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Federal Register

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

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

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1653

Criminal Restitution Orders

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Final rule.

SUMMARY: The Federal Retirement Thrift Investment Board (Agency) is amending its procedures for processing criminal restitution orders to: Require an enforcement letter from the Department of Justice stating that restitution has been ordered under the Mandatory Victims Restitution Act; and provide that the Agency will treat a judgment ordering restitution under the Mandatory Victims Restitution Act as a final judgment. The Agency is also making two technical corrections.

DATES: This rule is effective September 1, 2015.

FOR FURTHER INFORMATION CONTACT: Laurissa Stokes at (202) 942–1645.

SUPPLEMENTARY INFORMATION: The Agency administers the Thrift Savings Plan (TSP), which was established by the Federal Employees' Retirement System Act of 1986 (FERSA), Public Law 99–335, 100 Stat. 514. The TSP provisions of FERSA are codified, as amended, largely at 5 U.S.C. 8351 and 8401–79. The TSP is a tax-deferred retirement savings plan for Federal civilian employees and members of the uniformed services. The TSP is similar to cash or deferred arrangements established for private-sector employees under section 401(k) of the Internal Revenue Code (26 U.S.C. 401(k)).

On July 13, 2015, the Agency published a proposed rule with request for comments in the **Federal Register** (80 FR 39975, July 13, 2015). The Agency received no comments and, therefore, is publishing the proposed rule as final without change.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation will affect Federal civilian employees and spouse beneficiaries who participate in the Thrift Savings Plan, which is a Federal defined contribution retirement savings plan created under the Federal Employees' Retirement System Act of 1986 (FERSA), Public Law 99–335, 100 Stat. 514, and which is administered by the Agency.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act.

Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 602, 632, 653, 1501–1571, the effects of this regulation on state, local, and tribal governments and the private sector have been assessed. This regulation will not compel the expenditure in any one year of $100 million or more by state, local, and tribal governments, in the aggregate, or by the private sector. Therefore, a statement under section 1532 is not required.

Submission to Congress and the General Accounting Office

Pursuant to 5 U.S.C. 810(a)(1)(A), the Agency submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States before publication of this rule in the **Federal Register**. The rule is not a major rule as defined in 5 U.S.C. 804(2).

List of Subjects in 5 CFR Part 1653

Claims, Government employees, Pensions, Retirement, Taxes.

Gregory T. Long,

Executive Director, Federal Retirement Thrift Investment Board.

For the reasons stated in the preamble, the Agency amends 5 CFR chapter VI as follows:

PART 1653—COURT ORDERS AND LEGAL PROCESSES AFFECTING THRIFT SAVINGS PLAN ACCOUNTS

■ 1. The authority citation for part 1653 continues to read as follows:

Authority: 5 U.S.C. 8432d, 8435, 8436(b), 8437(e), 8439(a)(3), 8467, 8474(b)(5), and 8474(c)(1).

■ 2. Amend § 1653.31, by revising paragraph (b) to read as follows:

§ 1653.31 Definitions.

* * * * *

(b) As used in this subpart:

Criminal restitution order means a complete copy of a judgment in a criminal case issued by a federal court ordering restitution for a crime under 18 U.S.C. 3663A.

Enforcement letter means a letter received from the Department of Justice requesting a payment from a participant's TSP account to enforce a criminal restitution order.

■ 3. Amend § 1653.33 by:

■ a. Revising paragraph (b)(2) and adding paragraph (b)(3),

■ b. Adding the word ''criminal'' before ''restitution order'' in paragraphs (c)(1) and (2); and

■ c. Revising paragraphs (c)(3), (c)(5), and (c)(6).

The revisions and addition read as follows:

§ 1653.33 Qualifying criminal restitution order.

* * * * *

(b) * * *

(2) The criminal restitution order must require the participant to pay a stated dollar amount as restitution.

(3) The criminal restitution order must be accompanied by an enforcement letter that states the restitution is ordered under 18 U.S.C. 3663A. The enforcement letter must expressly refer to the ''Thrift Savings Plan'' or describe the TSP in such a way that it cannot be confused with other Federal Government retirement benefits or non-Federal retirement benefits.

(c) * * *

(3) A criminal restitution order accompanied by an enforcement letter that requires the TSP to make a payment in the future;

* * * * *

(5) A criminal restitution order accompanied by an enforcement letter that requires TSP to make a series of payments;

(6) A criminal restitution order accompanied by an enforcement letter that designates the specific TSP Fund, source of contributions, or balance from which the payment or portions of the payment shall be made.

■ 4. Amend § 1653.34 by revising the last sentence of paragraph (b) introductory text to read as follows:

§ 1653.34 Processing Federal tax levies and criminal restitution orders.

* * * * *

(b) * * * To be complete, a tax levy or criminal restitution order must meet all the requirements of § 1653.32 or § 1653.33; it must also provide (or be accompanied by a document or enforcement letter that provides):

* * * * *

■ 5. Amend § 1653.35, by revising the introductory text and paragraph (a) to read as follows:

§ 1653.35 Calculating entitlement.

A tax levy or criminal restitution order can only require the payment of a stated dollar amount from the TSP. The payee's entitlement will be the lesser of:

(a) The dollar amount stated in the tax levy or enforcement letter; or

* * * * *

■ 6. Amend § 1653.36 by:

■ a. Adding the word ''tax'' before the word ''levy'' in paragraph (a);

■ b. Adding the word ''criminal'' before the words ''restitution order'' wherever they appear and by adding the word ''tax'' before ''levy'' wherever it appears in paragraph (c);

■ c. Revising paragraph (d) introductory text;

■ d. Adding the word ''tax'' before the word ''levy'' in paragraph (g); and

■ e. Adding paragraph (h).

The revision and addition read as follows:

§ 1653.36 Payment.

* * * * *

(d) If a participant has funds in more than one type of account, payment will be made from each account in the following order, until the amount required by the tax levy or stated in the enforcement letter is reached:

* * * * *

(h) The TSP will not hold a payment pending appeal of a criminal restitution order or the underlying conviction. The TSP will treat the criminal restitution order as a final judgment pursuant to 18 U.S.C. 3664(o) and process payment as provided by this subpart.

[FR Doc. 2015–21303 Filed 8–31–15; 8:45 am]

BILLING CODE 6760–01–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1784

RIN 0572–AC28

Section 306D Water Systems for Rural and Native Villages in Alaska

AGENCY: Rural Utilities Service, USDA.

ACTION: Final rule.

SUMMARY: The Rural Utilities Service (RUS), an Agency of the United States Department of Agriculture (USDA), is modifying its existing regulations to establish a separate regulation for making grants to rural or Native Alaskan Villages under the Rural Alaska Village Grant (RAVG) Program. The existing RAVG regulation will be relocated to its own section and modified to conform with streamlined processes established through a Memorandum of Understanding among USDA, RUS; The United States Department of Health and Human Services, Indian Health Service (IHS); The State of Alaska, Department of Environmental Conservation (DEC); and the Alaska Native Tribal Health Consortium (ANTHC). The grants will be provided directly to a rural or Native Alaskan Village or jointly with either DEC or ANTHC for the development and construction of water and wastewater systems to improve the health and sanitation conditions in those Villages through removal of dire sanitation conditions.

DATES: This rule is effective September 1, 2015.

FOR FURTHER INFORMATION CONTACT: Jacqueline M. Ponti-Lazaruk, Assistant Administrator, Water and Environmental Programs, Rural Utilities Service, Rural Development, U.S. Department of Agriculture, 1400 Independence Avenue SW., STOP 1548, Room 5147, Washington, DC 20250–1590. Telephone number: (202) 690–2670, Facsimile: (202) 720–0718.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. RUS has determined that this rule meets the applicable standards provided in section 3 of that Executive Order. In addition, all State and local laws and regulations that are in conflict with this rule will be preempted. No retroactive effect will be given to the rule and, in accordance with section 212(e) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6912(e)), administrative appeal procedures must be exhausted before an action against the Department or its agencies may be initiated.

Regulatory Flexibility Act Certification

Pursuant to 5 U.S.C. 553(a) (2), this final rule related to grants is exempt from the rulemaking requirements of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*), including the requirement to provide prior notice and an opportunity for public comment. Because this rule is not subject to a requirement to provide prior notice and an opportunity for public comment pursuant to 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable.

Information Collection and Recordkeeping Requirements

The information collection and recordkeeping requirements contained in this final rule are pending approval by OMB pursuant to the Paperwork Reduction Act 1995 (44 U.S.C. Chapter 35) under control number 0572–AC28 . The paperwork contained in this rule will not be effective until approved by OMB.

E-Government Act Compliance

RUS is committed to the E-Government Act, which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

Catalog of Federal Domestic Assistance

The program described by this final rule is listed in the Catalog of Federal Domestic Assistance Programs under number 10.760. This catalog is available electronically through the free CFDA Web site on the Internet at *http://www.cfda.gov.* The print edition may be purchased by calling the Superintendent of Documents at 202–512–1800 or toll free at 866–512–1800, or ordering it online at *http://bookstore.gpo.gov.*

Executive Order 12372

All projects funded under this part are subject to Executive Order 12372 (3 CFR, 1983 Comp., p. 197), which requires intergovernmental consultation with State and local officials. These requirements are set forth in U.S.

Department of Agriculture regulations 2 CFR part 415, subpart C, and RD Instruction 1940 J. In the case of grants made to DEC and ANTHC, DEC and ANTHC will certify that the requirements listed in paragraphs a–e are included in their agreements with the rural or native villages.

Federally Recognized Tribes, however, are exempt from this process as set forth in the U.S. Department of Agriculture regulations 7 CFR 1940.453(c) and RD Instruction 1940.J which addresses applications from Indian tribes. Specifically, applications from federally recognized Indian tribes are not subject to the requirements of this subpart. However, Indian tribes may voluntarily participate in the review system explained in this Subpart and are encouraged to do so. When a federally recognized Tribal Government has established a mechanism for coordinating the activities of Tribal departments, divisions, enterprises or entities, Rural Development will, on request of such Tribal Government transmitted through OMB, require that applications for assistance be subject to review by the Tribal coordinating mechanism as though it were a part of the consultation process under this Subpart.

Unfunded Mandates

This final rule contains no Federal mandates (under the regulatory provision of Title II of the Unfunded Mandate Reform Act of 1995) for State, local, and tribal governments or the private sector. Thus, this final rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandate Reform Act of 1995.

National Environmental Policy Act Certification

RUS has determined that this final rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

Executive Order 13132, Federalism

The policies contained in this final rule do not have any substantial direct effect on 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. Nor does this final rule impose substantial direct compliance costs on state and local governments. Therefore, consultation with the states is not required.

Executive Order 13175

Executive Order 13175 imposes requirements on RUS in the development of regulatory policies that have tribal implications or preempt tribal laws. RUS has determined that this final rule has a substantial direct effect on one or more Indian tribe(s) or on either the relationship or the distribution of powers and responsibilities between the Federal Government and Indian tribes. Therefore, in anticipation of the publication of this final rule, RUS focused its quarterly Tribal Consultation webinar and teleconference process during the summer of 2013 on the Rural Alaska Village Grant program. A pre-consultation briefing was held on June 20, 2013 to provide a thorough briefing of the Rural Alaska Village Grant program and the regulatory changes under consideration. This was followed by a Tribal Consultation webinar and teleconference on July 17, 2013. Input received by RUS through the Tribal Consultation process was considered alongside comments to the proposed rule and utilized in drafting the final rule. If a Tribe has questions about the Tribal Consultation process please contact Rural Development's Native American Coordinator at (720) 544–2911 or *AIAN@wdc.usda.gov.*

Background

The Rural Utilities Service, a Rural Development agency of the United States Department of Agriculture (RUS), works to improve the quality of life in rural America by providing investment capital, in the form of loans, loan guarantees, grants and technical assistance for the deployment of rural telecommunications, broadband, electric, water and environmental infrastructure. RUS loans, loan guarantee and grant programs act as a catalyst for economic and community development. By financing improvements to rural electric, water and waste, and telecommunications and broadband infrastructure, RUS plays a significant role in improving other measures of quality of life in rural America, including public health and safety, environmental protection, conservation, and cultural and historic preservation.

Comments

RUS published a proposed rulemaking in the **Federal Register** on December 20, 2013 at 78 FR 77009 seeking comments on modification to an existing regulation and the establishment of a separate regulation for the RAVG program. The Agency received one comment from an outside Federal agency, the U.S. Army Corps of Engineers Alaska District Hydraulics Section, along with two public submissions from the Alaska Native Tribal Health Consortium (ANTHC) and the State of Alaska Department of Environmental Conservation (DEC) regarding the proposed rule. The commenters' responses are summarized below with the Agency's responses as follows:

Issue 1: ANTHC and DEC stated that the definition of dire sanitation conditions is problematic and suggested modifying the existing definition because it does not allow identified deficiencies to be addressed until they have already undermined public health and until the deficiency is far more difficult and expensive to correct.

Response: RUS agrees in part with the commenters and will modify parts 1 and 2 of the definition of *dire sanitation conditions* as presented by ANTHC in their comment submission. RUS is also adjusting part 3 of the definition so that it will allow an appropriate Federal agency (such as the Center for Disease Control) or a regulatory Agency of the State of Alaska to determine if the drinking water and/or sewer system does not meet regulatory requirements. RUS, however, disagrees with the proposed addition of a 4th part of the definition that would allow ''a professional engineer to determine if existing water and/or wastewater system components have exceeded their design life and replacements or upgrades are required to extend the service life to prevent loss of service or ability to meet regulatory or safety standards.'' The language as proposed would allow for any professional engineer, regardless of background, association, etc., to make a determination of need based on their personal assessment of a systems useful life. This approach would allow for inconsistencies in determinations and a potential for inaccurate prioritization of need. Allowing a professional engineer to determine whether a system has exceeded its useful life and is in need of repairs or replacement is not comparable to determining whether a dire sanitary need exists. Further, the commenters do not specify whether the professional engineer would be a private or public engineer. In the case of a private professional engineer, the Agency is concerned that there would be an incentive to prioritize the largest, most costly, projects to maximize revenues, rather than an unbiased prioritization of need. Section 306D of the Consolidated Farm and Rural Development Act authorizes the Secretary of Agriculture to ''make grants

to the State of Alaska for the benefit of rural or Native villages in Alaska to provide for the development and construction of water and wastewater systems to improve the health and sanitation conditions in those villages, and to prioritize the allocation of grants based on health and sanitation conditions.'' Given the limited grant funds available and the existing conditions in many native Alaskan villages, the Agency has determined that distinguishing between general lifecycle replacement need and dire sanitary need is necessary to ensure that funds are used for their highest purpose. As stated above, the Agency, upon consideration of the comments, will modify section three of the proposed definition of dire sanitary need to include language allowing appropriate Federal and State Agencies to assess the level of need. In doing so, the Agency expects that such qualified and appropriate agencies will make determinations based on standard evaluative processes. This approach will allow for more consistent determinations and meet the requirements of the statute.

Issue 2: § 1784.8(e) Eligibility—ANTHC and DEC request to delete some eligibility information as it relates to dire sanitation conditions.

Response: RUS disagrees with deleting the information in § 1784.8(e) as it would be a disservice to the communities that face the highest health and safety issues related to inadequate sanitation services. The purpose of the language is to clearly identify the level of documentation needed by the Agency to make a proper determination of eligibility for funding. RUS has placed an emphasis on health and dire sanitation needs to ensure that federal funds are used appropriately. In cases where there is scientific evidence or reports with substantiated evidence of associated health issues, documentation may be accepted from an appropriate federal agency such as the Center for Disease Control. The Agency is also adding language to address the concern that other situations may exist beyond the definition of dire sanitary condition in this regulation that have a negative impact on the health or safety of an eligible community, Specifically, the Agency is adding paragraph (f) to Section 1784.8 to allow applicants to request a special review and eligibility determination in individual cases where a proposed project does not meet the definition of ''Dire sanitation condition'' in § 1784.2, and where the applicant is able to satisfactorily demonstrate that a water or sewer system is deficient and negatively impacts the health or safety of the community. The decision to review an eligibility determination request and any determinations made subject to this paragraph will not be subject to administrative appeal.

Through planning efforts, RUS will continue to work with ANTHC, DEC, and rural Alaskan communities to help plan sanitation projects. In the event that the project does not meet the dire sanitation condition definition, the planning documents created through a Predevelopment and Planning Grant, which is another grant program offered by RUS, can be utilized by the community to secure other funding through Rural Development's water and waste program or elsewhere. The dire sanitation eligibility criteria will apply to design and construction projects.

Issue 3: § 1784.10—Eligible Grant Purposes: There are three issues related to eligible grant purposes in which both ANTHC and DEC provided suggestions, which are as follows:

Issue 3a. ANTHC suggests the proposed language for Reasonable Costs and Contingencies in § 1784.10(b)(1) is misplaced and should be modified to include a specific reference to ''materials (including construction allowance) and freight.''

Response: RUS agrees that the proposed language is misplaced and will relocate the language to § 1784.10 (a). However, RUS disagrees with the modification of reasonable costs. The Agency is concerned that if reasonable costs including construction allowances were allowed, scarce grant funds may be used for excess parts and fewer grant funds would be available for actual construction of infrastructure in communities in great need. RUS will work with applicants as needed with regard to occasional breakage and/or defects of materials.

Issue 3b. ANTHC suggests the proposed language for Training and Technical Assistance is not consistent with the Agriculture Appropriations Act and other documents.

Response: RUS agrees that technical assistance funds may be provided to other entities as designated in the annual appropriations. RUS proposes to amend the language in § 1784.10(b)(1)(iii) to align with the language in the Consolidated Appropriations Act, 2014.

Issue 3c. ANTHC and DEC suggest the proposed rule limits installation of water and sanitation services to residential homes only and does not include public facilities except for those necessary for the successful operation and maintenance of the water and sanitation system. It is suggested that the rule be revised to allow funding for water and sewer connections for facilities that provide health and social services and public facilities such as schools, school housing, public safety offices, health care facilities, government offices, etc.

Response: RUS disagrees with the proposed recommendations to modify the language in § 1784.10(c)(1). While the authorizing statute 306D does not restrict RAVG funds to residential homes, it also makes no mention of offering these services to public facilities. RUS's interpretation of the statute's purpose is to provide infrastructure for water and wastewater systems and Alaskan village residents directly connected to those systems. The suggested facilities addressed by the commenters are, however, eligible under the Rural Development Community Facilities program whose eligibility includes public facilities. Refer to Community Facilities regulation § 1942.17(d).

Issue 4: Grantee Accounting Methods, Management Reporting and Audits—ANTHC finds the proposed language confusing.

Response: RUS agrees that language in this section is confusing and will modify the language for simplicity.

Issue 5: Exception Authority—ANTHC recommends this section be expanded to allow the RUS Administrator flexibility to consider using funds on a case-by-case basis for additional installations that will promote access to public health services and sustainability of the system; and also recommends that RUS consider a delegation of exception authority to the Rural Development Alaska State Director.

Response: The request to broaden exception authority appears, from the comments filed, to be a vehicle to address concerns with what one or more commenters see as a too restrictive definition of dire sanitary need. As stated earlier, the definition of dire sanitary need will be modified in the final regulation to address comments filed and should allow sufficient room for professional assessment and determination of dire sanitary need. This will negate a need for expanded exception authority. RUS's Exception Authority has traditionally been reserved for the Administrator because such exceptions are rare and have great potential to more broadly impact programs. The Agency is not convinced by the commenters that codification of a specific delegation to a State Director is necessary.

Issue 6: Compliance and Application Processing—There are three issues related to the compliance and

application process noted by ANTHC. They are as follows:

Issue 6a: Revise § 1784.18, § 1784.20, and § 1784.21—ANTHC requests that § 1784.18, § 1784.20, and § 1784.21 be revised to remove requirements that tribal applicants execute standard and other forms dealing with nondiscrimination requirements. It is also requested that § 1784.21 be revised to eliminate the statement that all Rural Alaska Village grants are subject to USDA's civil rights regulations, particularly 7 CFR part 15 and 7 CFR part 1901, subpart E.

Response: The forms required for RAVG applicants seek information that is required by the Agency for processing and/or by the Office of Management and Budget (OMB) for grant programs. The forms are utilized in all Agency water and waste disposal programs and are routinely completed by tribal applicants. The commenter has provided no compelling reason for a special exception for RAVG applicants.

Issue 6b: Procurement by Applicants—ANTHC recommends modifying language in § 1784.36 (a) to avoid confusion and to accommodate their current policies and procedures regarding contracting and procurement. In addition, ANTHC is concerned that language in this section might be applied to prevent consideration of other factors that contribute to system sustainability and costs at another level.

Response: RUS agrees with the first recommendation made by ANTHC to revise the language of the proposed regulation with regard to procurement requirements § 1784.36(a). The second sentence, ''Procurement procedures shall not restrict or eliminate open and free competition'' will be removed. This requirement is already inherent in the statement that the State of Alaska, Department of Environmental Conservation (DEC) and ANTHC will base procurement procedures on OMB Uniform Administrative Requirements which specifically address open and free competition. We do not, however, concur in the addition of a separate requirement to consider system sustainability in selection of materials. Consideration of ''all materials normally suitable for the project based on sound engineering practices and project requirements'' is not intended to be exclusive and should not prevent consideration of other non-regulatory factors, such as sustainability as appropriate.

Issue 6c. Information Collection and Record Keeping Requirements—ANTHC is concerned that estimated burden hours are too low and should be significantly higher. Specifically, they estimate ''it takes 32 hands on hours to complete the documents taking into account the time it takes to work with rural communities, to complete and execute documents that require information or a signature from them.'' They also state that many of the forms are redundant.

Response: RUS disagrees and believes that ANTHC is misinterpreting burden estimates prepared by USDA in a separate information and collection package required under the Paperwork Reduction Act for this. ANTHC states in its comments that USDA's estimate of 2.5 hours is far too modest of an estimate for completion of required forms. The burden package developed for this regulation includes estimates for completion of each form or information requirement necessary to make application under the RAVG program. The aggregate burden is well above 2.5 hours.

Issue 7: Floodplains/Subpart C, § 1784.21(m) (Other Requirements)—Three commenters, ANTHC, DEC, and Ricky ''Lance'' Overstreet on behalf of US Army Corps of Engineers Alaska District Hydraulics Section, are concerned that specific language in this section will lead to narrow interpretations that could prevent the construction of water facilities, even where there is no undue threat of flooding.

Response: Federal Emergency Management Agency (FEMA) flood insurance policy and guidance allows the use of information obtained through consultation with the community, or flooding sources (that) have been studied by other Federal, State, or local agencies. Some of these studies do not meet the National Flood Insurance Program (NFIP) standards for a Flood Insurance Study, but often contain valuable flood hazard information, which may be incorporated into the NFIP maps as approximate studies. Those types of studies typically cover developed or developing areas. They often contain flood elevation profiles that can be used as ''best available data'' for floodplain management purposes (FEMA NFIP training module, Unit 3 NFIP Flood Studies and Maps). RUS therefore concurs with the comment and will revise the rule text accordingly.

Issue 8: Lead Agency Environmental Review—One commenter, ANTHC, suggests § 1784.22 be clarified with regard to obligations under the National Historic Preservation Act and its regulations.

Response: RUS agrees that § 1784.22 needs to be clarified and corrected as it applies to Section 106 of the National Historic Preservation Act (NHPA) and the implementing regulation found in 36 CFR part 800. The Agency also acknowledges that there is not a ''RAVG Section 106 process'' as such, and reference to this will be deleted from the section text.

List of Subjects in 7 CFR Part 1780

Agriculture, Community development, Community facilities, Reporting and recordkeeping requirements, Rural areas, Sewage disposal, Waste treatment and disposal, Water pollution control, Water supply, Watersheds.

Therefore, for the reasons discussed in the preamble, RUS amends chapter XVII of Title 7 of the Code of Federal Regulations as follows:

PART 1780—WATER AND WASTE LOANS AND GRANTS

■ 1. The authority citation for part 1780 continues to read as follows:

Authority: 6 U.S.C. 301; 7 U.S.C. 1989; 16 U.S.C. 1005

§ 1780.49 [Removed and Reserved]

■ 2. Remove and reserve § 1780.49.

■ 3. Add part 1784 to read as follows:

September 1, 2015

PART 1784—RURAL ALASKAN VILLAGE GRANTS

Subpart A—General Provisions

Sec.
1784.1 Purpose.
1784.2 Definitions.
1784.3 Objective.
1784.4–1784.7 [Reserved]

Subpart B—Grant Requirements

1784.8 Eligibility.
1784.9 Grant amount.
1784.10 Eligible grant purposes.
1784.11 Restrictions.
1784.12–1784.15 [Reserved]

Subpart C—Application Processing

1784.16 General.
1784.17 Application for Planning grants.
1784.18 Application for Pre-development grants.
1784.19 Application for Construction grants.
1784.20 Applications accepted from DEC or ANTHC.
1784.21 Other forms and certifications.
1784.22 Other requirements.
1784.23 Lead Agency Environmental Review.
1784.24–1784.25 [Reserved]

Subpart D—Grant Processing

1784.26 Planning, development, and procurement.
1784.27 Grant closing and disbursement of funds.
1784.28 Grantee accounting methods, management reporting, and audits.
1784.29 Grant servicing and accountability.
1784.30 Subsequent grants.

1784.31 Exception authority.
1784.32–1784.34 [Reserved]

Subpart E—Design, Procurement, Construction, and Inspection

1784.35 General.
1784.36 Procurement by applicants eligible under this part.
1784.37 Procurement of recovered materials.
1784.38–1784.99 [Reserved]

Authority: 7 U.S.C. 1926d.

Subpart A—General Provisions

§ 1784.1 Purpose.

This part sets forth the policies and procedures that will apply when the Rural Utilities Service (RUS) makes grants under the Rural Alaska Village Grant (RAVG) program (7 U.S.C. 1926d) to rural or native villages in Alaska. The grants will be provided directly to a rural or native village or jointly with either The State of Alaska, Department of Environmental Conservation (DEC) or The Alaska Native Tribal Health Consortium (ANTHC) for the benefit of rural or native villages in Alaska.

§ 1784.2 Definitions.

The following definitions apply to subparts A through E of this part.

ANTHC means the Alaska Native Tribal Health Consortium.

CONACT means the Consolidated Farm and Rural Development Act.

DEC means the State of Alaska, Department of Environmental Conservation.

Dire sanitation conditions means:

(1) Recurring instances of illness reasonably attributed to waterborne communicable disease have been documented or insufficient access to clean water creates a persistent threat of water-washed diseases; or

(2) No community-wide water and sewer system exists and individual residents must haul water to or human waste from their homes and/or use pit privies; or

(3) An appropriate federal agency (such as the Centers for Disease Control and Prevention) or regulatory Agency of the State of Alaska determines that the drinking water and/or sewer system does not meet current regulatory requirements.

Grant recipient means an applicant that has been awarded a Rural Alaskan Village Grant under this part.

IHS means the United States Department of Health and Human Services, Indian Health Service.

Owner means Grant recipient.

RAVG means Rural Alaskan Village Grant, a grant awarded by RUS, DEC, and/or ANTHC to a grant recipient under this part.

Rural or Native Villages in Alaska means a rural community or Native village in Alaska which meets the definition of a village under State statutes and does not have a population in excess of 10,000 inhabitants, according to the U.S. Census American Community Survey.

RD means Rural Development, a federal agency mission area delivering the United States Department of Agriculture's programs to rural communities.

Recipient community means a community that has been awarded a grant under this part.

RUS means the Rural Utilities Service, a federal agency mission area delivering the United States Department of Agriculture's rural utilities programs.

Short-lived assets means repair and replacement items expended each year that are not included in the annual Operational and Maintenance expenses as annual repair and maintenance.

Statewide nonmetropolitan median household income (SNMHI) means the median household income of the State's nonmetropolitan counties and portions of metropolitan counties outside of cities, towns or places of 50,000 or more population.

USDA means the United States Department of Agriculture.

VSW means Village Safe Water Program authorized under the Village Safe Water Act, Alaska Statute Title 46, Chapter 7 (AS 46.07).

§ 1784.3 Objective.

The objective of the RAVG Program is to assist the residents of rural or native villages in Alaska to provide for the development and construction of water and wastewater systems to improve the health and sanitation conditions in those villages through removal of dire sanitation conditions.

§§ 1784.4–1784.7 [Reserved]

Subpart B—Grant Requirements

§ 1784.8 Eligibility.

(a) Grants may be made to the following eligible applicants:

(1) A rural or native village in Alaska; or

(2) DEC on behalf of one or more rural or native village in Alaska; or

(3) ANTHC on behalf of one or more rural or native village in Alaska.

(b) Grants made to DEC or ANTHC may be obligated through a master letter of conditions for more than one rural or native village in Alaska; however, DEC or ANTHC together with each individual rural or native village beneficiary shall execute a grant agreement on a project by project basis. Expenditures for projects will be based on specific scope and be requested on a project by project basis.

(c) For grants proposed to be administered directly by a community, the responsibility to meet the requirements outlined in this part will be met by the community. RUS will be the lead agency on direct administration projects.

(d) The median household income of the rural or native village cannot exceed 110 percent of the statewide nonmetropolitan household income (SNMHI), according to US Census American Community Survey. Alaska census communities considered to be high cost isolated areas or ''off the road systems'' (*i.e.* communities that cannot be accessed by roads) may utilize up to 150 percent of SNMHI.

(e) For design and construction projects: A dire sanitation condition as defined in § 1784.2 must exist in the village served by the proposed project. For those projects identified under paragraphs (1) and (3) of the dire sanitation definition in § 1784.2, a notice of violation, consent order or other regulatory action from the appropriate regulatory agency must be provided to document the dire sanitation condition. In cases where there is scientific evidence or reports with substantiated evidence of associated health issues, documentation may be accepted from an appropriate federal agency.

(f) In individual cases where a proposed project does not meet the definition of ''Dire sanitation condition'' in § 1784.2, an applicant may request a special review and eligibility determination from the RUS Administrator in cases where the applicant is able to satisfactorily demonstrate that a water or sewer system is deficient and negatively impacts the health or safety of the community. The decision to review an eligibility determination request and any determinations made subject to this paragraph are not subject to administrative appeal.

(g) In order for an eligible applicant to receive a grant under the Rural Alaska Village Grant program, the State of Alaska shall provide 25 percent in matching funds from non-Federal sources.

(h) In processing grants through DEC and ANTHC, a public meeting must be held to inform the general public regarding the development of any proposed project. Documentation of the public meeting must be received with construction applications.

(1) A notice of intent must be published in a newspaper of general

circulation in the proposed area to be served.

(2) For projects where there are no newspapers of general circulation, a posting of the notice in a community building (post office, washeteria, clinic, etc.) frequented by village residents may be used to meet the requirement. This alternative form of notice has been authorized by the RUS Administrator.

§ 1784.9 Grant amount.

Grants will be made for up to 75 percent of the project development and/or construction costs, which does not include project administrative costs. Pursuant to 7 U.S.C. 1926d, the State of Alaska shall provide 25 percent in matching funds from non-Federal sources.

§ 1784.10 Eligible grant purposes.

Grant funds may be used for the following purposes:

(a) To pay reasonable costs associated with providing potable water or waste disposal services to residents of rural or native villages in Alaska. Reasonable costs include construction, planning, pre-development costs (including engineering, design, and rights-of-way establishment), and technical assistance as further defined below:

(1) *Planning.* Grants can be made specifically for planning report costs (including Master Plans, Feasibility Studies, and Detection or Source Studies) associated with the prioritization process.

(2) *Pre-development.* Grants can be made for pre-development costs such as preliminary engineering, environmental, application development, review and establishment of rights-of-way and easement, and full construction design for up to $1,000,000 for each eligible village. Prior to approving additional pre-development costs, a preliminary engineering report (PER) and/or approved PER like document, such as the Cooperative Project Agreement and supplemental documents from ANTHC and an environmental report shall be reviewed and concurred by RUS, DEC, ANTHC, and IHS.

(3) *Training and technical assistance.* Grant funding for technical assistance and training will be available in accordance with Section 306D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926d) and appropriations current at the time of application. Grants for this purpose will be processed in accordance with 7 CFR part 1775.

(b) To pay reasonable costs associated with the use of a recipient community's equipment during construction. (*i.e.* maintenance, minor repairs, and operational costs). A cost accounting system that is accurate to track expenses must be in place. Use of ANTHC or State of Alaska equipment fleet rental costs will also be eligible. RUS concurrence in the allocation method is required.

(c) *Individual installations.* (1) Individual service installation relates to residential homes only and does not include public facilities or commercial facilities. The only exception to serving a public facility is when the facility is necessary for the successful operation and maintenance of the water or sanitation system (*i.e.* the facility utilized for accepting utility payments and/or holding public meetings for the utility system).

(2) Individual home installations, including wells, septic system, flush tank and haul, in-house plumbing, etc., may be provided. The following guidelines must be followed for individual installations. A certification will be required with the application that provides documentation of the following:

(i) The residents are unable to afford to make the improvements on their own.

(ii) An agreement outlining the installation, operation, and maintenance of facilities must be in place.

(iii) An adequate method for denying service in the event of non-payment of user fees if such fees are required.

(iv) All residents of the community are treated equally.

(v) The improvements provided are reasonable and modest.

(vi) Legal authority (*i.e.* easements) is obtained to construct these improvements.

(vii) Documentation must be provided to RUS indicating the quantity and quality of the individual installations that may be developed; cost effectiveness of the individual facility compared with initial and long term user costs on a central system; health and pollution problems attributable to individual facilities; operational or management problems peculiar to individual installations; and permit of regulatory agency requirements.

§ 1784.11 Restrictions.

Grant funds may *not* be used to:

(a) Pay any annual recurring costs that are considered to be operational expenses of a facility.

(b) Pay basic/rental fee or depreciation for the use of the recipient community's equipment.

(c) Purchase existing systems.

(d) Pay for items not associated with Rural Utilities Service's approved scope of work. This includes projects developed from other funding sources.

(e) Except as provided in this part, finance any public or commercial facility.

§§ 1784.12–1784.15 [Reserved]

Subpart C—Application Processing

§ 1784.16 General.

(a) DEC and ANTHC utilize the National Indian Health Service, Sanitation Deficiency System (SDS) database as a comprehensive source of rural sanitation needs in Alaska. The database provides an inventory of the sanitation deficiencies including water, sewer, and solid waste facilities for existing homes. The sanitation deficiencies data are updated annually by DEC and ANTHC in consultation with the respective rural or native villages. The SDS system is utilized in the RAVG program to help prioritize applications under the Village Safe Water Program.

(b) A prioritized list of projects will be developed each year by RUS, DEC, and ANTHC applying prioritization criteria to the sanitation needs database. Prioritization criteria established by the RUS, DEC, ANTHC, and IHS will be based, at a minimum, on relative health impacts, drinking water and wastewater regulatory requirements, the sanitation conditions in each community and project readiness. The VSW Program process and associated prioritization criteria will be used to prioritize projects and place them on a priority list. The process will be reviewed and approved by RUS, DEC, ANTHC, and IHS. Projects will be funded from the priority list as they meet established planning, design, and construction requirements, subject to available funding.

§ 1784.17 Application for Planning grants.

(a) Entities identified in § 1784.8 of this part may submit a completed Standard Form 424 to apply for funding to establish a Planning report for a rural or Native village.

(b) Funding for planning grants will be allocated annually by RUS, DEC, and ANTHC according to the prioritization list described in § 1784.16(b) of this part.

§ 1784.18 Application for Pre-development grants.

(a) Entities identified in § 1784.8 of this part may submit a completed Standard Form 424, Standard Form 424A, and Standard Form 424B to apply for funding for pre-development costs. Pre-development costs are described in § 1784.10 (a)(1)(iii) of this part.

(b) Funding for pre-development grants will be allocated annually by

RUS, DEC, and ANTHC according to the prioritization list described in § 1784.16(b) of this part.

(c) Projects submitted for design only under the pre-development grant, must have RUS approval of a planning or pre-development report prior to consideration for funding.

§ 1784.19 Application for Construction grants.

(a) An application for a construction grant shall include:

(1) Completed Standard Form 424, Standard Form 424C and Standard Form 424D. Current versions of these forms may be found at Grants.gov.

(2) Preliminary Engineering Report, Environmental Report, or approved PER like document, including ANTHC's Cooperative Project Agreement and associated supplemental attachments;

(3) Population and median household income of the area to be served;

(4) Description of the project; and

(5) Approved business plan, including resolution adopting the plan, for the recipient community. The business plan will outline the proposed operation and management costs, rate structures, short-lived asset schedule and associated materials.

(6) Projects submitted for construction must have RUS and ANTHC or DEC approval of a planning or pre-development report prior to consideration for funding.

(b) Funding for construction grants will be allocated annually by RUS, DEC, and ANTHC according to the prioritization list described in § 1784.16(b) of this part.

§ 1784.20 Applications accepted from DEC or ANTHC.

(a) In cases where applications are accepted from DEC or ANTHC, one master application may be submitted covering all rural or native villages to be funded, however, each individual project will be broken out and (for construction grants) each will require its own PER, or PER-like document and Environmental Report.

(b) Each project will be processed individually with individual grant agreements, as appropriate.

(c) Expenditures for projects will be based on specific scope and be requested on a project by project basis.

(d) Funding amounts, as indicated in each grant agreement and letter of conditions, will be for the approved scope of work.

§ 1784.21 Other forms and certifications.

(a) Referenced bulletins, instructions and forms are for use in administering grants made under this part and are available from any USDA/Rural Development office or the Rural Utilities Service, U. S. Department of Agriculture, Washington, DC 20250–1500.

(b) Applicants will be required to submit the following items to the processing office, upon notification from the processing office to proceed with further development of the full application:

(1) Form RD 400–1, Equal Opportunity Agreement;

(2) Form RD 400–4, Assurance Agreement;

(3) Form AD 1047, Certification Regarding Debarment, Suspension and other Responsibility Matters;

(4) Form AD 1048, Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions;

(5) Form AD 1049, Certification regarding Drug-Free Workplace Requirements (Grants) Alternative I for Grantees Other Than Individuals;

(6) RUS Form 266, Compliance Assurance form or written self-certification statement—Civil Rights Compliance;

(7) Standard Form LLL, Disclosure of Lobbying Activities;

(8) RD Instruction 1940–Q, Exhibit A–1, Certifications for Contracts, Grants, and Loans (Regarding Lobbying); and

(9) Certification regarding prohibited tying arrangements. Applicants that provide electric service must provide the Agency a certification that they will not require users of a water or waste facility financed under this part to accept electric service as a condition of receiving assistance.

(c) In the case of grants made to DEC and ANTHC, DEC and ANTHC will certify that the above requirements are included in their agreements with the Villages. The certification and forms listed above must be provided from DEC and ANTHC on an annual basis for utilization in proposed applications.

(d) When favorable action is not taken on an application, the applicant will be notified in writing by the Rural Development State Program Official of the reasons why the request was not favorably considered. Notification to the applicant will state that a review of this decision by the Agency may be requested by the applicant in accordance with 7 CFR part 11.

(e) When favorable action is taken on an application, the applicant will be notified by a letter which establishes conditions that must be understood and agreed to before further consideration may be given to the application. In cases where a master application is submitted by DEC or ANTHC, the letter of conditions will include all projects, and their funding amounts, included in the master application on which favorable action will be taken. The letter of conditions does not constitute loan and/or grant approval, nor does it ensure that funds are or will be available for the project. The grant will be considered approved on the date a signed copy of Form RD 1940–1, Request for Obligation of Funds, is mailed to the applicant.

§ 1784.22 Other requirements.

Other Federal statutes and regulations are applicable to grants awarded under this part. These include but are not limited to:

(a) 7 CFR part 1, subpart A—USDA implementation of Freedom of Information Act.

(b) 7 CFR part 3—USDA implementation of OMB Circular No. A–129 regarding debt collection.

(c) 7 CFR part 15, subpart A—USDA implementation of Title VI of the Civil Rights Act of 1964, as amended.

(d) 7 CFR part 1794, RUS Implementation of the National Environmental Policy Act.

(e) 7 CFR part 1901, subpart E—Civil Rights Compliance Requirements.

(f) 2 CFR part 200—Uniform Guidance.

(g) 2 CFR part 215—General Program Administrative Requirements.

(h) 2 CFR part 418—New Restrictions on Lobbying, prohibiting the use of appropriated funds to influence Congress or a Federal agency in connection with the making of any Federal grant and other Federal contracting and financial transactions.

(i) 2 CFR parts 400 and 415—USDA implementation of Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations.

(j) 2 CFR part 180, as adopted by USDA through 2 CFR 417, Government-wide Debarment and Suspension (Non-procurement); 2 CFR part 182, as adopted by USDA through 2 CFR 421, Government-wide Requirements for Drug-Free Workplace (Federal Assistance), implementing Executive Order 12549 on debarment and suspension and the Drug-Free Workplace Act of 1988 (41 U.S.C. 701).

(k) 2 CFR part 200, subpart F—USDA implementation of audit requirements for non-federal organizations.

(l) 29 U.S.C. 794, section 504—Rehabilitation Act of 1973, and 7 CFR part 15B (USDA implementation of statute), prohibiting discrimination based upon physical or mental handicap in federally assisted programs.

(m) Floodplains. The agencies follow the eight-step decision-making process

referenced in Section 2(a) of Executive Order 11988, Floodplain Management, when undertaking actions located in floodplains. Pursuant to E. O. 11988, the IHS uses a Class Review process to exclude certain actions from further review under the eight-step process. For all actions that do not qualify for IHS Class Review, the eight-step process shall be completed. All practicable measures to minimize development in floodplains and reduce the risk to human safety, health, and welfare shall be followed, including elevating a new water or wastewater facility at least one foot above the base flood elevation as determined by the Army Corp of Engineers, other qualified survey, or best available data. Since they are considered ''critical facilities'' as defined by the Federal Emergency Management Agency (FEMA), water and wastewater facilities may be subject to more stringent standards such as relocation out of the floodplain, higher elevation, or other flood proofing measures. If an area has been designated a floodplain by FEMA Flood Insurance Rate Map (FIRM) coverage, flood insurance shall be required for facilities located in flood plains. If an area has no FEMA FIRM coverage the requirement to obtain flood insurance does not apply. If a community is located within a mapped FEMA Flood Insurance Rate Map (FIRM) 100-year floodplain, but is not a participating National Flood Insurance Program (NFIP) community member, then RUS may not fund the project according to 7 CFR 1806 Subpart B.

(n) Project planning, including engineering and environmental reports, to the maximum extent feasible, must address all water and/or waste disposal needs for a community in a coordinated manner with other community development projects and take into consideration information presented in available community strategic and comprehensive plans. Any reports or designs completed with funds must be completed in accordance with sound engineering practices and USDA regulations, including RUS NEPA regulations at 7 CFR part 1794.

§ 1784.23 Lead Agency Environmental Review.

(a) The Agency designated as the lead agency for the purposes of this grant program, will fulfill and agree to be responsible for complying with lead agency requirements for:

(1) National Environmental Policy Act (NEPA) as outlined in 40 CFR 1501.5, Lead agencies;

(2) National Historic Preservation Act (NHPA) Section 106 review process as outlined in 36 CFR part 800.2(a)(2) Lead Federal agency; and

(3) Section 7 of the Endangered Species Act as outlined in 50 CFR 402.07, Designation of lead agency.

(b) All environmental findings and determinations made by the lead agency represent those of the cooperating agencies and will be completed in accordance with the procedures outlined in this section.

(c) RUS will, to the extent possible and in accordance with 40 CFR 1506.2 and 7 CFR 1794.14, or successor regulation, actively participate with DEC, IHS, and ANTHC to cooperatively or jointly prepare environmental documents so that one document will comply with all applicable laws.

(d) For projects administered by DEC and ANTHC, RUS agrees to participate as a cooperating agency in accordance with 40 CFR 1501.6 and 7 CFR 1794.14 and relies upon those agencies' procedures for implementing NEPA as further described below.

(e) The lead agency will indicate that RUS is a cooperating agency in all NEPA-related notices published for the proposed action.

(f) A construction grant may not be approved until all environmental findings and determinations have been made according to the following:

(1) *Rural Development Lead Agency.* If RUS is the lead agency the environmental review process, including all findings and determinations, will be completed in accordance with 7 CFR 1794.

(2) *DEC Lead Agency.* In the event DEC is the lead agency, the environmental review process, including all findings and determinations will be completed in accordance with the environmental review process outlined in Appendix A to the June 15, 2011 MOU.

(3) *IHS Lead Agency.* For projects administered by ANTHC, IHS will be the lead agency for the environmental review process, including all findings and determinations. The environmental review process, including all findings and determinations will be completed in accordance with the Department of Health and Human Services policies and procedures in General Administration Manual, Part 30, Council on Environmental Quality regulations at 40 CFR 1500–1508 and with procedures published by IHS in the **Federal Register,** Vol. 58, No.3, page 569, January 6, 1993. The ANTHC shall notify the funding agencies and the IHS if a change in the project or project scope occurs which could change any previously prepared environmental findings or determinations or could adversely impact the environment. In the event of an unanticipated discovery of a historic property or other environmental resource, the ANTHC shall stop construction activity in the area of the discovery and notify the appropriate authority and the IHS. Mitigation options resulting from unanticipated discoveries, including but not limited to changes in project scope or cancellation of the project will be evaluated by the funding agencies in collaboration with the ANTHC and IHS. If appropriate and necessary, mitigation plans will be negotiated and approved by all parties. When the funding agencies have approved a mitigation plan and IHS has reaffirmed its environmental review process, including all findings and determinations, the ANTHC will be authorized to initiate the agreed to mitigation plan. The IHS shall bear no mitigation costs as it is not a funding agency for projects under this part.

(g) RUS will have an opportunity to review the IHS or DEC environmental review documents, including all findings and determinations to ensure consistency with this part and agency procedures. Where an Environmental Assessment (EA) or Environmental Impact Statement (EIS) is required by the lead agency's environmental policies and procedures, the lead agency will ensure that the scope and content of the EA or EIS satisfies the statutory and regulatory requirements applicable to RUS. Where an EA and EIS is not required under the applicable lead agency's procedures for implementing NEPA, the review by RUS will be limited to ensure that the applicable lead agency's procedures were followed.

(h) The National Historic Preservation Act Section 106 review requirements completed for ANTHC administered projects will be carried out in accordance with the process described in Appendix B of the June 15, 2011 MOU.

§§ 1784.24–1784.25 [Reserved]

Subpart D—Grant Processing

§ 1784.26 Planning, development, and procurement.

(a) If RUS is the lead agency and will provide oversight for the project, a certification should be obtained from the State agency, or the Environmental Protection Agency if the State does not have primacy, stating that the proposed improvements will be in compliance with requirements of the Safe Drinking Water Act and/or Clean Water Act and the applicable requirements of 2 CFR part 200 and 2 CFR part 400.

(b) Applicants that will bid and construct a project in phases, must provide assurance that the full scope of each specific phase of the project will be functional. In the event that the actual cost is anticipated to exceed the funding originally allocated for the project, all potential options will be reviewed and considered, including but not limited to acquiring additional funds or a reduction in project scope. RUS, ANTHC, and VSW will ensure that all items that were funded and within the scope of the project, including all phases, are functional when all funds have been disbursed.

§ 1784.27 Grant closing and disbursement of Funds.

(a) The Water and Waste Grant Agreement for rural and native villages in Alaska, or other approved form(s) will be executed by all applicants. To view all forms and agreements, refer to the USDA RUS Water and Environmental Programs Web site.

(b) Grant funds will be distributed from the Treasury at the time they are actually needed by the applicant using multiple advances. Instructions regarding disbursement of funds can be found in the Letter of Conditions.

(c) If there is a significant reduction in project costs, the applicant's funding needs will be reassessed. Decreases in RUS funds will be based on revised project costs and current number of users. Other factors, including RUS regulations used at the time of grant approval, will continue to be used as published at the time of grant approval. Obligated grant funds not needed to complete the proposed project will be deobligated. In such cases applicable forms, the letter of conditions, and other items will be revised.

§ 1784.28 Grantee accounting methods, management reporting, and audits.

(a) All Agency grantees will follow the reporting requirements as outlined in 7 CFR 1782.

(b) Other reporting requirements are as follows:

(1) During the construction period, for the reporting of expenses incurred for projects under this part, the party responsible for the administration of the project will complete an audit report in accordance with § 1782.10 (which includes GAGAS and 2 CFR part 200 Subpart F ''Audit Requirements''). RUS may request a copy of this report.

(2) After the construction period and for the life of the facility, the recipient community will be responsible to meet the requirements outlined in 2 CFR parts 200, 400, 415, 416, and 7 CFR part 1780.47 paragraphs a through d. These requirements must be outlined in funding documents from RUS, ANTHC, and VSW and in agreements with the recipient communities. RUS may request this information for the life of the facility.

(c) The requirements found in 2 CFR parts 200, 400, 415 and 416 shall apply to all grants made under the RAVG program and shall be set forth in the respective grant agreement where required.

§ 1784.29 Grant servicing and accountability.

(a) Grants will be serviced in accordance with 7 CFR part 1782.

(b) RUS reserves the right to request and review project files from grantees at any time.

(c) If at any time an application is determined ineligible, 7 CFR part 11 will be followed.

§ 1784.30 Subsequent grants.

Subsequent grants will be processed in accordance with the requirements set forth in this part. The initial and subsequent grants made to complete a previously approved project must comply with the maximum grant requirements set forth in§ 1784.8(f) of this part.

§ 1784.31 Exception authority.

The Administrator may, in individual cases, make an exception to any requirement or provision of this part which is not inconsistent with the authorizing statute or other applicable law and is determined to be in the Government's best interest.

§ 1784.32–1784.34 [Reserved]

Subpart E—Design, Procurement, Construction, and Inspection

§ 1784.35 General.

This subpart is specifically designed for use by owners including the professional or technical consultants or agents who provide assistance and services such as engineering, environmental, inspection, financial, legal or other services related to planning, designing, bidding, contracting, and constructing water and waste disposal facilities. The selection of engineers for a project design shall be done by a request for proposals by the applicant. These procedures do not relieve the owner of the contractual obligations that arise from the procurement of these services. For this subpart, an owner is defined as the grant recipient.

§ 1784.36 Procurement by applicants eligible under this part

(a) For applicants eligible under § 1784.8(a)(2) and (3), contracting and procurement activities will follow DEC or ANTHC policies, procedures and methods which are based on and shall follow Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR part 200). In specifying materials, DEC and ANTHC will consider all materials normally suitable for the project based on sound engineering practices and project requirements.

(b) Contracts for procurement must contain applicable contract provisions listed at Appendix II to 2 CFR part 200.

(c) For grants proposed to be administered directly by applicants eligible under § 1784.8(a)(1), the requirements outlined in 7 CFR part 1780, subpart C will be met by those eligible applicants with the exception of the following requirements:

(1) Preliminary engineering reports and Environmental Reports (§ 1780.55). Refer to the requirements of this subpart and subpart C § 1784.22(n).

(2) Metering devices in § 1780.57(m).

(3) Utility Purchase Contracts in § 1780.62.

(4) Sewage treatment and bulk water sales contracts in § 1780.63.

§ 1784.37 Procurement of recovered materials.

When a grant is made to the DEC, the state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

§§ 1784.38—1784.99 [Reserved].

Dated: _July 28, 2015._

Brandon McBride,

Administrator, Rural Utilities Service.

[FR Doc. 2015–21122 Filed 8–31–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2015–3653; Special Conditions No. 25–591–SC]

Special Conditions: Bombardier Aerospace, Models BD–500–1A10 and BD–500–1A11 Series Airplanes; Installed Rechargeable Lithium Batteries and Battery Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Bombardier Aerospace Models BD–500–1A10 and BD–500–1A11 series airplanes. These airplanes will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. This design feature is rechargeable lithium batteries and battery systems that have certain failure, operational, and maintenance characteristics that differ significantly from those of the nickel-cadmium and lead-acid rechargeable batteries currently approved for installation on large transport category airplanes. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for these design features. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: This action is effective on Bombardier Aerospace on September 1, 2015. We must receive your comments by October 1, 2015.

ADDRESSES: Send comments identified by docket number FAA–2015–3653 using any of the following methods:

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

Privacy: The FAA will post all comments it receives, without change, to *http://www.regulations.gov/*, including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov/*. *Docket:* Background documents or comments received may be read at *http://www.regulations.gov/* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Nazih Khaouly, FAA, Airplane and Flight Crew Interface Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–2432; facsimile 425–227–1149.

SUPPLEMENTARY INFORMATION:

The FAA has determined that notice of, and opportunity for prior public comment on, these special conditions is impracticable because these procedures would significantly delay issuance of the design approval and thus delivery of the affected airplanes. In addition, the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA therefore finds that good cause exists for making these special conditions effective upon publication in the **Federal Register**.

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive by the closing date for comments. We may change these special conditions based on the comments we receive.

Background

On December 10, 2009, Bombardier Aerospace applied for a type certificate for their new Models BD–500–1A10 and BD–500–1A11 series airplanes (hereafter collectively referred to as ''CSeries''). The CSeries airplanes are swept-wing monoplanes with an aluminum alloy fuselage, sized for 5-abreast seating. Passenger capacity is designated as 110 for the Model BD–500–1A10 and 125 for the Model BD–500–1A11. Maximum takeoff weight is 131,000 pounds for the Model BD–500–1A10 and 144,000 pounds for the Model BD–500–1A11. The CSeries airplanes will use rechargeable lithium batteries and battery systems for equipment and systems.

Type Certification Basis

Under the provisions of Title 14, Code of Federal Regulations (14 CFR) 21.17, Bombardier Aerospace must show that the CSeries airplanes meet the applicable provisions of 14 CFR part 25 as amended by Amendments 25–1 through 25–129.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the CSeries airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same or similar novel or unusual design feature, the special conditions would also apply to the other model.

In addition to the applicable airworthiness regulations and special conditions, the CSeries airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36, and the FAA must issue a finding of regulatory adequacy under § 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type-certification basis under § 21.17(a)(2).

Novel or Unusual Design Features

The CSeries will incorporate the following novel or unusual design feature: Installed rechargeable lithium batteries and battery systems that have certain failure, operational, and maintenance characteristics that differ

significantly from those of the nickel-cadmium and lead-acid rechargeable batteries currently approved for installation on large transport-category airplanes.

The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Discussion

The current regulations governing installation of batteries in large transport category airplanes were derived from Civil Air Regulations (CAR) part 4b.625(d) as part of the re-codification of CAR 4b that established 14 CFR part 25 in February 1965. The recodified battery requirements, § 25.1353(c)(1) through (c)(4), basically reworded the CAR requirements.

Increased use of nickel-cadmium batteries in small airplanes resulted in increased incidents of battery fires and failures that led to additional rulemaking affecting large, transport category airplanes as well as small airplanes. On September 1, 1977, and March 1, 1978, with Amendments 25–41 and 25–42 respectively, the FAA added paragraphs (c)(5) and (c)(6) to § 25.1353 governing nickel-cadmium battery installations on large, transport-category airplanes. On December 10, 2007, Amendment 25–123 moved the contents of paragraph (b) in § 25.1353 to the new subpart H, resulting in the relocation of the regulations governing the installation of batteries in § 25.1353 from paragraph (c) to paragraph (b).

The proposed use of rechargeable lithium batteries for equipment and systems prompted the FAA to review the adequacy of these existing regulations. Our review indicates that the existing regulations do not adequately address several failure, operational, and maintenance characteristics of lithium batteries that could affect the safety and reliability of the lithium battery installations.

At present, there is limited experience with the use of lithium batteries in applications involving commercial aviation. However, other users of this technology, ranging from wireless telephone manufacturers to the electric vehicle industry, have noted safety problems with rechargeable lithium batteries. These problems include overcharging, over-discharging, and flammability of cell components.

1. Overcharging

In general, lithium batteries are significantly more susceptible to internal failures that can result in self-sustaining increases in temperature and pressure (*i.e.,* thermal runaway) than their nickel-cadmium or lead-acid counterparts. This condition is especially true for overcharging, which causes heating and destabilization of the components of the cell, leading to the formation (by plating) of highly unstable metallic lithium. The metallic lithium can ignite, resulting in a self-sustaining fire or explosion. Finally, the severity of thermal runaway due to overcharging increases with increasing battery capacity due to the higher amount of electrolyte in large batteries.

2. Over-Discharging

Discharge of some types of lithium battery cells beyond a certain voltage (typically 2.4 volts), can cause corrosion of the electrodes of the cell, resulting in loss of battery capacity that cannot be reversed by recharging. This loss of capacity may not be detected by the simple voltage measurements commonly available to flightcrews as a means of checking battery status—a problem shared with nickel-cadmium batteries.

3. Flammability of Cell Components

Unlike nickel-cadmium and lead-acid batteries, some types of lithium batteries use liquid electrolytes that are flammable. The electrolyte can serve as a source of fuel for an external fire, if there is a breach of the battery container.

These problems experienced by users of lithium batteries raise concern about the use of these batteries in commercial aviation. The intent of these special conditions is to establish appropriate airworthiness standards for lithium battery installations in the CSeries airplanes and to ensure, as required by §§ 25.601 and 25. 1309, that these battery installations are not hazardous or unreliable.

Applicability

As discussed above, these special conditions are applicable to the Models BD–500–1A10 and BD–500–1A11 series airplanes. Should Bombardier Aerospace apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on two model series of airplanes. It is not a rule of general applicability.

The substance of these special conditions has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. Therefore, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon publication in the **Federal Register**. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

■ The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Bombardier BD–500–1A10 and BD–500–1A11 series airplanes.

In lieu of the requirements of Title 14 Code of Federal Regulations (14 CFR) 25.1353(b)(1) through (b)(4) at Amendment 25.129 for rechargeable lithium batteries and battery systems, all installations must be designed and installed as follows:

1. Safe cell temperatures and pressures must be maintained during any foreseeable charging or discharging condition and during any failure of the charging or battery monitoring system not shown to be extremely remote. The rechargeable lithium battery installation must preclude explosion in the event of those failures.

2. Design of the rechargeable lithium batteries must preclude the occurrence of self-sustaining, uncontrolled increases in temperature or pressure.

3. No explosive or toxic gases emitted by any rechargeable lithium battery in normal operation, or as the result of any failure of the battery charging system, monitoring system, or battery installation which is not shown to be extremely remote, may accumulate in hazardous quantities within the airplane.

4. Installations of rechargeable lithium batteries must meet the requirements of § 25.863(a) through (d).

5. No corrosive fluids or gases that may escape from any rechargeable lithium battery may damage surrounding structure or any adjacent systems, equipment, or electrical wiring of the airplane in such a way as to cause a major or more severe failure condition, in accordance with § 25.1309 (b) and applicable regulatory guidance.

6. Each rechargeable lithium battery installation must have provisions to prevent any hazardous effect on structure or essential systems caused by the maximum amount of heat the battery can generate during a short circuit of the battery or of its individual cells.

7. Lithium battery installations must have a system to control the charging rate of the battery automatically, so as to prevent battery overheating or overcharging, and,

a. A battery temperature sensing and over-temperature warning system with a means for automatically disconnecting the battery from its charging source in the event of an over-temperature condition, or,

b. A battery failure sensing and warning system with a means for automatically disconnecting the battery from its charging source in the event of battery failure.

8. Any rechargeable lithium battery installation, the function of which is required for safe operation of the airplane, must incorporate a monitoring and warning feature that will provide an indication to the appropriate flight crewmembers whenever the state-of-charge of the batteries has fallen below levels considered acceptable for dispatch of the airplane.

9. The instructions for continued airworthiness required by § 25.1529 must contain maintenance requirements to assure that the battery is sufficiently charged at appropriate intervals specified by the battery manufacturer and the equipment manufacturer that contain the rechargeable lithium battery or rechargeable lithium battery system. This is required to ensure that lithium rechargeable batteries and lithium rechargeable battery systems will not degrade below specified ampere-hour levels sufficient to power the aircraft system, for intended applications. The instructions for continued airworthiness must also contain procedures for the maintenance of batteries in spares storage to prevent the replacement of batteries with batteries that have experienced degraded charge retention ability or other damage due to prolonged storage at a low state of charge. Replacement batteries must be of the same manufacturer and part number as approved by the FAA. Precautions should be included in the instructions for continued airworthiness maintenance instructions to prevent mishandling of the rechargeable lithium battery and rechargeable lithium battery systems which could result in short-circuit or other unintentional impact damage caused by dropping or other destructive means that could result in personal injury or property damage.

Note 1: The term ''sufficiently charged'' means that the battery will retain enough of a charge, expressed in ampere-hours, to ensure that the battery cells will not be damaged. A battery cell may be damaged by lowering the charge below a point where there is a reduction in the ability to charge and retain a full charge. This reduction would be greater than the reduction that may result from normal operational degradation.

Note 2: These special conditions are not intended to replace § 25.1353(b) at Amendment 25–129 in the certification basis of BD–500–1A10 and BD–500–1A11 series airplanes. These special conditions apply only to rechargeable lithium batteries and lithium battery systems and their installations. The requirements of § 25.1353(b) at Amendment 25–129 remain in effect for batteries and battery installations on BD–500–1A10 and BD–500–1A11 series airplanes that do not use lithium batteries.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–21626 Filed 8–31–15; 8:45 am]

BILLING CODE 4910–13–P

INTERNATIONAL TRADE COMMISSION

19 CFR Part 207

[Docket No. MISC–013]

Investigations of Whether Injury to Domestic Industries Results From Imports Sold at Less Than Fair Value or From Subsidized Exports to the United States

AGENCY: International Trade Commission.

ACTION: Final rule.

SUMMARY: The United States International Trade Commission (''Commission'') is amending a provision of its Rules of Practice and Procedure concerning the conduct of antidumping and countervailing duty investigations and reviews. The amendment is designed to facilitate the collection of information and reduce the burden on petitioning parties by changing the information they need to provide in petitions.

DATES: This regulation is effective October 1, 2015, and is applicable to all petitions filed with the Commission after October 1, 2015.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary, telephone (202) 205–2000, or Michael Haldenstein, Attorney-Advisor, Office of the General Counsel, telephone (202) 205–3041, United States International Trade Commission. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal at (202) 205–1810. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background

Section 335 of the Tariff Act of 1930 (19 U.S.C. 1335) authorizes the Commission to adopt reasonable procedures, rules, and regulations that it deems necessary to carry out its functions and duties. The Commission has determined to amend Part 207 of its rules covering investigations conducted under title VII of the Tariff Act of 1930, as amended (''title VII proceedings''). The amendment is to Commission Rule 207.11 (19 CFR 207.11), which governs the information required in antidumping and countervailing duty petitions filed with the Commission (as well as the Department of Commerce). The change to the rule is aimed at decreasing the burden on petitioning parties to provide detailed information concerning lost sales and lost revenue allegations in petitions filed with the Commission.

The Commission recently amended its Rules of Practice and Procedure, including Commission Rule 207.11. Prior to promulgating final rules, it published a notice of proposed rulemaking (NOPR) in the **Federal Register**. 78 FR 36446–449 (June 18, 2013). Among the provisions it proposed to amend was the provision in 19 CFR 207.11(b)(2)(v) concerning submission of lost sales and lost revenue allegations. Three law firms which regularly appear before the Commission in Title VII proceedings filed comments on the NOPR. On June 25, 2014, the Commission published revisions to its rules, including 19 CFR 207.11(b)(2)(v), that largely adopted the changes proposed in the NOPR. 79 FR 35920 (June 25, 2014).

In this notice, the Commission is adopting new rules regarding collection of information on lost sales and lost revenue allegations. The Commission considers this rule to be procedural and therefore excepted from notice-and-comment requirements under 5 U.S.C.

553(b)(3)(A). The Commission typically engages in a notice-and-comment rulemaking process, even when it is not required, so it can receive comments and suggestions from affected parties concerning contemplated changes to its Rules of Practice and Procedure. The Commission decided that such processes were not warranted in this particular circumstance and, for reasons stated more fully below, finds under 5 U.S.C. 553(b)(3)(B) that good cause exists to waive prior notice and opportunity for public comment. In particular, the Commission conducted a rulemaking concerning the lost sales/lost revenue provision at 19 CFR 207.11(b)(2)(v) last year, received limited comments on the provision, and subsequently conducted an external survey process which yielded considerable commentary about procedures for collecting and investigating lost sales and lost revenue allegations. Consequently, the Commission has recently received and carefully considered extensive comments concerning the matters addressed in this notice.

Regulatory Analysis of Amendment to the Commission's Rules

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) is inapplicable to this rulemaking because it is not one for which a notice of final rulemaking is required under 5 U.S.C. 553(b) or any other statute. These regulations are ''agency rules of procedure and practice,'' and thus are exempt from the notice requirement imposed by 5 U.S.C. 553(b). Moreover, the rules are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

The rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

The rule does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1501 *et seq.*).

The rule change does not constitute a ''significant regulatory action'' under Executive Order 12866 (58 FR 51735, October 4, 1993).

The rule change does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, October 7, 1999).

The amendment is not to a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 et. seq.). Moreover, it is exempt from the reporting requirements of the Act because it concerns a rule of agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties.

Explanation of the Rule Change

On June 25, 2014, the Commission amended 19 CFR 207.11(b)(2)(v) in two respects. First, the amendment required that petitioners provide the email address, street address, city, state, and 5-digit zip code for each purchaser/contact with respect to each lost sales or lost revenue allegation. Second, petitioners were required to file any lost sales or revenue allegation(s) identified in the petition via a separate electronic data entry process in a manner to be specified in the Commission's Handbook on Filing Procedures. The only comment on these changes asserted that the Commission's approach to investigating lost sales and lost revenue allegations was overly rigid and that the amendment would only further increase the number of lost sales or lost revenue allegations that go uninvestigated. When it adopted the rule changes, the Commission indicated that its staff was still in the process of examining possible methods for electronic entry of data pertaining to lost sales and lost revenue allegations. Some basic requirements were to be specified in the Commission's Handbook of Filing Procedures and the Commission indicated that these requirements may be further modified.

After the amendments of June 2014, the Commission staff conducted an external survey regarding the Commission's lost sales and lost revenue allegation process. It received 37 responses to the survey. Most survey respondents represented U.S. producers and they noted that they frequently submit lost sales and lost revenue allegations. Many survey respondents stated that it is difficult to provide the level of detail requested by the Commission regarding the allegations, particularly specific dates, quantities, and competing prices. They asserted that because of the level of detail and required research, compiling the information can be time consuming and costly for petitioners. Some survey respondents noted that collection of allegation information requires extensive document collection and review. Survey respondents also observed that the specificity of the details in the allegation makes it possible for purchasers to deny allegations based on minor differences in details.

After considering these comments, the Commission has determined to amend Commission Rule 207.11(b)(2)(v) to no longer require transaction-specific lost sales and lost revenue allegation information in the petition. Parties will no longer be required by the Rule to include in the petition ''[a] listing of all sales or revenues lost by each petitioning firm by reason of the subject merchandise during the three years preceding filing of the petition.'' Rather, the Commission's revised rule will state that the petition must include ''[a] listing of the main purchasers from which each petitioning firm experienced lost sales or lost revenue by reason of the subject merchandise during a period covering the three most recently completed calendar years and that portion of the current calendar year for which information is reasonably available.'' Petitioners will be required to provide the listing via a separate electronic data entry process in a manner to be specified in the Commission's Handbook on Filing Procedures. The Commission is also removing the requirement that petitioners supply physical addresses for purchasers. Instead, petitioners will be required to provide information identified in the template spreadsheet specified in the Commission's Handbook on Filing Procedures. The language of the rule also now clearly indicates that lost sales and revenue allegations should concern a period more closely reflecting the period of investigation the Commission typically uses rather than only the three years preceding the filing of the petition.

These changes in requirements for the petition should ease the burden on petitioners while not compromising the ability of Commission staff to investigate lost sales and revenue that occur during the period of investigation.

Accordingly, the ITC amends 19 CFR part 207 as follows:

PART 207—INVESTIGATIONS OF WHETHER INJURY TO DOMESTIC INDUSTRIES RESULTS FROM IMPORTS SOLD AT LESS THAN FAIR VALUE OR FROM SUBSIDIZED EXPORTS TO THE UNITED STATES

■ 1. The authority citation for part 207 continues to read as follows:

Authority: 19 U.S.C. 1336, 1671–1677n, 2482, 3513.

■ 2. In § 207.11, revise paragraph (b)(2)(v) to read as follows:

§ 207.11 Contents of petition.

* * * * *

(b) * * *

(2) * * *

(v) A listing of the main purchasers from which each petitioning firm

experienced lost sales or lost revenue by reason of the subject merchandise during a period covering the three most recently completed calendar years and that portion of the current calendar year for which information is reasonably available. For each named purchaser, petitioners must provide the email address of the specific contact person, 5-digit zip code, and the information identified in the template spreadsheet specified in the Commission's Handbook on Filing Procedures. Petitioners must certify that all lost sales or lost revenue allegations identified in the petition will also be submitted electronically in the manner specified in the Commission's Handbook on Filing Procedures.

* * * * *

By order of the Commission.

Issued: August 25, 2015.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2015–21441 Filed 8–31–15; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 982

[Docket No. FR–5453–C–03]

RIN 2577–AC86

Housing Choice Voucher Program: Streamlining the Portability Process

AGENCY: Office of General Counsel, HUD.

ACTION: Final rule, technical correction.

SUMMARY: This document corrects an inadvertent omission of regulatory text in HUD's final rule on Housing Choice Voucher Program: Streamlining the Portability Process, published on August 20, 2015.

DATES: *Effective Date:* September 21, 2015.

FOR FURTHER INFORMATION CONTACT: For further information about this technical correction, contact Camille E. Acevedo, Associate General Counsel for Legislation and Regulations, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10282, Washington, DC 20410–0500, telephone number 202–708–1793 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number through TTY by calling the Federal Relay Service at 800–877–8339 (this is a toll-free number).

SUPPLEMENTARY INFORMATION: On August 20, 2015, at 80 FR 50564, HUD published a final rule to streamline the portability process. Portability is a feature of the Housing Choice Voucher (HCV) Program that allows an eligible family with a housing choice voucher to use that voucher to lease a unit anywhere in the United States where there is a public housing agency (PHA) operating an HCV program. The purpose of the changes made to the portability regulations made by HUD's final rule published on August 10, 2015, is to enable PHAs to better serve families and expand housing opportunities by improving portability processes.

HUD received comments about the requirement and content of HCV family briefings. The majority of commenters, commenting on the briefings, expressed opposition to expanding the briefing requirements, stating that the existing briefing requirements are already complex and any expansion would increase administrative burden. In response to these comments, HUD stated that it determined that providing information about the factors the family should consider when determining where to lease a unit with voucher assistance will only be required as part of the briefing should HUD make such information available to PHAs for distribution. HUD stated that if required, PHAs are to provide such information as part of the oral briefing and the information packet provided to families selected to participate in the program, and that HUD would revised the regulation at § 982.301 accordingly. HUD further stated that an explanation of the benefits of living in low-poverty census tracts should be provided to all families, not just those families living in high-poverty census tracts. This explanation of benefits should also be included in the information packet provided to families selected to participate in the HCV program. (See 80 FR 50569, first column.) While HUD stated that it would amend § 982.301 accordingly, the corresponding amendments were inadvertently omitted from the regulatory text. Therefore, this document revises § 982.301 to include the missing regulatory text.

Correction

In the issue of August 20, 2015, at 80 FR 50564, FR Rule Doc. No. 2015–20551 is corrected as follows:

On page 50572, in the third column, amendatory instruction 4. and its amendatory text are corrected to read as follows:

■ 4. In § 982.301, revise paragraphs (a)(1)(iii), (a)(2), (a)(3), (b)(1), (b)(4), (b)(9), (b)(11), and (b)(15) to read as follows:

§ 982.301 Information when family is selected.

(a) * * *

(1) * * *

(iii) Where the family may lease a unit, including renting a dwelling unit inside or outside the PHA jurisdiction, and any information on selecting a unit that HUD provides.

(2) An explanation of how portability works. The PHA may not discourage the family from choosing to live anywhere in the PHA jurisdiction, or outside the PHA jurisdiction under portability procedures, unless otherwise expressly authorized by statute, regulation, PIH Notice, or court order. The family must be informed of how portability may affect the family's assistance through screening, subsidy standards, payment standards, and any other elements of the portability process which may affect the family's assistance.

(3) The briefing must also explain the advantages of areas that do not have a high concentration of low-income families.

* * * * *

(b) * * *

(1) The term of the voucher, voucher suspensions, and PHA policy on any extensions of the term. If the PHA allows extensions, the packet must explain how the family can request an extension;

* * * * *

(4) Where the family may lease a unit and an explanation of how portability works, including information on how portability may affect the family's assistance through screening, subsidy standards, payment standards, and any other elements of the portability process which may affect the family's assistance.

* * * * *

(9) Materials (*e.g.*, brochures) on how to select a unit and any additional information on selecting a unit that HUD provides.

* * * * *

(11) A list of landlords known to the PHA who may be willing to lease a unit to the family or other resources (*e.g.*, newspapers, organizations, online search tools) known to the PHA that may assist the family in locating a unit. PHAs must ensure that the list of landlords or other resources covers areas outside of poverty or minority concentration.

* * * * *

(15) The advantages of areas that do not have a high concentration of low-income families.

Dated: August 25, 2015.

Camille E. Acevedo,

Associate General Counsel for Legislation and Regulations.

[FR Doc. 2015–21487 Filed 8–31–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2015–0737]

RIN 1625–AA00

Safety Zone; Unexploded Ordnance Removal, Vero Beach, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone on the waters of the Atlantic Ocean for the removal of unexploded ordnance located east of Vero Beach. There will be a zone approximately 2.6 nautical mile wide along the beach extending due east for approximately 2.3 nautical miles, in Vero Beach, Florida. This safety zone will be in effect from August 10th through September 4, 2015. This safety zone will only be enforced while operations are being conducted. The safety zone is necessary to protect the public from hazards associated with removal of the unexploded ordnance. Persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the safety zone during operations unless authorized by the Captain of the Port Miami or a designated representative.

DATES: This rule is effective without actual notice from September 1, 2015 until September 4, 2015. For the purposes of enforcement, actual notice will be used from August 10, 2015 until September 1, 2015.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2015–0737 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Petty Officer Benjamin Colbert, U.S. Coast Guard; telephone 305–535–4317, email *Benjamin.R.Colbert@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Ms. Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
E.O. Executive order
FR **Federal Register**
NPRM Notice of proposed rulemaking
Pub. L. Public Law
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this 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 the Coast Guard did not receive notice of this event until late July and there is an immediate need to remove hazards presented by unexploded ordinance. Any delay in the effective date of this rule would be unnecessary and contrary to the public interest because immediate action is needed to minimize potential danger to the public from this operation.

We are issuing this final rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register** for the same reasons described above.

III. Legal Authority and Need for Rule

The legal basis for the rule is the Coast Guard's authority to establish regulated navigation areas and other limited access areas: 33 U.S.C. 1231; 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.

The purpose of the rule is to provide for the safety of life on navigable waters during the removal and disposition of unexploded ordnance.

IV. Discussion of the Final Rule

From August 10, 2015 to September 4, 2015, the Army Corp of Engineers will be removing and disposing unexploded ordnance off the coast of Vero Beach, Florida.

A safety zone will encompass certain waters of the Atlantic Ocean in Vero Beach, Florida. The safety zone will be effective beginning 12:01 a.m. on August 10, 2015 through 11:59 p.m. on September 4, 2015 unless cancelled sooner by the Captain of the Port. The safety zone will be enforced while operations associated with the removal and disposition of the unexploded ordnance are ongoing. Weather conditions may inhibit ordinance removal operations; as a result, exact enforcement times cannot be identified at this time. The USCG and other Law Enforcement agencies will have vessels on-scene to enforce this rule. The safety zone will encompass all waters of the Atlantic Ocean from Windward Way to Seaway Court extending east for 2.3 nautical miles, in Vero Beach, Florida. All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within this regulated area.

Persons and vessels may request authorization to enter the safety zone by contacting the Captain of the Port Miami by telephone at 305–535–4472, or a designated representative via VHF radio on channel 16. If authorization to enter, transit through, anchor in, or remain within the safety zone is granted by the Captain of the Port Miami or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Miami or a designated representative. The Coast Guard will provide notice of the safety zone by Broadcast Notice to Mariners, and on-scene designated representatives.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders (E.O.s) related to rulemaking. Below we summarize our analyses based on a number of these statutes and E.O.s, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

E.O.s 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of

harmonizing rules, and of promoting flexibility. This rule has not been designated a ''significant regulatory action,'' under E.O. 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

The economic impact of this rule is not significant for the following reasons: (1) This safety zone will be enforced during operations related to the removal and disposition of the unexploded ordnance; (2) although persons and vessels will not be able to enter, transit through, anchor in, or remain within the safety zone without authorization from the Captain of the Port Miami or a designated representative, they may operate in the surrounding areas during the enforcement period; (3) persons and vessels may still enter, transit through, anchor in, or remain within the safety zone during the enforcement period if authorized by the Captain of the Port Miami or a designated representative; (4) the Coast Guard will provide advance notification of the safety zone to the local maritime community by Broadcast Notice to Mariners and on-scene representatives.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 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 rule may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to enter, transit through, anchor in, or remain within the safety zone during the respective enforcement period. For the reasons discussed in the Regulatory Planning and Review Section above, this rule will not have a significant economic impact on a substantial number of small entities.

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.

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.

C. 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).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under E.O. 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 have determined that it is consistent with the fundamental federalism principles and preemption requirements described in E.O. 13132.

Also, this rule does not have tribal implications under E.O. 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. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

E. 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.

F. 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 creation of a safety zone. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction.

G. 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.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 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 a temporary § 165.T07–0737 to read as follows:

§ 165.T07–0737 Safety Zone; Unexploded Ordnance Removal, Vero Beach, FL.

(a) *Regulated area.* The following regulated area is established as a safety zone: All waters starting at point 1 in position 27°37′00″ N. 80°20′40″ W.; thence east to point 2 in position 27°36′05″ N. 80°17′55″ W.; thence south to point 3 in position 27°34′51″ N. 80°17′55″ W.; thence west to point 4 in position 27°34′07″ N. 80°19′28″ W.; thence northwest back to origin.

(b) *Definition.* The term ''designated representative'' means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Miami in the enforcement of the regulated area.

(c) *Regulations.* (1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the safety zone without authorization from the Captain of the Port Miami or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the safety zone may contact the Captain of the Port Miami by telephone at 305–535–4472, or a designated representative via VHF radio on channel 16. If authorization to enter, transit through, anchor in, or remain within a safety zone is granted by the Captain of the Port Miami or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Miami or a designated representative.

(3) The Coast Guard will provide notice of the safety zone by Broadcast Notice to Mariners and on-scene designated representatives.

(d) *Effective date.* This rule is effective from 12:01 a.m. on August 10, 2015 through 11:59 a.m. on September 4, 2015 unless cancelled sooner by the Captain of the Port. This rule will be enforced while operations associated with ordinance removal are in progress.

Dated: August 10, 2015.

A. J. Gould,

Captain, U.S. Coast Guard, Captain of the Port Miami.

[FR Doc. 2015–21685 Filed 8–31–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2015–0815]

Drawbridge Operation Regulation; Lake Washington Ship Canal, Seattle, WA

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 Montlake Bridge across the Lake Washington Ship Canal, mile 5.2, at Seattle, WA. The deviation is necessary to accommodate vehicular traffic attending football games at Husky Stadium at the University of Washington, Seattle, Washington. This deviation allows the bridge to remain in the closed-to-navigation position two and a half hours before and two and a half hours after each game. The game times for five of the seven games scheduled for Husky Stadium have not yet been determined due to NCAA television scheduling.

DATES: This deviation is effective from 8:30 a.m. to 11 a.m. and 2:30 p.m. to 5 p.m. on September 12, 2015; 11:30 a.m. to 2 p.m. and 5:30 p.m. to 8 p.m. on September 19, 2015.

ADDRESSES: The docket for this deviation, [USCG–2015–0815] 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 Steven M. Fischer, Thirteenth Coast Guard District Bridge Program Administrator, telephone 206–220–7282, email *d13-pf-d13bridges@uscg.mil.* If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The Washington State Department of Transportation, on behalf of the University of Washington Police Department, has requested that the Montlake Bridge bascule span remain in the closed-to-navigation position, and need not open to vessel traffic to facilitate timely movement of pre-game and post game football traffic at Husky Stadium at the University of Washington, Seattle, WA. The Montlake Bridge crosses the Lake Washington Ship Canal at mile 5.2; and while in the closed-to-navigation position provides 30 feet of vertical clearance throughout the navigation channel and 46 feet of vertical clearance throughout the center 60-feet of the bridge. These vertical clearance measurements are made in reference to the Mean Water Level of Lake Washington. The normal operating schedule for Montlake Bridge operates in accordance with 33 CFR 117.1051(e), which requires the bridge to open on signal, except that the bridge need not open for vessels less than 1,000 gross tons between 7 a.m. and 9 a.m. and 3:30 p.m. and 6:30 p.m. Monday through Friday.

