 54.2 | 109.7 |
| 2040 | 12.7 | 39.2 | 58.4 | 119.3 |
| 2045 | 14.2 | 42.1 | 61.7 | 127.8 |
| 2050 | 15.7 | 44.9 | 65.0 | 136.2 |

The SCC values used for this notice were generated using the most recent versions of the three integrated assessment models that have been published in the peer-reviewed literature.[68] Table V.12 shows the updated sets of SCC estimates from the 2013 interagency update in 5-year increments from 2010 to 2050. The full set of annual SCC estimates between 2010 and 2050 is reported in appendix 14B of the NOPR TSD. The central value that emerges is the average SCC across models at the 3-percent discount rate. However, for purposes of capturing the uncertainties involved in regulatory impact analysis, the interagency group emphasizes the importance of including all four sets of SCC values.

TABLE IV.12—ANNUAL SCC VALUES FROM 2013 INTERAGENCY REPORT, 2010–2050

[2007$ per metric ton $CO_2$]

| Year | Discount rate | | | |
|---|---|---|---|---|
| | 5% | 3% | 2.5% | 3% |
| | Average | Average | Average | 95th percentile |
| 2010 | 11 | 32 | 51 | 89 |
| 2015 | 11 | 37 | 57 | 109 |
| 2020 | 12 | 43 | 64 | 128 |
| 2025 | 14 | 47 | 69 | 143 |
| 2030 | 16 | 52 | 75 | 159 |
| 2035 | 19 | 56 | 80 | 175 |
| 2040 | 21 | 61 | 86 | 191 |
| 2045 | 24 | 66 | 92 | 206 |
| 2050 | 26 | 71 | 97 | 220 |

It is important to recognize that a number of key uncertainties remain, and that current SCC estimates should be treated as provisional and revisable because they will evolve with improved scientific and economic understanding.

[66] 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.

[67] *Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866.* Interagency Working Group on Social Cost of Carbon, U.S. Government (February 2010) (Available at: *www.whitehouse.gov/sites/default/files/omb/inforeg/for-agencies/Social-Cost-of-Carbon-for-RIA.pdf*).

[68] *Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866,* Interagency Working Group on Social Cost of Carbon, U.S. 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*).

The interagency group also recognizes that the existing models are imperfect and incomplete. The National Research Council report mentioned previously points out that there is tension between the goal of producing quantified estimates of the economic damages from an incremental ton of carbon and the limits of existing efforts to model these effects. There are a number of 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 2014$ using the implicit price deflator for gross domestic product (GDP) from the Bureau of Economic Analysis. For each of the four sets of SCC cases specified, the values for emissions in 2015 were $12.2, $41.2, $63.4, and $121 per metric ton avoided (values expressed in 2014$). DOE derived values after 2050 using the relevant growth rates for the 2040–2050 period in the interagency update.

DOE multiplied the $CO_2$ emissions reduction estimated for each year by the SCC value for that year in each of the four cases. To calculate a present value of the stream of monetary values, DOE discounted the values in each of the four cases using the specific discount rate that had been used to obtain the SCC values in each case.

2. Social Cost of Other Air Pollutants

As noted previously, DOE has estimated how the considered energy conservation standards would reduce site $NO_X$ emissions nationwide and decrease 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 this NOPR based on estimates developed by EPA for 2016, 2020, 2025, and 2030.[69] The values reflect estimated mortality and morbidity per ton of directly emitted $NO_X$ reduced by electricity generating units. EPA developed estimates using a 3-percent and a 7-percent discount rate to discount future emissions-related costs. The values in 2016 are $5,562/ton using a 3-percent discount rate and $4,920/ton using a 7-percent discount rate (2014$). DOE extrapolated values after 2030 using the average annual rate of growth in 2016–2030. DOE multiplied the emissions reduction (tons) in each year by the associated $/ton values, and then discounted each series using discount rates of 3 percent and 7 percent as appropriate.

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 electric power industry that would result from the adoption of new or amended energy conservation standards. The utility impact analysis estimates the changes in installed electrical capacity and generation that would result for each TSL. The analysis is based on published output from NEMS, which is updated annually 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 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*

DOE considers employment impacts in the domestic economy as one factor in selecting a proposed standard. Employment impacts from new or amended energy conservation standards include both direct and indirect impacts. Direct employment impacts are any changes in the number of employees of manufacturers of the products subject to standards, their suppliers, and related service firms. The MIA addresses those impacts (see section V.B.2.b). 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 net jobs created or eliminated in the national economy, other than in the manufacturing sector being regulated, caused by: (1) Reduced spending by end users on energy; (2) reduced spending on new energy supply by the utility industry; (3) increased consumer spending on new products to which the new standards apply; 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).[70] 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.[71] 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 energy conservation 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 due to shifts in economic activity resulting from energy conservation standards.

DOE estimated indirect national employment impacts for the standard levels considered in this NOPR using an input/output model of the U.S. economy called Impact of Sector Energy Technologies version 3.1.1 (ImSET).[72]

[69] *http://www2.epa.gov/benmap/sector-based-pm25-benefit-ton-estimates.*

[70] Data on industry employment, hours, labor compensation, value of production, and the implicit price deflator for output for these industries are available upon request by calling the Division of Industry Productivity Studies (202–691–5618) or by sending a request by email to *dipsweb@bls.gov.*

[71] See Bureau of Economic Analysis, *Regional Multipliers: A User Handbook for the Regional Input-Output Modeling System (RIMS II),* U.S. Department of Commerce (1992).

[72] J. M. Roop, M. J. Scott, and R. W. Schultz, *ImSET 3.1: Impact of Sector Energy Technologies,* PNNL–18412, Pacific Northwest National

Continued

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 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 this rule. Therefore, DOE generated results for near-term timeframes, where these uncertainties are reduced. For more details on the employment impact analysis, see chapter 16 of the NOPR TSD.

## V. Analytical Results

The following section addresses the results from DOE's analyses with respect to potential amended energy conservation standards for CFLKs. It addresses the TSLs examined by DOE and the projected impacts of each of these levels if adopted as energy conservation standards for CFLKs. Additional details regarding DOE's analyses are contained in the NOPR TSD supporting this notice.

### *A. Trial Standard Levels*

DOE analyzed the benefits and burdens of four TSLs for CFLKs. These TSLs were developed using the ELs for the product class analyzed by DOE. DOE presents the results for those TSLs in this rule. The results for all ELs that DOE analyzed are in the NOPR TSD. Table V.1 presents the TSLs and the corresponding ELs for CFLKs. TSL 4 represents the maximum technologically feasible (''max-tech'') improvements in energy efficiency for the CFLK product class.

TABLE V.1—CFLK TRIAL STANDARD LEVELS

| All CFLKs efficacy level | Trial standard level |
|---|---|
| 1 | 1 |
| 2 | 2 |
| 3 | 3 |
| 4 | 4 |

### *B. Economic Justification and Energy Savings*

1. Economic Impacts on Individual Consumers

DOE analyzed the economic impacts on CFLK consumers by looking at the effects potential amended standards at each TSL would have on the LCC and PBP. DOE also examined the impacts of potential standards on consumer subgroups. These analyses are discussed below.

a. Life-Cycle Cost and Payback Period

In general, higher-efficiency products affect consumers in two ways: (1) Purchase price increases, and (2) annual operating costs decrease. In the case of CFLKs, however, DOE projects that higher-efficiency CFLKs will have a lower purchase price than less efficient products. 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 use, energy prices, energy price trends, repair costs, and maintenance costs). The LCC calculation also uses product lifetime and a discount rate. Chapter 8 of the NOPR TSD provides detailed information on the LCC and PBP analyses.

Table V.2 and Table V.3 show the LCC and PBP results for the TSL efficacy levels considered for the All CFLKs product class. In the first table, the simple payback is measured relative to the least efficient product on the market. In the second table, the LCC savings are measured relative to the no-standards efficacy distribution in the compliance year (see section IV.F.10 of this notice).

TABLE V.2—AVERAGE LCC AND PBP RESULTS BY EFFICACY LEVEL FOR ALL CFLKS

| EL | Average costs 2014$ | | | | Simple payback years | Average lifetime years |
|---|---|---|---|---|---|---|
| | Installed cost | First year's operating cost | Lifetime operating cost | LCC | | |
| **Residential Sector** | | | | | | |
| Sub* | 2.8 | 17.4 | 70.3 | 71.3 | ..... | 13.8 |
| 0 | 5.5 | 3.6 | 40.4 | 45.6 | 0.2 | 13.8 |
| 1 | 8.8 | 3.4 | 40.0 | 48.4 | 0.4 | 13.8 |
| 2 | 19.4 | 2.9 | 33.4 | 51.8 | 1.2 | 13.8 |
| 3 | 10.5 | 2.0 | 23.4 | 32.8 | 0.5 | 13.8 |
| 4 | 9.3 | 1.9 | 22.0 | 30.3 | 0.4 | 13.8 |
| **Commercial Sector** | | | | | | |
| Sub* | 2.8 | 76.9 | 194.5 | 196.7 | ..... | 13.8 |
| 0 | 5.5 | 15.8 | 136.9 | 142.9 | 0.0 | 13.8 |
| 1 | 8.8 | 14.9 | 157.2 | 167.3 | 0.1 | 13.8 |
| 2 | 19.4 | 12.8 | 140.8 | 160.6 | 0.3 | 13.8 |
| 3 | 10.5 | 9.0 | 107.7 | 117.8 | 0.1 | 13.8 |
| 4 | 9.3 | 8.5 | 104.9 | 113.8 | 0.1 | 13.8 |

* ''Sub'' corresponds to the sub-baseline (*i.e.,* lamps which have efficacies below the baseline set for the new product class structure proposed in this rulemaking).

Laboratory (2009) (Available at: *www.pnl.gov/main/publications/external/technical_reports/PNNL–18412.pdf*).

**Note:** The results for each EL are calculated assuming that all consumers use products at that efficacy level. The PBP is measured relative to the least efficient product currently available on the market.

TABLE V.3—AVERAGE LCC SAVINGS RELATIVE TO THE NO-STANDARDS-CASE EFFICACY DISTRIBUTION FOR ALL CFLKS

| TSL | Life-cycle cost savings | |
|---|---|---|
| | % of consumers that experience | Average savings * |
| | Net cost | 2014$ |
| **Residential Sector** | | |
| | 0.6 | 23.0 |
| 1 | 0.6 | 23.0 |
| 2 | 9.7 | 24.3 |
| 3 | 7.6 | 30.9 |
| 4 | 7.6 | 30.9 |
| **Commercial Sector** | | |
| | 10.5 | 28.7 |
| 1 | 10.5 | 28.7 |
| 2 | 1.9 | 53.4 |
| 3 | 0.3 | 67.7 |
| 4 | 0.3 | 67.8 |

**Note:** The results for each TSL represent the impact of a standard set at that TSL, based on the no-standards-case and standards-case efficacy distributions calculated in the shipments analysis. The calculation excludes consumers with zero LCC savings (no impact).

b. Consumer Subgroup Analysis

In the consumer subgroup analysis, DOE estimated the impact of the considered TSLs on low-income households and small businesses. Table V.4 and Table V.5 compare the average LCC savings for each TSL and the simple PBP at each efficacy level for the two consumer subgroups to the average LCC savings and the simple PBP for the entire sample. In most cases, the average LCC savings and the simple PBP for low-income households and small businesses are not substantially different from the average LCC savings and simple PBP for all households and all buildings, respectively. Chapter 11 of the NOPR TSD presents the complete LCC and PBP results for the subgroups.