The deviation period will cover the following dates. From 8:30 a.m. to 11 a.m., and from 2:30 p.m. to 5 p.m. on September 12, 2015; from 11:30 a.m. to 2 p.m. and from 5:30 p.m. to 8 p.m. on September 19, 2015. The times for the closures on September 26, 2015, October 17, 2015, October 31, 2015, November 7, 2015, and November 27, 2015 will be determined, and announced in the Coast Guard's Local Notice to Mariners and Broadcast Notice to Mariners as they become available. Due to NCAA television scheduling, the times for the games are not currently available. The bridge shall operate in accordance to 33 CFR 117.1051(e) at all other times. Waterway usage on the Lake Washington Ship Canal ranges from commercial tug and barge to small pleasure craft.

Vessels able to pass through the bridge in the closed-to-navigation 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 drawbridges must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: August 26, 2015.

Steven M. Fischer,

Bridge Administrator, Thirteenth Coast Guard District.

[FR Doc. 2015–21519 Filed 8–31–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2015–0800]

RIN 1625–AA87

Security Zone, Seward, AK

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary moving security zone within 1000 yards of a designated vessel on the navigable waters of the U.S. in Resurrection Bay, Seward, Alaska during the visit of the President of the United States (POTUS) to the area. This action is necessary to provide security for the President and first family of the United States. Unauthorized vessels and persons will be prohibited from entering or remaining in the security zones unless specifically authorized by the Captain of the Port (COTP) or the COTP's designated representative. A U.S. Coast Guard Broadcast Notice to Mariners (BNM) will be conducted during this time to identify the vessel's name and location in which the security zone pertains.

DATES: This rule is effective without actual notice from September 1, 2015 until 5 p.m. on September 2, 2015. For the purposes of enforcement, actual notice will be used from 8 a.m. on August 31, 2015 until September 1, 2015.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2015–0800]. 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 temporary rule, call or email Lieutenant Eugene Chung, Coast Guard Sector Anchorage Waterways Management Division, U.S. Coast Guard; telephone (907) 428–4189 or email *Eugene.Chung@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202)366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking

A. 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 of the sensitive security issues related to the POTUS. Providing a public notice and comment period is contrary to national security concerns and the public interest. Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Any delay encountered in this temporary rule's effective date would be contrary to the public interest given the immediate need to ensure the safety and security of the POTUS and first family during their visit to Seward, Alaska from August 31, 2015 through September 02, 2015.

B. Basis and Purpose

The legal basis for this rule is 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Public Law 107–295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1.

The POTUS and first family are scheduled to visit Seward, Alaska, from August 31, 2015 through September 02, 2015. It is expected that they will reside and/or participate in activities on properties that are adjacent to navigable waters within the Captain of the Port, Western Alaska zone. The U.S. Secret Service has requested that the Coast Guard provide 1000-yard moving security zone around the POTUS and the first family. This security zone is intended to provide security for the POTUS and first family by preventing vessels and persons from approaching the location of the POTUS and first family without prior authorization from the U.S. Secret Service.

C. Discussion of the Temporary Final Rule

This temporary rule establishes a temporary moving security zone within 1000 yards of a designated vessel on the navigable waters of the U.S. in Resurrection Bay, Seward, Alaska from August 31, 2015 through September 02, 2015, during the visit of the POTUS and first family to Alaska. This rule is effective from 8 a.m. on Monday, August 31, 2015 through 5 p.m. on Wednesday, September 2, 2015. This action is intended to prohibit unauthorized vessels or persons from entering or remaining in navigable waters located within 1000 yards of the POTUS and/or first family while they are in or near the navigable waters of the U.S. during their visit to Seward, Alaska. The Captain of the Port, Western Alaska, anticipates negligible negative impact on vessel traffic from this temporary security zone, as they will be in effect for no more than three days, and will only be enforced while the POTUS and/or first family are in the vicinity of the navigable waters of the U.S. at Seward, Alaska. It has been determined that the necessary security enhancements provided by this rule greatly outweigh any potential negative impacts.

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 or executive orders.

1. Regulatory Planning and Review

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13536. The Office of Management and Budget has not reviewed it under those Orders. The rule is not a significant regulatory action because the security zone will be in place for a limited period, approximately three days and vessel traffic will be able to transit around the security zone. Maritime traffic may also request permission to transit through the zone from the Captain of the Port, Western Alaska or a designated representative.

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 potential impact 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 rule may affect the following entities, some of which may be small entities: The owners and operators of vessels intending to transit navigable waters in the vicinity of Seward, Alaska from 8:00 a.m. on Monday, August 31, 2015 through 5:00 p.m. on Wednesday, September 2, 2015. The security zone will not have a significant impact on a substantial number of small entities for the following reasons: The security zone is temporary and will be enforced only when the POTUS and/or first family are in the vicinity of the navigable waters of the U.S. at Seward, Alaska. Thus, the temporary nature and limited effective period and anticipated enforcement periods of the zone, coupled with the ability of the maritime public to maneuver around the zone, will allow small entities to plan and conduct their business accordingly.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. If you think your small business or organization would be affected by this rule and you have any questions concerning its provisions or options for compliance, please call Lieutenant Eugene Chung at (907) 428–4189. 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 calls for no 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 State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it 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 rule is not a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations That Significantly Affect 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 which do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of a temporary moving security zone within 1000 yards of a designated vessel on the navigable waters of the U.S. in Resurrection Bay, Seward, Alaska. This rule is categorically excluded, from further review under paragraph (34)(g) of Figure 2–1 of the Commandant Instruction. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T01–0800 to read as follows:

§ 165.T01–0800 Security Zone: Seward, Alaska.

(a) *Location.* The following areas are security zones: All navigable waters, from surface to bottom, within 1000

yards of the POTUS and/or first family while underway in, or on shore but within 1000 yards of, the navigable waters of the U.S. in the coastal areas of Seward, Alaska.

(b) *Notification.* Coast Guard Sector Anchorage will give actual notice to mariners for the purpose of enforcement of this temporary security zone.

(c) *Effective period.* This rule is effective for purposes of enforcement from 8:00 a.m. on Monday, August 31, 2015 through 5:00 p.m. on Wednesday, September 02, 2015.

(d) *Regulations.* (1) The general regulations contained in 33 CFR 165.33 apply.

(2) In accordance with the general regulations in § 165.33 of this part, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port or his designated representatives.

(3) The ''designated representative'' is any Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port to act on his behalf. The on-scene representative may be on a Coast Guard vessel, or onboard a federal, state, or local agency vessel that is authorized to act in support of the Coast Guard.

(4) Upon being hailed by a U.S. Coast Guard vessel or a designated representative, by siren, radio, flashing light or other means, the operator of the vessel shall proceed as directed.

(5) Vessel operators desiring to enter or operate within this security zone shall contact the Captain of the Port or his designated representative via VHF channel 16 to obtain permission to do so.

Dated: August 24, 2015.

Paul Albertson,

Captain, U.S. Coast Guard, Captain of the Port, Western Alaska.

[FR Doc. 2015–21690 Filed 8–31–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2015–0094]

RIN 1625–AA00

Safety Zone, Schuylkill River; Philadelphia, PA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a safety zone in the waters of the Schuylkill River around the Deloach dock near Point Breeze at Philadelphia Energy Solutions. The safety zone is necessary when a barge with a beam (width) up to 80 feet moors at the Philadelphia Energy Solutions' Deloach dock, reducing the horizontal clearance of the channel by as much as 30 feet when a barge is moored at the facility. This rule will allow the Coast Guard to restrict all vessel traffic through the safety zone when a barge having a beam of up to 80 feet is scheduled to moor at the facility.

DATES: This rule is effective on October 1, 2015.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2013–0874. 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 If you have questions on this final rule, call or email Lieutenant Brennan Dougherty, U.S. Coast Guard, Sector Delaware Bay, Chief Waterways Management Division, Coast Guard; telephone (215) 271–4851, email *Brennan.P.Dougherty@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

On June 24, 2014 the Coast Guard published a Notice of Proposed Rulemaking (NPRM) with a request for comments entitled, ''Safety Zone, Schuylkill River; Philadelphia, PA'' in the **Federal Register** (79 FR 35685). No comments were received on the NPRM. No public meeting was requested and none was held.

B. Basis and Purpose

The legal basis for this rule is 33 U.S.C. 1231; 33 CFR 1.05–1, 160.5; Department of Homeland Security Delegation No. 0170.1.

The purpose of this rulemaking is to ensure the safety of waterway users from hazards associated with a 30 foot reduction of horizontal clearance in the channel near Point Breeze when a barge with a beam (width) up to 80 feet is moored at the Deloach dock of Philadelphia Energy Solutions in the Schuylkill River. The remaining horizontal width of the channel in vicinity of Point Breeze is 270 feet.

C. Discussion of Comments, Changes and the Final Rule

The Coast Guard did not receive any comments to the proposed rule. Changes were made to the size of the safety zone described in the notice to proposed rule making. The decision was made to reduce the size of the zone to minimize the effect on waterway users in the area.

The following area is a safety zone: All waters of the Schuylkill River in Philadelphia, PA, inside a boundary described as originating from 39°54′50″ N., 075°12′12″ W.; then West to 39°54′50″ N., 075°12′15″ W.; then Northeast to 39°55′10″ N., 075°12′05″ W.; the East to 39°55′10″ N., 075°12′04″ W.; then back to 39°54′50″ N., 075°12′12″ W.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. This rule is not a significant regulatory action because it merely reduces the horizontal width of the channel; vessel traffic can still proceed up and down the Schuylkill River.

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 received 0 comments from the Small Business Administration on this rule. 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 safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. The navigable channel is 300 feet wide, providing a remaining 270 feet of horizontal channel clearance for the passage of vessel traffic in the Schuylkill River. Additionally, the only commercial vessel traffic utilizing the waterway upriver of the Passyunk Avenue Bridge is an occasional barge. All anticipated vessel traffic will be able to pass safely around an 80 foot wide barge moored at the Deloach dock at Philadelphia Energy Solutions near Point Breeze. Before the safety zone goes into effect, maritime advisories will be made widely available to users of the Schuylkill River navigable channel.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this 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 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. The Coast Guard did not receive any comments relating to 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 would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule does 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 would not create an environmental risk to health or risk to safety that might 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 would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

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

13. Technical Standards

This 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 made a preliminary determination 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 implementation of a safety zone when a barge having beam (width) of up to 80 feet is moored at the Deloach dock at Philadelphia Energy Solutions near Point Breeze on the Schuylkill River. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. A preliminary environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 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 § 165.784 to read as follows:

§ 165.784 Safety Zone, Schuylkill River; Philadelphia, PA

(a) *Location.* The following area is a safety zone: All waters of the Schuylkill River in Philadelphia, PA, inside a boundary described as originating from 39°54′50″ N., 075°12′12″ W.; then West to 39°54′50″ N., 075°12′15″ W.; then Northeast to 39°55′10″ N., 075°12′05″ W.; the East to 39°55′10″ N., 075°12′04″ W.; then back to 39°54′50″ N., 075°12′12″ W.

(b) *Enforcement period.* (1) This regulation is enforced during times when a barge having a beam (width) of up to 80 feet is moored at the Deloach dock of Philadelphia Energy Solutions near Point Breeze.

(2) Prior to commencing enforcement of this regulation, the COTP or designated on-scene patrol personnel will notify the public whenever the regulation is being enforced, to include dates and times. The means of notification may include, but are not limited to, Broadcast Notice to Mariners, Local Notice to Mariners, Marine Safety Information Bulletins, or other appropriate means.

(c) *Regulations.* (1) All persons are required to comply with the general regulations governing safety zones in 33 CFR 165.23.

(2) All persons and vessels transiting through the Safety Zone must be authorized by the Captain of the Port or his representative.

(3) All persons or vessels wishing to transit through the Safety Zone must request authorization to do so from the Captain of the Port or his representative 30 minutes prior to the intended time of transit.

(4) Vessels granted permission to transit must do so in accordance with the directions provided by the Captain of the Port or his representative to the vessel.

(5) To seek permission to transit the Safety Zone, the Captain of the Port or his representative can be contacted via Sector Delaware Bay Command Center (215) 271–4940.

(6) This section applies to all vessels wishing to transit through the Safety Zone except vessels that are engaged in the following operations:

(i) Enforcing laws;

(ii) Servicing aids to navigation; and

(iii) Emergency response vessels.

(7) No person or vessel may enter or remain in a safety zone without the permission of the Captain of the Port;

(8) Each person and vessel in a safety zone shall obey any direction or order of the Captain of the Port;

(9) No person may board, or take or place any article or thing on board, any vessel in a safety zone without the permission of the Captain of the Port; and

(10) No person may take or place any article or thing upon any waterfront facility in a safety zone without the permission of the Captain of the Port.

(d) *Definitions.* The Captain of the Port means the Commander of Sector Delaware Bay or any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port to act on his behalf.

(e) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the Safety Zone by Federal, State, and local agencies.

Dated: July 31, 2015.

B.A. Cooper,

Captain, U.S. Coast Guard, Captain of the Port Delaware Bay.

[FR Doc. 2015–21687 Filed 8–31–15; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2015–0161; FRL–9933–32–Region 4]

Approval and Promulgation of Implementation Plans; Georgia: Changes to Georgia Fuel Rule and Other Miscellaneous Rules

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the State of Georgia's February 5, 2015, State Implementation Plan (SIP) revision, submitted through the Georgia Environmental Protection Division (GA EPD), to modify the SIP by removing Georgia's Gasoline Marketing Rule and Consumer and Commercial Products Rule, revising the Nitrogen Oxide (NO_X) Emissions from Stationary Gas Turbines and Stationary Engines Rule, and adding measures to offset the emissions increases expected from the changes to these rules. This modification to the SIP will affect, in varying ways, the 45 counties in and around the Atlanta, Georgia, metropolitan area covered by the Georgia Gasoline Marketing Rule (hereinafter referred to as the ''Georgia Fuel Area''). Additionally, EPA is also approving structural changes to the NO_X Emissions from Stationary Gas Turbines and Stationary Engines Rule included in a SIP revision submitted by GA EPD on September 26, 2006. EPA has determined that the portion of Georgia's September 26, 2006, SIP revision addressing changes to the NO_X Emissions from Stationary Gas Turbines and Stationary Engines Rule and the February 5, 2015, SIP revision meet the applicable provisions of the Clean Air Act (CAA or Act).

DATES: This rule is effective October 1, 2015.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2015–0161. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information may not be publicly available, *i.e.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air Regulatory Management Section (formerly the Regulatory Development Section), Air Planning and Implementation Branch (formerly the Air Planning Branch), Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Richard Wong of the Air Regulatory Management Section, in the Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Mr. Wong may be reached by phone at (404) 562–8726 or via electronic mail at *wong.richard@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background for Final Action

On November 16, 1991, EPA designated and classified the following counties in Georgia, either in their entirety or portions thereof, as a serious ozone nonattainment area for the 1-hour ozone NAAQS (hereinafter referred to as the ''Atlanta 1-Hour Ozone Area''): Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, and Rockdale. Among the requirements applicable to the nonattainment area for the 1-hour ozone NAAQS was the

requirement to meet certain volatility standards (known as Reid Vapor Pressure or RVP) for gasoline sold commercially. *See* 55 FR 23658 (June 11, 1990). Subsequently, in order to comply with the 1-hour ozone NAAQS, Georgia opted to implement Georgia Rule 391–3–1-.02(2)(bbb), *Gasoline Marketing* (hereinafter referred to as the ''Georgia Fuel Rule''), which requires the sale of low sulfur, 7.0 RVP gasoline in the 45-county Georgia Fuel Area during the high ozone season.[1] EPA incorporated the Georgia Fuel Rule into the Georgia SIP on July 19, 2004. *See* 69 FR 33862 (June 17, 2004).

On February 5, 2015, GA EPD submitted a SIP revision to modify the SIP by removing Georgia Rule 391–3–1-.02(2)(aaa), *Consumer and Commercial Products,*[2] and Georgia Rule 391–3–1-.02(2)(bbb), *Gasoline Marketing,* and revising Georgia Rule 391–3–1-.02(2)(mmm), *NOx Emissions from Stationary Gas Turbines and Stationary Engines used to Generate Electricity.*[3] The SIP revision also includes measures to offset the emissions increases expected from the changes to these rules and a technical demonstration that these changes will not interfere with attainment or maintenance of any national ambient air quality standards (NAAQS or standard) or with any other applicable requirement of the CAA. Additionally, the State submitted a SIP revision on September 26, 2006, that contains structural changes to Georgia Rule 391–3–1-.02(2)(mmm).

Georgia Rule 391–3–1-.02(2)(mmm) reduces emissions from stationary, peak performing engines that tend to operate during high electricity demand days in the 45-county Georgia Fuel Area. The State's February 5, 2015, SIP revision modifies the rule to exempt stationary engines at data centers from the rule's NO_X emission limits provided that the engines operate for less than 500 hours per year and only for routine testing and maintenance, when electric power from the local utility is not available, or during internal system failures. The rule change also limits routine testing and maintenance of these engines during the high ozone season to the hours of 10 p.m. to 4 a.m. to reduce the possibility of ozone formation due to these emissions. The September 26, 2006, SIP revision makes a structural change to the SIP-approved version of the regulation, pulling the emergency engine exemption into a new paragraph (Paragraph 7) and limits the exemption to the emission limits in Paragraph 1 of the rule.

The February 5, 2015, SIP revision includes two offset measures—school bus replacements and rail locomotive conversions—to obtain the necessary emissions reductions to offset the rule changes identified in that submittal. The State's school bus replacement program permanently replaced 60 older school buses in DeKalb, Fayette, Henry, and Madison Counties with the newer and cleaner 2015 model year buses by October 2014. The locomotive conversion program consists of two components: (1) The conversion of 28 locomotives from Norfolk Southern Railway Company and CSX Transportation to EPA Tier 3 switch duty, Tier 3 Line-Haul, and Tier 2 Switch emissions standards, and (2) the installation of an electric layover system at the Norfolk Southern Atlanta Terminal. The State demonstrated that the offset measures result in equivalent or greater emissions reductions that are permanent, enforceable, quantifiable, surplus, and contemporaneous.

In addition, Georgia's SIP revision includes a contingency offset measure in the event that the locomotive conversion program cannot be fully completed. The contingency measure would obtain NO_X offsets from the permanent retirement of Unit 3 at Georgia Power's Eugene A. Yates Steam-Electric Generating Plant. Upon a determination that sufficient offsets will not be achieved within one year from the date of EPA's final action on Georgia's February 5, 2015, SIP submission, GA EPD will revise Georgia Rule 391–3–1-.02(12)(f), Clean Air Interstate Rule NO_X Annual Trading Program, for the purposes of retiring or reducing the appropriate New Source Set Asides and submit that rule revision, along with the Title V permit condition that requires the shutdown of Unit 3, as a SIP revision. GA EPD will use the necessary substitute emissions reductions to replace any emissions shortfall in the event the locomotive conversions are not completed. EPA has determined that the State has successfully demonstrated that 660 tons of NO_X offset is available through implementation of the contingency measure in the event the locomotive conversion program is not completed and that the measures will be permanent, enforceable, quantifiable, contemporaneous, surplus, and equivalent.

In a notice of proposed rulemaking (NPR) published on June 26, 2015, EPA proposed to approve the February 5, 2015, SIP revision and the portion of the September 26, 2006, submission that contains structural changes to Georgia Rule 391–3–1-.02(2)(mmm). *See* 80 FR 36750. The details of Georgia's submittals and the rationale for EPA's action is explained in the NPR.

EPA received one comment on the NPR. This comment, submitted by the Society of Independent Gasoline Marketers of America and provided in the docket for today's final action, supports approval of the February 5, 2015, SIP revision but expresses concern about the timing of the action. A summary of the comment and EPA's response to the comment are provided below.

II. EPA's Response to Comment

The Commenter supports EPA's proposal to approve the State's February 5, 2015, SIP revision but notes that it is ''very disturbed by rumors that EPA will approve and implement this change [during the week of July 27, 2015], which will be right in the middle of the summer fuel season.'' The Commenter ''requests that EPA approve and implement the Georgia SIP in a manner that will not damage the fuel marketing industry and ultimately penalize those who have complied with the Agency's environmental mandate.''

EPA does not view this comment as adverse, and the basis for the Commenter's concerns regarding the finalization of the rule during the week of July 27, 2015 is unclear. EPA has proposed and finalized this action under its standard rulemaking process, and it will be effective on October 1, 2015.

III. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporate by reference of Georgia Rule 391–3–1-.02(2)(mmm), *NO_X Emissions from*

[1] The Georgia Fuel Area consists of the following 45 counties: Banks, Barrow, Bartow, Butts, Carroll, Chattooga, Cherokee, Clarke, Clayton, Cobb, Coweta, Dawson, DeKalb, Douglas, Fayette, Floyd, Forsyth, Fulton, Gordon, Gwinnett, Hall, Haralson, Heard, Henry, Jackson, Jasper, Jones, Lamar, Lumpkin, Madison, Meriwether, Monroe, Morgan, Newton, Oconee, Paulding, Pickens, Pike, Polk, Putnam, Rockdale, Spalding, Troup, Walton and Upson. This Area encompasses the 20-county 8-hour Atlanta ozone maintenance area for the 1997 ozone NAAQS and the 15-county 8-hour Atlanta ozone nonattainment area for the 2008 ozone NAAQS. Georgia received a waiver under section 211(c)(4)(C) of the CAA to adopt a state fuel program that is more stringent than that which was federally required for the Atlanta 1-Hour Ozone Area. The Georgia Fuel Rule requires the sale of low sulfur, 7.0 psi RVP gasoline in the Georgia Fuel Area.

[2] The Consumer and Commercial Products Rule applies in the following 13 counties that make up the former Atlanta 1-hour ozone nonattainment area: Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, and Rockdale.

[3] Georgia Rule 391–3–1-.02(2)(mmm) only applies in the Georgia Fuel Area.

Stationary Gas Turbines and Stationary Engines used to Generate Electricity. EPA has made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

IV. Final Action

EPA is taking final action to approve Georgia's February 5, 2015, SIP revision, including the section 110(l) demonstration that modifying the SIP to remove Georgia Rules 391–3–1-.02(2)(aaa) and 391–3–1-.02(2)(bbb) and revising Georgia Rule 391–3–1-.02(2)(mmm) will not interfere with attainment or maintenance of any NAAQS or with any other applicable requirement of the CAA. EPA is also taking final action to approve the portion of the State's September 26, 2006, SIP revision that contains structural changes to Georgia Rule 391–3–1-.02(2)(mmm).

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submittal that complies with the provisions of the Act and applicable federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not propose to impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, October 7, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000) nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by Reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 19, 2015.

Heather McTeer Toney,

Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Authority: 42 U.S.C. 7401 *et seq.*

Subpart L—Georgia

■ 2. Section 52.570 is amended:

■ a. In paragraph (c):

■ i. By removing the entries for ''391–3–1–.02(2)(aaa)'' and ''391–3–1–.02(2)(bbb).''; and

■ ii. By revising the entry for ''391–3–1–.02(2)(mmm)''; and

■ b. In paragraph (e) by adding an entry to the end of the table entitled ''Offset measures associated with the repeal of Georgia Rules 391–3–1–.02(2)(aaa) and 391–3–1–.02(2)(bbb) and the revision to Georgia Rule 391–3–1–.02(2)(mmm)''.

The revisions and additions read as follows:

§ 52.570 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED GEORGIA REGULATIONS

State citation	Title/Subject	State effective date	EPA Approval date	Explanation
* *	* *	*	* *	*
391–3–1–.02(2)(mmm)	NO_X Emissions from Stationary Gas Turbines and Stationary Engines used to Generate Electricity.	May 4, 2014	September 1, 2015 [Insert **Federal Register** citation].	
* *	* *	*	* *	*

* * * * *

(e) * * *

EPA-APPROVED GEORGIA NON-REGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or non-attainment area	State submittal date/ Effective date	EPA Approval date	Explanation
* *	*	*	*	* *
Offset measures associated with the repeal of Georgia Rules 391–3–1–.02(2)(aaa) and 391–3–1–.02(2)(bbb) and the revision to Georgia Rule 391–3–1–.02(2)(mmm).	Banks, Barrow, Bartow, Butts, Carroll, Chattooga, Cherokee, Clarke, Clayton, Cobb, Coweta, Dawson, DeKalb, Douglas, Fayette, Floyd, Forsyth, Fulton, Gordon, Gwinnett, Hall, Haralson, Heard, Henry, Jackson, Jasper, Jones, Lamar, Lumpkin, Madison, Meriwether, Monroe, Morgan, Newton, Oconee, Paulding, Pickens, Pike, Polk, Putnam, Rockdale, Spalding, Troup, Walton and Upson.	May 4, 2014	September 1, 2015 [Insert **Federal Register** citation].	Includes the contingency offset measure in the event that the locomotive conversion program cannot be fully completed.

[FR Doc. 2015–21536 Filed 8–31–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2012–0098; FRL–9931–78–Region 6]

Approval and Promulgation of Implementation Plans; Texas; Attainment Demonstration for the Dallas/Fort Worth 1997 8-Hour Ozone Nonattainment Area; Determination of Attainment of the 1997 Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is disapproving revisions to the Texas State Implementation Plan (SIP) submitted to meet certain requirements under section 182(c) of the Clean Air Act (CAA) for the Dallas/Fort Worth (DFW) nonattainment area under the 1997 8-hour ozone National Ambient Air Quality Standard (NAAQS or standard). The revisions address the attainment demonstration submitted on January 17, 2012, by the Texas Commission on Environmental Quality (TCEQ) for the DFW Serious nonattainment area. The EPA has also determined that the DFW nonattainment area is currently attaining the 1997 ozone NAAQS. This determination is based upon complete, quality-assured and certified ambient air monitoring data that show the area has monitored attainment of the 1997 ozone NAAQS for the 2012–2014 monitoring period. Thus, the requirements to submit an attainment demonstration and other planning SIPs related to attainment of the 1997 ozone NAAQS, and the sanctions clock and the EPA's obligation to promulgate an attainment demonstration Federal Implementation Plan (FIP) for the DFW area are suspended for so long as the area continues to attain the 1997 ozone NAAQS.

DATES: This final rule is effective on October 1, 2015.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R06–OAR–2012–0098. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

FOR FURTHER INFORMATION CONTACT: Carrie Paige, (214) 665–6521, *paige.carrie@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us,'' and ''our'' means the EPA.

I. Background

The background for this action is discussed in detail in our April 28, 2015 Proposal (80 FR 23487). In that notice, we proposed to disapprove the TCEQ's 8-hour ozone attainment demonstration for the DFW Serious nonattainment area because the area failed to attain the 1997 ozone NAAQS by the June 15, 2013 attainment date.[1] Our analysis and findings are discussed in the proposed rulemaking. We also proposed to determine that the DFW ozone nonattainment area is currently in attainment of the 1997 ozone standard based on the most recent 3 years of quality-assured air quality data. Certified ambient air monitoring data show that the area has monitored attainment of the 1997 ozone NAAQS for the 2012–2014 monitoring period and continues to monitor attainment of the NAAQS based on preliminary 2015 data.

Our Proposal and the technical support document (TSD) that accompanied the proposed rule provide our rationale for this rulemaking. Please see the docket for these and other documents regarding our Proposal. The public comment period for our Proposal closed on May 28, 2015.

II. Response to Comments

We received one comment letter dated May 28, 2015, from the TCEQ (the Commenter) regarding our Proposal. A summary of the comments and our responses follow.

Comment: The Commenter agrees with our Proposal to determine that the DFW ozone nonattainment area is

[1] The DFW Serious ozone nonattainment area under the 1997 ozone standard is comprised of Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall and Tarrant counties.

currently in attainment of the 1997 ozone standard based on the most recent 3 years of quality-assured air quality data.

Response: We concur with the Commenter.

Comment: The Commenter does not support our Proposal to disapprove the DFW Serious area attainment demonstration under the 1997 ozone standard, given that the EPA's final rule to implement SIP requirements under the 2008 ozone standard (the SIP requirements rule or SRR),[2] among other things, revoked the 1997 ozone standard and relieved the EPA of its obligation to issue a finding of failure to attain by the attainment date or reclassification (*i.e.*, ''bump up'') for such standard. The Commenter also states that the disapproval is unnecessary and may result in future obligations for the revoked standard and expenditure of limited state and federal resources for no true air quality benefit.

Response: The Commenter is correct that, as of April 6, 2015, the 1997 ozone standard is revoked, the EPA is no longer obligated to determine pursuant to CAA section 181(b)(2) or section 179(c) whether an area attained the 1997 ozone NAAQS by that area's attainment date for that NAAQS, and the EPA is also no longer obligated to reclassify an area to a higher classification for the 1997 ozone NAAQS based upon a determination that the area failed to attain the 1997 ozone NAAQS by the area's attainment date for that NAAQS.[3] However, this rulemaking addresses the EPA's obligation to act on the attainment demonstration SIP submittal. Pursuant to section 110(k)(2) of the CAA, we have a mandatory duty to act on each SIP submittal before us and therefore, it is necessary for us to take action on the DFW submittal.[4] Regardless of our revocation of the 1997 ozone standard, because we had yet to act on the attainment demonstration submittal and the DFW area did not attain the 1997 ozone standard by its June 15, 2013 attainment date, EPA is required to disapprove the State's attainment demonstration.

With regard to the Commenter's remark about future obligations that may be brought on by this final disapproval, on February 27, 2015, the TCEQ requested that we make a Clean Data Determination (CDD) for the DFW area with regard to the 1997 ozone standard and we are finalizing the CDD proposed on April 28, 2015 in this rulemaking.[5] Finalizing the CDD suspends the requirements for the TCEQ to submit an attainment demonstration and other SIPs related to attainment of the 1997 ozone NAAQS in the DFW area for so long as the area is attaining the standard (40 CFR 51.1118), and the 18-month sanctions clock associated with EPA's disapproval as well as the EPA's obligation to promulgate an attainment demonstration FIP within two years of disapproval are also tolled for so long as this CDD remains in place. Thus, as long as the area is able to maintain air quality meeting the 1997 ozone standard, no obligations will accrue from this disapproval. In addition, the State is currently working to develop the DFW attainment demonstration for the more stringent 2008 ozone standard, and in doing so, the TCEQ necessarily must also demonstrate attainment of the 1997 ozone standard. The State may also submit a redesignation substitute request and upon final approval by the EPA, the clocks to impose sanctions and a FIP suspended by this CDD action would lift permanently.[6] However, in the event that the DFW area falls out of attainment of the 1997 ozone standard prior to obtaining EPA approval of a redesignation substitute, even though the EPA has revoked that standard, the CAA requires EPA to continue to ensure that the State's plan meets the requirements of that standard for purposes of anti-backsliding, including the obligations associated with a disapproved attainment demonstration. CAA 110(l); *see also, South Coast Air Quality Mgmt. Dist.* v. *EPA*, 472 F.3d 882, 900 (D.C. Cir. 2006); 78 FR 34178, 34211–34225; 80 FR 12264, 12300. Further, the EPA does not agree that efforts to address the 1997 standard would expend resources for no air quality benefit; should air quality in the DFW area worsen to levels above the 1997 ozone standard prior to approval of a redesignation substitute, the subsequent obligations and actions required by the statute to reduce ozone levels in the DFW area would be beneficial to achieving both the 1997 and 2008 ozone standards.

III. What is the effect of this action?

A disapproval of an attainment plan as being promulgated here would normally start a FIP and sanctions clock. However, in accordance with our Clean Data Policy as codified in 40 CFR 51.1118, a determination of attainment suspends the requirements for the TCEQ to submit an attainment demonstration and other SIPs related to attaining the 1997 ozone NAAQS in the DFW area for so long as the area continues to attain the standard. In addition, the sanctions clock and the EPA's obligation to promulgate an attainment demonstration FIP are tolled for so long as this CDD remains in place. However, should the area violate the 1997 ozone standard after the CDD is finalized, the EPA would rescind the CDD and the sanctions and FIP clocks would resume.

Because the revocation of the 1997 ozone standard in the SRR also revoked EPA's obligation to determine whether an area attained the 1997 ozone NAAQS by that area's attainment date and to reclassify an area to a higher classification for the 1997 ozone NAAQS based upon a determination that the area failed to attain that NAAQS by the area's attainment date,[7] we do not intend to finalize our proposed finding of failure to attain and reclassification at 80 FR 8274.

IV. Final Action

The EPA is disapproving certain elements of the attainment demonstration SIP submitted by the TCEQ for the DFW Serious ozone nonattainment area under the 1997 ozone NAAQS. Specifically, we are disapproving the attainment demonstration, the demonstration for reasonably available control measures, and the attainment demonstration motor vehicle emission budgets for 2012. The EPA is disapproving these SIP revisions because the area failed to attain the standard by its June 15, 2013 attainment date, and thus we have determined that the plan was insufficient to demonstrate attainment by the attainment date.

We also find that the DFW ozone nonattainment area has attained the 1997 ozone standard and continues to attain the standard. Thus, the requirements for submitting the

[2] See 80 FR 12264, March 6, 2015.

[3] See 80 FR 12264, at 12297; 40 CFR 51.1105(d)(2). On February 17, 2015, we proposed to determine that the DFW area did not attain the 1997 ozone standard by the attainment date and to reclassify the area to Severe (see 80 FR 8274). The SRR was published and effective shortly thereafter and we have not finalized the proposal to reclassify the DFW area to Severe.

[4] On October 17, 2014, the Sierra Club filed a lawsuit to compel the EPA to comply with the CAA's mandatory duty to act on this SIP submittal. *Sierra Club* v. *McCarthy*, Case No. 14–CV–00833–ESH (DC). The parties entered a consent decree on January 23, 2015, that requires EPA to finalize action on this submittal by August 31, 2015.

[5] The State's request is in the docket for this rulemaking.

[6] In the SRR, among other things, we revoked the 1997 ozone standard and finalized a redesignation substitute procedure for a revoked standard. See 80 FR 12264 and 40 CFR 51.1105(b). Under this redesignation substitute procedure, the state must demonstrate that the area has attained that revoked NAAQS due to permanent and enforceable emission reductions and that the area will maintain that revoked NAAQS for 10 years from the date of the EPA's approval of this showing.

[7] 80 FR 12264, at 12297; 40 CFR 51.1105(d)(2).

attainment demonstration and other SIPs related to attainment of the 1997 ozone NAAQS are suspended for so long as the area is attaining the standard, and the sanctions and obligations accruing from EPA's disapproval of the attainment demonstration are also suspended during that period.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to act on state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law.

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

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

B. Paperwork Reduction Act

This final action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, because this final SIP action under section 110 and subchapter I, part D of the CAA will not in-and-of itself create any new information collection burdens but simply disapproves certain State requirements for inclusion into the SIP. Burden is defined at 5 CFR 1320.3(b).

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. For purposes of assessing the impacts of this rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this final rule on small entities, I certify that this action will not have a significant impact on a substantial number of small entities. This rule does not impose any requirements or create impacts on small entities. This final SIP action under section 110 and subchapter I, part D of the CAA will not in-and-of itself create any new requirements but simply disapproves certain State requirements for inclusion into the SIP. Accordingly, it affords no opportunity for EPA to fashion for small entities less burdensome compliance or reporting requirements or timetables or exemptions from all or part of the rule. The fact that the CAA prescribes that various consequences (*e.g.*, higher offset requirements) may or will flow from this disapproval does not mean that the EPA either can or must conduct a regulatory flexibility analysis for this action. Therefore, this action will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for State, local, or tribal governments or the private sector. The EPA has determined that the disapproval action does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This action disapproves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

E. Executive Order 13132, Federalism

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

This final action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely disapproves certain State requirements for inclusion into the SIP and does not alter the relationship or the distribution of power and responsibilities established in the CAA. Thus, Executive Order 13132 does not apply to this action.

F. Executive Order 13175, Coordination With Indian Tribal Governments

The SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, this final action does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This proposed action is not subject to Executive Order 13045 because it because it is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997). This SIP action under section 110 and subchapter I, part D of the CAA will not in-and-of itself create any new regulations but simply disapproves certain State requirements from inclusion into the SIP.

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

This final action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement

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

The EPA believes that this final action is not subject to requirements of Section 12(d) of NTTAA because application of those requirements would be inconsistent with the CAA.

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

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

The EPA lacks the discretionary authority to address environmental justice in this proposed action. In reviewing SIP submissions, the EPA's role is to approve or disapprove state choices, based on the criteria of the CAA. Accordingly, this action merely disapproves certain State requirements from inclusion into the SIP under section 110 and subchapter I, part D of the CAA and will not in-and-of itself create any new requirements. Accordingly, it does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 2, 2015. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposed of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 21, 2015.

Ron Curry,

Regional Administrator, Region 6.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Authority: 42 U.S.C. 7401 *et seq.*

Subpart SS—Texas

■ 2. Section 52.2273 is amended by adding paragraph (i) to read as follows:

§ 52.2273 Approval status.

* * * * *

(i) The attainment demonstration for the Dallas/Fort Worth Serious ozone nonattainment area under the 1997 ozone standard submitted January 17, 2012 is disapproved. The disapproval applies to the attainment demonstration, the determination for reasonably available control measures, and the attainment demonstration motor vehicle emission budgets for 2012.

■ 3. Section 52.2275 is amended by adding paragraph (i) to read as follows:

§ 52.2275 Control strategy and regulations: Ozone.

* * * * *

(i) *Determination of attainment.* Effective October 1, 2015 the EPA has determined that the Dallas/Fort Worth 8-hour ozone nonattainment area has attained the 1997 ozone standard. Under the provisions of the EPA's Clean Data Policy, this determination suspends the requirements for this area to submit an attainment demonstration and other State Implementation Plans related to attainment of the 1997 ozone NAAQS for so long as the area continues to attain the 1997 ozone NAAQS.

[FR Doc. 2015–21539 Filed 8–31–15; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2015–0001; Internal Agency Docket No. FEMA–8397]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP) that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date. Also, information identifying the current participation status of a community can be obtained from FEMA's Community Status Book (CSB). The CSB is available at *http://www.fema.gov/fema/csb.shtm.*

DATES: The effective date of each community's scheduled suspension is the third date (''Susp.'') listed in the third column of the following tables.

FOR FURTHER INFORMATION CONTACT: If you want to determine whether a particular community was suspended on the suspension date or for further

information, contact Bret Gates, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4133.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase Federal flood insurance that is not otherwise generally available from private insurers. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits the sale of NFIP flood insurance unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. We recognize that some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue to be eligible for the sale of NFIP flood insurance. A notice withdrawing the suspension of such communities will be published in the **Federal Register**.

In addition, FEMA publishes a Flood Insurance Rate Map (FIRM) that identifies the Special Flood Hazard Areas (SFHAs) in these communities. The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year on FEMA's initial FIRM for the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment procedures under 5 U.S.C. 553(b), are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, Section 1315, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This rule meets the applicable standards of Executive Order 12988.

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

§ 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Region I				
New Hampshire:				
Dover, City of, Strafford County	330145	November 19, 1973, Emerg; April 15, 1980, Reg; September 30, 2015, Susp.	September 30, 2015.	September 30, 2015
Durham, Town of, Strafford County	330146	October 1, 1975, Emerg; May 3, 1990, Reg; September 30, 2015, Susp.	.....do	Do.
Madbury, Town of, Strafford County	330219	N/A, Emerg; March 4, 2010, Reg; September 30, 2015, Susp.	.....do	Do.
Rollinsford, Town of, Strafford County	330190	August 18, 1978, Emerg; April 2, 1986, Reg; September 30, 2015, Susp.	.....do	Do.
Region III				
Pennsylvania:				
Allenport, Borough of, Washington County.	420845	March 10, 1975, Emerg; July 16, 1981, Reg; September 30, 2015, Susp.	.....do	Do.
Amwell, Township of, Washington County.	422615	January 17, 1975, Emerg; September 15, 1989, Reg; September 30, 2015, Susp.	.....do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Beallsville, Borough of, Washington County.	422129	May 21, 1979, Emerg; September 24, 1984, Reg; September 30, 2015, Susp.	.....do	Do.
Bentleyville, Borough of, Washington County.	420846	October 15, 1974, Emerg; June 17, 1986, Reg; September 30, 2015, Susp.	.....do	Do.
Blaine, Township of, Washington County.	422141	April 25, 1979, Emerg; July 2, 1982, Reg; September 30, 2015, Susp.	.....do	Do.
Buffalo, Township of, Washington County.	421200	April 7, 1975, Emerg; June 11, 1982, Reg; September 30, 2015, Susp.	.....do	Do.
Burgettstown, Borough of, Washington County.	420847	February 18, 1976, Emerg; February 17, 1989, Reg; September 30, 2015, Susp.	.....do	Do.
California, Borough of, Washington County.	420848	July 5, 1974, Emerg; June 15, 1981, Reg; September 30, 2015, Susp.	.....do	Do.
Canonsburg, Borough of, Washington County.	420849	December 10, 1974, Emerg; April 1, 1980, Reg; September 30, 2015, Susp.	.....do	Do.
Canton, Township of, Washington County.	421201	May 20, 1975, Emerg; November 5, 1986, Reg; September 30, 2015, Susp.	.....do	Do.
Carroll, Township of, Washington County.	422142	October 29, 1974, Emerg; March 18, 1980, Reg; September 30, 2015, Susp.	.....do	Do.
Cecil, Township of, Washington County	422143	November 8, 1974, Emerg; September 5, 1979, Reg; September 30, 2015, Susp.	.....do	Do.
Centerville, Borough of, Washington County.	422552	March 22, 1976, Emerg; June 15, 1981, Reg; September 30, 2015, Susp.	.....do	Do.
Charleroi, Borough of, Washington County.	420850	October 4, 1974, Emerg; July 16, 1981, Reg; September 30, 2015, Susp.	.....do	Do.
Chartiers, Township of, Washington County.	422144	November 20, 1975, Emerg; February 1, 1980, Reg; September 30, 2015, Susp.	.....do	Do.
Coal Center, Borough of, Washington County.	422131	April 17, 1975, Emerg; September 30, 1981, Reg; September 30, 2015, Susp.	.....do	Do.
Cross Creek, Township of, Washington County.	422145	June 5, 1975, Emerg; February 1, 1987, Reg; September 30, 2015, Susp.	.....do	Do.
Deemston, Borough of, Washington County.	422132	November 20, 1975, Emerg; May 1, 1985, Reg; September 30, 2015, Susp.	.....do	Do.
Donegal, Township of, Washington County.	422146	March 23, 1977, Emerg; October 15, 1982, Reg; September 30, 2015, Susp.	.....do	Do.
Donora, Borough of, Washington County.	420851	July 29, 1974, Emerg; June 10, 1980, Reg; September 30, 2015, Susp.	.....do	Do.
Dunlevy, Borough of, Washington County.	422133	December 5, 1974, Emerg; July 16, 1981, Reg; September 30, 2015, Susp.	.....do	Do.
East Bethlehem, Township of, Washington County.	422140	March 18, 1975, Emerg; July 16, 1981, Reg; September 30, 2015, Susp.	.....do	Do.
East Finley, Township of, Washington County.	422147	March 1, 1977, Emerg; May 1, 1985, Reg; September 30, 2015, Susp.	.....do	Do.
Elco, Borough of, Washington County ..	420852	October 30, 1974, Emerg; July 16, 1981, Reg; September 30, 2015, Susp.	.....do	Do.
Ellsworth, Borough of, Washington County.	422553	June 10, 1975, Emerg; September 10, 1984, Reg; September 30, 2015, Susp.	.....do	Do.
Fallowfield, Township of, Washington County.	422148	October 15, 1975, Emerg; February 17, 1989, Reg; September 30, 2015, Susp.	.....do	Do.
Finleyville, Borough of, Washington County.	422135	July 11, 1975, Emerg; September 1, 1986, Reg; September 30, 2015, Susp.	.....do	Do.
Hanover, Township of, Washington County.	422555	December 3, 1975, Emerg; September 24, 1985, Reg; September 30, 2015, Susp.	.....do	Do.
Hopewell, Township of, Washington County.	422556	June 12, 1975, Emerg; August 6, 1982, Reg; September 30, 2015, Susp.	.....do	Do.
Houston, Borough of, Washington County.	422594	October 24, 1974, Emerg; December 18, 1979, Reg; September 30, 2015, Susp.	.....do	Do.
Independence, Township of, Washington County.	421202	October 4, 1974, Emerg; February 1, 1987, Reg; September 30, 2015, Susp.	.....do	Do.
Jefferson, Township of, Washington County.	422557	July 24, 1975, Emerg; June 30, 1976, Reg; September 30, 2015, Susp.	.....do	Do.
Long Branch, Borough of, Washington County.	422136	August 6, 1975, Emerg; September 1, 1986, Reg; September 30, 2015, Susp.	.....do	Do.
Marianna, Borough of, Washington County.	420854	January 21, 1975, Emerg; June 19, 1989, Reg; September 30, 2015, Susp.	.....do	Do.
Midway, Borough of, Washington County.	422558	March 22, 1976, Emerg; August 15, 1989, Reg; September 30, 2015, Susp.	.....do	Do.
Monongahela, City of, Washington County.	420856	May 14, 1971, Emerg; July 3, 1986, Reg; September 30, 2015, Susp.	.....do	Do.
Morris, Township of, Washington County.	422559	October 29, 1975, Emerg; August 5, 1985, Reg; September 30, 2015, Susp.	.....do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
New Eagle, Borough of, Washington County.	420857	December 5, 1974, Emerg; March 18, 1980, Reg; September 30, 2015, Susp.	.....do	Do.
North Bethlehem, Township of, Washington County.	422560	October 17, 1975, Emerg; October 15, 1985, Reg; September 30, 2015, Susp.	.....do	Do.
North Charleroi, Borough of, Washington County.	422137	December 13, 1974, Emerg; July 16, 1981, Reg; September 30, 2015, Susp.	.....do	Do.
North Franklin, Township of, Washington County.	422150	September 10, 1975, Emerg; July 4, 1989, Reg; September 30, 2015, Susp.	.....do	Do.
North Strabane, Township of, Washington County.	422151	December 10, 1974, Emerg; February 15, 1980, Reg; September 30, 2015, Susp.	.....do	Do.
Nottingham, Township of, Washington County.	422561	June 5, 1975, Emerg; September 10, 1984, Reg; September 30, 2015, Susp.	.....do	Do.
Peters, Township of, Washington County.	422152	July 29, 1975, Emerg; November 1, 1979, Reg; September 30, 2015, Susp.	.....do	Do.
Robinson, Township of, Washington County.	422562	June 22, 1976, Emerg; February 25, 1983, Reg; September 30, 2015, Susp.	.....do	Do.
Roscoe, Borough of, Washington County.	420858	March 20, 1975, Emerg; July 16, 1981, Reg; September 30, 2015, Susp.	.....do	Do.
Smith, Township of, Washington County.	422153	May 2, 1975, Emerg; July 1, 1986, Reg; September 30, 2015, Susp.	.....do	Do.
Somerset, Township of, Washington County.	422154	May 20, 1975, Emerg; July 1, 1986, Reg; September 30, 2015, Susp.	.....do	Do.
South Franklin, Township of, Washington County.	422563	September 11, 1975, Emerg; July 17, 1989, Reg; September 30, 2015, Susp.	.....do	Do.
South Strabane, Township of, Washington County.	422155	March 6, 1975, Emerg; April 15, 1980, Reg; September 30, 2015, Susp.	.....do	Do.
Speers, Borough of, Washington County.	422138	November 29, 1974, Emerg; July 16, 1981, Reg; September 30, 2015, Susp.	.....do	Do.
Stockdale, Borough of, Washington County.	420859	September 13, 1974, Emerg; July 16, 1981, Reg; September 30, 2015, Susp.	.....do	Do.
Twilight, Borough of, Washington County.	422564	July 3, 1975, Emerg; September 28, 1979, Reg; September 30, 2015, Susp.	.....do	Do.
Washington, City of, Washington County.	420861	October 23, 1974, Emerg; November 5, 1986, Reg; September 30, 2015, Susp.	.....do	Do.
West Bethlehem, Township of, Washington County.	422156	February 22, 1977, Emerg; September 1, 1986, Reg; September 30, 2015, Susp.	.....do	Do.
West Brownsville, Borough of, Washington County.	425391	December 3, 1971, Emerg; April 27, 1973, Reg; September 30, 2015, Susp.	.....do	Do.
West Finley, Township of, Washington County.	422565	March 28, 1980, Emerg; September 24, 1984, Reg; September 30, 2015, Susp.	.....do	Do.
West Pike Run, Township of, Washington County.	422157	October 25, 1974, Emerg; September 1, 1986, Reg; September 30, 2015, Susp.	.....do	Do.
Region V				
Illinois:				
Schuyler County, Unincorporated Areas	170605	April 19, 1979, Emerg; July 18, 1985, Reg; September 30, 2015, Susp.	.....do	Do.
Indiana:				
Beverly Shores, Town of, Porter County	185173	October 1, 1971, Emerg; March 23, 1973, Reg; September 30, 2015, Susp.	.....do	Do.
Burns Harbor, Town of, Porter County	180207	April 18, 1975, Emerg; August 4, 1988, Reg; September 30, 2015, Susp.	.....do	Do.
Chesterton, Town of, Porter County	180201	February 28, 1975, Emerg; February 1, 1980, Reg; September 30, 2015, Susp.	.....do	Do.
Dune Acres, Town of, Porter County	180205	June 6, 1975, Emerg; April 24, 1981, Reg; September 30, 2015, Susp.	.....do	Do.
Hebron, Town of, Porter County	180387	March 18, 1976, Emerg; October 9, 1981, Reg; September 30, 2015, Susp.	.....do	Do.
Kosciusko County, Unincorporated Areas.	180121	July 30, 1975, Emerg; February 4, 1987, Reg; September 30, 2015, Susp.	.....do	Do.
Mentone, Town of, Kosciusko County ..	180459	N/A, Emerg; June 10, 2008, Reg; September 30, 2015, Susp.	.....do	Do.
Milford, Town of, Kosciusko County	180382	January 14, 1988, Emerg; January 14, 1988, Reg; September 30, 2015, Susp.	.....do	Do.
Nappanee, City of, Elkhart and Kosciusko Counties.	180059	May 30, 1975, Emerg; August 15, 1983, Reg; September 30, 2015, Susp.	.....do	Do.
North Webster, Town of, Kosciusko County.	180465	N/A, Emerg; March 24, 1994, Reg; September 30, 2015, Susp.	.....do	Do.
Ogden Dunes, Town of, Porter County	180206	November 23, 1976, Emerg; August 5, 1986, Reg; September 30, 2015, Susp.	.....do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Pines, Town of, Porter County	180388	N/A, Emerg; August 9, 2011, Reg; September 30, 2015, Susp.	.....do	Do.
Portage, City of, Porter County	180202	August 8, 1975, Emerg; June 1, 1982, Reg; September 30, 2015, Susp.	.....do	Do.
Porter, Town of, Porter County	180208	October 16, 1973, Emerg; June 4, 1980, Reg; September 30, 2015, Susp.	.....do	Do.
Porter County, Unincorporated Areas	180425	September 5, 1975, Emerg; April 1, 1982, Reg; September 30, 2015, Susp.	.....do	Do.
Silver Lake, Town of, Kosciusko County	180311	N/A, Emerg; February 7, 2014, Reg; September 30, 2015, Susp.	.....do	Do.
Syracuse, Town of, Kosciusko County	180122	May 30, 1975, Emerg; February 4, 1987, Reg; September 30, 2015, Susp.	.....do	Do.
Valparaiso, City of, Porter County	180204	March 24, 1975, Emerg; March 2, 1979, Reg; September 30, 2015, Susp.	.....do	Do.
Warsaw, City of, Kosciusko County	180123	March 26, 1975, Emerg; February 4, 1987, Reg; September 30, 2015, Susp.	.....do	Do.
Winona Lake, Town of, Kosciusko County.	180124	October 14, 1975, Emerg; September 4, 1985, Reg; September 30, 2015, Susp.	.....do	Do.
Minnesota:				
Ada, City of, Norman County	270323	April 30, 1974, Emerg; August 2, 1982, Reg; September 30, 2015, Susp.	.....do	Do.
Halstad, City of, Norman County	270324	February 5, 1975, Emerg; June 15, 1979, Reg; September 30, 2015, Susp.	.....do	Do.
Hendrum, City of, Norman County	270325	July 5, 1974, Emerg; December 18, 1979, Reg; September 30, 2015, Susp.	.....do	Do.
Kandiyohi County, Unincorporated Areas.	270629	April 23, 1974, Emerg; July 17, 1986, Reg; September 30, 2015, Susp.	.....do	Do.
Lake Lillian, City of, Kandiyohi County	270219	March 10, 2014, Emerg; N/A, Reg; September 30, 2015, Susp.	.....do	Do.
New London, City of, Kandiyohi County	270220	August 11, 1975, Emerg; November 15, 1985, Reg; September 30, 2015, Susp.	.....do	Do.
Norman County, Unincorporated Areas	270322	January 23, 1974, Emerg; September 2, 1981, Reg; September 30, 2015, Susp.	.....do	Do.
Perley, City of, Norman County	270326	April 26, 1974, Emerg; June 15, 1979, Reg; September 30, 2015, Susp.	.....do	Do.
Raymond, City of, Kandiyohi County	270222	March 5, 1975, Emerg; September 18, 1987, Reg; September 30, 2015, Susp.	.....do	Do.
Shelly, City of, Norman County	270327	August 16, 1974, Emerg; September 2, 1981, Reg; September 30, 2015, Susp.	.....do	Do.
Region IX				
California:				
El Cerrito, City of, Contra Costa County	065027	March 5, 1971, Emerg; June 1, 1977, Reg; September 30, 2015, Susp.	.....do	Do.

*-do- =Ditto.
Code for reading third column: Emerg. —Emergency; Reg. —Regular; Susp. —Suspension.

Dated: August 20, 2015.

Roy E. Wright,

Deputy Associate Administrator, Federal Insurance and Mitigation Administration, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2015–21657 Filed 8–31–15; 8:45 am]

BILLING CODE 9110–12–P

FEDERAL MARITIME COMMISSION

46 CFR Part 503

[Docket No. 15–05]

RIN 3072–AC60

Amendments to Regulations Governing Access to Commission Information and Records; Freedom of Information Act; Withdrawal

AGENCY: Federal Maritime Commission.

ACTION: Direct final rule; withdrawal.

SUMMARY: The Federal Maritime Commission is withdrawing a Direct Final Rule that would have amended its regulations governing access to Commission information and records and its regulations implementing the Freedom of Information Act (FOIA).

DATES: As of September 1, 2015, the direct final rule published July 2, 2015, at 80 FR 37997, is withdrawn.

FOR FURTHER INFORMATION CONTACT: Karen V. Gregory, Secretary, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573–0001. Phone: (202) 523–5725. Email: *secretary@fmc.gov.*

SUPPLEMENTARY INFORMATION: On July 2, 2015, the Federal Maritime Commission (FMC or Commission) published a direct final rule (80 FR 37997) amending its regulations governing access to Commission information and records and its regulations implementing the Freedom of Information Act (FOIA). In

response to the rule, the Commission received two comments recommending that the Commission extend the administrative appeal deadline. Both commenters, America Rising Advanced Research, a non-profit organization, and the National Archives and Records Administration, Office of Government Information Services (OGIS), suggested that extending the administrative appeal deadline will align the Commission with general agency practices. The Commission agrees, and therefore, is withdrawing its Direct Final Rule published on July 2, 2015 (80 FR 37997), and will issue a new Direct Final Rule to extend the administrative appeal deadline from 10 working days to 30 calendar days.

By the Commission.

Karen V. Gregory,

Secretary.

[FR Doc. 2015–21452 Filed 8–31–15; 8:45 am]

BILLING CODE 6731–AA–P

FEDERAL MARITIME COMMISSION

46 CFR Part 503

[DOCKET NO. 15–05]

RIN 3072–AC60

Amendments to Regulations Governing Access to Commission Information and Records; Freedom of Information Act

AGENCY: Federal Maritime Commission.

ACTION: Direct final rule; and request for comments.

SUMMARY: The Federal Maritime Commission amends its regulations governing access to Commission information and records and its regulations implementing the Freedom of Information Act (FOIA). The revisions update and consolidate the provisions identifying records available without the need for a FOIA request, including records available on the Commission's public Web site; revise response time procedures for processing FOIA requests; affirmatively indicate that the Commission uses a multitrack system for processing FOIA requests; modify the criteria for a FOIA request to qualify for expedited processing; and extend the administrative appeal deadline.

DATES: This rule is effective without further action on November 2, 2015, unless significant adverse comment is received by October 1, 2015. If significant adverse comment is received, the Federal Maritime Commission will publish a timely withdrawal of the rule in the **Federal Register**.

ADDRESSES: You may submit comments, identified by the docket number in the heading of this document, by any of the following methods:

- *Email: secretary@fmc.gov.* Include in the subject line: ''Docket No. 15–05, Comments on Amendments to Regulations Governing Access to Commission Information and Records; Freedom of Information Act.'' Comments should be attached to the email as a Microsoft Word or text-searchable PDF document. Comments containing confidential information should not be submitted by email.
- *Mail:* Karen V. Gregory, Secretary, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573–0001.
- *Docket:* To read background documents or comments received in this docket, go to: *http://www.fmc.gov/15-05/.*

FOR FURTHER INFORMATION CONTACT: Karen V. Gregory, Secretary, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573–0001. Phone: (202) 523–5725. Email: *secretary@fmc.gov.*

SUPPLEMENTARY INFORMATION: The Federal Maritime Commission amends its regulations governing access to Commission information and records and its regulations implementing the Freedom of Information Act, 5 U.S.C. 552, found in part 503 of title 46 of the Code of Federal Regulations. The provisions in part 503 are designed to facilitate public availability of information; thereby furthering the spirit of FOIA in ensuring an informed citizenry.

On July 2, 2015, the Federal Maritime Commission (FMC or Commission) published a Direct Final Rule (80 FR 37997) amending its regulations governing access to Commission information and records and its regulations implementing the Freedom of Information Act (FOIA). In response to the rule, the Commission received two comments recommending that the Commission extend the administrative appeal deadline. Both commenters, America Rising Advanced Research, a non-profit organization, and the National Archives and Records Administration, Office of Government Information Services (OGIS), suggested that extending the administrative appeal deadline will align the Commission with general agency practices.* The Commission agrees, and therefore, is withdrawing its Direct Final Rule published on July 2, 2015 (80 FR 37997), and issuing this new Direct Final Rule to extend the administrative appeal deadline from 10 working days to 30 calendar days.

In addition, the Commission is incorporating the revisions issued in the July 2, 2015 Direct Final Rule (80 FR 37997) into this Direct Final Rule. The revisions update and consolidate the provisions identifying records available without the need for a FOIA request, including records available on the Commission's public Web site; revise response time procedures for processing FOIA requests; affirmatively indicate that the Commission uses a multitrack system for processing FOIA requests; modify the criteria for a FOIA request to qualify for expedited processing; and extend the administrative appeal deadline.

The Commission last revised part 503 in 1998 to reflect requirements of the Electronic Freedom of Information Act Amendments of 1996 (Pub. L. 04–231). On December 31, 2007, the OPEN Government Act of 2007 (Pub. L. 110–175) amended procedural aspects of FOIA and established new agency requirements for processing FOIA requests. On October 28, 2009, the OPEN FOIA Act of 2009 (Pub. L. 110–175) further amended FOIA.

The amendments to part 503 update the Commission's regulations to reflect its practices and provisions of the OPEN Government Act of 2007 and the OPEN FOIA Act of 2009.

The Commission is making the following revisions to the subparts of part 503: revise Subpart A—*General, Statement of Policy* to repurpose this subpart to state the purpose and scope of the rules contained in part 503; update Subpart B—*Publication in the* ***Federal Register*** to recognize that in addition to publishing records in the **Federal Register**, the Commission also posts records listed in this Subpart on its Web site (*www.fmc.gov*); revise Subpart C—*Records, Information and Materials Generally Available to the Public Without Resort to Freedom of Information Act Procedures* to describe records available to the public without the need for a FOIA request, including records available on the Commission's public Web site; amend Subpart D—*Requests for Records under the Freedom of Information Act* to include procedures for tolling response times, processing FOIA requests under the multitracking system, and expedited processing of FOIA requests; and revise Subpart H—*Public Observation of Federal Maritime Commission Meetings*

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* The Commission appreciates the recommendations of OGIS. While the remaining recommendations are outside the scope of the revisions implemented in this Direct Final Rule, the Commission will address them in a subsequent rulemaking.

and Public Access to Information Pertaining to Commission Meetings to amend a subpart reference.

Subpart A—General

The Commission revises the heading and language in § 503.1 to describe the scope and purpose of the provisions contained in part 503. Specifically, the Commission changes the section heading from ''Statement of Policy'' to ''Scope and Purpose.'' The Commission also amends this section to include a list of the subparts contained in part 503.

Subpart B—Publication in the Federal Register

To promote greater access to information and records, the Commission amends and updates § 503.11 to inform the public that the Commission posts records listed in this subpart on its Web site (*www.fmc.gov*), in addition to publishing these records in the **Federal Register**.

Subpart C—Records, Information and Materials Generally Available to the Public Without Resort to Freedom of Information Act Procedures

Sections 503.21 to 503.24 describe records available to the public without the need for a FOIA request. The Commission last revised these sections in 1998 and further revises these sections to reflect the availability of information on the Commission's Web site, eliminate outdated information, and remove duplicative language.

Subpart D—Requests for Records Under the Freedom of Information Act

Section 503.31 provides information on the process for requesting records. The Commission is adding a new paragraph encouraging requesters to review the records on the Commission's public Web site prior to initiating a FOIA request. In addition, the Commission amends this section to include requirements for submitting FOIA requests electronically.

Administrative Appeal Deadline

In accordance with general Federal agency practices, the Commission amends § 503.32(a)(3)(i)(B) to extend the administrative appeal deadline from 10 working days to 30 calendar days.

Tolling

FOIA, as amended, allows an agency to make one reasonable request for information from the FOIA requester and stop, or toll, the 20-day clock for responding to a FOIA requester while the agency is waiting for the requested information from the FOIA requester. 5 U.S.C. 552(a)(6)(A)(ii)(I). Agencies may also toll the 20-day response clock as many times as necessary in order to clarify any issues with fee assessment. 5 U.S.C. 552(a)(6)(A)(ii)(II).

Section 503.32 sets forth procedures for responding to requests made under FOIA. This section does not currently include a provision for tolling the statutory 20-day FOIA response period should the Commission need to contact the FOIA requestor to clarify or narrow the scope of the FOIA request. The Commission is adding language that would allow for tolling of response times to implement the Commission's authority to stop the 20-day clock should the Commission need information from the requestor or to clarify issues with fee assessment.

The Commission is adding two new paragraphs, (b)(4) and (5) to § 503.32 to reflect Commission processes used to work with a requestor to clarify or narrow the scope of a FOIA request, and to confirm that the requestor understands and authorizes the assessment of fees. The new paragraphs require the Commission to submit its request to clarify the scope of records requested or fee assessments in writing to the requestor.

Multitrack Processing of Requests

FOIA expressly authorizes agencies to promulgate regulations providing for ''multitrack processing'' of FOIA requests and allows agencies to process requests on a first-in, first-out basis within each track. 5 U.S.C. 552(a)(6)(D). During FY 2012, the Commission initiated a multitrack processing system for FOIA requests to better manage and more efficiently respond to FOIA requests. The Commission revises § 503.32(d) to reflect the Commission's current practices regarding multitrack processing of FOIA requests in which the Commission labels requests as either ''simple'' or ''complex''. The rephrasing of the section clarifies the Commission's current practices and provides that a request may be considered ''simple'' if the type of records being requested are routinely requested and readily available. Initiating a simple track process has permitted the Commission to respond to relatively simple requests more quickly than requests involving complex and/or voluminous records.

Expedited Processing of Requests

Section 503.32(e) currently provides for expedited processing of a FOIA request when (1) the person requesting the records can demonstrate a compelling need; or (2) in other cases, in the Secretary's discretion. The Commission deletes paragraph (2) from § 503.32(e). This revision simplifies the Commission's criteria for determining which FOIA requests qualify for expedited processing and establish a practice consistent with other Federal agencies that only provide expedited processing when a ''compelling need'' can be demonstrated.

To ensure timely responses to requests for expedited processing, the Commission revises § 503.32(e)(4) to change ''working days'' to ''calendar days'' to coincide with FOIA.

Annual Report

The Commission must submit an annual report on its FOIA related activities to the Attorney General. The Commission revises § 502.23 to reference the activities cited in FOIA, 5 U.S.C. 552(e), rather than list out all activities reported upon.

Subpart I—Public Observation of Federal Maritime Commission Meetings and Public Access to Information Pertaining to Commission Meetings

A technical revision and update of § 503.87(b) accounts for a recent redesignation of subparts with the addition of new subpart E.

Regulatory Analysis and Notices

Regulatory Flexibility Act

This direct final rule is not a ''major rule'' under 5 U.S.C. 804(2). No notice of proposed rulemaking is required; therefore, the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* do not apply.

The Regulatory Flexibility Act, 5 U.S.C. 601–612, requires an agency to review regulations to assess their impact on small entities and prepare an initial regulatory flexibility analysis (IRFA), unless the agency determines that a rule is not expected to have a significant impact on a substantial number of small entities. This rulemaking will affect only persons who file FOIA requests, and therefore, the Chairman certifies that this rulemaking will not have a significant or negative economic impact on a substantial number of small entities.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3521, requires an agency to seek and receive approval from the Office of Management and Budget (OMB) before making most requests for information if the agency is requesting information from more than ten persons. 44 U.S.C. 3507. The agency must submit collections of information in proposed rules to OMB in conjunction with the publication of the proposed rulemaking. 5 CFR 1320.11. The Commission is not proposing any

collections of information, as defined by 44 U.S.C. 3502(3) and 5 CFR 1320.3(c), as part of this rule.

Regulation Identifier Number

The Commission assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulatory and Deregulatory Actions (Unified Agenda). The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading at the beginning of this document may be used to find this action in the Unified Agenda, available at *http://www.reginfo.gov/public/do/eAgendaMain.*

Direct Final Rule Justification

The Commission expects the amendments to be noncontroversial. Therefore, pursuant to 5 U.S.C. 553, notice and comment are not required and this rule may become effective after publication in the **Federal Register** unless the Commission receives significant adverse comments within the specified period. The Commission recognizes that parties may have information that could impact the Commission's views and intentions with respect to the revised regulations, and the Commission intends to consider any comments filed. The Commission will withdraw the rule if it receives significant adverse comments. Filed comments that are not adverse may be considered for modifications to part 503 at a future date. If no significant adverse comment is received, the rule will become effective without additional action.

List of Subjects in 46 CFR Part 503

Administrative practices and procedures, Archives and records, Classified information, Confidential business information, Freedom of information, Information, Privacy, Records, Reporting and recordkeeping requirements, Sunshine Act.

For the reasons set forth in the preamble, the Federal Maritime Commission amends 46 CFR part 503 as follows:

PART 503—PUBLIC INFORMATION

■ 1. The authority citation for part 503 is revised to read:

Authority: 5 U.S.C. 552, 552a, 552b, 553; 31 U.S.C. 9701; E.O. 13526, 75 FR 707, 3 CFR, 2010 Comp., p. 298.

Subpart A—General

■ 2. Revise § 503.1 to read as follows:

§ 503.1 Scope and purpose.

This part implements the Freedom of Information Act (FOIA), 5 U.S.C. 552, as amended, the Privacy Act of 1974, 5 U.S.C. 552a, and the Government in the Sunshine Act (1976), 5 U.S.C. 552b; and sets forth the Commission's regulations governing:

(a) Public availability of Commission information and records at its Office of the Secretary, published in the **Federal Register**, or posted on the Commission's public Web site (*www.fmc.gov*);

(b) Procedures for requests for testimony by current or former FMC employees relating to official information and production of official Commission records in litigation;

(c) The type of services and amount of fees charged for certain Commission services; and

(d) The Commission's Information Security Program.

Subpart B—Publication in the Federal Register

■ 3. Amend § 503.11 by revising the introductory text to read as follows:

§ 503.11 Materials to be published.

The Commission shall separately state and concurrently publish the following materials in the **Federal Register** or on its public Web site (*www.fmc.gov*) for the guidance of the public:

* * * * *

Subpart C—Records, Information and Materials Generally Available to the Public Without Resort to Freedom of Information Act Procedures

■ 4. Amend § 503.21 by revising paragraphs (a) introductory text and (c) to read as follows:

§ 503.21 Mandatory public records.

(a) The Commission, as required by the Freedom of Information Act, 5 U.S.C. 552, makes the following materials available for public inspection and copying in its Office of the Secretary, or on its Web site at *www.fmc.gov:*

* * * * *

(c) The Commission maintains and makes available for public inspection at the Office of the Secretary, Federal Maritime Commission, Washington, DC 20573, or on its public Web site at *www.fmc.gov,* a current log or index providing identifying information for the public as to any matter which is issued, adopted, or promulgated, and which is required by paragraph (a) of this section to be made available or published.

(1) No final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects any member of the public will be relied upon, used, or cited as precedent by the Commission against any private party unless:

(i) It has been logged or indexed and either made available or published on its public Web site as provided by this subpart; or

(ii) That private party shall have actual and timely notice of the terms thereof.

(2) [Reserved]

* * * * *

■ 5. Revise § 503.22 to read as follows:

§ 503.22 Records available through the Commission's Web site or at the Office of the Secretary.

The following records are also available without the requirement of a FOIA request on the Commission's Web site or by contacting the Office of the Secretary, Federal Maritime Commission, 800 North Capitol St. NW., Washington, DC 20573, *secretary@fmc.gov.* Access to requested records may be delayed if they have been sent to archives. Certain fees may be assessed for duplication of records made available by this section as prescribed in subpart F of this part.

(a) Proposed and final rules and regulations of the Commission including general substantive rules, statements of policy and interpretations, and rules of practice and procedure.

(b) Federal Maritime Commission reports.

(c) Official docket files in all formal proceedings including, but not limited to, orders, final decisions, notices, pertinent correspondence, transcripts, exhibits, and briefs, except for materials which are the subject of a protective order.

(d) News releases, consumer alerts, Commissioner statements, and speeches.

(e) Approved summary minutes of Commission actions showing final votes, except for minutes of closed Commission meetings which are not available until the Commission publicly announces the results of such deliberations.

(f) Annual reports of the Commission.

(g) Agreements filed or in effect pursuant to section 5 (46 U.S.C. 40301(d)–(e), 40302–40303, 40305) and section 6 (46 U.S.C. 40304, 40306, 41307(b)–(d)) of the Shipping Act of 1984.

(h) List of FMC-licensed and bonded ocean transportation intermediaries.

(i) Notification of ocean transportation intermediaries license applications, revocations, and suspensions.

(j) General descriptions of the functions, bureaus, and offices of the

Commission, phone numbers and email addresses, as well as locations of Area Representatives.

(k) Information about how to file a complaint alleging violations of the Shipping Act, and how to seek mediation or alternative dispute resolution services.

(l) Commonly used forms.

(m) Final and pending proposed rules.

(n) Access to statements of policy and interpretations as published in part 545 of this chapter.

(o) Lists of the location of all common carrier and conference tariffs and publically available terminal schedules of marine terminal operators.

§§ 503.23 and 503.24 [Removed and Reserved]

■ 6. Remove and reserve §§ 503.23 and 503.24.

Subpart D—Requests for Records Under the Freedom of Information Act

■ 7. Revise the subpart D heading to read as set forth above.

■ 8. Amend § 503.31 by revising paragraphs (a) and (d) to read as follows:

§ 503.31 Records available upon written request under the Freedom of Information Act.

(a) *Generally.* Many documents are available on the Commission's public Web site and the Commission encourages requesters visit the Web site before making a request for records under FOIA.

(1) *Electronic or written requests.* A member of the public may request permission to inspect, copy or be provided with any Commission record not described in subpart C of this part or posted on the Commission's Web site at *www.fmc.gov.* Such a request must:

(i) Reasonably describe the record or records sought;

(ii) Be submitted electronically to *FOIA@fmc.gov* or in writing to the Secretary, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573.

(iii) Be clearly marked on the subject line of an email or on the exterior of the envelope with the term ''FOIA.''

(2) [Reserved]

* * * * *

(d) Certain fees may be assessed for processing requests under this subpart as prescribed in subpart F of this part.

■ 9. Amend § 503.32 by revising paragraphs (a)(1), (a)(3)(i)(B), (a)(3)(ii), (d), and (e)(1) and (4) and adding paragraphs (b)(4) and (5) to read as follows:

§ 503.32 Procedures for responding to requests made under the Freedom of Information Act.

(a) * * *

(1) Such determination shall be made by the Secretary within twenty (20) business days after receipt of such request, except as provided in paragraphs (b) and (e)(4) of this section.

* * * * *

(3)(i) * * *

(B) Be filed not later than thirty (30) calendar days following receipt of notification of full or partial denial of records requested.

(ii) The Chairman or the Chairman's specific delegate, in his or her absence, shall make a determination with respect to that appeal within twenty (20) business days after receipt of such appeal, except as provided in paragraph (b) of this section.

* * * * *

(b) * * *

(4) The Secretary may make an initial written request to the requestor for information to clarify the request which will toll the 20-day processing period until such information has been received. The 20-day processing period will recommence after receipt of the requested information.

(5) The Secretary may also make written requests to clarify issues regarding fee assessments. Such written requests will toll the 20-day processing period until such information has been received from the requestor. The 20-day processing period will recommence after receipt of the requested information.

* * * * *

(d) *Multitrack processing of requests.* The Secretary uses multitrack processing of FOIA requests. Requests which seek and are granted expedited processing are put on the expedited track. All other requests are designated either simple or complex requests based on the amount of time and/or complexity needed to process the request. A request may be considered simple if it involves records that are routinely requested and readily available.

(e) *Expedited processing of requests.* (1) The Secretary will provide for expedited processing of requests for records when the person requesting the records can demonstrate a compelling need.

* * * * *

(4) The Secretary shall determine whether to provide expedited processing, and provide notice of the determination to the person making the request, within ten (10) calendar days after the receipt date of the request.

* * * * *

■ 10. Amend § 503.34 by revising paragraph (a) to read as follows:

§ 503.34 Annual report of public information request activity.

(a) On or before February 1 of each year, the Commission must submit to the Attorney General of the United States, in the format required by the Attorney General, a report on FOIA activities which shall cover the preceding fiscal year pursuant to 5 U.S.C. 552(e).

* * * * *

Subpart I—Public Observation of Federal Maritime Commission Meetings and Public Access to Information Pertaining to Commission Meetings

■ 11. Amend § 503.87 by revising paragraph (b) to read as follows:

§ 503.87 Effect of provisions of this subpart on other subparts.

* * * * *

(b) Nothing in this subpart shall permit the withholding from any individual to whom a record pertains any record required by this subpart to be maintained by the agency which record is otherwise available to such an individual under the provisions of subpart H of this part.

By the Commission.

Karen V. Gregory,

Secretary.

[FR Doc. 2015–21453 Filed 8–31–15; 8:45 am]

BILLING CODE 6731–AA–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 43

[IB Docket No. 04–112 (Terminated); DA 15–711]

Reporting Requirements for U.S. Providers of International Telecommunications Services

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: In this Order, the Federal Communications Commission (Commission) dismisses the petition for reconsideration (Petition) of the *Second Report and Order* filed by Voice on the Net Coalition (Petitioner), seeking reconsideration of the Commission's decision to extend international traffic

and revenue reporting requirements to entities providing international calling service via Voice over Internet Protocol (VoIP) connected to the public switched telephone network (PSTN), and requiring submarine cable landing licensees to file reports identifying capacity they own or lease on each submarine cable. The Petition relies on facts and arguments that do not meet the requirements of the Commission's rules and the Petition plainly does not warrant consideration by the Commission.

DATES: September 1, 2015.

FOR FURTHER INFORMATION CONTACT: David Krech, Policy Division, International Bureau at 202–418–7443; or Veronica Garcia-Ulloa, Policy Division, International Bureau at 202–418–0481.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order dismissing the petition for reconsideration, DA 15–711, adopted and released on June 17, 2015. Under the Commission's rules, petitions for reconsideration that rely on facts or arguments that have not previously been presented to the Commission will be considered only under certain limited circumstances and may be dismissed by the relevant bureau if they do not meet those circumstances. The Petition relies on facts and arguments that do not meet the requirements of § 1.429(b)(1) through (3) of the Commission's rules. Petitioner previously could have presented these facts and arguments to the Commission in response to the *Further Notice of Proposed Rulemaking* in this proceeding, but did not present. Accordingly, pursuant to § 1.429(l) of the Commission's rules, the Petition plainly does not warrant consideration by the Commission. The Order on Reconsideration is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street SW., Washington, DC 20554. The document is also available for download over the Internet at *http://transition.fcc.gov/Daily_Releases/Daily_Business/2015/db0617/DA-15-711A1.pdf.* The Commission will not send a copy of this Order pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A), because this Order does not have an impact on any rules of particular applicability.

Federal Communications Commission.

Nese Guendelsberger,

Deputy Chief, International Bureau.

[FR Doc. 2015–21091 Filed 8–31–15; 8:45 am]

BILLING CODE 6712–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1842 and 1852

RIN 2700–AE14

NASA Federal Acquisition Regulation Supplement: Denied Access to NASA Facilities (2015–N002)

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: NASA is issuing a final rule amending the NASA Federal Acquisition Regulation Supplement (NFS) to delete the observance of legal holidays clause with its alternates and replace it with a new clause that prescribes conditions and procedures pertaining to the closure of NASA facilities.

DATES: Effective: October 1, 2015.

FOR FURTHER INFORMATION CONTACT: Andrew O'Rourke, NASA Office of Procurement, Contract and Grant Policy Division, 202–358–4560, email: *andrew.orourke@nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

A proposed rule was published on May 13, 2015 (80 FR 27278) to delete NASA FAR Supplement (NFS) clause 1852.242–72, Observance of Legal Holidays with its alternates and replace it with a new clause that prescribes conditions and procedures pertaining to the closure of NASA facilities. NFS clause 1852.242–72, Observance of Legal Holidays with its alternates, was included in Agency contracts where contractor performance was to be performed on a NASA facility. It was intended to identify dates that Government employees would not be available and provide notification to contractors of those dates considering that the absence of Government employees might impact contractor performance or contractor access to NASA facilities. Further, the same clause has two alternates, the first addresses contractors who are denied access to NASA workspaces within a NASA facility and the second addresses other instances, such as weather and safety emergencies, which could result in contractors being denied access to the entire NASA facility. Recent events, especially the Government shut-down during October 2013, have revealed a need for NASA to be more specific and to differentiate between these two conditions when contractor employees may be denied access to NASA workspaces or the entire NASA facility. The fact that Government employees may not be at a NASA facility is not an automatic reason for contractor personnel not to be required to be present at their required NASA workspace on a NASA facility. Unless a contractor is denied access to the NASA facility, contractors are expected to perform in accordance with their contractual requirements. This NFS change provides clarity and information beneficial to NASA contractors that are denied access to a NASA facility when a NASA facility is closed to all personnel. Specifically, the change deletes the prescription at NFS 1842.7001, Observance of Legal Holidays, in its entirety, and clause 1852.242–72, Observance of Legal Holidays, with alternates, and replaces it with the prescription at NFS 1842.7001 Denied Access to NASA Facilities and clause 1852.242–72, Denied Access to NASA Facilities, respectively. The clause would be included in solicitations and contracts where contractor personnel would be required to work onsite at a NASA facility.

II. Discussion and Analysis

NASA published a proposed rule in the **Federal Register** on May 13, 2015 (80 FR 27278). The sixty-day public comment period expired on July 13, 2015. NASA received comments from one respondent. NASA reviewed the respondent's comments in the formation of the final rule. No revisions to the proposed rule were made as a result of the public comments received. A discussion of the comments is provided as follows:

A. Retain Existing Language

Comment: The respondent submitted a comment indicating that it was in the best interest of both NASA and NASA contractors to retain the language of 48 CFR parts 1842 and 1852 as it currently exists.

Response: NASA disagrees with retaining the existing NFS clause. As stated in the proposed rule, there was a need for NASA to be more specific when contractor employees may be denied access to NASA workspaces or the entire NASA facility. This revision to the NFS provides this clarity with information that is beneficial to both the Government and NASA contractors who are denied access to a NASA facility when that facility is closed to all personnel.

B. Revised Language is Less Clear

Comment: The respondent submitted a comment stating that the revised language in the proposed rule is actually

less clear *than the current ''Holidays'' clause* and may adversely impact consistency of application. The respondent stated that the revised language suggests that direction from the contracting officer may or may not be forthcoming; the contractor ''minimize unnecessary contract costs and performance impact'' by performing work off-site or having personnel perform other duties makes it wholly unclear what NASA's expectations of the contractor may be, and what potential financial losses may or may not be incurred, depending on various circumstances. The respondent stated the proposed revised language creates a significantly increased potential for inconsistent interpretation not only for contractors at different NASA installations, but for different contractors at the same NASA installation.

Response: NASA disagrees that the revised clause is less clear and may have inconsistent application. The revised clause indicates that the contractor shall exercise sound judgment to minimize unnecessary contract costs and provides examples of such actions. The examples are provided for the contractor to consider and not to limit the contractor. The revised clause will be included in NASA solicitations and contracts where contractor personnel would be required to work onsite at a NASA facility and NASA does not agree that there is potential for inconsistent interpretation or application.

C. Violations of the Anti-Deficiency Act

Comment: The respondent submitted a comment stating the proposed language may lead to unintentional, but consequential, violations of the Anti-Deficiency Act (31 U.S.C. 1341), to the financial detriment of contractor organizations. The respondent indicated that their issue is with the proposed revised clause 1852.242–72 paragraph (a)(3)(b), and the respondent's concern that implementation of this clause will set up inevitable competitive pressure (even if self-imposed) for contractors to compel their employees to continue NASA contract work off-site or through teleworking in the event of a NASA installation closure (regardless of the reason for the closure), even in the absence of approval that such work will be covered as an allowable cost. Should such costs then subsequently not be allowed, this could effectively place NASA as an agency in the role of accepting voluntary services from the contractor and its employees, and clearly imposes a financial risk for the Contractor that is not imposed by the current language of 1852.242–72.

Response: NASA disagrees that the revised clause may lead to violations of the Anti-Deficiency Act (31 U.S.C. 1341). The revised clause indicates that in all instances where contractor employees are denied access or required to vacate a NASA facility, in part or in whole, the contractor shall be responsible to ensure contractor personnel working under the contract comply and the contractor shall exercise sound judgment to minimize unnecessary contract costs and performance. The revised clause provides an example for contractors to consider *e.g.* performing required work off-site. The revised clause does not require contractors to compel their employees to continue NASA contract work off-site or through teleworking; the revised clause merely provides an example for contractors to consider in meeting the contract requirements in the event of a NASA facility closure. NASA does not agree that taking a prudent business decision in the event of a NASA facility closure will lead to violation of the Anti-Deficiency Act (31 U.S.C. 1341).

D. Increased Administrative Burden

Comment: The respondent stated that the proposed language may lead to increased, versus decreased, administrative burden for both NASA and on-site contractors, resulting in a decrease of value delivered to the Government. The respondent indicated that contractors will need to develop revised employee policies that cover all contingencies of the revised language of 1852.242–72. Contractors will need to vet the language of these policy changes with their employment attorneys, adding costs that will ultimately be included in indirect rates. The respondent indicated that the administrative burden to fully and fairly implement revised 1852.242–72 would be increased for both contractors and NASA.

Response: NASA does not agree that the revised clause may lead to increased administrative burden for both NASA and on-site contractors. Contractors performing work on a NASA facility should already have established company polices to cover events referenced in the revised clause such as policy related to Federal public holidays. Also, since the revised clause will be included in NASA solicitations a company interested in submitting a proposal would review applicable company polices as part of the proposal preparation and address changes, if any, at that time with little to no additional cost or administrative burden.

E. Institutionalize a ''Two-Class'' System

Comment: The respondent stated that the proposed revised clause 1852.242–72 would institutionalize a ''two-class'' system of treatment of Government employees versus contractor employees, to the detriment of effective teamwork and morale. The respondent indicated that that the proposed revised clause would create competitive pressure for contractors to require their employees to work off-site or telework during virtually all circumstances when NASA installations may be closed, when no such requirement will apply to Federal employees. The respondent stated that in reference to the proposed revised clause 1852.242–72 paragraph (e)(1), which states that ''Moreover, the leave status of NASA employees shall not be conveyed or imputed to contractor personnel.'' The respondent saw no compelling reason why a decision by an appropriately empowered federal official to grant Federal employees leave under appropriate circumstances should not be conveyed to contractor employees, along with appropriate guidance from the contractor as to whether or not contractor employees are to report to work. The responded noted that inconsistent treatment of contractor employees, as compared to their Federal colleagues under the same circumstances, would become institutionalized by the proposed revised clause and would be detrimental to teamwork and morale.

Response: NASA does not agree. While NASA federal and contractor employees are members of the same NASA team, different standards apply to the various members of the team. NASA acquires services from contractors utilizing nonpersonal services contracts. A nonpersonal services contract means a contract under which the personnel rendering the services are not subject, either by the contract's terms or by the manner of its administration, to the supervision and control usually prevailing in relationships between the Government and its employees (see FAR 37.101). A personal services contract is characterized by the employer-employee relationship it creates between the Government and the contractor's personnel. The Government is normally required to obtain its employees by direct hire under competitive appointment or other procedures required by the civil service laws. Obtaining personal services by contract, rather than by direct hire, circumvents those laws unless Congress has

specifically authorized acquisition of the services by contract. Agencies are prohibited from awarding personal services contracts unless specifically authorized by statute to do so. An employer-employee relationship under a service contract occurs when, as a result of (i) the contract's terms or (ii) the manner of its administration during performance, contractor personnel are subject to the relatively continuous supervision and control of a Government officer or employee (see FAR 37.104). In addition, the leave administration for Federal employees is covered under title 5 of the United States Code and title 5 of the Code of Federal Regulations. The leave administration for a contractor is covered under the contractor's company policy. Therefore, the revised clause language is correct and the leave status of NASA Federal employees shall not be conveyed or imputed to contractor personnel.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule is not a significant regulatory action under section 3(f) of Executive Order 12866. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

NASA certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because it provides clarity and information beneficial to NASA contractors that are denied access to a NASA facility when a NASA facility is closed. The rule imposes no new reporting requirements. The rule does not duplicate, overlap, or conflict with any other Federal rules. No alternatives were identified that would meet the objectives of the rule. No comments from small entities were submitted in reference to the Regulatory Flexibility Act request in the proposed rule.

V. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 104–13) does not apply because this final rule contains no information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 1842 and 1852

Government procurement.

Manuel Quinones,
Federal Register Liaison.

Accordingly, 48 CFR parts 1842 and 1852 are amended as follows:

PART 1842—CONTRACT ADMINISTRATION AND AUDIT SERVICES

■ 1. The authority citation for part 1842 is revised to read as follows:

Authority: 51 U.S.C. 20113 and 48 CFR chapter 1.

■ 2. Revise subpart 1842.70 to read as follows:

Subpart 1842.70—Additional NASA Contract Clauses

1842.7001 Denied Access to NASA Facilities.

The contracting officer shall insert the clause at 1852.242–72, Denied Access to NASA Facilities, in solicitations and contracts where contractor personnel will be working onsite at a NASA facility such as: NASA Headquarters and NASA Centers, including Component Facilities and Technical and Service Support Centers. For a list of NASA facilities see NPD 1000.3 ''The NASA Organization''. The contracting officer shall not insert the clause where contractor personnel will be working onsite at the Jet Propulsion Laboratory including the Deep Space Network Communication Facilities (Goldstone, CA; Canberra, Australia; and Madrid, Spain).

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

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

Authority: 51 U.S.C. 20113(a) and 48 CFR chapter 1.

4. Revise section 1852.242–72 to read as follows:

1852.242–72 Denied Access to NASA Facilities.

As prescribed in 1842.7001, insert the following clause:

Denied Access to NASA Facilities (OCT 2015)

(a)(1) The performance of this contract requires contractor employees of the prime contractor or any subcontractor, affiliate, partner, joint venture, or team member with which the contractor is associated, including consultants engaged by any of these entities, to have access to, physical entry into, and to the extent authorized, mobility within, a NASA facility.

(2) NASA may close and or deny contractor access to a NASA facility for a portion of a business day or longer due to any one of the following events:

(i) Federal public holidays for federal employees in accordance with 5 U.S.C. 6103.

(ii) Fires, floods, earthquakes, unusually severe weather to include snow storms, tornadoes and hurricanes.

(iii) Occupational safety or health hazards.

(iv) Non-appropriation of funds by Congress.

(v) Any other reason.

(3) In such events, the contractor employees may be denied access to a NASA facility, in part or in whole, to perform work required by the contract. Contractor personnel already present at a NASA facility during such events may be required to leave the facility.

(b) In all instances where contractor employees are denied access or required to vacate a NASA facility, in part or in whole, the contractor shall be responsible to ensure contractor personnel working under the contract comply. If the circumstances permit, the contracting officer will provide direction to the contractor, which could include continuing on-site performance during the NASA facility closure period. In the absence of such direction, the contractor shall exercise sound judgment to minimize unnecessary contract costs and performance impacts by, for example, performing required work off-site if possible or reassigning personnel to other activities if appropriate.

(c) The contractor shall be responsible for monitoring the local radio, television stations, NASA Web sites, other communications channels, for example contracting officer notification, that the NASA facility is accessible. Once accessible the contractor shall resume contract performance as required by the contract.

(d) For the period that NASA facilities were not accessible to contractor employees, the contracting officer may—

(1) Adjust the contract performance or delivery schedule for a period equivalent to the period the NASA facility was not accessible;

(2) Forego the work;

(3) Reschedule the work by mutual agreement of the parties; or

(4) Consider properly documented requests for equitable adjustment, claim, or any other remedy pursuant to the terms and conditions of the contract.

(e) Notification procedures of a NASA facility closure, including contractor denial of access, as follows:

(1) The contractor shall be responsible for monitoring the local radio, television stations, NASA Web sites, other communications channels, for example contracting officer notification, for announcement of a NASA facility closure to include denial of access to the NASA facility. The contractor shall be responsible for notification of its employees of the NASA

facility closure to include denial of access to the NASA facility. The dismissal of NASA employees in accordance with statute and regulations providing for such dismissals shall not, in itself, equate to a NASA facility closure in which contractor employees are denied access. Moreover, the leave status of NASA employees shall not be conveyed or imputed to contractor personnel. Accordingly, unless a NASA facility is closed and the contractor is denied access to the facility, the contractor shall continue performance in accordance with the contract.

(2) NASA's Emergency Notification System (ENS). ENS is a NASA-wide Emergency Notification and Accountability System that provides NASA the ability to send messages, both Agency-related and/or Center-related, in the event of an emergency or emerging situation at a NASA facility. Notification is provided via multiple communication devices, *e.g.* Email, text, cellular, home/office numbers. The ENS provides the capability to respond to notifications and provide the safety status. Contractor employees may register for these notifications at the ENS Web site: *http://www.hq.nasa.gov/office/ops/nasaonly/ENSinformation.html.*

(End of clause)

[FR Doc. 2015–21584 Filed 8–31–15; 8:45 am]

BILLING CODE 7510–13–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

[Docket No. FWS–HQ–MB–2014–0064: FF09 M21200–156–FXMB1231099BPP0]

RIN 1018–BA67

Migratory Bird Hunting; Early Seasons and Bag and Possession Limits for Certain Migratory Game Birds in the Contiguous United States, Alaska, Hawaii, Puerto Rico, and the Virgin Islands

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes the hunting seasons, hours, areas, and daily bag and possession limits of mourning, white-winged, and white-tipped doves; band-tailed pigeons; rails; moorhens and gallinules; woodcock; common snipe; sandhill cranes; sea ducks; early (September) waterfowl seasons; migratory game birds in Alaska, Hawaii, Puerto Rico, and the Virgin Islands; youth waterfowl day; and some extended falconry seasons. Taking of migratory birds is prohibited unless specifically provided for by annual regulations. This rule permits taking of designated species during the 2015–16 season.

DATES: This rule is effective on September 1, 2015.

ADDRESSES: You may inspect comments received on the migratory bird hunting regulations during normal business hours at the Service's office at 5275 Leesburg Pike, Falls Church, Virginia. You may obtain copies of referenced reports from the street address above, or from the Division of Migratory Bird Management's Web site at *http://www.fws.gov/migratorybirds/*, or at *http://www.regulations.gov* at Docket No. FWS–HQ–MB–2014–0064.

FOR FURTHER INFORMATION CONTACT: Ron W. Kokel, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, (703) 358–1714.

SUPPLEMENTARY INFORMATION:

Regulations Schedule for 2015

On April 13, 2015, we published in the **Federal Register** (80 FR 19852) a proposal to amend 50 CFR part 20. The proposal provided a background and overview of the migratory bird hunting regulations process, and addressed the establishment of seasons, limits, and other regulations for hunting migratory game birds under §§ 20.101 through 20.107, 20.109, and 20.110 of subpart K. Major steps in the 2015–16 regulatory cycle relating to open public meetings and **Federal Register** notifications were also identified in the April 13 proposed rule. Further, we explained that all sections of subsequent documents outlining hunting frameworks and guidelines were organized under numbered headings. Subsequent documents will refer only to numbered items requiring attention. Therefore, it is important to note that we omit those items requiring no attention, and remaining numbered items might be discontinuous or appear incomplete.

On June 11, 2015, we published in the **Federal Register** (80 FR 33223) a second document providing supplemental proposals for early- and late-season migratory bird hunting regulations. The June 11 supplement also provided detailed information on the 2015–16 regulatory schedule and announced the Service Regulations Committee (SRC) and Flyway Council meetings.

On June 24–25, 2015, we held open meetings with the Flyway Council Consultants at which participants reviewed information on the current status of migratory shore and upland game birds and developed 2015–16 migratory game bird regulations recommendations for these species plus regulations for migratory game birds in Alaska, Puerto Rico, and the U.S. Virgin Islands; special September waterfowl seasons in designated States; special sea duck seasons in the Atlantic Flyway; and extended falconry seasons. In addition, we reviewed and discussed preliminary information on the status of waterfowl. We published the proposed frameworks for early-season regulations in a July 21, 2015, **Federal Register** (80 FR 43266) and final frameworks in an August 21, 2015, **Federal Register** (80 FR 51090).

On July 29–30, 2015, we held open meetings with the Flyway Council Consultants at which the participants reviewed the status of waterfowl and developed recommendations for the 2015–16 regulations for these species. Proposed hunting regulations were discussed for late seasons. We published the proposed frameworks for late-season regulations (primarily hunting seasons that start after October 1 and most waterfowl seasons) in an August 25, 2015, **Federal Register** (80 FR 51658).

The final rule described here is the sixth in the series of proposed, supplemental, and final rulemaking documents for migratory game bird hunting regulations and deals specifically with amending subpart K of 50 CFR part 20. It sets hunting seasons, hours, areas, and limits for mourning, white-winged, and white-tipped doves; band-tailed pigeons; rails; moorhens and gallinules; woodcock; common snipe; sandhill cranes; sea ducks; early (September) waterfowl seasons; migratory game birds in Alaska, Hawaii, Puerto Rico, and the Virgin Islands; youth waterfowl hunting day; and some extended falconry seasons. This final rule is the culmination of the rulemaking process for the migratory game bird early hunting seasons, which started with the April 13 proposed rule. As discussed elsewhere in this document, we supplemented that proposal on June 11 and July 21, and published final early-season frameworks in an August 21, 2015, **Federal Register** that provided the season selection criteria from which the States selected these seasons. This final rule sets the migratory game bird early hunting seasons based on that input from the States. We previously addressed all comments pertaining to early season issues in that August 21 **Federal Register**.

National Environmental Policy Act (NEPA)

The programmatic document, ''Second Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (EIS 20130139),'' filed with the Environmental Protection

Agency (EPA) on May 24, 2013, addresses NEPA compliance by the Service for issuance of the annual framework regulations for hunting of migratory game bird species. We published a notice of availability in the **Federal Register** on May 31, 2013 (78 FR 32686), and our Record of Decision on July 26, 2013 (78 FR 45376). We also address NEPA compliance for waterfowl hunting frameworks through the annual preparation of separate environmental assessments, the most recent being ''Duck Hunting Regulations for 2015–16,'' with its corresponding August 2015 finding of no significant impact. In addition, an August 1985 environmental assessment entitled ''Guidelines for Migratory Bird Hunting Regulations on Federal Indian Reservations and Ceded Lands'' is available from the person indicated under the caption **FOR FURTHER INFORMATION CONTACT**.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), provides that, ''The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act'' (and) shall ''insure that any action authorized, funded, or carried out * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat. * * *.'' Consequently, we conducted formal consultations to ensure that actions resulting from these regulations would not likely jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitat. Findings from these consultations are included in a biological opinion, which concluded that the regulations are not likely to jeopardize the continued existence of any endangered or threatened species. Additionally, these findings may have caused modification of some regulatory measures previously proposed, and the final regulations reflect any such modifications. Our biological opinions resulting from this section 7 consultation are public documents available at the address indicated under **ADDRESSES**.

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. OIRA has reviewed this rule and has determined that this rule is significant because it would have an annual effect of $100 million or more on the economy. Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

An updated economic analysis was prepared for the 2013–14 season. This analysis was based on data from the newly released 2011 National Hunting and Fishing Survey, the most recent year for which data are available (see discussion in Regulatory Flexibility Act section below). This analysis estimated consumer surplus for three alternatives for duck hunting (estimates for other species are not quantified due to lack of data). The alternatives were: (1) Issue restrictive regulations allowing fewer days than those issued during the 2012–13 season, (2) issue moderate regulations allowing more days than those in alternative 1, and (3) issue liberal regulations identical to the regulations in the 2012–13 season. For the 2013–14 season, we chose Alternative 3, with an estimated consumer surplus across all flyways of $317.8–$416.8 million. For the 2015–16 season, we have also chosen alternative 3. We also chose alternative 3 for the 2009–10, the 2010–11, the 2011–12, the 2012–13, and the 2014–15 seasons. The 2013–14 analysis is part of the record for this rule and is available at *http://www.regulations.gov* at Docket No. FWS–HQ–MB–2014–0064.

Regulatory Flexibility Act

The annual migratory bird hunting regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). We analyzed the economic impacts of the annual hunting regulations on small business entities in detail as part of the 1981 cost-benefit analysis. This analysis was revised annually from 1990–95. In 1995, the Service issued a Small Entity Flexibility Analysis (Analysis), which was subsequently updated in 1996, 1998, 2004, 2008, and 2013. The primary source of information about hunter expenditures for migratory game bird hunting is the National Hunting and Fishing Survey, which is conducted at 5-year intervals. The 2013 Analysis was based on the 2011 National Hunting and Fishing Survey and the U.S. Department of Commerce's County Business Patterns, from which it was estimated that migratory bird hunters would spend approximately $1.5 billion at small businesses in 2013. Copies of the Analysis are available at *http://www.regulations.gov* at Docket No. FWS–HQ–MB–2014–0064.

Small Business Regulatory Enforcement Fairness Act

This rule is a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. For the reasons outlined above, this rule will have an annual effect on the economy of $100 million or more. However, because this rule establishes hunting seasons, we are not deferring the effective date under the exemption contained in 5 U.S.C. 808(1).

Paperwork Reduction Act

This final rule does not contain any new information collection that requires approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. OMB has reviewed and approved the information collection requirements associated with migratory bird surveys and assigned the following OMB control numbers:

- 1018–0019—North American Woodcock Singing Ground Survey (expires 4/30/2015).
- 1018–0023—Migratory Bird Surveys (expires 6/30/2017). Includes Migratory Bird Harvest Information Program, Migratory Bird Hunter Surveys, Sandhill Crane Survey, and Parts Collection Survey.

Unfunded Mandates Reform Act

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.,* that this rulemaking will not impose a cost of $100 million or more in any given year on local or State government or private entities. Therefore, this rule is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this rule, has determined that this rule will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

Takings Implication Assessment

In accordance with Executive Order 12630, this rule, authorized by the Migratory Bird Treaty Act (16 U.S.C. 703–711), does not have significant takings implications and does not affect any constitutionally protected property rights. This rule will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, this rule allows hunters to exercise otherwise unavailable privileges and, therefore, reduces restrictions on the use of private and public property.

Energy Effects—Executive Order 13211

Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. While this rule is a significant regulatory action under Executive Order 12866, it is not expected to adversely affect energy supplies, distribution, or use. Thus, this action is not a significant energy action and no Statement of Energy Effects is required.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and 512 DM 2, we have evaluated possible effects on Federally-recognized Indian tribes and have determined that there are no effects on Indian trust resources. However, in the April 13 **Federal Register**, we solicited proposals for special migratory bird hunting regulations for certain Tribes on Federal Indian reservations, off-reservation trust lands, and ceded lands for the 2015–16 migratory bird hunting season. The resulting proposals were contained in a separate August 4, 2015, proposed rule (80 FR 46218). By virtue of these actions, we have consulted with Tribes.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. We annually prescribe frameworks from which the States make selections regarding the hunting of migratory birds, and we employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and tribes to determine which seasons meet their individual needs. Any State or Indian tribe may be more restrictive than the Federal frameworks at any time. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This process allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulations. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with Executive Order 13132, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Review of Public Comments

The preliminary proposed rulemaking (April 13 **Federal Register**) opened the public comment period for 2015–16 migratory game bird hunting regulations. We previously addressed all comments pertaining to early season issues in the August 21, 2015, **Federal Register**.

Regulations Promulgation

The rulemaking process for migratory game bird hunting must, by its nature, operate under severe time constraints. However, we intend that the public be given the greatest possible opportunity to comment. Thus, when the preliminary proposed rulemaking was published, we established what we believed were the longest periods possible for public comment. In doing this, we recognized that, when the comment period closed, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, States would have insufficient time to select season dates and limits; to communicate those selections to us; and to establish and publicize the necessary regulations and procedures to implement their decisions. We find that ''good cause'' exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and therefore, under authority of the Migratory Bird Treaty Act (July 3, 1918), as amended (16 U.S.C. 703–711), these regulations will take effect less than 30 days after publication. Accordingly, with each conservation agency having had an opportunity to participate in selecting the hunting seasons desired for its State or Territory on those species of migratory birds for which open seasons are now prescribed, and consideration having been given to all other relevant matters presented, certain sections of title 50, chapter I, subchapter B, part 20, subpart K, are hereby amended as set forth below.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Dated: August 26, 2015.

Karen Hyun,

Acting Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

For the reasons set out in the preamble, title 50, chapter I, subchapter B, part 20, subpart K of the Code of Federal Regulations is amended as follows:

PART 20—[AMENDED]

■ 1. The authority citation for part 20 continues to read as follows:

Authority: Migratory Bird Treaty Act, 40 Stat. 755, 16 U.S.C. 703–712; Fish and Wildlife Act of 1956, 16 U.S.C. 742 a–j; Public Law 106–108, 113 Stat. 1491, Note Following 16 U.S.C. 703.

Note: The following annual hunting regulations provided for by §§ 20.101 through 20.106 and 20.109 of 50 CFR 20 will not appear in the Code of Federal Regulations because of their seasonal nature.

■ 2. Section 20.101 is revised to read as follows:

§ 20.101 Seasons, limits, and shooting hours for Puerto Rico and the Virgin Islands.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset.

CHECK COMMONWEALTH REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS.

(a) *Puerto Rico.*

	Season dates	Limits	
		Bag	Possession
Doves and Pigeons:			
Zenaida, white-winged, and mourning doves (1)	Sept. 5–Nov. 2	20	20
Scaly-naped pigeons	Sept. 5–Nov. 2	5	5
Ducks	Nov. 14–Dec. 21 &	6	12
	Jan. 9–Jan. 25	6	12
Common Moorhens	Nov. 14–Dec. 21 &	6	12
	Jan. 9–Jan. 25	6	12
Common Snipe	Nov. 14–Dec. 21 &	8	16
	Jan. 9–Jan. 25	8	16

(1) Not more than 10 Zenaida and 3 mourning doves in the aggregate.

Restrictions: In Puerto Rico, the season is closed on the ruddy duck, white-cheeked pintail, West Indian whistling duck, fulvous whistling duck, masked duck, purple gallinule, American coot, Caribbean coot, white-crowned pigeon, and plain pigeon.

Closed Areas: Closed areas are described in the August 21, 2015, **Federal Register** (80 FR 51090).

(b) *Virgin Islands.*

	Season dates	Limits	
		Bag	Possession
Zenaida doves	Sept. 1–Sept. 30	10	10
Ducks	CLOSED		

Restrictions: In the Virgin Islands, the seasons are closed for ground or quail doves, pigeons, ruddy duck, white-cheeked pintail, West Indian whistling duck, fulvous whistling duck, masked duck, and purple gallinule.

Closed Areas: Ruth Cay, just south of St. Croix, is closed to the hunting of migratory game birds. All Offshore Cays under jurisdiction of the Virgin Islands Government are closed to the hunting of migratory game birds.

■ 3. Section 20.102 is revised to read as follows:

§ 20.102 Seasons, limits, and shooting hours for Alaska.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset. Area descriptions were published in the August 21, 2015, **Federal Register** (80 FR 51090).

CHECK STATE REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS.

Area seasons	Dates
North Zone	Sept. 1–Dec. 16.
Gulf Coast Zone	Sept. 1–Dec. 16.
Southeast Zone	Sept. 16–Dec. 31.
Pribilof & Aleutian Islands Zone.	Oct. 8–Jan. 22.
Kodiak Zone	Oct. 8–Jan. 22.

Area	Daily bag and possession limits							
	Ducks (1)	Canada Geese (2)(3)	White Fronted Geese (4)(5)	Light Geese (6)	Brant	Emperor Geese	Snipe	Sandhill Cranes (7)
North Zone	10–30	4–12	4–12	4–12	2–6	Closed	8–24	3–9
Gulf Coast Zone	8–24	4–12	4–12	4–12	2–6	Closed	8–24	2–6
Southeast Zone	7–21	4–12	4–12	4–12	2–6	Closed	8–24	2–6
Pribilof and Aleutian Islands Zone.	7–21	4–12	4–12	4–12	2–6	Closed	8–24	2–6
Kodiak Zone	7–21	4–12	4–12	4–12	2–6	Closed	8–24	2–6

(1) The basic duck bag limits may include no more than 1 canvasback daily, and may not include sea ducks. In addition to the basic duck limits, sea duck limits of 10 daily, singly or in the aggregate, including no more than 6 each of either harlequin or long-tailed ducks, are allowed. Sea ducks include scoters, common and king eiders, harlequin ducks, long-tailed ducks, and common and red-breasted mergansers. The season for Steller's and spectacled eiders is closed.

(2) In Units 5 and 6, the taking of Canada geese is only permitted from September 28 through December 16. In the Middleton Island portion of Unit 6, the taking of Canada geese is by special permit only. The maximum number of Canada goose permits is 10 for the season. A mandatory goose identification class is required. Hunters must check in and out. The daily bag and possession limit is 1. The season will close if incidental harvest includes 5 dusky Canada geese. A dusky Canada goose is any dark-breasted Canada goose (Munsell 10 YR color value five or less) with a bill length between 40 and 50 millimeters.

(3) In Units 9, 10, 17, and 18, for Canada geese, the daily bag limit is 6 and the possession limit is 18.

(4) In Units 9, 10, and 17, for white-fronted geese, the daily bag limit is 6 and the possession limit is 18.

(5) In Unit 18, for white-fronted geese, the daily bag limit is 10 and the possession limit is 30.

(6) Light geese include snow geese and Ross' geese.

(7) In Unit 17 of the North Zone, for sandhill cranes, the daily bag limit is 2 and the possession limit is 6.

Falconry: The total combined bag and possession limit for migratory game birds taken with the use of a falcon under a falconry permit is 3 per day, 9 in possession, and may not exceed a more restrictive limit for any species listed in this subsection.

Special Tundra Swan Season: In Units 17, 18, 22, and 23, there will be a tundra swan season from September 1 through October 31 with a season limit of 3 tundra swans per hunter. This season is by State registration permit only; hunters will be issued 1 permit allowing the take of up to 3 tundra swans. Hunters will be required to file a harvest report with the State after the season is completed. Up to 500 permits may be issued in Unit 18; 300 permits each in Units 22 and 23; and 200 permits in Unit 17.

■ 4. Section 20.103 is revised to read as follows:

§ 20.103 Seasons, limits, and shooting hours for doves and pigeons.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset except as otherwise noted. Area descriptions were published in the August 21, 2015, **Federal Register** (80 FR 51090).

CHECK STATE REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS.

(a) *Doves.*

Note: Unless otherwise noted, the seasons listed below are for mourning and white–winged doves. Daily bag and possession limits are in the aggregate for the two species.

			Season dates	Limits	
				Bag	Poss.
EASTERN MANAGEMENT UNIT					
Alabama	North Zone	12 noon to sunset	Sept. 12 only	15	15
		1/2 hour before sunrise to sunset.	Sept. 13–Nov. 15 & Dec. 5–Dec. 29	15	45
				15	45
	South Zone	12 noon to sunset	Sept. 19 only	15	15
		1/2 hour before sunrise to sunset.	Sept. 20–Sept. 27 & Oct. 10–Oct. 27 & Nov. 12–Jan. 15.	15	45
				15	45
				15	45
Delaware			Sept. 1–Sept. 26 & Oct. 20–Oct. 31 & Nov. 23–Jan. 13.	15	45
				15	45
				15	45
Florida		12 noon to sunset	Sept. 26–Oct. 26	15	45
		1/2 hour before sunrise to sunset.	Nov. 14–Dec. 7 & Dec. 12–Jan. 15	15	45
				15	45
Georgia		12 noon to sunset	Sept. 5 only	15	15
		1/2 hour before sunrise to sunset.	Sept. 6–Sept. 20 & Oct. 10–Nov. 1 & Nov. 26–Jan. 15.	15	45
				15	45
				15	45
Illinois (1)			Sept. 1–Nov. 14 & Dec. 26–Jan. 9	15	45
				15	45
Indiana			Sept. 1–Oct. 18 & Nov. 1–Nov. 8 & Dec. 12–Jan. 10.	15	45
				15	45
				15	45
Kentucky		11 a.m. to sunset	Sept. 1 only	15	15
		1/2 hour before sunrise to sunset.	Sept. 2–Oct. 26 & Nov. 26–Dec. 6 & Dec. 19–Jan. 10.	15	45
				15	45
				15	45
Louisiana	North Zone	1/2 hour before sunrise to sunset.	Sept. 5–Sept. 27 & Oct. 10–Nov. 8 & Dec. 10–Jan. 15.	15	45
				15	45
				15	45
	South Zone	1/2 hour before sunrise to sunset.	Sept. 5–Sept. 13 & Oct. 10–Dec. 1 & Dec. 19–Jan. 15.	15	45
				15	45
				15	45
Maryland		12 noon to sunset	Sept. 1–Oct. 10	15	45
		1/2 hour before sunrise to sunset.	Oct. 31–Nov. 27 & Dec. 25–Jan. 15	15	45
				15	45
Mississippi	North Zone		Sept. 4–Oct. 7 & Oct. 10–Oct. 31 & Dec. 13–Jan. 15.	15	45
				15	45
				15	45
	South Zone		Sept. 4–Sept. 13 & Oct. 10–Nov. 15 & Dec. 4–Jan. 15.	15	45
				15	45
				15	45
North Carolina			Sept. 5–Oct. 10 & Nov. 23–Jan. 15	15	45
				15	45
Ohio			Sept. 1–Nov. 8 & Dec. 12–Jan. 1	15	45
				15	45
Pennsylvania		12 noon to sunset	Sept. 1–Sept. 25	15	45
		1/2 hour before sunrise to sunset.	Sept. 26–Oct. 10 & Oct. 17–Nov. 28 & Dec. 26–Jan. 1.	15	45
				15	45
				15	45

			Season dates	Limits	
				Bag	Poss.
Rhode Island		12 noon to sunset	Sept. 12–Oct. 11	15	45
		1/2 hour before sunrise to sunset.	Oct. 17–Nov. 29 & Dec. 12–Dec. 27	15	45
				15	45
South Carolina		12 noon to sunset	Sept. 5–Sept. 7	15	45
		1/2 hour before sunrise to sunset.	Sept. 8–Oct. 17 & Nov. 14–Nov. 28 & Dec. 15–Jan. 15.	15	45
				15	45
				15	45
Tennessee		12 noon to sunset	Sept. 1 only	15	15
		1/2 hour before sunrise to sunset.	Sept. 2–Sept. 28 & Oct. 10–Nov. 1 & Nov. 28–Jan. 5.	15	45
				15	45
				15	45
Virginia		12 noon to sunset	Sept. 5–Sept. 11	15	45
		1/2 hour before sunrise to sunset.	Sept. 12–Nov. 1 & Nov. 21–Nov. 29 & Dec. 24–Jan. 15.	15	45
				15	45
				15	45
West Virginia		12 noon to sunset	Sept. 1 only	15	15
		1/2 hour before sunrise to sunset.	Sept. 2–Oct. 17 & Nov. 2–Nov. 21 & Dec. 21–Jan. 12.	15	45
				15	45
				15	45
Wisconsin			Sept. 1–Nov. 29	15	45
CENTRAL MANAGEMENT UNIT					
Arkansas			Sept. 5–Oct. 24 & Dec. 19–Jan. 7	15	45
				15	45
Colorado			Sept. 1–Nov. 9	15	45
Iowa			Sept. 1–Nov. 9	15	45
Kansas			Sept. 1–Oct. 31 & Nov. 7–Nov. 15	15	45
				15	45
Minnesota			Sept. 1–Nov. 9	15	45
Missouri			Sept. 1–Nov 9	15	45
Montana			Sept. 1–Oct. 30	15	45
Nebraska			Sept. 1–Oct. 30	15	45
New Mexico	North Zone		Sept. 1–Nov. 9	15	45
	South Zone		Sept. 1–Oct. 13 & Dec. 5–Dec. 31	15	45
				15	45
North Dakota			Sept. 1–Nov. 9	15	45
Oklahoma			Sept. 1–Oct. 31 & Dec. 19–Dec. 27	15	45
				15	45
South Dakota			Sept. 1–Nov. 9	15	45
Texas (2)	North Zone		Sept. 1–Oct. 25 & Dec. 18–Jan. 1	15	45
				15	45
	Central Zone		Sept. 1–Oct. 25 & Dec. 18–Jan. 1	15	45
				15	45
	South Zone	Special Area	Sept. 18–Oct. 21 & Dec. 18–Jan. 18	15	45
				15	45
		(Special Season)	Sept. 5–Sept. 6 & Sept. 12–Sept. 13	15	45
		12 noon to sunset		15	45
	Remainder of the South Zone.		Sept. 18–Oct. 21 & Dec. 18–Jan. 22	15	45
				15	45
Wyoming			Sept. 1–Nov. 9	15	45
WESTERN MANAGEMENT UNIT					
Arizona (3)			Sept. 1–Sept. 15 & Nov. 26–Jan. 9	15	45
				15	45
California (4)			Sept. 1–Sept. 15 & Nov. 14–Dec. 28	15	45
				15	45
Idaho			Sept. 1–Oct. 30	15	45
Nevada			Sept. 1–Oct. 30	15	45
Oregon			Sept. 1–Oct. 30	15	45
Utah			Sept. 1–Oct. 30	15	45
Washington			Sept. 1–Sept. 30	10	30
OTHER POPULATIONS					
Hawaii (5)			Nov. 7–Nov. 29 & Dec. 5–Dec. 27 & Jan. 1–Jan. 18.	10	30
				10	30
				10	30

(1) In *Illinois,* shooting hours are sunrise to sunset.

(2) In *Texas,* the daily bag limit is either 15 mourning, white–winged, and white–tipped doves in the aggregate, of which no more than 2 may be white–tipped doves with a maximum 70–day season. Possession limits are three times the daily bag limit. During the special season in the Special White–winged Dove Area of the South Zone, the daily bag limit is 15 mourning, white–winged, and white–tipped doves in the aggregate, of which no more than 2 may be mourning doves and 2 may be white–tipped doves. Possession limits are three times the daily bag limit.

(3) In *Arizona,* during September 1 through 15, the daily bag limit is 15 mourning and white–winged doves in the aggregate, of which no more than 10 may be white–wing doves. During November 26 through January 9, the daily bag limit is 15 mourning doves.

(4) In *California,* the daily bag limit is 15 mourning and white–winged doves in the aggregate, of which no more than 10 may be white–wing doves.

(5) In *Hawaii,* the season is only open on the island of Hawaii. The daily bag limits are 10 mourning doves, spotted doves and chestnut–bellied sandgrouse in the aggregate. Shooting hours are from one–half hour before sunrise through one–half hour after sunset. Hunting is permitted only on weekends and State holidays.

(b) *Band–tailed Pigeons.*

	Season Dates	Limits	
		Bag	Possession
Arizona	Sept. 4–Sept. 17	2	6
California:			
North Zone	Sept. 19–Sept. 27	2	6
South Zone	Dec. 19–Dec. 27	2	6
Colorado	Sept. 1–Sept. 14	2	6
New Mexico:			
North Zone	Sept. 1–Sept. 14	2	6
South Zone	Oct. 1–Oct. 14	2	6
Oregon	Sept. 15–Sept. 23	2	6
Utah (1)	Sept. 1–Sept. 14	2	6
Washington	Sept. 15–Sept. 23	2	6

(1) In *Utah,* each band-tailed pigeon hunter must have a band-tailed pigeon hunting permit issued by the State.

■ 5. Section 20.104 is revised to read as follows:

§ 20.104 Seasons, limits, and shooting hours for rails, woodcock, and snipe.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset except as otherwise noted. Area descriptions were published in the August 21, 2015, **Federal Register** (80 FR 51090).

CHECK STATE REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS.

Note: States with deferred seasons will select those seasons at the same time they select waterfowl seasons in August. Consult late-season regulations for further information.

	Sora and Virginia rails	Clapper and King rails	Woodcock	Snipe
Daily bag limit	25 (1)	15 (2)	3	8
Possession limit	75 (1)	45 (2)	9	24
ATLANTIC FLYWAY				
Connecticut (3)	Sept. 1–Nov. 7	Sept. 1–Nov. 7	Oct. 23–Nov. 21 & Nov. 23–Dec. 7	Oct. 23–Nov. 21 & Nov. 23–Dec. 7
Delaware	Sept. 1–Nov. 9	Sept. 1–Nov. 9	Nov. 23–Dec. 5 & Dec. 12–Jan. 12	Sept. 22–Dec. 5 & Dec. 12–Jan. 12
Florida	Sept. 1–Nov. 9	Sept. 1–Nov. 9	Dec. 18–Jan. 31	Nov. 1–Feb. 15
Georgia	Sept. 25–Nov. 15 & Nov. 21–Dec. 8	Sept. 25–Nov. 15 & Nov. 21–Dec. 8.	Dec. 5–Jan. 18	Nov. 15–Feb. 28
Maine (4)	Sept. 1–Nov. 9	Closed	Oct. 1–Nov. 14	Sept. 1–Dec. 16
Maryland (5)	Sept. 1–Nov. 9	Sept. 1–Nov. 9	Oct. 30–Nov. 27 & Jan. 15–Jan. 30	Sept. 30–Nov. 27 & Dec. 14–Jan. 30
Massachusetts (6)	Sept. 1–Nov. 7	Closed	Deferred	Sept. 1–Dec. 16
New Hampshire	Closed	Closed	Oct. 1–Nov. 14	Sept. 15–Nov. 14
New Jersey (7):				
North Zone	Sept. 1–Nov. 7	Sept. 1–Nov. 7	Oct. 17–Nov. 21	Sept. 18–Jan. 2
South Zone	Sept. 1–Nov. 7	Sept. 1–Nov. 7	Nov. 7–Nov. 28 & Dec. 19–Jan. 1	Sept. 18–Jan. 2
New York (8)	Sept. 1–Nov. 9	Closed	Oct. 1–Nov. 14	Sept. 1–Nov. 9
North Carolina	Sept. 1–Oct. 3 & Oct. 23–Nov. 28	Sept. 1–Oct. 3 & Oct. 23–Nov. 28.	Dec. 17–Jan. 30	Nov. 13–Feb. 27
Pennsylvania (9)	Sept. 1–Nov. 9	Closed	Oct. 17–Nov. 28	Oct. 17–Nov. 28
Rhode Island (10)	Sept. 1–Nov. 9	Sept. 1–Nov. 9	Oct. 17–Nov. 30	Sept. 1–Nov. 9
South Carolina	Sept. 26–Oct. 1 & Oct. 25–Dec. 27	Sept. 26–Oct. 1 & Oct. 25–Dec. 27.	Dec. 18–Jan. 31	Nov. 14–Feb. 28
Vermont	Closed	Closed	Oct. 1–Nov. 14	Oct. 1–Nov. 14
Virginia	Sept. 8–Nov. 16	Sept. 8–Nov. 16	Nov. 23–Dec. 5 & Dec. 15–Jan. 15	Oct. 9–Oct. 12 & Oct. 21–Jan. 31
West Virginia (11)	Sept. 1–Nov. 9	Closed	Oct. 17–Nov. 30	Sept. 1–Dec. 16

	Sora and Virginia rails	Clapper and King rails	Woodcock	Snipe
MISSISSIPPI FLYWAY				
Alabama (12)	Sept. 5–Sept. 20 & Nov. 28–Jan. 20	Sept. 5–Sept. 20 & Nov. 28–Jan. 20.	Dec. 18–Jan. 31	Nov. 14–Feb. 28
Arkansas	Sept. 12–Nov. 20	Closed	Nov. 7–Dec. 21	Nov. 1–Feb. 15
Illinois (13)	Sept. 5–Nov. 13	Closed	Oct. 17–Nov. 30	Sept. 5–Dec. 20
Indiana (14)	Sept. 1–Nov. 9	Closed	Oct. 15–Nov. 28	Sept. 1–Dec. 16
Iowa (15)	Sept. 5–Nov. 13	Closed	Oct. 3–Nov. 16	Sept. 5–Nov. 30
Kentucky	Sept. 1–Nov. 9	Closed	Nov. 1–Dec. 15	Sept. 16–Oct. 25 & Nov. 26–Jan. 31
Louisiana (16)	Sept. 12–Sept. 27	Sept. 12–Sept. 27	Dec. 18–Jan. 31	Deferred
Michigan	Sept. 1–Nov. 9	Closed	Sept. 19–Nov. 2	Sept. 1–Nov. 9
Minnesota	Sept. 1–Nov. 2	Closed	Sept. 19–Nov. 2	Sept. 1–Nov. 2
Mississippi	Sept. 12–Nov. 20	Sept. 12–Nov. 20	Dec. 18–Jan. 31	Nov. 14–Feb. 28
Missouri	Sept. 1–Nov. 9	Closed	Oct. 15–Nov. 28	Sept. 1–Dec. 16
Ohio	Sept. 1–Nov. 9	Closed	Oct. 10–Nov. 23	Sept. 1–Nov. 29 & Dec. 19–Jan. 4
Tennessee	Deferred	Closed	Oct. 31–Dec. 14	Nov. 15–Feb. 29
Wisconsin	Deferred	Closed	Sept. 19–Nov. 2	Deferred
CENTRAL FLYWAY				
Colorado	Sept. 1–Nov. 9	Closed	Closed	Sept. 1–Dec. 16
Kansas	Sept. 1–Nov. 9	Closed	Oct. 17–Nov. 30	Sept. 1–Dec. 16
Montana	Closed	Closed	Closed	Sept. 1–Dec. 16
Nebraska (17)	Sept. 1–Nov. 9	Closed	Sept. 19–Nov. 2	Sept. 1–Dec. 16
New Mexico (18)	Sept. 12–Nov. 20	Closed	Closed	Oct. 24–Feb. 7
North Dakota	Closed	Closed	Sept. 26–Nov. 9	Sept. 19–Dec. 6
Oklahoma	Sept. 1–Nov. 9	Closed	Nov. 1–Dec. 15	Oct. 1–Jan. 15
South Dakota (19)	Closed	Closed	Closed	Sept. 1–Oct. 31
Texas	Sept. 12–Sept. 27 & Oct. 31–Dec. 23	Sept. 12–Sept. 27 & Oct. 31–Dec. 23.	Dec. 18–Jan. 31	Oct. 31–Feb. 14
Wyoming	Sept. 1–Nov. 9	Closed	Closed	Sept. 1–Dec. 16
PACIFIC FLYWAY				
Arizona	Closed	Closed	Closed	Deferred
California	Closed	Closed	Closed	Oct. 24–Feb. 7
Colorado	Sept. 1–Nov. 9	Closed	Closed	Sept. 1–Dec. 16
Idaho	Closed	Closed	Closed	Deferred
Montana	Closed	Closed	Closed	Sept. 1–Dec. 16
Nevada	Closed	Closed	Closed	Deferred
New Mexico	Sept. 12–Nov. 20	Closed	Closed	Oct. 24–Feb. 7
Oregon:				
Zone 1	Closed	Closed	Closed	Nov. 7–Feb. 21
Zone 2	Closed	Closed	Closed	Oct. 10–Dec. 6 & Dec. 9–Jan. 24
Utah	Closed	Closed	Closed	Deferred
Washington	Closed	Closed	Closed	Deferred
Wyoming	Sept. 1–Nov. 9	Closed	Closed	Sept. 1–Dec. 16

(1) The daily bag and possession limits for sora and Virginia rails apply singly or in the aggregate of the two species.
(2) All daily bag and possession limits for clapper and king rails apply singly or in the aggregate of the two species and, unless otherwise specified, the limits are in addition to the limits on sora and Virginia rails in all States. In *Connecticut, Delaware, Maryland,* and *New Jersey,* the limits for clapper and king rails are 10 daily and 30 in possession.
(3) In *Connecticut,* the daily bag and possession limits may not contain more than 1 king rail.
(4) In *Maine,* the daily bag and possession limit for sora and Virginia rails is 25.
(5) In *Maryland,* no more than 1 king rail may be taken per day.
(6) In *Massachusetts,* the sora rail limits are 5 daily and 15 in possession; the Virginia rail limits are 10 daily and 30 in possession.
(7) In *New Jersey,* the season for king rail is closed by State regulation.
(8) In *New York,* the rail daily bag and possession limits are 8 and 24, respectively. Seasons for sora and Virginia rails and snipe are closed on Long Island.
(9) In *Pennsylvania,* the daily bag and possession limits for sora and Virginia rails, singly or in the aggregate, are 3 and 9, respectively.
(10) In *Rhode Island,* the sora and Virginia rails limits are 3 daily and 9 in possession, singly or in the aggregate; the clapper and king rail limits are 1 daily and 3 in possession, singly or in the aggregate; the snipe limits are 5 daily and 15 in possession.
(11) In *West Virginia,* the daily bag and possession limit for sora and Virginia rails is 25; the possession limit for snipe is 16.
(12) In *Alabama,* the daily bag and possession limit for all rails, singly or in the aggregate, is 15.
(13) In *Illinois,* shooting hours are from sunrise to sunset.
(14) In *Indiana,* the season on Virginia rails is closed.
(15) In *Iowa,* the limits for sora and Virginia rails are 12 daily and 24 in possession.
(16) Additional days occurring after September 30 will be published with the late season selections.
(17) In *Nebraska,* the rail limits are 10 daily and 30 in possession.
(18) In *New Mexico,* in the Central Flyway portion of the State, the rail limits are 10 daily and 20 in possession.
(19) In *South Dakota,* the snipe limits are 5 daily and 15 in possession.

■ 6. Section 20.105 is revised to read as follows:

§ 20.105 Seasons, limits, and shooting hours for waterfowl, coots, and gallinules.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset, except as otherwise noted. Area descriptions were published in the August 21, 2015, **Federal Register** (80 FR 51090).

CHECK STATE REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS.

Note: States with deferred seasons may select those seasons at the same time they select waterfowl seasons in August. Consult late-seasons regulations for further information.

(a) *Common Moorhens and Purple Gallinules.*

	Season dates	Limits	
		Bag	Possession
ATLANTIC FLYWAY			
Delaware	Sept. 1–Nov. 9	15	45
Florida (1)	Sept. 1–Nov.9	15	45
Georgia	Deferred		
New Jersey	Sept. 1–Nov. 7	10	30
New York:			
Long Island	Closed		
Remainder of State	Sept. 1–Nov. 9	8	24
North Carolina	Sept. 1–Oct. 3 &	15	45
	Oct. 23–Nov. 28	15	45
Pennsylvania	Sept. 1–Nov. 9	3	9
South Carolina	Sept. 26–Oct. 1 &	15	45
	Oct. 25–Dec. 27	15	45
Virginia	Sept. 8–Nov. 16	15	45
West Virginia	Deferred		
MISSISSIPPI FLYWAY			
Alabama	Sept. 5–Sept. 20 &	15	45
	Nov. 28–Jan. 20	15	45
Arkansas	Sept. 1–Nov. 9	15	45
Kentucky	Sept. 1–Nov. 9	3	9
Louisiana (2)	Sept. 12–Sept. 27	15	45
Michigan	Sept. 1–Nov. 9	1	3
Minnesota	Deferred		
Mississippi	Sept. 12–Nov. 20	15	45
Ohio	Sept. 1–Nov. 9	15	45
Tennessee	Deferred		
Wisconsin	Deferred		
CENTRAL FLYWAY			
New Mexico:			
Zone 1	Sept. 26–Dec. 4	1	3
Zone 2	Sept. 26–Dec. 4	1	3
Oklahoma	Sept. 1–Nov. 9	15	45
Texas	Sept. 12–Sept. 27 &	15	45
	Oct. 31–Dec. 23	15	45
PACIFIC FLYWAY			
All States	Deferred		

(1) The season applies to common moorhens only.
(2) Additional days occurring after September 30 will be published with the late season selections.

(b) *Sea Ducks* (scoter, eider, and long-tailed ducks in Atlantic Flyway).

Within the special sea duck areas, the daily bag limit is 7 scoter, eider, and long-tailed ducks, singly or in the aggregate, of which no more than 4 may be scoters. Possession limits are three times the daily bag limit. These limits may be in addition to regular duck bag limits only during the regular duck season in the special sea duck hunting areas.

	Season dates	Limits	
		Bag	Possession
Connecticut (1)	Sept. 22–Jan. 20	5	15
Delaware	Sept. 29–Jan. 30	7	21
Georgia	Deferred		
Maine (2)	Oct. 1–Jan. 30	7	21
Maryland	Deferred		
Massachusetts	Deferred		
New Hampshire (3)	Oct. 1–Jan. 15	7	21
New Jersey	Sept. 29–Jan. 30	7	21

	Season dates	Limits	
		Bag	Possession
New York	Deferred		
North Carolina	Deferred		
Rhode Island	Oct. 10–Jan. 24	5	15
South Carolina	Deferred		
Virginia	Deferred		

Note: Notwithstanding the provisions of this Part 20, the shooting of crippled waterfowl from a motorboat under power will be permitted in *Connecticut, Delaware, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Rhode Island, South Carolina,* and *Virginia* in those areas described, delineated, and designated in their respective hunting regulations as special sea duck hunting areas.

(1) In *Connecticut,* the daily bag limit may include no more than 4 long-tailed ducks.

(2) In *Maine,* the daily bag limit for eiders is 4, and the possession limit is 12.

(3) In *New Hampshire,* the daily bag limit may include no more than 4 eiders or 4 long-tailed ducks.

(c) *Early (September) Duck Seasons.* **Note:** Unless otherwise specified, the seasons listed below are for teal only.

	Season dates	Limits	
		Bag	Possession
ATLANTIC FLYWAY			
Delaware (1)	Sept. 11–Sept. 29	6	18
Florida (2)	Sept. 19–Sept. 27	6	18
Georgia	Sept. 12–Sept. 27	6	18
Maryland (1)	Sept. 16–Sept. 30	6	18
North Carolina (1)	Sept. 12–Sept. 30	6	18
South Carolina (3)	Sept. 11–Sept. 26	6	18
Virginia (1)	Sept. 17–Sept. 30	6	18
MISSISSIPPI FLYWAY			
Alabama	Sept. 12–Sept. 27	6	18
Arkansas (3)	Sept. 12–Sept. 27	6	18
Illinois (3)	Sept. 5–Sept. 20	6	18
Indiana (3)	Sept. 5–Sept. 20	6	18
Iowa (3)	Sept. 5–Sept. 20	6	18
Kentucky (2)	Sept. 19–Sept. 27	6	18
Louisiana	Sept. 12–Sept. 27	6	18
Michigan	Sept. 1–Sept. 7	6	18
Mississippi	Sept. 12–Sept. 27	6	18
Missouri (3)	Sept. 12–Sept. 27	6	18
Ohio (3)	Sept. 5–Sept. 20	6	18
Tennessee (2)	Sept. 12–Sept. 20	6	18
Wisconsin	Sept.1–Sept. 7	6	18
CENTRAL FLYWAY			
Colorado (1)	Sept. 12–Sept. 20	6	18
Kansas:			
Low Plains	Sept. 12–Sept. 27	6	18
High Plains	Sept. 19–Sept. 27	6	18
Nebraska: (1)			
Low Plains	Sept. 5–Sept. 20	6	18
High Plains	Sept. 12–Sept. 20	6	18
New Mexico	Sept. 12–Sept. 19	6	18
Oklahoma	Sept. 12–Sept. 27	6	18
Texas:			
High Plains	Sept. 12–Sept. 27	6	18
Rest of State	Sept. 12–Sept. 27	6	18

(1) Area restrictions. See State regulations.

(2) In *Florida, Kentucky,* and *Tennessee,* the daily bag limit for the first 5 days of the season is 6 wood ducks and teal in the aggregate, of which no more than 2 may be wood ducks. During the last 4 days of the season, the daily bag limit is 6 teal only. The possession limit is twice the daily bag limit.

(3) Shooting hours are from sunrise to sunset.

(d) *Special Early Canada Goose Seasons.*

	Season dates	Limits	
		Bag	Possession
ATLANTIC FLYWAY			
Connecticut (1):			
North Zone	Sept. 1–Sept. 4 &	15	45
	Sept. 8–Sept. 30	15	45
South Zone	Sept. 15–Sept. 30	15	45
Delaware	Sept. 1–Sept. 25	15	45
Florida	Sept. 5–Sept. 27	5	15
Georgia	Sept. 5–Sept. 27	5	15
Maine:			
Northern Zone	Sept. 1–Sept. 25	6	18
Southern Zone	Sept. 1–Sept. 25	10	30
Coastal Zone	Sept. 1–Sept. 25	10	30
Maryland (1) (2):			
Eastern Unit	Sept. 1–Sept. 15	8	24
Western Unit	Sept. 1–Sept. 25	8	24
Massachusetts:			
Central Zone	Sept. 8–Sept. 25	7	21
Coastal Zone	Sept. 8–Sept. 25	7	21
Western Zone	Sept. 8–Sept. 25	7	21
New Hampshire:	Sept. 1–Sept. 25	5	15
New Jersey (1) (2) (3):	Sept. 1–Sept. 30	15	45
New York (4):			
Lake Champlain Zone	Sept. 1–Sept. 25	8	24
Northeastern Zone	Sept. 1–Sept. 25	15	45
East Central Zone	Sept. 1–Sept. 25	15	45
Hudson Valley Zone	Sept. 1–Sept. 25	15	45
West Central Zone	Sept. 1–Sept. 25	15	45
South Zone	Sept. 1–Sept. 25	15	45
Western Long Island Zone	Closed.		
Central Long Island Zone	Sept. 8–Sept. 30	15	45
Eastern Long Island Zone	Sept. 8–Sept. 30	15	45
North Carolina (5) (6):	Sept. 1–Sept. 30	15	45
Pennsylvania (7):			
SJBP Zone (8)	Sept. 1–Sept. 25	3	9
Rest of State (9)	Sept. 1–Sept. 25	8	24
Rhode Island (1):	Sept. 1–Sept. 30	15	45
South Carolina:			
Early-Season Hunt Unit	Sept. 1–Sept. 30	15	45
Vermont:			
Lake Champlain Zone	Sept. 1–Sept. 25	8	24
Interior Vermont Zone	Sept. 1–Sept. 25	8	24
Connecticut River Zone (10)	Sept. 1–Sept. 25	5	15
Virginia (11)	Sept. 1–Sept. 25	10	30
West Virginia	Sept. 1–Sept. 12	5	15
MISSISSIPPI FLYWAY			
Alabama	Sept. 1–Sept. 15	5	15
Arkansas:			
Northwest Zone	Sept. 1–Sept. 15	5	15
Rest of State	Sept. 1–Sept. 15	5	15
Illinois:			
North Zone	Sept. 1–Sept. 15	5	15
Central Zone	Sept. 1–Sept. 15	5	15
South Central Zone	Sept. 1–Sept. 15	2	6
South Zone	Sept. 1–Sept. 15	2	6
Indiana	Sept. 1–Sept. 15	5	15
Iowa:			
South Goose Zone:			
Des Moines Goose Zone	Sept. 5–Sept. 13	5	15
Cedar Rapids/Iowa City Goose Zone	Sept. 5–Sept. 13	5	15
Remainder of South Zone	Closed.		
North Goose Zone:			
Cedar Falls/Waterloo Zone	Sept. 5–Sept. 13	5	15
Remainder of North Zone	Closed.		
Kentucky (12)	Sept. 1–Sept. 15	5	15
Michigan:			
North Zone	Sept. 1–Sept. 10	5	15
Middle Zone	Sept. 1–Sept. 15	5	15
South Zone:			
Huron, Saginaw, and Tuscola Counties	Sept. 1–Sept. 10	5	15

	Season dates	Limits	
		Bag	Possession
Rest of South Zone	Sept. 1–Sept. 15	5	15
Minnesota:			
Northwest Zone	Sept. 5–Sept. 22	5	15
Intensive Harvest Zone	Sept. 5–Sept. 22	10	30
Remainder of State	Sept. 5–Sept. 22	5	15
Mississippi	Sept. 1–Sept. 15	5	15
Ohio	Sept. 1–Sept. 15	5	15
Tennessee	Sept. 1–Sept. 15	5	15
Wisconsin	Sept. 1–Sept. 15	5	15
CENTRAL FLYWAY			
North Dakota:			
Missouri River Zone	Sept. 1–Sept. 7	15	45
Remainder of State	Sept. 1–Sept. 15	15	45
Oklahoma	Sept. 12–Sept. 21	8	24
South Dakota (12)	Sept. 1–Sept. 30	15	45
Texas:			
East Zone	Sept. 12–Sept. 27	5	15
PACIFIC FLYWAY			
Colorado	Sept. 1–Sept. 9	4	12
Idaho:			
Zone 4	Sept. 1–Sept. 15	5	15
Oregon:			
Northwest Permit Zone	Sept. 12–Sept. 20	5	15
Southwest Zone	Sept. 12–Sept. 15	5	15
Eastern Zone	Sept. 12–Sept. 15	5	15
Klamath County Zone	Sept. 12–Sept. 15	5	15
Harney and Lake County Zone	Sept. 12–Sept. 15	5	15
Malheur County Zone	Sept. 12–Sept. 15	5	15
Washington:			
Management Area 2B	Sept. 1–Sept. 15	15	45
Management Areas 1 & 3	Sept. 10–Sept. 15	5	15
Management Area 4 & 5	Sept. 13–Sept. 14	3	9
Management Area 2A	Sept. 10–Sept. 15	3	9
Wyoming:			
Teton County Zone	Sept. 1–Sept. 8	3	9
Balance of State Zone	Sept. 1–Sept. 8	2	6

(1) Shooting hours are one-half hour before sunrise to one-half hour after sunset.
(2) The use of shotguns capable of holding more than 3 shotshells is allowed.
(3) The use of electronic calls is allowed.
(4) In *New York,* in all areas except the Northeastern and Southeastern Goose Hunting Area, shooting hours are one-half hour before sunrise to one-half hour after sunset, the use of shotguns capable of holding more than 3 shotshells is allowed, and the use of electronic calls is allowed. In the Northeastern and Southeastern Goose Hunting Areas, shooting hours are one-half hour before sunrise to one-half hour after sunset, shotguns capable of holding more than 3 shotshells are allowed, and electronic calls are allowed only from September 1 to September 18 and September 21 to September 25. On September 19 and September 20, shooting hours are one-half hour before sunrise to sunset, shotguns must be capable of holding no more than 3 shotshells, and electronic calls are not allowed.
(5) In *North Carolina,* the use of unplugged guns and electronic calls is allowed in that area west of U.S. Highway 17 only.
(6) In *North Carolina,* shooting hours are one-half hour before sunrise to one-half hour after sunset in that area west of U.S. Highway 17 only.
(7) In *Pennsylvania,* shooting hours are one-half hour before sunrise to one-half hour after sunset from September 1 to September 18, September 20 to September 25. On September 19, shooting hours are one-half hour before sunrise to sunset.
(8) In *Pennsylvania,* in the area south of SR 198 from the Ohio State line to intersection of SR 18, SR 18 south to SR 618, SR 618 south to U.S. Route 6, U.S. Route 6 east to U.S. Route 322/SR 18, U.S. Route 322/SR 18 west to intersection of SR 3013, SR 3013 south to the Crawford/Mercer County line, not including the Pymatuning State Park Reservoir and an area to extend 100 yards inland from the shoreline of the reservoir, excluding the area east of SR 3011 (Hartstown Road), the daily bag limit is one goose with a possession limit of 3 geese. The season is closed on State Game Lands 214. However, during the youth waterfowl hunting day on September 19, regular season regulations apply.
(9) In *Pennsylvania,* in the area of Lancaster and Lebanon Counties north of the Pennsylvania Turnpike, east of SR 501 to SR 419, south of SR 419 to the Lebanon-Berks County line, west of the Lebanon-Berks County line and the Lancaster-Berks County line to SR 1053, west of SR 1053 to the Pennsylvania Turnpike I–76, the daily bag limit is 1 goose with a possession limit of 3 geese. On State Game Lands No. 46 (Middle Creek Wildlife Management Area), the season is closed. However, during the youth waterfowl hunting day on September 19, regular season regulations apply.
(10) In *Vermont,* the season in the Connecticut River Zone is the same as the New Hampshire Inland Zone season, set by New Hampshire.
(11) In *Virginia,* shooting hours are one-half hour before sunrise to one-half hour after sunset from September 1 to September 16, and one-half hour before sunrise to sunset from September 17 to September 25 in the area east of I–95 where the September teal season is open. Shooting hours are one-half hour before sunrise to one-half hour after sunset from September 1 to September 20, and one-half hour before sunrise to sunset from September 21 to September 25 in the area west of I–95.
(12) See State regulations for additional information and restrictions.

(e) *Regular Goose Seasons.*

Note: Bag and possession limits will conform to those set for the regular season. Additional season dates occurring after September 30 will be published with the late season selections.

	Season dates	Limits	
		Bag	Possession
MISSISSIPPI FLYWAY			
Michigan:			
Canada Geese:			
North Zone	Sept. 11–Dec. 11	2	6
Middle Zone	Sept. 19–Dec. 19	2	6
South Zone:			
Muskegon GMU	Deferred		
Allegan Co. GMU	Deferred		
Saginaw Co. GMU	Sept. 19–Sept. 27	2	6
Tuscola/Huron Co. GMU	Sept. 19–Sept. 27	2	6
Remainder of Zone	Sept. 19–Sept. 27	2	6
White-fronted Geese:			
North Zone	Sept. 11–Sept. 26	1	3
Middle Zone	Sept. 19–Sept. 26	1	3
South Zone:			
Muskegon GMU	Deferred		
Allegan Co. GMU	Deferred		
Saginaw Co. GMU	Sept. 19–Sept. 27	1	3
Tuscola/Huron Co. GMU	Sept. 19–Sept. 27	1	3
Remainder of Zone	Sept. 19–Sept. 27	1	3
Light Geese:			
North Zone	Sept. 11–Dec. 11	20	60
Middle Zone	Sept. 19–Dec. 19	20	60
South Zone:			
Muskegon GMU	Deferred		
Allegan Co. GMU	Deferred		
Saginaw Co. GMU	Sept. 19–Sept. 27	20	60
Tuscola/Huron Co. GMU	Sept. 19–Sept. 27	20	60
Remainder of Zone	Deferred		
Brant:			
North Zone	Same as for Light Geese	1	3
Middle Zone	Same as for Light Geese	1	3
South Zone	Same as for Light Geese	1	3
Wisconsin:			
Canada Geese:			
North Zone	Sept. 16–Sept. 30	2	6
South Zone	Sept. 16–Sept. 30	2	6
Mississippi River Zone	Deferred		
Horicon Zone	Sept. 16–Sept. 30	Tag System	
White-fronted Geese:			
North Zone	Sept. 16–Sept. 30	1	3
South Zone	Sept. 16–Sept. 30	1	3
Mississippi River Zone	Deferred		
Horicon Zone	Sept. 16–Sept. 30	1	3
Light Geese	Same as for Canada Geese	20	
Brant	Same as for Canada Geese	1	3

(f) *Youth Waterfowl Hunting Days.*

The following seasons are open only to youth hunters. Youth hunters must be accompanied into the field by an adult at least 18 years of age. This adult cannot duck hunt but may participate in other open seasons.

Definitions

Youth Hunters: Includes youths 15 years of age or younger.

The Atlantic Flyway: Includes Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

The Mississippi Flyway: Includes Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin.

The Central Flyway: Includes Colorado (east of the Continental Divide), Kansas, Montana (Blaine, Carbon, Fergus, Judith Basin, Stillwater, Sweetgrass, Wheatland, and all Counties east thereof), Nebraska, New Mexico (east of the Continental Divide except that the Jicarilla Apache Indian Reservation is in the Pacific Flyway), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

The Pacific Flyway: Includes Arizona, California, Colorado (west of the Continental Divide), Idaho, Montana (including and to the west of Hill, Chouteau, Cascade, Meagher, and Park Counties), Nevada, New Mexico (the Jicarilla Apache Indian Reservation and west of the Continental Divide), Oregon, Utah, Washington, and Wyoming (west of the Continental Divide including the Great Divide Basin).

Note: In States where zones are not identified, seasons are statewide. Bag and possession limits will conform to those set for the regular season unless there is a special season already open (*e.g.,* September Canada goose season),

in which case, that season's daily bag limit will prevail.

	Season dates
ATLANTIC FLYWAY	
Connecticut	Deferred.
Delaware:	
Ducks, geese, brant, mergansers, and coots	Oct. 17 & Feb. 6.
Florida	Deferred.
Georgia:	
Ducks, geese, mergansers, coots, moorhens, and gallinules	Nov. 14 & 15.
Maine:	
Ducks, geese, mergansers, and coots:	
North Zone	Sept. 19 & Dec. 12.
South Zone	Sept. 26 & Oct. 24.
Coastal Zone	Sept. 26 & Nov. 7.
Maryland (1)	Deferred.
Massachusetts	Deferred.
New Hampshire:	
Ducks, geese, mergansers, and coots:	Sept. 26 & 27.
New Jersey	Deferred.
New York (2):	
Ducks, mergansers, coots, brant, and Canada geese:	
Long Island Zone	Nov. 14 & 15.
Lake Champlain Zone	Sept. 26 & 27.
Northeastern Zone	Sept. 19 & 20.
Southeastern Zone	Sept. 19 & 20.
Western Zone	Oct. 3 & 4.
North Carolina	Deferred.
Pennsylvania:	
Ducks, mergansers, Canada geese, coots, and moorhens	Sept. 19.
Rhode Island:	
Ducks, mergansers, geese, and coots	Oct. 24 & 25.
South Carolina	Deferred.
Vermont:	
Ducks, geese, mergansers and coots	Sept. 26 & 27.
Virginia	Deferred.
West Virginia (3):	
Ducks, geese, mergansers, coots, and gallinules	Sept. 19 & Nov. 7.
MISSISSIPPI FLYWAY	
Alabama:	
Ducks, mergansers, coots, geese, moorhens, and gallinules	Nov. 21 & Feb. 6.
Arkansas	Deferred.
Illinois	Deferred.
Indiana	Deferred.
Iowa	Deferred.
Kentucky:	
Ducks, geese, mergansers, coots, moorhens, and gallinules:	
West Zone	Feb. 6 & 7.
East Zone	Nov. 7 & 8.
Louisiana	Deferred.
Michigan:	
Ducks, geese, mergansers, coots, moorhens, and gallinules	Sept. 12 & 13.
Minnesota:	
Ducks, geese, mergansers, coots, moorhens, and gallinules	Sept. 12.
Mississippi	Deferred.
Missouri	Deferred.
Ohio	Deferred.
Tennessee	Deferred.
Wisconsin:	
Ducks, geese, mergansers, coots, moorhens, and gallinules	Sept. 19 & 20.
CENTRAL FLYWAY	
Colorado:	
Ducks, dark geese, mergansers, and coots:	
Mountain/Foothills Zone	Sept. 26 & 27.
Northeast Zone	Oct. 3 & 4.
Southeast Zone	Oct. 17 & 18.
Kansas (4)	Deferred.
Montana:	
Ducks, geese, mergansers, and coots	Sept. 26 & 27.

	Season dates
Nebraska (5):	
Ducks, geese, mergansers, and coots	Deferred.
New Mexico:	
Ducks, mergansers, coots, and moorhens:	
North Zone	Sept. 26 & 27.
South Zone	Oct. 10 & 11.
North Dakota:	
Ducks, geese, mergansers, and coots	Sept. 19 & 20.
Oklahoma	Deferred.
South Dakota:	
Ducks, Canada geese, mergansers, and coots	Sept. 19 & 20.
Texas	Deferred.
Wyoming:	
Ducks, geese, mergansers, and coots:	
Zone C1	Sept. 26 & 27.
Zone C2	Sept. 19 & 20.
Zone C3	Sept. 19 & 20.
PACIFIC FLYWAY	
Arizona	Deferred.
California:	
Ducks, geese, brant, mergansers, coots, and moorhens:	
Northeastern Zone	Sept. 26 & 27.
Colorado River Zone	Jan. 30 & 31.
Southern Zone	Feb. 6 & 7.
Southern San Joaquin Valley Zone	Feb. 6 & 7.
Balance of State Zone	Feb. 6 & 7.
Colorado:	
Ducks, geese, mergansers, and coots	Oct. 17 & 18.
Idaho:	
Ducks, geese, mergansers, and coots.	
Zone 1	Sept. 26 & 27.
Zones 2 & 3	Deferred.
Montana:	
Ducks, geese, mergansers, and coots.	Sept. 26 & 27.
Nevada:	
Ducks, geese, mergansers, coots, and moorhens:	
Northeast Zone	Sept. 12 & 13.
South Zone	Deferred.
New Mexico:	
Ducks, mergansers, coots, and moorhens	Oct. 3 & 4.
Oregon:	
Ducks, geese, mergansers, and coots	Sept. 26 & 27.
Utah:	
Ducks, dark geese, mergansers, and coots	Sept. 19.
Washington (6):	
Ducks, Canada geese, mergansers, and coots	Sept. 19 & 20.
Wyoming:	
Ducks, dark geese, mergansers, and coots	Sept. 19 & 20.

(1) In *Maryland,* the accompanying adult must be at least 21 years of age and possess a valid Maryland hunting license (or be exempt from the license requirement). This accompanying adult may not shoot or possess a firearm.
(2) In *New York,* the daily bag limit for Canada geese is 3.
(3) In *West Virginia,* the accompanying adult must be at least 18 years of age.
(4) In *Kansas,* the adult accompanying the youth must possess any licenses and/or stamps required by law for that individual to hunt waterfowl.
(5) In *Nebraska,* see State regulations for additional information on the daily bag limit.
(6) In *Washington,* the Canada goose season is closed in Goose Areas 2A and 2B.

■ 7. Section 20.106 is revised to read as follows:

§ 20.106 Seasons, limits, and shooting hours for sandhill cranes.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits on the species designated in this section are as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset, except as otherwise noted. Area descriptions were published in the August 21, 2015, **Federal Register** (80 FR 51090).

Federally authorized, State-issued permits are issued to individuals, and only the individual whose name and address appears on the permit at the time of issuance is authorized to take sandhill cranes at the level allowed by the permit, in accordance with provisions of both Federal and State regulations governing the hunting season. The permit must be carried by the permittee when exercising its provisions and must be presented to any law enforcement officer upon request. The permit is not transferable or assignable to another individual, and may not be sold, bartered, traded, or otherwise provided to another person. If

the permit is altered or defaced in any way, the permit becomes invalid.

CHECK STATE REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS.

Note: States with deferred seasons may select those seasons at the same time they select waterfowl seasons in August. Consult late-season regulations for further information.

	Season Dates	Limits	
		Bag	Possession
MISSISSIPPI FLYWAY			
Kentucky (1)	Dec. 12–Jan. 10	2	2
Minnesota: (1)			
NW Goose Zone	Sept. 12–Oct. 18	1	3
Tennessee (1)	Deferred		
CENTRAL FLYWAY			
Colorado (1)	Oct. 3–Nov. 29	3	9
Kansas (1)(2)(3)	Nov. 11–Jan. 7	3	9
Montana:			
Regular Season Area (1)	Oct. 3–Nov. 29	3	9 per season
Special Season Area (4)	Sept. 12–Oct. 4	2 per season	
New Mexico:			
Regular Season Area (1)	Oct. 31–Jan. 31	3	6
Middle Rio Grande Valley Area (4)(5)	Oct. 24–Oct. 25 &.		
	Nov. 14–Nov. 15 &	2 per season	
	Nov. 7 &	2 per season	
	Nov. 28–Nov. 29 &	2 per season	
	Jan. 9–Jan. 10	2 per season	
Southwest Area (4)	Oct. 24–Nov. 1 &	2 per season	
	Jan. 2–Jan. 3	2 per season	
Estancia Valley (4)	Oct. 24–Nov. 1	3	6
North Dakota: (1)			
Area 1	Sept. 19–Nov. 15	3	9
Area 2	Sept. 19–Nov. 15	2	6
Oklahoma (1)	Deferred		
South Dakota (1)	Sept. 26–Nov. 22	3	9
Texas (1)	Deferred		
Wyoming:			
Regular Season (Area 7) (1)	Sept. 19–Nov. 15	3	9
Riverton-Boysen Unit (Area 4) (4)	Sept. 19–Oct. 11	1 per season	
Big Horn, Hot Springs, Park, and Washakie Counties (Area 6) (4).	Sept. 19–Oct. 11	1 per season	
PACIFIC FLYWAY			
Arizona: (4)			
Special Season Area	Nov. 13–Nov. 15 &	3 per season	
	Nov. 17–Nov. 19 &	3 per season	
	Nov. 21–Nov. 23 &	3 per season	
	Nov. 25–Nov. 27 &	3 per season	
	Nov. 29–Dec. 1 &	3 per season	
	Dec. 4–Dec. 6	3 per season	
Idaho: (4)			
Areas 1, 2, 3, 4, & 5	Sept. 1–Sept. 15	2 per season	
Montana: (4)(6)			
Zone 1	Sept. 12–Oct. 4	1	1
Zone 2	Sept. 12–Oct. 4	2	2
Zone 3	Sept. 12–Oct. 4	2	2
Zone 4	Sept. 12–Oct. 4	1	1
Utah: (4)			
Rich County	Sept. 5–Sept. 13	1 per season	
Cache County	Sept. 5–Sept. 13	1 per season	
East Box Elder County	Sept. 5–Sept. 13	1 per season	
Uintah County	Sept. 19–Oct. 18	1 per season	
Wyoming: (4)			
Area 1	Sept. 1–Sept. 8	1 per season	
Area 2	Sept. 1–Sept. 8	1 per season	

	Season Dates	Limits	
		Bag	Possession
Area 3	Sept. 1–Sept. 8	1 per season	
Area 5	Sept. 1–Sept. 8	1 per season	

(1) Each person participating in the regular sandhill crane seasons must have a valid sandhill crane hunting permit and/or a State-issued Harvest Information Survey Program (HIP) certification for game bird hunting in their possession while hunting.
(2) In *Kansas,* shooting hours are from sunrise until sunset.
(3) In *Kansas,* each person desiring to hunt sandhill cranes is required to pass an annual, online sandhill crane identification examination.
(4) Hunting is by State permit only. See State regulations for further information.
(5) In *New Mexico,* in the Middle Rio Grande Valley Area (Bernardo WMA and Casa Colorado WMA), the season is only open for youth hunters on November 7. See State regulations for further details.
(6) In *Montana,* the possession limit is 2 per season.

■ 8. Section 20.109 is revised to read as follows:

§ 20.109 Extended seasons, limits, and hours for taking migratory game birds by falconry.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Hawking hours are one-half hour before sunrise until sunset except as otherwise noted. Area descriptions were published in the August 21, 2015, **Federal Register** (80 FR 51090). For those extended seasons for ducks, mergansers, and coots, area descriptions were published in an August 25, 2015, **Federal Register** (80 FR 51658) and will be published again in a late-September 2015, **Federal Register**.

CHECK STATE REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS.

Daily bag limit	3 migratory birds, singly or in the aggregate.
Possession limit	9 migratory birds, singly or in the aggregate.

These limits apply to falconry during both regular hunting seasons and extended falconry seasons—unless further restricted by State regulations. The falconry bag and possession limits are not in addition to regular season limits. Unless otherwise specified, extended falconry for ducks does not include sea ducks within the special sea duck areas. Only extended falconry seasons are shown below. Many States permit falconry during the gun seasons. Please consult State regulations for details.

For ducks, mergansers, coots, geese, and some moorhen seasons; additional season days occurring after September 30 will be published with the late-season selections. Some States have deferred selections. Consult late-season regulations for further information.

	Extended falconry dates
ATLANTIC FLYWAY	
Delaware:	
Doves	Jan. 14–Jan. 30.
Rails	Nov. 10–Dec. 16.
Woodcock	Oct. 21–Oct. 24 & Jan. 13–Mar. 10.
Florida:	
Doves	Jan. 16–Feb. 1.
Rails	Nov. 10–Dec. 16.
Woodcock	Nov. 24–Dec. 17 & Feb. 1–Mar. 9.
Common moorhens	Nov. 10–Dec. 14.
Georgia:	
Ducks, geese, mergansers, coots, moorhens, gallinules, and sea ducks	Nov. 30–Dec. 7.
Maryland:	
Doves	Jan. 16–Feb. 1.
Rails	Nov. 10–Dec. 16.
Woodcock	Oct. 1–Oct. 29 & Feb. 7–Mar. 10.
North Carolina:	
Doves	Oct. 15–Oct. 31.
Rails, moorhens, and gallinules	Dec. 5–Jan. 9.
Woodcock	Nov. 7–Dec. 5 & Feb. 1–Feb. 27.
Pennsylvania:	
Doves	Oct. 12–Oct. 16 & Nov. 30–Dec. 11.
Rails	Nov. 10–Dec. 16.
Woodcock and snipe	Sept. 1–Oct. 16 & Nov. 30–Dec. 17.
Moorhens and gallinules	Nov. 10–Dec. 16.
Virginia:	
Doves	Dec. 23 & Jan. 16–Jan. 31.
Woodcock	Oct. 17–Nov. 22 & Dec. 6–Dec. 14 & Jan. 16–Jan. 31.
Rails, moorhens, and gallinules	Nov. 17–Dec. 23.
MISSISSIPPI FLYWAY	
Illinois:	
Doves	Nov. 15–Dec. 1.
Rails	Sept. 1–Sept. 4 & Nov. 14–Dec. 16.
Woodcock	Sept. 1–Oct. 16 & Dec. 1–Dec. 16.

	Extended falconry dates
Ducks, mergansers, and coots	Feb. 10–Mar. 10.
Indiana:	
Doves	Oct. 19–Oct. 31 & Jan. 11–Jan. 17.
Woodcock	Sept. 20–Oct. 14 & Nov. 29–Jan. 4.
Ducks, mergansers, and coots (1)	
North Zone	Sept. 27–Sept. 30.
Louisiana:	
Doves	Sept. 13–Sept. 29.
Woodcock	Oct. 28–Dec. 17 & Feb. 1–Feb. 11.
Minnesota:	
Woodcock	Sept. 1–Sept. 18 & Nov. 3–Dec. 16.
Rails and snipe	Nov. 3–Dec. 16.
Doves	Nov. 10–Dec. 16.
Missouri:	
Doves	Nov. 10–Dec. 16.
Ducks, mergansers, and coots	Sept. 12–Sept. 27.
Tennessee:	
Doves	Sept. 29–Oct. 9 & Nov. 2–Nov. 7.
Ducks (1)	Sept. 15–Oct. 20.
Wisconsin:	
Rails, snipe, moorhens, and gallinules (1)	Sept. 1–Sept. 25.
Woodcock	Sept. 1–Sept. 18.
Ducks, mergansers, and coots	Sept. 19–Sept. 20.
CENTRAL FLYWAY	
Montana: (2)	
Ducks, mergansers, and coots (1)	Sept. 23–Sept. 30.
Nebraska:	
Ducks, mergansers, and coots:	
Zone 1	Sept. 5–Sept. 20.
Zone 2:	
Low Plains	Sept.–Sept. 20.
High Plains	Sept. 12–Sept. 20.
Zone 3:	
Low Plains	Sept. 5–Sept. 20.
High Plains	Sept. 12–Sept. 20.
Zone 4	Sept. 5–Sept. 20.
New Mexico:	
Doves:	
North Zone	Nov. 10–Nov. 12 & Nov. 28–Dec. 31.
South Zone	Oct. 14–Nov. 12 & Nov. 28–Dec. 4.
Ducks and coots	Sept. 12–Sept. 19.
Sandhill cranes:	
Regular Season Area	Oct. 17–Oct. 30.
Estancia Valley Area (3)	Nov. 2–Dec. 22.
Common moorhens	Dec. 5–Jan. 10.
Sora and Virginia rails	Nov. 21–Dec. 27.
North Dakota:	
Ducks, mergansers, coots, and snipe	Sept. 7–Sept. 11 & Sept. 14–Sept. 18.
South Dakota:	
Ducks, mergansers, and coots (1)	
High Plains	Oct. 2–Oct. 9.
Low Plains:	
North Zone	Sept. 1–Sept. 25.
Middle Zone	Sept. 1–Sept. 25.
South Zone	Sept. 15–Oct. 9.
Texas:	
Doves	Nov. 7–Dec. 13.
Rails, gallinules, and woodcock	Feb. 1–Feb. 14.
Wyoming:	
Rails	Nov. 10–Dec. 16.
Ducks, mergansers, and coots	
Zone C1	Sept. 26–Sept. 27 & Oct. 22–Oct. 29.
Zone C2 & C3	Sept. 19–Sept. 25 & Dec. 7–Dec. 9.
PACIFIC FLYWAY	
Arizona:	
Doves	Sept. 16–Nov. 1.
New Mexico:	
Doves:	
North Zone	Nov. 10–Nov. 12 & Nov. 28–Dec. 31.
South Zone	Oct. 14–Nov. 12 & Nov. 28–Dec. 4.