TABLE V.4—COMPARISON OF LCC SAVINGS AND PBP FOR LOW-INCOME HOUSEHOLDS AND ALL HOUSEHOLDS

| TSL | Average LCC savings (2014$) | | Simple payback period (years) | |
|---|---|---|---|---|
| | All | Low-income | All | Low-income |
| | 23.0 | 23.0 | 0.2 | 0.2 |
| 1 | 23.0 | 23.0 | 0.4 | 0.4 |
| 2 | 24.3 | 24.1 | 1.2 | 1.2 |
| 3 | 30.9 | 30.6 | 0.5 | 0.5 |
| 4 | 30.9 | 30.7 | 0.4 | 0.4 |

TABLE V.5—COMPARISON OF LCC SAVINGS AND PBP FOR SMALL BUSINESSES AND ALL BUILDINGS

| TSL | Average LCC savings (2014$) | | Simple payback period (years) | |
|---|---|---|---|---|
| | All | Small businesses | All | Small businesses |
| | 28.7 | 31.7 | 0.0 | 0.0 |
| 1 | 28.7 | 31.7 | 0.1 | 0.1 |
| 2 | 53.4 | 51.9 | 0.3 | 0.3 |
| 3 | 67.7 | 65.4 | 0.1 | 0.1 |
| 4 | 67.8 | 65.5 | 0.1 | 0.1 |

c. Rebuttable-Presumption Payback

As discussed in section IV.F.11, 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's energy savings resulting from the standard. DOE expresses this criterion as having a simple payback period of less than three years. In calculating a rebuttable-presumption payback period for each of the considered TSLs, DOE based the energy use calculation on DOE test

procedures for CFLKs,[73] as required by EPCA. Table V.6 shows the results of this analysis for the considered TSLs.

TABLE V.6—REBUTTABLE-PRESUMPTION PAYBACK PERIOD RESULTS

| TSL | Residential sector | Commercial sector |
|---|---|---|
| | 0.2 | 0.4 |
| 1 | 0.4 | 0.1 |
| 2 | 1.1 | 0.2 |
| 3 | 0.5 | 0.1 |
| 4 | 0.4 | 0.1 |

While DOE examined the rebuttable-presumption criterion, it considered whether the standard levels considered for this rule are economically justified through a more detailed analysis of the economic impacts of those levels, pursuant to 42 U.S.C. 6295(o)(2)(B)(i), that considers the full range of impacts to the consumer, manufacturer, nation, and environment. The results of that analysis serve as the basis for DOE to evaluate the economic justification for a potential standard level, thereby supporting or rebutting the results of any preliminary determination of economic justification.

2. Economic Impacts on Manufacturers

DOE performed an MIA to estimate the impact of amended energy conservation standards on manufacturers of CFLKs. The section below describes the expected impacts on manufacturers at each TSL. Chapter 12 of the NOPR TSD explains the analysis in further detail.

a. Industry Cash-Flow Analysis Results

Table V.7 and Table V.8 present the financial impacts (represented by changes in INPV) of proposed standards on CFLK manufacturers as well as the conversion costs that DOE estimates CFLK manufacturers would incur at each TSL. To evaluate the range of cash-flow impacts on the CFLK industry, DOE modeled two markup scenarios that correspond to the range of anticipated market responses to amended standards. Each scenario results in a unique set of cash flows and corresponding industry values at each TSL.

In the following discussion, the INPV results refer to the difference in industry value between the no-standards case and the standards case that result from the sum of discounted cash flows from the base year (2015) through the end of the analysis period (2048). The results also discuss the difference in cash flows between the no-standards case and the standards case in the year before the compliance date for proposed standards. This difference in cash flow represents the size of the required conversion costs relative to the cash flow generated by the CFLK industry in the absence of amended energy conservation standards.

To assess the upper (less severe) end of the range of potential impacts on CFLK manufacturers, DOE modeled a preservation of gross margin, or flat, markup scenario. This scenario assumes that in the standards case, manufacturers would be able to pass along all the higher production costs required for more efficacious products to their consumers. Specifically, the industry would be able to maintain its average no-standards-case gross margin (as a percentage of revenue) despite the higher product costs in the standards-case. In general, the larger the product price increases, the less likely manufacturers are to achieve the cash flow from operations calculated in this scenario because it is less likely that manufacturers would be able to fully mark up these larger cost increases.

To assess the lower (more severe) end of the range of potential impacts on the CFLK manufacturers, DOE modeled a two-tiered markup scenario. This scenario represents the lower end of the range of potential impacts on manufacturers because manufacturers reduce profit margins on high efficacy products as these products become the baseline, higher volume product.

TABLE V.7—MANUFACTURER IMPACT ANALYSIS FOR CEILING FAN LIGHT KITS—PRESERVATION OF GROSS MARGIN MARKUP SCENARIO

| | Units | No-standards case | Trial standard levels | | | |
|---|---|---|---|---|---|---|
| | | | 1 | 2 | 3 | 4 |
| INPV | *(2014$ millions)* | 94.8 | 98.9 | 96.8 | 92.1 | 91.9 |
| Change in INPV | *(2014$ millions)* | | 4.1 | 2.1 | (2.6) | (2.8) |
| | *(%)* | | 4.3 | 2.2 | (2.8) | (3.0) |
| Product Conversion Costs | *(2014$ millions)* | | | 0.6 | 0.8 | 0.8 |
| Capital Conversion Costs | *(2014$ millions)* | | | 1.4 | 1.7 | 1.8 |
| Total Conversion Costs | *(2014$ millions)* | | | 1.9 | 2.5 | 2.6 |

[73] Specifically, DOE used the CFLK test procedures as proposed in the CFLK TP NOPR. 79 FR 64688 (Oct. 31, 2014).

TABLE V.8—MANUFACTURER IMPACT ANALYSIS FOR CEILING FAN LIGHT KITS—TWO-TIERED MARKUP SCENARIO

| | Units | No-standards case | Trial standard level | | | |
|---|---|---|---|---|---|---|
| | | | 1 | 2 | 3 | 4 |
| INPV | *(2014$ millions)* | 94.8 | 97.9 | 86.8 | 74.9 | 74.7 |
| Change in INPV | *(2014$ millions)* | | 3.1 | (7.9) | (19.9) | (20.0) |
| | *(%)* | | 3.3 | (8.4) | (21.0) | (21.1) |
| Product Conversion Costs | *(2014$ millions)* | | | 0.6 | 0.8 | 0.8 |
| Capital Conversion Costs | *(2014$ millions)* | | | 1.4 | 1.7 | 1.8 |
| Total Conversion Costs | *(2014$ millions)* | | | 1.9 | 2.5 | 2.6 |

TSL 1 sets the efficacy level at EL 1 for all CFLKs. At TSL 1, DOE estimates impacts on INPV range from $3.1 million to $4.1 million, or a change in INPV of 3.3 percent to 4.3 percent. At TSL 1, industry free cash flow (operating cash flow minus capital expenditures) is expected to remain constant at $5.0 million, which is the same as the no-standards-case value in 2018, the year leading up to the standard.

Percentage impacts on INPV are slightly positive at TSL 1. DOE anticipates that most manufacturers would not lose any of their INPV at this TSL. DOE estimates that 100 percent of shipments will meet the efficacy standards at TSL 1 in 2019, the expected compliance year of the standard. Since none of the shipments are required to be converted at this efficacy level, DOE projects that there will be no conversion costs at this TSL.

At TSL 1, the shipment-weighted average MPC decreases by 9 percent relative to the no-standards-case MPC in 2019, the expected year of compliance. Manufacturers are able to maintain their manufacturer markups in both the preservation of gross margin and the two-tiered markup scenarios, resulting in slightly positive INPV impacts at TSL 1.

TSL 2 sets the efficacy level at EL 2 for all CFLKs. At TSL 2, DOE estimates impacts on INPV range from −$7.9 million to $2.1 million, or a change in INPV of −8.4 percent to 2.2 percent. At this TSL, industry free cash flow is estimated to decrease by approximately 15 percent to $4.2 million, compared to the no-standards-case value of $5.0 million in 2018, the year leading up to the proposed standard.

Percentage impacts on INPV range from slightly negative to slightly positive at TSL 2. DOE anticipates that most manufacturers would not lose a significant portion of their INPV at TSL 2 because the ELs at this TSL can be met by purchasing replacement lamps that are currently available on the market. DOE projects that in 2019, 40 percent of all CFLK shipments would meet or exceed the efficacy level required at TSL 2.

For each of TSLs 2–4, DOE expects that most manufacturers will not incur any conversion costs in the lamp replacement scenario. In addition, as ELs rise with each TSL, product conversion costs will increase incrementally in proportion with the increasing amount of R&D needed to design more efficacious CFLKs in the light kit replacement scenario. Manufacturers will also incur capital conversion costs driven by retooling costs associated with producing fixtures using LEDs.

For TSL 2, DOE expects that product conversion costs will rise from zero at TSL 1 to $0.6 million in the light kit replacement scenario. Manufacturers will incur product conversion costs, primarily driven by increased R&D efforts needed to redesign CFLKs to use LED lamps that meet the ELs, at TSL 2. Capital conversion costs will increase from zero at TSL 1 to $1.4 million at TSL 2 in the light kit replacement scenario.

At TSL 2, under the preservation of gross margin markup scenario, the shipment-weighted average MPC increases by 27 percent relative to the no-standards-case MPC in 2019. In this scenario, INPV impacts are slightly negative because the higher production costs are outweighed by the $1.9 million in conversion costs. Under the two-tiered markup scenario, the 27 percent MPC increase is slightly outweighed by a lower average markup of 1.35 (compared to the preservation of gross margin markup of 1.37) and $1.9 million in conversion costs, resulting in slightly negative impacts at TSL 2.

TSL 3 sets the efficacy level at EL 3 for all CFLKs. At TSL 3, DOE estimates impacts on INPV range from −$19.9 million to −$2.6 million, or a change in INPV of −21.0 percent to −2.8 percent. At this level, industry free cash flow is estimated to decrease by approximately 20 percent to $4.0 million, compared to the no-standards-case value of $5.0 million in 2018.

Percentage impacts on INPV range from moderately negative to slightly negative at TSL 3. TSL 3 proposes the first efficacy level that will require manufacturers to use LED lamps, as CFLs are currently not capable of meeting the ELs required at TSL 3. DOE projects that in 2019, 17 percent of all CFLKs shipments would meet or exceed the ELs at TSL 3.

At TSL 3, DOE estimates manufacturers will incur product conversion costs of $0.8 million in the light kit replacement scenario. Product conversion costs are driven primarily by increased R&D efforts needed to redesign CFLKs to accommodate the more efficacious LEDs. Manufacturers are estimated to incur $1.7 million in capital conversion costs as a result of retooling costs necessary to produce redesigned CFLK fixtures that use LEDs TSL 3.

At TSL 3, under the preservation of gross margin markup scenario, the shipment-weighted average MPC increases by 1 percent relative to the no-standards-case MPC in 2019. In this scenario, INPV impacts are slightly negative because the slightly higher production costs are outweighed by the $2.5 million in conversion costs. Under the two-tiered markup scenario, the 1 percent MPC increase is moderately outweighed by a lower average markup of 1.35 (compared to the preservation of gross margin markup scenario markup of 1.37) and $2.5 million in conversion costs, resulting in moderately negative impacts at TSL 3.

TSL 4 sets the efficacy level at max-tech, EL 4, for all CFLKs. At TSL 4, DOE estimates impacts on INPV to range from −$20.0 million to −$2.8 million, or a change in INPV of −21.1 percent to −3.0 percent. At this level, industry free cash flow is estimated to decrease by approximately 21 percent to $4.0 million, compared to the no-standards-case value of $5.0 million in 2018.

Percentage impacts on INPV are slightly negative to moderately negative at TSL 4. DOE projects that in 2019, 9 percent of all CFLK shipments would meet or exceed the ELs at TSL 4.