	Extended falconry dates
Oregon:	
Doves:	Oct. 31–Dec. 16.
Band-tailed pigeons (4)	Sept. 1–Sept. 14 & Sept. 24–Dec. 16.
Utah:	
Doves	Nov. 1–Dec. 16.
Band-tailed pigeons	Oct. 1–Dec. 16.
Washington:	
Doves	Oct. 31–Dec. 16.
Wyoming:	
Sora and Virginia rails	Nov. 10–Dec. 16.
Ducks, mergansers, and coots (1)	Sept. 19–Sept. 20.

(1) Additional days occurring after September 30 will be published with the late-season selections.
(2) In *Montana,* the bag limit is 2 and the possession limit is 6.
(3) In *New Mexico,* the bag limit for sandhill cranes in the Estancia Valley Area is 2 per day and the possession limit is 2 per season.
(4) In *Oregon,* no more than 1 pigeon daily in bag or possession.

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BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

[Docket No. FWS–HQ–MB–2014–0064; FF09M21200–156–FXMB1231099BPP0]

RIN 1018–BA67

Migratory Bird Hunting; Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 2015–16 Early Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes special early-season migratory bird hunting regulations for certain Tribes on Federal Indian reservations, off-reservation trust lands, and ceded lands. This rule responds to Tribal requests for U.S. Fish and Wildlife Service (hereinafter Service or we) recognition of Tribal authority to regulate hunting under established guidelines. This rule allows the establishment of season bag limits and, thus, harvest, at levels compatible with populations and habitat conditions.

DATES: This rule takes effect on September 1, 2015.

ADDRESSES: You may inspect comments received on the special hunting regulations and Tribal proposals during normal business hours U.S. Fish and Wildlife Headquarters, 5275 Leesburg Pike, Falls Church, VA 22041–3803, or at *http://www.regulations.gov* at Docket No. FWS–HQ–MB–2014–0064.

FOR FURTHER INFORMATION CONTACT: Ron W. Kokel, U.S. Fish and Wildlife Service, Department of the Interior, MS: MB, 5275 Leesburg Pike, Falls Church, VA 22041–3803; (703) 358–1967.

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act (MBTA) of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 *et seq.*), authorizes and directs the Secretary of the Department of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds, to determine when, to what extent, and by what means such birds or any part, nest, or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported, or transported.

In the August 4, 2015, **Federal Register** (80 FR 46218), we proposed special migratory bird hunting regulations for the 2015–16 hunting season for certain Indian Tribes, under the guidelines described in the June 4, 1985, **Federal Register** (50 FR 23467). The guidelines respond to Tribal requests for Service recognition of their reserved hunting rights, and for some Tribes, recognition of their authority to regulate hunting by both tribal members and nonmembers on their reservations. The guidelines include possibilities for:

(1) On-reservation hunting by both tribal members and nonmembers, with hunting by nontribal members on some reservations to take place within Federal frameworks but on dates different from those selected by the surrounding State(s);

(2) On-reservation hunting by tribal members only, outside of usual Federal frameworks for season dates and length, and for daily bag and possession limits; and

(3) Off-reservation hunting by tribal members on ceded lands, outside of usual framework dates and season length, with some added flexibility in daily bag and possession limits.

In all cases, the regulations established under the guidelines must be consistent with the March 10–September 1 closed season mandated by the 1916 Migratory Bird Treaty with Canada. We have successfully used the guidelines since the 1985–86 hunting season. We finalized the guidelines beginning with the 1988–89 hunting season (August 18, 1988, **Federal Register** [53 FR 31612]). In the April 13, 2015, **Federal Register** (80 FR 19852), we requested that Tribes desiring special hunting regulations in the 2015–16 hunting season submit a proposal for our review.

No action is required if a Tribe wishes to observe the hunting regulations established by the State(s) in which an Indian reservation is located. On August 4, 2015, we published a proposed rule (80 FR 46218) that included special migratory bird hunting regulations for 31 Indian Tribes, based on the input we received in response to the April 13, 2015, proposed rule and previous rules. All the regulations contained in this final rule were either submitted by the Tribes or approved by the Tribes and follow our proposals in the August 4 proposed rule.

Although the August 4 proposed rule included generalized regulations for both early- and late-season hunting, this rulemaking addresses only the early-season proposals. Therefore, it includes information for only 23 Tribes. The letter designations for the paragraphs pertaining to each Tribe in this rule are discontinuous because they follow the letter designations for the 31 Tribes discussed in the August 4 proposed rule, which set forth paragraphs (a) through (ee). Late-season hunting will be addressed in late September. As a general rule, early seasons begin during September each year and have a primary emphasis on such species as mourning and white-winged doves. Late seasons begin about October 1 or later each year and have a primary emphasis on waterfowl.

Population Status and Harvest

Information on the status of waterfowl and information on the status and harvest of migratory shore and upland game birds, including detailed information on methodologies and results, is available at the address indicated under **FOR FURTHER INFORMATION CONTACT** or from our Web site at *http://www.fws.gov/migratorybirds/NewsPublicationsReports.html.*

Comments and Issues Concerning Tribal Proposals

For the 2015–16 migratory bird hunting season, we proposed regulations for 31 Tribes and/or Indian groups that followed the 1985 guidelines. Some of the tribal proposals had both early- and late-season elements. However, as noted earlier, only those with early-season proposals are included in this final rulemaking; 23 Tribes have proposals with early seasons. The comment period for the proposed rule, published on August 4, 2015, closed on August 14, 2015. Because of the necessary brief comment period, we will respond to any comments on the proposed rule and/or these regulations postmarked by August 21, but not received prior to final action by us, in the September late-season final rule. At this time, we have received four comments.

Written Comments: A commenter protested the entire migratory bird hunting regulations process, the killing of all migratory birds, and status and habitat data on which the migratory bird hunting regulations are based. Several commenters supported the tribal regulations process.

Service Response: Our long-term objectives continue to include providing opportunities to harvest portions of certain migratory game bird populations and to limit harvests to levels compatible with each population's ability to maintain healthy, viable numbers. Having taken into account the zones of temperature and the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory birds, we believe that the hunting seasons provided for herein are compatible with the current status of migratory bird populations and long-term population goals. Additionally, we are obligated to, and do, give serious consideration to all information received as public comment. We believe that the Flyway-Council system of migratory bird management has been a longstanding, successful example of State-Federal cooperative management since its establishment in 1952. However, as always, we continue to seek new ways to improve the process.

Written Comments: We received one comment on Great Lakes Indian Fish and Wildlife Commission's (GLIFWC's) initial proposal from the Mississippi Flyway Council. The Mississippi Flyway Council recommended approving GLIFWC's mourning dove hunting season extension from the previous 70-day season to a 90-day season and denying their waterfowl hunting season request regarding the use of electronic calls.

Service Response: The GLIFWC 2015 proposal has two changes from regulations approved last season: In the 1837 and 1842 Treaty Areas, the GLIFWC proposal would extend the mourning dove season from 70 days to 90 days and would allow the use of electronic calls.

GLIFWC states that the regulatory changes are intended to provide tribal members a harvest opportunity within the scope of rights reserved in their various treaties and increase tribal subsistence harvest opportunities, while protecting migratory bird populations. Under the GLIFWC's proposed regulations, GLIFWC expects total ceded territory harvest to be approximately 1,650 ducks, 375 geese, 20 sandhill cranes, and 20 swans, which is roughly similar to anticipated levels in previous years for those species for which seasons were established. GLIFWC further anticipates that tribal harvest will remain low given the small number of tribal hunters and the limited opportunity to harvest more than a small number of birds on most hunting trips.

Recent GLIFWC harvest surveys (1996–98, 2001, 2004, 2007–08, 2011, and 2012) indicate that tribal off-reservation waterfowl harvest has averaged fewer than 1,100 ducks and 250 geese annually. In the latest survey year for which we have specific results (2012), an estimated 86 hunters took an estimated 1,090 trips and harvested 1,799 ducks (1.7 ducks per trip) and 822 geese. Analysis of hunter survey data over 1996–2012 indicates a general downward trend in both harvest and hunter participation. While we acknowledge that tribal harvest and participation has declined in recent years, we do not believe that allowing the use of electronic calls for migratory game bird hunting in GLIFWC's 2015–16 proposal for tribal waterfowl seasons on ceded lands in Wisconsin, Michigan, and Minnesota is in the best interest of the conservation of migratory birds. However, we are in favor of allowing a longer mourning dove season. More specific discussion follows below.

Allowing Electronic Calls

As we have stated the last 4 years (76 FR 54676, September 1, 2011; 77 FR 54451, September 5, 2012; 78 FR 53218, August 28, 2013; 79 FR 52226, September 3, 2014), the issue of allowing electronic calls and other electronic devices for migratory game bird hunting has been highly debated and highly controversial over the last 40 years, similar to other prohibited hunting methods such as baiting. Electronic calls, *i.e.,* the use or aid of recorded or electronic amplified bird calls or sounds, or recorded or electrically amplified imitations of bird calls or sounds to lure or attract migratory game birds to hunters, was Federally prohibited in 1957, because of their effectiveness in attracting and aiding the harvest of ducks and geese and are generally not considered a legitimate component of hunting. In 1999, after much debate, the migratory bird regulations were revised to allow the use of electronic calls for the take of light geese (lesser snow geese and Ross geese) during a light-goose-only season when all other waterfowl and crane hunting seasons, excluding falconry, were closed (64 FR 7507, February 16, 1999; 64 FR 71236, December 20, 1999; 73 FR 65926, November 5, 2008). The regulations were also changed in 2006, to allow the use of electronic calls for the take of resident Canada geese during Canada-goose-only September seasons when all other waterfowl and crane seasons, excluding falconry, were closed (71 FR 45964, August 10, 2006). In both instances, these changes were made in order to significantly increase the take of these species due to serious population overabundance, depredation issues, or public health and safety issues, or a combination of these.

In our previous responses on this issue, we have also provided discussion on available information from the use of electronic calls during the special light-goose seasons and our belief to its applicability to most waterfowl species. Given available evidence on the effectiveness of electronic calls, we continue to be concerned about the large biological uncertainty surrounding any widespread use of electronic calls. Additionally, given the fact that tribal waterfowl hunting covered by GLIFWC's proposal would occur on ceded lands that are not in the ownership of the Tribes, we remain very concerned that the use of electronic calls to take waterfowl would lead to confusion on the part of the public, wildlife-management agencies, and law

enforcement officials in implementing the requirements of 50 CFR part 20. Further, similar to the impacts of baiting, uncertainties concerning the zone of influence attributed to the use of electronic calls could potentially increase harvest from nontribal hunters operating within areas electronic calls are being used during the dates of the general hunt.

Notwithstanding our concerns, we understand GLIFWC's position on this issue, their desire to increase tribal hunter opportunity, harvest, and participation, and the importance that GLIFWC has ascribed to these issues. In our recent discussions with them this summer, they have expressed a willingness to work with us to further discuss these issues, all the uncertainties and difficulties surrounding them, and the overall Federal-Tribal process for addressing these and other such issues. However, we have only recently begun such discussions. As such, we are not yet at a point that would allow our approval of this proposal, or any such proposal. Further, we believe it would be premature at his time to approve such a measure, or any such measure, until we finalize the Federal-Tribal process, roles, and responsibilities for addressing this and other such issues. It is our hope that over the next year, we can continue these discussions. We remain hopeful that we can reach a mutually agreeable resolution.

Thus, at this time, removal of the electronic call prohibition, even with the GLIFWC's proposed limited and experimental design, would be inconsistent with our long-standing concerns, and we do not support allowing the use of electronic calls in the 1837 and 1842 Treaty Areas for any open season.

National Environmental Policy Act (NEPA)

The programmatic document, ''Second Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (EIS 20130139),'' filed with the Environmental Protection Agency (EPA) on May 24, 2013, addresses NEPA compliance by the Service for issuance of the annual framework regulations for hunting of migratory game bird species. We published a notice of availability in the **Federal Register** on May 31, 2013 (78 FR 32686), and our Record of Decision on July 26, 2013 (78 FR 45376). We also address NEPA compliance for waterfowl hunting frameworks through the annual preparation of separate environmental assessments, the most recent being ''Duck Hunting Regulations for 2015–16,'' with its corresponding August 2015 finding of no significant impact. In addition, an August 1985 environmental assessment entitled ''Guidelines for Migratory Bird Hunting Regulations on Federal Indian Reservations and Ceded Lands'' is available from the person indicated under the caption **FOR FURTHER INFORMATION CONTACT**.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), provides that, ''The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act'' (and) shall ''insure that any action authorized, funded, or carried out . . . is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat . . . .'' Consequently, we conducted formal consultations to ensure that actions resulting from these regulations would not likely jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitat. Findings from these consultations are included in a biological opinion, which concluded that the regulations are not likely to jeopardize the continued existence of any endangered or threatened species. Additionally, these findings may have caused modification of some regulatory measures previously proposed, and the final rule reflects any such modifications. Our biological opinions resulting from this section 7 consultation are public documents available for public inspection at the address indicated under **ADDRESSES**.

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. OIRA has reviewed this rule and has determined that this rule is significant because it would have an annual effect of $100 million or more on the economy.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

An updated economic analysis was prepared for the 2013–14 season. This analysis was based on data from the newly released 2011 National Hunting and Fishing Survey, the most recent year for which data are available (see discussion in Regulatory Flexibility Act section below). This analysis estimated consumer surplus for three alternatives for duck hunting (estimates for other species are not quantified due to lack of data). The alternatives were: (1) Issue restrictive regulations allowing fewer days than those issued during the 2012–13 season, (2) issue moderate regulations allowing more days than those in alternative 1, and (3) issue liberal regulations identical to the regulations in the 2012–13 season. For the 2013–14 season, we chose Alternative 3, with an estimated consumer surplus across all flyways of $317.8–$416.8 million. For the 2015–16 season, we have also chosen alternative 3. We also chose alternative 3 for the 2009–10, the 2010–11, the 2011–12, the 2012–13, and the 2014–15 seasons. The 2013–14 analysis is part of the record for this rule and is available at *http://www.regulations.gov* at Docket No. FWS–HQ–MB–2014–0064.

Regulatory Flexibility Act

The annual migratory bird hunting regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). We analyzed the economic impacts of the annual hunting regulations on small business entities in detail as part of the 1981 cost-benefit analysis. This analysis was revised annually from 1990–95. In 1995, the Service issued a Small Entity Flexibility Analysis (Analysis), which was subsequently updated in 1996, 1998, 2004, 2008, and 2013. The primary source of information about hunter expenditures for migratory game bird hunting is the National Hunting and Fishing Survey, which is conducted at 5-year intervals. The 2013 Analysis was based on the 2011 National Hunting and Fishing Survey and the U.S. Department of Commerce's County Business Patterns, from which it was estimated that migratory bird hunters would spend approximately $1.5 billion

at small businesses in 2013. Copies of the Analysis are available upon request from the Division of Migratory Bird Management (see **FOR FURTHER INFORMATION CONTACT**) or from our Web site at *http://www.fws.gov/migratorybirds/NewReportsPublications/SpecialTopics/SpecialTopics.html#HuntingRegs* or at *http://www.regulations.gov* at Docket No. FWS–HQ–MB–2014–0064.

Small Business Regulatory Enforcement Fairness Act

This rule is a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. For the reasons outlined above, this rule will have an annual effect on the economy of $100 million or more. However, because this rule establishes hunting seasons, we are not deferring the effective date under the exemption contained in 5 U.S.C. 808(1).

Paperwork Reduction Act

This final rule does not contain any new information collection that requires approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. OMB has reviewed and approved the information collection requirements associated with migratory bird surveys and assigned the following OMB control numbers:

- 1018–0019—North American Woodcock Singing Ground Survey (expires 5/31/2018).
- 1018–0023—Migratory Bird Surveys (expires 6/30/2017). Includes Migratory Bird Harvest Information Program, Migratory Bird Hunter Surveys, Sandhill Crane Survey, and Parts Collection Survey.

Unfunded Mandates Reform Act

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of $100 million or more in any given year on local or State government or private entities. Therefore, this rule is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this rule, has determined that this rule will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

Takings Implication Assessment

In accordance with Executive Order 12630, this rule, authorized by the Migratory Bird Treaty Act (16 U.S.C. 703–711), does not have significant takings implications and does not affect any constitutionally protected property rights. This rule will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, this rule allows hunters to exercise otherwise unavailable privileges and, therefore, reduces restrictions on the use of private and public property.

Energy Effects—Executive Order 13211

Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. While this rule is a significant regulatory action under Executive Order 12866, it is not expected to adversely affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects on Indian trust resources. However, in the April 13, 2015, **Federal Register**, we solicited proposals for special migratory bird hunting regulations for certain Tribes on Federal Indian reservations, off-reservation trust lands, and ceded lands for the 2015–16 migratory bird hunting season. The resulting proposals were contained in a separate August 4, 2015, proposed rule (80 FR 46218). By virtue of these actions, we have consulted with affected Tribes.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. We annually prescribe frameworks from which the States make selections regarding the hunting of migratory birds, and we employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and tribes to determine which seasons meet their individual needs. Any State or Indian tribe may be more restrictive than the Federal frameworks at any time. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This process allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulations. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with Executive Order 13132, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Regulations Promulgation

The rulemaking process for migratory game bird hunting must, by its nature, operate under severe time constraints. However, we intend that the public be given the greatest possible opportunity to comment. Thus, when the preliminary proposed rulemaking was published, we established what we believed were the longest periods possible for public comment. In doing this, we recognized that when the comment period closed, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, Tribes would have insufficient time to publicize the necessary regulations and procedures to their hunters. We therefore find that ''good cause'' exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and this rule will, therefore, take effect immediately upon publication.

Accordingly, with each participating Tribe having had an opportunity to participate in selecting the hunting seasons desired for its reservation or ceded territory on those species of migratory birds for which open seasons are now prescribed, and consideration having been given to all other relevant matters presented, certain sections of title 50, chapter I, subchapter B, part 20, subpart K, are hereby amended as set forth below.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Accordingly, part 20, subchapter B, chapter I of title 50 of the Code of Federal Regulations is amended as follows:

PART 20—[AMENDED]

■ 1. The authority citation for part 20 continues to read as follows:

Authority: Migratory Bird Treaty Act, 40 Stat. 755, 16 U.S.C. 703–712; Fish and Wildlife Act of 1956, 16 U.S.C. 742a–j; Pub. L. 106–108, 113 Stat. 1491, Note Following 16 U.S.C. 703.

(**Note:** The following hunting regulations provided for by 50 CFR 20.110 will not appear in the Code of Federal Regulations because of their seasonal nature.)

■ 2. Section 20.110 is revised to read as follows:

§ 20.110 Seasons, limits, and other regulations for certain Federal Indian reservations, Indian Territory, and ceded lands.

Unless specifically provided for below, all of the regulations contained in 50 CFR part 20 apply to the seasons listed herein.

(a) Colorado River Indian Tribes, Colorado River Indian Reservation, Parker, Arizona (Tribal Members and Nontribal Hunters).

Doves

Season Dates: Open September 1 through 15, 2015; then open November 7 through December 20, 2015.

Daily Bag and Possession Limits: For the early season, daily bag limit is 10 mourning or white-winged doves, singly, or in the aggregate. For the late season, the daily bag limit is 15 mourning doves. Possession limits are twice the daily bag limits after the first day of the season.

General Conditions: All persons 14 years and older must be in possession of a valid Colorado River Indian Reservation hunting permit before taking any wildlife on tribal lands. Any person transporting game birds off the Colorado River Indian Reservation must have a valid transport declaration form. Other tribal regulations apply, and may be obtained at the Fish and Game Office in Parker, Arizona. The early season will be open from one-half hour before sunrise until noon. For the late season, shooting hours are from one-half hour before sunrise to sunset.

(b) Confederated Salish and Kootenai Tribes, Flathead Indian Reservation, Pablo, Montana (Tribal Hunters).

Tribal Members Only

Ducks (Including Mergansers)

Season Dates: Open September 1, 2015, through March 9, 2016.

Daily Bag and Possession Limits: The Tribe does not have specific bag and possession restrictions for Tribal members. The season on harlequin duck is closed.

Coots

Season Dates: Same as ducks.

Daily Bag and Possession Limits: Same as ducks.

Geese

Season Dates: Same as ducks.

Daily Bag and Possession Limits: Same as ducks.

General Conditions: Tribal and nontribal hunters must comply with all basic Federal migratory bird hunting regulations contained in 50 CFR part 20 regarding manner of taking. In addition, shooting hours are one-half hour before sunrise to one-half hour after sunset, and each waterfowl hunter 16 years of age or older must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the stamp face. Special regulations established by the Confederated Salish and Kootenai Tribes also apply on the reservation.

(c) Fond du Lac Band of Lake Superior Chippewa Indians, Cloquet, Minnesota (Tribal Members Only).

Ducks

1854 and 1837 Ceded Territories

Season Dates: Begin September 12 and end November 30, 2015.

Daily Bag Limit: 18 ducks, including no more than 12 mallards (only 3 of which may be hens), 9 black ducks, 9 scaup, 9 wood ducks, 9 redheads, 9 pintails, and 9 canvasbacks.

Reservation

Season Dates: Begin September 1 and end November 30, 2015.

Daily Bag Limit: 12 ducks, including no more than 8 mallards (only 2 of which may be hens), 6 black ducks, 6 scaup, 6 redheads, 6 pintails, 6 wood ducks, and 6 canvasbacks.

Mergansers

1854 and 1837 Ceded Territories

Season Dates: Begin September 12 and end November 30, 2015.

Daily Bag Limit: 15 mergansers, including no more than 6 hooded mergansers.

Reservation

Season Dates: Begin September 1 and end November 30, 2015.

Daily Bag Limit: 10 mergansers, including no more than 4 hooded mergansers.

Canada Geese

1854 and 1837 Ceded Territories

Season Dates: Begin September 1 and end November 30, 2015.

Daily Bag Limit: 20 geese.

Reservation

Season Dates: Begin September 1 and end November 30, 2015.

Daily Bag Limit: 20 geese.

Coots and Common Moorhens (Common Gallinules)

1854 and 1837 Ceded Territories

Season Dates: Begin September 12 and end November 30, 2015.

Daily Bag Limit: 20 coots and common moorhens, singly or in the aggregate.

Reservation

Season Dates: Begin September 1 and end November 30, 2015.

Daily Bag Limit: 20 coots and common moorhens, singly or in the aggregate.

Sandhill Cranes: 1854 and 1837 Ceded Territories

Season Dates: Begin September 1 and end November 30, 2015.

Daily Bag Limit: One sandhill crane. Crane carcass tags are required prior to hunting.

Sora and Virginia Rails

1854 and 1837 Ceded Territories

Season Dates: Begin September 1 and end November 30, 2015.

Daily Bag Limit: 25 sora and Virginia rails, singly or in the aggregate.

Reservation

Season Dates: Begin September 1 and end November 30, 2015.

Daily Bag Limit: 25 sora and Virginia rails, singly or in the aggregate.

Common Snipe

1854 and 1837 Ceded Territories

Season Dates: Begin September 1 and end November 30, 2015.

Daily Bag Limit: Eight common snipe.

Reservation

Season Dates: Begin September 1 and end November 30, 2015.

Daily Bag Limit: Eight common snipe.

Woodcock

1854 and 1837 Ceded Territories

Season Dates: Begin September 1 and end November 30, 2015.

Daily Bag Limit: Three woodcock.

Reservation

Season Dates: Begin September 1 and end November 30, 2015.

Daily Bag Limit: Three woodcock.

Mourning Doves

1854 and 1837 Ceded Territories

Season Dates: Begin September 1 and end November 30, 2015.

Daily Bag Limit: 30 mourning doves.

Reservation

Season Dates: Begin September 1 and end November 30, 2015.

Daily Bag Limit: 30 mourning doves.

General Conditions

1. While hunting waterfowl, a tribal member must carry on his/her person a valid tribal waterfowl hunting permit.

2. Except as otherwise noted, tribal members will be required to comply with tribal codes that will be no less restrictive than the provisions of Chapter 10 of the Model Off-Reservation Code. These regulations parallel Federal requirements in 50 CFR part 20 as to hunting methods, transportation, sale, exportation, and other conditions generally applicable to migratory bird hunting.

3. Band members in each zone will comply with State regulations providing for closed and restricted waterfowl hunting areas.

4. There are no possession limits on any species, unless otherwise noted above. For purposes of enforcing bag and possession limits, all migratory birds in the possession or custody of band members on ceded lands will be considered to have been taken on those lands unless tagged by a tribal or State conservation warden as having been taken on-reservation. All migratory birds that fall on reservation lands will not count as part of any off-reservation bag or possession limit.

5. Shooting hours for migratory birds are one-half hour before sunrise to one-half hour after sunset.

(d) Grand Traverse Band of Ottawa and Chippewa Indians, Suttons Bay, Michigan (Tribal Members Only).

Ducks

Season Dates: Open September 1, 2015, through January 15, 2016.

Daily Bag Limit: 25 ducks, which may include no more than 6 pintail, 4 canvasback, 6 black ducks, 1 hooded merganser, 6 wood ducks, 5 redheads, and 12 mallards (only 6 of which may be hens).

Canada and Snow Geese

Season Dates: Open September 1, 2015, through January 31, 2016.

Daily Bag Limit: 10 geese.

Other Geese (White-Fronted Geese and Brant)

Season Dates: Open September 20 through December 30, 2015.

Daily Bag Limit: Five geese.

Sora Rails, Common Snipe, and Woodcock

Season Dates: Open September 1 through November 14, 2015.

Daily Bag Limit: 10 rails, 10 snipe, and 5 woodcock.

Mourning Doves

Season Dates: Open September 1 through November 14, 2015.

Daily Bag Limit: 10 mourning doves.

Sandhill Crane

Season Dates: Open September 1 through November 14, 2015.

Daily Bag Limit: Two sandhill crane, with a season limit of six.

General Conditions: A valid Grand Traverse Band Tribal license is required and must be in possession before taking any wildlife. Shooting hours for migratory birds are one-half hour before sunrise to one-half hour after sunset. All other basic regulations contained in 50 CFR part 20 are valid. Other tribal regulations apply, and may be obtained at the tribal office in Suttons Bay, Michigan.

(e) Great Lakes Indian Fish and Wildlife Commission, Odanah, Wisconsin (Tribal Members Only).

The 2015–16 waterfowl hunting season regulations apply to all treaty areas (except where noted):

Ducks

Season Dates: Begin September 1 and end December 31, 2015.

Daily Bag Limit: 1837 and 1842 Ceded Territories: 50 ducks.

1836 Ceded Territory: 30 ducks.

Mergansers

Season Dates: Begin September 1 and end December 31, 2015.

Daily Bag Limit: 10 mergansers.

Geese

Season Dates: Begin September 1 and end December 31, 2015. In addition, any portion of the ceded territory that is open to State-licensed hunters for goose hunting after December 31 will also be open concurrently for tribal members.

Daily Bag Limit: 20 geese in aggregate.

Other Migratory Birds

Coots and Common Moorhens (Common Gallinules):

Season Dates: Begin September 1 and end December 31, 2015.

Daily Bag Limit: 20 coots and common moorhens (common gallinules), singly or in the aggregate.

Sora and Virginia Rails

Season Dates: Begin September 1 and end December 31, 2015.

Daily Bag and Possession Limits: 20 sora and Virginia rails, singly or in the aggregate, 25.

Common Snipe

Season Dates: Begin September 1 and end December 31, 2015.

Daily Bag Limit: 16 common snipe.

Woodcock

Season Dates: Begin September 2 and end December 31, 2015.

Daily Bag Limit: 10 woodcock.

Mourning Doves: 1837 and 1842 Ceded Territories Only

Season Dates: Begin September 1 and end November 29, 2015.

Daily Bag Limit: 15 doves.

Sandhill Cranes: 1837 and 1842 Ceded Territories Only

Season Dates: Begin September 1 and end December 31, 2015.

Daily Bag Limit: Two cranes.

Swans: 1837 and 1842 Ceded Territories Only

Season Dates: Begin November 1 and end December 31, 2015.

Daily Bag Limit: Two swans.

Additional Restrictions: All harvested swans must be registered by presenting the fully-feathered carcass to a tribal registration station or GLIFWC warden. If the total number of trumpeter swans harvested reaches 10, the swan season will close by emergency tribal rule.

General Conditions

A. All tribal members are required to obtain a valid tribal waterfowl hunting permit.

B. Except as otherwise noted, tribal members are required to comply with tribal codes that are no less restrictive than the model ceded territory conservation codes approved by Federal courts in the *Lac Courte Oreilles* v. *State of Wisconsin (Voigt)* and *Mille Lacs Band* v. *State of Minnesota* cases. Chapter 10 in each of these model codes regulates ceded territory migratory bird hunting. Both versions of Chapter 10 parallel Federal requirements as to hunting methods, transportation, sale, exportation, and other conditions generally applicable to migratory bird hunting. They also automatically incorporate by reference the Federal migratory bird regulations.

C. Particular regulations of note include:

1. Nontoxic shot is required for all waterfowl hunting by tribal members.

2. Tribal members in each zone must comply with tribal regulations providing for closed and restricted waterfowl hunting areas. These

regulations generally incorporate the same restrictions contained in parallel State regulations.

3. There are no possession limits, with the exception of 2 swans (in the aggregate) and 25 rails (in the aggregate). For purposes of enforcing bag limits, all migratory birds in the possession and custody of tribal members on ceded lands are considered to have been taken on those lands unless tagged by a tribal or State conservation warden as taken on reservation lands. All migratory birds that fall on reservation lands do not count as part of any off-reservation bag or possession limit.

4. The baiting restrictions included in the respective section 10.05(2)(h) of the model ceded territory conservation codes will be amended to include language which parallels that in place for nontribal members as published at 64 FR 29799, June 3, 1999.

5. There are no shell limit restrictions.

6. Hunting hours are from 30 minutes before sunrise to 30 minutes after sunset.

(f) [Reserved]

(g) Kalispel Tribe, Kalispel Reservation, Usk, Washington (Tribal Members and Nontribal Hunters)

Nontribal Hunters on Reservation

Geese

Season Dates: Open September 5 through September 13, 2015, for the early season, and open October 3, 2015, through January 17, 2016, for the late season. During this period, days to be hunted are specified by the Kalispel Tribe. Nontribal hunters should contact the Tribe for more detail on hunting days.

Daily Bag and Possession Limits: Five Canada geese for the early season, and three light geese and four dark geese for the late season. The daily bag limit is two brant (when the State's season is open) and is in addition to dark goose limits for the late season. The possession limit is twice the daily bag limit.

Ducks

Season Dates: Open September 18 through September 20, 2015, and open September 25 through September 27, 2015, for the early season; and open October 3, 2015, through January 17, 2016, for the late season.

Daily Bag and Possession Limits: Seven ducks, including no more than two female mallards, two pintail, one canvasback, three scaup, and two redheads. The possession limit is twice the daily bag limit.

Tribal Hunters Within Kalispel Ceded Lands

Ducks

Season Dates: Open October 3, 2015, through January 31, 2016.

Daily Bag and Possession Limits: Seven ducks, including no more than two female mallards, two pintail, one canvasback, three scaup, and two redheads. The possession limit is twice the daily bag limit.

Geese

Season Dates: Open September 5, 2015, through January 31, 2016.

Daily Bag Limit: Six light geese and four dark geese. The daily bag limit is two brant and is in addition to dark goose limits.

General: Tribal members must possess a validated Migratory Bird Hunting and Conservation Stamp and a tribal ceded lands permit.

(h) [Reserved]

(i) Leech Lake Band of Ojibwe, Cass Lake, Minnesota (Tribal Members Only).

Ducks

Season Dates: Open September 15 through December 31, 2015.

Daily Bag Limits: 10 ducks, including no more than 5 pintail, 5 canvasback, and 5 black ducks.

Geese

Season Dates: Open September 1 through December 31, 2015.

Daily Bag Limits: 10 geese.

General: Possession limits are twice the daily bag limits. Shooting hours are one-half hour before sunrise to one-half hour after sunset. Nontoxic shot is required. Use of live decoys, bait, and commercial use of migratory birds are prohibited. Waterfowl may not be pursued or taken while using motorized craft.

(j) Little River Band of Ottawa Indians, Manistee, Michigan (Tribal Members Only).

1836 Ceded Territory and Tribal Reservation:

Ducks

Season Dates: Open September 12, 2015, through January 25, 2016.

Daily Bag Limits: 12 ducks, including no more than 6 mallards (2 of which may be hens), 3 black ducks, 3 redheads, 3 wood ducks, 2 pintail, 1 hooded merganser, and 2 canvasback.

Canada Geese

Season Dates: Open September 1, 2015, through February 8, 2016.

Daily Bag Limit: Five.

White-Fronted Geese, Brant, and Snow Geese

Season Dates: Open September 20 through November 30, 2015.

Daily Bag Limit: Five.

Woodcock, Mourning Doves, Snipe, and Sora and Virginia Rails

Season Dates: Open September 1 through November 14, 2015.

Daily Bag Limit: 5 woodcock and 10 each of the other species.

General: Possession limits are twice the daily bag limits.

(k) The Little Traverse Bay Bands of Odawa Indians, Petoskey, Michigan (Tribal Members Only).

Ducks

Season Dates: Open September 1, 2015, through January 31, 2016.

Daily Bag Limits: 20 ducks, including no more than 5 hen mallards, 5 black ducks, 5 redheads, 5 wood ducks, 5 pintail, 5 scaup, and 5 canvasback.

Mergansers

Season Dates: Open September 1, 2015, through January 31, 2016.

Daily Bag Limits: 10 mergansers, including no more than 5 hooded mergansers.

Coots and Gallinules

Season Dates: Open September 15 through December 31, 2015.

Daily Bag Limit: 20.

Canada Geese

Season Dates: Open September 1, 2015, through February 8, 2016.

Daily Bag Limit: 20 in the aggregate.

Sora and Virginia Rails

Season Dates: Open September 1 through December 31, 2015.

Daily Bag Limit: 20.

Snipe

Season Dates: Open September 1 through December 31, 2015.

Daily Bag Limit: 16.

Mourning Doves

Season Dates: Open September 1 through November 14, 2015.

Daily Bag Limit: 15.

Woodcock

Season Dates: Open September 1 through December 1, 2015.

Daily Bag Limit: 10.

Sandhill Cranes

Season Dates: Open September 1 through December 1, 2015.

Daily Bag Limit: One.

General: Possession limits are twice the daily bag limits.

(l) Lower Brule Sioux Tribe, Lower Brule Reservation, Lower Brule, South Dakota (Tribal Members and Nontribal Hunters).

Tribal Members

Ducks, Mergansers, and Coots

Season Dates: Open September 1, 2015, through March 10, 2016.

Daily Bag and Possession Limits: Six ducks, including no more five mallards (only two of which may be hens), three scaup, one mottled duck, two redheads, three wood ducks, two canvasback, and two pintail. Coot daily bag limit is 15. Merganser daily bag limit is five, including no more than two hooded mergansers. The possession limit is three times the daily bag limit.

Canada Geese

Season Dates: Open September 1, 2015, through March 10, 2016.

Daily Bag and Possession Limits: 6 and 18, respectively.

White-Fronted Geese

Season Dates: Open September 1, 2015, through March 10, 2016.

Daily Bag and Possession Limits: Two and six, respectively.

Light Geese

Season Dates: Open September 1, 2015, through March 10, 2016.

Daily Bag Limit: 20.

General Conditions: All hunters must comply with the basic Federal migratory bird hunting regulations in 50 CFR part 20, including the use of steel shot. Nontribal hunters must possess a validated Migratory Bird Hunting and Conservation Stamp. The Lower Brule Sioux Tribe has an official Conservation Code that hunters must adhere to when hunting in areas subject to control by the Tribe.

(m) [Reserved]

(n) Makah Indian Tribe, Neah Bay, Washington (Tribal Members).

Band-Tailed Pigeons

Season Dates: Open September 12 through October 25, 2015.

Daily Bag Limit: Two band-tailed pigeons.

Ducks and Coots

Season Dates: Open September 26, 2015, through January 31, 2016.

Daily Bag Limit: Seven ducks including no more than five mallards (only two of which can be a hen), one redhead, one pintail, three scaup, and one canvasback. The seasons on wood duck and harlequin are closed. The coot daily bag limit is 25.

Geese

Season Dates: Open September 26, 2015, through January 31, 2016.

Daily Bag Limit: Four, including no more than one brant. The seasons on Aleutian and dusky Canada geese are closed.

General

All other Federal regulations contained in 50 CFR part 20 apply. The following restrictions also apply:

1. As per Makah Ordinance 44, only shotguns may be used to hunt any species of waterfowl. Additionally, shotguns must not be discharged within 0.25 miles of an occupied area.
2. Hunters must be eligible, enrolled Makah tribal members and must carry their Indian Treaty Fishing and Hunting Identification Card while hunting. No tags or permits are required to hunt waterfowl.
3. The Cape Flattery area is open to waterfowl hunting, except in designated wilderness areas, or within 1 mile of Cape Flattery Trail, or in any area that is closed to hunting by another ordinance or regulation.
4. The use of live decoys and/or baiting to pursue any species of waterfowl is prohibited.
5. Steel or bismuth shot only for waterfowl is allowed; the use of lead shot is prohibited.
6. The use of dogs is permitted to hunt waterfowl.
7. Shooting hours for all species of waterfowl are one-half hour before sunrise to sunset.
8. Open hunting areas are: GMUs 601 (Hoko), a portion of the 602 (Dickey) encompassing the area north of a line between Norwegian Memorial and east to Highway 101, and 603 (Pysht).

(o) Navajo Nation, Navajo Indian Reservation, Window Rock, Arizona (Tribal Members and Nontribal Hunters).

Band-Tailed Pigeons

Season Dates: Open September 1 through 30, 2015.

Daily Bag and Possession Limits: 5 and 10 pigeons, respectively.

Mourning Doves

Season Dates: Open September 1 through 30, 2015.

Daily Bag and Possession Limits: 10 and 20 doves, respectively.

General Conditions: Tribal and nontribal hunters will comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20, regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or over must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the face. Special regulations established by the Navajo Nation also apply on the reservation.

(p) Oneida Tribe of Indians of Wisconsin, Oneida, Wisconsin (Tribal Members Only).

Ducks (including mergansers)

Season Dates: Open September 19 through November 20, 2015, and open November 30 through December 6, 2015.

Daily Bag and Possession Limits: Six, including no more than six mallards (three hen mallards), six wood ducks, one redhead, two pintail, and one hooded merganser. The possession limit is twice the daily bag limit.

Geese

Season Dates: Open September 1 through November 20, 2015, and open November 30 through December 31, 2015.

Daily Bag and Possession Limits: 5 and 10 Canada geese, respectively, from September 1 through November 20, 2015, and November 30 through 31, 2015. Hunters will be issued five tribal tags for geese in order to monitor goose harvest. An additional five tags will be issued each time birds are registered. A seasonal quota of 500 birds is adopted. If the quota is reached before the season concludes, the season will be closed at that time.

Woodcock

Season Dates: Open September 5 through November 1, 2015.

Daily Bag and Possession Limits: Two and four woodcock, respectively.

Doves

Season Dates: Open September 5 through November 1, 2015.

Daily Bag and Possession Limits: 10 and 20 doves, respectively.

General Conditions: Tribal member shooting hours are one-half hour before sunrise to one-half hour after sunset. Nontribal members hunting on the Reservation or on lands under the jurisdiction of the Tribe must comply with all State of Wisconsin regulations, including season dates, shooting hours, and bag limits, which differ from tribal member seasons. Tribal members and nontribal members hunting on the Reservation or on lands under the jurisdiction of the Tribe will observe all basic Federal migratory bird hunting regulations found in 50 CFR part 20, with the following exceptions: Tribal members are exempt from the purchase of the Migratory Waterfowl Hunting and Conservation Stamp (Duck Stamp); and

shotgun capacity is not limited to three shells.

(q) Point No Point Treaty Council, Kingston, Washington (Tribal Members Only).

Jamestown S'Klallam Tribe

Ducks

Season Dates: Open September 1, 2015, through March 10, 2016.

Daily Bag and Possession Limits: Seven ducks, including no more than two hen mallards, one pintail, one canvasback, four scoters, and two redheads. Possession limit is twice the daily bag limit. Bag and possession limits for harlequin ducks is one per season.

Geese

Season Dates: Open September 9, 2015, through March 10, 2016.

Daily Bag and Possession Limits: Four geese, and may include no more than three light geese. The season on dusky Canada geese is closed. Possession limit is twice the daily bag limit.

Brant

Season Dates: Open January 10 through January 25, 2016.

Daily Bag and Possession Limits: Two and four, respectively.

Coots

Season Dates: Open September 13, 2015, through February 1, 2016.

Daily Bag and Possession Limits: 7 and 14 coots, respectively.

Mourning Doves

Season Dates: Open September 13, 2015, through January 18, 2016.

Daily Bag and Possession Limits: 10 and 20 doves, respectively.

Snipe

Season Dates: Open September 13, 2015, through March 10, 2016.

Daily Bag and Possession Limits: 8 and 16 snipe, respectively.

Band-Tailed Pigeons

Season Dates: Open September 13, 2015, through January 18, 2016.

Daily Bag and Possession Limits: Two and four pigeons, respectively.

Port Gamble S'Klallam Tribe

Ducks

Season Dates: Open September 1, 2015, through March 10, 2016.

Daily Bag and Possession Limits: Seven ducks, including no more than two hen mallards, one pintail, one canvasback, four scoters, and two redheads. Possession limit is twice the daily bag limit. Bag and possession limits for harlequin ducks is one per season.

Geese

Season Dates: Open September 1, 2015, through March 10, 2016.

Daily Bag and Possession Limits: Four geese, and may include no more than three light geese. The season on dusky Canada geese is closed. Possession limit is twice the daily bag limit.

Brant

Season Dates: Open November 9, 2015, through January 31, 2016.

Daily Bag and Possession Limits: Two and four, respectively.

Coots

Season Dates: Open September 1, 2015, through March 10, 2016.

Daily Bag and Possession Limits: 7 and 14 coots, respectively.

Mourning Doves

Season Dates: Open September 1, 2015, through January 31, 2016.

Daily Bag and Possession Limits: 10 and 20 doves, respectively.

Snipe

Season Dates: Open September 1, 2015, through March 10, 2016.

Daily Bag and Possession Limits: 8 and 16 snipe, respectively.

Band-tailed Pigeons

Season Dates: Open September 1, 2015, through March 10, 2016.

Daily Bag and Possession Limits: Two and four pigeons, respectively.

General: Tribal members must possess a tribal hunting permit from the Point No Point Tribal Council pursuant to tribal law. Hunting hours are from one-half hour before sunrise to sunset. Hunters must observe all other basic Federal migratory bird hunting regulations in 50 CFR part 20.

(r) The Saginaw Chippewa Indian Tribe of Michigan, Isabella Reservation, Mt. Pleasant, Michigan (Tribal Members Only)

Mourning Doves

Season Dates: Open September 1, 2015, through January 31, 2016.

Daily Bag Limit: 25 doves.

Ducks

Season Dates: Open September 1, 2015, through January 31, 2016.

Daily Bag Limits: 20, including no more than 5 hen mallard, 5 wood duck, 5 black duck, 5 pintail, 5 redhead, 5 scaup, and 5 canvasback.

Mergansers

Season Dates: Open September 1, 2015, through January 31, 2016.

Daily Bag Limit: 10, including no more than 5 hooded mergansers.

Canada Geese

Season Dates: Open September 1, 2015, through January 31, 2016.

Daily Bag Limit: 20 in the aggregate.

Coots and Gallinule

Season Dates: Open September 1, 2015, through January 31, 2016.

Daily Bag Limit: 20 in the aggregate.

Woodcock

Season Dates: Open September 1, 2015, through January 31, 2016.

Daily Bag Limits: 10.

Common Snipe

Season Dates: Open September 1, 2015, through January 31, 2016.

Daily Bag Limits: 16.

Sora and Virginia Rails

Season Dates: Open September 1, 2015, through January 31, 2016.

Daily Bag Limits: 20 in the aggregate.

Sandhill Crane

Season Dates: Open September 1, 2015, through January 31, 2016.

Daily Bag Limits: One.

General: Possession limits are twice the daily bag limits except for rails, of which the possession limit equals the daily bag limit (20). Tribal members must possess a tribal hunting permit from the Sault Ste. Marie Tribe pursuant to tribal law. Shooting hours are one-half hour before sunrise until one-half hour after sunset. Hunters must observe all other basic Federal migratory bird hunting regulations in 50 CFR part 20.

(s) Sault Ste. Marie Tribe of Chippewa Indians, Sault Ste. Marie, Michigan (Tribal Members Only).

Mourning Doves

Season Dates: Open September 1 through November 14, 2015.

Daily Bag Limit: 10 doves.

Teal

Season Dates: Open September 1 through December 31, 2015.

Daily Bag Limits: 20 in the aggregate.

Ducks

Season Dates: Open September 15 through December 31, 2015.

Daily Bag Limits: 20, including no more than 10 mallards (only 5 of which may be hens), 5 canvasback, 5 black duck, and 5 wood duck.

Mergansers

Season Dates: Open September 15 through December 31, 2015.

Daily Bag Limit: 10 in the aggregate.

Geese

Season Dates: Open September 1 through December 31, 2015.

Daily Bag Limit: 20 in the aggregate.

Coots and Gallinule

Season Dates: Open September 1 through December 31, 2015.

Daily Bag Limit: 20 in the aggregate.

Woodcock

Season Dates: Open September 2 through December 1, 2015.

Daily Bag Limits: 10.

Common Snipe

Season Dates: Open September 15 through December 31, 2015.

Daily Bag Limits: 16.

Sora and Virginia Rails

Season Dates: Open September 1 through December 31, 2015.

Daily Bag Limits: 20 in the aggregate.

General: Possession limits are twice the daily bag limits except for rails, of which the possession limit equals the daily bag limit (20). Tribal members must possess a tribal hunting permit from the Sault Ste. Marie Tribe pursuant to tribal law. Shooting hours are one-half hour before sunrise until one-half hour after sunset. Hunters must observe all other basic Federal migratory bird hunting regulations in 50 CFR part 20.

(t) [Reserved]

(u) Skokomish Tribe, Shelton, Washington (Tribal Members Only).

Ducks

Season Dates: Open September 16, 2015, through February 28, 2016.

Daily Bag and Possession Limits: Seven ducks, including no more than two hen mallards, one pintail, one canvasback, one harlequin per season, and two redheads. Possession limit is twice the daily bag limit (except for harlequin).

Geese

Season Dates: Open September 16, 2015, through February 28, 2016.

Daily Bag and Possession Limits: Four geese, and may include no more than three light geese. The season on Aleutian Canada geese is closed. Possession limit is twice the daily bag limit.

Brant

Season Dates: Open November 1, 2015, through February 15, 2016.

Daily Bag and Possession Limits: Two and four brant, respectively.

Coots

Season Dates: Open September 16, 2015, through February 28, 2016.

Daily Bag and Possession Limits: 25 and 50 coots, respectively.

Mourning Doves

Season Dates: Open September 16, 2015, through February 28, 2016.

Daily Bag and Possession Limits: 10 and 20 doves, respectively.

Snipe

Season Dates: Open September 16, 2015, through February 28, 2016.

Daily Bag and Possession Limits: 8 and 16 snipe, respectively.

Band-Tailed Pigeons

Season Dates: Open September 16, 2015, through February 28, 2016.

Daily Bag and Possession Limits: Two and four pigeons, respectively.

General Conditions: All hunters authorized to hunt migratory birds on the reservation must obtain a tribal hunting permit from the respective Tribe. Hunters are also required to adhere to a number of special regulations available at the tribal office. Hunters must observe all other basic Federal migratory bird hunting regulations in 50 CFR part 20.

(v) Spokane Tribe of Indians, Spokane Indian Reservation and Ceded Lands, Wellpinit, Washington (Tribal Members Only).

Ducks

Season Dates: Open September 2, 2015, through January 31, 2016.

Daily Bag and Possession Limits: Seven ducks, including no more than two hen mallards, two pintail, two canvasback, three scaup, and two redheads. Possession limit is twice the daily bag limit.

Geese

Season Dates: Open September 2, 2015, through January 31, 2016.

Daily Bag and Possession Limits: Four dark geese and six light geese. Possession limit is twice the daily bag limit.

General Conditions: All tribal hunters must have a valid Tribal identification card on his or her person while hunting. Shooting hours are one-half hour before sunrise to sunset, and steel shot is required for all migratory bird hunting. Hunters must observe all other basic Federal migratory bird hunting regulations in 50 CFR part 20.

(w) Squaxin Island Tribe, Squaxin Island Reservation, Shelton, Washington (Tribal Members Only)

Ducks

Season Dates: Open September 1, 2015, through January 15, 2016.

Daily Bag and Possession Limits: Five ducks, which may include only one canvasback. The season on harlequin ducks is closed. Possession limit is twice the daily bag limit.

Geese

Season Dates: Open September 15, 2015, through January 15, 2016.

Daily Bag and Possession Limits: Four geese, and may include no more than two snow geese. The season on Aleutian and cackling Canada geese is closed. Possession limit is twice the daily bag limit.

Brant

Season Dates: Open September 1 through December 31, 2015.

Daily Bag and Possession Limits: Two and four brant, respectively.

Coots

Season Dates: Open September 1, 2015, through January 15, 2016.

Daily Bag Limits: 25 coots.

Snipe

Season Dates: Open September 15, 2015, and through January 15, 2016.

Daily Bag and Possession Limits: 8 and 16 snipe, respectively.

Band-Tailed Pigeons

Season Dates: Open September 1 through December 31, 2015.

Daily Bag and Possession Limits: 5 and 10 pigeons, respectively.

General Conditions: All tribal hunters must obtain a Tribal Hunting Tag and Permit from the Tribe's Natural Resources Department and must have the permit, along with the member's treaty enrollment card, on his or her person while hunting. Shooting hours are one-half hour before sunrise to one-half hour after sunset, and steel shot is required for all migratory bird hunting. Other special regulations are available at the tribal office in Shelton, Washington. Hunters must observe all other basic Federal migratory bird hunting regulations in 50 CFR part 20.

(x) [Reserved]

(y) [Reserved]

(z) The Tulalip Tribes of Washington, Tulalip Indian Reservation, Marysville, Washington (Tribal Members Only).

Ducks and Mergansers

Season Dates: Open September 2, 2015, through February 29, 2016.

Daily Bag and Possession Limits: Seven ducks, including no more than two hen mallards, two pintail, two canvasback, three scaup, and two redheads. Possession limit is twice the daily bag limit.

Geese

Season Dates: Open September 2, 2015, through February 29, 2016.

Daily Bag and Possession Limits: Seven geese, including no more than four cackling and dusky Canada geese.

Possession limit is twice the daily bag limit.

Brant

Season Dates: Open September 2, 2015, through February 29, 2016.

Daily Bag and Possession Limits: Two and four brant, respectively.

Coots

Season Dates: Open September 2, 2015, through February 29, 2016.

Daily Bag and Possession Limits: 25 and 25 coots, respectively.

Snipe

Season Dates: Open September 2, 2015, through February 29, 2016.

Daily Bag and Possession Limits: 8 and 16 snipe, respectively.

General Conditions: All tribal hunters must have a valid Tribal identification card on his or her person while hunting. All nontribal hunters must obtain and possess while hunting a valid Tulalip Tribe hunting permit and be accompanied by a Tulalip Tribal member. Shooting hours are one-half hour before sunrise to sunset, and steel shot is required for all migratory bird hunting. Hunters must observe all other basic Federal migratory bird hunting regulations in 50 CFR part 20.

(aa) Upper Skagit Indian Tribe, Sedro Woolley, Washington (Tribal Members Only).

Mourning Doves

Season Dates: Open September 1 through December 31, 2015.

Daily Bag and Possession Limits: 12 and 15 mourning doves, respectively.

Tribal members must have the tribal identification and harvest report card on their person to hunt. Tribal members hunting on the Reservation will observe all basic Federal migratory bird hunting regulations found in 50 CFR part 20, except shooting hours would be fifteen minutes before official sunrise to 15 minutes after official sunset.

(bb) [Reserved]

(cc) White Earth Band of Ojibwe, White Earth, Minnesota (Tribal Members Only).

Ducks

Season Dates: Open September 12 through December 15, 2015.

Daily Bag Limit for Ducks: 10 ducks, including no more than 2 female mallards, 1 pintail, and 1 canvasback.

Mergansers

Season Dates: Open September 12 through December 15, 2015.

Daily Bag Limit for Mergansers: Five mergansers, including no more than two hooded mergansers.

Geese

Season Dates: Open September 1 through December 15, 2015.

Daily Bag Limit: 12 geese through September 25, and 5 thereafter.

Coots

Season Dates: Open September 1 through November 30, 2015.

Daily Bag Limit: 20 coots.

Snipe

Season Dates: Open September 1 through November 30, 2015.

Daily Bag Limit: 10 snipe.

Mourning Dove

Season Dates: Open September 1 through November 30, 2015.

Daily Bag Limit: 25 mourning dove.

Woodcock

Season Dates: Open September 1 through November 30, 2015.

Daily Bag Limit: 10 woodcock.

Rail

Season Dates: Open September 1 through November 30, 2015.

Daily Bag Limit: 25 rail.

General Conditions: Shooting hours are one-half hour before sunrise to one-half hour after sunset. Nontoxic shot is required. All other basic Federal migratory bird hunting regulations contained in 50 CFR part 20 will be observed.

(dd) White Mountain Apache Tribe, Fort Apache Indian Reservation, Whiteriver, Arizona (Tribal Members and Nontribal Hunters).

Band-Tailed Pigeons (Wildlife Management Unit 10 and areas south of Y–70 and Y–10 in Wildlife Management Unit 7, Only)

Season Dates: Open September 1 through 15, 2015.

Daily Bag and Possession Limits: Three and six pigeons, respectively.

Mourning Doves (Wildlife Management Unit 10 and areas south of Y–70 and Y–10 in Wildlife Management Unit 7, Only)

Season Dates: Open September 1 through 15, 2015.

Daily Bag and Possession Limits: 10 and 20 doves, respectively.

General Conditions: All nontribal hunters hunting band-tailed pigeons and mourning doves on Reservation lands shall have in their possession a valid White Mountain Apache Daily or Yearly Small Game Permit. In addition to a small game permit, all nontribal hunters hunting band-tailed pigeons must have in their possession a White Mountain Special Band-tailed Pigeon Permit. Other special regulations established by the White Mountain Apache Tribe apply on the reservation. Tribal and nontribal hunters will comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20 regarding shooting hours and manner of taking.

(ee) [Reserved]

Dated: August 26, 2015.

Karen Hyun,

Acting Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2015–21595 Filed 8–31–15; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 141021887–5172–02]

RIN 0648–XE152

Fisheries of the Exclusive Economic Zone Off Alaska; Exchange of Flatfish in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; reallocation.

SUMMARY: NMFS is exchanging unused Community Development Quota (CDQ) for CDQ acceptable biological catch (ABC) reserves. This action is necessary to allow the 2015 total allowable catch of flathead sole, rock sole, and yellowfin sole in the Bering Sea and Aleutian Islands management area to be harvested.

DATES: Effective September 1, 2015.

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

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the Bering Sea and Aleutian Islands management area (BSAI) according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council 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.

The 2015 flathead sole, rock sole and yellowfin sole CDQ reserves specified in the BSAI are 2,545 metric tons (mt),

7,710 mt, and 15,693 mt as established by the final 2015 and 2016 harvest specifications for groundfish in the BSAI (80 FR 11919, March 5, 2015) and following revisions (80 FR 38017, July 2, 2015). The 2015 flathead sole, rock sole, and yellowfin sole CDQ ABC reserves are 4,531 mt, 11,732 mt, and 10,929 mt as established by the final 2015 and 2016 harvest specifications for groundfish in the BSAI (80 FR 11919, March 5, 2015) and following revisions (80 FR 38017, July 2, 2015).

The Coastal Villages Regional Fund has requested that NMFS exchange 125 mt of flathead sole and 175 mt of rock sole CDQ reserves for 300 mt of yellowfin sole CDQ ABC reserves under § 679.31(d). Therefore, in accordance with § 679.31(d), NMFS exchanges 125 mt of flathead sole and 175 mt of rock sole CDQ reserves for 300 mt of yellowfin sole CDQ ABC reserves in the BSAI. This action also decreases and increases the TACs and CDQ ABC reserves by the corresponding amounts. Tables 11 and 13 of the final 2015 and 2016 harvest specifications for groundfish in the BSAI (80 FR 11919, March 5, 2015) and following revisions (80 FR 38017, July 2, 2015) are further revised as follows:

TABLE 11—FINAL 2015 COMMUNITY DEVELOPMENT QUOTA (CDQ) RESERVES, INCIDENTAL CATCH AMOUNTS (ICAS), AND AMENDMENT 80 ALLOCATIONS OF THE ALEUTIAN ISLANDS PACIFIC OCEAN PERCH, AND BSAI FLATHEAD SOLE, ROCK SOLE, AND YELLOWFIN SOLE TACS

[Amounts are in metric tons]

Sector	Pacific ocean perch			Flathead sole	Rock sole	Yellowfin sole
	Eastern Aleutian district	Central Aleutian district	Western Aleutian district	BSAI	BSAI	BSAI
TAC	8,000	7,000	9,000	24,075	69,375	149,050
CDQ	856	749	963	2,420	7,535	15,993
ICA	100	75	10	5,000	8,000	5,000
BSAI trawl limited access	704	618	161	0	0	16,165
Amendment 80	6,340	5,558	7,866	16,655	53,840	111,892
Alaska Groundfish Cooperative	3,362	2,947	4,171	1,708	13,318	44,455
Alaska Seafood Cooperative	2,978	2,611	3,695	14,947	40,522	67,437

Note: Sector apportionments may not total precisely due to rounding.

TABLE 13—FINAL 2015 AND 2016 ABC SURPLUS, COMMUNITY DEVELOPMENT QUOTA (CDQ) ABC RESERVES, AND AMENDMENT 80 ABC RESERVES IN THE BSAI FOR FLATHEAD SOLE, ROCK SOLE, AND YELLOWFIN SOLE

[Amounts are in metric tons]

Sector	2015 Flathead sole	2015 Rock sole	2015 Yellowfin sole	2016 Flathead sole	2016 Rock sole	2016 Yellowfin sole
ABC	66,130	181,700	248,800	63,711	164,800	245,500
TAC	24,075	69,375	149,050	24,250	69,250	149,000
ABC surplus	42,055	112,325	99,750	39,461	95,550	96,500
ABC reserve	42,055	112,325	99,750	39,461	95,550	96,500
CDQ ABC reserve	4,656	11,907	10,629	4,222	10,224	10,326
Amendment 80 ABC reserve	37,399	100,418	89,121	35,239	85,326	86,175
Alaska Groundfish Cooperative for 2015[1]	3,836	24,840	35,408	n/a	n/a	n/a
Alaska Seafood Cooperative for 2015[1]	33,563	75,578	53,713	n/a	n/a	n/a

[1] The 2016 allocations for Amendment 80 species between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2015.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the flatfish exchange by the Coastal Villages Regional Fund in the BSAI. Since these fisheries are currently open, it is important to immediately inform the industry as to the revised allocations. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery, to allow the industry to plan for the fishing season, and to avoid potential disruption to the fishing fleet as well as processors. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of August 21, 2015.

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

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

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

Dated: August 26, 2015.

Emily H. Menashes,

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

[FR Doc. 2015–21540 Filed 8–31–15; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 80, No. 169

Tuesday, September 1, 2015

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

DEPARTMENT OF ENERGY

10 CFR Parts 429 and 431

[Docket No. EERE–2015–BT–TP–0015]

RIN 1904–AD54

Energy Conservation Program: Test Procedures for Small, Large, and Very Large Air-Cooled Commercial Package Air Conditioning and Heating Equipment

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

ACTION: Notice of public meeting.

SUMMARY: On August 6, 2015, the U.S. Department of Energy proposed to reaffirm that the currently prescribed test procedure must be used when measuring the energy efficiency ratio, integrated energy efficiency ratio, and coefficient of performance for small, large, and very large air-cooled commercial unitary air conditioners (CUAC) and commercial unitary heat pumps (CUHP). DOE noted that it would hold a public meeting to discuss the proposal at the request of interested parties. DOE has since received such a request and is holding a public meeting on September 4, 2015.

DATES: DOE will hold a public meeting on September 4, 2015, from 9 a.m. to 4 p.m. Eastern Standard Time in Washington, DC.

DOE will continue to accept comments, data, and information on the August 6, 2015 Notice of Proposed Rulemaking (NOPR) (80 FR 46870) before and after the public meeting, but no later than September 8, 2015.

ADDRESSES: The public meeting will be held at the U.S. Department of Energy, Forrestal Building, Room 8E–089, 1000 Independence Avenue SW., Washington, DC 20585–0121. The public meeting can also be attended via webinar. For details regarding attendance at the meeting or webinar, see the Public Participation section of this notice.

Any comments submitted must identify the NOPR for Test Procedures for Small, Large, and Very Large Air-Cooled Commercial Package Air Conditioning and Heating Equipment, and provide docket number EERE–2015–BT–TP–0015 and/or regulation identifier number (RIN) 1904–AD54. 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: CommPkgACHeat2015TP0015@ee.doe.gov.* Include the docket number and/or RIN in the subject line of the message.

3. *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. If possible, please submit all items on a CD. It is not necessary to include printed copies.

4. *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza SW., Suite 600, Washington, DC 20024. Telephone: (202) 586–2945. If possible, please submit all items on a CD. It is not necessary to include printed copies.

For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation section of this notice.

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 *http://www.regulations.gov/#!docketDetail;D=EERE-2015-BT-TP-0015.* All documents in the docket are listed in the regulations.gov index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

For further information on how to submit a comment, review other public comments and the docket, or participate in the public meeting, contact Ms. Brenda Edwards at (202) 586–2945 or by email: *Brenda.Edwards@ee.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information may be sent to Ashley Armstrong, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–6590. Email: *Ashley.Armstrong@ee.doe.gov.*

For legal issues, please contact Michael Kido, U.S. Department of Energy, Office of the General Counsel, GC–71, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–8145. Email: *Michael.Kido@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

Public Participation

A. Attendance at Public Meeting

If you plan to attend the public meeting, please notify Ms. Brenda Edwards at (202) 586–2945 or *Brenda.Edwards@ee.doe.gov.* As explained in the **ADDRESSES** section, foreign nationals visiting DOE Headquarters are subject to advance security screening procedures.

Due to the REAL ID Act implemented by the Department of Homeland Security (DHS), there have been recent changes regarding ID requirements for individuals wishing to enter Federal buildings from specific states and U.S. territories. Driver's licenses from the following states or territory will not be accepted for building entry and 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.

Please note that foreign nationals participating in the public meeting 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 Ms. Brenda Edwards at (202) 586–2945 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 building. Please report to the visitor's desk to have devices checked before proceeding through security.

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 commercial package air conditioners and heat pumps Web site—*https://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx?ruleid=121.* 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 a follow-up contact, if needed.

C. Conduct of 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. Interested parties may submit comments on the proceedings and any aspect of the rulemaking at any point 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 permit, 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. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

DOE will continue to accept comments, data, and information regarding the August 6, 2015 NOPR (80 FR 46870) before or after the public meeting, but no later than September 8, 2015. Interested parties may submit comments using any of the methods described in the **ADDRESSES** section at the beginning of this notice.

Submitting comments via regulations.gov. The regulations.gov Web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to regulations.gov information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through regulations.gov cannot be claimed as CBI. Comments received through the Web site will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through regulations.gov before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that regulations.gov provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery, or mail. Comments and documents submitted via email, hand delivery, or mail also will be posted to regulations.gov. If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information on a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via mail or hand delivery, please provide all items on a CD, if feasible. It is not necessary to submit printed copies. No facsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English and 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. According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery two well-marked copies: One copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked non-confidential with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include: (1) A description of the items; (2) whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) when such information might lose its confidential character due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

Issued in Washington, DC, on August 26, 2015.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

[FR Doc. 2015–21691 Filed 8–31–15; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–143800–14]

RIN 1545–BM85

Minimum Value of Eligible Employer-Sponsored Health Plans

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: This document withdraws, in part, a notice of proposed rulemaking published on May 3, 2013, relating to the health insurance premium tax credit enacted by the Affordable Care Act (including guidance on determining whether health coverage under an eligible employer-sponsored plan provides minimum value) and replaces the withdrawn portion with new proposed regulations providing guidance on determining whether health coverage under an eligible employer-sponsored plan provides minimum value. The proposed regulations affect participants in eligible employer-sponsored health plans and employers that sponsor these plans.

DATES: Written (including electronic) comments and requests for a public hearing must be received by November 2, 2015.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–143800–14), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–143800–14), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC, or sent electronically via the Federal eRulemaking Portal at *www.regulations.gov* (IRS REG–143800–14).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Andrew S. Braden, (202) 317–4725; concerning the submission of comments and/or requests for a public hearing, Oluwafunmilayo Taylor, (202) 317–5179 (not toll-free calls).

SUPPLEMENTARY INFORMATION:

Background

This document withdraws, in part, a notice of proposed rulemaking (REG–125398–12), which was published in the **Federal Register** on May 3, 2013 (78 FR 25909) and replaces the portion withdrawn with new proposed regulations. The 2013 proposed regulations added § 1.36B–6 of the Income Tax Regulations, providing rules for determining the minimum value of eligible employer-sponsored plans for purposes of the premium tax credit under section 36B of the Internal Revenue Code (Code). Notice 2014–69 (2014–48 IRB 903) advised taxpayers that the Department of Health and Human Service (HHS) and the Treasury Department and the IRS intended to propose regulations providing that plans that fail to provide substantial coverage for inpatient hospitalization or physician services do not provide minimum value. Accordingly, the proposed regulations under § 1.36B–6(a) and (g) are withdrawn.

Beginning in 2014, under the Patient Protection and Affordable Care Act, Public Law 111–148 (124 Stat. 119 (2010)), and the Health Care and Education Reconciliation Act of 2010, Public Law 111–152 (124 Stat. 1029 (2010)) (collectively, the Affordable Care Act), eligible individuals who enroll in, or whose family member enrolls in, coverage under a qualified health plan through an Affordable Insurance Exchange (Exchange), also known as a Health Insurance Marketplace, may receive a premium tax credit under section 36B of the Code.

Premium Tax Credit

Section 36B allows a refundable premium tax credit, which subsidizes the cost of health insurance coverage enrolled in through an Exchange. A taxpayer may claim the premium tax credit on the taxpayer's tax return only if the taxpayer or a member of the taxpayer's tax family (the persons for whom the taxpayer claims a personal exemption deduction on the taxpayer's tax return, generally the taxpayer, spouse, and dependents) has a coverage month. An individual has a coverage month only if the individual enrolls in a qualified health plan through an Exchange, is not eligible for minimum essential coverage other than coverage in the individual market, and premiums for the qualified health plan are paid. Section 36B(b) and (c)(2)(B). Minimum essential coverage includes coverage under an eligible employer-sponsored plan. See section 5000A(f)(1)(B). However, for purposes of the premium tax credit, an individual is not eligible for coverage under an eligible employer-sponsored plan unless the coverage is affordable and provides minimum value or unless the individual enrolls in the plan. Section 36B(c)(2)(C). Final regulations under section 36B (TD 9590) were published on May 23, 2012 (77 FR 30377).

Employer Shared Responsibility Provision

Section 4980H(b) imposes an assessable payment on applicable large employers (as defined in section 4980H(c)(2)) that offer minimum essential coverage under an eligible employer-sponsored plan that is not affordable or does not provide minimum value for one or more full-time employees who receive a premium tax credit subsidy. Final regulations under section 4980H (TD 9655) were published on February 12, 2014 (79 FR 8544).

Minimum Value

Under section 36B(c)(2)(C)(ii), an eligible employer-sponsored plan provides minimum value only if the plan's share of the total allowed costs of benefits provided under the plan is at least 60 percent. Section 1302(d)(2)(C) of the Affordable Care Act provides that, in determining the percentage of the total allowed costs of benefits provided under a group health plan, the regulations promulgated by HHS under section 1302(d)(2), dealing with actuarial value, apply.

HHS published final regulations under section 1302(d)(2) on February 25, 2013 (78 FR 12834). HHS regulations at 45 CFR 156.20, which apply to the actuarial value of plans required to provide coverage of all essential health benefits, define the percentage of the total allowed costs of benefits provided under a group health plan as (1) the anticipated covered medical spending for essential health benefits coverage (as defined in 45 CFR 156.110(a)) paid by a health plan for a standard population, computed in accordance with the plan's cost-sharing, divided by (2) the total anticipated allowed charges for essential health benefit coverage provided to a standard population.

Under section 1302(b) of the Affordable Care Act, only individual market and insured small group market health plans are required to cover the essential health benefits. Minimum value, however, applies to all eligible employer-sponsored plans, including self-insured plans and insured plans in the large group market. Accordingly, HHS regulations at 45 CFR 156.145(b)(2) and (c) apply the actuarial value definition in the context of minimum value by (1) defining the standard population as the population covered by typical self-insured group health plans, and (2) taking into account the benefits a plan provides that are included in any one benchmark plan a state uses to specify the benefits included in essential health benefits.

Notice 2014–69, advising taxpayers of the intent to propose regulations providing that plans that fail to provide substantial coverage for inpatient hospitalization or physician services do not provide minimum value, was released on November 4, 2014. Notice 2014–69 also advised that it was anticipated that, for purposes of section 4980H liability, the final regulations would not apply to certain plans (as described later in this preamble) before the end of a plan year beginning no later than March 1, 2015. However, an offer of coverage under these plans to an employee does not preclude the employee from obtaining a premium tax credit, if otherwise eligible.

As announced by Notice 2014–69, HHS published proposed regulations on November 26, 2014 (79 FR 70674, 70757), and final regulations on February 27, 2015 (80 FR 10872), amending 45 CFR 156.145(a). The HHS regulations provide that an eligible employer-sponsored plan provides minimum value only if, in addition to covering at least 60 percent of the total allowed costs of benefits provided under the plan, the plan benefits include substantial coverage of inpatient hospitalization and physician services. Consistent with Notice 2014–69, the HHS regulations indicate that the changes to the minimum value regulations do not apply before the end of the plan year beginning no later than March 1, 2015 to a plan that fails to provide substantial coverage for inpatient hospitalization services or for physician services (or both), provided that the employer had entered into a binding written commitment to adopt, or had begun enrolling employees in, the plan before November 4, 2014. For this purpose, the plan year is the plan year in effect under the terms of the plan on November 3, 2014. Also for this purpose, a binding written commitment exists when an employer is contractually required to pay for an arrangement, and a plan begins enrolling employees when it begins accepting employee elections to participate in the plan. See 80 FR 10828.

Explanation of Provisions

The preamble to the HHS regulations acknowledges that self-insured and large group market group health plans are not required to cover the essential health benefits, but notes that a health plan that does not provide substantial coverage for inpatient hospitalization and physician services does not meet a universally accepted minimum standard of value expected from and inherent in any arrangement that can reasonably be called a health plan and that is intended to provide the primary health coverage for employees. The preamble concludes that it is evident in the structure of and policy underlying the Affordable Care Act that the minimum value standard may be interpreted to require that employer-sponsored plans cover critical benefits. See 80 FR 10827–10828.

As the preamble notes, allowing plans that fail to provide substantial coverage of inpatient hospital or physician services to be treated as providing minimum value would adversely affect employees (particularly those with significant health risks) who may find this coverage insufficient, by denying them access to a premium tax credit for individual coverage purchased through an Exchange, while at the same time avoiding the employer shared responsibility payment under section 4980H. Plans that omit critical benefits used disproportionately by individuals in poor health would likely enroll far fewer of these individuals, effectively driving down employer costs at the expense of those who, because of their individual health status, are discouraged from enrolling. See 80 FR 10827–10829.

Accordingly, these proposed regulations incorporate the substance of the rule in the HHS regulations. They provide that an eligible employer-sponsored plan provides minimum value only if the plan's share of the total allowed costs of benefits provided to an employee is at least 60 percent and the plan provides substantial coverage of inpatient hospital and physician services. Comments are requested on rules for determining whether a plan provides ''substantial coverage'' of inpatient hospital and physician services.

Effective/Applicability Date and Transition Relief

These regulations are proposed to apply for plan years beginning after November 3, 2014. However, for purposes of section 4980H(b), the changes to the minimum value regulations (in § 1.36B–6(a)(2) of these proposed regulations) do not apply before the end of the plan year beginning no later than March 1, 2015 to a plan that fails to provide substantial coverage for in-patient hospitalization services or for physician services (or both), provided that the employer had entered into a binding written commitment to adopt the noncompliant plan terms, or had begun enrolling employees in the plan with noncompliant plan terms, before November 4, 2014. For this purpose, the plan year is the plan year in effect under the terms of the plan on November 3,

2014. Also for this purpose, a binding written commitment exists when an employer is contractually required to pay for an arrangement, and a plan begins enrolling employees when it begins accepting employee elections to participate in the plan. The relief provided in this section does not apply to an applicable large employer that would have been liable for a payment under section 4980H without regard to § 1.36B–6(a)(2) of these proposed regulations.

An offer of coverage under an eligible employer-sponsored plan that does not comply with § 1.36B–6(a)(2) of these proposed regulations does not preclude an employee from obtaining a premium tax credit under section 36B, if otherwise eligible.

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 impact assessment is not required. It has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations and, because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the 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 this preamble under the **ADDRESSES** heading. The Treasury Department and the IRS request comments on all aspects of the proposed rules. All comments will be available at *www.regulations.gov* or upon request. A public hearing will be scheduled if requested in writing by any person who timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Andrew Braden of the Office of the Associate Chief Counsel (Income Tax and Accounting). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments

Accordingly, 26 CFR part 1 as proposed to be amended on May 3, 2013 (78 FR 25909), is proposed to be further 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 1.36B–6, as proposed to be added May 3, 2013 (78 FR 25909), is amended by revising paragraphs (a) and (g) to read as follows:

§ 1.36B–6 Minimum value.

(a) *In general.* An eligible employer-sponsored plan provides minimum value (MV) only if—

(1) The plan's share of the total allowed costs of benefits provided to an employee (the MV percentage) is at least 60 percent; and

(2) The plan provides substantial coverage of inpatient hospital services and physician services.

* * * * *

(g) *Effective/applicability date*—(1) *In general.* Except as provided in paragraph (g)(2) of this section, this section applies for taxable years ending after December 31, 2013.

(2) *Exception.* Paragraph (a)(2) of this section applies for plan years beginning after November 3, 2014.

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2015–21427 Filed 8–31–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

31 CFR Chapter X

RIN 1506–AB10

Anti-Money Laundering Program and Suspicious Activity Report Filing Requirements for Registered Investment Advisers

AGENCY: Financial Crimes Enforcement Network, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: Financial Crimes Enforcement Network (''FinCEN''), a bureau of the Department of the Treasury (''Treasury''), is issuing this notice of proposed rulemaking to prescribe minimum standards for anti-money laundering programs (''AML'') to be established by certain investment advisers and to require such investment advisers to report suspicious activity to FinCEN pursuant to the Bank Secrecy Act (''BSA''). FinCEN is taking this action to regulate investment advisers that may be at risk for attempts by money launderers or terrorist financers seeking access to the U.S. financial system through a financial institution type not required to maintain AML programs or file suspicious activity reports (''SARs''). The investment advisers FinCEN proposes to cover by these rules are those registered or required to be registered with the U.S. Securities and Exchange Commission (''SEC''). FinCEN is also proposing to include investment advisers in the general definition of ''financial institution'' in rules implementing the BSA. Doing so would subject investment advisers to the BSA requirements generally applicable to financial institutions, including, for example, the requirements to file Currency Transaction Reports (''CTRs'') and to keep records relating to the transmittal of funds. Finally, FinCEN is proposing to delegate its authority to examine investment advisers for compliance with these requirements to the SEC.

DATES: Written comments on this notice of proposed rulemaking (''NPRM'') must be submitted on or before November 2, 2015.

ADDRESSES: You may submit comments, identified by Regulatory Identification Number (RIN) 1506–AB10, by any of the following methods:

- *Federal E-rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Include 1506–AB10 in the submission. Refer to Docket Number FINCEN–2014–0003.
- *Mail:* FinCEN, P.O. Box 39, Vienna, VA 22183. Include 1506–AB10 in the body of the text. Please submit comments by one method only. All comments submitted in response to this NPRM will become a matter of public record. Therefore, you should submit only information that you wish to make publicly available.
- *Inspection of comments:* The public dockets for FinCEN can be found at Regulations.gov. **Federal Register** proposed and final rules published by FinCEN are searchable by docket number, RIN, or document title, among other things, and the docket number,

RIN, and title may be found at the beginning of the notice. FinCEN uses the electronic, Internet-accessible dockets at Regulations.gov as their complete, official-record docket; all hard copies of materials that should be in the docket, including public comments, are electronically scanned and placed in the docket. In general, FinCEN will make all comments publicly available by posting them on *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: The FinCEN Resource Center at (800) 767–2825 or email *frc@fincen.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

A. General Statutory Provisions

FinCEN exercises regulatory functions primarily under the Currency and Financial Transactions Reporting Act of 1970, as amended by the USA PATRIOT Act and other legislation. This legislative framework is commonly referred to as the ''Bank Secrecy Act'' (''BSA'').[1] The Secretary of the Treasury (''Secretary'') has delegated to the Director of FinCEN the authority to implement, administer, and enforce compliance with the BSA and associated regulations.[2] Pursuant to this authority, FinCEN may issue regulations requiring financial institutions to keep records and file reports that ''have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings, or in the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism.'' [1] Additionally, FinCEN is authorized to impose AML program and suspicious activity reporting requirements for financial institutions.[2]

In this rulemaking, FinCEN is not proposing a customer identification program requirement or including within the AML program requirements provisions recently proposed with respect to AML program requirements for other financial institutions.[3] FinCEN anticipates addressing both of these issues with respect to investment advisers, as well as other issues, such as the potential application of regulatory requirements consistent with Sections 311, 312, 313 and 319(b) of the USA PATRIOT Act,[4] in subsequent rulemakings, with the issue of customer identification program requirements anticipated to be addressed via a joint rulemaking effort with the SEC.