DOE expects total conversion costs in the light kit replacement scenario to increase from $2.5 million at TSL 3 to $2.6 million at TSL 4. DOE estimates manufacturers will incur product conversion costs of $0.8 million as they allocate more capital to R&D efforts necessary to redesign CFLKs that meet max-tech ELs. DOE estimates that manufacturers will incur $1.8 million in capital conversion costs due to retooling costs associated with the high number of models that will be redesigned in the light kit replacement scenario at TSL 4.

At TSL 4, under the preservation of gross margin markup scenario, the shipment-weighted average MPC increases by 1 percent relative to the no-standards-case MPC in 2019. In this scenario, the INPV impacts are slightly negative because the slightly higher production costs are outweighed by $2.6 million in conversion costs. Under the two-tiered markup scenario, the 1 percent MPC increase is outweighed by a lower average markup of 1.35 (compared to the preservation of gross margin markup scenario markup of 1.37) and $2.6 million in conversion costs, resulting in moderately negative impacts at TSL 4.

b. Impacts on Employment

DOE determined that there was only one CFLK manufacturer with domestic production of CFLKs, and this manufacturer's sales of ceiling fans packaged with CFLKs represents a very small portion of their overall revenue. During manufacturer interviews, manufacturers stated that the vast majority of manufacturing of the CFLKs they sell is outsourced to original equipment manufacturers located abroad. These original equipment manufacturers produce CFLKs based on designs from domestic CFLK manufacturers. Because of this feedback, DOE did not quantitatively assess any potential impacts on domestic production employment as a result of amended energy conservation standards on CFLKs. DOE seeks comment on the assumption that there is only one CFLK manufacturer with domestic production. Additionally, DOE seeks comment on any potential domestic employment impacts as a result of amended energy conservation standards for CFLKs.

c. Impacts on Manufacturing Capacity

CFLK manufacturers stated that they did not anticipate manufacturing capacity constraints as a result of an amended energy conservation standard. If manufacturers choose to redesign their CFLK fixtures to comply with amended standards, the original equipment manufacturers of CFLKs would be able to make the changes necessary to comply with standards in the estimated three years from the publication of the final rule to the compliance date. Additionally, at the proposed standard, manufacturers have a range of options to comply with standards for a significant portion of the CFLKs by replacing the lamps with existing products that are sold on the market today. DOE does not anticipate any impact on the manufacturing capacity at the proposed amended energy conservation standards in this NOPR. See section V.C.1 for more details on the proposed standard. DOE seeks comment on any potential impact on manufacturing capacity at the efficacy level proposed in this NOPR.

d. Impacts on Subgroups of Manufacturers

Using average cost assumptions to develop an industry cash-flow estimate may not be adequate for assessing differential impacts among manufacturer subgroups. Small manufacturers, niche product manufacturers, and manufacturers exhibiting cost structures substantially different from the industry average could be affected disproportionately. DOE identified only one manufacturer subgroup that would require a separate analysis in the MIA because it is a small business. DOE analyzes the impacts on small businesses in a separate analysis in section VI.B of this NOPR. DOE did not identify any other adversely impacted manufacturer subgroups for CFLKs for this rulemaking based on the results of the industry characterization. DOE seeks comment on any other potential manufacturer subgroups that could be disproportionally impacted by amended energy conservation standards for CFLKs.

e. Cumulative Regulatory Burden

While any one regulation may not impose a significant burden on manufacturers, the combined effects of recent or impending regulations may have serious consequences for some manufacturers, groups of manufacturers, or an entire industry. Assessing the impact of a single regulation may overlook this cumulative regulatory burden. Multiple regulations affecting the same manufacturer can strain profits and lead companies to abandon product lines or markets with lower expected future returns than competing products. For these reasons, DOE conducts a cumulative regulatory burden analysis as part of its rulemakings for CFLKs.

DOE identified a number of requirements, in addition to amended energy conservation standards for CFLKs, that CFLK manufacturers will face for products they manufacture approximately three years prior to and three years after the estimated compliance date of these amended standards. The following section addresses key related concerns that manufacturers raised during interviews regarding cumulative regulatory burden.

Manufacturers raised concerns about existing regulations and certifications separate from DOE's energy conservation standards that CFLK manufacturers must meet. These include California Title 20, which has energy conservation standards identical to DOE's existing CFLK standards, but requires an additional certification, and Interstate Mercury Education and Reduction Clearinghouse (IMERC) labeling requirements, among others.

DOE discusses these and other requirements in chapter 12 of the NOPR TSD, which lists the estimated compliance costs of those requirements when available. In considering the cumulative regulatory burden, DOE evaluates the timing of regulations that impact the same product because the coincident requirements could strain financial resources in the same profit center and consequently impact capacity. DOE identified the upcoming ceiling fan standards rulemaking and the GSLs standards rulemaking, as well as the 45 lm/W standard for GSLs in 2020, as potential sources of additional cumulative regulatory burden on CFLK manufacturers.

DOE has initiated a rulemaking to evaluate the energy conservation standards of ceiling fans by publishing a notices of availability for a framework document (78 FR 16443; Mar. 15, 2013) and preliminary analysis TSD (79 FR 64712; Oct. 31, 2014), hereafter the ''CF standards rulemaking.'' The CF standards rulemaking affects the same set of manufacturers as the proposed amended CFLK standard and has a similar projected compliance date. Due to these similar projected compliance dates, manufacturers could potentially be required to make investments to bring CFLKs and ceiling fans into compliance during the same time period. Additionally, redesigned CFLKs could also require adjustments to ceiling fan redesigns separate from those potentially required by the ceiling fan rule.

DOE has initiated a rulemaking to evaluate the energy conservation standards of GSLs by publishing notices of availability for a framework document (78 FR 73737; Dec. 9, 2013) and preliminary analysis TSD (79 FR 73503; Dec. 11, 2014), hereafter the ''GSL standards rulemaking.'' In

addition, if standards from the GSL standards rulemaking do not produce savings greater than or equal to the savings from a minimum efficacy standard of 45 lm/W, sales of GSLs that do not meet the minimum 45 lm/W standard would be prohibited as of January 1, 2020. (42 U.S.C. 6295(i)(6)(A)(v)) Any potential standards established by the GSL rulemaking are also projected to require compliance in 2020. Potential standards promulgated from the GSL standards rulemaking and/or the enactment of the GSL 45 lm/W provision will impact GSLs available to be packaged with CFLKs. Therefore, regardless of the standards proposed in this rulemaking, CFLK manufacturers will likely need to package more efficacious lamps with CFLKs.

In addition to the proposed amended energy conservation standards on CFLKs, several other existing and pending Federal regulations may apply to other products produced by lamp manufacturers and may subsequently impact CFLK manufacturers. These lighting regulations include the finalized metal halide lamp fixture standards (79 FR 7745 [Feb. 10, 2014]), the finalized general service fluorescent lamp standards (80 FR 4041 [Jan. 26, 2015]), and the ongoing high-impact discharge lamp standards (77 FR 18963 [Feb. 28, 2012]). DOE acknowledges that each regulation can impact a manufacturer's financial operations. Multiple regulations affecting the same manufacturer can strain manufacturers' profit and possibly cause them to exit particular markets. Table V.9 lists the other DOE energy conservation standards that could also affect CFLK manufacturers in the three years leading up to and after the estimated compliance date of amended energy conservation standards for these products.

TABLE V.9—OTHER DOE REGULATIONS POTENTIALLY AFFECTING CFLK MANUFACTURERS

| Regulation | Approximate compliance date | Estimated industry total conversion expenses |
|---|---|---|
| Metal Halide Lamp Fixtures | 2017 | $25 million (2012$).[74] |
| General Service Fluorescent Lamps | 2018 | $26.6 million (203$).[75] |
| HID Lamps | *2018 | N/A.† |
| Ceiling Fans | *2019 | N/A.† |
| General Service Lamps | *2019 | N/A.† |
| Candelabra-Base Incandescent Lamps and Intermediate-Base Incandescent Lamps. | β N/A | N/A.† |
| Other Incandescent Reflector Lamps | β N/A | N/A.† |

* The dates listed are an approximation. The exact dates are pending final DOE action.

† For energy conservation standards for rulemakings awaiting DOE final action, DOE does not have a finalized estimated total industry conversion cost.

β These rulemakings are placed on hold due to the Consolidated and Further Continuing Appropriations Act, 2015 (Public Law 113–235, Dec. 16, 2014).

**Note:** For minimum performance requirements prescribed by the Energy Independence and Security Act of 2007 (EISA 2007), DOE did not estimate total industry conversion costs because an MIA was not completed as part of the final rule codifying these statutorily-prescribed standards.

DOE did not receive any data on other regulatory costs that affect the industry modeled in the cash-flow analysis. To the extent DOE receives specific costs associated with other regulations affecting the CFLK profit centers modeled in the GRIM, DOE will incorporate that information, as appropriate, into its cash-flow analysis. DOE seeks comment on the compliance costs of any other regulations on products that CFLK manufacturers also manufacture, especially if compliance with those regulations is required three years before or after the estimated compliance date of this proposed standard.

3. National Impact Analysis

a. Significance of Energy Savings

To estimate the energy savings attributable to potential standards for CFLKs, DOE compared the energy consumption of those products under the no-standards case to their anticipated energy consumption under each TSL. The savings are measured over the entire lifetime of products purchased in the 30-year period that begins in the year of anticipated compliance with amended standards (2019–2048). Table V.10 presents DOE's projections of the NES for each TSL considered for CFLKs. The savings were calculated using the approach described in section IV.H of this notice.

TABLE V.10—CUMULATIVE NATIONAL ENERGY SAVINGS FOR CFLKS SHIPPED IN 2019–2048

| | Trial standard level (quads) | | | |
|---|---|---|---|---|
| | 1 | 2 | 3 | 4 |
| Primary Energy | 0.0080 | 0.047 | 0.065 | 0.066 |
| FFC Energy | 0.0083 | 0.049 | 0.068 | 0.069 |

[74] Estimated industry conversion expenses were published in the TSD for the February 2014 Metal Halide Lamp Fixtures final rule. 79 FR 7745 The TSD for the 2014 Metal Halide Lamp Fixture final rule can be found at *http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/16*.

[75] Estimated industry conversion expenses were published in the TSD for the January 2015 general service fluorescent lamps final rule. 80 FR 4042 The TSD for the 2015 general service fluorescent lamps final rule can be found at *http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/24*.

OMB Circular A–4 [76] 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.[77] The review timeframe established in EPCA is generally not synchronized with the product lifetime, product manufacturing cycles, or other factors specific to CFLKs. Thus, such results are presented for informational purposes only and are not indicative of any change in DOE's analytical methodology. The NES sensitivity analysis results based on a nine-year analytical period are presented in Table V.11. The impacts are counted over the lifetime of CFLKs purchased in 2019–2027.

TABLE V.11—CUMULATIVE NATIONAL ENERGY SAVINGS FOR CFLKS; NINE YEARS OF SHIPMENTS

[2019–2027]

| | Trial standard level (quads) | | | |
|---|---|---|---|---|
| | 1 | 2 | 3 | 4 |
| Primary Energy | 0.0080 | 0.047 | 0.063 | 0.064 |
| FFC Energy | 0.0083 | 0.049 | 0.066 | 0.067 |

b. Net Present Value of Consumer Costs and Benefits

DOE estimated the cumulative NPV of the total costs and savings for consumers that would result from the TSLs considered for CFLKs. In accordance with OMB's guidelines on regulatory analysis,[78] DOE calculated NPV using both a 7-percent and a 3-percent real discount rate.

Table V.12 shows the consumer NPV results with impacts counted over the lifetime of products purchased in 2019–2048.

TABLE V.12—CUMULATIVE NET PRESENT VALUE OF CONSUMER BENEFITS FOR CFLKS SHIPPED IN 2019–2048

| Discount rate | Trial standard level (billion 2014$) | | | |
|---|---|---|---|---|
| | 1 | 2 | 3 | 4 |
| 3% | 0.21 | 0.66 | 0.95 | 0.97 |
| 7% | 0.21 | 0.50 | 0.70 | 0.71 |

The NPV results based on the aforementioned 9-year analytical period are presented in Table V.13. The impacts are counted over the lifetime of products purchased in 2019–2027. As mentioned previously, such results are presented for informational purposes only and are not indicative of any change in DOE's analytical methodology or decision criteria.

TABLE V.13—CUMULATIVE NET PRESENT VALUE OF CONSUMER BENEFITS FOR CFLKS; NINE YEARS OF SHIPMENTS

[2019–2027]

| Discount rate | Trial standard level (billion 2014$) | | | |
|---|---|---|---|---|
| | 1 | 2 | 3 | 4 |
| 3% | 0.21 | 0.66 | 0.92 | 0.93 |
| 7%t | 0.21 | 0.50 | 0.68 | 0.69 |

The above results reflect the use of a default trend to estimate the change in price for CFLKs over the analysis period (see section IV.G of this document). DOE also conducted a sensitivity analysis that considered a higher rate of price decline than the reference case. The results of these alternative cases are presented in appendix 10C of the NOPR TSD. In the high-price-decline case, the NPV is lower than in the default case. This is due the faster adoption of LED

[76] 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/*).

[77] 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.

[78] U.S. Office of Management and Budget, ''Circular A–4: Regulatory Analysis,'' section E, (Sept. 17, 2003) (Available at: *http://www.whitehouse.gov/omb/circulars_a004_a-4/*).

CFLKs in the no-standards case which results in consumers moving to CFLKs that already meet or exceed potential standards. Therefore in this scenario, setting a standard does not move as many consumers to a higher efficacy level, resulting in lower energy savings from the standard.

c. Indirect Impacts on Employment

DOE expects energy conservation standards for CFLKs to reduce energy bills for consumers of those products, with the resulting net savings being redirected to other forms of economic activity. These expected shifts in spending and economic activity could affect the demand for labor. As described in section IV.N of this document, 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 timeframes (2019–2024), where these uncertainties are reduced.

The results suggest that the proposed standards are 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 detailed results regarding anticipated indirect employment impacts.

4. Impact on Utility or Performance of Products

DOE has tentatively concluded that the standards proposed in this NOPR would not reduce the utility or performance of the CFLKs under consideration in this rulemaking. Manufacturers of these products currently offer units that meet or exceed the proposed standards.

5. Impact of Any Lessening of Competition

DOE has considered any lessening of competition that is likely to result from the proposed 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 accompanying TSD for review. DOE will consider DOJ's comments on the proposed rule in determining whether to proceed to a final rule. 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 (costs) of energy production. Reduced electricity demand due to energy conservation standards is also likely to reduce the cost of maintaining the reliability of the electricity system, particularly during peak-load periods. As a measure of this reduced demand, chapter 15 of the NOPR TSD presents the estimated impact on generating capacity, relative to the no-standards case, for the TSLs that DOE considered in this rulemaking.

Energy savings from amended standards for CFLKs are expected to yield environmental benefits in the form of reduced emissions of air pollutants and greenhouse gases. Table V.14 provides DOE's estimate of cumulative emissions reductions expected to result from the TSLs considered in this rulemaking. The table includes both power sector emissions and upstream emissions. The emissions were calculated using the multipliers discussed in section IV.K. DOE reports annual emissions reductions for each TSL in chapter 13 of the NOPR TSD.

TABLE V.14—CUMULATIVE EMISSIONS REDUCTION FOR CFLKS SHIPPED IN 2019–2048

| | Trial standard level | | | |
|---|---|---|---|---|
| | 1 | 2 | 3 | 4 |
| **Power Sector Emissions** | | | | |
| $CO_2$ (*million metric tons*) | 0.65 | 3.21 | 4.40 | 4.49 |
| $SO_2$ (*thousand tons*) | 0.95 | 3.46 | 4.58 | 4.66 |
| $NO_X$ (*thousand tons*) | 0.67 | 2.79 | 3.76 | 3.83 |
| Hg (*tons*) | 0.00 | 0.01 | 0.01 | 0.01 |
| $CH_4$ (*thousand tons*) | 0.04 | 0.25 | 0.35 | 0.36 |
| $N_2O$ (thousand tons) | 0.01 | 0.04 | 0.05 | 0.05 |
| **Upstream Emissions** | | | | |
| $CO_2$ (*million metric tons*) | 0.02 | 0.13 | 0.19 | 0.20 |
| $SO_2$ (*thousand tons*) | 0.00 | 0.03 | 0.04 | 0.04 |
| $NO_X$ (*thousand tons*) | 0.21 | 1.88 | 2.69 | 2.76 |
| Hg (*tons*) | 0.00 | 0.00 | 0.00 | 0.00 |
| $CH_4$ (*thousand tons*) | 1.25 | 10.9 | 15.7 | 16.1 |
| $N_2O$ (thousand tons) | 0.00 | 0.00 | 0.00 | 0.00 |
| **Total FFC Emissions** | | | | |
| $CO_2$ (*million metric tons*) | 0.67 | 3.35 | 4.59 | 4.68 |
| $SO_2$ (*thousand tons*) | 0.96 | 3.48 | 4.62 | 4.70 |
| $NO_X$ (*thousand tons*) | 0.88 | 4.67 | 6.45 | 6.59 |
| Hg (*tons*) | 0.00 | 0.01 | 0.01 | 0.01 |
| $CH_4$ (*thousand tons*) | 1.28 | 11.20 | 16.04 | 16.43 |
| $CH_4$ (thousand tons $CO_2$eq) * | 35.9 | 314 | 449 | 460 |
| $N_2O$ (thousand tons) | 0.01 | 0.04 | 0.05 | 0.05 |

TABLE V.14—CUMULATIVE EMISSIONS REDUCTION FOR CFLKS SHIPPED IN 2019–2048—Continued

| | Trial standard level | | | |
|---|---|---|---|---|
| | 1 | 2 | 3 | 4 |
| $N_2O$ (*thousand tons $CO_2eq$*)* | 1.39 | 9.87 | 13.93 | 14.25 |

* $CO_2eq$ is the quantity of $CO_2$ that would have the same 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 considered TSLs for CFLKs. As discussed in section IV.L of this notice, 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 2014$) are represented by $12.2/metric ton (the average value from a distribution that uses a 5-percent discount rate), $41.2/metric ton (the average value from a distribution that uses a 3-percent discount rate), $63.4/metric ton (the average value from a distribution that uses a 2.5-percent discount rate), and $121/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 (public health, economic and environmental) as the projected magnitude of climate change increases.

Table V.15 presents the global value of $CO_2$ emissions reductions at each TSL. For each of the four cases, DOE calculated a present value of the stream of annual values using the same discount rate as was used in the studies upon which the dollar-per-ton values are based. DOE calculated domestic values as a range from 7 percent to 23 percent of the global values; these results are presented in chapter 14 of the NOPR TSD.

TABLE V.15—ESTIMATES OF GLOBAL PRESENT VALUE OF $CO_2$ EMISSIONS REDUCTION FOR PRODUCTS SHIPPED IN 2019–2048

| TSL | SCC case* (Million 2014$) | | | |
|---|---|---|---|---|
| | 5% discount rate, average | 3% discount rate, average | 2.5% discount rate, average | 3% discount rate, 95th percentile |
| **Power Sector Emissions** | | | | |
| 1 | 8.5 | 30.5 | 44.7 | 86.6 |
| 2 | 32.7 | 128.9 | 196.9 | 386.3 |
| 3 | 43.4 | 173.2 | 265.7 | 521.9 |
| 4 | 44.2 | 176.4 | 270.7 | 531.8 |
| **Upstream Emissions** | | | | |
| 1 | 0.24 | 0.83 | 1.18 | 2.28 |
| 2 | 1.35 | 5.34 | 8.17 | 16.0 |
| 3 | 1.86 | 7.47 | 11.5 | 22.6 |
| 4 | 1.90 | 7.64 | 11.7 | 23.1 |
| **Total FFC Emissions** | | | | |
| 1 | 8.77 | 31.28 | 45.84 | 88.86 |
| 2 | 34.1 | 134 | 205 | 402 |
| 3 | 45.3 | 181 | 277 | 544 |
| 4 | 46.1 | 184 | 282 | 555 |

* For each of the four cases, the corresponding SCC value for emissions in 2015 is $12.2, $41.2, $63.4, and $121 per metric ton (2014$). 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 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 reduced $CO_2$ 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 the cumulative monetary value of the economic benefits associated with $NO_X$ emissions reductions anticipated to result from the considered TSLs for CFLKs. The dollar-per-ton value that DOE used is discussed in section IV.L of this document. Table V.16 presents the cumulative present values for $NO_X$ emissions for each TSL calculated using 7-percent and 3-percent discount rates.

TABLE V.16—ESTIMATES OF PRESENT VALUE OF $NO_X$ EMISSIONS REDUCTION FOR CFLKS SHIPPED IN 2019–2048

| TSL | (Million 2014$) | |
|---|---|---|
| | 3% discount rate | 7% discount rate |
| **Power Sector Emissions** | | |
| 1 | 3.81 | 3.54 |
| 2 | 13.5 | 9.54 |
| 3 | 17.8 | 12.0 |
| 4 | 18.1 | 12.2 |
| **Upstream Emissions** | | |
| 1 | 1.47 | 1.67 |
| 2 | 8.97 | 6.18 |
| 3 | 12.5 | 8.13 |
| 4 | 12.7 | 8.26 |
| **Total FFC Emissions** | | |
| 1 | 5.28 | 5.21 |
| 2 | 22.5 | 15.7 |
| 3 | 30.2 | 20.1 |
| 4 | 30.8 | 20.4 |

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)(VII)) 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.17 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 TSL for CFLKs considered in this rulemaking, at both a 7-percent and 3-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.17—NET PRESENT VALUE OF CONSUMER SAVINGS COMBINED WITH PRESENT VALUE OF MONETIZED BENEFITS FROM $CO_2$ AND $NO_X$ EMISSIONS REDUCTIONS

| TSL | (Billion 2014$) Consumer NPV at 3% discount rate added with: | | | |
|---|---|---|---|---|
| | SCC Case $12.2/metric ton and 3% $NO_X$ Values | SCC Case $41.2/metric ton and 3% $NO_X$ Values | SCC Case $63.4/metric ton and 3% $NO_X$ Values | SCC Case $121/metric ton and 3% $NO_X$ Values |
| 1 | 0.22 | 0.25 | 0.26 | 0.30 |
| 2 | 0.72 | 0.82 | 0.89 | 1.08 |
| 3 | 1.02 | 1.16 | 1.25 | 1.52 |
| 4 | 1.04 | 1.18 | 1.28 | 1.55 |
| TSL | Consumer NPV at 7% discount rate added with: | | | |
| | SCC Case $12.2/metric ton and 7% $NO_X$ Values | SCC Case $41.2/metric ton and 7% $NO_X$ Values | SCC Case $63.4/metric ton and 7% $NO_X$ Values | SCC Case $121/metric ton and 7% $NO_X$ Values |
| 1 | 0.22 | 0.25 | 0.26 | 0.30 |
| 2 | 0.55 | 0.65 | 0.72 | 0.92 |
| 3 | 0.76 | 0.90 | 0.99 | 1.26 |
| 4 | 0.77 | 0.91 | 1.01 | 1.28 |

Although adding the value of consumer savings to the values of emission reductions informs DOE's evaluation, two issues should be considered. First, the national operating-cost savings are domestic U.S. 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 2019 to 2048. Because $CO_2$ emissions have a very long residence time in the atmosphere,[79] the SCC values in future years reflect future climate-related impacts resulting from the emission of $CO_2$ that continue beyond 2100.