B. Previous Rulemaking Efforts

On May 5, 2003, FinCEN published a notice of proposed rulemaking in the **Federal Register** proposing to require certain investment advisers to establish AML programs (''First Proposed Investment Adviser Rule'').[5] This followed FinCEN's published notice of proposed rulemaking issued on September 26, 2002, proposing that unregistered investment companies establish AML programs (''Proposed Unregistered Investment Companies Rule'').[6] In June 2007, FinCEN announced that it would be taking a fresh look at how its regulatory framework was being implemented to ensure that it was being applied effectively and efficiently across the industries that the statute covers. In conjunction with this initiative, and given the amount of time that had elapsed since initial publication of the proposals, FinCEN determined that it would not proceed with BSA requirements for these entities without undertaking further public notice and comment process, and therefore withdrew the First Proposed Investment Adviser Rule and the Proposed Unregistered Investment Companies Rule (collectively, the ''previous proposals'' or ''proposed but now-withdrawn rules'') on November 4, 2008.[7] Since the previous proposals have been withdrawn, there have been significant changes in the regulatory framework for investment advisers with the passage of the Wall Street Reform and Consumer Protection Act (''Dodd-Frank Act'').[8]

II. Money Laundering Risks and Investment Advisers

As of June 2, 2014, there were 11,235 investment advisers registered with the SEC, reporting approximately $61.9 trillion in assets for their clients.[9] Investment advisers provide advisory services to many different types of clients, including individuals, institutions, pension plans, corporations, trusts, foundations, mutual funds, private funds, and other pooled investment vehicles.[10] Some of the advisory services that investment advisers provide include portfolio management, financial planning, and pension consulting. Advisory services can be provided on a discretionary or non-discretionary basis.[11] Investment advisers often work closely with their clients to formulate and implement their clients' investment decisions and strategies. Investment advisers may be organized in a variety of legal forms, including corporations, sole proprietorships, partnerships, or limited liability companies.[12]

As long as investment advisers are not subject to AML program and suspicious activity reporting requirements, money launderers may see them as a low-risk way to enter the U.S. financial system. It is true that advisers work with financial institutions that are already subject to BSA requirements, such as when executing trades through broker-dealers to purchase or sell client securities, or when directing custodial banks to transfer assets. But such broker-dealers and banks may not have sufficient information to assess suspicious activity or money laundering risk. When an adviser orders a broker-dealer to execute a trade on behalf of an adviser's client, the broker-dealer may not know the identity of the client. When a custodial bank holds assets for a private fund managed by an adviser, the custodial bank may not know the identities of the investors in the fund. Such gaps in knowledge make it possible for money launderers to evade

[1] The BSA is codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, 31 U.S.C. 5311–5314 and 5316–5332 and notes thereto, with implementing regulations at 31 CFR chapter X. *See* 31 CFR 1010.100(e).

[2] Treasury Order 180–01 (Sept. 26, 2002).

[1] 31 U.S.C. 5311.

[2] 31 U.S.C. 5318(g) and (h).

[3] Customer Due Diligence Requirements for Financial Institutions, 79 FR 45151 (Aug. 4, 2014).

[4] Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (''USA PATRIOT Act'') (Pub. L. 107–56).

[5] *See Anti-Money Laundering Programs for Investment Advisers,* 68 FR 23646 (May 5, 2003). The SEC regulates investment advisers under the Investment Advisers Act of 1940 (''Advisers Act'') and the rules adopted under that Act. *See* 15 U.S.C. 80b *et seq.* and 17 CFR part 275.

[6] *See Anti-Money Laundering Programs for Unregistered Investment Companies,* 67 FR 60617 (Sept. 26, 2002).

[7] *See Withdrawal of the Notice of Proposed Rulemaking; Anti-Money Laundering Programs for Unregistered Investment Companies,* 73 FR 65569 (Nov. 4, 2008); and *Withdrawal of the Notice of Proposed Rulemaking; Anti-Money Laundering Programs for Investment Advisers,* 73 FR 65568 (Nov. 4, 2008).

[8] *See* Dodd Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010).

[9] *See* Frequently Requested FOIA Document: *Information About Registered Investment Advisers and Exempt Reporting Advisers,* available at *http://www.sec.gov/foia/docs/invafoia.htm.*

[10] *See* Part 1A, Item 5 of Form ADV for a list of examples of different types of advisory clients. Form ADV is the uniform form used by investment advisers to register with both the Securities and Exchange Commission (SEC) and state securities authorities; it is available at *http://www.sec.gov/divisions/investment/iard/iastuff.shtml.*

[11] An adviser has discretionary authority or manages assets on a discretionary basis if it has the authority to decide which securities to purchase and sell for the client. An adviser also has discretionary authority if it has the authority to decide which investment advisers to retain on behalf of the client. *See* Glossary to Form ADV.

[12] *See* Part 1A, Item 3.A of Form ADV.

scrutiny more effectively by operating through investment advisers rather than through broker-dealers or banks directly.

Money laundering is the processing of criminal proceeds through the financial system to disguise their illegal origin or the ownership or control of the assets, or promoting an illegal activity with illicit or legal source funds. Generally, money laundering involves three stages, known as placement,[13] layering,[14] and integration,[15] and an investment adviser's operations are vulnerable at each stage. Money laundering is defined in part with respect to the proceeds of certain predicate crimes referred to as ''specified unlawful activities.'' [16] Securities fraud is a specified unlawful activity. Both securities fraud and the act of laundering the proceeds of securities fraud are destructive to investors, individual businesses, and the financial system as a whole. The crime of money laundering also encompasses the movement of funds to finance terrorism, individual terrorists, or terrorist organizations. These funds may be from illegitimate or legitimate sources.[17]

In addition to offering services that could provide money launderers, terrorist financers, and other illicit actors the opportunity to access the financial system, investment advisers may be uniquely situated to appreciate a broader understanding of their clients' movement of funds through the financial system because of the types of advisory activities in which they engage. If a client's advisory funds include the proceeds of money laundering, terrorist financing, and other illicit activities, or are intended to further such activities, an investment adviser's AML program and suspicious activity reporting may assist in detecting such activities. Accordingly, investment advisers have an important role to play in safeguarding the financial system against fraud, money laundering, terrorist financing, and other financial crime.

III. The Proposed and Withdrawn Rules for Investment Advisers and Unregistered Investment Companies

In 2003, FinCEN published the First Proposed Investment Adviser Rule, which would have imposed on certain investment advisers a requirement to establish and implement AML programs. Prior to that, in 2002, FinCEN issued the Proposed Unregistered Investment Companies Rule. We mention the Proposed Unregistered Investment Companies Rule in the context of this rulemaking because it is FinCEN's belief that most of the issuers captured in that proposed-but-now-withdrawn rule would be included in the AML programs of investment advisers covered by this proposed rule. The previous proposals were limited to proposing AML program requirements only; they did not include additional proposed requirements to report suspicious activities to FinCEN.

FinCEN received 26 comment letters in response to the First Proposed Investment Adviser Rule. Comments were received on all aspects of the proposed rulemaking, with a particular focus on the proposed definition of ''investment adviser,'' the scope of an adviser's AML program, and the ability of an adviser to outsource compliance to a third party. FinCEN received 34 comment letters in response to the Proposed Unregistered Investment Companies Rule, and, again, there was a particular focus on the proposed definition of ''unregistered investment company,'' the scope of an issuer's AML program, and the ability of an issuer to outsource compliance obligations to third parties. In developing this current proposal, FinCEN re-reviewed all previously submitted comments to the previous proposals and has taken them into consideration.

IV. Section-by-Section Analysis

As discussed above, FinCEN previously proposed two complementary rules to address money laundering risks in the asset management industry. At the time the First Proposed Investment Adviser Rule and the Proposed Unregistered Investment Companies Rule were published by FinCEN, the regulatory landscape for investment advisers was significantly different than it is today. At the time of those proposals, asset management services provided by investment advisers were generally divided into two categories for regulatory purposes: (i) Registered advisers that managed assets for a variety of clients including mutual funds, individuals, pension plans, etc.; and (ii) unregistered private fund advisers that managed private funds and other pooled investment vehicles, like hedge and private equity funds. As a result of the Dodd-Frank Act amendments to the Investment Advisers Act of 1940 (''Advisers Act''), formerly unregistered advisers to hedge, private equity, and other private funds are now required to register with the SEC. Accordingly, FinCEN believes the two-pronged approach of the prior proposals is no longer necessary to address the money laundering and terrorist financing risks presented by SEC-registered investment adviser clients and the unregistered investment companies that are managed by such advisers.[18] FinCEN, therefore, is proposing a single rule for SEC-registered investment advisers that will result in coverage substantially similar to what would have existed if the two previously proposed but now-withdrawn rules for investment advisers and unregistered investment companies had been adopted under the Investment Act before Dodd-Frank.

A. Definitions

The BSA does not expressly enumerate ''investment adviser'' among the entities defined as a financial institution under sections 5312(a)(2) and (c)(1) of title 31 of the United States Code. In addition to those institutions listed, however, section 5312(a)(2)(Y) authorizes the Secretary to include additional types of businesses within the BSA definition of financial institution if the Secretary determines that they engage in any activity similar to, related to, or a substitute for, any of the listed businesses. Investment advisers work closely with, and provide services that are similar or related to services provided by, other businesses defined as financial institutions under

[13] At the ''placement'' stage, proceeds from illegal activity or funds intended to promote illegal activity are first introduced into the financial system. For example, this could occur in the investment advisory business when a money launderer tries to fund an investment advisory account with cash or cash equivalents derived from illegal activity. Money launderers also may approach investment advisers seeking to obtain the adviser's assistance as an intermediary in placing funds into custodial accounts.

[14] The ''layering'' stage involves the distancing of illegal proceeds from their criminal source through a series of financial transactions to obfuscate and complicate their traceability. A money launderer could place assets under management with an investment adviser as one of many transactions in an ongoing layering scheme. Layering may involve establishing an advisory account in the name of a fictitious corporation or an entity designed to break the link between the assets and the true owner. A money launderer also may place assets under management with an adviser and then shortly thereafter arrange for their removal.

[15] ''Integration'' occurs when illegal proceeds previously placed into the financial system are made to appear to have been derived from a legitimate source. For example, once illicit funds have been invested with an investment advisor, the proceeds from those investments may appear legitimate to any financial institution thereafter receiving such proceeds.

[16] *See* 18 U.S.C. 1956(c)(7).

[17] *See* 18 U.S.C. 1956, 2339A, and 2339B.

[18] The Proposed Unregistered Investment Companies Rule included in the proposed definition of ''unregistered investment company'' certain commodity pools. *See Anti-Money Laundering Programs for Unregistered Investment Companies* at 60618. For the purposes of the rules being proposed today, FinCEN is deferring on a discussion of such commodity pools.

the BSA (''BSA-defined financial institutions'').

Investment services offered by advisers may be similar or related to those offered by broker-dealers in securities, banks, or insurance companies, each of which are BSA-defined financial institutions, and similar or related securities or other financial products are used to implement those services. For instance, many investment advisers sponsor and provide advisory services to mutual funds and advise clients on the purchase or sale of mutual fund shares. Banks and broker-dealers also may provide recommendations on mutual fund shares and may sell them to their own clients or clients of investment advisers. Investment advisers may provide advice with respect to products such as annuities that are offered by insurance companies and broker-dealers in securities.[19] Some investment advisers may offer asset management services that are similar to, and that may even compete directly with, the asset management services offered by certain banks through their trust departments. Advisers often have relationships with broker-dealers to direct the purchase or sale of client securities that are held at bank or broker-dealer custodians for their clients. The close interrelationship between investment advisers and other BSA-defined financial institutions is further demonstrated by the fact that they are often dually registered as a broker-dealer in securities or affiliated with each other.[20] Accordingly, FinCEN considers investment advisers to engage in activities that are ''similar to, related to, or a substitute for'' financial services that are provided by other BSA-defined financial institutions and, therefore, should be subject to the requirements of the BSA.

Based on this consideration and the money laundering risks described above, FinCEN is proposing three regulatory changes: (1) Including investment advisers within the general definition of ''financial institution'' in the regulations implementing the BSA and adding a definition of investment adviser; (2) requiring investment advisers to establish AML programs; and (3) requiring investment advisers to report suspicious activity. These proposals are discussed in greater detail below.

1. Adding the Term ''Investment Adviser'' to General Definitions

FinCEN is proposing to add a definition of ''investment adviser'' to section 1010.100(nnn). The proposed definition is ''[a]ny person who is registered or required to register with the SEC under section 203 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3(a).'' The proposed definition relies on terms and definitions used in the Advisers Act and in the SEC's regulations implementing the Advisers Act to define investment advisers that would be subject to the proposed AML program, SAR, and general recordkeeping requirements of the BSA. The proposed definition would permit investment advisers to determine easily whether they are subject to the proposed rules. The proposed definition would include both primary advisers and subadvisers.[21] While FinCEN is limiting today's proposed definition to investment advisers registered or required to be registered with the SEC, future rulemakings may include other types of investment advisers, such as state-regulated investment advisers or investment advisers that are exempt from SEC registration, that are found to present risks to the U.S. financial system of money laundering, terrorist financing, and other types of financial crimes.

2. Scope of an Investment Adviser Definition

Generally, an investment adviser's assets under management determine whether an investment adviser is required to register or is prohibited from registering with the SEC.[22] In implementing the Dodd-Frank Act amendments to the Advisers Act, the SEC amended the instructions to Part 1A of Form ADV to further implement a uniform method for an investment adviser to calculate its assets under management in order to determine whether it is required to register or is prohibited from registering with the SEC.[23] Generally, an investment adviser falls into one of three categories based on its regulatory assets under management, *i.e.,* a large, mid-sized, or small adviser. The application of the proposed definition under 31 CFR 1010.100(nnn) to these three categories of adviser is discussed in the following section. In view of the comment letters submitted in response to the First Proposed Investment Adviser Rule, this section also discusses the application of the proposed investment adviser definition to certain specific types of advisers and other related entities.[24]

(a) Application of the Definition to Large, Mid-Sized, and Small Investment Advisers

Generally, a large adviser has $100 million or more in regulatory assets under management, and is required to register with the SEC (and therefore included in the proposed definition) unless an exemption from SEC registration is available.[25] FinCEN notes that large advisers would comprise the bulk of investment advisers that are included in the definition of investment adviser for purposes of the rules being proposed today.

Generally, a mid-sized adviser has $25 million or more but less than $100 million, and a small adviser has less than $25 million in regulatory assets under management and is regulated or required to be regulated as an investment adviser in the State where it maintains its principal office and place of business.[26] Mid-sized and small advisers are generally prohibited from registering with the SEC and therefore are excluded from the proposed definition, unless an exemption from the prohibition on SEC registration is available.[27] Mid-sized and small

[19] *See* Securities and Exchange Commission, *Annuities* (Apr. 6, 2011) *available at http://www.sec.gov/answers/annuity.htm.* Insurance companies that issue securities are regulated by the SEC, State securities commissioners, and State insurance commissioners.

[20] *See* Securities and Exchange Commission, *Study on Investment Advisers and Broker Dealers as Required by Section 913 of the Dodd-Frank Wall Street Reform and Consumer Protection Act* (Jan. 2011) at page 8 *available at http://www.sec.gov/news/studies/2011/913studyfinal.pdf.*

[21] In the investment advisory industry, an adviser may act as the ''primary adviser'' or a ''subadviser.'' The Advisers Act does not distinguish between advisers and subadvisers; all are ''investment advisers.'' *See Exemptions for Advisers to Venture Capital Funds, Private Fund Advisers With Less Than $150 Million in Assets Under Management, and Foreign Private Advisers* at note 504 and accompanying text. Generally, the primary adviser contracts directly with the client and a subadviser has contractual privity with the primary adviser. With respect to such a shared client, an advisory contract may grant the primary adviser the discretionary authority to retain and dismiss a subadviser. Other advisory contracts may only permit the primary adviser to recommend a subadviser to such a client—the client retains the authority to hire or dismiss a subadviser.

[22] *See Rules Implementing Amendments to the Investment Advisers Act of 1940* at 42955.

[23] *See* Instructions for Part 1A, Item 5.F of Form ADV. *See also id.*

[24] FinCEN notes that this discussion is not exhaustive and that there may be other types of investment advisers or entities that meet the definition being proposed today and, therefore, would be subject to today's proposed rule.

[25] 17 CFR 275.203A–1(a)(1).

[26] *See* 15 U.S.C. 80b–3A(a)(1). Currently, only the State of Wyoming does not regulate investment advisers. A small adviser located in the State of Wyoming, therefore, is required to register with the SEC.

[27] *See* 15 U.S.C. 80b–3A(a)(2). A mid-sized adviser with its principal office and place of business in Wyoming is neither required to register with the State, nor ''subject to examination'' by the State securities authority and is, therefore, required to register with the SEC. Also, mid-sized advisers

Continued

advisers prohibited from registering with the SEC are generally subject to regulation by the States.

In the rules being proposed today, FinCEN is limiting the scope of the investment adviser definition to those advisers that are registered or required to be registered with the SEC. Limiting the definition of investment adviser to SEC-registered advisers will align FinCEN's regulatory framework with Federal functional regulation and allow FinCEN to work with the SEC to develop consistent application and examination of the BSA to such advisers. FinCEN notes that Congress has decided that, as a threshold matter, the type of investment adviser that should be subject to Federal regulation is, generally, an adviser that has $100 million or more in assets under management.[28]

FinCEN recognizes that investment advisers that are at risk for abuse by money launderers, terrorist financers, and other illicit actors may not be limited to advisers that are registered, or required to be registered, with the SEC. FinCEN, therefore, may consider future rulemakings to expand the application of the BSA to include investment advisers that are not registered or required to be registered with the SEC.

(b) Application of the Investment Adviser Definition to Certain Specific Types of Advisers and Other Related Entities

Investment advisers provide many types of advisory services and may be organized in a wide variety of legal forms. The proposed definition applies to persons registered or required to register with the SEC and therefore may include, among others, the following types of advisers:

- Dually-registered investment advisers, and advisers that are affiliated with or subsidiaries of entities required to establish AML programs;
- certain foreign investment advisers;
- investment advisers to registered investment companies;
- financial planners;
- pension consultants; and
- entities that provide only securities newsletters and/or research reports.

FinCEN recognizes that the different types of investment advisers included within today's proposed definition may present varying degrees of money laundering and terrorist financing risks. FinCEN, therefore, anticipates that the burden of establishing an AML program would also correspondingly be reduced due to the risk-based nature of the program and the types of advisory services these entities provide.

B. Delegation of Examination Authority to the Securities and Exchange Commission

FinCEN has overall authority for enforcement of compliance with its regulations, including coordination and direction of procedures and activities of all other agencies exercising delegated authority. FinCEN is proposing to amend section 1010.810 to include investment advisers within the list of financial institutions the SEC has the authority to examine for compliance with FinCEN's rules. Persons and entities meeting the definition of investment adviser being proposed today under 31 CFR 1010.100(nnn) would fall under this provision. The SEC has expertise in the regulation of investment advisers. The SEC is the Federal functional regulator for certain investment advisers and, therefore, is responsible for examining investment advisers for compliance with the Advisers Act and the SEC rules promulgated under that Act. Moreover, FinCEN has delegated to the SEC examination authority for broker-dealers in securities and certain investment companies, which are BSA-defined financial institutions subject to FinCEN's regulations and for which the SEC is the Federal functional regulator.[29] Accordingly, the SEC is in the best position to act as the designated examiner of investment advisers for compliance with the rules FinCEN is proposing today.

C. Investment Advisers Defined as Financial Institutions

FinCEN is proposing to include investment advisers registered or required to be registered with the SEC within the general definition of ''financial institution'' in the regulations implementing the BSA.[30] The application of general BSA reporting and recordkeeping requirements to an entity depends upon whether the entity is included in the general definition of ''financial institution.''[31] To date, investment advisers have not been required to comply with Currency Transaction Report (CTR) filing requirements,[32] and the recordkeeping, transmittal of records, and retention requirements for the transmittal of funds under the Recordkeeping and Travel Rules and other related recordkeeping requirements.[33] Defining investment advisers as a financial institution under 31 CFR 1010.100(t) would require investment advisers to comply with all BSA regulatory requirements generally applicable to financial institutions, including these requirements and to comply with information sharing requests pursuant to section 314(a) of the USA PATRIOT Act.[34]

1. Investment Advisers' Obligation To File CTRs Replaces Obligation To File Form 8300

Under FinCEN's regulations that apply to a broad range of commercial activity, investment advisers are currently required to file reports on Form 8300 for the receipt of more than $10,000 in cash and negotiable instruments.[35] The rules being proposed today would replace this requirement with a requirement that investment advisers file CTRs pursuant to 31 CFR 1010.311.[36] An investment adviser

with their principal offices and places of business in New York would be required to register with the SEC because the State securities authority has not represented to the SEC that registered advisers are ''subject to examination'' in the State; therefore, such advisers must register with the SEC. A mid-sized adviser that is required to register in any other State is subject to examination by the State and thus would be prohibited from registering with the SEC. *See* 15 U.S.C. 80b–3A(a)(2). *See also* Securities and Exchange Commission—Division of Investment Management, *Frequently Asked Questions Regarding Mid-Sized Advisers* (Jun. 28, 2011) *available at http://www.sec.gov/divisions/investment/midsizedadviserinfo.htm.*

[28] 17 CFR 275.203A–1(a)(1).

[29] *See* 31 CFR 1010.810(b)(6).

[30] *See* 31 CFR 1010.100(t).

[31] The general definition of ''financial institution'' at 31 CFR 1010.100(t) is less inclusive than the definition in the BSA itself. *See* 31 U.S.C. 5312(a)(2). The general definition determines the scope of rules that require the filing of CTRs and the creation, retention, and transmittal of records or information on transmittals of funds and other specified transactions. *See* 31 CFR 1010.310; 31 CFR 1010.311; 31 CFR 1010.312; 31 CFR 1010.313; 31 CFR 1010.314; 31 CFR 1010.315; 31 CFR 1010.410; 31 CFR 1010.415; and 31 CFR 1010.430. Defining a business as a financial institution also could make the business ineligible for exemption from the requirement to file CTRs. *See, e.g.,* 31 CFR 1020.315(e)(8).

[32] *See infra* Section IV.C.1.

[33] *See* 31 CFR 1010.410 and 1010.430. The recordkeeping, transmittal of records, and retention requirements for the transmittal of funds for non-bank financial institutions under 31 CFR 1010.410 are often referred to as the ''Recordkeeping and Travel Rules.'' *See infra* Section IV.C.2.

[34] *See* 1010.520.

[35] 31 CFR 1010.330(a)(1)(i). ''Cash'' and ''negotiable instruments'' include cashier's checks, bank drafts, traveler's checks, and money orders in face amounts of $10,000 or less, if the instrument is received in a ''designated reporting transaction.'' 31 CFR 1010.330(c)(1)(ii)(A). A ''designated reporting transaction'' is defined as the retail sale of a consumer durable, collectible, or travel or entertainment activity. 31 CFR 1010.330(c)(2). In addition, an investment adviser would need to treat the instruments as currency if the adviser knows that a customer is using the instruments to avoid the reporting of a transaction on Form 8300. 31 CFR 1010.330(c)(1)(ii)(B).

[36] *See* 31 CFR 1010.330(a) (stating that section 1010.330 [the BSA provision requiring the filing of the Form 8300] ''does not apply to amounts received in a transaction reported under 31 U.S.C.

would file a CTR for a transaction involving a transfer of more than $10,000 in currency by, through or to the investment adviser.[37] The threshold in 31 CFR 1010.311 applies to transactions conducted during a single business day.[38] A financial institution must treat multiple transactions as a single transaction if the financial institution has knowledge that the transactions are conducted by or on behalf of the same person.[39]

Because investment advisers would no longer be required to file Form 8300s, investment advisers would be freed from having to report applicable transactions involving certain negotiable instruments reportable on Form 8300 but not the CTR when the investment adviser suspects that the monetary instruments are being used to avoid the Form 8300 being filed.[40] Although FinCEN recognizes that there may be some potential for criminals to use negotiable instruments such as money orders to move illicit cash through the investment adviser, the volume of Form 8300s currently filed by investment advisers is relatively low when compared to the overall volume of transactions involving investment advisers.[41] Because investment advisers rarely receive from or disburse to clients significant amounts of currency, FinCEN believes they are less likely to be used during the initial ''placement'' stage of the money laundering process than other financial institutions. Moreover, since an investment adviser would be required to report suspicious transactions under the SAR rule being proposed today, the ability to report suspicious transactions on Form 8300 would be redundant.[42]

2. The Recordkeeping and Travel Rules and Other Related Recordkeeping Requirements

Including investment advisers in the general definition of financial institution would subject an investment adviser to the requirements of the Recordkeeping and Travel Rules and other related recordkeeping requirements. Under the Recordkeeping and Travel Rules, financial institutions must create and retain records for transmittals of funds, and ensure that certain information pertaining to the transmittal of funds ''travel'' with the transmittal to the next financial institution in the payment chain.[43] Accordingly, the rules being proposed today would require compliance with 31 CFR 1031.410 (cross referencing 31 CFR 1010.410) and 31 CFR 1031.430 (cross referencing 31 CFR 1010.430).

The Recordkeeping and Travel Rules apply to transmittals of funds that equal or exceed $3,000. A ''transmittal of funds'' includes funds transfers processed by banks, as well as similar payments where one or more of the financial institutions processing the payment (*e.g.,* the transmittor's financial institution, an intermediary financial institution, or the recipient's financial institution) is not a bank.[44] When a financial institution accepts and processes a payment sent by or to its customer, then the financial institution would be the ''transmittor's financial institution'' or the ''recipient's financial institution,'' respectively. The Recordkeeping and Travel Rules require the transmittor's financial institution to obtain and retain the name, address, and other information about the transmittor and the transaction.[45] The Recordkeeping and Travel Rules also require the recipient's financial institution (and in certain instances, the transmittor's financial institution) to obtain or retain identifying information on the recipient.[46] The Recordkeeping and Travel Rules require that certain information obtained or retained ''travel'' with the transmittal order through the payment chain.[47]

Under the proposed rule, investment advisers would fall within an existing exception that is designed to exclude from these requirements' coverage funds transfers or transmittals of funds in which certain categories of financial institutions are the transmittor, originator, recipient, or beneficiary.[48] The proposed application of the exception to investment advisers is intended to provide advisers with treatment similar to that of banks, brokers or dealers in securities, futures commission merchants, introducing brokers in commodities, and mutual funds. Finally, the proposed amendment would subject investment advisers to requirements to create and retain records for extensions of credit and cross-border transfers of currency, monetary instruments, checks, investment securities, and credit.[49] These requirements apply to transactions in amounts exceeding $10,000.[50]

D. Anti-Money Laundering Programs

The provisions of 31 U.S.C. 5318(h), added to the BSA in 1992 by section 1517 of the Annunzio-Wylie Anti-Money Laundering Act (''Annunzio-Wylie Act''), authorize the Secretary ''[i]n order to guard against money laundering through financial institutions . . . [to] require financial institutions to carry out anti-money laundering programs.''[51] Those programs must include, at a minimum, ''the development of internal policies, procedures, and controls;'' ''the designation of a compliance officer;'' ''an ongoing employee training program;'' and ''an independent audit

5313 and 31 CFR 1010.311.'') To the extent an investment adviser conducts transactions other than in currency (as defined in section 1010.100(m) for purposes of the CTR requirement), it would be exempt from reporting such transactions because the Form 8300 requirement does not apply.

[37] *See* 31 CFR 1010.311 and 31 CFR 1010.100(m) (currency is defined as the coin and paper of the United States or of any other country that is designated as legal tender and that circulates and is customarily used as a medium of exchange in a foreign country).

[38] *See* 31 CFR 1010.313(b). Financial institutions must file a CTR for a transaction or related transactions for each deposit, withdrawal, exchange of currency or other payment or transfer, by, through or to such financial institution which involves a transaction in currency of more than $10,000 during any one business day. Compare to the threshold requirement for the Form 8300 defining any transactions conducted between a payer (or its agent) and the recipient in a 24-hour period as related transactions. Transactions are considered related even if they occur over a period of more than 24 hours if the recipient knows, or has reason to know, that each transaction is one of a series of connected transactions. *See* 31 CFR 1010.330(b)(3).

[39] 31 CFR 1010.313(b).

[40] In determining whether to file a Form 8300, an investment adviser currently may need to treat instruments as currency if the adviser knows that a customer is using the instruments to avoid the reporting of a transaction on Form 8300. *See* 1010.330(c)(1)(ii)(B).

[41] A review of BSA data revealed that approximately 3,047 Form 8300s were filed by all investment advisers, whether registered or unregistered, over the seven years beginning in 2008, which is a fraction of the millions of transactions investment advisers conduct yearly on behalf of their clients.

[42] Currently an investment adviser can report a suspicious transaction voluntarily by checking box 1(b) in the Form 8300. In addition to the requirement that an investment adviser report on a CTR, under the proposed rule, an investment adviser would also be required to file a SAR if a transaction exceeds the threshold amount.

[43] *See* 31 CFR 1020.410(a) and 1010.410(f). Financial institutions are also required to retain records for five years. *See* 31 CFR 1010.430(d).

[44] *See* 31 CFR 1010.100(f), (g), (w), (z), (aa), (ii), (jj), (pp), (qq), (ddd), (eee), (fff), and (ggg) for various definitions pertaining to a ''transmittal of funds and persons and institutions involved in the payment chain of a transmittal of funds.''

[45] *See* 31 CFR 1010.410(e)(1)(i) and (e)(2).

[46] *See* 31 CFR 1010.410(e)(3) (information that the recipient's financial institution must obtain or retain).

[47] *See* 31 CFR 1010.410(f) (information that must ''travel'' with the transmittal order); 31 CFR 1010.100(eee) (defining ''transmittal order'').

[48] 31 CFR 1020.410(a)(6) and 31 CFR 1010.410(e)(6).

[49] *See* 31 CFR 1010.410(a) through (c). Financial institutions must retain these records for a period of five years. 31 CFR 1010.430(d).

[50] *See* 31 CFR 1010.410(a) through (c).

[51] 31 U.S.C. 5318(h)(1); Annunzio-Wylie Act, Title XV of the Housing and Community Development Act of 1992, Public Law 102–550.

function to test programs.'' [52] Title III of the USA PATRIOT Act amended 31 U.S.C. 5318(h) to make the establishment of anti-money laundering programs mandatory for financial institutions.[53]

Registered investment advisers are currently subject to Federal securities laws governing the securities industry, which require the establishment of a variety of policies, procedures, and controls. The Advisers Act requires a registered investment adviser to maintain certain books and records, as prescribed by the SEC.[54] Under 17 CFR 275.204–2, an SEC-registered investment adviser is required to keep certain books and records that relate to its investment advisory business.[55] Under 17 CFR 275.203–1, investment advisers are also required to complete and submit Form ADV to the SEC. The Advisers Act also prohibits an investment adviser from engaging in fraudulent, deceptive, and manipulative conduct.[56] SEC rules require investment advisers to adopt and implement written policies and procedures reasonably designed to prevent violation of the Advisers Act and the rules that the SEC has adopted under that Act.[57] Advisers must conduct annual reviews to ensure the adequacy and effectiveness of their policies and procedures and must designate a chief compliance officer responsible for administering the policies and procedures.[58] Accordingly, FinCEN contemplates that investment advisers would be able to adapt existing policies, procedures, and internal controls in order to comply with the rules FinCEN is proposing today. Moreover, some investment advisers have already implemented AML programs either voluntarily or in conjunction with an SEC No-Action letter permitting broker-dealers in securities to rely on registered investment advisers to perform some or all aspects of broker-dealers' customer identification program (''CIP'') obligations.[59]

1. Overview of AML Program Requirement

Section 1031.210(a)(1) of the proposed rule would require each investment adviser to develop and implement a written AML program reasonably designed to prevent the investment adviser from being used to facilitate money laundering or the financing of terrorist activities and to achieve and monitor compliance with the applicable provisions of the BSA and FinCEN's implementing regulations. Section 1031.210(a)(2) would require each investment adviser's AML program to be approved in writing by its board of directors or trustees, or if the investment adviser does not have a board, by its sole proprietor, general partner, trustee, or other persons that have functions similar to a board of directors. Each investment adviser would also be required to make its AML program available to FinCEN or the SEC upon request.

The four minimum requirements for the AML program are set forth in section 1031.210(b) and are discussed in greater detail below. The AML program requirement is not a one-size-fits-all requirement but rather is risk-based. The risk-based approach of the proposed rule is intended to give investment advisers the flexibility to design their programs to meet the specific risks of the advisory services they provide and the clients they advise.[60] For example, large firms should adopt policies, procedures, and internal controls addressing the responsibilities of the individuals and departments carrying out each aspect of the AML program, while smaller firms will likely adopt procedures that are consistent with their (often) simpler, more centralized organizational structures.[61] This flexibility is designed to ensure that all firms subject to FinCEN's AML program requirements, from the smallest to the largest, and the simplest to the most complex, have in place policies, procedures, and internal controls appropriate to their advisory business to prevent the investment adviser from being used to facilitate money laundering or the financing of terrorist activities and to achieve and monitor compliance with the applicable provisions of the BSA and FinCEN's implementing regulations.

2. Scope

Generally, an investment adviser's program must cover all of its advisory activity, whether the adviser is acting as the primary adviser or a subadviser. The discussion below focuses on FinCEN's expectations with respect to the coverage of the following specific types of services: (a) Advisory services that do not include the management of client assets; (b) subadvisory services; and (c) advisory services provided to real estate funds.

(a) Provision of Other Advisory Services

An investment adviser may provide clients with advisory services, such as pension consulting, securities news letters, research reports, or financial planning that do not include the management of client assets.

[52] 31 U.S.C. 5318(h)(1)(A)–(D).

[53] Section 352(a) of the Act, which became effective on April 24, 2002, amended section 5318(h) of the BSA.

[54] *See* 15 U.S.C. 80b–4(a) (requiring investment advisers to make and retain records as defined in section 3(a)(37) of the Exchange Act and to make and disseminate reports as prescribed by the SEC).

[55] *See* 17 CFR 275.204–2 (Books and records to be maintained by investment advisers).

[56] *See, e.g.,* 15 U.S.C. 80b–6(1), (2) and (4) (Advisers Act prohibiting registered and unregistered investment advisers from engaging in any activity that would defraud a client or prospective client). *See also* 17 CFR 275.206(4)–8 (SEC rule prohibiting registered and unregistered investment advisers from making false or misleading statements to, or otherwise defrauding, investors or prospective investors to pooled investment vehicles).

[57] 17 CFR 275.206(4)–7(a).

[58] 17 CFR 275.206(4)–7(b) and (c).

[59] Under the SEC No-Action letter re-issued in consultation with FinCEN on January 9, 2015, a broker-dealer in securities is permitted to rely on a registered investment adviser to perform all or part of its CIP obligations with regard to shared clients as if the investment adviser were subject already to an AML program rule, provided the other provisions of CIP reliance are met. Securities and Exchange Commission, Division of Trading and Markets, *Request for No-Action Relief Under Broker-Dealer Customer Identification Rule* (31 CFR 1023.220) (Jan. 9, 2015) *available at http://www.sec.gov/divisions/marketreg/mr-noaction/2015/sifma-010915-17a8.pdf. See also* 31 CFR 1023.220(a)(6) (CIP rule permitting a financial institution to rely on another financial institution to perform all or part of its obligations to verify the identity of its customers as required by 31 U.S.C. 5318(h)).

[60] The legislative history of the BSA reflects that Congress intended that each financial institution should have the flexibility to tailor its program to fit its business, taking into account factors such as size, location, activities, and risks or vulnerabilities to money laundering, so long as the program meets the four minimum statutory requirements. This flexibility is designed to ensure that all firms, from the largest to the smallest, have in place policies and procedures appropriate to monitor for money laundering. *See* USA PATRIOT Act of 2001: Consideration of H.R. 3162 Before the Senate, 147 Cong. Rec. S10990–02 (Oct. 25, 2001) (statement of Sen. Sarbanes); Financial Anti-Terrorism Act of 2001: Consideration Under Suspension of Rules of H.R. 3004 Before the House of Representatives, 147 Cong. Rec. H6938–39 (Oct. 17, 2001) (statement of Rep. Kelly) (provisions of the Financial Anti-Terrorism Act of 2001 were incorporated as Title III in the Act).

[61] According to the *2014 Evolution Revolution Report,* which is based on Part 1 of the Form ADVs filed by SEC-registered investment advisers, as of April 7, 2014, there were 10,895 investment advisers registered with the SEC managing $61.7 trillion in regulatory assets under management (RAUM). Many advisers have relatively few employees. 6,216 advisers (57.1%) reported having 10 or fewer full-time and part-time non-clerical employees and 9,581 (87.9%) reported having 50 or fewer such employees. However, a relatively small number of very large advisers manage a high percentage of the reported RAUM. One hundred and twelve (1%) of the largest registered advisers (those reporting $100 billion or more in RAUM) collectively accounted for 52.6% of all reported RAUM. Advisers with less than $1 billion RAUM, which account for 71.5% of all registered advisers, collectively managed 3.5% of all reported RAUM. *See 2014 Evolution Revolution; A Profile of the Investment Adviser Profession* at page 5, *available at* (*https://www.investmentadviser.org/eweb/*).

Additionally, an investment adviser may provide other clients with advisory services that are a combination of asset management and the advisory services discussed above. FinCEN would expect an investment adviser to address in its AML program all of its advisory activity, including activity that does not entail the management of client assets.

(b) Subadvisory Services

Today's rule, as proposed, would require an investment adviser providing subadvisory services to a client to address these services in its AML program and to monitor such services for potentially suspicious activity. FinCEN acknowledges that requiring an investment adviser to address in its AML program the subadvisory services it provides certain types of clients may result in some duplication of effort, such as when the primary adviser is subject to today's proposed rule. However, there may be some instances in which an investment adviser provides subadvisory services to a client that has a primary adviser not subject to the AML program and SAR requirements proposed today, *e.g.,* certain mid-sized advisers that do not meet the criteria for SEC registration. Under this circumstance, the application of the investment adviser's AML and SAR programs to the subadvisory activity will mitigate the potential risk that the subadviser could be used for money laundering, terrorist financing, or other illicit activity.

(c) Real Estate Funds

Today's proposed rule would require an investment adviser to include in its AML program the advisory activity it provides to any publicly or privately offered real estate fund. The proposed rule does not require a real estate fund to establish and implement its own AML program, but instead requires a person that meets today's proposed definition of investment adviser, and that provides advisory services to such a fund, to include this advisory activity in its own AML program. The proposed rule does not provide for any explicit limitations or exceptions for the advisory activity provided to a real estate fund.

3. Addressing Money Laundering and Terrorist Financing Risks

In developing its program, an investment adviser would need to analyze the money laundering and terrorist financing risks posed by a particular client that maintains an account with the adviser by using a risk-based evaluation of relevant factors. This type of review could build upon the investment adviser's efforts to comply with the Federal securities laws applicable to investment advisers. If the client is an individual, the source of the client's funds and the jurisdiction in which the client is located, among other things, would be significant factors. If a client is an entity, an investment adviser may consider the type of entity, the jurisdiction in which it is located, and the statutory and regulatory regime of that jurisdiction, if relevant.[62] The investment adviser's historical experience with the individual or entity and the references of other financial institutions may also be relevant factors. The investment adviser's risk assessment should also include any other relevant factors that may be particular to the adviser's business and the client. An investment adviser should monitor the advisory activity it provides to its clients for potentially suspicious activity. Based on the investment adviser's risk assessment, as the risks posed by a client increase, the adviser's policies, procedures, and internal controls will need to be reasonably designed to prevent the adviser from being used by the client for money laundering or terrorist financing. FinCEN recognizes that some types of clients and/or client activities will pose greater risks for money laundering or terrorist financing than others.

In view of the comment letters submitted in response to the First Proposed Investment Adviser Rule, the discussion below focuses on FinCEN's expectations regarding how an investment adviser's AML program may address the money laundering or terrorist financing risks that may be presented by certain specific types of advisory clients, as well as how an adviser's program may address the risks presented by certain specific advisory services provided to those clients. The following types of clients will be discussed: (a) Non-pooled investment vehicle clients (*e.g.,* individuals and institutions); (b) registered open-end fund clients; (c) registered closed-end fund clients; and (d) private fund clients/unregistered pooled investment vehicle clients. In addition, this section describes FinCEN's expectations under a risk-based approach regarding advisory services to wrap fee programs.

(a) Non-Pooled Investment Vehicle Clients

Advisers are vulnerable to money laundering or terrorist financing risks when managing the assets of non-pooled investment vehicle clients (*e.g.,* individuals and institutions).[63] Accordingly, an investment adviser's assessment of the risks presented by the different types of advisory services it provides to such clients should take into account the types of accounts offered (*e.g.,* managed accounts), the types of clients opening such accounts, and how the accounts are funded.

(b) Registered Open-End Fund Clients (Mutual Funds)

Generally, FinCEN acknowledges that the advisory services provided to registered open-end fund clients, specifically mutual funds, may present lower money laundering and terrorist financing risks to the investment adviser than the advisory activities provided to other types of pooled investment vehicles, such as private funds and other unregistered pooled investment vehicles, because registered open-end investment companies are subject to the full panoply of FinCEN's rules implementing the BSA. Registered open-end investment companies already are required to, among other things, establish AML and customer identification programs and report suspicious activity. The BSA requirements to which mutual funds are subject may mitigate the money laundering risks that a mutual fund client and the mutual fund's underlying client base or investors present to an investment adviser.

(c) Registered Closed-End Fund Clients

FinCEN recognizes that the advisory activity provided to a closed-end fund may present a lower risk for money laundering, terrorist financing, and other illicit activity than other types of advisory activity.[64] Purchases and sales of closed-end fund shares are executed through broker-dealers or banks, and these entities are already required to

[62] If an entity is organized or registered in a foreign jurisdiction, an investment adviser should ascertain whether the jurisdiction has been identified by the Financial Action Task Force (''FATF'') as a jurisdiction subject to a FATF call for counter-measures or a jurisdiction with strategic AML/CFT deficiencies. *See generally* FATF Web site, *available at http://www.fatf-gafi.org/.* FinCEN has issued several advisories informing financial institutions of the AML/CFT deficiencies of such jurisdictions. *See generally* FinCEN Web site, *available at http://www.fincen.gov/news_room/advisory/.*

[63] *See also Anti-Money Laundering Programs for Investment Advisers* at 23649 (discussing an adviser's higher vulnerability to risk of being used for money laundering when clients place their assets under management with the adviser and possible indicia of money laundering activities that should be included in an investment adviser's AML program procedures).

[64] *See A Report to Congress in Accordance with 356(c) of the Uniting and Strengthening America by Providing the Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act)* at pages 15–7.

establish and implement AML programs under the BSA. Consequently, given the risk-based approach required in the AML programs for financial institutions generally, including investment advisers, FinCEN would expect an investment adviser to risk-rate the advisory services it provides to a closed-end fund to reflect a lower risk for money laundering or terrorist financing than other types of advisory activity, such as that provided to a private fund or other unregistered pooled investment vehicle.

(d) Private Fund Clients/Unregistered Pooled Investment Vehicles

An investment adviser that is the primary adviser to a private fund or other unregistered pooled investment vehicle is required to make a risk-based assessment of the money laundering and terrorist financing risks presented by the investors in such investment vehicles by considering the same types of relevant factors, as appropriate, as the adviser would consider for clients for whom the adviser manages assets directly, as discussed above.[65] Generally, when an investment adviser is the primary adviser for a private fund or other unregistered pooled investment vehicle, the adviser should have access to information about the identities and transactions of the underlying or individual investors. FinCEN notes, however, that there may be a lack of transparency regarding the entities that invest in private funds and other unregistered pooled investment vehicles.[66] The lack of transparency regarding the investors may put these types of investment vehicles at risk for money laundering, terrorist financing, fraud, and other illicit activity. Under certain circumstances, FinCEN further recognizes that an investment adviser may be required to assess the money laundering and terrorist financing risks associated with the underlying investors of a client that is a private fund or other unregistered pooled investment vehicle using a risk-based approach.

FinCEN recognizes that certain private funds and other unregistered pooled investment vehicles may present lower risks for money laundering or terrorist financing than others. Consequently, FinCEN would not expect an investment adviser to risk-rate the advisory services it provides to a pooled investment vehicle that presents a lower risk the same as it might rate the advisory services it provides to other types of pooled investment vehicles that may present higher risks for attracting money launderers, terrorist financers, or other illicit actors.

If any of the investors in the private fund or other unregistered pooled investment vehicle for which the investment adviser is acting as the primary adviser are themselves private funds or some other type of unregistered pooled investment vehicles (an ''investing pooled entity''), the investment adviser will need to assess the money laundering or terrorist financing risks associated with these investing pooled entities using a risk-based approach.

Investment advisers acting as primary advisers may provide advisory services to a private fund or other unregistered pooled investment vehicle that operates offshore.[67] That is, investment advisers may advise a private fund or other unregistered pooled investment vehicle that may be organized in the United States or in a foreign jurisdiction, and interests in these pools may be offered to U.S. and/or foreign investors. In the rule FinCEN is proposing today, regardless of offshore formation or offering, an investment adviser should apply the same policies and the procedures as discussed above to any private fund or other unregistered pooled investment vehicle for which the investment adviser provides advisory services.

(e) Wrap Fee Programs

In some instances, the sponsoring securities broker-dealer of a wrap fee program may be dually registered as an investment adviser.[68] As discussed above, FinCEN would expect such an investment adviser to address the money laundering or terrorist financing risks of the underlying clients in the program.

In other instances, an investment adviser may provide advisory services to a wrap fee program that is sponsored by an unaffiliated broker-dealer. Although under such circumstances the investment adviser may have more limited access to investor information and transactions, such an adviser may still have access to information that would enable the adviser to identify money laundering, terrorist financing, or other illicit activity.

4. Dually Registered Investment Advisers and Advisers Affiliated With or Subsidiaries of Entities Required To Establish Anti-Money Laundering Programs

Some investment advisers are dually registered with the SEC as investment advisers and broker-dealers in securities. Other investment advisers may be affiliated with, or subsidiaries of, entities that are either defined as a financial institution under the BSA in other capacities, or are otherwise required to establish AML programs. With respect to an investment adviser that is dually registered as a broker-dealer, FinCEN is not proposing to require such an adviser to establish multiple or separate AML programs so long as a comprehensive AML program covers all of the entity's advisory and broker-dealer activities and businesses. The program must be designed to address the different money laundering risks posed by the different aspects of the dually registered entity's businesses and satisfy each of the risk-based AML program requirements to which it is subject in its capacity as an investment adviser and broker-dealer in securities.[69] Similarly, an investment

[65] *See* generally discussions *supra* ''Scope'' and ''Non-Pooled Investment Vehicle Clients.'' *See also Anti-Money Laundering Programs for Investment Advisers* at 23650 (proposing a similar approach for an adviser that creates or administers a pooled investment vehicle not subject to BSA requirements).

[66] *See Anti-Money Laundering Programs for Unregistered Investment Companies* at 60621 (investors in unregistered investment companies may include individuals and institutional investors [such as pension funds and corporations], as well as other registered and unregistered investment companies [*i.e.,* ''funds of hedge funds'']; the diversity and complexity of the structures of these pooled investment vehicles, particularly those with offshore operations, may result in a lack of transparency regarding the entities that invest in the unregistered investment company).

[67] *See* General Instructions for Part 2 of Form ADV, Item 10.C.2 *available at http://www.sec.gov/about/forms/formadv-part2.pdf* (requiring SEC-registered investment advisers to include in their narrative brochure to clients any relationship or arrangement that the adviser has with an offshore fund that is material to its advisory business or to its clients). *See also Anti-Money Laundering Programs for Unregistered Investment Companies* at note 31.

[68] A ''wrap fee program'' for purposes of the rules being proposed today is a program under which investment advisory and brokerage execution services are provided for a single ''wrapped'' fee that is not based on the number of transactions executed in a client's account. An investment advisory program under which all clients pay traditional, transaction-based commissions is not a wrap fee program. Similarly, a program under which client assets are allocated among mutual funds is not a wrap fee program, because normally there is no payment for brokerage execution. *See* Securities and Exchange Commission—Division of Investment Management, *General Regulation of Investment Advisers* at *http://www.sec.gov/divisions/investment/iaregulation/memoia.htm.*

[69] FinCEN notes that while broker-dealers in securities are subject to the full panoply of FinCEN's regulations implementing the BSA, investment advisers would not be subject to certain of those BSA requirements, *e.g.,* the customer identification rule. FinCEN expects that an entity dually registered as a broker-dealer in securities and an investment adviser will design an enterprise-wide AML compliance program under which its broker dealer activities would be subject to BSA requirements appropriate to broker dealers, and its

adviser affiliated with, or a subsidiary of, an entity required to establish an AML program in another capacity does not have to implement multiple or separate programs as long as the program covers all of the entity's activities and businesses that are subject to the BSA. The program must be designed to address the different money laundering risks posed by the different aspects of the entity's business and satisfy each of the risk-based AML program and any other BSA requirements to which it is subject in all of its regulated capacities, as for example an investment adviser and a bank or insurance company.[70]

FinCEN recognizes the importance of enterprise-wide compliance and, therefore, believes it would be beneficial and cost-effective for these types of entities to implement one comprehensive AML program that includes all activities covered by FinCEN's regulations. However, these entities are not required to establish one comprehensive AML program; they may instead establish multiple programs to satisfy their AML obligations.

5. Delegation of Duties

As indicated by the discussion of various client relationships and services above, an investment adviser's advisory services may involve other financial institutions, such as broker-dealers, banks, mutual funds, or other investment advisers that have separate AML program requirements. In addition, an investment adviser may conduct some of its operations through agents or third-party service providers, such as broker-dealers in securities (including prime brokers), custodians, and transfer agents. Some elements of the compliance program may best be performed by personnel of these entities, in which case it is permissible for an investment adviser to delegate contractually the implementation and operation of those aspects of its AML program to such an entity.[71] Any investment adviser that delegates the implementation and operation of aspects of its AML program to another financial institution, agent, third-party service provider, or other entity, however, will remain fully responsible for the effectiveness of the program, as well as for ensuring that FinCEN and the SEC are able to obtain information and records relating to the AML program.

6. AML Program Approval

Section 1031.210(a)(2) of the proposed rule would require that each investment adviser's AML program be approved in writing by its board of directors or trustees, or if it does not have a board, by its sole proprietor, general partner, trustee, or other persons that have functions similar to a board of directors. This provision of the proposed rule would assure that the requirement to have an AML program receives the appropriate level of attention and is sufficiently flexible to permit an investment adviser to comply with this requirement based on its particular organizational structure. An investment adviser's written program would have to be made available to FinCEN or the SEC upon request.

7. The Required Elements of an Anti-Money Laundering Program

(a) Establish and Implement Policies, Procedures, and Internal Controls

Section 1031.210(b)(1) requires an investment adviser's written AML program to establish and implement policies, procedures, and internal controls based upon the investment adviser's assessment of the money laundering or terrorist financing risks associated with its business. The policies, procedures, and internal controls should be reasonably designed to prevent the investment adviser from being used for money laundering or the financing of terrorist activities, and to achieve and monitor compliance with the applicable provisions of the BSA and FinCEN's implementing regulations. Generally, an investment adviser must review, among other things, the types of advisory services it provides and the nature of the clients it advises to identify its vulnerabilities to money laundering and terrorist financing activities, and the adviser's policies, procedures, and internal controls must be developed based on this review. An investment adviser's AML program may encompass many types of advisory clients, including individuals, institutions, registered investment companies, and other pooled vehicles, including private funds and other unregistered pools, regardless of whether the investment adviser is acting as the primary adviser or a subadviser.

(b) Provide for Independent Testing for Compliance To Be Conducted by Company Personnel or by a Qualified Outside Party

Section 1031.210(b)(2) requires that an investment adviser provide for independent testing of the program on a periodic basis to ensure that it complies with the requirements of the rule and that the program functions as designed. Employees of either the investment adviser, its affiliates, or unaffiliated service providers may conduct the independent testing, so long as those same employees are not involved in the operation and oversight of the program. The employees should be knowledgeable regarding BSA requirements. The frequency of the independent testing will depend upon the investment adviser's assessment of the risks posed. Any recommendations resulting from such testing should be promptly implemented or submitted to senior management for consideration.

(c) Designate a Person or Persons Responsible for Implementing and Monitoring the Operations and Internal Controls of the Program

Section 1031.210(b)(3) requires that an investment adviser designate a person or persons to be responsible for implementing and monitoring the operations and internal controls of the AML program. An investment adviser may designate a single person or committee to be responsible for compliance. The person or persons should be knowledgeable and competent regarding FinCEN's regulatory requirements and the adviser's money laundering risks, and should have full responsibility and authority to develop and enforce appropriate policies and procedures to address those risks. Whether the compliance officer is dedicated full time to BSA compliance would depend on the size and type of advisory services the adviser provides and the clients it serves. A person designated as a compliance officer should be an officer of the investment adviser. FinCEN notes that in order to comply with this requirement of the AML program, investment advisers should be able to

investment advisory activities would be subject to the BSA requirements required by this proposed rule.

[70] FinCEN notes that although certain insurance companies are required to establish and implement AML programs and report suspicious activity, the term ''insurance company'' is not included within the general definition of financial institution under FinCEN's regulations and, therefore, such insurance companies are not required to file CTRs with FinCEN or comply with the Recordkeeping and Travel Rules and other related recordkeeping requirements. Accordingly, FinCEN would not expect an insurance company that is affiliated with or owns an investment adviser to design an enterprise-wide AML compliance program that would subject the insurance company to BSA requirements not required by FinCEN's regulations. Conversely, FinCEN would not expect a bank, which is subject to the full panoply of FinCEN's regulations implementing the BSA that is affiliated with or owns an investment adviser to design an enterprise-wide AML compliance program that would subject the investment adviser to BSA requirements that would not be required by the rules FinCEN is proposing today.

[71] *See e.g., Anti-Money Laundering Programs for Investment Advisers* at 23650.

adapt existing policies and procedures.[72]

(d) Provide Ongoing Training for Appropriate Persons

Section 1031.210(b)(4) requires that an investment adviser provide for training of appropriate persons. Employee training is an integral part of any AML program. In order to carry out their responsibilities effectively, employees of an investment adviser (and of any agent or third-party service provider) must be trained in BSA requirements relevant to their functions and in recognizing possible signs of money laundering that could arise in the course of their duties. Such training may be conducted by outside or in-house seminars, and may include computer-based training. The nature, scope, and frequency of the investment adviser's training program would be determined by the responsibilities of the employees and the extent to which their functions bring them in contact with BSA requirements or possible money laundering activity. Consequently, the training program should provide a general awareness of overall BSA requirements and money laundering issues, as well as more job-specific guidance regarding particular employees' roles and functions in the AML program. For those employees whose duties bring them in contact with BSA requirements or possible money laundering activity, the requisite training should occur when the employee assumes those duties. Moreover, these employees should receive periodic updates and refreshers regarding the AML program.

E. Applicability Date

Section 1031.210(c) states the effective date by which an investment adviser must comply with this section. FinCEN is proposing that an investment adviser must develop and implement an AML program that complies with the requirements of this section on or before six months from the effective date of the regulation.

F. Reports of Suspicious Transactions

In 1992, the Annunzio-Wylie Act authorized the Secretary to require financial institutions to report suspicious transactions.[73] FinCEN has issued rules under this authority requiring banks, casinos, money services businesses, broker-dealers in securities, mutual funds, insurance companies, futures commission merchants, and introducing brokers in commodities, among others, to report suspicious activity.[74] Suspicious activity reporting by these and other types of financial institutions provides information highly useful in law enforcement and regulatory investigations and proceedings, as well as in the conduct of intelligence activities to protect against international terrorism.[75] Requiring investment advisers to report suspicious activity is similarly expected to provide useful information for investigations and proceedings involving domestic and international money laundering, terrorist financing, fraud, and other financial crimes. Requiring investment advisers to report suspicious activity also narrows the regulatory gap that may be exploited by money launderers seeking access to the U.S. financial system through financial institutions not required to report suspicious transactions.

The rule, as proposed, does not permit investment advisers to share SARs within their corporate organizational structures in the absence of further guidance. In 2010, in close consultation with the Federal banking agencies, the SEC, and the Commodity Futures Trading Commission, FinCEN finalized proposed amendments to the SAR rules that, among other things, clarified the scope of the statutory prohibition against the disclosure by a financial institution of a SAR.[76] At the same time, FinCEN finalized two pieces of interpretive guidance clarifying that banks, broker-dealers in securities, mutual funds, futures commission merchants, and introducing brokers in commodities could share SARs, subject to certain limitations, within their corporate organizational structures.[77] Although the guidance was limited to these industries, the final rule noted that the regulatory framework being finalized would facilitate the potential expansion of this authority to other industries in the future. FinCEN understands that investment advisers may find it necessary to share SARs within their organizational structures to fulfill reporting obligations under the BSA, and to facilitate more effective enterprise-wide BSA compliance. FinCEN is interested in hearing from investment advisers on this specific issue (see the Request for Comment section) and is mindful that guidance on this topic may need to be issued in a timely manner following the issuance of any final rule.

1. Reports by Registered Investment Advisers of Suspicious Transactions

Proposed § 1031.320(a) sets forth the obligation of investment advisers to report suspicious transactions that are conducted or attempted by, at, or through an investment adviser and involve or aggregate at least $5,000 in funds or other assets. The $5,000 minimum amount in this proposed rule is consistent with the SAR filing requirements for most other financial institutions that are subject to a SAR reporting requirement under FinCEN's rules implementing the BSA.[78] A transaction is reportable under this proposed rule regardless of whether the transaction involves currency.[79] Filing a report of a suspicious transaction does not relieve an investment adviser from the responsibility of complying with the Advisers Act or any rule imposed by the SEC.

Section 1031.320(a)(1) contains the general statement of the obligation to file reports of suspicious transactions. The obligation extends to transactions conducted or attempted by, at, or through an investment adviser. To clarify that the proposed rule imposes a reporting requirement that is uniform with that for other financial institutions, § 1031.320(a)(1) incorporates language from the suspicious activity reporting

[72] *See* discussion *supra* Section IV.D (''Anti-Money Laundering Programs'') for a discussion of existing Advisers Act recordkeeping and reporting obligations that would enable investment advisers to adapt existing policies, procedures, and internal controls in order to comply with the AML program requirement to designate a compliance officer.

[73] 31 U.S.C. 5318(g) was added to the BSA by section 1517 of the Annunzio-Wylie Anti-Money Laundering Act, Title XV of Public Law 102–550 (October 28,1992); it was expanded by section 403 of the Money Laundering Suppression Act of 1994 (the Money Laundering Suppression Act), Title IV of the Riegle Community Development and Regulatory Improvement Act of 1994, Public Law 103–325, to require designation of a single government recipient for reports of suspicious transactions. As amended by the USA PATRIOT Act, subsection (g)(1) states generally that ''the Secretary may require any financial institution, and any director, officer, employee, or agent of any financial institution, to report any suspicious transaction relevant to a possible violation of law or regulation.''

[74] *See* 31 CFR 1020.320, 1021.320, 1022.320, 1023.320, 1024.320, 1025.320, and 1026.320, 1029.320 and 1030.320.

[75] *See* 31 U.S.C. 5311 (Declaration of Purpose of the Bank Secrecy Act).

[76] *See generally Confidentiality of Suspicious Activity Reports,* 75 FR 75593 (Dec. 3, 2010).

[77] *See generally Sharing Suspicious Activity Reports by Securities Broker-Dealers, Mutual Funds, Futures Commission Merchants, and Introducing Brokers in Commodities with Certain U.S. Affiliates,* FIN–2010–G005 (Nov. 23, 2010) and *Sharing Suspicious Activity Reports by Depository Institutions with Certain U.S. Affiliates,* FIN–2010–G006 (Nov. 23, 2010).

[78] *See* 31 CFR 1024.320(a), 1023.320(a), 1020.320(a), 1021.320(a), 1026.320(a), and 1021.320(a) (requiring mutual funds, broker-dealers in securities, banks, futures commission merchants and introducing brokers in commodities, and casinos to report suspicious transactions if they involve in the aggregate at least $5,000).

[79] *See* 31 U.S.C. 5318(g)(1).

rules applicable to other financial institutions, such as banks, broker-dealers in securities, mutual funds, casinos, and money services businesses. Furthermore, this section of the proposed rule contains a provision that permits an investment adviser to report voluntarily any transaction the investment adviser believes is relevant to the possible violation of any law or regulation but that is not otherwise required to be reported by this proposed rule. Thus, the rule encourages the voluntary reporting of suspicious transactions in cases in which the rule does not explicitly require reporting, such as in the case of a transaction that is below the $5,000 threshold of the proposed rule in § 1031.320(a)(2). Such voluntary reporting is subject to the same protection from liability as mandatory reporting pursuant to 31 U.S.C. 5318(g)(3). Section 1031.320(a)(2) requires the reporting of suspicious activity that involves or aggregates at least $5,000 in funds or other assets. Sections 1031.320(a)(2)(i) through (iv) specifies that an investment adviser is required to report a transaction if it knows, suspects, or has reason to suspect that the transaction (or a pattern of transactions of which the transaction is a part): (i) Involves funds derived from illegal activity or is intended or conducted to hide or disguise funds or assets derived from illegal activity; (ii) is designed, whether through structuring or other means, to evade the requirements of the BSA; (iii) has no business or apparent lawful purpose, and the investment adviser knows of no reasonable explanation for the transaction after examining the available facts; or (iv) involves the use of the investment adviser to facilitate criminal activity.[80]

A determination as to whether a SAR must be filed should be based on all the facts and circumstances relating to the transaction and the client in question. Different types of clients and transactions will require different judgments. One commenter to the First Proposed Investment Adviser Rule included in its comments examples of money laundering red flags likely to be observed by an investment adviser. The red flags submitted included the following: (1) A client exhibits an unusual concern regarding the adviser's compliance with government reporting requirements or is reluctant or refuses to reveal any information concerning business activities, or furnishes unusual or suspicious identification or business documents; (2) a client appears to be acting as the agent for another entity but declines, evades, or is reluctant to provide any information in response to questions about that entity; (3) a client's account has a pattern of inexplicable and unusual withdrawals, contrary to the client's stated investment objectives; (4) a client requests that a transaction be processed in such a manner as to avoid the adviser's normal documentation requirements; or (5) a client exhibits a total lack of concern regarding performance returns or risk.[81] FinCEN believes that these are all examples of circumstances that may be indicative of suspicious activity and warrant further consideration by the investment adviser. FinCEN notes, however, that the techniques of money laundering or terrorist financing are continually evolving, and there is no way to provide a definitive list of suspicious transactions.

The proposed rule would require that an investment adviser evaluate client activity and relationships for money laundering risks and design a suspicious transaction monitoring program that is appropriate for the particular investment adviser in light of such risks. Some of the types of suspicious activity an investment adviser may see could include structuring and fraudulent activity. Suspicious activity observed in the subscription of private fund interests may include the use of money orders or travelers checks in structured amounts to avoid currency reporting requirements. A money launderer also could engage in structuring by funding a managed account or subscribing to a private fund by using multiple wire transfers from different accounts maintained at different financial institutions. Suspicious activity could include other unusual wire activity that does not correlate with a client's stated investment objectives. As discussed above, investment advisers should be able to build upon existing policies, procedures, and internal controls they currently have in place to comply with the Federal securities laws to which they are subject in order to report suspicious activity.

Section 1031.320(a)(3) provides that the obligation to identify and report a suspicious transaction rests with the investment adviser involved in the transaction. However, where more than one investment adviser, or another financial institution with a separate suspicious activity reporting obligation, is involved in the same transaction, only one report is required to be filed. FinCEN recognizes that other financial institutions, such as broker-dealers in securities, mutual funds, and banks have separate reporting obligations that may involve the same suspicious activity.[82] Furthermore, as discussed above, many investment advisers may be dually registered or affiliated with another financial institution. Therefore, in those instances, when an investment adviser and another financial institution are involved in the same transaction, only one report is required to be filed. It is permissible for either the investment adviser or the other financial institution to file a single joint report provided it contains all relevant facts and that each institution maintains a copy of the report and any supporting documentation.

2. Filing and Notification Procedures

Proposed § 1031.320(b)(1) through (4) sets forth the filing and notification procedures to be followed by investment advisers making reports of suspicious transactions. Within 30 days after an investment adviser becomes aware of a suspicious transaction, the adviser must report the transaction by completing and filing a SAR with FinCEN in accordance with all form instructions and applicable guidance. Supporting documentation relating to each SAR is to be collected and maintained separately by the investment adviser and made available upon request to FinCEN; any Federal, State, or local law enforcement agency; or any Federal regulatory authority, in particular the SEC, which examines the investment adviser for compliance with the BSA. Because supporting documentation is deemed to have been filed with the SAR, these authorities and agencies are consistent with those authorities or agencies to whom a SAR may be disclosed pursuant to proposed rules of construction, as discussed further below. For situations requiring immediate attention, such as suspected terrorist financing or ongoing money laundering schemes, investment advisers are required to notify immediately by telephone the appropriate law enforcement authority in addition to filing a timely SAR. Any investment adviser reporting suspicious transactions that may relate to terrorist

[80] The fourth category of reportable transactions has been added to the suspicious activity reporting rules promulgated since the passage of the USA PATRIOT Act to make it clear that the requirement to report suspicious activity encompasses the reporting of transactions involving fraud and those in which legally derived funds are used for criminal activity, such as the financing of terrorism.

[81] The Proposed Unregistered Investment Companies Rule also provided examples of suspicious transactions that could indicate potential money laundering in an unregistered investment company. *See Anti-Money Laundering Programs for Unregistered Investment Companies* at 60620.

[82] *See* 31 CFR 1023.320 and 1024.320.

activity may call FinCEN's Resource Center (FRC) at 1–800–767–2825 in addition to filing timely a SAR if required by this section.

3. Retention of Records

Proposed § 1031.320(c) provides that investment advisers must maintain copies of filed SARs and the underlying related documentation for a period of five years from the date of filing. As indicated above, supporting documentation is to be made available to FinCEN and the prescribed law enforcement and regulatory authorities, upon request.

4. Confidentiality of SARs

Proposed § 1031.320(d) provides that a SAR and any information that would reveal the existence of a SAR are confidential and shall not be disclosed except as authorized in § 1031.320(d)(1)(ii). Section 1031.320(d)(1)(i) generally provides that no investment adviser, and no current or former director, officer, employee, or agent of any investment adviser, shall disclose a SAR or any information that would reveal the existence of a SAR. This provision of the proposed rule further provides that any investment adviser and any director, officer, employee, or agent of any investment adviser that is subpoenaed or otherwise requested to disclose a SAR or any information that would reveal the existence of a SAR, must decline to produce the SAR or such information and must notify FinCEN of such a request and any response thereto. In addition to reports of suspicious activity required by the proposed rule, investment advisers would be prohibited from disclosing voluntary reports of suspicious activity.[83]

Section 1031.320(d)(1)(ii) provides three rules of construction that clarify the scope of the prohibition against the disclosure of a SAR by an investment adviser and closely parallel the rules of construction in the suspicious activity reporting rules for other financial institutions. As discussed above, the proposed rules of construction primarily describe situations that are not covered by the prohibition against the disclosure of a SAR or information that would reveal the existence of a SAR contained in § 1031.320(d)(1). Section 1031.320(d)(1)(ii), however, makes clear that the rules of construction proposed today are each qualified by, and subordinate to, the statutory mandate that no person involved in any reported suspicious transaction can be notified that the transaction has been reported.

The first rule of construction, in § 1031.320(d)(1)(ii)(A)(1), does not prohibit an investment adviser, or any director, officer, employee or agent of an investment adviser from disclosing a SAR, or any information that would reveal the existence of a SAR, to FinCEN, or any Federal, State or local law enforcement agencies, or a Federal regulatory authority that examines the investment adviser for compliance with the BSA provided that no person involved in the reported transaction is notified that the transaction has been reported. As discussed above, FinCEN is proposing to delegate its examination authority for compliance with FinCEN's rules implementing the BSA to the SEC.

The second rule of construction, in § 1031.320(d)(1)(ii)(A)(*2*), provides that the phrase ''a SAR or information that would reveal the existence of a SAR'' does not include ''the underlying facts, transactions, and documents upon which a SAR is based.'' An investment adviser, or any director, officer, employee, or agent of an investment adviser, therefore, is not prohibited from disclosing the underlying facts, transactions, and documents upon which a SAR is based, including but not limited to, disclosures of such information to another financial institution or any director, officer, employee, or agent of a financial institution, for the preparation of a joint SAR, provided that no person involved in the reported transaction is notified that the transaction has been reported.

The third rule of construction, in § 1031.320(d)(1)(ii)(B), recognizes that investment advisers may find it necessary to share within their corporate organizational structures a SAR or information that would reveal the existence of a SAR for purposes consistent with Title II of the BSA. The proposed rule would not authorize sharing within an investment adviser's corporate organizational structure in the absence of further guidance or rulemaking by FinCEN as to circumstances under which such sharing would be consistent with Title II of the BSA.

Section 1031.320(d)(2) incorporates the statutory prohibition against disclosure of SAR information by government users of SAR data other than in fulfillment of their official duties consistent with the BSA. The paragraph clarifies that official duties do not include the disclosure of SAR information in response to a request by a non-governmental entity for non-public information[84] or for use in a private legal proceeding, including a request under 31 CFR 1.11.[85]

5. Limitation of Liability

Proposed § 1031.320(e) provides protection from liability for making either required or voluntary reports of suspicious transactions, and for failures to disclose the fact of such reporting to the full extent provided by 31 U.S.C. 5318(g)(3).

6. Compliance

Proposed § 1031.320(f) notes that compliance with the obligation to report suspicious transactions will be examined by FinCEN or its delegates and provides that failure to comply with the rule may constitute a violation of the BSA and FinCEN's regulations. As discussed above, pursuant to 31 CFR 1010.810(a), FinCEN has overall authority for enforcement and compliance with its regulations, including coordination and direction of procedures and activities of all other agencies exercising delegated authority. Further, pursuant to § 1010.810(d), FinCEN has the authority to impose civil penalties for violations of the BSA and its regulations.

7. Compliance Date

Proposed section 1031.320(g) provides that the new suspicious activity reporting requirement applies to transactions initiated after the implementation of an AML program required by § 1031.210 of this part. However, investment advisers may and will be encouraged to begin filing SARs as soon as practicable on a voluntary basis upon the issuance of the final rule.

Investment advisers may conduct some of their operations through agents or third-party service providers, which

[83] To encourage the reporting of possible violations of law or regulation and the filing of SARs, the BSA contains a safe harbor provision that shields financial institutions making such reports from civil liability. In 2001, the USA PATRIOT Act clarified that the safe harbor also covers voluntary disclosure of possible violations of law and regulations to a government agency and expanded the scope of the limit on liability to cover any civil liability which may exist under any contract or other legally enforceable agreement (including any arbitration agreement). *See* USA PATRIOT Act, section 351(a). Public Law 107–56, Title III, 351, 115 Stat. 272, 321(2001); 31 U.S.C. 5318(g)(3).

[84] For purposes of this rulemaking, ''non-public information'' refers to information that is exempt from disclosure under the Freedom of Information Act.

[85] 31 CFR 1.11 is the Department of the Treasury's information disclosure regulation. Generally, these regulations are known as ''Touhy regulations,'' after the Supreme Court's decision in *United States ex rel. Touhy* v. *Ragen,* 340 U.S. 462 (1951). In that case, the Supreme Court held that an agency employee could not be held in contempt for refusing to disclose agency records or information when following the instructions of his or her supervisor regarding the disclosure. As such, an agency's Touhy regulations are the instructions agency employees must follow when those employees receive requests or demands to testify or otherwise disclose agency records or information.

may or may not be affiliated with the investment adviser, such as broker-dealers in securities, custodians, administrators, or transfer agents. Just as investment advisers are permitted to delegate the implementation and operation aspects of their AML programs to such service providers, an investment adviser is permitted to delegate its suspicious activity reporting requirements. However, if an investment adviser delegates such responsibility to an agent or a third-party service provider, the adviser remains responsible for its compliance with the requirement to report suspicious activity, including the requirement to maintain SAR confidentiality.

G. Special Information Sharing Procedures To Deter Money Laundering and Terrorist Activity

Section 1031.500 proposes to subject investment advisers to FinCEN's rules implementing the special information sharing procedures to detect money laundering or terrorist activity requirements of sections 314(a) and 314(b) of the USA PATRIOT Act.[86] Section 314(a) provides for the sharing of information between the government and financial institutions and allows FinCEN to require financial institutions to search their records to determine whether they have maintained an account or conducted a transaction with a person that law enforcement has certified is suspected of engaging in terrorist activity or money laundering. Section 314(b) provides financial institutions with the ability to share information with one another, under a safe harbor that offers protections from liability, in order to identify better and report potential money laundering or terrorist activities. Sections 1010.520 and 1010.540 implement sections 314(a) and 314(b) of the USA PATRIOT Act, respectively, and generally apply to any financial institution that is listed in 31 U.S.C. 5312(a)(2) and is subject to an AML program requirement. Section 1031.500 would state generally that investment advisers are subject to the special information sharing procedures to detect money laundering or terrorist activity requirements set forth and cross referenced in §§ 1031.520 (cross-referencing to 31 CFR 1010.520) and 1031.540 (cross-referencing to 31 CFR 1010.540). Because FinCEN is proposing to include investment advisers within the definition of financial institution under section 5312(a)(2)(Y) and to require investment advisers to establish AML programs, investment advisers would also be subject to FinCEN's rules implementing section 314. The rules being proposed today, therefore, add subpart E to part 1031 to make clear that FinCEN's rules implementing section 314 would apply to investment advisers.

[86] *See* 31 U.S.C. 1010.520 and 1010.540.

V. Request for Comment

FinCEN seeks comment on today's proposed rules and whether the rules are appropriate in light of the nature of investment adviser activities and the recent amendments to the Advisers Act under the Dodd-Frank Act. In particular, FinCEN seeks comment on the following aspects of the proposed rule.

Proposed Definition of Investment Adviser

FinCEN requests comment on all aspects of the definition of ''investment adviser'' as proposed in section 1010.100(nnn). In particular:

- Does the exclusion from the definition of investment adviser of those large advisers that qualify for and use an exemption from the requirement to register with the SEC place this class of investment adviser at risk for abuse by money launderers, terrorist financers, or other illicit actors? If so, should FinCEN include these advisers in its definition of investment adviser? What would be the disadvantage of doing so?
- Are there classes of investment advisers included in the definition of investment adviser that are not at risk, or present a very low risk for money laundering, terrorist financing, or other illicit activity such that they could appropriately be excluded from the definition? If so, why would it be appropriate to exclude such advisers from the definition as opposed to adopting an AML program that is appropriate to their level of risk?
- Should foreign advisers that are registered or required to register with the SEC, but that have no place of business in the United States, be included in the definition of investment adviser?
- To what extent are mid-sized, small, State-registered, and foreign private investment advisers that do not meet the definition of investment adviser proposed today at risk for being used for money laundering, terrorist financing, or other illicit activity?
- Are there other types of investment advisers that may not meet the definition as proposed today, such as exempt reporting advisers (''ERAs'') (whether the adviser is a U.S. or non-U.S. person), family offices, and financial planners, that are at risk for abuse by money launderers, terrorist financers, or other illicit actors?
- With regard to ERAs, are there differences in the risks associated with an adviser that qualifies for and elects to use the 203(l) exemption from an adviser that qualifies for and elects to use the 203(m) exemption that would warrant different treatment under the BSA?
- Are there certain types of financial planners that are not included in the proposed definition that, based on the activities in which they engage, are at risk for being used for money laundering, terrorist financing, or other illicit activity?

A. Proposed Requirement To Include Investment Advisers in the General Definition of Financial Institution and To Require Advisers To File CTRs and Comply With the Recordkeeping and Travel Rules

FinCEN requests comment on the inclusion of investment advisers in the general definition of financial institution at 31 CFR 1010.100(t). In particular:

- With regard to requiring investment advisers to comply with the Recordkeeping and Travel Rules and other related recordkeeping requirements and the anticipated impact of subjecting advisers to these requirements, what are the anticipated time and monetary savings that could result from replacing the requirement to file reports on Form 8300 with a requirement to file CTRs?
- Is there any information that law enforcement, tax, regulatory, and counter-terrorism investigations may possibly lose because investment advisers would be filing CTRs as opposed to filing Form 8300s?

B. Proposed AML Program Requirement

FinCEN requests comment on all aspects of the proposed AML program requirement for investment advisers. In particular:

- Is the proposed rule's approach of requiring an investment adviser to include in its AML program requirement all of the advisory services it provides, whether acting as the primary adviser or a subadviser, an appropriate approach?
- Is the risk-based nature of the proposed AML program requirement sufficiently flexible to permit an investment adviser to develop and implement an AML program without providing specific exclusions for certain advisory activity?

C. Proposed Minimum Requirements of the AML Program

FinCEN seeks comment on the minimum requirements an investment

adviser would be required to include in its AML program as proposed in § 1031.210(b). In particular:

• Is it appropriate to allow an adviser to delegate some elements of its compliance program to an entity with which the client, and *not* the adviser, has the contractual relationship?

• Is it appropriate for FinCEN to expect an investment adviser to include in its AML program all advisory services that an adviser may provide to non-pooled investment vehicle clients (*e.g.,* individuals and institutions), registered open-end fund clients, registered closed-end fund clients, private fund/other unregistered pooled investment vehicle clients, and wrap fee programs?

• To what extent would a subadviser's AML program overlap with the primary adviser's AML program and how could any possible duplication of effort be mitigated?

• Is there an increased risk for such a subadviser to be used for money laundering, terrorist financing, or other illicit activity when providing advisory services to a client that has a primary adviser that is not an investment adviser?

• Should the primary adviser be required to apply the same approach when the investing pooled entity is a registered investment company, such as a mutual fund or closed-end fund?

• Should a subadviser to a private fund or other unregistered pooled investment vehicle, which has a primary adviser that is not an investment adviser, be required to establish the same policies and procedures as when the primary adviser is an investment adviser?

• If an underlying investor in the private fund or other unregistered pooled investment vehicle is an investing pooled entity, should a subadviser be required to identify risks and incorporate policies and procedures within its AML program to mitigate the risks of the investing pooled entity's underlying investors, sponsoring entity, and/or intermediaries when there is an increased risk of money laundering, terrorist financing, or other illicit activity?

• Is an express exclusion for advisory activity provided to an open-end or closed-end fund appropriate to reduce potential overlap or redundancy?

• With respect to a mutual fund's omnibus accounts, are the money laundering or terrorist financing risks mitigated because the fund is required to assess the risks posed by its own particular omnibus accounts?

• Should an adviser to a wrap fee program be required to obtain additional information about the investors in the program and/or coordinate its review with the sponsoring broker-dealer when the adviser sees an increased risk for money laundering, terrorist financing, or other illicit activity?

FinCEN seeks comment on the money laundering program requirements as proposed in § 1031.210(b)(2) through (4).

D. Proposed Suspicious Activity Reporting Rule

FinCEN seeks comment on all aspects of today's suspicious activity reporting rule as proposed in § 1031.320. In particular:

• Should investment advisers be permitted to share SARs within their corporate organizational structure in the same way that banks, broker-dealers in securities, futures commission merchants, mutual funds, and introducing brokers in commodities are permitted to share? How would such sharing be consistent with the purposes of the BSA and how would investment advisers be able to maintain the confidentiality of shared SARs?

E. Future Consideration of Additional BSA Requirements for Investment Advisers

• Should investment advisers be required to comply with other FinCEN rules implementing the BSA, including the rules requiring customer identification and verification procedures pursuant to section 326 of the USA PATRIOT Act and the correspondent account rules of section 311 and 312 of the USA PATRIOT Act?

• Should investment advisers be required to comply with FinCEN rules implementing section 313 and 319(b) of the USA PATRIOT Act?

The regulations implementing section 326 require certain financial institutions to implement reasonable customer identification procedures for: (1) Verifying the identity of any person seeking to open an account, to the extent reasonable and practicable; and (2) maintaining records of the information used to verify the person's identity, including name, address, and other identifying information.[87] The regulations implementing section 311 require U.S. financial institutions to take certain ''special measures'' against foreign jurisdictions, institutions, classes of transactions, or types of accounts the Treasury designates as a ''primary money laundering concern.'' [88] The regulations implementing section 312 require a U.S. financial institution to perform due diligence and, in some cases, enhanced due diligence, with regard to correspondent accounts established or maintained for foreign financial institutions and private banking accounts established or maintained for non-U.S. persons.[89]

The regulations implementing section 313 prohibit certain financial institutions from providing correspondent accounts to foreign shell banks, and require such financial institutions to take reasonable steps to ensure that correspondent accounts provided to foreign banks are not used to indirectly provide banking services to foreign shell banks.[90] The regulations implementing section 319(b) require these financial institutions that provide correspondent accounts to foreign banks to maintain records of the ownership of such foreign banks and their agents in the United States designated for legal service of process for records regarding these correspondent accounts, and require the termination of correspondent accounts of foreign banks that fail to comply with or fail to contest a lawful request of the Secretary of the Treasury or the Attorney General of the United States.

VI. Regulatory Analysis

A. Executive Orders 13563 and 12866

Executive Orders 13563 and 12866 direct agencies to assess costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. It has been determined that this proposed rule is designated a ''significant regulatory action'' although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, this proposed rule will be reviewed by the Office of Management and Budget (''OMB'').

B. Regulatory Flexibility Act

When an agency issues a rulemaking proposal, the Regulatory Flexibility Act (''RFA'') requires the agency to ''prepare and make available for public comment'' an ''initial regulatory

[87] *See, e.g.,* 31 CFR 1020.220, 1023.220, 1024.220, and 1026.220.

[88] *See, e.g.,* 31 CFR 1010.653.

[89] *See, e.g.,* 31 CFR 1020.610–620, 1023.610–620, 1024.610–620, and 1026.610–620.