*C. Conclusion*

When considering proposed standards, the new or amended energy conservation standard that DOE adopts for any type (or class) of covered product must be designed to achieve the maximum improvement in energy efficiency that the Secretary determines is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) 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 standards for CFLKs 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 efficacy level that is both technologically feasible and economically justified and saves a significant amount of energy.

To aid the reader as DOE discusses the benefits and/or burdens of each TSL, tables in this section present a summary of the results of DOE's quantitative analysis for each TSL. In addition to the quantitative results presented in the tables, DOE also considers other burdens and benefits that affect economic justification. These include but are not limited to the impacts on identifiable subgroups of consumers who may be disproportionately affected by a national standard and impacts on employment.

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, between renters and owners, or builders and purchasers). Having less than perfect foresight and a high degree of uncertainty about the future, consumers may trade off these types of investments at a higher-than-expected rate between current consumption and uncertain future energy cost savings.

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 the purchase of a product in the standards case, this decreases sales for product manufacturers, and the impact on manufacturers attributed to lost revenue 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 regulatory option changes the number of products purchased by consumers, then the potential energy savings from the potential energy conservation standard changes as well. DOE provides estimates of shipments and changes in the volume of product purchases in chapter 9 of the NOPR TSD. However, 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.[80]

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 energy conservation standards, and potential enhancements to the methodology by which these impacts are defined and estimated in the regulatory process.[81] 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 in future rulemakings.

1. Benefits and Burdens of TSLs Considered for CFLK Standards

Table V.18 and Table V.19 summarize the quantitative impacts estimated for each TSL for CFLKs. The national impacts are measured over the lifetime of CFLKs purchased in the 30-year period that begins in the anticipated year of compliance with amended standards (2019–2048). The energy savings, emissions reductions, and value of emissions reductions refer to FFC results. The ELs contained in each TSL are described in section V.A of this notice.

TABLE V.18—SUMMARY OF ANALYTICAL RESULTS FOR CFLK TSLS: NATIONAL IMPACTS

| Category | TSL 1 | TSL 2 | TSL 3 | TSL 4 |
|---|---|---|---|---|
| **Cumulative FFC National Energy Savings** | | | | |
| quads | 0.008 | 0.049 | 0.068 | 0.069 |

[79] The atmospheric lifetime of $CO_2$ is estimated of the order of 30–95 years. Jacobson, MZ, ''Correction to 'Control of fossil-fuel particulate black carbon and organic matter, possibly the most effective method of slowing global warming,' '' *J. Geophys. Res.* 110. pp. D14105 (2005).

[80] P.C. Reiss and M.W. White, Household Electricity Demand, Revisited, *Review of Economic Studies* (2005) 72, 853–883.

[81] Alan Sanstad, Notes on the Economics of Household Energy Consumption and Technology Choice. Lawrence Berkeley National Laboratory (2010) (Available online at: *www1.eere.energy.gov/buildings/appliance_standards/pdfs/consumer_ee_theory.pdf).*

TABLE V.18—SUMMARY OF ANALYTICAL RESULTS FOR CFLK TSLS: NATIONAL IMPACTS—Continued

| Category | TSL 1 | TSL 2 | TSL 3 | TSL 4 |
|---|---|---|---|---|
| **NPV of Consumer Costs and Benefits (2014$ billion)** | | | | |
| 3% discount rate | 0.21 | 0.66 | 0.95 | 0.97 |
| 7% discount rate | 0.21 | 0.50 | 0.70 | 0.71 |
| **Cumulative FFC Emissions Reduction (Total FFC Emissions)** | | | | |
| $CO_2$ (*million metric tons*) | 0.67 | 3.35 | 4.59 | 4.68 |
| $SO_2$ (*thousand tons*) | 0.96 | 3.48 | 4.62 | 4.70 |
| $NO_X$ (*thousand tons*) | 0.88 | 4.67 | 6.45 | 6.59 |
| Hg (*tons*) | 0.00 | 0.01 | 0.01 | 0.01 |
| $CH_4$ (*thousand tons*) | 1.28 | 11.2 | 16.0 | 16.4 |
| $CH_4$ (*thousand tons $CO_2$eq*) * | 35.9 | 314 | 449 | 460 |
| $N_2O$ (*thousand tons*) | 0.01 | 0.04 | 0.05 | 0.05 |
| $N_2O$ (*thousand tons $CO_2$eq*) * | 1.39 | 9.87 | 13.93 | 14.2 |
| **Value of Emissions Reduction (Total FFC Emissions)** | | | | |
| $CO_2$ (*2014$ billion*) ** | 0.009 to 0.089 | 0.034 to 0.402 | 0.045 to 0.544 | 0.046 to 0.555 |
| $NO_X$—3% discount rate (*2014$ million*) | 5.28 | 22.5 | 30.2 | 30.8 |
| $NO_X$—7% discount rate (*2014$ million*) | 5.21 | 15.7 | 20.1 | 20.4 |

* $CO_2$eq is the quantity of $CO_2$ that would have the same GWP.
** Range of the economic value of $CO_2$ reductions is based on estimates of the global benefit of reduced $CO_2$ emissions.

TABLE V.19—SUMMARY OF ANALYTICAL RESULTS FOR CFLK TSLS: MANUFACTURER AND CONSUMER IMPACTS

| Category | TSL 1 * | TSL 2 * | TSL 3 * | TSL 4 * |
|---|---|---|---|---|
| **Manufacturer Impacts** | | | | |
| Industry NPV (*2014$ million*) (No-Standards-Case INPV = *2014$ million*) | 97.9–98.9 | 86.8–96.8 | 74.9–92.1 | 74.7–91.9 |
| Industry NPV (*% change*) | 3.3–4.3 | (8.4)–2.2 | (21.0)–(2.8) | (21.1)–(3.0) |
| **Residential Sector** | | | | |
| Consumer Average LCC Savings (*2014$*): | | | | |
| All CFLKs | 23.0 | 24.3 | 30.9 | 30.9 |
| Consumer Simple PBP ** (*years*): | | | | |
| All CFLKs | 0.4 | 1.2 | 0.5 | 0.4 |
| % of Consumers that Experience Net Cost: | | | | |
| All CFLKs | 0.6 | 9.7 | 7.6 | 7.6 |
| **Commercial Sector** | | | | |
| Consumer Average LCC Savings (*2014$*): | | | | |
| All CFLKs | 28.7 | 53.4 | 67.7 | 67.8 |
| Consumer Simple PBP ** (*years*): | | | | |
| All CFLKs | 0.1 | 0.3 | 0.1 | 0.1 |
| % of Consumers that Experience Net Cost: | | | | |
| All CFLKs | 10.5 | 1.9 | 0.3 | 0.3 |

* Parentheses indicate negative (−) values.
** Simple PBP results are calculated assuming that all consumers use products at that efficacy level. The PBP is measured relative to the least efficient product currently available on the market.

DOE first considered TSL 4, which represents the max-tech efficacy level. TSL 4 would save 0.07 quads of energy, an amount DOE considers significant. Under TSL 4, the NPV of consumer benefit would be $0.71 billion using a discount rate of 7 percent, and $0.97 billion using a discount rate of 3 percent.

The cumulative emissions reductions at TSL 4 are 4.68 Mt of $CO_2$, 4.70 thousand tons of $SO_2$, 6.59 thousand tons of $NO_X$, 0.01 ton of Hg, 16.4 thousand tons of $CH_4$, and 0.05 thousand tons of $N_2O$. The estimated monetary value of the $CO_2$ emissions reduction at TSL 4 ranges from $46.1 million to $554.9 million.

At TSL 4, the average LCC impact is a savings of $30.9 in the residential sector and a savings of $67.8 in the commercial sector. The simple payback period is 0.4 years in the residential sector and 0.1 years in the commercial sector. The fraction of consumers experiencing a net LCC cost is 7.6 percent in the residential sector and 0.3 percent in the commercial sector.

At TSL 4, the projected change in INPV ranges from a decrease of $20.0 million to a decrease of $2.8 million, which represent decreases of 21.1 percent and 3.0 percent, respectively.

The Secretary tentatively concludes that at TSL 4 for CFLKs, the benefits of energy savings, positive NPV of consumer benefits, emission reductions, and the estimated monetary value of the emissions reductions would be outweighed by the potential reduction in industry value and the potentially limited availability of compliant CFLKs discussed in section IV.C.4. Consequently, the Secretary has tentatively concluded that TSL 4 is not justified.

DOE then considered TSL 3, which would save an estimated 0.068 quads of energy, an amount DOE considers significant. Under TSL 3, the NPV of consumer benefit would be $0.70 billion using a discount rate of 7 percent, and $0.95 billion using a discount rate of 3 percent.

The cumulative emissions reductions at TSL 3 are 4.59 Mt of $CO_2$, 4.62 thousand tons of $SO_2$, 6.45 thousand tons of $NO_X$, 0.01 tons of Hg, 16.0 thousand tons of $CH_4$, and 0.05 thousand tons of $N_2O$. The estimated monetary value of the $CO_2$ emissions reduction at TSL 3 ranges from $45.3 million to $544.4 million.

At TSL 3, the average LCC impact is a savings of $30.9 in the residential sector and a savings of $67.7 in the commercial sector. The simple payback period is 0.5 years in the residential sector and 0.1 years in the commercial sector. The fraction of consumers experiencing a net LCC cost is 7.6 percent in the residential sector and 0.3 percent in the commercial sector.

At TSL 3, the projected change in INPV ranges from a decrease of $19.9 million to a decrease of $2.6 million, which represent decreases of 21.0 percent and 2.8 percent, respectively.

The Secretary tentatively concludes that at TSL 3 for CFLKs, the benefits of energy savings, positive NPV of consumer benefits, emission reductions, and the estimated monetary value of the emissions reductions would be outweighed by the potential reduction in industry value and by the potential limited availability of compliant CFLKs discussed in section IV.C.4. Consequently, the Secretary has tentatively concluded that TSL 3 is not justified.

DOE then considered TSL 2, which would save an estimated 0.049 quads of energy, an amount DOE considers significant. Under TSL 2, the NPV of consumer benefit would be $0.50 billion using a discount rate of 7 percent, and $0.66 billion using a discount rate of 3 percent.

The cumulative emissions reductions at TSL 2 are 3.35 Mt of $CO_2$, 3.48 thousand tons of $SO_2$, 4.67 thousand tons of $NO_X$, 0.01 tons of Hg, 11.2 thousand tons of $CH_4$, and 0.04 thousand tons of $N_2O$. The estimated monetary value of the $CO_2$ emissions reduction at TSL 2 ranges from $34.1 million to $402.4 million.

At TSL 2, the average LCC impact is a savings of $24.3 in the residential sector and a savings of $53.4 in the commercial sector. The simple payback period is 1.2 years in the residential sector and 0.3 years in the commercial sector. The fraction of consumers experiencing a net LCC cost is 9.7 percent in the residential sector and 1.9 percent in the commercial sector.

At TSL 2, the projected change in INPV ranges from a decrease of $7.9 million to an increase of $2.1 million, which represents a decrease of 8.4 percent to an increase of 2.2 percent.

After considering the analysis and weighing the benefits and burdens, the Secretary has tentatively concluded that at TSL 2 for CFLKs, the benefits of energy savings, positive NPV of consumer benefits, emission reductions, the estimated monetary value of the emissions reductions, and positive average LCC savings would outweigh the potential reduction in industry value. Accordingly, the Secretary has tentatively concluded that TSL 2 would offer the maximum improvement in efficiency that is technologically feasible and economically justified, and would result in the significant conservation of energy.

Therefore, based on the above considerations, DOE proposes to adopt the energy conservation standards for CFLKs at TSL 2. The proposed amended energy conservation standards for CFLKs are shown in Table V.20.

TABLE V.20—PROPOSED AMENDED ENERGY CONSERVATION STANDARDS FOR CFLKS

| Product class | Lumens | Minimum required efficacy |
|---|---|---|
| | | lm/W |
| All CFLKs | <120 | 50. |
| | ≥120 | $74 - 29.42 \times 0.9983^{lumens}$. |

2. Summary of Annualized Benefits and Costs of the Proposed Standards

The benefits and costs of the 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 2014$) of the benefits from operating 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 $CO_2$ and $NO_X$ emission reductions.[82]

Table V.21 shows the annualized values for CFLKs under TSL 2, expressed in 2014$. 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 has a value of $41.2/t in 2015), the estimated cost of the standards proposed in this rule is $6.0 million per year in increased equipment costs, while the estimated annual benefits are $55 million in reduced equipment operating costs, $7.5 million in $CO_2$ reductions, and $1.6 million in reduced $NO_X$ emissions. In this case, the net benefit amounts to $59 million per year.

[82] 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 (2020, 2030, *etc.*), and then discounted the present value from each year to 2015. 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. 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.

Using a 3-percent discount rate for all benefits and costs and the average SCC series that has a value of $41.2/t in 2015, the estimated cost of the proposed CFLK standards is $4.0 million per year in increased equipment costs, while the estimated annual benefits are $49 million in reduced operating costs, $7.5 million in $CO_2$ reductions, and $1.3 million in reduced $NO_X$ emissions. In this case, the net benefit amounts to $46 million per year.

TABLE V.21—ANNUALIZED BENEFITS AND COSTS OF PROPOSED STANDARDS (TSL 2) FOR CFLKS

| | Discount rate (%) | (Million 2014$/year) | | |
|---|---|---|---|---|
| | | Primary estimate * | Low net benefits estimate * | High net benefits estimate * |
| **Benefits** | | | | |
| Consumer Operating-Cost Savings | 7 | 55 | 36 | 59. |
| | 3 | 41 | 24 | 43. |
| $CO_2$ Reduction Value ($12.2/t) ** | 5 | 2.6 | 1.4 | 2.7. |
| $CO_2$ Reduction Value ($41.2/t) ** | 3 | 7.5 | 3.9 | 7.9. |
| $CO_2$ Reduction Value ($63.4/t) ** | 2.5 | 11 | 5 | 11. |
| $CO_2$ Reduction Value ($121/t) ** | 3 | 22 | 12 | 24. |
| $NO_X$ Reduction Value | 7 | 1.6 | 0.90 | 1.6. |
| | 3 | 1.3 | 0.65 | 1.3. |
| Total Benefits † | 7 plus $CO_2$ range | 60 to 79 | 38 to 48 | 63 to 85. |
| | 7 | 65 | 40 | 69. |
| | 3 plus $CO_2$ range | 45 to 64 | 26 to 36 | 47 to 68. |
| | 3 | 49 | 28 | 53. |
| **Costs** | | | | |
| Consumer Incremental Product Costs | 7 | 6.0 | 3.5 | 6.4. |
| | 3 | 4.0 | 2.3 | 4.2. |
| Total † | 7 plus $CO_2$ range | 54 to 73 | 34 to 44 | 57 to 78. |
| | 7 | 59 | 37 | 62. |
| | 3 plus $CO_2$ range | 41 to 60 | 24 to 34 | 43 to 64. |
| | 3 | 46 | 26 | 48. |

* This table presents the annualized costs and benefits associated with CFLKs shipped in 2019–2048. These results include benefits to consumers which accrue after 2048 from the products purchased in 2019–2048. 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 Estimate assumes the reference case electricity prices and housing starts from *AEO 2015* and decreasing product prices for LED CFLKs, due to price learning. The Low Benefits Estimate uses the Low Economic Growth electricity prices and housing starts from *AEO 2015* and a faster decrease in product prices for LED CFLKs. The High Benefits Estimate uses the High Economic Growth electricity prices and housing starts from *AEO 2015* and the same product price decrease for LED CFLKs as in the Primary Estimate.

** The $CO_2$ values represent global monetized values of the SCC, in 2014$, 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 incorporate an escalation factor.

† 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 ($41.2/t case). In the rows labeled "7% plus $CO_2$ range" and "3% plus $CO_2$ range," the operating-cost and $NO_X$ benefits are calculated using the labeled discount rate, and those values are added to the full range of $CO_2$ values.

## VI. Procedural Issues and Regulatory Review

### *A. Review Under Executive Orders 12866 and 13563*

Section 1(b)(1) of Executive Order 12866, "Regulatory Planning and Review," 58 FR 51735 (Oct. 4, 1993), requires each agency to identify the problem that it intends to address, including, where applicable, the failures of private markets or public institutions that warrant new agency action, as well as to assess the significance of that problem. The problems that the proposed standards set forth in this NOPR are intended to address are as follows:

- Insufficient information and the high costs of gathering and analyzing relevant information leads some consumers to miss opportunities to make cost-effective investments in energy efficiency.
- 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.
- There are external benefits resulting from improved energy efficiency of appliances and equipment that are not captured by the users of such products. These benefits include externalities related to public health, environmental protection, and national energy 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. DOE attempts to quantify some of the external benefits through use of SCC values.

The Administrator of the Office of Information and Regulatory Affairs (OIRA) in the OMB has determined that the proposed regulatory action is not a significant regulatory action under section (3)(f) of Executive Order 12866. Accordingly, the rule was not reviewed by OIRA.

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, OIRA has emphasized that such techniques may include identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes. For the reasons stated in the preamble, DOE believes that 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.

1. Description on Estimated Number of Small Entities Regulated

For manufacturers of CFLKs, the 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. See 13 CFR part 121. The size standards are listed by North American Industry Classification System (NAICS) code and industry description available at: *https://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf.* CFLK manufacturing is classified under NAICS code 335210, ''Small Electrical Appliance Manufacturing.'' The SBA sets a threshold of 750 employees or less for an entity to be considered as a small business for this category.

To estimate the number of companies that could be small businesses that sell CFLKs covered by this rulemaking, DOE conducted a market survey using publicly available information. DOE's research involved information provided by trade associations (*e.g.,* ALA [83]) and information from previous rulemakings, individual company Web sites, SBA's database, and market research tools (*e.g.,* Hoover's reports [84]). DOE also asked stakeholders and industry representatives if they were aware of any small businesses during manufacturer interviews and DOE public meetings. DOE used information from these sources to create a list of companies that potentially manufacture or sell CFLKs and would be impacted by this rulemaking. DOE screened out companies that do not offer products covered by this rulemaking, do not meet the definition of a ''small business,'' or are completely foreign owned and operated.

For CFLKs, DOE initially identified a total of 67 potential companies that sell CFLKs in the United States. However, DOE only identified one manufacturer that also manufacturers the lamps sold with their CFLKs. All other CFLK manufacturers source the lamps packaged with their CFLKs. After reviewing publicly available information on these potential CFLK businesses, DOE determined that 40 were either large businesses or businesses that were completely foreign owned and operated. DOE determined that the remaining 27 companies were small businesses that either manufacture or sell covered CFLKs in the United States. The one CFLK manufacturer that also sells lamps that DOE identified is also a small business. Based on manufacturer interviews, DOE estimates that these small businesses account for approximately 25 percent of the CFLK market. One small business accounts for approximately five percent of the CFLK market, while all other small businesses account for one percent or less of the CFLK market individually.

DOE seeks comments, information, and data on the small businesses in the industry, including their numbers and their role in the CFLK market. DOE also requests data on the market share of small businesses in the CFLK market.

2. Description and Estimate of Compliance Requirements

At TSL 2, the proposed standard in today's NOPR, DOE projects that impacts on small businesses as a result of amended standards would be consistent with the overall CFLK industry impacts presented in section V.B.2. Small businesses are not expected to experience differential impacts as a result of the amended CFLK standards due to the majority of large and small businesses sourcing the lamps used in their CFLKs from lamp manufacturers; small and large CFLK businesses typically outsourcing the manufacturing of the CFLKs they sell to original equipment manufacturers located abroad; the range of available options to replace non-complaint lamps with lamps on the market that can meet the proposed standard; and the potential standards from the GSL rulemaking and the 45 lm/W requirement for GSLs that is expected to take effect in 2020.

DOE identified only one CFLK small business that is also a lamp manufacturer. For this analysis, DOE refers to lamp manufacturers as entities that produce and sell lamps, as opposed to purchasing lamps from a third party. The majority of lamps packaged in CFLKs are purchased from lamp manufacturers, then inserted into a CFLK or packaged with a CFLK. Therefore, CFLK businesses will typically not be responsible for the costs associated with producing more efficacious lamps packaged with CFLKs that comply with the proposed standards. Furthermore, because lamp manufacturers typically test and certify their lamps, CFLK businesses can choose to use the testing and certification data provided by the lamp manufacturer to comply with the CFLK standards. Thereby, both large and small

[83] American Lighting Association | Company Information | Industry Information | Lists, *http://www.americanlightingassoc.com//*) (last accessed Mar 16, 2015).

[84] Hoovers | Company Information | Industry Information | Lists, *http://www.hoovers.com/*) (last accessed Mar 31, 2015).

CFLK businesses can significantly reduce their own testing and certification costs associated with compliance to proposed standards.

At the proposed standard level, CFLK businesses have the option to replace the lamps used in their CFLKs with more efficacious lamps available on the market. This lamp replacement option allows most CFLK businesses to comply with the proposed CFLK standards without redesigning their existing CFLKs. DOE's shipments analysis found that over 50 percent of CFLKs sold at TSL 2 will follow this lamp replacement option, allowing these CFLK businesses to avoid redesign and conversion costs. Based on manufacturer interviews, small businesses are just as likely to pursue the lamp replacement option as large businesses.

DOE expects that CFLK businesses that choose to meet amended CFLK standards by redesigning CFLK fixtures instead of replacing lamps are expected to incur conversion costs driven by retooling costs, increased R&D efforts, product certification costs, and testing costs. DOE learned during manufacturer interviews that the majority of the manufacturing of CFLKs sold by small and large CFLK businesses is outsourced to a limited number of original equipment manufacturers located abroad. CFLK businesses pay retooling costs to original equipment manufacturers located abroad, who operate and maintain machinery used to produce the CFLKs those CFLK businesses then sell.

DOE also learned from manufacturer interviews that, in some cases, multiple CFLK businesses, including small and large CFLK businesses, are outsourcing production to the same original equipment manufacturer located abroad. Small businesses are currently competing against large businesses despite purchasing components at lower volumes, and DOE expects that they will continue to compete after the adoption of standards, since the proposed standards will not significantly disrupt most CFLK manufacturers' supply chain. DOE does not expect that small businesses would be disadvantaged compared to large businesses if they chose to redesign their CFLKs. Total estimated conversion costs for the industry at TSL 2 are $1.9 million, which is relatively small compared to an INPV of almost $95 million in the no-standards case.

Potential standards from the GSL standards rulemaking and the minimum efficacy of 45 lm/W required for GSLs, expected to require compliance in 2020, will impact GSLs used in CFLKs (see section V.B.2.e for further details). Therefore, regardless of the standards proposed in this rulemaking, CFLK businesses will likely need to package more efficacious lamps with CFLKs in 2020.