[90] *See, e.g.,* 31 CFR 1020.630, 1023.630, 1024.630, and 1026.630.

flexibility analysis'' (''IRFA'') which will ''describe the impact of the proposed rule on small entities.'' 5 U.S.C. 603(a). Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the proposed rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

After consultation with the Small Business Administration's Office of Advocacy, FinCEN is proposing to define the term small entity in accordance with definitions obtained from SEC rules implementing the Advisers Act and information obtained from the Investment Adviser Registration Depository (''IARD''),[91] in lieu of using the Small Business Administration's definition.[92] FinCEN requests comment on the appropriateness of using the SEC's definition of small entity.

Relying on the SEC's definition has the benefit of ensuring consistency in the categorization of small entities for SEC examiners,[93] as well as providing the advisory industry with a uniform standard. In addition, FinCEN's proposed use of the SEC's definition of small entity will have no material impact upon the application of these proposed rules to the advisory industry.

The SEC defines an entity as a small adviser if it: (1) Has assets under management having a total value of less than $25 million; (2) did not have total assets of $5 million or more on the last day of its most recent fiscal year; and (3) does not control, is not controlled by, and is not under common control with another investment adviser that has assets under management of $25 million or more, or any person (other than a natural person) that had total assets of $5 million or more on the last day of its most recent fiscal year.[94] The proposed rules would define investment adviser as any person who is registered or required to register with the SEC under section 203 of the Advisers Act.[95] Generally speaking, only large advisers, having $100 million or more in regulatory assets under management, are required to registers with the SEC,[96] and only those that do will fall within the ambit of these proposals. The Small Business Administration, on the other hand, defines a provider of ''investment advice'' to be a small entity as having ''annual receipts'' of $38.5 million,[97] which is still significantly below the $100 million threshold for registration.

Based on IARD data, the SEC estimates that as of June 2, 2014, approximately 11,235 investment advisers were registered with the SEC.[98] To determine how many of the 11,235 advisers are small entities for purposes of the RFA, FinCEN is adopting the SEC's definition of a small adviser. The SEC estimates that there are about 464 investment advisers registered that would be considered small entities. The SEC also estimates that the total number of small investment advisers is about 18,035.[99] Therefore, FinCEN estimates that the proposed rule will affect 4% of registered small investment advisers. FinCEN has determined that the proposed rule will not affect a substantial number of small entities.

Investment advisers' services can be a substitute for investment services and products offered by other financial institutions designated as financial institutions under the BSA, such as mutual funds, broker-dealers in securities, banks, or insurance companies. Moreover, investment advisers managing client assets work closely with other BSA-defined financial institutions. The rules being proposed today address vulnerabilities in the U.S. financial system. If investment advisers are not required to establish AML or suspicious activity reporting programs, they are at risk of attracting money launderers attempting to seek access to the United States financial system through an institution that offers financial services that is not required to maintain such programs. Requiring investment advisers to file CTRs and comply with the Recordkeeping and Travel Rules and the other recordkeeping requirements of FinCEN's rules implementing the BSA will also deter money launderers from using investment advisers. Lastly, by requiring investment advisers to establish AML programs and file reports of suspicious activity and comply with the other rules being proposed today, investment advisers and other financial institutions subject to FinCEN's regulations would be operating under similar regulatory burdens.

The proposed rule would require investment advisers to develop and implement a written risk-based AML program. FinCEN believes that the flexibility incorporated into the proposed AML program rule would permit each investment adviser to tailor its AML program to fit its particular size and risk exposure. For example, having recognized that the size of a financial institution does not correlate with its risks for money laundering and terrorist financing, FinCEN has established its AML program rules as risk-based rules rather than ''one-size-fits-all'' rules. Thus, this proposed rule is inherently flexible. Investment advisers are required to develop AML programs that address the money laundering and terrorist financing risks of their particular advisory business. Accordingly, smaller advisers that provide advisory services to clients that may present lower risks for money laundering or terrorist financing are not required to develop complex, time-consuming, or cost-intensive compliance programs. As discussed above, some investment advisers have already implemented AML programs pursuant to an SEC No-Action letter permitting broker-dealers in securities to rely on registered investment advisers to perform some or all aspects of broker-dealers' obligations to verify the identity of their customers.[100]

Investment advisers are already subject to comprehensive regulation, which should ease the cost and burden of complying with today's proposed rule. Investment advisers may build on their existing risk management procedures and prudential business practices to ensure compliance with the proposed rule. Notably, SEC-registered investment advisers are subject to the Advisers Act and the SEC rules implementing the Advisers Act. The Advisers Act prohibits advisers from engaging in a wide range of fraudulent, deceptive, and manipulative conduct. In addition to the anti-fraud provisions of the Advisers Act, advisers are subject to the anti-fraud and manipulation provisions of the Federal securities laws. For example, under Advisers Act Rule 204–2, advisers are required to maintain certain books and records, such as a record of client holdings, custody records (if applicable), a list of all discretionary accounts, all written agreements (or copies) that the adviser has entered into with any client, and all written communications between the adviser and its clients.[101] Further, under Advisers Act Rule 206(4)–7, advisers are required to adopt and implement

[91] *See* 17 CFR 275.0–7 (small entities defined under the Investment Advisers Act for purposes of the RFA).

[92] 13 CFR 121.201.

[93] FinCEN is proposing to amend section 1010.810 to include investment advisers within the list of financial institutions that the SEC would examine for compliance with the BSA's implementing regulations. *Supra* section IV.B.

[94] Rule 0–7(a) [17 CFR 275.0–7(a)].

[95] 15 U.S.C. 80b *et seq.*

[96] 17 CFR 275.203A–1(a)(1).

[97] 13 CFR 121.201.

[98] *See infra* note 100.

[99] The SEC's estimates of the number of investment advisers that would be considered small entities and the number of small investment advisers is based on IARD data as of June 2, 2014.

[100] *See* discussion *supra* Section IV.D (''Anti-Money Laundering Programs'').

[101] *See* 17 CFR 275.204–2.

written policies and procedures reasonably designed to prevent violation of the Advisers Act and the rules that the SEC has adopted under that Act.[102] Advisers must conduct annual reviews to ensure the adequacy and effectiveness of their policies and procedures and must designate a chief compliance officer responsible for administering the policies and procedures.[103] Form ADV requires registered investment advisers to report to the SEC detailed information regarding their advisory activities. Accordingly, FinCEN estimates that the burden of the AML program requirement on investment advisers, particularly in light of the above mentioned existing compliance requirements under the Advisers Act, would not have a significant impact on small entities.

The proposed rule would require investment advisers to report suspicious transactions. The proposed rule, however, would not impose a significant burden on small advisers. Investment advisers are already subject to the anti-fraud and manipulation provisions of the Advisers Act and other Federal securities laws. Investment advisers, therefore, should already have in place policies and procedures to prevent and detect fraud. Such internal controls should help investment advisers identify and report suspicious activity. Additionally, investment advisers, as part of their client on-boarding procedures may already be gathering some of the information required to complete certain parts of the SAR form. A review of current SAR filings indicates that the securities industry, with a population of approximately 10,000 entities, files 19,000+ SARs per year.[104] Acknowledging that the majority of reports are filed by larger entities, FinCEN estimates that the number of SARs filed by all small investment advisers will be fewer than ten per adviser. Therefore, FinCEN estimates that the burden of the SAR filing requirement on investment advisers would not have a significant impact.

The proposed rule would require investment advisers to file CTRs. This requirement in the proposed rule, however, would not impose a significant burden on small advisers. Investment advisers are currently required to file Form 8300s. As discussed above, investment advisers would no longer be required to report transactions involving certain negotiable instruments reportable on the Form 8300 but not on the CTR. Moreover, FinCEN believes that investment advisers rarely receive cash from or provide significant amounts of currency to their clients. The proposed rule, therefore, would not impose any additional burden on investment advisers but would, in fact, reduce their burden to report such transactions.

The proposed rule would require investment advisers to create and retain records for transmittals of funds, and to transmit information on these transactions to other financial institutions in the payment chain. This requirement in the proposed rule, however, would not impose a significant economic impact on small advisers. Any new recordkeeping obligations, if not already being performed by investment advisers in accordance with other law or as a matter of prudent business practice, are likely to be commensurate with the size of the adviser.

The additional burdens imposed by the proposed rules would be the requirements to develop and implement a written AML program, file reports on suspicious transactions, file CTRs, and comply with the requirements of the Recordkeeping and Travel Rules. As discussed above, FinCEN estimates that these requirements would not impact a substantial number of small entities. Accordingly, FinCEN certifies that the proposed rules would not have a significant economic impact on a substantial number of small entities.

Questions for Comment

FinCEN seeks comment on whether the proposed rules would have a significant economic impact on a substantial number of small entities:

1. Please provide comment on any or all of the provisions in the proposed rule with regard to (a) the impact of provision(s) (including any benefits and costs), if any, in carrying out the requirements of the proposed rule(s) on investment advisers; and (b) alternative requirements, if any, FinCEN should consider.

2. Please provide comment regarding whether the AML program and suspicious activity reporting requirements proposed in these rulemakings would require small entities to gather any information that is not already being gathered as part of other regulatory requirements, due diligence, or prudential business practices and provide specific example of such information.

C. Paperwork Reduction Act

The collections of information contained in this proposed rule are being submitted to OMB for review in accordance with the Paperwork Reduction Act of 1995 (''PRA'').[105] Comments on the collection of information should be sent to Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (1506), Washington, DC 20503, fax (202–395–6974), or by the Internet to *oira_submission@omb.eop.gov,* with a copy to FinCEN by mail or email at the addresses previously specified. Comments on the collection of information should be received by November 2, 2015.

In accordance with the requirements of the PRA, and its implementing regulations, 5 CFR part 1320, the following information concerning the collection of information is presented to assist those persons wishing to comment on the proposed information collection. The information collections in this proposal are contained in 31 CFR 1010.100(t)(11), 1031.210, 1031.320, 1031.311, 1010.410, and 1031.410; the collection of this information pursuant to these sections is mandatory.

AML programs for investment advisers:

31 CFR 1031.210 (AML programs for investment advisers). Information about an investment adviser's AML program would be required to be retained pursuant to 31 U.S.C. 5318(h) and proposed 31 CFR 1031.210. The information collected would be pursuant to § 1031.210 and would be used by FinCEN and the proposed designated examiner, the SEC, to determine whether investment advisers comply with the BSA requirement to implement AML programs. The collection of information would be mandatory.

Description of Recordkeepers: Investment advisers as defined in 31 CFR 1010.100(nnn).

Estimated Number of Recordkeepers: 11,235.[106]

Estimated Average Annual Burden Hours per Recordkeeper: The estimated average annual burden associated with the recordkeeping requirement proposed under proposed 31 CFR 1031.210 is 3 hours.

Estimated Total Annual Recordkeeping Burden: FinCEN

[102] *See* 17 CFR 275.206(4)–7.

[103] *Id.*

[104] *See* FinCEN, *SAR Stats,* Section 5 (Jan. 2015).

[105] 44 U.S.C. 3507(d).

[106] The proposed rules apply to investment advisers registered or required to register with the SEC. Based on IARD data the SEC estimates that as of June 2, 2014 there were approximately 11,235 investment advisers registered with the SEC.

estimates that the annual recordkeeping burden would be 33,705 hours.

The burden would be included in (added to) the existing burden under OMB Control Number 1506–0020 currently titled ''Anti-Money Laundering Programs for Money Services Businesses, Mutual Funds, and Operators of Credit Card Systems.'' The new title for this control number would be ''Anti-Money Laundering Programs for Investment Advisers, Money Services Businesses, Mutual Funds, and Operators of Credit Card Systems.'' The new total number of recordkeepers for this OMB control number would be 266,341 and the new total burden would be 374,922 hours. Records required to be retained under the BSA and FinCEN's implementing regulations must be retained for five years. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information subject to the PRA unless it displays a valid control number assigned by the OMB.

Reports by investment advisers of suspicious transactions:

31 CFR 1031.320 (SARs for investment advisers). Information about suspicious transactions would be required to be provided pursuant to 31 U.S.C. 5318(g) and proposed 31 CFR 1031.320. This information would be used by FinCEN and law enforcement and regulatory agencies in criminal and regulatory investigations or proceedings. The collection of information would be mandatory.

Description of Recordkeepers: Investment advisers as defined in 31 CFR 1010.100(nnn).

Estimated Number of Recordkeepers: 11,235.

Estimated Average Annual Burden Hours per Recordkeeper: The estimated average annual burden associated with the recordkeeping proposed under 31 CFR 1031.320 is 1 hour for the maintenance of the rule. This would be a new requirement that requires a new OMB control number 1506–0069.

Estimated Total Annual Burden: The proposal estimates the annual burden would be 22,470 hours, consisting of 1 hour for report completion and 1 hour for recordkeeping for a total of 2 hours. This burden will be included in (added to) the existing burden under OMB control number 1506–0065 currently titled ''Bank Secrecy Act Suspicious Activity Reports.''

Generally, a financial institution that is required to file SARs under FinCEN's rules implementing the BSA must report any suspicious transaction conducted or attempted by, at, or through the financial institution that involves, or aggregates, funds or assets of at least $5,000.[107] The requirement to file SARs at the $5,000 threshold (''SAR threshold'') was determined when the SAR rules for banks and other depository institutions were promulgated and has been adopted for most other financial institutions that have been subsequently required to file SARs.[108] The SAR threshold balances the interests of law enforcement and analysts with the reporting burden placed on financial institutions. Even though the $5,000 threshold for mandatory SAR filing has not changed, the reduction in the real value of the threshold adjusted for inflation has been offset by the increased ability of financial institutions to monitor for, report, and even preemptively stop suspicious transactions in real time with their automated systems. A uniform reporting threshold for mandatory SAR filing applicable to most financial institutions subject to a SAR rule furthers the consistent application of FinCEN's rules by (1) allowing SAR data to be analyzed consistently across different financial institutions; and (2) subjecting transactions that may be conducted through more than one financial institution type, such as an investment adviser that executes transactions through a broker-dealer in securities, to be subject to the same reporting requirements. Lastly, the SAR rules also encourage a financial institution to report voluntarily transactions that, alone or in the aggregate, fall below the $5,000 threshold that the financial institution believes is relevant to the possible violation of any law or regulation.[109] Because the rule permits the filing of a voluntary SAR that does not prescribe a threshold balance, the SAR rule is flexible.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information subject to the PRA unless it displays a valid control number assigned by the OMB. The title for this control number will be ''Suspicious Activity Reports by Investment Advisers, (31 CFR 1031.320).'' The administrative burden for the new OMB number will be 1 hour. The burden for the recordkeeping and reporting requirement is added to existing OMB control number 1506–0065 (Bank Secrecy Act Suspicious Activity Report (BSAR)). The new total number of responses for OMB control number 1506–0065 would be 1,653,395. The new total burden for OMB control number 1506–0065 would be 3,306,790 hours. Records required to be retained under FinCEN's regulations implementing the BSA must be retained for five years.

CTR Filing Requirements for Investment Advisers

31 CFR 1031.311 (Filing obligations for reports of transactions in currency). This information would be required to be retained pursuant to 31 U.S.C. 5313, 31 CFR 1010.311, and proposed 31 CFR 1031.311. This information would be used by FinCEN and law enforcement and regulatory agencies in criminal and regulatory investigations or proceedings. The collection of information would be mandatory.

Description of Recordkeepers: Investment advisers as defined in 31 CFR 1010.100(t)(11).

Estimated Number of Recordkeepers: 11,235.

[107] *See* 31 CFR 1020.320(a), 1021.320(a), 1023.320(a), 1024.320(a), 1025(a), and 1026.320(a) (requiring banks, casinos, broker-dealers in securities, mutual funds, insurance companies, and futures commission merchants and introducing brokers in commodities to report a suspicious transaction if it involves in the aggregate of at least $5,000). *See also* 31 CFR 1022.320(a)(2) (requiring money services businesses (''MSBs'') as described in 31 CFR 1010.100(ff)(1) and (3) through (7) to report a suspicious transaction if it involves in the aggregate of at least $2,000) and 31 CFR 1022.320(a)(3) (an issuer of money orders or travelers checks is required to report a transaction or pattern of transactions only if the transactions involve or aggregate funds or other assets of $5,000 or more when the transactions required to be reported are derived from a review of clearance records or other similar records of money orders or travelers checks the MSB has sold or processed). A lower threshold for required SAR reporting was established for MSBs because of the nature of the MSB business and the generally lower dollar amounts associated with the transactions in which they engage. FinCEN has asked for and received comment in proposed rules issued in the past as to whether a change in the threshold dollar amount for SARs filed by MSBs is warranted. After consideration of comments received, FinCEN has determined that the $2,000 threshold for MSBs as prescribed in 31 CFR 1022.320(a)(2) remains appropriate.

[108] *See Amendment to the Bank Secrecy Act; Requirement To Report Suspicious Transactions,* 61 FR 4326, 4328 (Feb. 5, 1996); *Minimum Security Devices and Procedures, Reports of Suspicious Activities, and Bank Secrecy Act Compliance Program,* 61 FR 4332, 4333 (Feb. 5, 1996); *Membership of State Banking Institutions in the Federal Reserve System; International Banking Operations; Bank Holding Companies and Change in Control; Reports of Suspicious Activities Under Bank Secrecy Act,* 61 FR 4338, 4341 (Feb. 5 1996); *Amendment to the Bank Secrecy Act; Requirement To Report Suspicious Transactions,* 61 FR 6096, 6098 (Feb. 16, 1996); *Suspicious Activity Reports,* 61 FR 6095, 6097 (Feb. 16, 1996); and *Operations-Suspicious Activity Reports and Other Reports and Statements,* 61 FR 6100, 6101 (Feb. 16, 1996). FinCEN's rule requiring banks and other depository institutions to report suspicious activity was issued in coordination with the Office of the Comptroller of the Currency (''OCC''), the Board of Governors of the Federal Reserve System, the Office of Thrift Supervision (''OTS''), and the Federal Deposit Insurance Corporation. As of July 21, 2011, the OTS is part of the OCC.

[109] *See* 31 CFR 1020.320(a), 1021.320(a), 1022.320(a), 1023.320(a), 1024.320(a), 1025(a), and 1026.320(a).

Estimated Average Annual Burden Hours per Recordkeeper: The estimated average annual burden associated with the collection of information proposed under 31 CFR 1031.311 would be 1 hour.[110]

Estimated Total Annual Burden: FinCEN estimates that the total annual recordkeeping and reporting burden would be 11,235 hours.[111]

This burden will be included in (added to) the existing burden under OMB Control Number 1506–0064 currently titled ''Bank Secrecy Act Currency Transaction Reports (BCTR).'' The new total number of responses for OMB Control Number 1506–0064 would be 14,114,305. The new total burden for OMB Control Number 1506–0064 would be 9,409,536 hours. Records required to be retained under FinCEN's regulations implementing the BSA must be retained for five years.

Generally, a financial institution required to file CTRs under FinCEN's rules implementing the BSA must report any currency transaction for over $10,000 that is conducted by, through, or to the financial institution, as well as treat as a single transaction, multiple currency transactions that the financial institution knows are on behalf of one person that, in the aggregate total over $10,000 during any one business day.[112] The reporting by financial institutions of transactions in currency in excess of $10,000 is a major component of FinCEN's regulations implementing the BSA. The reporting requirement is issued under the broad authority granted to the Secretary under 31 U.S.C. 5313(a) to require reports of domestic coins and currency transactions. The CTR tracks the movement of currency into and out of financial institutions.[113] The $10,000 threshold balances the interests of law enforcement and analysts with the reporting burden placed on financial institutions. The threshold has remained unchanged because the reduction in the real value of the $10,000 threshold adjusted for inflation has been offset by the reduction in the use of currency as a medium of exchange due to the increased usage of electronic payment mechanisms, such as credit, debit, prepaid, and ACH transactions. In 2008, the Government Accountability Office (''GAO'') conducted a study that looked at, in part, the CTR thresholds. Based on its study, the GAO recommended keeping the CTR threshold at $10,000 for the reasons discussed above and on the recommendation of various Federal, State, and local law enforcement agencies. The $10,000 threshold applies across all financial institutions that are required to file CTRs. Moreover, a uniform CTR threshold is appropriate because the money laundering risks presented by these types of transactions, and which the CTR is designed to capture, are not differentiated by financial institution type, but rather are inherent to the transactions themselves because of the large amounts of currency involved with such transactions. A uniform reporting threshold for CTR filing requirements furthers the consistent application of FinCEN's rules by (1) allowing CTR data to be analyzed consistently across different financial institutions and non-financial trades and businesses (''NFTBs''); and (2) subjecting reportable transactions that are conducted through more than one financial institution type, such as an investment adviser that executes transactions through a broker-dealer in securities, to be subject to the same reporting requirements. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information subject to the PRA unless it displays a valid control number assigned by the OMB.

Questions for Comment

1. We seek comment on FinCEN's three-hour estimate for the establishment of an AML program per investment adviser. Is the estimate of three hours per year accurate and if not, what is a recordkeeping estimate that more accurately reflects the time an investment adviser would need to establish an AML program. We also seek comment regarding the estimated costs associated with establishing an AML program, specifically with regard to systems and labor costs.

2. We seek comment on FinCEN's annual three-hour estimate for the SAR recordkeeping and reporting requirement per investment adviser. Is the estimate of three hours per year accurate, and if not, what is a recordkeeping and reporting requirement estimate that more accurately reflects the time an investment adviser would need to fulfill the SAR recordkeeping and reporting requirement. We also seek comment regarding the estimated start-up costs and costs of operation to maintain SARs.

3. We seek comment on FinCEN's average annual estimate of one hour of recordkeeping and reporting per CTR per investment adviser. Is FinCEN's estimate of the burden of the proposed collection of information accurate? FinCEN seeks comment on whether the proposed collection of information is necessary for the proper performance of the mission of FinCEN, including whether the information will have practical utility. Are there ways to minimize the burden of the required collection of information, including through the use of automated collection techniques or other forms of information technology? Finally, FinCEN seeks comment regarding the estimated start-up costs and costs of operation, maintenance, and purchase of services to maintain the collected information.

D. Unfunded Federal Mandates Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), Public Law 104–4 (March 22, 1995), requires that an agency prepare a budgetary impact statement before promulgating a rule that may result in expenditure by the State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 202 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. Taking into account the factors noted above and using conservative estimates of average labor costs in evaluating the cost of the burden imposed by the proposed regulation, FinCEN has determined that it is not required to prepare a written statement under section 202.

[110] The single assigned hour is established to maintain the requirement. The reporting, recordkeeping, and record retention is accounted for under OMB control number 1506–0064 (BCTR).

[111] While it is not industry practice for investment advisers to accept cash, there is no regulation that prohibits investment advisers from accepting cash. Therefore, for purposes of estimating the annual burden the filing of CTRs will have on covered investment advisers, FinCEN estimates that each covered investment adviser will file one CTR per year.

[112] *See* discussion *supra* Section IV.C.1 (''Investment Advisers' Obligation to File Currency Transactions Reports Replaces Obligation to File Form 8300'').

[113] The $10,000 threshold of the CTR requirement mirrors the reporting thresholds of other requirements under FinCEN's rules implementing the BSA, such as: (1) The requirement that all persons who receive currency in excess of $10,000 in the course of a trade or business report such transactions (''non-financial trades and businesses'' or ''NFTBs''); and (2) the requirement that all persons report the international transportation of monetary instruments in excess of $10,000, referred to as the ''Form 8300'' and ''CMIR'' respectively. *See* 31 CFR 1010.330 and 1010.340. The Form 8300 requires the reporting of large amounts of currency within the United States; the CMIR requires the reporting of large amounts of currency into and out of the United States. Similar to the SAR and CTR requirements, the thresholds for Form 8300 and the CMIR were determined when the rules for these reporting requirements were promulgated.

List of Subjects in 31 CFR Parts 1010 and 1031

Administrative practice and procedure, Anti-money laundering, Banks, Banking, Brokers, Brokerage, Investment advisers, Money laundering, Mutual funds, Report and recordkeeping requirements, Securities, Suspicious transactions, Terrorism, Terrorist financing.

Authority and Issuance

For the reasons set forth in the preamble, chapter X of title 31 of the Code of Federal Regulations is proposed to be amended as follows:

PART 1010—GENERAL PROVISIONS

■ 1. The authority citation for part 1010 continues to read as follows:

Authority: 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5314 and 5316–5332; title III, sec. 314, Pub. L. 107–56, 115 Stat. 307.

■ 2. Amend § 1010.100 by:
■ a. Removing the word ''or'' at the end of paragraph (t)(9);
■ b. Removing the period at the end of paragraph (t)(10), and in its place adding the words ''; or''; and
■ c. Adding paragraphs (t)(11) and (nnn).

The additions read as follows:

§ 1010.100 General definitions.

* * * * *

(t)(11) An investment adviser.

* * * * *

(nnn) *Investment adviser.* Any person who is registered or required to register with the SEC under section 203 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3(a)).

■ 3. Amend § 1010.410 by:
■ a. Removing the word ''or'' at the end of paragraphs (e)(6)(i)(H) and (I);
■ b. Removing the word ''and'' at the end of paragraph (e)(6)(i)(J) and in its place adding the words ''; or''; and
■ c. Adding paragraph (e)(6)(i)(K).

The additions read as follows:

§ 1010.410 Records to be made and retained by financial institutions.

* * * * *

(e) * * *
(6) * * *
(i) * * *
(K) An investment adviser; and

■ 4. Amend § 1010.810 by revising paragraph (b)(6) to read as follows:

§ 1010.810 Enforcement.

* * * * *

(b) * * *

(6) To the Securities and Exchange Commission with respect to brokers and dealers in securities, investment advisers, and investment companies as that term is defined in the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*);

■ 5. Add part 1031 to read as follows:

PART 1031—RULES FOR INVESTMENT ADVISERS

Subpart A—Definitions

Sec.
1031.100 Definitions.

Subpart B—Programs

1031.200 General.
1031.210 Anti-money laundering programs for investment advisers.
1031.220 [Reserved]

Subpart C—Reports Required To Be Made by Investment Advisers

1031.300 General.
1031.310 Reports of transactions in currency.
1031.311 Filing obligations.
1031.312 Identification required.
1031.313 Aggregation.
1031.314 Structured transactions.
1031.315 Exemptions.
1031.320 Reports by investment advisers of suspicious transactions.

Subpart D—Records Required To Be Maintained by Investment Advisers

1031.400 General.
1031.410 Recordkeeping.

Subpart E—Special Information Sharing Procedures To Deter Money Laundering and Terrorist Activity

1031.500 General.
1031.520 Special information sharing procedures to deter money laundering and terrorist activity for investment advisers.
1031.530 [Reserved]
1031.540 Voluntary information sharing among financial institutions.

Subpart F—Special Standards of Diligence; Prohibitions, and Special Measures for Investment Advisers

1031.600 [Reserved]
1031.610 [Reserved]
1031.620 [Reserved]
1031.630 [Reserved]
1031.640 [Reserved]
1031.670 [Reserved]

Authority: 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5314 and 5316–5332; title III, sec. 314, Pub. L. 107–56, 115 Stat. 307.

Subpart A—Definitions

§ 1031.100 Definitions.

Refer to § 1010.100 of this chapter for general definitions not noted herein.

Subpart B—Programs

§ 1031.200 General.

Investment advisers are subject to the program requirements set forth and cross referenced in this subpart. Investment advisers should also refer to subpart B of part 1010 of this chapter for program requirements contained in that subpart that apply to investment advisers.

§ 1031.210 Anti-money laundering programs for investment advisers.

(a)(1) Each investment adviser shall develop and implement a written anti-money laundering program reasonably designed to prevent the investment adviser from being used for money laundering or the financing of terrorist activities and to achieve and monitor compliance with the applicable provisions of the Bank Secrecy Act (31 U.S.C. 5311 *et seq.*) and the implementing regulations thereunder.

(2) Each investment adviser's anti-money laundering program must be approved in writing by its board of directors or trustees, or if it does not have one, by its sole proprietor, general partner, trustee, or other persons that have functions similar to a board of directors. An investment adviser shall make its anti-money laundering program available for inspection by FinCEN or the SEC upon request.

(b) *Minimum requirements.* The anti-money laundering program shall at a minimum:

(1) Establish and implement policies, procedures, and internal controls reasonably designed to prevent the investment adviser from being used for money laundering or the financing of terrorist activities and to achieve and monitor compliance with the applicable provisions of the Bank Secrecy Act and the implementing regulations thereunder;

(2) Provide for independent testing for compliance to be conducted by the investment adviser's personnel or by a qualified outside party;

(3) Designate a person or persons responsible for implementing and monitoring the operations and internal controls of the program; and

(4) Provide ongoing training for appropriate persons.

(c) *Effective date.* An investment adviser must develop and implement an anti-money laundering program that complies with the requirements of this section on or before [DATE SIX MONTHS FROM THE EFFECTIVE DATE OF THE FINAL RULE].

§ 1031.220 [Reserved]

Subpart C—Reports Required To Be Made by Investment Advisers

§ 1031.300 General.

Investment advisers are subject to the program requirements set forth and cross referenced in this subpart. Investment advisers should also refer to subpart C of part 1010 of this chapter for

program requirements contained in that subpart that apply to investment advisers.

§ 1031.310 Reports of transactions in currency.

The reports of transactions in currency requirements for investment advisers are located in subpart C of part 1010 of this chapter.

§ 1031.311 Filing obligations.

Refer to § 1010.311 of this chapter for reports of transactions in currency filing obligations for investment advisers.

§ 1031.312 Identification required.

Refer to § 1010.312 of this chapter for identification requirements for reports of transactions in currency filed by investment advisers.

§ 1031.313 Aggregation.

Refer to § 1010.313 of this chapter for reports of transactions in currency aggregation requirements for investment advisers.

§ 1031.314 Structured transactions.

Refer to § 1010.314 of this chapter for rules regarding structured transactions for investment advisers.

§ 1031.315 Exemptions.

Refer to § 1010.315 of this chapter for exemptions from the obligation to file reports of transactions for investment advisers.

§ 1031.320 Reports by investment advisers of suspicious transactions.

(a) *General.* (1) Every investment adviser shall file with FinCEN, to the extent and in the manner required by this section, a report of any suspicious transaction relevant to a possible violation of law or regulation. An investment adviser may also file with FinCEN a report of any suspicious transaction that it believes is relevant to the possible violation of any law or regulation, but whose reporting is not required by this section. Filing a report of a suspicious transaction does not relieve an investment adviser from the responsibility of complying with the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 *et seq.*) or any regulation imposed by the Securities and Exchange Commission.

(2) A transaction requires reporting under this section if it is conducted or attempted by, at, or through an investment adviser; it involves or aggregates funds or other assets of at least $5,000; and the investment adviser knows, suspects, or has reason to suspect that the transaction (or a pattern of transactions of which the transaction is a part):

(i) Involves funds derived from illegal activity or is intended or conducted in order to hide or disguise funds or assets derived from illegal activity (including, without limitation, the ownership, nature, source, location, or control of such funds or assets) as part of a plan to violate or evade any Federal law or regulation or to avoid any transaction reporting requirement under Federal law or regulation;

(ii) Is designed, whether through structuring or other means, to evade any requirements of this part or any other regulations promulgated under the Bank Secrecy Act;

(iii) Has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and the investment adviser knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction; or

(iv) Involves use of the investment adviser to facilitate criminal activity.

(3) More than one investment adviser may have an obligation to report the same transaction under this section, and other financial institutions may have separate obligations to report suspicious activity with respect to the same transaction pursuant to other provisions of this part. In those instances, no more than one report is required to be filed by the investment adviser(s) and other financial institution(s) involved in the transaction, provided that the report filed contains all relevant facts, including the name of each financial institution and the words ''joint filing'' in the narrative section, and each institution maintains a copy of the report filed, along with any supporting documentation.

(b) *Filing and notification procedures*—(1) *What to file.* A suspicious transaction shall be reported by completing a Suspicious Activity Report (''SAR''), and collecting and maintaining supporting documentation as required by paragraph (c) of this section.

(2) *Where to file.* The SAR shall be filed with FinCEN in accordance with the instructions to the SAR.

(3) *When to file.* A SAR shall be filed no later than 30 calendar days after the date of the initial detection by the reporting investment adviser that may constitute a basis for filing a SAR under this section. If no suspect is identified on the date of such initial detection, an investment adviser may delay filing a SAR for an additional 30 calendar days to identify a suspect, but in no case shall reporting be delayed more than 60 calendar days after the date of such initial detection.

(4) *Mandatory notification to law enforcement.* In situations involving violations that require immediate attention, such as suspected terrorist financing or ongoing money laundering schemes, an investment adviser shall immediately notify by telephone an appropriate law enforcement authority in addition to filing timely a SAR.

(5) *Voluntary notification to FinCEN.* Any investment adviser wishing voluntarily to report suspicious transactions that may relate to terrorist activity may call FinCEN's Resource Center (FRC) in addition to filing timely a SAR if required by this section.

(c) *Retention of records.* An investment adviser shall maintain a copy of any SAR filed by the investment adviser or on its behalf (including joint reports), and the original (or business record equivalent) of any supporting documentation concerning any SAR that it files (or is filed on its behalf) for a period of five years from the date of filing the SAR. Supporting documentation shall be identified as such and maintained by the investment adviser, and shall be deemed to have been filed with the SAR. The investment adviser shall make all supporting documentation available upon request to FinCEN, or Federal, State, or local law enforcement agency, or any Federal regulatory authority that examines the investment adviser for compliance with the Bank Secrecy Act.

(d) *Confidentiality of SARs.* A SAR, and any information that would reveal the existence of a SAR, are confidential and shall not be disclosed except as authorized in this paragraph (d). For purposes of this paragraph (d) only, a SAR shall include any suspicious activity report filed with FinCEN pursuant to any regulation in this part.

(1) *Prohibition on disclosures by investment advisers*—(i) *General rule.* No investment adviser, and no director, officer, employee, or agent of any investment adviser, shall disclose a SAR or any information that would reveal the existence of a SAR. Any investment adviser, and any director, officer, employee, or agent of any investment adviser that is subpoenaed or otherwise requested to disclose a SAR or any information that would reveal the existence of a SAR, shall decline to produce the SAR or such information, citing this section and 31 U.S.C. 5318(g)(2)(A)(i), and shall notify FinCEN of any such request and the response thereto.

(ii) *Rules of construction.* Provided that no person involved in any reported suspicious transaction is notified that

the transaction has been reported, paragraph (d)(1) shall not be construed as prohibiting:

(A) The disclosure by an investment adviser, or any director, officer, employee, or agent of an investment adviser of:

(1) A SAR, or any information that would reveal the existence of a SAR, to FinCEN or any Federal, State, or local law enforcement agency, or any Federal regulatory authority that examines the investment adviser for compliance with the Bank Secrecy Act; or

(2) The underlying facts, transactions, and documents upon which a SAR is based, including but not limited to disclosures to another financial institution, or any director, officer, employee, or agent of a financial institution, for the preparation of a joint SAR; or

(B) The sharing by an investment adviser, or any director, officer, employee, or agent of the investment adviser, of a SAR, or any information that would reveal the existence of a SAR, within the investment adviser's corporate organizational structure for purposes consistent with Title II of the Bank Secrecy Act as determined by regulation or in guidance.

(2) *Prohibition on disclosures by government authorities.* A Federal, State, local, territorial, or tribal government authority, or any director, officer, employee, or agent of any of the foregoing, shall not disclose a SAR, or any information that would reveal the existence of a SAR, except as necessary to fulfill official duties consistent with Title II of the Bank Secrecy Act. For purposes of this section, official duties shall not include the disclosure of a SAR, or any information that would reveal the existence of a SAR, to a non-governmental entity in response to a request for disclosure of non-public information or a request for use in a private legal proceeding, including a request pursuant to 31 CFR 1.11.

(e) *Limitation on liability.* An investment adviser, and any director, officer, employee, or agent of any investment adviser, that makes a voluntary disclosure of any possible violation of law or regulation to a government agency or makes a disclosure pursuant to this section or any other authority, including a disclosure made jointly with another institution, shall be protected from liability for any such disclosure, or for failure to provide notice of such disclosure to any person identified in the disclosure, or both, to the full extent provided by 31 U.S.C. 5318(g)(3).

(f) *Compliance.* Investment advisers shall be examined by FinCEN or its delegates under the terms of the Bank Secrecy Act, for compliance with this section. Failure to satisfy the requirements of this section may be a violation of the Bank Secrecy Act and of this part.

(g) *Applicability date.* This section applies to transactions occurring after full implementation of an anti-money laundering program required by § 1031.210.

Subpart D—Records Required To Be Maintained by Investment Advisers

§ 1031.400 General.

Investment advisers are subject to the recordkeeping requirements set forth and cross referenced in this subpart. Investment advisers should also refer to subpart D of part 1010 of this chapter for recordkeeping requirements contained in that subpart which apply to investment advisers.

§ 1031.410 Recordkeeping.

Refer to § 1010.410 of this chapter.

Subpart E—Special Information Sharing Procedures To Deter Money Laundering and Terrorist Activity

§ 1031.500 General.

Investment advisers are subject to the special information sharing procedures to deter money laundering and terrorist activity requirements set forth and cross referenced in this subpart. Investment advisers should also refer to subpart E of part 1010 of this chapter for special information sharing procedures to deter money laundering and terrorist activity contained in that subpart which apply to investment advisers.

§ 1031.520 Special information sharing procedures to deter money laundering and terrorist activity for investment advisers.

(a) Refer to § 1010.520 of this chapter.

(b) [Reserved]

§ 1031.530 [Reserved]

§ 1031.540 Voluntary information sharing among financial institutions.

(a) Refer to § 1010.540 of this chapter.

(b) [Reserved]

Subpart F—Special Standards of Diligence; Prohibitions; and Special Measures for Investment Advisers

§ 1031.600 [Reserved]

§ 1031.610 [Reserved]

§ 1031.620 [Reserved]

§ 1031.630 [Reserved]

§ 1031.640 [Reserved]

§ 1031.670 [Reserved]

Dated: August 24, 2015.

Jennifer Shasky Calvery

Director, Financial Crimes Enforcement Network.

[FR Doc. 2015–21318 Filed 8–31–15; 8:45 am]

BILLING CODE 4810–02–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2012–0079; FRL–9933–31–Region 4]

Approval and Promulgation of Implementation Plans; Alabama: Nonattainment New Source Review

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve portions of a revision to the Alabama State Implementation Plan (SIP) submitted by the Alabama Department of Environmental Management (ADEM) to EPA on May 2, 2011. The proposed SIP revision modifies Alabama's nonattainment new source review (NNSR) regulations in their entirety to be consistent with the federal new source review (NSR) regulations for the implementation of the criteria pollutant national ambient air quality standards (NAAQS). EPA is proposing approval of portions of the NNSR rule changes in Alabama's May 2, 2011, SIP revision because the Agency has preliminarily determined that the changes are consistent with the Clean Air Act (CAA or Act) and federal regulations regarding NNSR permitting.

DATES: Comments must be received on or before October 1, 2015.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2012–0079, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.

2. *Email: R4-ARMS@epa.gov.*

3. *Fax:* (404) 562–9019.

4. *Mail:* ''EPA–R04–OAR–2012–0079,'' Air Regulatory Management Section (formerly Regulatory Development Section), Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.

5. *Hand Delivery or Courier:* Lynorae Benjamin, Chief, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R04–OAR–2012–0079. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or email, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: For further information regarding the Alabama SIP, contact Mr. D. Brad Akers, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Mr. Akers can be reached by phone at (404) 562–9089 or via electronic mail at *akers.brad@epa.gov.* For information regarding NSR, contact Ms. Yolanda Adams, Air Permits Section, at the same address above. Telephone number: (404) 562–9214; email address: *adams.yolanda@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What is EPA's proposed action for changes to Alabama's NNSR rules?

On May 2, 2011, ADEM submitted a SIP revision to EPA for approval that involves changes to Alabama's regulations needed to make them consistent with federal requirements for general and transportation conformity and NSR permitting.[1] In this action, EPA is proposing to approve the portion of Alabama's May 2, 2011 submission that makes changes to Alabama's NNSR program, set forth at ADEM Administrative Code, Division 3, Chapter 14, Subchapter .05 (ADEM Rule 335–3–14-.05), which applies to the construction and modification of any major stationary source in or near a nonattainment area (NAA) as required by part D of title I of the CAA. Alabama's NNSR regulations at ADEM Rule 335–3–14-.05 were originally approved into the SIP on November 26, 1979 (*See* 44 FR 67375), with periodic revisions approved through December 8, 2000 (*See* 65 FR 76938). Subsequent revisions to Alabama's NNSR regulations have not yet been incorporated into Alabama's SIP. Alabama's May 2, 2011, SIP revision replaces the State's NNSR regulations in their entirety with a new version that reflects changes to the federal NNSR regulations at 40 Code of Federal Regulations (CFR) 51.165,[2] including provisions promulgated in the following federal rules: (1) ''Requirements for Preparation, Adoption and Submittal of Implementation Plans; Approval and Promulgation of Implementation Plans; Standards of Performance for New Stationary Sources,'' Final Rule, 57 FR 32314 (July 21, 1992) (hereafter referred to as the Wisconsin Electric Power Company (WEPCO) Rule); (2) ''Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Baseline Emissions Determination, Actual-to-Future-Actual Methodology, Plantwide Applicability Limitations, Clean Units, Pollution Control Projects,'' Final Rule, 67 FR 80186 (December 31, 2002) (hereafter referred to as the NSR Reform Rule); (3) ''Prevention of Significant Deterioration (PSD) and Non-Attainment New Source Review (NSR): Reconsideration,'' Final Rule, 68 FR 63021 (November 7, 2003) (hereafter referred to as the Reconsideration Rule); (4) ''Prevention of Significant Deterioration (PSD) and Non-Attainment New Source Review (NSR): Removal of Vacated Elements,'' Final Rule, 72 FR 32526 (June 13, 2007) (hereafter referred to as the Vacated

[1] The original submittal, found at Docket ID No. EPA–R04–OAR–2012–0079, proposed changes to Alabama regulations pertaining to NSR and general and transportation conformity found at ADEM Administrative Code Chapter 335–3–14—*Permits* (including general permits, prevention of significant deterioration (PSD) and NNSR) and Chapter 335–3–17 *Conformity of Federal Actions to State Implementation Plans,* respectively. The first two portions of the submittal regarding conformity and PSD were acted on by EPA on September 26, 2012 (*See* 77 FR 59100).

[2] EPA's regulations governing the implementation of NSR permitting programs are contained in 40 CFR 51.160–.166; 52.21, .24; and part 51, appendix S. The CAA NSR program is composed of three separate programs: PSD, NNSR, and Minor NSR. PSD is established in part C of title I of the CAA and applies in areas that meet the NAAQS—''attainment areas''—as well as areas where there is insufficient information to determine if the area meets the NAAQS—''unclassifiable areas.'' The NNSR program is established in part D of title I of the CAA and applies in areas that are not in attainment of the NAAQS—''nonattainment areas.'' The Minor NSR program addresses construction or modification activities that do not qualify as ''major'' and applies regardless of the designation of the area in which a source is located. Together, these programs are referred to as the NSR programs.

Elements Rule); (4) ''Prevention of Significant Deterioration and Nonattainment New Source Review: Reasonable Possibility in Recordkeeping,'' Final Rule, 72 FR 72607 (December 21, 2007), (hereafter referred to as the Reasonable Possibility Rule); (5) ''Final Rule To Implement the 8-Hour Ozone National Ambient Air Quality Standard—Phase 2; Final Rule To Implement Certain Aspects of the 1990 Amendments Relating to New Source Review and Prevention of Significant Deterioration as They Apply in Carbon Monoxide, Particulate Matter and Ozone NAAQS; Final Rule for Reformulated Gasoline,'' Final Rule, 70 FR 71612 (November 29, 2005) (hereafter referred to as the Phase 2 Rule); (6) ''Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$),[3]'' Final Rule, 73 FR 28321 (May 16, 2008) (hereafter referred to as the NSR $PM_{2.5}$ Rule); (7) ''Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)—Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC),'' Final Rule, 75 FR 64864 (October 20, 2010) (hereafter referred to as the $PM_{2.5}$ PSD Increments-SILs-SMC Rule[4]); and (8) ''Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Reconsideration of Inclusion of Fugitive Emissions; Interim Rule; Stay and Revisions'', Interim Rule, 76 FR 17548 (March 30, 2011) (hereafter referred to as the Fugitive Emissions Interim Rule).

EPA is not, however, proposing to approve into the Alabama SIP ADEM Rule 335–3–14–.05(1)(k), which Alabama promulgated pursuant to the federal rule entitled ''Prevention of Significant Deterioration, Nonattainment New Source Review, and Title V: Treatment of Certain Ethanol Production Facilities Under the 'Major Emitting Facility' Definition'', Final Rule, 72 FR 24060 (May 1, 2007) (or the Ethanol Rule).[5] EPA is also not acting on the provision at Rule 335–3–14–.05(2)(c)3 that excludes fugitive emissions from the determinion of creditable emission increases and decreases. (See Sections II.F. and III.F. of this notice for details). Finally, EPA is not proposing to approve ADEM's rules regarding the $PM_{2.5}$ significant impact levels (SILs) for PSD at Rule 335–3–14–.04(8)(h)1., the NNSR interpollutant offset ratios at ADEM Rule 335–3–14-.05(3)(g), or the ''actual-to-potential'' NNSR applicability test at ADEM Rule 335–3–14–.05(1)(h), all of which ADEM withdrew from EPA's consideration subsequent to the May 2, 2011 submittal.

II. What is the background for EPA's proposed action?

This proposed action to revise the NNSR regulations in Alabama's SIP relates to EPA's WEPCO Rule, 2002 NSR Reform Rule (and associated Reconsideration Rule and Vacated Elements Rule), Reasonable Possibility Rule, Phase 2 Rule, NSR $PM_{2.5}$ Rule, $PM_{2.5}$ PSD Increments-SILs-SMC Rule, and Fugitive Emissions Interim Rule. Together these rules address the NSR permitting requirements needed to implement the NAAQS in NAAs. The State's May 2, 2011, revision adopts into the Alabama SIP the NNSR requirements promulgated in these rules to be consistent with federal regulations. A brief summary of the abovementioned rules as well as details of Alabama's May 2, 2011, SIP submission is discussed below.

Originally, Alabama included $PM_{2.5}$ SILs and NNSR interpollutant offset ratios in the May 2, 2011, SIP submission, consistent with the $PM_{2.5}$ PSD Increments-SILs-SMC Rule. However, EPA cannot act on SIL provisions for PSD due to the January 22, 2013, decision by the D.C. Circuit vacating and remanding to EPA the SILs portion of the $PM_{2.5}$ PSD Increments-SILs-SMC Rule for further consideration.[6] *See Sierra Club* v. *EPA,* 705 F.3d 458 (D.C. Cir. 2013). Nor can EPA approve the interpollutant offset ratios for $PM_{2.5}$ and selected precursors included in the May 2, 2011 submission, which adopted the EPA presumptive ratios from the May 16, 2008, preamble to the NSR $PM_{2.5}$ Implementation Rule. After publication, these ratios were the subject of a petition for reconsideration, which the Administrator granted, and are no longer presumptively approvable. Accordingly, ADEM has since submitted a letter to EPA dated October 9, 2014, requesting that the $PM_{2.5}$ SILs provisions for PSD and the interpollutant trading ratios for NNSR be withdrawn from the May 2, 2011, submission; therefore these provisions are no longer before EPA for consideration. ADEM still intends to adopt the NNSR interpollutant trading policy itself, however, and therefore the letter only requested the withdrawal of the presumptive ratios. The letter can be found in Docket ID: EPA–R04–OAR–2012–0079.

The May 2, 2011, submittal also included an ''actual-to-potential'' NNSR applicability test for projects involving only existing emissions units at ADEM Rule 335–3–14–.05(1)(h). This test, which is not contained in the federal regulations, utilizes the definition of ''actual emissions'' at ADEM Rule 335–

[3] Airborne particulate matter (PM) with a nominal aerodynamic diameter of 2.5 micrometers or less (a micrometer is one-millionth of a meter, and 2.5 micrometers is less than one-seventh the average width of a human hair) are considered to be ''fine particles'' and are also known as $PM_{2.5}$. Fine particles in the atmosphere are made up of a complex mixture of components including sulfate; nitrate; ammonium; elemental carbon; a great variety of organic compounds; and inorganic material (including metals, dust, sea salt, and other trace elements) generally referred to as ''crustal'' material, although it may contain material from other sources. The health effects associated with exposure to $PM_{2.5}$ include potential aggravation of respiratory and cardiovascular disease (*i.e.,* lung disease, decreased lung function, asthma attacks and certain cardiovascular issues). On July 18, 1997, EPA revised the NAAQS for PM to add new standards for fine particles, using $PM_{2.5}$ as the indicator. Previously, EPA used PM_{10} (inhalable particles smaller than or equal to 10 micrometers in diameter) as the indicator for the PM NAAQS. EPA established health-based (primary) annual and 24-hour standards for $PM_{2.5}$, setting an annual standard at a level of 15.0 micrograms per cubic meter ($\mu g/m^3$) and a 24-hour standard at a level of 65 $\mu g/m^3$. *See* 62 FR 38652. At the time the 1997 primary standards were established, EPA also established welfare-based (secondary) standards identical to the primary standards. The secondary standards are designed to protect against major environmental effects of $PM_{2.5}$, such as visibility impairment, soiling, and materials damage. On October 17, 2006, EPA revised the primary and secondary 24-hour NAAQS for $PM_{2.5}$ to 35 $\mu g/m^3$ and retained the existing annual $PM_{2.5}$ NAAQS of 15.0 $\mu g/m^3$. *See* 71 FR 61236. On January 15, 2013, EPA published a final rule revising the annual $PM_{2.5}$ NAAQS to 12 $\mu g/m^3$. *See* 78 FR 3086.

[4] The D.C. Circuit vacated the portions of the $PM_{2.5}$ PSD Increment-SILs-SMC Rule addressing the SMC and SILs (and remanded the SILs portion to EPA for further consideration) for PSD, but left the $PM_{2.5}$ SILs in place for the NNSR program in the table in section 51.165(b)(2). *See Sierra Club* v. *EPA,* 705 F.3d 458 (D.C. Cir. 2013).

[5] Alabama's changes to its NNSR regulations (at 335–3–14–.05(1)(k)) exclude ''chemical process plants'' that produce ethanol through a natural fermentation process from the NSR major source permitting requirement as promulgated in the Ethanol Rule (as amended at 40 CFR 51.165). *See* 72 FR 24060 (May 1, 2007). However, due to a petition by Natural Resources Defense Council to reconsider the rule, EPA is not proposing to take action to approve this provision into the Alabama SIP at this time. Pending final resolution, EPA will make a final determination on action regarding this portion of Alabama's SIP revision.

[6] On January 22, 2013, D.C. Circuit granted a request from EPA to vacate and remand to the Agency the portions of the October 20, 2010 rule addressing the SILs for $PM_{2.5}$, except for the parts codifying the $PM_{2.5}$ SILs in the NNSR rule at 40 CFR 51.165(b)(2), so that the EPA could voluntarily correct an error in the provisions. *See Sierra Club* v. *EPA,* 705 F.3d 458 at 463–66 (D.C. Cir. 2013). The Court also vacated parts of the $PM_{2.5}$ PSD Increment-SILs-SMC Rule establishing the $PM_{2.5}$ SMC, finding that the Agency had exceeded its statutory authority with respect to these provisions. *Id* at 469. On December 9, 2013, EPA issued a final rulemaking to remove the vacated and remanded $PM_{2.5}$ SILs and the vacated $PM_{2.5}$ SMC provisions from the Federal regulations at 40 CFR 51.166 and 52.21. *See* 78 FR 73698.

3–14-.05(2)(u) for determining whether a change to an existing emissions unit would result in a significant emissions increase that triggers NNSR applicability.[7] To be consistent with the NNSR provisions at 40 CFR 51.165, ADEM submitted a letter to EPA on June 5, 2015, withdrawing the ''actual-to-potential'' applicability test at ADEM Rule 335–3–14–.05(1)(h) from the May 2, 2011, SIP revision. This letter is included in the docket for this proposed action (Docket ID: EPA–R04–OAR–2012–0079).

A. WEPCO Rule

On July 21, 1992, EPA finalized the WEPCO Rule, which put forward regulations arising out of the decision in the WEPCO case. *See Wisconsin Electric Power Co.* v. *Reilly,* 893 F.2d 901 (7th Cir. 1990). The WEPCO Rule made changes to the NNSR and PSD regulations found at 40 CFR 51.165, 51.166 and 52.21. Relevant to this proposed rulemaking, EPA established definitions in the WEPCO Rule for electric utility steam generating unit (EGU), clean coal technology (CCT), CCT demonstration project, temporary CCT demonstration project, and repowering. In addition, the rule exempted CCT demonstration projects (that constitute repowering) from PSD or NNSR requirements (major modification), providing the projects do not cause an increase in potential to emit of a regulated NSR pollutant emitted by the unit.

B. NSR Reform and Reasonable Possibility

On December 31, 2002 (67 FR 80186), EPA published final rule changes to 40 CFR parts 51 and 52 regarding the CAA's PSD and NNSR programs. On November 7, 2003 (68 FR 63021), EPA published a notice of final action on the reconsideration of the December 31, 2002, final rule changes. The December 31, 2002, and the November 7, 2003, final actions are collectively referred to as the ''2002 NSR Reform Rules.'' The 2002 NSR Reform Rules made changes to five areas of the NSR programs. In summary, the 2002 NSR Reform Rules: (1) Provide a new method for determining baseline actual emissions; (2) adopt an actual-to-projected-actual methodology for determining whether a major modification has occurred; (3) allow major stationary sources to comply with plant-wide applicability limits (PALs) to avoid having a significant emissions increase that triggers the requirements of the major NSR program; (4) provide a new applicability provision for emissions units that are designated clean units; and (5) exclude pollution control projects (PCPs) from the definition of ''physical change or change in the method of operation.'' On November 7, 2003 (68 FR 63021), EPA published a notice of final action on its reconsideration of the 2002 NSR Reform Rules, which added a definition for ''replacement unit'' and clarified an issue regarding PALs. For additional information on the 2002 NSR Reform Rules, see 67 FR 80186 (December 31, 2002) and *http://www.epa.gov/nsr/actions.html#2002.*

After the 2002 NSR Reform Rules were finalized and effective (March 3, 2003), industry, state, and environmental petitioners challenged numerous aspects of the 2002 NSR Reform Rules, along with portions of EPA's 1980 NSR Rules. *See* 45 FR 52676 (August 7, 1980). On June 24, 2005, the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) issued a decision on the challenges to the 2002 NSR Reform Rules: *New York* v. *U.S. EPA,* 413 F.3d 3 (D.C. Cir. 2005). In summary, the D.C. Circuit vacated portions of the rules pertaining to clean units and PCPs, remanded a portion of the rules regarding recordkeeping and the term ''reasonable possibility'' found in 40 CFR 52.21(r)(6) and 40 CFR 51.165(a)(6) and 51.166(r)(6), and either upheld or did not comment on the other provisions included as part of the 2002 NSR Reform Rules. On June 13, 2007 (72 FR 32526), EPA took final action to revise the 2002 NSR Reform Rules to remove from federal law all provisions pertaining to clean units and the PCP exemption that were vacated by the D.C. Circuit.

With regard to the remanded portions of the 2002 NSR Reform Rules related to recordkeeping, the D.C. Circuit remanded these provisions to EPA either to provide an acceptable explanation for its ''reasonable possibility'' standard, or to devise an appropriate alternative. To satisfy the court, the EPA published the Reasonable Possibility Rule, thereby taking action to clarify that a ''reasonable possibility'' applies where source emissions equal or exceed 50 percent of the CAA NSR significance levels for any pollutant. *See* 72 FR 72607 (December 21, 2007). The Reasonable Possibility Rule identified, for sources and reviewing authorities, the circumstances under which a major stationary source undergoing a modification that does not trigger major NSR must keep records. EPA's December 21, 2007, final rule on the recordkeeping and reporting provisions also explained state obligations with regard to the reasonable possibility-related rule changes.

C. Phase 2 Rule

Part of Alabama's May 2, 2011, SIP submittal to revise its NNSR rules relates to EPA's 1997 8-Hour Ozone NAAQS Implementation Rule NSR Update or Phase 2 Rule. On November 29, 2005, EPA published the Phase 2 Rule, which addressed control and planning requirements as they applied to areas designated nonattainment for the 1997 8-hour ozone NAAQS[8] such as reasonably available control technology, reasonably available control measures, reasonable further progress, modeling and attainment demonstrations, NSR, and the impact to reformulated gas for the 1997 8-hour ozone NAAQS transition. *See* 70 FR 71612. The NSR permitting requirements established in the rule included the following provisions: (1) Recognized NO_X as an ozone precursor for PSD purposes; (2) changes to the NNSR rules establishing major stationary thresholds (marginal, moderate, serious, severe, and extreme NAA classifications); and significant emission rates for the 8-hour ozone, PM_{10} and carbon monoxide NAAQS; and (3) revised the criteria for crediting emission reductions credits from operation shutdowns and curtailments as offsets, and changes to offset ratios for marginal, moderate, serious, severe, and extreme ozone NAA. For additional information on provisions in the Phase 2 Rule see the November 29, 2005, final rule (70 FR 71612).

D. NSR $PM_{2.5}$ Rule

On May 16, 2008, EPA finalized the NSR $PM_{2.5}$ Rule to implement the $PM_{2.5}$ NAAQS for the NSR permitting program. *See* 73 FR 28321. The NSR $PM_{2.5}$ Rule revised the federal NSR program requirements to establish the framework for implementing

[7] The definition of ''actual emissions'' at ADEM Rule 335–3–14–.05(2)(u) is based on the definition of ''actual emissions'' in the federal NNSR regulations at 40 CFR 51.165(a)(1)(xii). However, the federal regulations expressly state that ''this definition shall not apply for calculating whether a significant emissions increase has occurred.'' 40 CFR 51.165(a)(1)(xii)(A).

[8] On July 18, 1997, EPA promulgated a revised 8-hour ozone NAAQS of 0.08 parts per million—also referred to as the 1997 8-hour ozone NAAQS. On April 30, 2004, EPA designated areas as unclassifiable/attainment, nonattainment and unclassifiable for the 1997 8-hour ozone NAAQS. In addition, on April 30, 2004, as part of the framework to implement the 1997 8-hour ozone NAAQS, EPA promulgated an implementation rule in two phases (Phase I and II). The Phase I Rule (effective on June 15, 2004), provided the implementation requirements for designating areas under subpart 1 and subpart 2 of the CAA. *See* 69 FR 23951.

preconstruction permit review for the $PM_{2.5}$ NAAQS in both attainment and NAA. Specifically, the NSR $PM_{2.5}$ Rule established the following NSR provisions to implement the $PM_{2.5}$ NAAQS: (1) Required NSR permits to address directly-emitted $PM_{2.5}$ and certain precursor pollutants; (2) established significant emission rates for direct $PM_{2.5}$ and precursor pollutants (including sulfur dioxide (SO_2) and nitrogen oxides (NO_X)); (3) established NNSR $PM_{2.5}$ emission offsets; (4) required states to account for gases that condense to form particles (condensables) in $PM_{2.5}$ and PM_{10} applicability determinations and emission limits in PSD and NNSR permits; and (5) provided a grandfathering provision in the federal program for certain pending $PM_{2.5}$ permit applications. Additionally, the NSR $PM_{2.5}$ Rule authorized states to adopt provisions in their NNSR rules that would allow interpollutant offset trading. Alabama's May 2, 2011 SIP revision addresses the effective portions of the NNSR provisions established in EPA's May 16, 2008 NSR $PM_{2.5}$ Rule. Two key issues described in greater detail below include the NSR $PM_{2.5}$ litigation and interpollutant trading ratios for the NNSR program.

1. $PM_{2.5}$ Implementation Rule(s) Litigation

On January 4, 2013, the D.C. Circuit issued a judgment [9] that remanded EPA's April 25, 2007 [10] and May 16, 2008 $PM_{2.5}$ implementation rules implementing the 1997 $PM_{2.5}$ NAAQS. *See Natural Resources Defense Council* v. *EPA,* 706 F.3d 428 (D.C. Cir. 2013). The Court found that because the statutory definition of PM_{10} (see section 302(t) of the CAA) included particulate matter with an aerodynamic diameter less than or equal to 10 micrometers, it necessarily includes $PM_{2.5.}$ EPA had developed the 2007 and 2008 (or NSR $PM_{2.5}$ Rule) Rules consistent with the general NAA requirements of subpart 1 of Part D, title I, of the CAA. Relative to subpart 1, subpart 4 of Part D, title I includes additional provisions that apply to PM_{10} NAA and is more specific about what states must do to bring areas into attainment. In particular, subpart 4 includes section 189(e) of the CAA, which requires the control of major stationary sources of PM_{10} precursors (and hence under the court decision, $PM_{2.5}$ precursors) ''except where the Administrator determines that such sources do not contribute significantly to PM_{10} levels which exceed the standard in the area.'' The court ordered EPA to repromulgate the implementation rules pursuant to subpart 4.

On June 2, 2014, EPA published a final rule [11] which, in part, set a December 31, 2014 deadline for states to make any remaining required attainment-related and NNSR SIP submissions, pursuant to and considering the application of subpart 4. *See* 79 FR 31566. Requirements under subpart 4 for a moderate NAA are generally comparable to subpart 1, including: (1) CAA section 189(a)(1)(A) (NNSR permit program); (2) section 189(a)(1)(B) (attainment demonstration or demonstration that attainment by the applicable attainment date is impracticable); (3) section 189(a)(1)(C) (reasonably available control measures and reasonably available control technology (RACT); and (4) section 189(c) (reasonable further progress and quantitative milestones). The additional requirements pursuant to subpart 4 as opposed to subpart 1 correspond to section 189(e) (precursor requirements for major stationary sources). Further additional SIP planning requirements are introduced by subpart 4 in the case that a moderate NAA is reclassified to a serious NAA, or in the event that the moderate NAA needs additional time to attain the NAAQS. The additional requirements under subpart 4 are not applicable for the purposes of CAA section 107(d)(3)(E) in any area that has submitted a complete redesignation request prior to the due date for those requirements; therefore, EPA is not required to consider subpart 4 requirements for moderate NAA that have submitted a redesignation request prior to December 31, 2014. *See* 79 FR at 31570.

Two areas were initially designated moderate nonattainment for the 1997 annual $PM_{2.5}$ NAAQS in Alabama: The Birmingham area and the Chattanooga multi-state area.[12] On May 2, 2011, ADEM submitted a redesignation request for the Birmingham NAA for the 1997 annual $PM_{2.5}$ NAAQS. This request was granted, and the area was redesignated on January 22, 2013. *See* 78 FR 4341. On December 22, 2014, the Jackson County, Alabama portion of the Chattanooga NAA was successfully redesignated to attainment for the 1997 $PM_{2.5}$ annual NAAQS based on an April 23, 2013 request for redesignation by ADEM.[13] *See* 79 FR 76235. Because these counties in Alabama have been redesignated, Alabama has no other $PM_{2.5}$ NAA for the annual 1997 NAAQS, the 24-hour 1997 NAAQS, nor the 24-hour 2006 $PM_{2.5}$ NAAQS. Therefore, the additional NNSR SIP requirements pursuant to subpart 4 do not apply to the State.

2. Interpollutant Trading Ratios

The NSR $PM_{2.5}$ Rule authorized states to adopt provisions in their NNSR rules that would allow major stationary sources and major modifications locating in areas designated nonattainment for $PM_{2.5}$ to offset emissions increases of direct $PM_{2.5}$ emissions or $PM_{2.5}$ precursors with reductions of either direct $PM_{2.5}$ emissions or $PM_{2.5}$ precursors in accordance with offset ratios contained in the approved SIP for the applicable NAA. The inclusion, in whole or in part, of the interpollutant trading offset provisions for $PM_{2.5}$ is discretionary on the part of the states. In the preamble to the NSR $PM_{2.5}$ Rule, EPA included preferred offset ratios applicable to specific $PM_{2.5}$ precursors that states may adopt in conjunction with the new interpollutant trading offset provisions for $PM_{2.5}$, and for which the state could rely on the EPA's technical work to demonstrate the adequacy of the ratios for use in any $PM_{2.5}$ NAA. Alternatively, the preamble indicated that states may adopt their own ratios, subject to the EPA's approval, that would have to be

[9] The Natural Resources Defense Council, Sierra Club, American Lung Association, and Medical Advocates for Healthy Air challenged before the D.C. Circuit EPA's April 25, 2007 Rule entitled ''Clean Air Fine Particle Implementation Rule'' (72 FR 20586), which established detailed implementation regulations to assist states with the development of SIPs to demonstrate attainment for the 1997 annual and 24-hour $PM_{2.5}$ NAAQS and the separate May 16, 2008 NSR $PM_{2.5}$ Rule (which is considered in this proposed rulemaking). This proposed rulemaking only pertains to the impacts of the Court's decision on the May 16, 2008 NSR $PM_{2.5}$ Rule and not the April 25, 2007 implementation rule as the State's May 2, 2011 SIP revision adopts the NSR permitting provisions established in the NSR $PM_{2.5}$ Rule.

[10] This rule is entitled ''Clean Air Fine Particle Implementation Rule,'' Final Rule, 72 FR 20586 (hereafter referred to as the 2007 Rule).

[11] The rule is entitled ''Identification of Nonattainment Classification and Deadlines for Submission of State Implementation Plan (SIP) Provisions for the 1997 Fine Particle ($PM_{2.5}$) National Ambient Air Quality Standard (NAAQS) and 2006 $PM_{2.5}$ NAAQS'', Final Rule, 79 FR 31566 (June 2, 2014). This final rule also identifies the initial classification of current 1997 and 2006 $PM_{2.5}$ nonattainment areas as moderate and the EPA guidance and relevant rulemakings that are currently available regarding implementation of subpart 4 requirements.

[12] EPA designated the Birmingham multi-county area and Chattanooga TN–GA–AL area as nonattainment for the 1997 Annual $PM_{2.5}$ NAAQS on January 5, 2005 (70 FR 944) as supplemented on April 14, 2005 (70 FR 19844).

[13] The Georgia portion of the Chattanooga TN–GA–AL nonattainment area for 1997 Annual $PM_{2.5}$ NAAQS has been redesignated in the December 19, 2014 final rule (79 FR 75748). Tennessee submitted a redesignation request for the Tennessee portion of the Chattanooga TN–GA–AL NAA on November 11, 2014, but the redesignation has not yet been proposed.

substantiated by modeling or other technical demonstrations of the net air quality benefit for ambient $PM_{2.5}$ concentrations.

The preferred ratios were subsequently the subject of a petition for reconsideration which the EPA Administrator granted in 2009. As a result of the reconsideration, on July 21, 2011, EPA issued a memorandum entitled ''Revised Policy to Address Reconsideration of Interpollutant Trading Provisions for Fine Particles ($PM_{2.5}$)'' (hereafter referred to as the ''Interpollutant Trading Memorandum''). The Interpollutant Trading Memorandum indicated that the existing preferred offset ratios are no longer considered presumptively approvable and that any precursor offset ratio submitted as part of the NSR SIP for a $PM_{2.5}$ NAA must be accompanied by a technical demonstration showing the net air quality benefits of such ratio for the $PM_{2.5}$ NAA in which it will be applied. Alabama's May 2, 2011, SIP revision adopts the interpollutant trading offset provisions, and originally adopted the preferred ratios included in the May 16, 2008, preamble. However, ADEM has since withdrawn these ratios in a letter dated October 9, 2014 (*See* Docket ID: EPA–R04–OAR–2012–0079). EPA's analysis of Alabama's May 2, 2011, SIP revision regarding interpollutant trading is provided below in Section III.

E. $PM_{2.5}$ PSD-Increment-SILs-SMC Rule

The October 20, 2010, final rulemaking established the following: (1) $PM_{2.5}$ increments pursuant to section 166(a) of the CAA to prevent significant deterioration of air quality in areas meeting the NAAQS; (2) $PM_{2.5}$ SILs for PSD and NNSR; and (3) SMC for PSD purposes. *See* 75 FR 64864. EPA approved the provisions for $PM_{2.5}$ PSD increments and SMC into the Alabama SIP on September 26, 2012 (77 FR 59100).[14] Though ADEM had submitted $PM_{2.5}$ SILs for PSD purposes, EPA did not take action on them in the September 26, 2012 rulemaking. Subsequently, in response to a challenge to the $PM_{2.5}$ SILs and SMC provisions of the $PM_{2.5}$ PSD-Increment-SILs-SMC Rule filed by the Sierra Club, the D.C. Circuit vacated and remanded to EPA for further consideration the portions of the rule addressing $PM_{2.5}$ SILs, except for the $PM_{2.5}$ SILs promulgated in EPA's NNSR rules at 40 CFR 51.165(b)(2). *See Sierra Club* v. *EPA,* 705 F.3d 458, 469 (D.C. Cir. 2013). The D.C. Circuit also vacated the parts of the rule establishing a $PM_{2.5}$ SMC for PSD purposes. *Id.* EPA removed these vacated provisions in a December 9, 2013 final rule (78 FR 73693). In a letter dated October 9, 2014, ADEM withdrew the $PM_{2.5}$ SILs set forth in Alabama's PSD regulations from EPA's consideration for incorporation into Alabama's SIP.

This action pertains only to the $PM_{2.5}$ SILs promulgated in EPA's NNSR regulations at 40 CFR 51.165(b)(2), which were not vacated by the D.C. Circuit. Unlike the SILs promulgated in the PSD regulations (40 CFR 51.166, 52.21), the SILs promulgated in the NNSR regulations at 40 CFR 51.165(b)(2) do not serve to exempt a source from conducting a cumulative air quality analysis. Rather, the SILs promulgated at 40 CFR 51.165(b)(2) establish levels at which a proposed new major source or major modification locating in an area designated as attainment or unclassifiable for any NAAQS would be considered to cause or contribute to a violation of a NAAQS in any area. For this reason, the D.C. Circuit left the $PM_{2.5}$ SILs at 40 CFR 51.165(b)(2) in place, and EPA can consider ADEM's request that these SILs be approved as part of Alabama's NNSR program.

F. Fugitive Emissions Interim Rule

On December 19, 2008, EPA issued a final rule revising the requirements of the NSR permitting program regarding the treatment of fugitive emissions. *See* ''Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Reconsideration of Inclusion of Fugitive Emissions,'' Final Rule, 73 FR 77882 (the ''Fugitive Emissions Rule''). The final rule required fugitive emissions to be included in determining whether a physical or operational change results in a major modification only for sources in industries that have been designated through rulemaking under section 302(j)[15] of the CAA. As a result of EPA granting the Natural Resource Defense Council's petition for reconsideration on the Fugitive Emissions Rule[16] on March 31, 2010, EPA stayed the rule for 18 months to October 3, 2011. The stay allowed the Agency time to propose, take comment and issue a final action regarding the inclusion of fugitive emissions in NSR applicability determinations. On March 30, 2011 (76 FR 17548), EPA proposed an interim rule (the ''Fugitive Emissions Interim Rule'') which superseded the March 31, 2010, stay and clarified and extended the stay of the Fugitive Emission Rule until EPA completes its reconsideration. The Fugitive Emissions Interim Rule simply reverts the CFR text back to the language that existed prior to the Fugitive Emissions Rule changes in the December 19, 2008, rulemaking. EPA plans to issue a final rule affirming the interim rule as final. The Fugitive Emissions Interim Rule will remain in effect until EPA completes its reconsideration.

III. What is EPA's analysis of ADEM's SIP revision?

Alabama currently has a SIP-approved NSR program for new and modified stationary sources found in ADEM regulations at Chapter 335–3–14. ADEM's NNSR preconstruction regulations are found at Chapter 335–3–14–.05, and apply to major stationary sources or modifications constructed in or impacting upon a nonattainment area as required under part D of title I of the CAA with respect to the NAAQS. The revisions to Chapter 335–3–14–.05 that EPA is now proposing to approve into the SIP were provided to update the existing provisions to be consistent with the current federal NNSR rules, including the WEPCO Rule, 2002 NSR Reform Rule (and associated Reconsideration Rule and Vacated Elements Rule), Phase 2 Rule, NSR $PM_{2.5}$ Rule, $PM_{2.5}$ PSD-Increment-SILs-SMC Rule, and Fugitive Emissions Interim Rule. These changes to ADEM's regulations became state effective on May 23, 2011. EPA is proposing to approve the changes to Chapter 335–3–14–.05, with certain exceptions noted below, into Alabama's SIP to be consistent with federal NNSR regulations (at 40 CFR 51.165) and the CAA.

[14] Although the SMC provisions were approved into the Alabama SIP in a September 26, 2012, final rule (77 FR 59100), the January 22, 2013, D.C. Circuit decision vacated the SMCs on the basis that EPA did not have the authority to use SMCs to exempt permit applicants from the statutory requirement in section 165(e)(2) of the CAA that ambient monitoring data for $PM_{2.5}$ be included in all PSD permit applications. EPA accordingly removed the $PM_{2.5}$ SMC of 4 $\mu g/m^3$ from federal PSD regulations on December 9, 2013 (*See* 78 FR 73693), and advised states to remove the $PM_{2.5}$ provisions from their state PSD regulations and SIPs. For more information on states with approved SMC provisions in their SIPs, see the December 9, 2013, final rule.

[15] Pursuant to CAA section 302(j), examples of these industry sectors include oil refineries, Portland cement plants, and iron and steel mills.

[16] On April 24, 2009, EPA agreed to reconsider the approach to handling fugitive emissions and granted a 3-month administrative stay of the Fugitive Emissions Rule. The administrative stay of the Fugitive Emissions Rule became effective on September 30, 2009. EPA put an additional three-month stay in place from December 31, 2009, until March 31, 2010.

A. WEPCO Rule

As stated in Section II, the WEPCO Rule made several changes to NNSR regulations located at 40 CFR 51.165. The definitions established in the WEPCO Rule that persist through the most recent CFR, including those for EGU, CCT, CCT demonstration project, temporary CCT demonstration project, and repowering are all included in the May 2, 2011 ADEM SIP submittal at Chapter 335–3–14–.05. The SIP submittal also adopts exemptions for temporary CCT demonstration projects from NNSR requirements as promulgated in the WEPCO Rule. EPA has preliminarily determined that the May 2, 2011 submittal is consistent with the federal regulations for NNSR promulgated in the WEPCO Rule.

B. NSR Reform

Some of the changes to Alabama's NNSR rules that EPA is now proposing to approve into the Alabama SIP were established to update Alabama's existing NNSR program to meet the requirements of the 2002 NSR Reform Rule (and associated Reconsideration Rule and Vacated Elements Rule) and the 2007 Reasonable Possibility Rule (collectively, the ''NSR Reform Rules''). On May 1, 2008, EPA approved Alabama's June 16, 2006, SIP submission to adopt PSD provisions consistent with the requirements of the NSR Reform Rules. *See* 73 FR 23957. Alabama's May 2, 2011, SIP revision adopts NNSR changes pursuant to the NSR Reform Rules regarding the following definitions, revisions and provisions at Chapter 335–3–14 .05: Regulated NSR pollutant; major modification; net emissions increase; credit for increases and decreases in actual emissions; emissions unit; actual emissions; lowest achievable emission rate; construction; pollution prevention; significant emissions increase; projected actual emissions; major NNSR program; continuous emissions monitoring system; predictive emissions monitoring system; continuous parameter monitoring system; continuous emissions rate monitoring system; baseline actual emissions; project; best available control technology; federal land manager; PSD permit; NNSR applicability procedures; actual-to-projected-actual applicability tests; and PAL and recordkeeping provisions.

As noted above, the submittal originally included an ''actual-to-potential'' applicability test (ADEM Rule 335–3–14–.05(1)(h)) that was inconsistent with the federal rules at 40 CFR 51.165. However, on June 5, 2015, ADEM submitted a letter to EPA formally withdrawing the ''actual-to-potential'' applicability test from the May 2, 2011 SIP revision (*See* Docket No. EPA–R04–OAR–2012–0079). Therefore, this applicability test is no longer before EPA for consideration and will not be incorporated into Alabama's SIP.

State agencies may meet the requirements of 40 CFR part 51, and the NSR Reform Rules, with different-but-equivalent regulations. More information on regulations developed by ADEM which are different-but-equivalent to federal rules are included in Section III.G below. EPA has preliminarily determined that the proposed SIP revisions to adopt the NSR Reform Rules, including those which differ from the federal rule, are consistent with program requirements for the preparation, adoption and submittal of implementation plans for NNSR set forth at 40 CFR 51.165, including the changes to the federal NNSR regulations promulgated in the NSR Reform Rules.

C. Phase 2 Rule

The Phase 2 Rule established the NSR requirements needed to implement the 8-hour ozone NAAQS and made changes to federal NNSR regulations. Pursuant to these requirements, states were required to submit SIP revisions adopting the relevant federal requirements of the Phase 2 Rule (at 40 CFR 51.165 and 51.166) into their SIP no later than June 15, 2007.[17] Alabama's May 2, 2011, SIP revision adopts the following relevant NNSR provisions promulgated in the Phase 2 Rule (at 40 CFR 51.165) into the Alabama SIP at Chapter 335–3–14–.05 to be consistent with federal NNSR permitting regulations: (1) Thresholds to establish a major stationary source (as codified at 40 CFR 51.165(a)(1)(iv)(A)(*1*)–(*3*); (2) provisions establishing that significant net increases for NO_X are considered significant for ozone, and that significant emissions of ozone precursors include NO_X (as codified at 40 CFR 51.165(a)(1)(v)(E) and (a)(1)(x)); (3) provisions that provide offset credits for shutting down or curtailing operation of existing sources (as codified at 40 CFR 51.165(a)(3)(ii)(C)); (4) a provision establishing that the requirements applicable to major stationary sources and major modifications of VOC shall apply to NO_X emissions from major stationary sources and major modifications of NO_X in an ozone transport region or in any ozone nonattainment area (as codified at 40 CFR 51.165(a)(8)); and (5) a provision establishing that requirements applicable to major stationary sources and major modifications of PM_{10} shall apply to major stationary sources and major modifications of PM_{10} precursors (as codified at 40 CFR 51.165(a)(10)). EPA has preliminarily determined that the May 2, 2011 submittal is consistent with the federal NNSR regulations promulgated in the Phase 2 Rule.

D. NSR $PM_{2.5}$ Rule

ADEM's May 2, 2011, SIP revision establishes that the State's existing NSR permitting program requirements for NNSR apply to the $PM_{2.5}$ NAAQS and certain precursors. Specifically, the SIP revision adopts the following NSR $PM_{2.5}$ Rule NNSR provisions into the Alabama SIP: (1) The requirement for NNSR permits to address directly emitted $PM_{2.5}$ and precursor pollutants (*e.g.*, SO_2 and NO_X, as codified at 40 CFR 51.165(a)(1)(xxxvii)(C)); (2) the significant emission rates for direct $PM_{2.5}$ and precursor pollutants (SO_2 and NO_X, as codified at 40 CFR 51.165(a)(1)(x)(A)); (3) clarification of the NNSR $PM_{2.5}$ (and general criteria air pollutant) emission offsets (pursuant to 51.165(a)(9)); (4) the NNSR requirement that condensable PM_{10} and $PM_{2.5}$ emissions be accounted for in applicability determinations and emission limits for permitting (as codified at 40 CFR 51.165(a)(1)(xxxvii)(D)); and (5) the basic interpollutant trading policy for $PM_{2.5}$ precursors (as codified at 40 CFR 51.165(a)(11)). For the reasons discussed below, the EPA is proposing to approve these revisions into the Alabama SIP.

ADEM's submission of revisions to its NNSR regulations at Chapter 335–3–14–.05 identify SO_2 as a $PM_{2.5}$ precursor and NO_X as a presumed $PM_{2.5}$ precursor while VOCs and ammonia are presumed not to be $PM_{2.5}$ precursors for a $PM_{2.5}$ NAA. These revisions are consistent with the 2008 NSR $PM_{2.5}$ Rule as developed pursuant to subpart 1 of the Act.[18]

Alabama's May 2, 2011, SIP revision originally adopted into the SIP at Chapter 335–3–14.05(3)(g) the elective interpollutant trading policy, set forth at 40 CFR 51.165(a)(11), and the preferred trading ratios, provided in the preamble to the NSR $PM_{2.5}$ Rule, for the purpose of offsets under the $PM_{2.5}$ NNSR

[17] On June 21, 2006, Alabama submitted a SIP revision which adopted the PSD provisions established in the Phase 2 Rule (at 40 CFR 51.166) recognizing NO_X as an ozone precursor. EPA took final action to approve this SIP revision on May 1, 2008 (73 FR 23957).