For the reasons outlined above, DOE has determined that most small businesses would not be disproportionally impacted by the proposed CFLK energy conservation standard compared to large businesses. At TSL 2, overall impacts on CFLK INPV range from −8.4 percent to 2.2 percent (see section V.B.2). DOE estimates that the overall percent change in INPV for the CFLK industry is reflective of the range of potential impacts for small businesses.

DOE seeks comment on the potential impacts of the amended standards on CFLK small businesses.

3. Duplication, Overlap, and Conflict With Other Rules and Regulations

DOE is not aware of any rules or regulations that duplicate, overlap, or conflict with the proposed amended standard. DOE seeks comment on any rules or regulations that could potentially duplicate, overlap, or conflict with the proposed amended standard.

4. Significant Alternatives to the Rule

The discussion in the previous section analyzes impacts on small businesses that would result from DOE's proposed level, TSL 2. In reviewing alternatives to the proposed rule, DOE examined energy conservation standards set at lower efficiency levels. While TSL 1 would reduce the impacts on small business manufacturers, it would come at the expense of a significant reduction in energy savings and NPV benefits to consumers, achieving 83 percent lower energy savings and 58 percent less NPV benefits to consumers compared to the energy savings and NPV benefits at TSL 2.

DOE believes that establishing standards at TSL 2 balances the benefits of the energy savings and the NPV benefits to consumers at TSL 2 with the potential burdens placed on CFLK manufacturers, including small business manufacturers. Accordingly, DOE is declining to adopt one of the other TSLs considered in the analysis, or the other policy alternatives detailed as part of the regulatory impacts analysis included in chapter 17 of the NOPR TSD.

Additional compliance flexibilities may be available through other means. For example, individual manufacturers may petition for a waiver of the applicable test procedure. (See 10 CFR 431.401.) Further, EPCA provides that a manufacturer whose annual gross revenue from all of its operations does not exceed $8 million may apply for an exemption from all or part of an energy conservation standard for a period not longer than 24 months after the effective date of a final rule establishing the standard. Additionally, Section 504 of the Department of Energy Organization Act, 42 U.S.C. 7194, provides authority for the Secretary to adjust a rule issued under EPCA in order to prevent ''special hardship, inequity, or unfair distribution of burdens'' that may be imposed on that manufacturer as a result of such rule. Manufacturers should refer to 10 CFR part 430, subpart E, and part 1003 for additional details.

*C. Review Under the Paperwork Reduction Act*

Manufacturers of CFLKs 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 CFLKs, 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 CFLKs. See generally 10 CFR part 429. 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 30 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 (August 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt state law or that have Federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the states and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by state and local officials in the development of regulatory policies that have Federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE 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. Pub. L. 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/sites/prod/files/gcprod/documents/umra_97.pdf.*

Because this proposed rule does not contain a Federal intergovernmental mandate, and DOE expects that it will not require expenditures of $100 million or more by the private sector, the requirements of Title II of UMRA do not apply to 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 proposes amended energy conservation standards for CFLKs, 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 FR 2667.

In response to OMB's Bulletin, DOE conducted formal in-progress peer reviews of the energy conservation standards development process and analyses and has prepared a Peer Review Report pertaining to the energy conservation standards rulemaking analyses. Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. The ''Energy Conservation Standards Rulemaking Peer Review Report'' dated February 2007 has been disseminated and is available at the following Web site: *www1.eere.energy.gov/buildings/appliance_standards/peer_review.html.*

## 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.*

Please note that foreign nationals visiting DOE Headquarters are subject to advance security screening procedures which require advance notice prior to attendance at the public meeting. If a foreign national wishes to participate in the public meeting, please inform DOE of this fact as soon as possible by contacting *foreignvisit@ee.doe.gov* so that the necessary procedures can be completed.

DOE requires visitors to have laptops and other devices, such as tablets, checked upon entry into the Forrestal Building. Any person wishing to bring these devices into the building will be required to obtain a property pass. Visitors should avoid bringing these devices, or allow an extra 45 minutes to check in. Please report to the visitor's desk to have devices checked before proceeding through security.

Due to the REAL ID Act implemented by the Department of Homeland Security (DHS), there have been recent changes regarding identification (ID) requirements for individuals wishing to enter Federal buildings from specific states and U.S. territories. As a result, driver's licenses from several states or territory will not be accepted for building entry, and instead, one of the alternate forms of ID listed below will be required. DHS has determined that regular driver's licenses (and ID cards) from the following jurisdictions are not acceptable for entry into DOE facilities: Alaska, American Samoa, Arizona, Louisiana, Maine, Massachusetts, Minnesota, New York, Oklahoma, and Washington. Acceptable alternate forms of Photo-ID include: U.S. Passport or Passport Card; an Enhanced Driver's License or Enhanced ID Card issued by the States of Minnesota, New York, or Washington (Enhanced licenses issued by these states are clearly marked Enhanced or Enhanced Driver's License); a military ID or other federal-government-issued Photo-ID card.

In addition, you can attend the public meeting via webinar. Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE's Web site at: *http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/66.* Participants are responsible for ensuring their systems are compatible with the webinar software.

*B. Procedure for Submitting Prepared General Statements for Distribution*

Any person who has plans to present a prepared general statement may request that copies of his or her statement be made available at the public meeting. Such persons may submit requests, along with an advance electronic copy of their statement in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format, to the appropriate address shown in the **ADDRESSES** section at the beginning of this notice. The request and advance copy of statements must be received at least one week before the public meeting and may be emailed, hand-delivered, or sent by mail. DOE prefers to receive requests and advance copies via email. Please include a telephone number to enable DOE staff to make follow-up contact, if needed.

*C. Conduct of the Public Meeting*

DOE will designate a DOE official to preside at the public meeting and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA. (42 U.S.C. 6306) A court reporter will be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the public meeting. There shall not be discussion of proprietary information, costs or prices, market share, or other commercial matters regulated by U.S. anti-trust laws. After the public meeting, interested parties may submit further comments on the proceedings, as well as on any aspect of the rulemaking, until the end of the comment period.

The public meeting will be conducted in an informal, conference style. DOE will present summaries of comments received before the public meeting, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this

rulemaking. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will allow, as time permits, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly and comment on statements made by others. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this rulemaking. The official conducting the public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the above procedures that may be needed for the proper conduct of the public meeting.

A transcript of the public meeting will be 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 notice.

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 mail.* Comments and documents submitted via email, hand delivery/courier, or mail also will be posted to *www.regulations.gov.* If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via mail or hand delivery/courier, please provide all items on a 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 that 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. DOE is considering whether all CFLKs with SSL circuitry should be determined to not exceed the 190 W limit and seeks comment on this approach.

2. DOE requests comment on the proposed CFLK product class structure,

a single ''All CFLKs'' product class. See section IV.A.1.

3. DOE requests comment on the CFL and LED technology options being proposed for CFLKs and any additional options that should be included. See section IV.A.4.

4. DOE requests comment on the modeled 14 W CFL (with spiral shape, 800 lm, 82 CRI, 2,700 K CCT, and 10,000-hour lifetime) analyzed as the baseline lamp in this NOPR analysis. See section IV.C.3.

5. DOE requests comment on the criteria used in selecting more efficacious substitute lamps, as well as the characteristics of the lamps selected. Specifically, DOE requests comment on the 3-way lamp used as a basis for the modeled max-tech LED lamp. See section IV.C.4.

6. DOE requests comment on the equations used to define the efficacy requirements at each EL. See section IV.C.5.

7. DOE requests comment on the data and methodology used to estimate operating hours for CFLKs, particularly in the residential sector. DOE also seeks comment on its assumption that CFLK operating hours do not vary by light source technology. See section IV.E.1.

8. DOE estimated 30 percent energy savings from the use of dimmers in the residential sector based on energy savings estimates for lighting controls in the commercial sector and stakeholder comments in response to the GSL preliminary analysis. DOE requests comments on the assumption that the only relevant lighting controls used with CFLKs are dimmers, and on the energy savings estimate from dimmers in the residential sector. See section IV.E.3.

9. DOE requests comment on its assumption that the fraction of CFLKs used with dimmers is the same in the residential sector and the commercial sector (11 percent). See section IV.E.3.

10. DOE requests comment on its assumption that CFLs packaged in CFLKs are not dimmable. See section IV.E.3.

11. DOE requests comment and relevant data on the disposal cost assumptions used in its analyses. See section IV.F.2.

12. DOE assumed that the installation costs for CFLKs are the same for all ELs for each of the residential and commercial sectors. DOE also assumed that the installation cost for replacement lamps after the original lamps packaged with the CFLK fail are negligible. Therefore, in the LCC analysis, DOE did not include installation costs for CFLKs or for replacement lamps. DOE welcomes comment on its approach of not including installation costs in the LCC analysis. See section IV.F.

13. DOE requests comment on the overall methodology and results of the LCC and PBP analyses. See section IV.F.

14. In evaluating overall U.S. shipments of CFLKs, DOE assumed in its analysis that CFLKs are primarily found on low-volume ceiling fans. DOE requests any information regarding shipments of CFLKs intended for high-volume ceiling fans. See section IV.G.

15. DOE considered more efficacious lamps under two different substitution scenarios: (1) A lamp replacement scenario and (2) a light kit replacement scenario. In its analysis, DOE split market share evenly between both scenarios when distributing market share among ELs. DOE requests comment on the likelihood of CFLK manufacturers selecting each substitution scenario and information on any alternative scenarios that manufacturers may choose.

16. DOE assumed that only LEDs will continue to experience price learning because of the relative maturity of the other lamp technologies and their anticipated sharp decline as market share shifts to LED. DOE requests comment on the assumption that only LEDs will continue to undergo significant cost reduction due to price learning.

17. DOE requests comment and input regarding its assumption that the distribution of CFLKs by light source technology in the commercial sector is the same as the light source technology distribution in the residential sector.

18. Although LED technology currently accounts for a small fraction of the CFLK market, manufacturers indicate that LED penetration is expected to dominate the lighting market in a relatively short time. DOE estimated the market penetration of LEDs into the ceiling fan light kit market as a Bass diffusion curve. DOE requests comment on this approach.

19. Based on observed trends on the efficacy of LED lamps on the market over time, DOE assumed the market share for LED lamps would naturally shift to more efficacious ELs in the no-standards and standards shipments cases. DOE requests feedback on this assumption.

20. DOE assumed that when the price of LED lamps reached parity with comparable CFL lamps, manufacturers would choose to package CFLKs only with LED lamps. DOE requests feedback on the likelihood of this assumption.

21. DOE requests comments on its assumed breakdown of CFLK usage as 95 percent in the residential sector and 5 percent commercial sector.

22. DOE requests comments on the overall methodology used to develop shipment forecasts and estimate national energy savings and the NPV of those savings.

23. DOE seeks comment on the assumption that almost all CFLK manufacturing takes place abroad. Additionally, DOE seeks comment on any potential domestic employment impacts as a result of amended energy conservation standards for CFLKs.

24. DOE seeks comment on any potential impact on manufacturing capacity at the efficacy level proposed in this NOPR.

25. DOE seeks comment on any potential manufacturer subgroups that could be disproportionally impacted by amended energy conservation standards for CFLKs.

26. DOE seeks comment on the compliance costs of any other regulations on products that CFLK manufacturers also manufacture, especially if compliance with those regulations is required three years before or after the estimated compliance date of this proposed standard.

27. DOE seeks comments, information, and data on the small businesses in the industry, including their number and their role in the CFLK market. DOE also requests data on the market share of small businesses in the CFLK market. Additionally, DOE seeks comment on the potential impacts of the amended standards on CFLK small businesses.

28. DOE seeks comment on any rules or regulations that could potentially duplicate, overlap, or conflict with the proposed amended standard.

## VIII. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this notice of proposed rulemaking.

## List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Incorporation by reference, Intergovernmental relations, Small businesses.

Issued in Washington, DC, on June 18, 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. Amend § 430.32 to revise paragraphs (s)(2), (s)(3), and (s)(4) and to add paragraph (s)(5) to read as follows:

**§ 430.32 Energy and water conservation standards and their compliance dates.**

* * * * *

(s) * * *

(2)(i) Except for the minimum efficacy requirement as provided in paragraph (s)(5) of tis section, ceiling fan light kits with medium screw base sockets manufactured on or after January 1, 2007, must be packaged with screw-based lamps to fill all screw base sockets.

(ii) The screw-based lamps required under paragraph (s)(2)(i) of this section must—

(A) Be compact fluorescent lamps that meet or exceed the following requirements or be as described in paragraph (s)(2)(ii)(B) of this section, except for the minimum efficacy requirement as provided in paragraph (s)(5) of this section:

| Factor | Requirements |
|---|---|
| Rated Wattage (Watts) & Configuration [1]. | Minimum Initial Lamp Efficacy (lumens per watt).[2] |
| *Bare Lamp:* | |
| Lamp Power <15 ... | 45.0. |
| Lamp Power ≥15 ... | 60.0. |
| *Covered Lamp (no reflector):* | |
| Lamp Power <15 ... | 40.0. |
| 15< Lamp Power <19. | 48.0. |
| 19< Lamp Power <25. | 50.0. |
| Lamp Power ≥25 ... | 55.0. |
| *With Reflector:* | |
| Lamp Power <20 ... | 33.0. |
| Lamp Power ≥20 ... | 40.0. |
| Lumen Maintenance at 1,000 hours. | ≥90.0%. |
| Lumen Maintenance at 40 Percent of Lifetime. | ≥80.0%. |
| Rapid Cycle Stress Test. | At least 5 lamps must meet or exceed the minimum number of cycles. |
| Lifetime ..... | ≥6,000 hours for the sample of lamps. |

[1] Use rated wattage to determine the appropriate minimum efficacy requirements in this table.

[2] Calculate efficacy using measured wattage, rather than rated wattage, and measured lumens to determine product compliance. Wattage and lumen values indicated on products or packaging may not be used in calculation.

(B) Light sources other than compact fluorescent lamps that have lumens per watt performance at least equivalent to comparably configured compact fluorescent lamps meeting the energy conservation standards in paragraph (s)(2)(ii)(A) of this section.

(3) Ceiling fan light kits manufactured on or after January 1, 2007, with pin-based sockets for fluorescent lamps must use an electronic ballast and be packaged with lamps to fill all sockets. Except for the minimum efficacy requirement as provided in paragraph (s)(5) of this section, these lamp ballast platforms must meet the following requirements:

| Factor | Requirement |
|---|---|
| System Efficacy per Lamp Ballast Platform in Lumens per Watt (lm/w) | ≥50 lm/w for all lamps below 30 total listed lamp watts.<br>≥60 lm/w for all lamps that are ≤24 inches and ≥30 total listed lamp watts.<br>≥70 lm/w for all lamps that are >24 inches and ≥30 total listed lamp watts. |

(4) Except for the requirements as provided in paragraph (s)(5) of this section, ceiling fan light kits with socket types other than those covered in paragraphs (s)(2) and (3) of this section, including candelabra screw base sockets, manufactured on or after January 1, 2009—

(i) Shall not be capable of operating with lamps that total more than 190 watts. On [DATE 30 DAYS AFTER DATE OF FINAL RULE PUBLICATION IN THE **Federal Register**], ceiling fan light kits with integrated solid-state lighting (SSL) circuitry that

(A) Have only SSL drivers and light sources that are not consumer replaceable,

(B) Do not include any other light source, and

(C) Include SSL drivers with a maximum operating wattage of no more than 190 W, are considered to incorporate some electrical device or measure that ensures they do not exceed the 190 W limit.

(ii) Shall be packaged to include the lamps described in paragraph (s)(4)(i) of this section with the ceiling fan light kits.

(5) Ceiling fan light kits manufactured on or after [DATE 3 YEARS AFTER DATE OF FINAL RULE PUBLICATION IN THE **Federal Register**] shall meet the requirements shown in the table:

| Metric | Minimum standard |
|---|---|
| Minimum Average Lamp Efficacy for lamps with output <120 lumens ..... | 50 lm/W. |
| Minimum Average Lamp Efficacy for lamps with output ≥120 lumens ..... | $(74 - 29.42 \times 0.9983^{lumens})$ lm/W. |

* * * * *

[FR Doc. 2015–19650 Filed 8–12–15; 8:45 am]

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# Reader Aids

**Federal Register**

Vol. 80, No. 156

Thursday, August 13, 2015

## CUSTOMER SERVICE AND INFORMATION

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| **Presidential Documents** | |
| Executive orders and proclamations | **741–6000** |
| **The United States Government Manual** | **741–6000** |
| **Other Services** | |
| Electronic and on-line services (voice) | **741–6020** |
| Privacy Act Compilation | **741–6064** |
| Public Laws Update Service (numbers, dates, etc.) | **741–6043** |

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## FEDERAL REGISTER PAGES AND DATE, AUGUST

45841–46180 ..... 3
46181–46484 ..... 4
46485–46788 ..... 5
46789–47398 ..... 6
47399–47828 ..... 7
47829–48000 ..... 10
48001–48234 ..... 11
48235–48422 ..... 12
48423–48682 ..... 13

## CFR PARTS AFFECTED DURING AUGUST

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

**2 CFR**

**Proposed Rules:**
3474 ..... 47254

**3 CFR**

**Proclamations:**
9305 ..... 46175
9306 ..... 48423
**Executive Orders:**
13702 ..... 46177
13703 ..... 46181
**Administrative Orders:**
Notices:
Notice of August 7, 2015 ..... 48233

**6 CFR**

**Proposed Rules:**
19 ..... 47284

**7 CFR**

6 ..... 46185
301 ..... 48001
319 ..... 48002
457 ..... 48003
1208 ..... 46789
**Proposed Rules:**
16 ..... 47244
1051 ..... 47210
3560 ..... 46853

**9 CFR**

**Proposed Rules:**
201 ..... 47871

**10 CFR**

1 ..... 45841
37 ..... 45841
40 ..... 45841
50 ..... 45841
51 ..... 48235
55 ..... 45841
74 ..... 45841
75 ..... 45841
429 ..... 46730
430 ..... 46730, 48004
**Proposed Rules:**
429 ..... 46855, 46870
430 ..... 46521, 46855, 48624
431 ..... 46870

**12 CFR**

701 ..... 45844
702 ..... 48010

**14 CFR**

23 ..... 48242
25 ..... 47399, 47400
39 ..... 45851, 45853, 45857, 46187, 48013, 48018, 48019, 48022
65 ..... 46791
71 ..... 48425, 48426, 48427, 48428, 48429, 48430, 48431
97 ..... 45860, 45862
1217 ..... 45864
**Proposed Rules:**
39 ..... 45900, 45902, 46206, 47871
71 ..... 46525, 48469, 48470

**15 CFR**

744 ..... 47402
746 ..... 47402
902 ..... 48244
**Proposed Rules:**
902 ..... 48172

**16 CFR**

**Proposed Rules:**
Ch. II ..... 48043
312 ..... 47429

**17 CFR**

241 ..... 47829

**19 CFR**

181 ..... 47405
191 ..... 47405
351 ..... 46793

**20 CFR**

404 ..... 48248
422 ..... 47831

**21 CFR**

73 ..... 46190
866 ..... 46190
874 ..... 46192
878 ..... 46485
**Proposed Rules:**
573 ..... 48471
1308 ..... 48044

**22 CFR**

**Proposed Rules:**
205 ..... 47238

**24 CFR**

5 ..... 46486
200 ..... 48024
232 ..... 48024
**Proposed Rules:**
5 ..... 47302
92 ..... 47302
200 ..... 47874
570 ..... 47302
574 ..... 47302
576 ..... 47302
578 ..... 47302
582 ..... 47302
583 ..... 47302
1003 ..... 47302

**26 CFR**

1 .....45865, 46795, 48249, 48433
602.....45865, 46795
**Proposed Rules:**
1 .....45905, 46882, 47430, 48472
25.....47430
26.....47430
301.....47430

**27 CFR**

9.....47408
**Proposed Rules:**
9.....46883

**28 CFR**

553.....45883
**Proposed Rules:**
38.....47316

**29 CFR**

1956.....46487
**Proposed Rules:**
2.....47328
1910.....47566

**31 CFR**

**Proposed Rules:**
23.....46208

**32 CFR**

199.....46796
238.....47834

**33 CFR**

100.....48436
117 .....46492, 47410, 47411, 47850, 47851, 47852, 48251, 48440, 48441
147.....47852
165 .....45885, 45886, 46194, 47855, 48252, 48441

**34 CFR**

Ch. III.....46799, 48028, 48443
**Proposed Rules:**
75.....47254
76.....47254

**36 CFR**

**Proposed Rules:**
2.....48280

**38 CFR**

3.....48450
17.....46197
36.....48254
**Proposed Rules:**
4.....46888
50.....47340
61.....47340
62.....47340

**39 CFR**

**Proposed Rules:**
3050.....46214

**40 CFR**

52 .....45887, 45890, 46201, 46494, 46804, 47857, 47859, 47862, 48033, 48036, 48255, 48259
60.....48262
180.....46816
1600.....46822
**Proposed Rules:**
9.....45914, 46526
22.....45914, 46526
52 .....45915, 47880, 47883, 48051, 48280, 48281
85.....45914, 46526
86.....45914, 46526
123.....47430
131.....47430
233.....47430
501.....47430
600.....45914, 46526
721.....47441
1033.....45914, 46526
1036.....45914, 46526
1037.....45914, 46526
1039.....45914, 46526
1042.....45914, 46526
1065.....45914, 46526
1066.....45914, 46526
1068.....45914, 46526

**42 CFR**

68b.....48272
84.....48268
110.....47411
412.....46652, 47036
418.....47142
483.....46390
**Proposed Rules:**
80.....48473
409.....46215
424.....46215
484.....46215

**43 CFR**

2.....45893
4.....48451

**44 CFR**

64.....45894

**45 CFR**

**Proposed Rules:**
87.....47272
95.....48200
1050.....47272
Ch. XIII.....48282
Subch. B.....48282
1355.....48200
1356.....48200

**46 CFR**

**Proposed Rules:**
296.....46527

**47 CFR**

20.....45897
63.....45898
73.....46824
**Proposed Rules:**
0.....46900
2.....46900
11.....47886
15.....46900
18.....46900
54.....45916, 47448
73.....45917
90.....46928

**48 CFR**

207.....45899
**Proposed Rules:**
1.....46531
4.....46531
9.....46531
17.....46531
22.....46531
52.....46531
202.....45918
212.....45918
215.....45918
252.....45918
1823.....48282
1852.....48282

**49 CFR**

27.....46508
192.....46847
193.....46847
195.....46847
232.....47350
611.....46514
**Proposed Rules:**
191.....46930
192.....46930
195.....46930
512.....45914, 46526
523.....45914, 46526
534.....45914, 46526
535.....45914, 46526
537.....45914, 46526
541.....46930
583.....45914, 46526

**50 CFR**

17.....47418, 48142
218.....46112
300.....46515
622 .....46205, 48041, 48277
635.....46516
648 .....46518, 46848, 48244
660.....46519, 46852
679 .....46520, 47864, 48467
**Proposed Rules:**
20.....46218, 47388
216.....48172
219.....46939
222.....45924
223.....48053, 48061
224.....48053, 48061
600.....46941
622.....48285
648.....46531
697.....46533

## LIST OF PUBLIC LAWS

**Note:** No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

**Last List August 11, 2015**

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