[18] See Section II for a discussion of why the additional requirements of subpart 4 of the Act do not apply to Alabama's May 2, 2011 SIP submittal for revisions to the NNSR program.

program. As established in EPA's July 21, 2011, Interpollutant Trading Memorandum, the preferred precursor trading ratios and technical demonstration included in the NSR $PM_{2.5}$ Rule are no longer considered presumptively approvable. Therefore any precursor trading ratios submitted to EPA for approval, as part of the NSR SIP for a $PM_{2.5}$ NAA must be accompanied by a technical demonstration showing the suitability of the ratios for that particular NAA. Consequently, prior to approving a request by a major stationary source or source with a major modification in Alabama to obtain offsets through interpollutant trading, the State of Alabama would first be required, pursuant to 51.165(a)(11), to revise its SIP to adopt appropriate trading ratios. ADEM would need to submit to EPA a technical demonstration showing how either the preferred ratios established in the NSR $PM_{2.5}$ Rule or the State's own ratios are appropriate for the state's particular $PM_{2.5}$ nonattainment areas as well as a revision to the NSR program adopting the ratios into the SIP. EPA would then have to approve the demonstration and ratios into the Alabama SIP prior to any major stationary source or major modification obtaining offsets through the interpollutant trading policy.

Alabama's May 2, 2011, SIP revision relied on EPA's technical demonstration in the NSR $PM_{2.5}$ Rule for the preferred ratios, which, as explained above, the Agency has now deemed unapprovable. However, on October 9, 2014, ADEM submitted a letter to EPA formally withdrawing the offset ratios (or interpollutant trading ratios) from the May 2, 2011 SIP revision (*See* Docket No. EPA–R04–OAR–2012–0079). Therefore, these ratios are no longer before EPA for consideration, while the interpollutant trading provisions themselves remain before EPA. The Agency continues to support the basic policy that sources may offset increases in emissions of direct $PM_{2.5}$ or of any $PM_{2.5}$ precursor in a $PM_{2.5}$ NAA with actual emissions reductions in direct $PM_{2.5}$ or $PM_{2.5}$ precursor, respectively, in accordance with offset ratios as approved in the SIP for the applicable NAA. Alabama's adoption of the interpollutant trading policy without trading ratios does not in any way allow a new major stationary source or major modification in the state to obtain offsets through interpollutant trading, nor does it affect the approvability of ADEM's May 2, 2011, SIP revision. EPA has preliminarily determined that the May 2, 2011 submittal is consistent with the federal regulations for NNSR promulgated in the NSR $PM_{2.5}$ Rule.

E. $PM_{2.5}$ PSD-Increment-SILs-SMC Rule

The only portion of the October 20, 2010, $PM_{2.5}$ PSD-Increment-SILs-SMC Rule concerning NNSR considered for this proposed rulemaking is the table modified to include SILs for $PM_{2.5}$, promulgated at 40 CFR 51.165(b)(2). *See* 75 FR 64864. As discussed above, these SILs are used to determine whether a new major stationary source or major modification that would be located in an area designated as in attainment or unclassifiable would cause or contribute to a NAAQS violation in any locality. These SILs were not affected by *Sierra Club* v. *EPA*, 705 F.3d at 458, which addressed PSD SILs that served to exempt a source from conducting a cumulative air quality analysis. Accordingly, Alabama's May 2, 2011 submittal revises the definition of ''Significant Impact'' at ADEM Rule 335–3–14.05(2)(aaa) to incorporate the $PM_{2.5}$ SILs from 40 CFR 51.165(b)(2). An additional revision to ADEM Rule 335–3–14–.05(2)(aaa)—unrelated to the $PM_{2.5}$ PSD-Increment-SILs-SMC Rule—eliminates the annual PM_{10} SIL of 1 μg/m³, which had previously been approved into the Alabama SIP. However, the annual PM_{10} SIL of 1 μg/m³ is separately included in ADEM Rule 335–3–14–.03(1)(g), ''Standards for Granting Permits.'' ADEM Rule 335–3–14–.03(1)(g) incorporates the requirements of 40 CFR 51.165(b) and has been approved by EPA as part of Alabama's SIP. 77 FR 59101, 59105 (Sept. 26, 2012) (identifying ADEM Rule 335–3–14–.03, State effective date May 23, 2011, as part of Alabama's SIP). Therefore, the removal of the annual PM_{10} SIL from ADEM Rule 335–3–14.05(2)(aaa) does not interfere with Alabama's compliance with 40 CFR 51.165(b). EPA proposes to approve the aforementioned revisions to the SILs in ADEM's May 2, 2011 SIP submittal.

F. Fugitive Emissions Interim Rule

Due to the March 30, 2011, Fugitive Emissions Interim Rule (*See* 76 FR 17548), the CFR has been converted back to the language that existed prior to the Fugitive Emissions Rule changes in the December 19, 2008, rulemaking. Many of the affected rules are entirely new to the ADEM NNSR Chapter. For example, the definition of fugitive emissions (40 CFR 51.165(a)(ix)) is added, not revised, at Chapter 335–3–14–.05(2)(t). Alabama's May 2, 2011, SIP submittal, having been submitted after the Fugitive Emissions Interim Rule, adopts revisions regarding fugitive emissions that are mostly consistent with the current CFR. One provision included in the May 2, 2011, submittal at ADEM Rule 335–3–14–.05(2)(c)3, regarding the exclusion of fugitive emissions from the determination of creditable emission increases and decreases in the definition of ''net emissions increase,'' was stayed indefinitely in the Fugitive Emissions Interim Rule. Therefore, EPA is proposing to approve Alabama's adoption of regulations affecting fugitive emissions at ADEM Rule 335–3–14-.05, except the provision at ADEM Rule 335–3–14–.05(2)(c)3. For more background on the Fugitive Emissions Interim Rule, see Section II above, or the March 30, 2011, rulemaking.

G. Different-but-Equivalent Regulations

Alabama currently has a SIP-approved nonattainment NSR program for new and modified stationary sources. EPA is now proposing to approve revisions to Alabama's existing NNSR program in the SIP. State agencies may meet the requirements of 40 CFR part 51, including the changes made by the NSR Reform Rules, with different-but-equivalent regulations. The May 2, 2011, submission to revise the Alabama SIP contains several rules that EPA has determined are different-but-equivalent regulations. The Agency's analysis for each of these items is included below.

1. ''Reasonable Possibility'' Provisions

The ''reasonable possibility'' standard identifies, for sources and reviewing authorities, the circumstances under which a major stationary source undergoing a physical or operational change that is not projected to result in an emissions increase above NSR applicability thresholds must keep post-change emissions records. EPA's December 2007 action clarified the meaning of the term ''reasonable possibility'' through changes to the federal rule language in 40 CFR parts 51 and 52. EPA's December 2007 rule also acknowledged that State and local authorities may adopt or maintain NSR program elements that have the effect of making their regulations more stringent than the federal rules and instructed those State and local authorities to submit notice to EPA to acknowledge that their regulations fulfill the requirements of the federal regulations. Unlike the federal rules, which only require those projects that have a reasonable possibility that the project may result in a significant emissions increase to keep records, ADEM's rules require all projects that use the actual-to-projected-actual applicability test to keep records. Therefore, all projects undergo agency review. If ADEM

determines that there is a reasonable possibility that the project may result in a significant emissions increase, then the owner or operator must submit those records to the Director, must monitor and maintain a record of annual emissions for 5 years (or 10 years depending upon the specific circumstances), and must submit annual reports. These recordkeeping, monitoring, and reporting requirements apply to all facilities—EGUs and non-EGUs. Although the changes to the reasonable possibility provisions identified above are different than the federal rules, ADEM's approach is at least as stringent as the federal rules and is approvable.

2. PAL Provisions

Alabama's actuals PAL provisions in ADEM Rule 335–3–14–.05(23) differ from the federal regulations in several ways. First, at subparagraph (23)(a)2., ADEM omitted the provision which allows facilities utilizing a PAL to remove previously set emissions limitations that the major stationary source used to avoid NNSR program applicability. Similarly, at subparagraph (23)(i)5., ADEM added the provision that sources must comply with any State or federal applicable requirements that may have applied during the PAL effective period, including those emission limitations that the source used to avoid NNSR applicability. According to Alabama's submittal, it is ADEM's intent that previously set limits (*e.g.*, BACT, RACT, NSPS, synthetic minor limit, etc.) remain intact during the PAL effective period and after its expiration. EPA concludes that ADEM's approach in these regulatory provisions is at least as stringent as the federal regulations and therefore is approvable.

ADEM's method of setting a PAL at subparagraph (23)(f) also differs slightly from the federal rules. The federal rules state at 40 CFR 51.165(f)(6)(ii) that emissions from units on which actual construction began after the 24-month period chosen for setting the PAL ''must be added to the PAL level in an amount equal to the potential to emit of the units.'' ADEM's rule differs in that it limits inclusion of emissions based on a unit's potential to emit to only those units that began operation less than 24 months prior to the submittal of the PAL application. Under ADEM's rule, baseline actual emissions from units on which actual construction began after the beginning of the 24-month period and that commenced operation 24 months or more prior to the submittal of the PAL application must be added to the PAL based upon actual emissions during any 24-month period since the unit commenced operation. According to Alabama's SIP submittal, it is ADEM's intent that the PAL be based upon true actual emissions, and ADEM considers units that have been operating more than 24 months to be existing units that should be included in the PAL based on their actual emissions rather than their potential to emit. EPA concludes that ADEM's approach to this provision is at least as stringent as the federal regulations and is therefore approvable.

At subparagraph (23)(n)1., ADEM has omitted the requirement in the federal regulations to submit a semi-annual report within 30 days of the end of the PAL reporting period. Because the facility's title V permit would require these reports to be submitted, its inclusion in the NNSR regulations is not necessary. EPA's concludes that ADEM's approach to PAL reporting requirements is at least as stringent as the federal rules and is approvable.

Finally, Alabama's PAL rules differ from the federal rules in that they do not expressly state that a PAL permit must require that emissions calculations for PAL compliance purposes include ''malfunction'' emissions. *Compare* ADEM Rule 335–3–14–.05(23)(g)4 to 40 CFR 51.165(f)(7)(iv). However, EPA does not read Alabama's rules as authorizing sources to exclude malfunction emissions from PAL compliance calculations. Rather, consistent with 40 CFR 51.165(f)(7)(iv), EPA interprets Alabama's rules to mean that startup and shutdown emissions must be included in emission calculations for PAL compliance purposes in addition to emissions that occur during normal operations and malfunctions. EPA Region 4 and ADEM discussed this issue via conference call on January 27, 2015. ADEM agreed with this interpretation of ADEM Rule 335–3–14–.05(23)(g)4 during the call and confirmed that ADEM would require sources to include malfunction emissions in emission calculations for PAL compliance purposes, just as compliance is determined with respect to other enforceable limits. In a document attached to an email dated February 3, 2015, ADEM provided written clarification of several items as a follow-up to the January 27, 2015 conference call, including the treatment of malfunction emissions in nonattainment PALs. A memo summarizing the call and ADEM's February 3, 2015 email and attachment are in the Docket for this proposed rulemaking. Therefore, EPA concludes that while the wording of ADEM Rule 335–3–14–.05(23)(g)4 differs from the federal rule, ADEM's approach is at least as stringent as the federal rules and is approvable.

3. Emissions Associated With Malfunctions

One notable difference from the federal rules is that the Alabama rules do not contain provisions accounting for ''malfunction'' emissions in the calculation of ''baseline actual emissions'' and ''projected actual emissions'' (ADEM Rule 334–3–14–.05(2)(nn) and (uu)). Alabama states that it will rely only on quantifiable emissions that can be verified so as to provide a more accurate estimation of the emissions increases associated with a project. Because Alabama will be consistently applying this approach for both ''projected actual emissions'' and ''baseline actual emissions'' and because this approach will not prevent malfunctions from being considered as exceedances of applicable standards, EPA has determined that this difference does not make Alabama's NNSR program less stringent than the federal program.

IV. Incorporation by Reference

In this action, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference portions of ADEM Regulation Chapter 335–3–14–.05 entitled ''Air Permits Authorizing Construction in or Near Non-Attainment Areas,'' effective May 23, 2011, with revisions and additions to *applicability, definitions, permitting requirements, offset rules, area classifications, air quality models, control technology review, air quality monitoring, source information, source obligation, innovative control technology*, and *actuals PALs*, and with administrative changes throughout. EPA has made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

V. Proposed Action

EPA is proposing to approve the portion of Alabama's May 2, 2011 submission that makes changes to Alabama's SIP-approved NNSR regulations set forth at ADEM Rule 335–3–14–.05, with the exceptions noted above. ADEM submitted the proposed changes to its NNSR SIP to be consistent with amendments to the federal regulations made by the WEPCO Rule, the 2002 NSR Reform Rule (and

associated Reconsideration Rule and Vacated Elements Rule), Phase 2 Rule, NSR $PM_{2.5}$ Rule, $PM_{2.5}$ PSD Increment-SILs-SMC Rule, and the Fugitive Emissions Interim Rule. The Agency has made the preliminary determination that the proposed changes to Alabama's NNSR SIP are approvable because they are consistent with section 110 of the CAA and EPA regulations.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Ozone, Particulate matter, Nitrogen oxides, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: August 20, 2015.

Heather McTeer Toney,

Regional Administrator, Region 4.

[FR Doc. 2015–21537 Filed 8–31–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2015–0289; FRL 9933–19–Region 9]

Revisions to the California State Implementation Plan, Imperial County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the Imperial County Air Pollution Control District (ICAPCD or the District) portion of the California State Implementation Plan (SIP). We propose to approve the following SIP demonstration from ICAPCD: Final 2009 Reasonably Available Control Technology State Implementation Plan, July 13, 2010. This demonstration addresses the 1997 8-hour National Ambient Air Quality Standards (NAAQS) for ozone. This submitted SIP revision contains ICAPCD's negative declarations for volatile organic compound (VOC) source categories. We propose to approve the submitted reasonably available control technology (RACT) SIP revision under the Clean Air Act (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by *October 1, 2015.*

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2015–0289, by one of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the on-line instructions.
2. *Email: steckel.andrew@epa.gov.*
3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or email. *www.regulations.gov* is an ''anonymous access'' system, and the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to the EPA, your email address will be automatically captured and included as part of the public comment. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: Generally, documents in the docket for this action are available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105–3901. While all documents in the docket are listed at *www.regulations.gov,* some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material, large maps), and some may not be publicly available in either location (*e.g.,* CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: James Shears, EPA Region IX, (213) 244–1810, *shears.james@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us,'' and ''our'' refer to the EPA.

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I. The State's Submittal

A. What document did the State submit?

Table 1 includes the document addressed by this action with the date that it was adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1—SUBMITTED DOCUMENT

Local agency	Document	Adopted	Submitted
ICAPCD	Final 2009 Reasonably Available Control Technology State Implementation Plan (''2009 RACT SIP'').	7/13/10	12/21/10

On June 21, 2011, the RACT SIP submittal for ICAPCD was deemed by operation of law to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

B. Are there other versions of this document?

There is no previous version of ICAPCD's 2009 RACT SIP.

C. What is the purpose of the RACT SIP submission?

VOCs and nitrogen oxides (NO_X) help produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires States to submit regulations that control VOC and NO_X emissions. Sections 182(b)(2) and (f) require that SIPs for ozone areas classified as moderate or above require implementation of RACT for any source covered by an EPA Control Technique Guideline (CTG) document and any major stationary source of VOCs or NO_X. ICAPCD is subject to this requirement as the District is designated and classified as a moderate nonattainment area for the 1997 8-hour NAAQS for ozone (see 40 CFR 81.305). Therefore, ICAPCD must, at a minimum, adopt RACT-level controls for all sources covered by a CTG document and for all major non-CTG stationary sources of VOCs or NO_X. The District adopted its 2009 RACT SIP revision on July 13, 2010. ICAPCD received no comments on its RACT SIP demonstration.

II. The EPA's Evaluation and Action

A. How is the EPA evaluating the RACT SIP submission?

With the implementation of the 1997 8-hour NAAQS for ozone, ICAPCD was classified as a marginal nonattainment area (69 FR 23858, April 30, 2004). Subsequently, the EPA found that Imperial County did not meet attainment by the deadline of June 15, 2007, and reclassified it as a moderate nonattainment area with an attainment deadline of June 15, 2010 (see 73 FR 8209, February 13, 2008). On December 3, 2009, the EPA issued a final ruling (74 FR 63309) determining that Imperial County attained the 1997 8-hour NAAQS based on ambient air monitoring data for the years 2006 through 2008. Although the finding of attainment by the EPA suspended certain SIP related requirements, it did not suspend the RACT requirements for VOCs and NO_X. Pursuant to 40 CFR 51.912(a)(1), the State (or local air district) must submit a SIP revision that meets the VOC and NO_X RACT requirements in CAA section 182(b)(2) and (f) for each area subject to subpart 2 and classified moderate or higher. Therefore, ICAPCD must, at a minimum, adopt RACT-level controls for sources covered by a CTG document and for any major stationary source of VOCs or NO_X.[1] Any stationary source that emits or has a potential to emit at least 100 tons per year (tpy) of VOCs or NO_X in a moderate nonattainment area is considered a major stationary source (see CAA sections 182(b)(2) and (f) and 302(j)). Where there are no existing sources covered by a particular CTG document or no major stationary sources of VOCs or NO_X, states may, in lieu of adopting RACT requirements, adopt negative declarations certifying that there are no such sources in the relevant nonattainment area (see Memorandum from William T. Harnett to Regional Air Division Directors, (May 18, 2006), ''RACT Qs & As—Reasonably Available Control Technology (RACT) Questions and Answers'', page 7).

Guidance and policy documents that we use to evaluate CAA section 182 RACT SIPs for ICAPCD include the following:

1. ''Final Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standard—Phase 2'' (70 FR 71612; November 29, 2005).
2. ''Air Quality Designations and Classifications for the 8-Hour Ozone National Ambient Air Quality Standards; Early Action Compact Areas with Deferred Dates''—Final Rule (69 FR 23858; April 30, 2004).
3. ''State Implementation Plans, General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990'' (57 FR 13498; April 16, 1992).
4. Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations: Clarification to Appendix D of November 24, 1987 **Federal Register**, May 25, 1988, Revised January 11, 1990, U.S. EPA, Air Quality Management Division, Office of Air Quality Planning and Standards (''The Blue Book'').
5. Guidance Document for Correcting Common VOC and Other Rule Deficiencies, August 21, 2001, U.S. EPA Region IX (the ''Little Bluebook'').
6. ''State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990'' (57 FR 55620, November 25, 1992) (''the NO_X Supplement'').
7. Memorandum from William T. Harnett to Regional Air Division Directors, (May 18, 2006), ''RACT Qs & As—Reasonably Available Control Technology (RACT) Questions and Answers.''
8. RACT SIPs, Letter dated March 9, 2006 from EPA Region IX (Andrew Steckel) to CARB (Kurt Karperos) describing Region IX's understanding of what constitutes a minimally acceptable RACT SIP.
9. ''Final Rule to Implement the 1997 8-Hour Ozone National Ambient Air Quality Standard: Classification of Areas That Were Initially Classified Under Subpart 1; Revision of the Anti-Backsliding Provisions To Address 1-Hour Contingency Measure Requirements; Deletion of Obsolete 1-Hour Standard Provision''—Final Rule (77 FR 28424; May 14, 2012).

[1] CAA section 182(b)(2) and (f).

10. ''Model Volatile Organic Compound Rules for Reasonably Available Control Technology'', EPA (June 1992).

11. ''Beyond VOC RACT Requirements'', EPA–453/R–95–010, (April 1995).

12. The EPA's CTGs *http://www.epa.gov/glo/SIPToolkit/ctgs.html.*

13. CARB's emissions inventory database *http://www.arb.ca.gov/app/emsinv/facinfo/facinfo.php*

14. CARB and EPA Region IX databases of ICAPCD rules—CARB: *http://www.arb.ca.gov/ridb.htm* EPA: *http://epa.gov/region09/air/sips/index.html*

15. ''Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements''—Final Rule (80 FR 12264; March 6, 2015).

B. Does the RACT SIP submission meet the evaluation criteria?

The 2009 RACT SIP includes three elements, as described further below:

1. Evaluations of VOC and NO_X rules for sources subject to a CTG.

2. Negative declarations where there are no facilities subject to a CTG.

3. Major Non-CTG sources of VOC or NO_X.

A summary of our evaluation of each element is provided below. For additional information concerning our evaluation, please refer to the Technical Support Document (TSD) for the 2009 RACT SIP which is available in the docket for this action.

1. Evaluations of VOC and NO_X Rules for Sources Subject to a CTG

ICAPCD identified 11 CTGs which apply to sources within Imperial County and are addressed in the RACT SIP. The District also compared its rules for these sources to similar rules in other air districts, and concluded their rules meet RACT requirements. We have reviewed ICAPCD's analysis, including review of the referenced rules, and found no basis to disagree with ICAPCD's conclusion that it has implemented RACT for all relevant CTG categories with three clarifications. Rule 413, Organic Solvent Degreasing Operations, and Rule 417, Organic Solvents, are not required to satisfy RACT. Subsequent to its 2009 RACT submittal, the District found it had no sources of organic solvent cleaning within the District that would be subject to the 1977 Solvent Metal Cleaning CTG for Rule 413, nor any sources subject to the 2006 Industrial Cleaning Solvents CTG's nine unit operations for Rule 417.[2] Therefore, ICAPCD should formally adopt and submit to EPA as a SIP revision a negative declaration for each of these CTGs. Rule 427, Automotive Refinishing Operations, is not subject to RACT since it is not a CTG category and ICAPCD does not have any automobile refinishing operations that are major sources of VOC.

2. Negative Declarations Where There Are No Facilities Subject to a CTG

Negative declarations are only required for CTG source categories for which the District has no sources covered by the CTG. A negative declaration is not required for non-CTG source categories. Table 2 below lists the CTG source categories for the 2009 RACT SIP. The District indicated it does not currently have, nor does it anticipate sources subject to the CTGs in these categories in the future. We searched CARB's emissions inventory database to verify there are no facilities in ICAPCD that might be subject to the CTGs listed below. We concur with the District's negative declarations.

TABLE 2—ICAPCD NEGATIVE DECLARATIONS

CTG Source category	CTG Reference document
Aerospace	EPA–453/R–97–004, Aerospace CTG and MACT.
Automobile and Light-duty Trucks, Surface Coating of.	EPA–450/2–77–008, Control of Volatile Organic Emissions from Existing Stationary Sources—Volume II: Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks.
	EPA–453/R–08–006, Control Techniques Guidelines for Automobile and Light-Duty Truck Assembly Coatings.
Cans and Coils, Surface Coating of	EPA–450/2–77–008, Control of Volatile Organic Emissions from Existing Stationary Sources—Volume II: Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks.
Fiberglass Boat Manufacturing	EPA–453/R–08–004, Controls Techniques Guidelines for Fiberglass Boat Manufacturing.
Flat Wood Paneling, Surface Coating of	EPA–450/2–78–032, Control of Volatile Organic Emissions from Existing Stationary Sources—Volume VII: Factory Surface Coating of Flat Wood Paneling.
	EPA–453/R–06–004, Control Techniques Guidelines for Flat Wood Paneling Coatings.
Flexible Packing Printing	EPA–453/R–06–003, Control Techniques Guidelines for Flexible Package Printing.
Graphic Arts—Rotogravure and Flexography	EPA–450/2–78–033, Control of Volatile Organic Emissions from Existing Stationary Sources, Volume III: Graphic Arts—Rotogravure and Flexography.
Large Appliances, Surface Coating of	EPA–450/2–77–034, Control of Volatile Organic Emissions from Existing Stationary Sources—Volume V: Surface Coating of Large Appliances.
	EPA–453/R–07–004, Control Techniques Guidelines for Large Appliance Coatings.
Large Petroleum Dry Cleaners	EPA–450/3–82–009, Control of Volatile Organic Compound Emissions from Large Petroleum Dry Cleaners.
Offset Lithographic Printing and Letterpress Printing.	EPA–453/R–06–002, Control Techniques Guidelines for Offset Lithographic Printing and Letterpress Printing.
Magnet Wire, Surface Coating for Insulation of	EPA–450/2–77–033, Control of Volatile Organic Emissions from Existing Stationary Sources—Volume IV: Surface Coating of Insulation of Magnet Wire.
Metal Furniture Coatings	EPA–450/2–77–032, Control of Volatile Organic Emissions from Existing Stationary Sources—Volume III: Surface Coating of Metal Furniture.
	EPA–453/R–07–005, Control Techniques Guidelines for Metal Furniture Coatings.
Miscellaneous Metal and Plastic Parts Coatings	EPA–453/R–08–003, Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings.

[2] ICAPCD—Supplemental to 2009 RACT SIP—Analysis of Control Technologies Guidance (CTG) Documents, July 31, 2015.

TABLE 2—ICAPCD NEGATIVE DECLARATIONS—Continued

CTG Source category	CTG Reference document
Miscellaneous Metal Parts and Products, Surface Coating of.	EPA–450/2–78–015, Control of Volatile Organic Emissions from Existing Stationary Sources—Volume IV: Surface Coating of Miscellaneous Metal Parts and Products.
Miscellaneous Industrial Adhesives	EPA–453/R–08–005, Control Techniques Guidelines for Miscellaneous Industrial Adhesives.
Natural Gas/Gasoline Processing Plants Equipment Leaks.	EPA–450/2–83–007, Control of Volatile Organic Compound Equipment Leaks from Natural Gas/Gasoline Processing Plants.
Paper, Film and Foil Coatings	EPA–453R–07–003, Control Techniques Guidelines for Paper, Film and Foil Coatings.
Petroleum Refineries	EPA–450/2–77–025, Control of Refinery Vacuum Producing Systems, Wastewater Separators, and Process Unit Turnarounds.
	EPA–450/2–78–036, Control of Volatile Organic Compound Leaks from Petroleum Refinery Equipment.
Pharmaceutical Products	EPA–450/2–78–029, Control of Volatile Organic Emissions from Manufacture of Synthesized Pharmaceutical Products.
Pneumatic Rubber Tires, Manufacture of	EPA–450/2–78–030, Control of Volatile Organic Emissions from Manufacture of Pneumatic Rubber Tires.
Polyester Resin	EPA–450/3–83–008, Control of Volatile Organic Compound Emissions from Manufacture of High-Density Polyethylene, Polypropylene, and Polystyrene Resins.
	EPA–450/3–83–006, Control of Volatile Organic Compound Leaks from Synthetic Organic Chemical Polymer and Resin Manufacturing Equipment.
Shipbuilding/Repair	EPA–453/R–94–032, Shipbuilding/Repair.
Synthetic Organic Chemical	EPA–450/3–84–015, Control of Volatile Organic Compound Emissions from Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry.
	EPA–450/4–91–031, Control of Volatile Organic Compound Emissions from Reactor Processes and Distillation Operations in Synthetic Organic Chemical Manufacturing Industry.
Wood Furniture	EPA–453/R–96–007, Wood Furniture.

3. Major Non-CTG Sources of VOC or NO_X

CAA section 182(b)(2) and (f) require RACT for stationary source categories covered by CTG documents and all major stationary sources of VOCs or NO_X. ICAPCD was initially classified as subpart 1 marginal nonattainment for ozone, but was subsequently reclassified as subpart 2 moderate.[3] A major source in a moderate ozone nonattainment area is defined as a stationary source that emits, or has the potential to emit, at least 100 tons per year of VOCs or NO_X.[4]

ICAPCD's 2009 RACT SIP, Table 3, lists nine facilities that were major sources of VOC or NO_X at that time, along with the respective RACT rules for each facility. Three of the facilities listed did not have any VOC or NO_X RACT rules listed as applicable. We found that one of the facilities, CalEnergy, is currently permitted with a total annual potential to emit of 1.8 tons per year of benzene (VOC).[5] Another facility, ORMAT Nevada, Inc., had a regenerative thermal oxidizer added to the facility subsequent to the 2009 RACT SIP publication, and the potential to emit is now 19.6 tons per year of VOC.[6] The third facility, GEM Resources (ORMESA, LLC), is subject to permit conditions which limits its potential to emit to 28.29 tons/year for VOCs and 9.94 tons/year for benzene.[7] Therefore, all of these facilities are now well below the 100 tons/year threshold and are not major sources.

ICAPCD adopted VOC and NO_X rules which are applicable to the remaining six major source facilities. The EPA approved the following VOC rules into the California SIP: Rule 414, Storage of Reactive Organic Compounds, (73 FR 70883, November 24, 2008), and Rule 415, Transfer and Storage of Gasoline, (70 FR 8520, February 22, 2005). The following NO_X rules were approved into the SIP by the EPA: Rule 400, Fuel Burning Equipment—Oxides of Nitrogen, (68 FR 14161, March 24, 2003), Rule 400.1, Stationary Gas Turbines, (77 FR 2469, January 18, 2012), and Rule 400.2, Boilers, Process Heaters and Steam Generators, (78 FR 896, January 7, 2013). Our previous approvals of Rules 400.1 and 400.2 found that they fulfilled RACT requirements. We are not aware of information suggesting that additional controls are needed to fulfill RACT since our approval of these rules. Our approval of Rule 400 did not include an evaluation of ozone RACT requirements. However, since each of the NO_X sources subject to Rule 400 is also subject to at least one additional NO_X rule that the EPA has found to fulfill RACT requirements, it is not necessary to determine whether Rule 400 fulfills RACT requirements at this time.

Subsequent to the 2009 RACT SIP submittal, ICAPCD adopted Rule 400.4, Emissions of Oxides of Nitrogen from Wallboard Kilns, to address a major source of NO_X emissions from one of their facilities (U.S. Gypsum). The EPA approved it into the California SIP (79 FR 60070, October 6, 2014) as satisfying RACT requirements.

We also reviewed CARB's facilities inventory for the Imperial County, and are not aware of additional relevant major sources.

4. Conclusion

We find that ICAPCD's 2009 RACT SIP, including the negative declarations, adequately addresses RACT for the 1997 8-hour ozone NAAQS. Our TSD has more information on our evaluation of the RACT SIP submission.

C. EPA Recommendations To Further Improve the RACT SIP

The TSD describes additional revisions to the rules that we recommend for the next time the local agency modifies the rules, but are not currently the basis for rule disapproval.

D. Public Comment and Final Action

As authorized in section 110(k)(3) of the Act, the EPA is proposing to fully approve the submitted SIP revision because we believe it fulfills all relevant requirements. We will accept comments from the public on this proposal until October 1, 2015. Unless we receive

[3] See *69 FR 23858* (April 30, 2004), and *77 FR 28424* (May 14, 2012) (codified at 40 CFR 81.305 (California—2008 8-Hour Ozone NAAQS)).

[4] See CAA sections 182(b)(2) and (f) and 302(j).

[5] Imperial County Air Pollution Control District, Authority to Construct and Permit to Operate Review, Permit #2000H–9 (March 4, 2015) Table 8.

[6] Imperial County Air Pollution Control District, Synthetic Minor Permit Review, Permit 1641B–3 (September 23, 2010) page 7.

[7] Imperial County Air Pollution Control District, Conditions for Authority to Construct and Permit to Operate #2002I–4 (April 7, 2014).

convincing new information during the comment period, we intend to publish a final approval action that will incorporate this RACT submission into the Federally enforceable SIP.

III. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed action does not apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 11, 2015.

Jared Blumenfeld,

Regional Administrator, Region IX.

[FR Doc. 2015–21543 Filed 8–31–15; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0, 1, 2, 15, and 18

[ET Docket No. 15–170; RM–11673; DA 15–956]

Extension of Time for Comments on Equipment Authorization

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment deadline.

SUMMARY: In this document, the Federal Communications Commission's (Commission's) Office of Engineering and Technology Bureau (Bureau) extends the deadlines for interested parties to submit comments and reply comments in response to the *Equipment Authorization and Electronic Labeling for Wireless Devices.*

DATES: The comment period for the proposed rules in FCC 15–92 published at 80 FR 46900, August 6, 2015, has been extended. Comments are due on or before October 9, 2015; reply comments are due on or before November 9, 2015.

ADDRESSES: You may submit comments on the *Equipment Authorization and Electronic Labeling for Wireless Devices*, identified by ET Docket No. 15–170 by any of the following methods:

- *Electronic Filers:* Federal Communication Commission's Electronic Comments Filing System (ECFS): *http://fjallfoss.fcc.gov/ecfs2/*. Follow the instructions for submitting comments.
- *Paper Filers:* All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street SW., Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. Eastern Time (ET). All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington, DC 20554.
- *People with Disabilities:* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, or audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

FOR FURTHER INFORMATION CONTACT: Brian Butler, Policy and Rules Division, Office of Engineering and Technology Bureau at (202) 418–2702.

SUPPLEMENTARY INFORMATION: This is a summary of the Bureau's Order in ET Docket No. 15–170, RM–11673; DA 15–956, adopted and released August 25, 2015. The complete text of this document is available for public inspection and copying from 8:00 a.m. to 4:30 p.m. ET Monday through Thursday or from 8:00 a.m. to 11:30 a.m. ET on Fridays in the FCC Reference Information Center, 445 12th Street SW., Room CY–A257, Washington, DC 20554. The complete text may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), telephone 202–488–5300, facsimile 202–488–5563, or by contacting BCPI on its Web site: *http://www.BCPIWEB.com.* The complete text is also available on the Commission's Web site at *http://wireless.fcc.gov*, or by using the search function on the ECFS Web page at *http://www.fcc.gov/cgb/ecfs/*.

Synopsis

On July 17, 2015, the Commission adopted a Notice of Proposed Rulemaking (''NPRM'') in the above captioned proceedings to update the rules that govern the evaluation and approval of RF devices. The NPRM established that comments in this proceeding are due on September 9, 2015 and reply comments are due on September 22, 2015.

Recently, the Telecommunications Industry Association (''TIA'') and the Information Technology Industry Council (''ITI'') jointly requested a 30-

day extension of time for filing initial comments and a 15-day extension of time for filing reply comments. Subsequently, the Consumer Electronics Association (''CEA'') requested a two-week extension of the time for filing comments and a three-week extension for filing reply comments. More recently, the American National Standards Institute Accredited Standards Committee C63 (''ANSI ASC63'') requested a 30-day extension of both the comment and reply comment deadlines. TIA and ITI state that the NPRM addressed a ''wide range of equipment approval issues of a technical, legal, and practical nature, impacting a diverse set of stakeholders, each of whom will need to closely analyze and consider the potential effect of the rule changes being considered'' and that the extension will allow the parties to submit more comprehensive responses. TIA and ITI also contend that the rule changes are closely related to the recent changes updating the Commission's Equipment Authorization program and the extension will ensure that they can consider issues they consider to be related. CEA states that this rulemaking concerns a complex and technical area and claims that the comment periods are insufficient for it to consult with its member companies within the timeframe provided. ANSI ASC63 expressed similar concerns.

The Commission does not routinely grant extensions of time in rulemaking proceedings. However, we believe that a 30-day extension of the comment filing period followed by a 15-day extension to the reply comment filing period will provide parties with an opportunity to more fully analyze and respond to the complex technical issues raised in the *NPRM* thus allowing development of a more complete record in these proceedings.

Accordingly, *it is ordered*, pursuant to the delegated authority contained in 47 CFR 0.31 and 0.241(a), that the deadlines for filing comments and reply comments in the above captioned proceedings *are extended* to October 9, 2015 and November 9, 2015.

Federal Communications Commission.

Julius P. Knapp,

Chief, Office of Engineering and Technology.

[FR Doc. 2015–21634 Filed 8–31–15; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 15, 73, 74

[MB Docket No. 15–146; GN Docket No. 12–268; FCC 15–78]

Amendment of the Commission's Rules To Provide for the Preservation of One Vacant Channel in the UHF Television Band for Use by White Space Devices and Wireless Microphones

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission proposes to designate a second available vacant channel in the UHF television band for use by white space devices and wireless microphones in those areas where the duplex gap of the 600 MHz Band is subject to impairment by a television station.

DATES: Comments may be filed on or before September 30, 2015, and reply comments may be filed on or before October 30, 2015. Written comments on the proposed information collection requirements, subject to the Paperwork Reduction Act (PRA) of 1995, Public Law 104–13, should be submitted on or before October 30, 2015.

ADDRESSES: You may submit comments, identified by MB Docket No. 15–146, GN Docket No. 12–268 and/or FCC 15–78, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Federal Communications Commission's Web site: http://apps.fcc.gov/ecfs/.* Follow the instructions for submitting comments.
- *Mail:* Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

In addition to filing comments with the Secretary, a copy of any PRA comments on the proposed collection requirements contained herein should be submitted to the Federal Communications Commission via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov* and also to Nicholas A. Fraser, Office of Management and Budget, via email to *Nicholas_A._Fraser@omb.eop.gov* or via fax at 202–395–5167.

FOR FURTHER INFORMATION CONTACT: Shaun Maher, *Shaun.Maher@fcc.gov* of the Media Bureau, Video Division, (202) 418–2324, and Paul Murray, *Paul.Murray@fcc.gov* of the Office of Engineering and Technology, (202) 418–0688. For additional information concerning the PRA information collection requirements contained in this document, contact Cathy Williams, Federal Communications Commission, at (202) 418–2918, or via email at *Cathy.Williams@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document, FCC 15–78, released August 11, 2015 in GN Docket 12–268 and MB Docket No. 15–146. The full text of this document is available for inspection and copying during regular business hours in the FCC Reference Center, 445 12th Street SW., Room CY–A257, Portals II, Washington, DC 20554. This document is available in alternative formats (computer diskette, large print, audio record, and Braille). Persons with disabilities who need documents in these formats may contact the FCC by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://apps.fcc.gov/ecfs/.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All

filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW–A325, Washington, DC 20554. The filing hours are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington, DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

Paperwork Reduction Act of 1995 Analysis

The Public Notice contains proposed new or modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees.

Synopsis

To mitigate the potential impact on white space devices and wireless microphones in areas where the duplex gap is subject to impairment, we tentatively conclude that we will designate a second available television channel in the remaining television band in such areas for shared use by white space devices and wireless microphones, in addition to the one such channel we have tentatively concluded will be made available in each area of the United States for shared use by these devices and microphones. Consistent with the *Vacant Channel Notice of Proposed Rulemaking (NPRM),* licensed as well as unlicensed wireless microphones would have access to the second available television channel. Recognizing the significant public benefits provided by white space devices and wireless microphones, the Commission in the *Incentive Auction Report and Order* stated that it was making the duplex gap available for use by these services, subject to appropriate technical rules. The Commission specifically noted that it was deferring a decision on whether to place television stations in the duplex gap. In the *Vacant Channel NPRM,* we tentatively concluded that preserving a vacant channel in the remaining television band in each area of the United States for shared use by these devices and microphones will help to ensure that the public continues to have access to the benefits they provide across the nation. White space devices and wireless microphone advocates maintain that lack of access to the duplex gap in areas where it is subject to impairment will limit the public's access to the benefits these services provide. We propose to address this concern by requiring demonstration of the availability of a second television channel in accordance with the procedures proposed in the *Vacant Channel NPRM* in geographic areas where the duplex gap is subject to impairment. More specifically, under this proposal such a demonstration would be required in geographic areas where the protected contour of a television station assigned to the 600 MHz Band impairs the duplex gap. We propose that applicants for new, displaced, or modified television station or Broadcast Auxiliary Station facilities use existing tools to determine whether the proposed facility overlaps with a geographic area where the duplex gap is impaired, and then use the white space databases to determine vacant channel availability in the overlap areas. We invite interested parties to comment on this tentative conclusion in MB Docket No. 15–146. We direct the Media Bureau to establish new comment and reply deadlines of September 30 and October 30, 2015, respectively, for the proposals in the *Vacant Channel NPRM* as well as the proposals above. We intend to address all of the proposals in the same order.

Supplemental Initial Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this present Supplemental Initial Regulatory Flexibility Analysis (Supplemental IRFA) concerning the possible significant economic impact on small entities by the policies and rules proposed in this NPRM. Written public comments are requested on this Supplemental IRFA. Comments must be identified as responses to the Supplemental IRFA and must be filed by the deadlines for comments indicated in the **DATES** section. The Commission will send a copy of this Public Notice, including this Supplemental IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).[1] In addition, this Public Notice and Supplemental IRFA (or summaries thereof) will be published in the **Federal Register**.[2]

In the *Vacant Channel NPRM,* the Commission tentatively concluded that preserving a vacant channel in the remaining television band in each area of the United States for shared use by white space devices and wireless microphones will help to ensure that the public continues to have access to the benefits they provide across the nation. As required by section 603 of the Regulatory Flexibility Act, 5 U.S.C. 603, the Commission included as Appendix B of the *Vacant Channel NPRM* an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the proposals suggested in the *Vacant Channel NPRM.*

In this document, the Commission decides that a limited number of broadcast television stations may be reassigned during the incentive auction and repacking process to channels within the ''duplex gap'' established as part of the 600 MHz Band Plan. The Commission notes that white space devices and wireless microphone advocates maintain that lack of access to the duplex gap in areas where it is subject to impairment will limit the public's access to the benefits these services provide. To address this concern, the Commission tentatively concludes that it will preserve a second available television channel in the remaining television band in such areas for shared use by white space devices and wireless microphones, in addition to the one such channel it has tentatively concluded will be made available in each area of the United States for shared use by these devices in the *Vacant Channels NPRM.* Under this proposal, demonstration of the availability of a second television

[1] *See* 5 U.S.C. 603(a).

[2] *Id.*

channel would be required in accordance with the procedures proposed in the *Vacant Channel NPRM* in geographic areas where the duplex gap is subject to impairment.

We hereby incorporate by reference the IRFA from the *Vacant Channel NPRM.* This Supplemental IRFA supplements paragraphs 4 and 19 of the IRFA as follows to reflect the second vacant channel preservation proposal. Consistent with the vacant channel proposal in the *Vacant Channel NPRM,* we believe the second vacant channel proposal in paragraph 32 of this document will not significantly burden small entities in terms of either the continued availability of channels in all areas or the administrative burdens of compliance. After the final channel assignments are made following the incentive auction, multiple vacant channels will exist in most areas as a result of the co- and adjacent channel separation requirements necessary to protect primary broadcast stations from interference from each other. While the effect of the second vacant channel preservation proposal would be to reduce by two the total number of vacant channels that would otherwise be available in an area, it applies only in those areas where the duplex gap is subject to impairment. Our analysis indicates the duplex gap will not be subject to any impairment in most markets even if the optimization procedure tool is not restricted in assigning impairing stations. Thus, the duplex gap will remain free from impairment across most of the country, except in a relatively small number of markets. Consequently, the impact on small entities, in terms of the availability of channels for future use, will be limited. Consistent with the IRFA, although small entities may experience an increased burden, the Commission believes that adoption of the second vacant channel preservation requirement will greatly benefit white space and wireless microphone users as well as the manufacturer of white space and wireless microphone equipment that are also small businesses by creating new uses and opportunity for this spectrum. The Commission also believes that this prioritization and protection of white space is critical if it is to realize the benefits that this spectrum will provide to small businesses and developers that will usher forth new and unthought-of uses.

This Supplemental IRFA also supplements paragraph 17 of the IRFA discussing procedures to reflect that a broadcast applicant would determine if its contour overlaps the service contour of a television station assigned to a channel within the duplex gap.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2015–21560 Filed 8–31–15; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R4–ES–2014–0054; FXES11130900000C2–145–FF09E32000]

RIN 1018–BA46

Endangered and Threatened Wildlife and Plants; Removal of Solidago albopilosa (White-haired Goldenrod) From the Federal List of Endangered and Threatened Plants

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; availability of draft post-delisting monitoring plan.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to remove the plant *Solidago albopilosa* (white-haired goldenrod) from the Federal List of Endangered and Threatened Plants. This determination is based on a thorough review of the best available scientific and commercial information, which indicates that the threats to this species have been eliminated or reduced to the point that the species no longer meets the definition of an endangered species or a threatened species under the Endangered Species Act of 1973, as amended (Act). We seek information, data, and comments from the public regarding this proposal to delist *S. albopilosa,* and on the draft post-delisting monitoring plan.

DATES: To allow us adequate time to consider your comments on this proposed rule, we must receive your comments on or before November 2, 2015. We must receive requests for public hearings in writing, at the address shown in **FOR FURTHER INFORMATION CONTACT**, by October 16, 2015.

ADDRESSES: You may submit comments on this proposed rule and draft post-delisting monitoring plan by one of the following methods:

- *Federal eRulemaking Portal:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* In the Search box, enter the Docket Number for this proposed rule, which is FWS–R4–ES–2014–0054. You may submit a comment by clicking on ''Comment now!'' Please ensure that you have found the correct rulemaking before submitting your comment.
- *By U.S. mail or hand-delivery:* Public Comments Processing, Attn: Docket No. FWS–R4–ES–2014–0054; U.S. Fish and Wildlife Service Headquarters, MS BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send comments only by the methods described above. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Information Requested section below for more information).

Document availability: A copy of the draft post-delisting monitoring plan can be viewed at *http://www.regulations.gov* under Docket No. FWS–R4–ES–2014–0054, or at the Kentucky Ecological Services Field Office's Web site at *http://www.fws.gov/frankfort/.*

FOR FURTHER INFORMATION CONTACT: Virgil Lee Andrews, Jr., Field Supervisor, U.S. Fish and Wildlife Service, Kentucky Ecological Services Field Office, 330 West Broadway, Suite 265, Frankfort, Kentucky 40601; telephone (502) 695–0468. Individuals who are hearing-impaired or speech-impaired may call the Federal Information Relay Service at (800) 877–8339 for TTY assistance 24 hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION:

Executive Summary

Purpose of Regulatory Action

We propose to remove the white-haired goldenrod from the Federal List of Endangered and Threatened Plants based on its recovery. This proposed action is based on a thorough review of the best available scientific and commercial information. This document: (1) Proposes to delist this endangered plant species; and (2) announces the availability of a draft post-delisting monitoring plan.

Basis for Action

We may delist a species if the best scientific and commercial data indicate the species is neither a threatened species nor an endangered species for one or more of the following reasons: (1) The species is extinct; (2) the species has recovered and is no longer threatened or endangered; or (3) the original data used at the time the species was classified were in error. Here, we have determined that the species may be delisted based on recovery.

• During the latest range-wide survey for this plant, our State partner, the Kentucky State Nature Preserves Commission (KSNPC) (2010, p. 6), documented a total of 116 extant occurrences with the following ranks: A-rank (11 occurrences), B (26), C (25), and D (54) (see Species Information for definitions of each specific rank; ranks were based on population size and perceived viability, habitat condition, and degree of threat). Of the 116 extant occurrences, only 6 were located on private land, with the remainder located on the Daniel Boone National Forest (DBNF). For all extant occurrences, 79 (68 percent) were considered to be stable, including ranks of A (10 occurrences), B (21), C (18), and D (30). For these stable occurrences, KSNPC reported an average monitoring period of 10.2 years and an average of 3.6 monitoring events for each occurrence (see Table 1).

• From June to October 2013, KSNPC and the Service completed additional surveys at 30 widely separated occurrences. These surveys increased the number of extant occurrences from 116 to 117 and increased the number of stable occurrences from 79 to 81. One new occurrence was discovered, and revised status information was generated for two unknown occurrences. Occurrences were ranked as ''unknown'' if data from only one prior survey was available or prior surveys could not be compared to recent surveys due to discrepancies in survey methodology. Combining these results with those of previous surveys produces a total of 81 stable occurrences with the following categorical results: A (11 occurrences), B (22), C (18), and D (30) (see Table 2). The average monitoring period increased from 10.2 to 11.1 years, with an average of 3.7 monitoring events for each occurrence.

• Of the 81 stable occurrences, we consider the A-, B-, and C-ranked occurrences (total of 51) to be self-sustaining as defined by the recovery plan. We consider these occurrences to be self-sustaining because there is evidence of successful reproduction and the number of individuals is stable or increasing. Under the recovery plan's delisting criteria, *S. albopilosa* will be considered for delisting when 40 geographically distinct, self-sustaining occurrences are adequately protected and have been maintained for 10 years. Of the 51 self-sustaining occurrences, 46 are adequately protected (occupy the DBNF) and have been maintained for more than 10 years. Therefore, the delisting recovery criteria have been met.

• The total number of stems now stands at approximately 174,000, and the 46 secure, self-sustaining occurrences contain approximately 131,000 stems, or about 75 percent of the species' total number.

Public Comments

We intend that any final action resulting from this proposed rule will be as accurate and effective as possible. Therefore, we request data, comments, and new information from other concerned governmental agencies, the scientific community, industry, or other interested parties concerning this proposed rule. The comments that will be most useful and likely to influence our decisions are those that are supported by data or peer-reviewed studies and those that include citations to, and analyses of, applicable laws and regulations. Please make your comments as specific as possible and explain the basis for them. In addition, please include sufficient information with your comments to allow us to authenticate any scientific or commercial data you reference or provide. In particular, we seek comments concerning the following:

(1) Biological data regarding *S. albopilosa;*

(2) Relevant data concerning any threats (or lack thereof) to *S. albopilosa* particularly any data on the possible effects of climate change to this plant as it relates to its unique habitat types (including models and data presented in this rule), as well as the extent of Federal and State protection and management that would be provided to *S. albopilosa* as a delisted species;

(3) Additional information concerning the range, distribution, population size, and trends of *S. albopilosa,* including the locations of any additional populations of this species;

(4) Current or planned activities within the geographic range of *S. albopilosa* colonies that may impact or benefit the species; and

(5) The draft post-delisting monitoring plan and the methods and approach detailed in it.

Please note that submissions merely stating support for or opposition to the action under consideration without providing supporting information, although noted, will not be considered in making a determination, as section 4(b)(1)(A) of the Act directs that a determination as to whether any species is a threatened or endangered species must be made ''solely on the basis of the best scientific and commercial data available.''

In issuing a final determination on this proposed action, we will take into consideration all comments and any additional information we receive. Such information may lead to a final rule that differs from this proposal. All comments and recommendations, including names and addresses, will become part of the administrative record.

You may submit your comments and materials concerning this proposed rule by one of the methods listed in **ADDRESSES**. 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.

If you submit information via *http://www.regulations.gov,* your entire comment—including any personal identifying information—will be posted on the Web site. 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. Please note that comments posted to this Web site are not immediately viewable. When you submit a comment, the system receives it immediately. However, the comment will not be publically viewable until we post it, which might not occur until several days after submission.

Similarly, if you mail or hand-deliver a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review, but we cannot guarantee that we will be able to do so. To ensure that the electronic docket for this rulemaking is complete and all comments we receive are publicly available, we will post all hardcopy submissions on *http://www.regulations.gov.*

Comments and materials we receive, as well as supporting documentation used in preparing this proposed rule will be available for public inspection in two ways:

(1) You can view them on *http://www.regulations.gov.* In the Search Documents box, enter FWS–R4–ES–2014–0054, which is the docket number for this rulemaking. Then, in the Search panel on the left side of the screen, select the type of documents you want to view under the Document Type heading.

(2) You can make an appointment, during normal business hours, to view the comments and materials in person at the U.S. Fish and Wildlife Service, Kentucky Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Public Hearing

Section 4(b)(5)(E) of the Act provides for one or more public hearings on this proposal, if requested. We must receive requests for public hearings, in writing, at the address shown in **FOR FURTHER INFORMATION CONTACT** by the date shown in the **DATES** section of this document. We will schedule public hearings on this proposal, if any are requested, and announce the dates, times, and places of those hearings, as well as how to obtain reasonable accommodations, in the **Federal Register** at least 15 days before the first hearing.

Previous Federal Actions

On April 24, 1987, we published a proposed rule in the **Federal Register** (52 FR 13798) to list *S. albopilosa* as endangered under section 4 of the Act. On April 7, 1988, we published a final rule in the **Federal Register** (53 FR 11612) listing *S. albopilosa* as a threatened species. The final rule identified the following threats to *S. albopilosa*: Loss of habitat due to recreational activities (rock climbing, hiking, camping, rappelling, and artifact collection) and a proposed reservoir project; overutilization for recreational purposes; no State law protecting rare plants in Kentucky; and potential vegetational shifts in forests surrounding *S. albopilosa* habitats. On September 28, 1993, we published the White-haired Goldenrod Recovery Plan (Service 1993, 40 pp.). On July 26, 2005, we initiated a 5-year status review of this species (70 FR 43171). The 5-year status review was completed on March 3, 2009 (Service 2009, 15 pp). Although the review did not include a recommendation to reclassify or delist this plant, it did indicate that the species was showing substantial improvement. New occurrences have been located since completion of the recovery plan and a significant number of occurrences (51) appear to be stable. We shared in this analysis that we anticipated making additional progress with partners and we believed that delisting should be considered for this species in the near future.

For additional details on previous Federal actions, see discussion under the Recovery section below. Also see *http://www.fws.gov/endangered/species/us-species.html* for the species profile for this flowering plant.

Species Information

Solidago albopilosa (Braun 1942) is an upright to slightly arching, herbaceous, perennial plant that attains a height of 30 to 100 centimeters (12 to 39 inches). The long, soft, white hairs that cover the leaves and stems are the species' most distinguishing characteristic (Andreasen and Eshbaugh 1973, p. 123). The alternate leaves of *S. albopilosa* are widest at their base and are prominently veined with a dark green upper surface and a pale underside. They vary in length from 6 to 10 centimeters (2.5 to 4.0 inches), with the larger leaves closer to the base of the stem. Hairs cover both surfaces of the leaves and are most dense along the veins. The stem is cylindrical and densely covered with fine white hairs. Axillary (positioned along the main axis of the plant) clusters of small, fragrant, yellow flowers begin blooming in late August. The flower heads are composed of three to five ray florets (small flowers in the marginal part of the flower head) and more than 15 disk florets (small flowers in the central part of the flower head). The ray florets are about 6 mm long (0.24 inch), and the disk flowers are about 3 mm long (0.12 inch). The pale brown, pubescent, oblong achenes (dry single-seed fruits) appear in October (Braun 1942, pp. 1–4; Andreasen and Eshbaugh 1973, p. 123; Service 1993, p. 1).

Solidago albopilosa flowers from September through November and sets fruit in mid-October through December. The flowers are visited by bees, moths, and syrphid flies, which are likely attracted by the fragrant, yellow flowers (Braun 1942, pp. 1–4; Service 1993, p. 6). Viability of the species' pollen is reported to be high (Andreason and Eshbaugh 1973, pp. 129–130). Seeds are most likely dispersed by wind, but germination rates and the extent of vegetative reproduction are unknown (Service 1993, p. 6).

Braun (1942, pp. 1–4) described *S. albopilosa* based on specimens discovered in the summer of 1940 in the Red River Gorge area of Menifee County, Kentucky. *Solidago albopilosa* is in the family Asteraceae, and there are no synonyms for the species. Andreasen and Eshbaugh (1973, pp. 126–128) studied variation among four separate occurrences (populations) of *S. albopilosa* in Menifee and Powell Counties. Their population analysis of characteristics such as plant height, leaf length and width, stem pubescence, and number of ray flowers per head showed that some morphological characteristics (*e.g.,* plant height, leaf shape and size, stem pubescence) can vary widely between populations.

Solidago albopilosa can be distinguished from its closest relative, *S. flexicaulis* (broad-leaf goldenrod), by its shorter height, smaller and thinner leaves, and generally downy (hairy) appearance (the leaves of S. *flexicaulis* have a slick, smooth appearance) (Medley 1980, p. 6). The two species also differ in habitat preference. *Solidago albopilosa* is restricted to sandstone rock shelters or ledges, while *S. flexicaulis* is a woodland species occurring on the forest floor. Esselman and Crawford (1997, pp. 245–256) used molecular and morphological analyses to examine the relationship between *S. albopilosa* and *S. flexicaulis.* They concluded that *S. albopilosa* is most closely related to *S. flexicaulis;* however, there was no evidence that either *S. flexicaulis* or *S. caesia* (wreath or blue-stemmed goldenrod) is a parent or has a recent close relationship with *S. albopilosa* as was previously speculated by Braun (1942, pp. 1–4). Esselman and Crawford (1997, pp. 245–256) also examined genetic diversity within *S. albopilosa* (using Random Amplified Polymorphic DNA (RAPD) and isozyme markers) and reported genetic variation both within and between populations (genetic diversity is widely spread among populations and populations are not very genetically homogenous). The highest level of genetic diversity was observed among rather than within populations. Consequently, Esselman and Crawford (1997, pp. 245–256) recommended that conservation efforts include the maintenance of as many populations as possible to capture the full genetic diversity of the species.

Solidago albopilosa is restricted to outcroppings of Pottsville sandstone in a rugged, highly dissected area known as the Red River Gorge in Menifee, Powell, and Wolfe Counties, Kentucky (Service 1993, p. 2; White and Drozda 2006, p. 124). The Red River Gorge is well known for its scenic beauty and outdoor recreational opportunities, and much of the area is located within the DBNF, an approximate 2,860-km^2 (706,000-acre) area in eastern Kentucky that is owned and managed by the U.S. Forest Service (White and Drozda 2006, p. 124). The Red River Gorge lies within the Northern Forested Plateau Escarpment of the Western Allegheny Plateau ecoregion (Woods et al. 2002, p. 1). The hills and ridges of this region are characterized as rugged and highly dissected, with erosion-resistant, Pennsylvanian quartzose sandstone (contains 90 percent quartz) capping the ridges and exposed layers of Mississippian limestone, shale, and siltstone on lower slopes and in the valleys.

White-haired goldenrod typically occurs on the floors of sandstone rock shelters (natural, shallow, cave-like formations) and on sheltered cliffs (cliffs with overhanging ledges) at elevations

of between 243 and 396 m (800 and 1,300 ft) (Andreasen and Eshbaugh 1973; Service 1993, p. 5). The species may also be found on ledges or cracks in the ceiling or vertical walls of these habitats, but, regardless of the specific location, white-haired goldenrod is restricted to areas of partial shade behind the dripline (53 FR 11612) and typically does not grow in the deepest part of rock shelters (Harker et al. 1981, p. 4). Campbell et al. (1989, p. 40) noted that this plant species is known from all possible moisture regimes and aspects in these habitats, but plants on northern exposures appeared to be smaller than average. Seven of nine occurrences examined by Nieves and Day (2014, pp. 8–9) were located in easterly or northerly facing shelters, which receive minimal direct sunlight. Nieves and Day examined only a small percentage of the species' 117 known occurrences (8 percent), so further study is required to determine the importance of solar aspect on the species' biology and distribution. Ten rock shelter habitats examined by Nieves and Day (2014, p. 7) were significantly cooler and more humid than the surrounding environment (areas outside and above the rock shelter), but the species' requirements with respect to air temperature and relative humidity are unknown.

Typical herbaceous associates of white-haired goldenrod include roundleaf catchfly (*Silene rotundifolia*) and alumroot (*Heuchera parviflora*) and less commonly white baneberry (*Actaea pacypoda*), maidenhair fern (*Adiantum pedatum*), fourleaf yam (*Dioscorea quaternata*), intermediate woodfern (*Dryopteris intermedia*), Indian cucumber-root (*Medeola virginiana*), Japanese stilt grass (*Microstegium vimineum*), Christmas fern (*Polystichum acrostichoides*), rhododendron (*Rhododendron maximum*), and little mountain meadow-rue (*Thalicturm mirabile*) (Braun 1942, pp. 1–4; Andreason and Eshbaugh 1973, p. 128; Kral 1983, p. 1253; Campbell et al. 1989, p. 40; White and Drozda 2006, p. 124). Associated woody species of the mixed mesophytic forest adjacent to *S. albopilosa* occurrences include red maple (*Acer rubrum*), sugar maple (*Acer saccharum*), American beech (*Fagus grandifolia*), American holly (*Ilex opaca*), mountain laurel (*Kalmia latifolia*), tulip poplar (*Liriodendron tulipifera*), bigleaf magnolia (*Magnolia macrophylla*), umbrella magnolia (*M. tripetala*), black gum (*Nyssa sylvatica*), oaks (*Quercus* spp.), basswood (*Tilia americana*), and eastern hemlock (*Tsuga canadensis)* (Andreason and Eshbaugh 1973, p. 128; Kral 1983, p. 1253; Campbell et al. 1989, p. 40).

When the species' recovery plan was completed in 1993, 90 extant occurrences were known (Service 1993, p. 2), containing an estimated 45,000 stems (Service 1993, p. 2). All of these locations were situated within the proclamation boundary of the DBNF, and 69 occurrences (approximately 76 percent) were in Federal ownership. The remaining occurrences (21) were located on private property. Rather than try to determine what constituted a population, the recovery plan (Service 1993, p. 1) used ''occurrence'', defining it as a ''discrete group of plants beneath a single rock shelter or on a single rock ledge.'' In making this definition, the Service (1993, p. 6) explained that pollinators (bees and syrphid flies) likely carried pollen between rock shelters and may even move between adjacent ravines. If there were sufficient gene flow between occurrences via pollinators, clusters of nearby rock shelters or adjacent ravines could comprise a population. However, without additional research, it was impossible to determine the species' actual population boundaries.

The Kentucky State Nature Preserves Commission (KSNPC) completed surveys in 1996, 1999, 2002, 2004, and 2005 (White and Drozda 2006, pp. 124–128; KSNPC 2010, p. 4), and these surveys raised the number of *S. albopilosa* occurrences from 90 to 141. Despite the increased number of occurrences, the total range of *S. albopilosa* did not increase significantly as it was still restricted to the same general area within the Red River Gorge. KSNPC (2010, pp. 4–8) completed the first range-wide survey during the 2008 and 2009 field seasons. During this 2-year period, KSNPC ranked each occurrence based on population size and viability, habitat condition, and degree of threat. KSNPC also evaluated the stability of each occurrence by comparing their 2008–2009 survey data with data collected in previous years. The following specifications were used to rank the occurrences (KSNPC 2010, p. 21):

A (excellent estimated viability): 2,500 or more stems in habitat with low degree of recreational impact or a minimum of 4,000 stems where the degree of recreational impact is medium or high.

B (good estimated viability): 1,000 to 2,499 stems and some areas of habitat with a low degree of recreational impact or higher numbers of stems (2,500 to 4,000) at sites where the degree of recreational impact is medium or high.

C (fair estimated viability): 300 to 999 stems where recreational impacts are low or higher numbers of stems (1,000 to 2,000) at sites affected by a medium or high degree of recreational impact; may also include sites with little opportunity for habitat recovery or population expansion.

D (poor estimated viability): Fewer than 300 stems in any habitat.

H (historic): Taxon or natural community has not been reliably reported in Kentucky since 1990 but is not considered extinct or extirpated.

X (extirpated): A taxon for which habitat loss has been pervasive and/or concerted efforts by knowledgeable biologists to collect or observe specimens within appropriate habitats have failed.

F (failed to find): Occurrence not located in current survey; original mapping may be in wrong location.

During their 2-year range wide survey, KSNPC (2010, p. 6) documented a total of 116 extant occurrences, producing ranks with the following categorical results: A-rank (11 occurrences), B (26), C (25), and D (54) (Table 1). The remaining 25 occurrences were considered to be historic, extirpated, or could not be relocated (failed to find). Of the 116 extant occurrences, only 6 were located on private land, with the remainder located on the DBNF. For all extant occurrences, 79 (68 percent) were considered to be stable, including ranks of A (10 occurrences), B (21), C (18), and D (30). Stability was estimated through comparisons of historical and recent survey data. Occurrences were considered ''stable'' if no change was detected in their general rank/status over the course of monitoring, stem numbers increased over the course of monitoring, and/or slight decreases in stem numbers could be attributed to natural climatic variation. Ranks were based on population size and perceived viability, habitat condition, and degree of threat. For all stable occurrences, KSNPC reported an average monitoring period of 10.2 years and an average of 3.6 monitoring events for each occurrence.

TABLE 1—SUMMARY OF WHITE-HAIRED GOLDENROD RANKS AND STATUS BASED ON RANGE-WIDE SURVEYS COMPLETED BY THE KENTUCKY STATE NATURE PRESERVES COMMISSION IN 2008 AND 2009

[KSNPC 2010]

Status	Ranks of extant occurrences				Total
	A	B	C	D	
Stable	10	21	18	30	79
Declining	0	5	4	22	31
Unknown	1	0	3	2	6
Total	11	26	25	54	116

For the remaining extant occurrences, 31 were considered to be declining and 6 were of unknown status (see Table 1). For the declining occurrences, ranks included B (5 occurrences), C (4), and D (22). For the unknown occurrences, ranks included A (1 occurrence), C (3), and D (2). Occurrences were considered to be declining if a negative change was detected in the general rank/status over the course of monitoring and/or there was a greater than 30 percent decline in stem count. Unknown status meant surveys of that occurrence were not performed more than once or prior surveys could not be compared to recent surveys due to discrepancies in survey methodology.

KSNPC and the Service completed additional surveys from June to October 2013 at 30 widely separated occurrences, resulting in the discovery of one new occurrence and revised status information for two unknown occurrences (Service 2014a, entire). Combining these results with occurrence totals reported by KSNPC (2010, 24 pp.), there are now 81 stable occurrences with the following categorical results: A (11 occurrences), B (22), C (18), and D (30) (Table 2). The average monitoring period increased from 10.2 to 11.1 years, with an average of 3.7 monitoring events for each occurrence. The total number of stems now stands at 174,357, compared to 45,000 when the recovery plan was completed.

TABLE 2—SUMMARY OF CURRENT WHITE-HAIRED GOLDENROD RANKS AND STATUS (KSNPC 2010, 2014a) SHOWING AN INCREASE IN A AND B RANKED OCCURRENCES

Status	Ranks of extant occurrences				Total
	A	B	C	D	
Stable	11	22	18	30	81
Declining	0	5	4	23	32
Unknown	0	0	2	2	4
Total	11	27	24	55	117

Recovery

Section 4(f) of the Act directs us to develop and implement recovery plans for the conservation and survival of threatened and endangered species unless we determine that such a plan will not promote the conservation of the species. Recovery plans are not regulatory documents and are instead intended to establish goals for long-term conservation of a listed species, define criteria that are designed to indicate when the threats facing a species have been removed or reduced to such an extent that the species may no longer need the protections of the Act, and provide guidance to our Federal, State, and other governmental and nongovernmental partners on methods to minimize threats to listed species. There are many paths to accomplishing recovery of a species, and recovery may be achieved without all criteria being fully met. For example, one or more criteria may have been exceeded while other criteria may not have been accomplished, yet the Service may judge that, overall, the threats have been minimized sufficiently, and the species is robust enough, to reclassify the species from endangered to threatened or perhaps delist the species. In other cases, recovery opportunities may have been recognized that were not known at the time the recovery plan was finalized. These opportunities may be used instead of methods identified in the recovery plan.

Likewise, information on the species that was not known at the time the recovery plan was finalized may become available. The new information may change the extent that criteria need to be met for recognizing recovery of the species. Recovery of species is a dynamic process requiring adaptive management that may, or may not, fully follow the guidance provided in a recovery plan.

The following discussion provides a brief review of recovery planning and implementation for the white-haired goldenrod, as well as an analysis of the recovery criteria and goals as they relate to evaluating the status of the taxon.

The White-haired Goldenrod Recovery Plan was approved by the Service on September 28, 1993 (Service 1993, 40 pp.). The recovery plan includes recovery criteria intended to indicate when threats to the species have been adequately addressed, and prescribes actions necessary to achieve those criteria. We first discuss progress on completing the primary recovery actions, then discuss recovery criteria.

Recovery Actions

The recovery plan identifies five primary actions necessary for recovering *S. albopilosa:*

(1) Protect existing occurrences;

(2) Continue inventories;

(3) Conduct studies on life history and ecological requirements;

(4) Maintain plants and seeds *ex situ;* and

(5) Provide the public with information.

Three of five recovery actions (1, 2, and 5) have been accomplished (completion of the remaining actions (3 and 4) are discussed in greater detail below under each action). Action 4 is under way and will be included in the post delisting monitoring activities. The Service entered into a cooperative agreement with KSNPC in 1986, under section 6 of the Act, for the conservation of endangered and threatened plant species. This agreement has provided a mechanism for KSNPC to acquire Federal funds that have supported much of the work described here. The Commonwealth of Kentucky and other partners have also provided matching funds under this agreement.

Recovery Action (1): Protect existing occurrences.

The White-haired Goldenrod Recovery Plan states that an occurrence will be ''adequately protected'' when it is legally protected, has received adequate physical protection, and is assured of all required management (Service 1993, 40 pp.). Based on these criteria, we consider a total of 46 A-, B-, or C-ranked occurrences on the DBNF to be adequately protected. We base our conclusions regarding their level of protection on the location of these occurrences (all are in DNBF ownership and many are in remote locations not visited by the public); trends in occurrence data gathered by KSNPC, DBNF and the Service; observations about threats reported by KSNPC (2010, pp. 5–18); conservation actions described in DBNF's Land and Resource Management Plan (LRMP); and information in our files concerning specific DBNF conservation actions, such as trail closure, placement of signs, and fencing. We have chosen to exclude five, stable, self-sustaining occurrences from the list of ''protected'' occurrences because they are in private ownership, and no conservation agreement or plan is in place to ensure their long-term protection.

The species' primary threat has been identified as ground disturbance and trampling associated with recreational activities (*i.e.,* camping, hiking, and rock-climbing) within the Red River Gorge. To address these threats, the DBNF began to redirect trails and install fencing (chicken wire) around selected *S. albopilosa* rock shelters in February 2000. The DBNF focused on these occurrences because they were near DBNF user-defined trails and were suffering obvious recreational impacts—trampling and ground disturbance associated with camping, rock climbing, and hiking. The DBNF also placed informational signs at these shelters and at trailheads, alerting visitors to the presence of the species and warning them against potential damage to plants.

Signs and/or fencing were placed and have been maintained at a total of 21 occurrences, and DBNF personnel continue to visit these sites annually, checking the condition of signs and fencing and making repairs as needed. To guard against future impacts, the DBNF and KSNPC have proposed the addition of new or expanded fencing at five occurrences. As stated below in this recovery section, this new and expanded fencing is included as a conservation action in the Service's proposed cooperative management agreement with DBNF and KSNPC.

Monitoring results show that implementation of the LRMP, including specific conservation actions described above (fencing and sign placement), have had a positive effect on the species (KSNPC 2010, 24 pp.). Specifically, it has been demonstrated that disturbance from trampling, camping, and rock climbing is low at remote occurrences, and impacts have been reduced at more visited sites. The number of stems has remained stable or increased at 20 of 21 occurrences (95 percent) where fencing or informational signs have been added. For all extant occurrences on the DBNF, 75 (68 percent) of 111 extant occurrences are considered stable to increasing, and we consider 46 occurrences to be self-sustaining (A-, B-, or C-rank occurrences that are stable and reproducing). Based on all these factors, we consider this recovery action to be complete.

Recovery Action (2): Continue inventories.

There were 90 extant occurrences of *S. albopilosa* when the recovery plan was completed (Service 1993, p. 2). In subsequent years, KSNPC completed surveys within the Red River Gorge in 1996, 1999, 2002, 2004, and 2005 (White and Drozda 2006, pp. 124–128; KSNPC 2010, p. 2), raising the number of documented *S. albopilosa* occurrences from 90 to 141. Surveys in other areas of Kentucky and adjacent States with suitable habitat (*e.g.,* sandstone rock shelters) did not show evidence of additional occurrences of the species (Campbell et al. 1989, pp. 29–43; Palmer-Ball et al. 1988, pp. 19–25; Walck et al. 1996, pp. 339–341; Norris and Harmon 2000, pp. 2–3). The first range-wide survey in the Red River Gorge was completed during the field seasons of 2008 and 2009 (KSNPC 2010, pp. 4–8), and KSNPC and the Service completed follow up surveys at 30 extant occurrences in 2013 (See the Species Information section above for detail on surveys). During these efforts, KSNPC and the Service documented a total of 117 extant occurrences and of these, we consider the A-, B-, and C-ranked occurrences (total of 46) to be secure and self-sustaining. Because systematic searches for new occurrences have been conducted since the completion of the recovery plan and led to the discovery of previously unknown occurrences, we consider this recovery action to be completed.

Recovery Action (3): Conduct studies on life history and ecological requirements.

This recovery action is incomplete (not all subactivities have been addressed completely) but significant progress has been made. Since publication of the recovery plan (Service 1993, entire), studies of the species' life history and ecological requirements have included Esselman (1995, pp. 5–10), Esselman and Crawford (1997, pp. 246–251), White and Drozda (2006, p. 125), KSNPC (2010, p. 5), and Nieves and Day 2014). Esselman (1995, pp. 5–10) and Esselman and Crawford (1997, pp. 246–251) studied the ancestry of *S. albopilosa,* examined gene flow and genetic diversity within and between populations, and investigated life-history traits (*i.e.,* seed set, importance of pollinators, self-incompatibility (the inability of a plant to produce seeds when its flowers are pollinated from its own flowers or from flowers of plants that are genetically the same)). The ancestry of *S. albopilosa* was unclear, but it had the most morphological and genetic similarity with *S. flexicaulis.* Despite this, the two species were reported as genetically different and there was no evidence of recent gene flow. Esselman (1995, pp. 16–23) and Esselman and Crawford (1997, pp. 251–253) observed the highest levels of genetic diversity between populations rather than within populations. The levels of seed production appeared to be about equal to that of other goldenrods, but the amount of seed set varied between populations and appeared to increase with increasing occurrence size. Pollination experiments indicated that pollinators are necessary for seed set, and the species is self-incompatible.

During field surveys between 1996 and 2009, KSNPC collected occurrence information throughout the species' range, recording such information as stem count, patch size, percent vegetative versus sexual reproduction, recreational disturbance (ranked from low to high), other perceived threats, and general habitat condition (White and Drozda 2006, p. 125; KSNPC 2010,

p. 5). In its 2-year range wide study, KSNPC (2010, p. 5) used a two-page plant survey form to record more detailed biological information at each occurrence: population structure (percent individuals exhibiting vegetative versus reproductive growth), occurrence size (square meters), plant height, number of stems, number of rosettes, population density, plant vigor, and an evaluation of threats (*e.g.,* trampling, camping, invasive plants, herbivory). KSNPC (2010, p. 5) also photographed each occurrence and made sketches that showed individual patch locations within each occurrence or rock shelter.

Nieves and Day (2014, pp. 1–12) conducted a preliminary assessment of the microclimatic and pedological (soil) conditions of 10 rock shelters inhabited by the species. They documented significant differences between the inside of rock shelters and the surrounding environment with respect to temperature and relative humidity (habitats inside rock shelters were wetter and more humid) but no significant differences with respect to soil characteristics (macronutrients and acidity/alkalinity (pH)). Most of the rock shelters they investigated were easterly or northerly facing, but their small sample size prevents any significant conclusions with respect to the importance of sunlight and solar radiation.

Under recovery action 3.0, two of seven subactivities remain to be completed—the use of quantitative, permanent plots (3.1) and determination of specific habitat requirements (3.3). Permanent plots have not been established, but the species' known occurrences have been visited and evaluated repeatedly (average of 3.6 times) since completion of the recovery plan. These visits have allowed us to evaluate the species' status and track the number of stems and flowers. The purpose of subactivity 3.1 was to evaluate demography and we believe the visits and work done in cooperation with KSNPC has provided enough population data on this plant to propose delisting without establishing permanent plots. The species' specific habitat requirements (*e.g.,* light, moisture, soils) are not well understood, but preliminary investigations into the microclimate and soil conditions of rock shelters were completed by Nieves and Day (2014, pp. 1–12), and additional research is planned (Nieves and Day 2014, pp. 11–12). In partnership with DBNF and KSNPC, we have done extensive work together to reduce threats such as disturbance. The intent behind subactivity 3.3 was to learn about habitat requirements of this plant for the purposes of determining if reintroduction or artificial propagation that may be necessary to help recover this plant. White haired goldenrod occurrences have grown in number and size as recovery implementation actions have been implemented and threats have been removed or reduced. These successful actions have removed the necessity of having to reintroduce or augment plants. We will continue to learn more about the species' habitat requirements as we work with DBNF and KSNPC through post delisting monitoring. In the course of this work, if a new threat of any kind presents itself, we have identified in the PDM plan how we will evaluate it with respect to species status.

The majority of subactivities have been addressed (3.2, 3.4–3.7); a considerable amount of information has been gained regarding the species' life history and ecological requirements; and the species' status has improved since publication of the recovery plan. We were able to obtain the intended information identified in subactivity 3.3 through implementation of other actions. Although the need to conduct subactivity 3.3 has been removed with positive progress in this plant's recovery program, we intend throughout PDM to continue to work closely with researchers as they learn more about this species and its habitat.

Recovery Action (4): Maintain plants and seeds *ex situ.*

Seeds and plants of *S. albopilosa* have not been maintained *ex situ* in any museum, botanical garden, or other seed storage facility; however, we are working with the Missouri Botanical Garden to develop a seed banking effort for *S. albopilosa.* A proposal for this work has been drafted and is being considered by the Garden and the Service. This effort will likely begin in late 2015 and will also be included as part of post-delisting monitoring activities. This will involve collection of *S. albopilosa* seed from across the range of the species with deposition of the material at the Missouri Botanical Garden.

Recovery Action (5): Provide the public with information.

The KSNPC and DBNF have prepared several species factsheets and signs that have been posted at gas stations, restaurants, kiosks, and trailheads throughout the Red River Gorge. These signs were intended to educate Red River Gorge visitors about the species and its threats. Signs have also been posted in five archaeologically sensitive rock shelters to prevent disturbance of historical artifacts as part of the strategy to continue to protect against looting and at the same time to protect this plant species. DBNF also displays photographs and provides information on *S. albopilosa* at its Gladie Cultural-Environmental Learning Center. KSNPC makes available on its Web site (*http://naturepreserves.ky.gov*) an *S. albopilosa* factsheet and several threatened and endangered species lists that include information on *S. albopilosa.* In June 2009, the Kentucky Department of Fish and Wildlife Resources published 2,000 copies of a revised threatened and endangered species booklet (second edition), which contained a species account for *S. albopilosa.* Because of the numerous public information and education projects listed above, we consider this recovery action completed.

Recovery Criteria

Under the Recovery Plan, *S. albopilosa* will be considered for delisting when 40 geographically distinct, self-sustaining occurrences are adequately protected and have been maintained for 10 years. An occurrence will be considered as self-sustaining if there is evidence of successful reproduction and the number of individuals is stable or increasing. An occurrence will be adequately protected when it is legally protected, has received adequate physical protection, and is assured of all required management. The recovery plan also noted that the requirements for delisting were preliminary and could change as more information about the biology of the species was known. Based on our current understanding of the species' range, biology, and threats, we believe that the delisting criteria continue to be relevant. While the number of occurrences has increased since completion of the Recovery Plan, the species' overall range and the type of threats have not changed dramatically. Furthermore, our current knowledge of the species' biology indicates that multiple, distinct populations should be maintained in order to provide redundancy (protect against stochastic events) and preserve genetic diversity. We believe the recovery goal of 40 stable, self-sustaining, and protected occurrences is sufficient to address these needs. The species' current number of stable, self-sustaining, and protected occurrences (46) has exceeded this recovery goal (see discussion of Recovery Action 1 above). These occurrences are distributed across the species' range and contain more than 75 percent of the species' total number of stems.

The criteria for delisting *S. albopilosa* have been met, as described below. Additionally, the level of protection currently afforded to the species and its habitat, as well as the current status of threats, are outlined below in the Summary of Factors Affecting the Species section.

Currently, there are 117 extant occurrences. As described above, an occurrence is defined as a ''discrete group of plants beneath a single rock shelter or on a single rock ledge,'' and each occurrence is considered ''geographically distinct'' as described in the recovery criteria. We currently consider 81 (69 percent) of the 117 extant white-haired goldenrod occurrences to be stable, meaning no change has been detected (over average monitoring period of 11.1 years) in their general rank or status. Of these, we consider the A-, B-, and C-ranked occurrences (total of 46) to be adequately protected and self-sustaining as defined by the recovery plan. We consider these occurrences to be self-sustaining because (1) the number of plants at these occurrences has been stable or increasing over an average monitoring period of 11.1 years, (2) these natural occurrences contain a relatively high number of individual plants (range of 797–9,200), (3) the estimated viability of these occurrences ranges from fair to excellent; (4) the threat level at these occurrences is generally low (average recreational impact of 2.5 on a scale of 1 (low impact) to 5 (high)), and (5) the observed reproduction (flowering plants) at these occurrences has been relatively high, averaging 75–90 percent of plants in nearly all cases (KSNPC 2010, p. 10). We consider these occurrences to be adequately protected because of their location (all are located on DBNF); trends in occurrence data gathered by KSNPC, DBNF and the Service; observations about threats reported by KSNPC (2010, pp. 5–18); conservation actions described in DBNF's Land and Resource Management Plan (LRMP); and information in our files concerning specific DBNF conservation actions, such as trail closure, placement of signs, and fencing. We do not consider the stable, D-ranked occurrences (total of 30) to be self-sustaining, primarily due to their poor estimated viability and the low number of plants (fewer than 300 stems) observed at these sites. We, therefore, conclude that we have met and exceeded the criterion to have 40 geographically distinct, self-sustaining occurrences.

While we consider only 46 out of the 117 total extant occurrences to currently be secure (adequately protected) and self-sustaining (approximately 39 percent of the total occurrences), these occurrences contain the majority of the total number of stems of the species. The total number of stems now stands at approximately 174,000, and the 46 secure, self-sustaining occurrences contain approximately 131,000 stems, or about 75 percent of the species' total number. If we consider the five additional self-sustaining occurrences located on private property, the total number of stems increases to 140,500, or about 81 percent of the species' total number. While the remaining 65 occurrences on DBNF are not currently considered self-sustaining, all of these occurrences will continue to receive protection and management under DBNF's LRMP and we expect, based on the past ten years of monitoring, their status will likely remain stable or continue to improve.

With respect to protection, 111 of 117 extant occurrences (95 percent) occur on the DBNF and receive management and protection through DBNF's Land and Resource Management Plan (LRMP) (USFS 2004, pp. 1.1–1.10). As specified in the LRMP, *S. albopilosa* habitats receive protection and management consideration as part of the Cliffline Community Prescription (or management) Area (USFS 2004, pp. 3.5–3.8). The Cliffline Community is defined as the area between 100-feet slope-distance from the top of the cliff and 200-feet slope-distance from the dripline of the cliffline. A cliffline is defined as a naturally occurring, exposed, and nearly vertical rock structure at least 10 feet (3.05 meters (m)) tall and 100 feet (30.05 m) long. All known *S. albopilosa* occurrences occur within habitats fitting this description and, therefore, are included in this Prescription Area. For the Cliffline Community area, conservation goals in the LRMP include: (1) Maintenance of the unique physical and microclimatic conditions in these habitats, (2) the recovery of *S. albopilosa,* and (3) the protection of these habitats against anthropogenic disturbance (USFS 2004, p. 3.6). To meet these goals, the following activities or resource uses are prohibited within the cliffline zone: mineral, oil, or gas exploration and development (Forest Service Standard 1.C–MIN–1); road construction (1.C–ENG–1); recreational facilities (1.C–REC–1); recreational activities such as rock climbing and rappelling (C–REC–2); camping (1.C–REC–3); campfires (1.C–REC–4). Other activities such as wildlife management (1.C–WLF) and vegetation management (1.C–VEG) are limited and strictly controlled. This Prescription Area is classified as ''Unsuitable for Timber Production'' but timber harvests may occur on an unscheduled basis to attain a desired future condition. Harvest of wood products may occur only as an output in pursuing other resource objectives (USFS 2004, pp. 3.5–3.8). DBNF monitors cliffline habitats and protects them as needed through law enforcement activities, construction of fences, trail diversion, and placement of signs.

Since the species was listed, we have worked closely with KSNPC and DBNF on the management and protection of *S. albopilosa.* Management activities have included trail diversion (away from *S. albopilosa* occurrences), installation of protective fencing, and placement of informational signs in rock shelters, along trails, and at trailheads. These activities and other management actions included in the DBNF's LRMP (USFS 2004, pp. 3.5–3.8) have assisted in recovery of the species, as reflected in the large number of stable occurrences (81), self-sustaining occurrences (51 occurrences with ranks of A, B, or C), and the long period (greater than 11 years) during which this trend has been maintained. We are currently in the process of finalizing a cooperative management agreement among the Service, DBNF, and KSNPC that will provide for the long-term protection of the species. The management agreement outlines a number of conservation actions that will benefit the species: (1) Maintenance of current fencing; (2) installation and maintenance of fencing at five new occurrences; (3) evaluation of trail diversion, rerouting, or closure at 39 occurrences identified by KSNPC (2010, entire); (4) placement of new informational signs at occurrences with high visitation; (5) monitoring of extant occurrences; (6) protection of extant occurrences through DBNF patrols; and (7) continuation of education and outreach efforts. We expect to have this agreement in place before this rule is finalized, and the cooperative management agreement will remain in place even if the species is delisted.

In summary, most major recovery actions are complete, and significant progress has been made on the remaining actions (life history/ecological studies and ex situ seed conservation). Completion of these actions has contributed to achieving and exceeding the recovery criteria: 40 geographically distinct, self-sustaining occurrences are adequately protected and have been maintained for 10 years. The 46 secure, self-sustaining occurrences contain 75 percent of the

species' total number of stems, and thus represent 75 percent of the species' total population. These secure, self-sustaining occurrences, as well as 93 percent of the species' remaining occurrences currently receive protection and management through implementation of DBNF's LRMP. We, therefore, conclude that the goals and criteria outlined in the recovery plan have been achieved.

Summary of Factors Affecting the Species

Section 4 of the Act and its implementing regulations (50 CFR part 424) set forth the procedures for listing, reclassifying, or removing species from the Federal List of Endangered and Threatened Species. ''Species'' is defined by the Act as including any species or subspecies of fish or wildlife or plants, and any distinct vertebrate population segment of fish or wildlife that interbreeds when mature (16 U.S.C. 1532(16)). Once the ''species'' is determined, we then evaluate whether that species may be an endangered species or a threatened species because of one or more of the five factors described in section 4(a)(1) of the Act. We must consider these same five factors in reclassifying or delisting a species. We may delist a species according to 50 CFR 424.11(d) if the best available scientific and commercial data indicate that the species is neither endangered nor threatened for the following reasons: (1) The species is extinct; (2) the species has recovered and is no longer endangered or threatened; and/or (3) the original scientific data used at the time the species was classified was in error.

Under section 3 of the Act, a species is an ''endangered species'' if it is in danger of extinction throughout all or a ''significant portion of its range'' and is a ''threatened species'' if it is likely to become endangered within the foreseeable future throughout all or a ''significant portion of its range.'' The word ''range'' in the phrase ''significant portion of its range'' (SPR) phrase refers to the range in which the species currently exists, and the word ''significant'' refers to the value of that portion of the range being considered to the conservation of the species. The ''foreseeable future'' is the period of time over which events or effects reasonably can or should be anticipated or trends extrapolated. A recovered species is one that no longer meets the Act's definition of a threatened or endangered species. Determining whether or not a species is recovered requires consideration of the same five categories of threats specified in section 4(a)(1) of the Act. In other words, for species that are already listed as endangered or threatened, the analysis for a delisting due to recovery must include an evaluation of the threats that existed at the time of listing, the threats currently facing the species, and the threats that are reasonably likely to affect the species in the foreseeable future following the delisting or downlisting and the removal of the Act's protections.

The following analysis examines all five factors that are currently affecting or are likely to affect *S. albopilosa* within the foreseeable future.

Factor A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

The final rule to list *S. albopilosa* as threatened (53 FR 11612, April 7, 1988) identified the following habitat threats: ground disturbance and trampling associated with unlawful archaeological activities and recreational activities such as camping, hiking, and rock climbing. The species occupies a scenic and unique geological area that is heavily visited by hikers, campers, rock-climbers, and other nature enthusiasts. The U.S. Forest Service estimates recreational use of the Red River Gorge at approximately 500,000 visitor days per year (Taylor pers. comm. 2013). Recreational activities such as camping, hiking, and rock climbing pose a threat to the species through inadvertent trampling and ground disturbance of *S. albopilosa* habitats. Evidence of trampling and ground disturbance within rock shelters has been observed repeatedly by KSNPC and DBNF personnel (KSNPC 2010, pp. 13–14).

Habitat disturbance and trampling associated with recreational activities (camping, hiking, and rock climbing) and archaeological looting have posed a significant threat to the species. The Red River Gorge is a popular recreational area (Taylor pers. comm. 2013). Use of rock shelters and cliff lines by campers, hikers, and rock climbers has contributed to physical habitat disturbance and has led to trampling of plants in rock shelters (Service 1993, p. 7; White and Drozda 2006, pp. 124–125; KSNPC 2010, pp. 13–14). In addition to habitat disturbance caused by recreationists, the presence of Native American artifacts within the Red River Gorge has contributed to digging and archaeological looting in *S. albopilosa* habitats (rock shelters). Approximately 18 white-haired goldenrod occurrences have been extirpated due to human activities, and many heavily visited rock shelters have been modified to the point that these habitats are no longer suitable for the species (KSNPC 2010, pp. 6–7).

According to the DBNF, impacts from archaeological looting are now infrequent, and these activities no longer pose a significant threat to *S. albopilosa* within the Red River Gorge (Taylor pers. comm. 2013). As for recreational impacts, many white-haired goldenrod occurrences are located in remote ravines of the Red River Gorge or grow along inaccessible cliff lines that are seldom visited or disturbed by campers, hikers, and rock climbers. Therefore, the threat magnitude at these sites is low.

Occurrences located in areas with more frequent visitor use, typically areas near DBNF and user-defined trails, generally have suffered more severe habitat disturbance and trampling. Site protection and habitat management efforts by DBNF, working cooperatively with KSNPC and the Service, have helped to reduce the magnitude of threats at these sites. These occurrences have benefited from their location on the DBNF and management and protective actions provided under DBNF's LRMP (USFS 2004, pp. 1.1–1.10), which prevents general land disturbance and prohibits or limits logging and other DBNF activities near cliffline habitats. The LRMP also protects rock shelters from vandalism and forbids removal of threatened and endangered species from these areas.

The DBNF monitors these sites and protects them as needed through law enforcement efforts, construction of fences, trail diversion, and placement of signs. To protect occurrences from trampling, fire-building, and digging, signs have been posted at all entry points to the Red River Gorge asking visitors not to remove or disturb historical resources and providing visitors with biological and status information on *S. albopilosa.* Similar signs were also placed inside at least five archaeologically significant rock shelters that contained *S. albopilosa.* Beginning in February 2000, DBNF began to redirect trails and install fencing (chicken wire) around selected rock shelters (those with greatest visitation) containing *S. albopilosa.* Signs were also placed at these shelters, alerting visitors to the presence of the species and warning them against potential damage to plants. Signs and/or fencing were placed and have been maintained at a total of 21 occurrences, and DBNF personnel continue to visit these sites annually, checking the condition of signs and fencing and making repairs as needed.

Monitoring results show that implementation of DBNF's LRMP and

the completion of additional conservation actions such as fencing and sign placement have had a positive effect on the species, the number of stems has increased, and the level of habitat disturbance and trampling associated with recreational activities has been reduced (KSNPC 2010, entire). Of the 21 occurrences on the DBNF where fencing and signs were added, 20 are considered to be stable, and the 1 declining occurrence will be protected through expanded fencing. Additional evidence that these conservation efforts have improved the status of *S. albopilosa* occurrences on the DBNF is the large number of stable occurrences (75) and the relatively high number of secure, self-sustaining occurrences (46) observed by DBNF, KSNPC, and the Service. The 46 secure, self-sustaining occurrences exceed the number identified in the recovery criteria to allow consideration of delisting.

Additional evidence that conservation actions have had a positive effect on the species is the relatively low recreational impacts observed by KSNPC (2010, pp. 13–14) at the majority of DBNF occurrences. Recreational impacts have been assessed by KSNPC since the mid-1990s (White and Drozda 2006, pp. 124–125; KSNPC 2010, pp. 13–14). Their qualitative ranking scheme estimates the percent disturbance of available habitat and uses a scale of 1 (little or no impact) to 5 (high impact, greater than 50 percent of available habitat disturbed) to produce a disturbance rank. Based on recent evaluations by KSNPC (KSNPC 2010, entire; Service 2014a, entire), 70 occurrences (60 percent) are classified as low impact (rank of 1–2), 8 occurrences (7 percent) are classified as medium impact (rank of 3), and 39 occurrences (33 percent) are classified as high impact (rank of 4–5). Overall, 67 percent of DBNF's occurrences are considered to have low to medium recreational impacts. KSNPC (2010, p. 14) also noted that they did not observe many new recreational impacts during their surveys in 2008 and 2009. Most of the documented recreational impacts such as established trails, permanent structures within rock shelters (couches, chairs, fire pits), and camp sites had been in place since before *S. albopilosa* monitoring began in 1996 (KSNPC 2010, p. 14).

The six occurrences on privately owned lands currently do not benefit from any formal protection or management and, therefore, could face higher magnitude threats (*e.g.,* habitat disturbance) than those located on the DBNF. However, based on the most recent range-wide survey results by KSNPC, all six of these private occurrences have been ranked as ''stable,'' and five of the six are considered to be self-sustaining (A-, B-, or C-rank) (KSNPC 2010, p. 8). While these occurrences potentially could face a greater level of threats, they currently do not appear to be facing a greater level of impact, and they represent a small proportion (five percent) of the overall population of the species.

Summary of Factor A: Impacts associated with archaeological looting and recreational activities have been well documented in the past, but current monitoring data suggest that the magnitude of these threats has sufficiently decreased. Implementation of the DBNF's LRMP and specific conservation actions such as fencing and sign placement have had a positive effect on the species and have reduced the threat associated with recreational disturbance. The recovery goal of 40 stable, self-sustaining, protected occurrences has been exceeded by 6, and these trends have held for more than 10 years. Because we expect that the lands containing the 46 secure and self-sustaining occurrences will remain permanently protected in Federal ownership and will be managed to maintain or improve current habitat conditions (see Service 2014b, entire), we find that the present or threatened destruction, modification, or curtailment of its habitat or range is no longer a threat to the continued existence of *S. albopilosa.*

Factor B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Both the final rule to list *S. albopilosa* as threatened (53 FR 11612, April 7, 1988) and the recovery plan (Service 1993, p. 7) identified overutilization for recreational purposes as a threat to the species. However, while the use of habitat for recreational purposes, as discussed under Factor A, has impacted the species in the past, there is no evidence that the plant itself is or was utilized for commercial, recreational, scientific, or educational purposes. We, therefore, discuss impacts from recreational use of habitat for *S. albopilosa* under Factor A above.

Summary of Factor B: We conclude that overutilization is not a threat to *S. albopilosa.*

Factor C. Disease or Predation

The listing rule for *S. albopilosa* (53 FR 11612, April 7, 1988) did not identify disease or predation as a threat to the species. Plants are occasionally browsed by herbivores, such as white-tailed deer (*Odocoileus virginianus*), wood rats (*Neotoma spp.*), and caterpillars (Order Lepidoptera), but we have no information that grazing by these species represents a threat to the species. In addition, we have no current data indicating this plant is affected by diseases.

Factor D. The Inadequacy of Existing Regulatory Mechanisms

Populations of *S. albopilosa* on the DBNF are protected from damage and unauthorized taking by U.S. Forest Service regulations (36 CFR 261.9). This regulation will apply regardless of whether the species is listed because *S. albopilosa* would still be considered a sensitive, rare, or unique species on the DBNF under this Federal regulation. The final listing rule (53 FR 11612, April 7, 1988) identified inadequate regulatory mechanisms as a threat to *S. albopilosa* because limited manpower and the remoteness of many occurrences on the DBNF makes enforcement difficult. The DBNF has taken several steps to remedy this. As noted above, *S. albopilosa* receives management and protection through DBNF's Land and Resource Management Plan (LRMP) and its conservation goals for Cliffline Community Prescription Area. The National Forest Management Act (NFMA), regulations, and policies implementing the NFMA are the main regulatory mechanisms that guide land management on the DBNF, which contains 111 of the 117 extant occurrences of *S. albopilosa.* Since listing, the DBNF has included *S. albopilosa* and its habitat in its resource management plans. These plans are required by NFMA and the Federal Land Policy and Management Act of 1976. The NFMA requires revision of the Plans every 15 years; however, plans may be amended or revised as needed. Management plans are required to be in effect at all times (in other words, if the revision does not occur, the previous plan remains in effect) and to be in compliance with various Federal regulations. We expect continued implementation of the LRMP and expect that any future revisions will consider conservation of *S. albopilosa* and its Cliffline Community habitats.

Specific actions that DBNF has taken under the LRMP include measures to reduce impacts of recreational activities to *S. albopilosa* and its habitat as discussed under Factor A. As discussed above, these and other protection and management actions taken by DBNF under their LRMP (USFS 2004, pp. 1.1–1.10) have been successful at improving the status of the species. Monitoring results from these occurrences show that these efforts have had a positive effect on the species. Specifically,

disturbance from trampling, camping, and rock climbing has been reduced in these areas, and the number of stems has increased.

The species is listed as endangered by the State of Kentucky (KSNPC 2005, entire), but this designation conveys no legal protection to occurrences located on private property. Consequently, occurrences on privately owned land could face higher magnitude threats (*e.g.,* habitat disturbance) than those located on the DBNF. Based on recent survey results by KSNPC, however, only 6 of 117 extant *S. albopilosa* occurrences (5 percent) are located on private land, and 5 of these occurrences have been ranked as ''stable'' (A-, B-, or C-rank) by KSNPC (KSNPC 2010, p. 8). Therefore, based on this greater than 10-year data set, the majority of private occurrences are also stable.

Summary of Factor D: Occurrences of *S. albopilosa* located on the DBNF receive protection due to their location on Federal property, and these occurrences are managed and protected under DBNF's LRMP (USFS 2004, pp. 1.1–1.10). This protected status and management actions included in the LRMP will continue to provide adequate regulatory protection for these occurrences. Monitoring results show that DBNF's management actions have had a positive effect on the species. Specifically, disturbance from trampling, camping, and rock climbing has been reduced and the number of stems has stabilized or increased. Based on the best available information for both private and public lands occurrences, and the fact that existing regulatory mechanisms and associated management practices will continue on public lands, we conclude that existing regulatory mechanisms are adequate. Therefore, we find that the inadequacy of existing regulatory mechanisms is no longer a threat to *S. albopilosa.*

Factor E. Other Natural or Manmade Factors Affecting Its Continued Existence

Other natural or manmade factors were first identified as a threat to white-haired goldenrod due to the species' specialized habitats (sandstone rock shelters and cliff habitats of the Red River Gorge) and the perceived vulnerability of these habitats to any physical or climatic change (52 FR 13798, 53 FR 11612). In the species' final listing rule (53 FR 11612), published in 1988, the Service concluded that even minor changes in the surrounding forest (*e.g.,* loss of canopy trees) could impact the species through drying, erosion, and competition with sun-tolerant species. At the time, these potential changes were not considered to be an imminent threat to white-haired goldenrod, but the final listing rule identified the need for management planning that would take into account the requirements of the species to ensure its continued existence.

Recent surveys and status assessments of white-haired goldenrod have identified several threats under Factor E. These included competition from invasive plants, the loss of eastern hemlock (*Tsuga canadensis*), low genetic diversity and small population size, and the effects of climate change (Service 2009a, p. 9; Service 2009b, p. 2; KSNPC 2010, pp. 13–14). KSNPC (2010, p. 14) reported several invasive plant species in habitats occupied by white-haired goldenrod, but the most common species included Japanese stilt grass (*Microstegium vimineum*), princess tree (*Paulownia tomentosa*), Japanese spiraea (*Spiraea japonica*), common chickweed (*Stellaria media*), and common mullein (*Verbascum thapsus*). Of the invasive plant species, Japanese stilt grass was the most common species. It was observed growing in direct competition with 23 *S. albopilosa* occurrences. However, invasive species were absent from the majority of extant occurrences (about 80 percent) of white-haired goldenrod and most stable occurrences (65 percent) (KSNPC 2010, p. 14; Service 2014a, pp. 1–6). For the 23 occurrences in direct competition with invasive plants, most (16 of 23 (70 percent)) were stable or increased over the 10-year monitoring period (KSNPC 2010, p. 14; Service 2014a, pp. 1–6). While we do not have data that specifically addresses the effects of climate change with regard to invasive species attributes like distribution or range and the relation to white haired goldenrod. There is some data showing that more common aggressive invasive species like kudzu (*Pueraria lobata*) may expand into greater ranges due to possible effects of climate change (Bradley et al. 2009). However, species like Japanese stilt grass are more recent invaders to this area of the Southeast and other than the data presented above, we do not have further information or data that indicates competition from invasive plants will change in significance as a threat to the species. Therefore, we do not believe that competition from invasive plants is a significant threat to the species now or in the foreseeable future.

The hemlock woolly adelgid (*Adeleges tsugae*), an aphid-like insect that is native to Asia, represents a potential threat to white-haired goldenrod because it has the potential to severely damage stands of eastern hemlocks (*Tsuga canadensis*) that occur near rock shelters and cliffs occupied by the species (Service 2009b, p. 2; KSNPC 2010, p. 15). The hemlock woolly adelgid was introduced in the Pacific Northwest during the 1920s and has since spread throughout the eastern United States, reaching Kentucky by 2006. The species creates an extreme amount of damage to natural stands of hemlock, specifically eastern hemlock and Carolina hemlock (*Tsuga caroliniana*). The species' recovery action plan (Service 2009b, p. 2) concluded that the loss of eastern hemlock within the Red River Gorge could result in microclimatic changes (increased light, decreased moisture, increased leaf litter) in and near rock shelters that may negatively affect white-haired goldenrod. Despite this potential threat, KSNPC (2010, p. 15) demonstrated in their evaluation that eastern hemlock was actually a minor component of the canopy surrounding rock shelters inhabited by the species. Consequently, the eventual loss of eastern hemlocks would not represent a significant change to the canopy surrounding these rock shelters and would, therefore, not represent a significant threat to the species.

Potential impacts that may be associated with low genetic variability, such as inbreeding depression, reduced fitness, or reduced adaptive capacity (ability to respond to and adapt to changing conditions) have been identified as a potential threat to other listed plant species, but we have no information suggesting that low genetic variability affects *S. albopilosa* (53 FR 11614; Service 2009a, entire; KSNPC 2010, 24 pp.). Esselman and Crawford (1997, pp. 245–257) reported that *S. albopilosa* exhibits genetic diversity both within and between populations (genetic diversity is widely spread among populations, and populations are not genetically homogenous). The highest level of genetic diversity was observed among (as opposed to between) populations. Consequently, we do not believe that the potential effects associated with low genetic variability threaten the continued existence of *S. albopilosa* now or in the foreseeable future.

Some white-haired goldenrod occurrences may be more vulnerable to extirpation due to their small population size and poor estimated viability. The low number of stems (typically less than 300), poor estimated viability, and high recreational impacts associated with D-ranked occurrences make these occurrences more vulnerable

to stochastic events. Currently, 62 of the species' 117 extant occurrences (53 percent) are D-ranked. Even though these occurrences may be more vulnerable to extirpation, the overall threat to the species is minimal because these occurrences contain less than 20 percent of the species' total number of stems. Additionally, a small population size in and of itself is not indicative of being in danger of extinction. Some white-haired goldenrod occurrences may have always had fewer plants in rock shelters with less favorable conditions (*e.g.,* small size, drier conditions).

The Intergovernmental Panel on Climate Change (IPCC) concluded that warming of the climate system is unequivocal (IPCC 2014, p. 3). Effects associated with changes in climate have been observed including changes in arctic temperatures and ice, widespread changes in precipitation amounts, ocean salinity, wind patterns and aspects of extreme weather including droughts, heavy precipitation, heat waves, and the intensity of tropical cyclones (IPCC 2014, p. 4). Species that are dependent on specialized habitat types, limited in distribution, or at the extreme periphery of their range may be most susceptible to the impacts of climate change (Byers and Norris 2011, p. 17; Anacker and Leidholm 2012, p. 2). However, while continued change is certain, the magnitude and rate of change is unknown in many cases. The magnitude and rate of change could be affected by many factors (*e.g.,* circulation patterns), but we have no additional information or data regarding these factors. There is evidence that some terrestrial plant populations have been able to adapt and respond to changing climatic conditions (Franks et al. 2013, entire). Both plastic (phenotypic change such as leaf size or phenology) and evolutionary (shift in allelic frequencies) responses to changes in climate have been detected and both can occur rapidly and often simultaneously (Franks et al. 2013, p. 135). Relatively few studies are available, however, that (1) directly examine plant responses over time, (2) clearly demonstrate adaptation or the causal climatic driver of the responses, or (3) use quantitative methods to distinguish plastic versus evolutionary responses (Franks et al. 2013, p. 135).

To generate future climate projections across the range of white-haired goldenrod, one tool we used was the National Climate Change Viewer (NCCV), a climate-visualization Web site tool developed by the U.S. Geological Survey (USGS) that allows the user to visualize climate projections at the state, county, and watershed level (Adler and Hostetler 2013, entire; *http://www.usgs.gov/climate_landuse/clu_rd/nccv.asp*). Initially, the viewer was designed to provide information for states and counties on projected temperature and precipitation through the 21st century. The viewer was expanded in 2014 to provide information on associated projected changes in snowpack, soil moisture, runoff, and evaporative deficit for U.S. states and counties and for USGS Hydrologic Units or watersheds as simulated by a simple water-balance model. The model provides a way to simulate the response of the water balance to changes in temperature and precipitation in the climate models (30 separate models developed by the National Aeronautic and Space Administration). Combining the climate data with the water balance data provides further insights into the potential for climate-driven change in water resources. The viewer uses tools such as climographs (plots of monthly averages); histograms showing the distribution or spread of model simulations; monthly time series spanning 1950–2099; and tables that summarize changes (and extremes) in temperature and precipitation during these periods. The application also provides access to comprehensive, three-page summary reports for states, counties, and watersheds.

Using the NCCV and assuming the more extreme Representative Concentration Pathways (RCP) greenhouse gas emission scenario (RCP8.5), in which greenhouse gas emissions continue to rise unchecked through the end of the century leading to an equivalent radiative forcing of 8.5 Watts per square meter, we calculated projected annual mean changes for maximum temperature (+3.6 degrees Celsius (°C) (+6.5 degrees Fahrenheit (°F)), precipitation (+0.02–0.03 cm/day (+0.008–0.012 in/day)), runoff (−0.25 cm/month (−0.1 in/month), snowfall (−0.5 cm (−0.2 in)), soil storage (−2.5 cm (−1.0 in)), and evaporative deficit (+0.75 cm/month (+0.3 in/month)) for the period 2050–2074 in Menifee, Powell, and Wolfe counties (Adler and Hostetler 2013, entire). Based on these results, all three counties within the range of white-haired goldenrod will be subjected to higher maximum temperatures (annual mean increase of 3.6 °C (6.5 °F)) and slightly higher precipitation (annual mean increase of 0.02–0.03 cm/day (+0.008–0.012 in/day)) relative to 1950–2005. Because the average annual increase in precipitation is predicted to be only slightly higher, the increased evaporative deficit and the loss in runoff, snowfall, and soil storage is primarily a result of higher maximum and minimum temperatures. The most dramatic shift is predicted for soil storage, which will decrease significantly between mid-May and late November relative to 1950–2005. Despite the slight increase in predicted precipitation, the coincident warming means that habitats are unlikely to maintain their current moisture status.

To evaluate the vulnerability of white-haired goldenrod to the effects of climate change, we also utilized NatureServe's Climate Change Vulnerability Index (CCVI) (Young et al. 2015, entire), a climate change model that uses downscaled climate predictions from tools such as Climate Wizard (Givertz et al. 2009, entire) and combines these with readily available information about a species' natural history, distribution, and landscape circumstances to predict whether it will likely suffer a range contraction and/or population reductions due to the effects of climate change. The CCVI uses an Excel platform that allows users to enter numerical or categorical, weighted responses to a series of questions about risk factors related to species exposure and sensitivity to climate change. The CCVI separates vulnerability into its two primary components: a species' exposure to changes in climate within a particular assessment area and its inherent sensitivity to the effects of climate change. The tool gauges 20 scientifically documented factors and indicators of these components, as well as documented responses to climate change where they exist. While the Index calculates anticipated increases or declines in populations of individual species, it also accommodates inherent uncertainties about how species respond within their ecological contexts. The CCVI generated a vulnerability rating of ''extremely vulnerable'' to ''highly vulnerable'' for white-haired goldenrod, suggesting that the species' abundance and/or range extent could change substantially or possibly disappear by 2050 (Young et al. 2015, p. 44). Factors influencing the species' high vulnerability were its poor movement/dispersal ability, its connection with uncommon geologic features, and its unique hydrological niche (humid, shaded rock shelters). In West Virginia, top risk factors for plants included poor dispersal ability, natural and anthropogenic barriers to dispersal, dependence on wetland habitats, restriction to areas with unique geology, and genetic bottlenecks (Byers and Norris 2011, p. 16). Although the model suggested that white-haired goldenrod is

greatly exposed and sensitive to climate change and could be adversely affected in future years, Anacker and Leidholm 2012 (pp. 16–17) note that there are also a number of weaknesses associated with the CCVI.

The CCVI was used to assess the vulnerability of over 150 rare plant species in California (Anacker and Leidholm 2012, entire). However, several specific weaknesses were identified: (1) It is weighted too heavily towards direct exposure to climate change (projected changes to future temperature and precipitation conditions which have high levels of uncertainties), (2) some important plant attributes are missing (mating system and pollinator specificity), (3) it is very difficult to complete scoring for a given species because some information is simply lacking, and (4) some scoring guidelines are too simplistic (Anacker and Leidholm (2012, pp. 16–17). They considered topographic complexity to be a potential complementary factor in assessing vulnerability to climate change (Anacker and Leidholm 2012, pp. 12–16). Topographically complex areas, such as the Red River Gorge region, have been predicted to be less vulnerable to the effects of climate change (Anacker and Leidholm 2012, p. 15–16), so species such as white-haired goldenrod may also be less vulnerable to such effects as compared to plants that occur in areas with low topographic complexity.

Additionally, Phillips (2010, entire) found that efforts to predict responses to climate change and to interpret both modern and paleoclimate indicators are influenced by several levels of potential amplifiers, which can either increase or exaggerate climate impacts, and/or filters, which reduce or mute impacts. He notes that climate forcings (factors that drive or ''force'' the climate system to change such as the energy output of the sun, volcanic eruptions, or changes in greenhouse gases) are partly mediated by ecological, hydrological, and other processes which may amplify or filter impacts on surface processes and landforms. For example, resistance or resilience of geomorphic systems may minimize the effects of changes. Thus a given geomorphic response to climate could represent amplification and/or filtering (Phillips 2010, p. 571). Due to white-haired goldenrod's habitat specificity in rock shelters and cliff overhangs, it is our judgment that the effects of climate change are likely muted or diminished due to this species' specific habitat conditions.

Based on observations of climatic conditions over a period of 25 years (KSNPC (2010, p. 13), there is some biological and historical evidence to suggest that *S. albopilosa* is adapted to endure some of the potential effects of climate change, including more frequent droughts and an estimated 2.6–3.6 °C (4.7–6.5 °F) increase in average annual maximum temperature. Habitats within the Red River Gorge often experience multiyear droughts, and *S. albopilosa* occurrences can become stressed during these periods. For example, the Cumberland Plateau region of Kentucky experienced a several-year drought prior to KSNPC's 2008–2009 survey. These dry conditions continued during 2008, and KSNPC observed many drought-stressed occurrences. The following year (2009) was relatively wet, and several of these drought stressed occurrences quickly improved (KSNPC 2010, p. 13). Despite this most recent dry period and others in the past, the species has demonstrated a resiliency to prolonged periods of drought. Although downscaling models exist at the county level (Alder and Hostetler 2013), we do not have data at the proper scale (inside rock shelters or in cliff overhangs) to determine, for example, how the species is affected by decreased relative humidity during a drought year, but periodic drought may be a normal cyclical event needed to increase production. The shaded, cooler, and more humid environment of rock shelters (Nieves and Day 2014, p. 7) and the topographic complexity of the Red River Gorge region (Anacker and Leidholm 2012, p. 15–16) may offer some relief from drying and may contribute to the species' ability to survive these conditions.

Although climate change is almost certain to affect terrestrial habitats in the Red River Gorge region of Kentucky (Adler and Hostetler 2013, entire), there is uncertainty about the specific effects of climate change on white-haired goldenrod. Currently, we have no evidence that climate change effects observed to date have had any adverse impact on *S. albopilosa* or its habitats, and we are uncertain about how predicted future changes in temperature, precipitation, and other factors will influence the species. However, we do not believe that climate change represents an imminent threat now or in the foreseeable future.

Summary of Factor E: Other potential threats such as minor vegetational changes in the surrounding forest, competition with invasive species, low genetic variability, small population size, and the effects of climate change have been identified as potential threats to *S. albopilosa.* Invasive species have invaded only 23 of 117 extant occurrences, and most of these occurrences (16) have remained stable. We do not expect the loss of eastern hemlock to have a significant impact on the species because eastern hemlock is a minor component of the forest canopy surrounding *S. albopilosa* occurrences. The potential effects of low genetic diversity do not represent a threat as the species has relatively high genetic diversity. Small populations may be vulnerable to stochastic events, but these occurrences contain only a small proportion of the species' total number of stems. We do not consider climate change to be an imminent threat based on the species' current status, its demonstrated resiliency to periods of drought, and our uncertainty regarding the species' vulnerability to the effects of climate change. Based on all these factors, we find that other natural or manmade factors considered here are no longer a significant threat to *S. albopilosa.*

Conclusion of the 5-Factor Analysis

Under section 3 of the Act, a species is endangered if it is ''in danger of extinction throughout all or a significant portion of its range'' and threatened if it is ''likely to become endangered in the foreseeable future throughout all or a significant portion of its range.'' We have carefully assessed the best scientific and commercial information available regarding the threats faced by *S. albopilosa* in developing this proposed rule. Based on the analysis above and given the reduction in threats and evidence that certain factors are not threats, we conclude that *S. albopilosa* does not currently meet the Act's definition of a threatened species (it is not likely to become endangered within the foreseeable future throughout all or a significant portion of its range).

Significant Portion of the Range

Having determined that *S. albopilosa* is not in danger of extinction or likely to become so throughout all of its range, we next consider whether there are any significant portions of its range in which *S. albopilosa* is in danger of extinction or likely to become so. Under the Act and our implementing regulations, a species may warrant listing if it is in danger of extinction or likely to become so throughout all or a significant portion of its range. The Act defines ''endangered species'' as any species that is ''in danger of extinction throughout all or a significant portion of its range,'' and ''threatened species'' as any species that is ''likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.'' The term ''species'' includes ''any

subspecies of fish or wildlife or plants, and any distinct population segment [DPS] of any species of vertebrate fish or wildlife which interbreeds when mature.''

We published a final policy interpreting the phrase ''Significant Portion of its Range'' (SPR) (79 FR 37578; July 1, 2014). The final policy states that (1) if a species is found to be endangered or threatened throughout a significant portion of its range, the entire species is listed as endangered or threatened, respectively, and the Act's protections apply to all individuals of the species wherever found; (2) a portion of the range of a species is ''significant'' if the species is not currently endangered or threatened throughout all of its range, but the portion's contribution to the viability of the species is so important that, without the members in that portion, the species would be in danger of extinction, or likely to become so in the foreseeable future, throughout all of its range; (3) the range of a species is considered to be the general geographical area within which that species can be found at the time FWS makes any particular status determination; and (4) if a vertebrate species is endangered or threatened throughout an SPR, and the population in that significant portion is a valid DPS, we will list the DPS rather than the entire taxonomic species or subspecies.

The SPR policy is applied to all status determinations, including analyses for the purposes of making listing, delisting, and reclassification determinations. The procedure for analyzing whether any portion is an SPR is similar, regardless of the type of status determination we are making. The first step in our analysis of the status of a species is to determine its status throughout all of its range. If we determine that the species is in danger of extinction, or likely to become so in the foreseeable future, throughout all of its range, we list the species as an endangered species (or threatened species) and no SPR analysis will be required. If the species is neither in danger of extinction nor likely to become so throughout all of its range, we next determine whether the species is in danger of extinction or likely to become so throughout a significant portion of its range. If it is, we list the species as an endangered species or threatened species, respectively; if it is not, we conclude that listing the species is not warranted.

When we conduct an SPR analysis, we first identify any portions of the species' range that warrant further consideration. The range of a species can theoretically be divided into portions in an infinite number of ways. However, there is no purpose in analyzing portions of the range that are not reasonably likely to be both significant and endangered or threatened. To identify only those portions that warrant further consideration, we determine whether there is substantial information indicating that (1) the portions may be significant and (2) the species may be in danger of extinction in those portions or likely to become so within the foreseeable future. We emphasize that answering these questions in the affirmative is not a determination that the species is endangered or threatened throughout a significant portion of its range—rather, it is a step in determining whether a more detailed analysis of the issue is required. In practice, a key part of this analysis is whether the threats are geographically concentrated in some way. If the threats to the species are affecting it uniformly throughout its range, no portion is likely to have a greater risk of extinction, and thus would not warrant further consideration. Moreover, if any concentration of threats apply only to portions of the range that clearly do not meet the biologically based definition of ''significant'' (*i.e.*, the loss of that portion clearly would not be expected to increase the vulnerability to extinction of the entire species), those portions will not warrant further consideration.

If we identify any portions that may be both (1) significant and (2) in danger of extinction or likely to become so, we engage in a more detailed analysis to determine whether these standards are indeed met. As discussed above, to determine whether a portion of the range of a species is significant, we consider whether, under a hypothetical scenario, the portion's contribution to the viability of the species is so important that, without the members in that portion, the species would be in danger of extinction or likely to become so in the foreseeable future throughout all of its range. This analysis will consider the contribution of that portion to the viability of the species based on principles of conservation biology. The contribution is evaluated using the concepts of redundancy, resiliency, and representation. (These concepts can similarly be expressed in terms of abundance, spatial distribution, productivity, and diversity.) The identification of an SPR does not create a presumption, prejudgment, or other determination as to whether the species in that identified SPR is endangered or threatened. We must go through a separate analysis to determine whether the species is in danger of extinction or likely to become so in the SPR. To determine whether a species is endangered or threatened throughout an SPR, we will use the same standards and methodology that we use to determine if a species is endangered or threatened throughout its range.

Depending on the biology of the species, its range, and the threats it faces, it may be more efficient to address the ''significant'' question first, or the status question first. Thus, if we determine that a portion of the range is not ''significant,'' we do not need to determine whether the species is endangered or threatened there; if we determine that the species is not endangered or threatened in a portion of its range, we do not need to determine if that portion is ''significant.''

Applying the process described above, in considering delisting *S. albopilosa*, we evaluated the range of this plant to determine if any areas could be considered a significant portion of its range. As mentioned above, one way to identify portions for further analyses is to identify any natural divisions within the range that might be of biological or conservation importance. While there is some variability in the habitats occupied by *S. albopilosa* across its range, the basic ecological components required for the species to complete its life cycle (*e.g.*, adequate sunlight, shade, moisture, soils) are present throughout the habitats occupied by the species. No specific location within the current range of the species provides a unique or biologically significant function that is not found in other portions of the range. The currently occupied range of *S. albopilosa* encompasses approximately 114 square kilometer (km^2) (44 square miles) in Menifee, Powell, and Wolfe Counties, Kentucky. Based on examination of information on the biology and life history of the species, we determined that there are no separate areas of the range that are significantly different from others or that are likely to be of greater biological or conservation importance than any other areas.

We next examined whether any threats are geographically concentrated in some way that would indicate the species could be in danger of extinction, or likely to become so, in that area. Through our review of potential threats, we identified some areas where white-haired goldenrod may experience greater threats or a greater likelihood of extirpation and, therefore, may be in danger of extinction or likely to become so in those areas. These include occurrences on private lands and

occurrences that are not currently considered self-sustaining. The majority (94.8 percent) of white-haired goldenrod occurrences are now located on DBNF and benefit from management and conservation actions implemented under the LRMP.

Six of the 117 extant occurrences are located on private lands. As explained above, these occurrences currently do not benefit from any formal protection or management and, therefore, could face higher magnitude threats. While these occurrences do not receive any formal protection, five of the six occurrences are considered to be stable and self-sustaining, indicating a low level of current impacts to those occurrences. Although the occurrences on private lands could face greater threats in the future due to lack of formal protections, these occurrences represent only 5 percent of extant occurrences and a very small proportion of the range of the species. Additionally, even if future potential threats were to cause the loss of these occurrences, that loss would not appreciably reduce the long-term viability of the species, much less cause the species in the remainder of its range to be in danger of extinction or likely to become so.

We also evaluated whether the occurrences that are not considered self-sustaining could be considered a significant portion of the species' range. We have determined that 46 secure and self-sustaining occurrences presently are distributed throughout the species' range, which accounted for more than 75 percent of the total stems estimated to exist in 2013. Of the remaining 71 extant occurrences, the 6 occurrences on private lands are not considered secure (but all 6 have been shown to be stable and 5 have been shown to be self-sustaining). These occurrences were discussed above.

The remaining 65 occurrences are on DBNF, and thus protected, but currently are not considered self-sustaining. Some of these occurrences have a status of declining or their status is unknown, while others are considered not self-sustaining primarily due to poor estimated viability and low number of plants observed. These occurrences could be at greater risk of extinction due to vulnerability to demographic and environmental stochasticity because of their smaller population sizes. These 65 occurrences, along with the 6 occurrences on private lands, account for the remaining 25 percent of the total stems estimated to exist in 2013. The threats to these occurrences from recreational activities are being managed and are not different from the threats affecting the 46 secure, self-sustaining occurrences.

Because these 46 occurrences exhibit stable or increasing trends, contain a relatively high number of individuals, have fair to excellent viability, and exhibit relatively high reproductive rates, we expect these populations to persist into the future. While most of the remaining occurrences also receive protections and are not at immediate risk of extirpation, their lower population sizes and poorer viability put them at a greater risk of extirpation. However, while these occurrences may have a greater potential to become extirpated due to demographic or environmental stochasticity, the loss of some or all of those occurrences would not cause the species in the remainder of its range to be in danger of extinction or likely to become so.

In conclusion, we have determined that none of the existing or potential threats, either alone or in combination with others, are likely to cause *S. albopilosa* to be in danger of extinction throughout all or a significant portion of its range, nor is it likely to become endangered within the foreseeable future throughout all or a significant portion of its range. On the basis of this evaluation, we conclude *S. albopilosa* no longer requires the protection of the Act, and propose to remove *S. albopilosa* from the Federal List of Endangered and Threatened Plants (50 CFR 17.12 (h)).

Effects of This Proposed Rule

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all endangered plants. The prohibitions under section 9(a)(2) of the Act make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale in interstate or foreign commerce, remove and reduce *S. albopilosa* to possession from areas under Federal jurisdiction, or remove, cut, dig up, or damage or destroy *S. albopilosa* on any other area in knowing violation of any State law or regulation such as a trespass law. Section 7 of the Act requires that Federal agencies consult with us to ensure that any action authorized, funded, or carried out by them is not likely to jeopardize the species' continued existence. If this proposed rule is finalized, it would revise 50 CFR 17.12 to remove (delist) *S. albopilosa* from the *Federal List of Endangered and Threatened Plants* and these prohibitions would no longer apply.

Post-Delisting Monitoring

Section 4(g)(1) of the Act requires us to monitor for not less than 5 years the status of all species that are delisted due to recovery. Post-delisting monitoring refers to activities undertaken to verify that a species delisted due to recovery remains secure from the risk of extinction after the protections of the Act no longer apply. The primary goal of post-delisting monitoring is to monitor the species to ensure that its status does not deteriorate, and if a decline is detected, to take measures to halt the decline so that proposing it as threatened or endangered is not again needed. If at any time during the monitoring period, data indicate that protective status under the Act should be reinstated, we can initiate listing procedures, including, if appropriate, emergency listing. At the conclusion of the monitoring period, we will review all available information to determine if relisting, the continuation of monitoring, or the termination of monitoring is appropriate.

Section 4(g) of the Act explicitly requires cooperation with the States in development and implementation of post-delisting monitoring programs, but we remain responsible for compliance with section 4(g) and, therefore, must remain actively engaged in all phases of post-delisting monitoring. We also seek active participation of other entities that are expected to assume responsibilities for the species' conservation after delisting. In August 2013, DBNF and KSNPC agreed to be cooperators in the post-delisting monitoring of *S. albopilosa.*

We have prepared a Draft Post-Delisting Monitoring Plan for White-haired Goldenrod (*Solidago albopilosa*) (Plan) (Service 2014b, entire). The draft Plan:

(1) Summarizes the species' status at the time of delisting;

(2) Defines thresholds or triggers for potential monitoring outcomes and conclusions;

(3) Lays out frequency and duration of monitoring;

(4) Articulates monitoring methods including sampling considerations;

(5) Outlines data compilation and reporting procedures and responsibilities; and

(6) Proposes a post-delisting monitoring implementation schedule including timing and responsible parties.

Concurrent with this proposed delisting rule, we announce the draft plan's availability for public review. The draft post-delisting monitoring plan can be viewed in its entirety at *http://*

www.fws.gov/frankfort/ or at *http://www.regulations.gov* under Docket No. FWS–R4–ES–2014–0054. Copies can also be obtained from the U.S. Fish and Wildlife Service, Kentucky Ecological Services Field Office, Frankfort, Kentucky (see **FOR FURTHER INFORMATION CONTACT**). We seek information, data, and comments from the public regarding *S. albopilosa* and the post-delisting monitoring strategy. We are also seeking peer review of this draft plan concurrently with this comment period. We anticipate finalizing this plan, considering all public and peer review comments, prior to making a final determination on the proposed delisting rule.

Peer Review

In accordance with our policy published in the **Federal Register** on July 1, 1994 (59 FR 34270), and the OMB's Final Information Quality Bulletin for Peer Review, dated December 16, 2004, we will solicit the expert opinions of at least three appropriate and independent specialists regarding the science in this proposed rule and the draft post-delisting monitoring plan. The purpose of such review is to ensure that we base our decisions on scientifically sound data, assumptions, and analyses. We will send peer reviewers copies of this proposed rule and the draft post-delisting monitoring plan immediately following publication of the proposed rule in the **Federal Register**. We will invite peer reviewers to comment, during the public comment period, on the specific assumptions and conclusions regarding the proposed delisting and draft post-delisting monitoring plan. We will summarize the opinions of these reviewers in the final decision documents, and we will consider their input and any additional information we receive as part of our process of making a final decision on this proposal and the draft post-delisting monitoring plan. Such communication may lead to a final decision that differs from this proposal.

Clarity of This Proposed Rule

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

(a) Be logically organized;

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

(c) Use clear language rather than jargon;

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

(e) Use lists and tables wherever possible.

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

Required Determinations

Paperwork Reduction Act of 1995

This proposed/final rule does not contain collections of information that require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

We have determined that we do not need to prepare an Environmental Assessment or Environmental Impact Statement, as defined in the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. We have determined that there are no tribal lands affected by this proposal.

References Cited

A complete list of references cited is available on *http://www.regulations.gov* under Docket Number FWS–R4–ES–2014–0054.

Author

The primary author of this document is Michael A. Floyd, Kentucky Field Office (see **FOR FURTHER INFORMATION CONTACT**).

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

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

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

§ 17.12 [Amended]

■ 2. Amend § 17.12(h) by removing the entry ''*Solidago albopilosa*'' under ''FLOWERING PLANTS'' from the List of Endangered and Threatened Plants.

Dated: June 30, 2015.

Cynthia T. Martinez,

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

[FR Doc. 2015–21410 Filed 8–31–15; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register

Vol. 80, No. 169

Tuesday, September 1, 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

Submission for OMB Review; Comment Request

August 26, 2015.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of 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.

Comments regarding this information collection received by October 1, 2015 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725—17th Street NW., Washington, DC 20503. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

National Agricultural Statistics Service

Title: Organic Certifier Survey.

OMB Control Number: 0535–NEW.

Summary of Collection: Data will be collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985, 7 U.S.C. 2276, which requires the Department of Agriculture to afford strict confidentiality to non-aggregated data provided by respondents. The sample size will consist of all organizations that certify farm and ranch operations that have met the Federal standards to be classified as organic producers. The data collection will be done in a two step process. The first step will involve a personal visit with the managers of the certifying organizations to discuss the data collection needs and collect some basic profile information. The second step will involve the compiling and reporting of the data.

Need and Use of the Information: The survey will collect the number of operations that are certified organic for each State, along with the number of acres certified for the various crops, and the number of head of livestock and poultry certified as organic. These data are necessary on an annual basis for USDA to provide annual data and analysis of this growing industry. Farmers, consumers, shippers, packers, retailers, wholesalers, etc. all need these data to make informed decisions.

Description of Respondents: Organic certifying organizations.

Number of Respondents: 55.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 885.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2015–21558 Filed 8–31–15; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2015–0031]

Codex Alimentarius Commission: Meeting of the Codex Committee on Nutrition and Foods for Special Dietary Uses

AGENCY: Office of the Under Secretary for Food Safety, USDA.

ACTION: Notice of public meeting and request for comments.

SUMMARY: The Office of the Under Secretary for Food Safety, U.S. Department of Agriculture (USDA), and the Food and Drug Administration (FDA), Office of Nutrition, Labeling, and Dietary Supplements are sponsoring a public meeting on October 27, 2015. The purpose of the public meeting is to provide information and receive public comments on agenda items and draft United States (U.S.) positions to be discussed at the 37th Session of the Codex Committee on Nutrition and Foods for Special Dietary Uses (CCNFSDU) of the Codex Alimentarius Commission (CODEX). The Session will be held in Bad Soden am Taunus, Germany November 23–27, 2015. The Under Secretary for Food Safety and the FDA recognize the importance of providing interested parties the opportunity to obtain background information on the 37th Session of the CCNFSDU and to address items on the agenda.

DATES: The public meeting is scheduled for October 27, 2015 from 1:00–4:00 p.m.

ADDRESSES: The public meeting will take place at the Harvey Wiley Building, United States Food and Drug Administration (FDA), Center for Food Safety and Applied Nutrition (CFSAN), 5100 Paint Branch Parkway, Room 1A002, College Park, MD 20740.

Documents related to the 37th Session of the CCNFSDU will be accessible via the Internet at the following address: *http://www.codexalimentarius.org/meetings-reports/en/.*

Leila Beker, U.S. Delegate to the 37th Session of the CCNFSDU, invites U.S. interested parties to submit their comments electronically to the following email address: *CCNFSDU@fda.hhs.gov.*

Call-In Number

If you wish to participate in the public meeting for the 37th Session of the CCNFSDU by conference call, please use call-in number and participant code listed below:

Call-in Number: 1–866–650–8671

Participant Code: 7571329

Pre-Registration

To pre-register for this meeting, please email the information listed below to the following email address: *CCNFSDU@fda.hhs.gov.*

- Your name
- Organization
- Mailing address
- Phone number
- Email address

For Further Information About the 37th Session of the CCNFSDU

Contact: Dr. Leila Beker, Biologist, Office of Food Safety Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration, 5100 Paint Branch Parkway (HFS–850), College Park, MD 20740, Phone: +1 (240) 402–1851, Fax: +1 (301) 436–2636, Email: *leila.beker@cfsan.fda.gov.*

For Further Information about the Public Meeting Contact: Doreen Chen-Moulec, U.S. Codex Office, 1400 Independence Avenue SW., Room 4861, Washington, DC 20250 Phone: (202) 205–7760, Fax: (202) 720–3157, Email: *Doreen.Chen-Moulec@fsis.usda.gov*.

SUPPLEMENTARY INFORMATION:

Background

Codex was established in 1963 by two United Nations organizations, the Food and Agriculture Organization and the World Health Organization. Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their implementation by governments, Codex seeks to protect the health of consumers and ensure that fair practices are used in trade.

The CCNFSDU is responsible for:

(a) Studying specific nutritional problems assigned to it by the Commission and advising the Commission on general nutrition issues;

(b) Drafting general provisions, as appropriate, concerning the nutritional aspects of all foods

(c) Developing standards, guidelines, or related texts for foods for special dietary uses, in cooperation with other committees where necessary

(d) Considering, amending if necessary, and endorsing provisions on nutritional aspects proposed for inclusion Codex standards, guidelines and related texts

Issues To Be Discussed at the Public Meeting

The following items on the Agenda for the 37th Session of the CCNFSDU will be discussed during the public meeting:

- Proposed Draft Additional or Revised Nutrient Reference Values for Labeling Purposes in the Guidelines on Nutrition Labeling (Vitamin A, D, E, Magnesium, Phosphorus, Chromium, Copper, Chloride and Iron)
- Review of the Standard for Follow-up Formula (Codex Stan 156–1987)
- Proposed Draft Definition on Biofortification
- Proposed Draft NRV–NCD for EPA and DHA long chain omega-3 fatty acids
- Discussion Paper on Claim for ''Free'' of Trans Fatty Acids
- Discussion paper on a standard for ready-to-use foods (RUF)

Each issue listed will be fully described in documents distributed, or to be distributed, by the Secretariat prior to the Meeting. Members of the public may access or request copies of these documents (see **ADDRESSES**).

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication on-line through the FSIS Web page located at: *http://www.fsis.usda.gov/federal-register*.

FSIS also will make copies of this publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The Update is available on the FSIS Web page. Through the Web page, FSIS is able to provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: *http://www.fsis.usda.gov/subscribe*. Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

USDA Non-Discrimination Statement

No agency, officer, or employee of the USDA shall, on the grounds of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, or political beliefs, exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States under any program or activity conducted by the USDA.

How To File a Complaint of Discrimination

To file a complaint of discrimination, complete the USDA Program Discrimination Complaint Form, which may be accessed online at *http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf,* or write a letter signed by you or your authorized representative.

Send your completed complaint form or letter to USDA by mail, fax, or email:

Mail

U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW., Washington, DC 20250–9410, Fax: (202) 690–7442, Email: *program.intake@usda.gov.*

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.), should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Done at Washington, DC, on: August 27, 2015.

Mary Frances Lowe,

U.S. Codex Manager.

[FR Doc. 2015–21636 Filed 8–31–15; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

Dakota Prairie Grasslands, North Dakota; Oil and Gas Development Supplemental Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Revised notice of intent to prepare a supplemental environmental impact statement.

SUMMARY: In June of 2003, the Dakota Prairie Grasslands (DPG) Record of Decision (ROD) for Oil and Gas Leasing on the Little Missouri and Cedar River National Grasslands was signed by the Forest Service and Bureau of Land Management (BLM). The ROD identified lands open for lease, including areas subject to leasing stipulations to protect Dakota Prairie Grassland resources and uses. The ROD was based upon the environmental review completed for the 2001 Northern Great Plains Management Plans Revision.

In the 14 years since the previous analysis was completed there has been new information and changed circumstances that warrant environmental analysis to see what, if any, changes need to be made to the DPG's and BLM's decisions about oil and gas leasing and whether or not there is a need to change DPG's Land and Resource Management Plan direction relative to oil and gas development on the Little Missouri National Grassland unit of the Dakota Prairie Grasslands. New information and changed circumstances include a change in the manner and pace of oil and gas development and the listing of the Dakota Skipper and Northern Long-Eared Bat as threatened species under the Endangered Species Act (ESA).

DATES: Comments concerning the scope of the analysis must be received by October 1, 2015. The draft supplemental environmental impact statement is expected in November, 2015 and the final supplemental environmental impact statement (SEIS) is expected in February, 2016.

ADDRESSES: Send written comments to Dakota Prairie Grasslands, ATTN: Oil and Gas Development SEIS, 2000 Miriam Circle, Bismarck, ND 58501. Comments may also be sent via email to *comments-northern-dpg@fs.fed.us,* or via facsimile to 701–989–7299.

FOR FURTHER INFORMATION CONTACT: Karen Dunlap, Resources Staff Officer, at 2000 Miriam Circle, ND 58501, by email at *kdunlap@fs.fed.us* or by phone at 701–989–7304.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

Given that new circumstances or information may have a bearing on oil and gas leasing on the DPG, there is a need for the DPG and BLM to supplement their analysis to document changes since the 2003 Record of Decision. The purpose of the analysis is to disclose the environmental effects of the changed circumstances and analyze whether or not any different management direction and/or leasing stipulations are necessary to protect National Forest System lands.

Proposed Action

The Dakota Prairie Grasslands is proposing to reevaluate the impacts of the activities permitted in the current Land and Resources Management Plan (LRMP) to determine if current circumstances have changed the effects. Preliminary internal scoping indicates that existing federal oil and gas operating regulations, current LRMP standards and guidelines, and existing lease stipulations provide the Forest Service with adequate authority to mitigate the effects of reasonably foreseeable oil and gas development that may occur on future federal leases. Consistent with 40 CFR 1502.9(2), the DPG will supplement the 2001 final EIS (FEIS) to consider new information and changed circumstances, including changes in the manner in which oil and gas is being developed in North Dakota. The Forest Service and BLM are in the process of updating the reasonably foreseeable oil and gas development scenario (RFDS) which serves as the basis for effects analysis in the SEIS. When completed, the updated RFDS will be available by request at the address below or online at: *http://www.fs.fed.us/nepa/fs-usda-pop.php/?project=40652*.

Lead and Cooperating Agencies

The USDA Forest Service is the lead federal agency for the preparation of the SEIS and meeting the requirements of the National Environmental Policy Act (NEPA). The preparation of the SEIS will be coordinated with the BLM which will be a cooperating agency.

Responsible Official

Forest Service will be the lead agency for the SEIS. BLM will be a cooperating agency. Dennis Neitzke, Grasslands Supervisor, Dakota Prairie Grasslands, 2000 Miriam Circle, Bismarck, ND 58501 is the responsible official for deciding whether or not changes are necessary to the Forest Service's 2003 decision regarding oil and gas leasing. Jamie Connell, BLM State Director, Montana State Office, is the responsible official for actions and decisions related to BLM's adoption of the SEIS and offering lands for federal leasing.

Nature of Decision To Be Made

Based on the Supplemental EIS, the Grasslands Supervisor will decide whether or not changes need to be made to the 2003 leasing decision and whether the current Dakota Prairie Grasslands LRMP direction needs amendment. The BLM may adopt the SEIS to support its decision to offer lands for federal oil and gas leasing.

Scoping Process

This revised notice of intent initiates a scoping process, which guides the development of the supplemental environmental impact statement. Of particular use are specific concerns that can help us focus our analysis relative to the effects of reasonably foreseeable development of the oil and gas resource underlying the Dakota Prairie Grasslands.

It is important that reviewers provide their comments at such times and in such manner that they are useful to the agency's preparation of the supplemental environmental impact statement. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions.

Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered; however, anonymous comments will not provide the Agency with the ability to provide the respondent with subsequent environmental documents.

Dated: August 26, 2015.

Dennis Neitzke,

Forest Supervisor.

[FR Doc. 2015–21688 Filed 8–31–15; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF COMMERCE

Census Bureau

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, Commerce.

Title: Federal Statistical System Public Opinion Survey.

OMB Control Number: 0607–0969.

Form Number(s): None.

Type of Request: Regular submission.

Number of Respondents: 44,200.

Average Hours per Response: 0.1666667.

Burden Hours: 7367.

Needs and Uses: These public opinion data will enable the Census Bureau to better understand public perceptions of federal statistical agencies and their products, which will provide guidance for communicating with the public and for future planning of data collection that reflects a good understanding of public perceptions

and concerns. Because all federal statistical agencies are also facing these issues of declining response rates and increasing costs in a time of constrained budgets, the Census Bureau will share the results of these surveys with other federal statistical agencies, to maximize the utility of this information collection and ultimately, the quality and efficiency of federal statistics. Specifically, other federal statistical agencies have expressed interest in continuing this data collection for use in communications strategies within their own agencies.

The Census Bureau plans to add 7 questions to a sample of cases in the Gallup Daily Tracking, which is an ongoing daily survey asking U.S. adults about various political, economic, and well-being topics. The initial 7 questions will allow us to continue the time series begun under the previous study and to add open-ended questions, which will allow us to measure change in the basis of attitudes. The additional questions will allow us to investigate other issues that could be related to trust and other perceptions of the FSS.

The survey methodology for the planned collection is the same as the past collection. It includes sample coverage of the entire United States, including Alaska and Hawaii, and relies on a three-call design to reach respondents not contacted on the initial attempt. The survey methods for the Gallup Daily Tracking rely on live interviews, dual-frame sampling (which includes listed landline interviewing as well as cell phone sampling to reach those in cell phone-only households, cell phone-mostly households, and unlisted landline-only households), and a random selection method for choosing respondents within the household. The Census Bureau will ask questions of 850 respondents a week who participate in the Gallup Daily Tracking through October 31, 2019 via a contract that has a base year and four options years.

Up to 20 additional pulse questions can be added to the nightly survey for a total of 100 days per year. These ''pulse'' questions will be used for several distinct purposes.

First, additional questions can be added to and removed from the initial set of 7 questions in a series of question ''rotations''. Rotations will be planned to explore public opinion of different aspects of statistical uses of administrative records. Topics for the additional questions will including knowledge about administrative records use, public perception of the quality of such records, public perception of privacy and confidentiality implications of such use, and differentiation between types of administrative records and types of statistical uses. These rotations might include introducing or framing the questions differently, varying the types of records mentioned and the methods of use in the question, willingness-to-pay/stated preference questions, and so on. These types of questions would add up to 5 questions in the nightly interview and would be fielded for a limited amount of time surrounding the particular event. These questions will be submitted to OMB by way of update to this submission.

Second, rotating questions will be used to explore awareness of other statistics or other statistical agencies not mentioned in the core questions. For example, we may ask additional questions to explore awareness of specific types of statistics, like health statistics, or agricultural statistics. These types of questions would add up to 3 questions in the nightly interview and would be fielded for a limited amount of time. These questions will also be submitted to OMB by way of update to this submission.

Third, rotating questions will be used to explore opinions towards initiatives, like Bring Your Own Device, that the Census Bureau and other federal statistical agencies are considering adopting. These types of questions would add up to 3 questions in the nightly interview and would be fielded for a limited amount of time. These questions will also be submitted to OMB by way of update to this submission.

Fourth, rotating questions will be used for communications, public relations and similar message testing. Examples of such messages would be different ways of describing confidentiality or privacy protection, or different ways of encouraging response to a survey. These types of questions would add up to 5 questions in the nightly interview and would be fielded for a limited amount of time surrounding the particular event. These questions will also be submitted to OMB by way of update to this submission (specified in more detail below). In general, they would ask things like awareness of the event, and opinions about the relationship (if any) between those events and the federal statistical system.

Finally, we may wish to add rotating questions very quickly after an unanticipated event to gage awareness of those events and opinions about the relationship (if any) between those events and the federal statistical system. These could be events like a data breach (public or private sector), political scandal, or any other unanticipated news event that may alter public perceptions. Gallup can add questions with as little as 48 hours notice. Up to 3 additional questions could be fielded in the nightly interview for a limited amount of time surrounding the particular event. These questions would be submitted to OMB for a quick-turn-around approval and would be very limited in scope to address the particular unanticipated event.

OMB and the Census Bureau have agreed that these rotating questions constitute nonsubstantive changes to this submission. OMB will be informed approximately monthly of the intent to make these changes through a single tracking document. This document will contain a complete history of all questions asked and the months that each question was asked.

Although the Gallup Daily Tracking Survey is portrayed by Gallup as being nationally representative, it does not meet Census Bureau quality standards for dissemination and is not intended for use as precise national estimates or distribution as a Census Bureau data product. The Census Bureau will use the results from this survey to monitor awareness and attitudes, as an indicator of the impact of potential negative events, and as an indicator of potential changes in awareness activities. Although the response rate to the survey is insufficiently high to be used for point estimation, the results are expected to provide useful information for describing general trends and for modeling opinions. Data from the research will be included in research reports with clear statements about the limitations and that the data were produced for strategic and tactical decision-making and exploratory research and not for official estimates. Research results may be prepared for presentation at professional meetings or in publications in professional journals to promote discussion among the larger survey and statistical community, encourage further research and refinement. Again, all presentations or publications will provide clear descriptions of the methodology and its limitations.

Affected Public: Individuals and Households.

Frequency: Ongoing.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S.C. Chapter 5 Sections 141 and 193.

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 26, 2015.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2015–21566 Filed 8–31–15; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–29–2015]

Foreign-Trade Zone (FTZ) 148—Knoxville, Tennessee; Authorization of Production Activity, CoLinx, LLC (Bearing Units), Crossville, Tennessee

On April 29, 2015, the Industrial Development Board of Blount County and the Cities of Alcoa and Maryville, Tennessee, grantee of FTZ 148, submitted a notification of proposed production activity to the FTZ Board on behalf of CoLinx, LLC, within Sites 2 and 6, in Crossville, Tennessee.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (80 FR 26539, 5–8–2015). The FTZ Board has determined that no further review of the activity is warranted at this time. The production activity described in the notification is authorized, subject to the FTZ Act and the Board's regulations, including Section 400.14.

Dated: August 27, 2015.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2015–21655 Filed 8–31–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[Docket No. 150821763–5764–01]

National Defense Stockpile Market Impact Committee Request for Public Comments on the Potential Market Impact of the Proposed Fiscal Year 2017 Annual Materials Plan

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Notice of inquiry; request for comments.

SUMMARY: The purpose of this notice is to advise the public that the National Defense Stockpile Market Impact Committee, co-chaired by the Departments of Commerce and State, is seeking public comments on the potential market impact of the proposed Fiscal Year 2017 National Defense Stockpile Annual Materials Plan. The role of the Market Impact Committee is to advise the National Defense Stockpile Manager on the projected domestic and foreign economic effects of all acquisitions and disposals involving the stockpile and related material research and development projects. Public comments are an important element of the Committee's market impact review process.

DATES: To be considered, written comments must be received by October 1, 2015.

ADDRESSES: Address all comments concerning this notice to Eric Longnecker, U.S. Department of Commerce, Bureau of Industry and Security, Office of Strategic Industries and Economic Security, 1401 Constitution Avenue NW., Room 3876, Washington, DC 20230, fax: (202) 482–5650 (Attn: Eric Longnecker), email: *MIC@bis.doc.gov;* and Jordan Kwok, U.S. Department of State, Bureau of Energy Resources, 2201 C Street NW., Washington, DC 20520, fax: (202) 647–4037 (Attn: Jordan Kwok), email: *kwokpj@state.gov.*

FOR FURTHER INFORMATION CONTACT: Eric Longnecker, Office of Strategic Industries and Economic Security, Bureau of Industry and Security, U.S. Department of Commerce, telephone: (202) 482–5537, fax: (202) 482–5650 (Attn: Eric Longnecker), email: *MIC@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

Under the authority of the Strategic and Critical Materials Stock Piling Revision Act of 1979, as amended (the Stock Piling Act) (50 U.S.C. 98 *et seq.*), the Department of Defense's Defense Logistics Agency (DLA), as National Defense Stockpile Manager, maintains a stockpile of strategic and critical materials to supply the military, industrial, and essential civilian needs of the United States for national defense. Section 9(b)(2)(G)(ii) of the Stock Piling Act (50 U.S.C. 98h(b)(2)(H)(ii)) authorizes the National Defense Stockpile Manager to fund material research and development projects to develop new materials for the stockpile.

Section 3314 of the Fiscal Year (FY) 1993 National Defense Authorization Act (NDAA) (50 U.S.C. 98h–1) formally established a Market Impact Committee (the Committee) to ''advise the National Defense Stockpile Manager on the projected domestic and foreign economic effects of all acquisitions and disposals of materials from the stockpile . . . .'' The Committee must also balance market impact concerns with the statutory requirement to protect the U.S. Government against avoidable loss.

The Committee is comprised of representatives from the Departments of Commerce, State, Agriculture, Defense, Energy, the Interior, the Treasury, and Homeland Security, and is co-chaired by the Departments of Commerce and State. The FY 1993 NDAA directs the Committee to consult with industry representatives that produce, process, or consume the materials stored in or of interest to the National Defense Stockpile Manager.

As the National Defense Stockpile Manager, the DLA must produce an Annual Materials Plan (''AMP'') proposing the maximum quantity of each listed material that may be acquired, disposed of, upgraded, or sold by the DLA in a particular fiscal year. In Attachment 1 to this notice, the DLA lists the quantities and type of activity (potential acquisition, potential disposal, potential upgrade, or potential sale) associated with each material in its proposed FY 2017 AMP. The quantities listed in Attachment 1 are not acquisition, disposal, upgrade, or sales target quantities, but rather a statement of the proposed maximum quantity of each listed material that may be acquired, disposed of, upgraded, or sold in a particular fiscal year by the DLA, as noted. The quantity of each material that will actually be acquired or offered for sale will depend on the market for the material at the time of the acquisition or offering, as well as on the quantity of each material approved for acquisition, disposal, or upgrade by Congress.

The Committee is seeking public comments on the potential market impact associated with the proposed FY 2017 AMP as enumerated in Attachment 1. Public comments are an important element of the Committee's market impact review process.

Submission of Comments

The Committee requests that interested parties provide written comments, supporting data and documentation, and any other relevant information on the potential market impact of the quantities associated with the proposed FY 2017 AMP. All comments must be submitted to the addresses indicated in this notice. All comments submitted through email must include the phrase ''Market Impact

Committee Notice of Inquiry'' in the subject line.

The Committee encourages interested persons who wish to comment to do so at the earliest possible time. The period for submission of comments will close on October 1, 2015. The Committee will consider all comments received before the close of the comment period. Comments received after the end of the comment period will be considered, if possible, but their consideration cannot be assured.

All comments submitted in response to this notice will be made a matter of public record and will be available for public inspection and copying. Anyone submitting business confidential information should clearly identify the business confidential portion of the submission and also provide a non-confidential submission that can be placed in the public record. The Committee will seek to protect such information to the extent permitted by law.

The Office of Administration, Bureau of Industry and Security, U.S. Department of Commerce, displays public comments on the BIS Freedom of Information Act (FOIA) Web site at *http://www.bis.doc.gov/foia.* This office does not maintain a separate public inspection facility. If you have technical difficulties accessing this Web site, please call BIS's Office of Administration at (202) 482–1900 for assistance.

Dated: August 26, 2015.

Kevin J. Wolf,

Assistant Secretary for Export Administration.

Attachment 1

PROPOSED FISCAL YEAR 2017 ANNUAL MATERIALS PLAN

Material	Unit	Quantity	Footnote
Potential Sales			
Chromium, Ferro	ST	23,500	
Chromium, Metal	ST	200	
Manganese, Ferro	ST	50,000	
Platinum	Tr Oz	8,380	(2)
Tantalum Metal Scrap	Lbs	190	(1)
Tungsten Ores and Concentrates	LB W	3,000,000	(3)
Zinc	ST	7,993	(1 2)
Potential Upgrades/Disposals			
Beryllium Metal	ST	2	
Germanium	Kg	5,000	
Manganese, Metallurgical Grade	SDT	322,025	
Nickel Based Alloys	Lbs	150,000	
Platinum—Iridium	Tr Oz	489	
Tantalum Carbide Powder	Lb Ta	3,777	(2 3)
Tin	MT	804	(3)
Titanium Base Alloys	MT	75,000	
Tungsten Metal Powder	LB W	77,433	(1 2 3)
Potential Acquisitions			
Boron Carbide	MT	1,000	
High Modulus High Strength Carbon Fibers	MT	72.0	
CZT (Cadmium Zinc Tellurium substrates)	cm^2	32,000	
Dysprosium Metal	MT	0.5	
Europium	MT	18	
Ferro-niobium	MT	209	
Germanium Metal	Kg	1,000	
Lithium Cobalt Oxide (LCO)	Kg	600	
Lithium Nickel Cobalt Aluminum Oxide (LNCAO)	Kg	2,160	
Mesocarbon Microbeads (MCMB)	Kg	15,552	
Silicon Carbide Fibers	Lbs	875	
TATB (Triamino-Trinitrobenzene)	LB	48,000	
Tantalum	Lb Ta	33,990	
Tungsten-3 Rhenium Metal	Kg	5,000	
Yttrium Oxide	MT	10	

Footnote Key:
[1] Actual Quantity Will Be Limited to Remaining Inventory.
[2] Inventory Depleted Based on Anticipated Rates of Disposal, Sale, etc.
[3] Potential Barter.

[FR Doc. 2015–21658 Filed 8–31–15; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

[Application No. 99–9A005]

Export Trade Certificate of Review

ACTION: Notice of Issuance of an Amended Export Trade Certificate of Review for the California Almond Export Association, LLC, Application no. 99–9A005.

SUMMARY: The Secretary of Commerce, through the Office of Trade and Economic Analysis (''OTEA''), issued an amended Export Trade Certificate of Review to the California Almond Export Association, LLC (''CAEA'') on August 17, 2015. The previous amendment was issued on May 6, 2015.

FOR FURTHER INFORMATION CONTACT: Joseph Flynn, Director, Office of Trade and Economic Analysis, International Trade Administration, (202) 482–5131 (this is not a toll-free number) or email at *etca@trade.gov.*

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. An Export Trade Certificate of Review protects the

holder and the members identified in the Certificate from State and Federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. The regulations implementing Title III are found at 15 CFR part 325 (2015). OTEA is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Secretary to publish a summary of the certificate in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of the Amendment to the Certificate: Add the following company as a Member of CAEA's Certificate: RPAC Almonds, LLC, Los Banos, CA.

CAEA's Export Trade Certificate of Review complete amended Membership is listed below:

Almonds California Pride, Inc., Caruthers, CA

Baldwin-Minkler Farms, Orland, CA

Blue Diamond Growers, Sacramento, CA

Campos Brothers, Caruthers, CA

Chico Nut Company, Chico, CA

Del Rio Nut Company, Inc., Livingston, CA

Fair Trade Corner, Inc., Chico, CA

Fisher Nut Company, Modesto, CA

Hilltop Ranch, Inc., Ballico, CA

Hughson Nut, Inc., Hughson, CA

Mariani Nut Company, Winters, CA

Nutco, LLC d.b.a. Spycher Brothers, Turlock, CA

Paramount Farms, Inc., Los Angeles, CA

P-R Farms, Inc., Clovis, CA

Roche Brothers International Family Nut Co., Escalon, CA

RPAC Almonds, LLC, Los Banos, CA

South Valley Almond Company, LLC, Wasco, CA

Sunny Gem, LLC, Wasco, CA

Western Nut Company, Chico, CA

Dated: August 26, 2015.

Joseph Flynn,

Director, Office of Trade and Economic Analysis, International Trade Administration.

[FR Doc. 2015–21570 Filed 8–31–15; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

Advisory Committee on Supply Chain Competitiveness: Notice of Public Meetings

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of open meetings.

SUMMARY: This notice sets forth the schedule and proposed topics of discussion for public meetings of the Advisory Committee on Supply Chain Competitiveness (Committee).

DATES: The meetings will be held on October 7 from 12:00 p.m. to 3:00 p.m., and October 8 from 9:00 a.m. to 4:00 p.m., Eastern Standard Time (EST).

ADDRESSES: The meetings on October 7 and 8 will be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW., Research Library (Room 1894), Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Richard Boll, Office of Supply Chain, Professional & Business Services, International Trade Administration. (Phone: (202) 482–1135 or Email: *richard.boll@trade.gov*)

SUPPLEMENTARY INFORMATION:

Background: The Committee was established under the discretionary authority of the Secretary of Commerce and in accordance with the Federal Advisory Committee Act (5 U.S.C. App. 2). It provides advice to the Secretary of Commerce on the necessary elements of a comprehensive policy approach to supply chain competitiveness designed to support U.S. export growth and national economic competitiveness, encourage innovation, facilitate the movement of goods, and improve the competitiveness of U.S. supply chains for goods and services in the domestic and global economy; and provides advice to the Secretary on regulatory policies and programs and investment priorities that affect the competitiveness of U.S. supply chains. For more information about the Committee visit: *http://trade.gov/td/services/oscpb/supplychain/acscc/.*

Matters To Be Considered: Committee members are expected to continue to discuss the major competitiveness-related topics raised at the previous Committee meetings, including trade and competitiveness; freight movement and policy; information technology and data requirements; regulatory issues; finance and infrastructure; and workforce development. The Committee's subcommittees will report on the status of their work regarding these topics. The agenda's may change to accommodate Committee business. The Office of Supply Chain, Professional & Business Services will post the final detailed agenda's on its Web site, *http://trade.gov/td/services/oscpb/supplychain/acscc/,* at least one week prior to the meeting. The meetings will be open to the public and press on a first-come, first-served basis. Space is limited. The public meetings are physically accessible to people with disabilities. Individuals requiring accommodations, such as sign language interpretation or other ancillary aids, are asked to notify Mr. Richard Boll, at (202) 482–1135 or *richard.boll@trade.gov* five (5) business days before the meeting.

Interested parties are invited to submit written comments to the Committee at any time before and after the meeting. Parties wishing to submit written comments for consideration by the Committee in advance of this meeting must send them to the Office of Supply Chain, Professional & Business Services, 1401 Constitution Ave. NW., Room 11014, Washington, DC 20230, or email to *richard.boll@trade.gov.*

For consideration during the meetings, and to ensure transmission to the Committee prior to the meetings, comments must be received no later than 5:00 p.m. EST on September 28, 2015. Comments received after September 28, 2015, will be distributed to the Committee, but may not be considered at the meetings. The minutes of the meetings will be posted on the Committee Web site within 60 days of the meeting.

Dated: August 26, 2015.

David Long,

Director, Office of Supply Chain and Professional & Business Services.

[FR Doc. 2015–21622 Filed 8–31–15; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

Meeting of the United States Manufacturing Council

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of an open meeting.

SUMMARY: The United States Manufacturing Council (Council) will hold the third meeting of the current members' term by teleconference on Wednesday, September 16, 2015. The

Council was established in April 2004 to advise the Secretary of Commerce on matters relating to the U.S. manufacturing industry.

The purpose of the meeting is for Council members to review and deliberate on recommendations developed by the Trade, Tax Policy, and Export Growth subcommittee looking at issues of funding of federal transportation infrastructure and long-term reauthorization of the Export-Import Bank of the United States for consideration by the Manufacturing Council. The agenda may change to accommodate Council business. The final agenda will be posted on the Department of Commerce Web site for the Council at *http://trade.gov/manufacturingcouncil,* at least one week in advance of the meeting.

DATES: Wednesday, Septmeber 16, 2015, 12:00 p.m.–1:00 p.m. The deadline for members of the public to register, including requests to make comments during the meetings and for auxiliary aids, or to submit written comments for dissemination prior to the meeting, is 5 p.m. EDT on September 7, 2015.

ADDRESSES: The meeting will be held by conference call. The call-in number and passcode will be provided by email to registrants. Requests to register (including to speak or for auxiliary aids) and any written comments should be submitted to: U.S. Manufacturing Council, U.S. Department of Commerce, Room 4043, 1401 Constitution Avenue NW., Washington, DC 20230, *archana.sahgal@trade.gov.* Members of the public are encouraged to submit registration requests and written comments via email to ensure timely receipt.

FOR FURTHER INFORMATION CONTACT: Archana Sahgal, the United States Manufacturing Council, Room 4043, 1401 Constitution Avenue NW., Washington, DC 20230, telephone: 202–482–4501, email: *archana.sahgal@trade.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Council advises the Secretary of Commerce on matters relating to the U.S. manufacturing industry.

Public Participation: The meeting will be open to the public and will be accessible to people with disabilities. All guests are required to register in advance by the deadline identified under the **DATES** caption. Requests for auxiliary aids must be submitted by the registration deadline. Last minute requests will be accepted, but may be impossible to fill. There will be fifteen (15) minutes allotted for oral comments from members of the public joining the call. To accommodate as many speakers as possible, the time for public comments may be limited to three (3) minutes per person. Individuals wishing to reserve speaking time during the meeting must submit a request at the time of registration, as well as the name and address of the proposed speaker. If the number of registrants requesting to make statements is greater than can be reasonably accommodated during the meeting, the International Trade Administration may conduct a lottery to determine the speakers. Speakers are requested to submit a written copy of their prepared remarks by 5:00 p.m. on Monday, September 7, 2015, for inclusion in the meeting records and for circulation to the members of the Manufacturing Council. In addition, any member of the public may submit pertinent written comments concerning the Council's affairs at any time before or after the meeting. Comments may be submitted to Archana Sahgal at the contact information indicated above. To be considered during the meeting, comments must be received no later than 5:00 p.m. EDT on September 7, 2015, to ensure transmission to the Council prior to the meeting. Comments received after that date and time will be distributed to the members but may not be considered on the call. Copies of Council meeting minutes will be available within 90 days of the meeting.

Dated: August 27, 2015.

Archana Sahgal,

Executive Secretary, United States Manufacturing Council.

[FR Doc. 2015–21629 Filed 8–31–15; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Advance Notification of Sunset Reviews

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

Background

Every five years, pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the Department of Commerce (''the Department'') and the International Trade Commission automatically initiate and conduct a review to determine whether revocation of a countervailing or antidumping duty order or termination of an investigation suspended under section 704 or 734 of the Act would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.

Upcoming Sunset Reviews for October 2015

The following Sunset Reviews are scheduled for initiation in October 2015 and will appear in that month's Notice of Initiation of Five-Year Sunset Review (''Sunset Review'').

	Department contact
Antidumping Duty Proceedings	
Iron Construction Castings from Brazil (A–351–503) (4th Review)	David Goldberger, (202) 482–4136.
Iron Construction Castings from Canada (A–122–503) (4th Review)	David Goldberger, (202) 482–4136.
Coated Paper Suitable For High-Quality Print Graphics Using Sheet-Fed Presses from China (A–570–958) (1st Review).	David Goldberger, (202) 482–4136.
Iron Construction Castings from China (A–570–502) (4th Review)	David Goldberger, (202) 482–4136.
Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from China (A–570–956) (1st Review).	Matthew Renkey, (202) 482–2312.
Seamless Refined Copper Pipe and Tube from China (A–570–964) (1st Review)	Matthew Renkey, (202) 482–2312.
Coated Paper Suitable For High-Quality Print Graphics Using Sheet-Fed Presses from Indonesia (A–560–823) (1st Review).	David Goldberger, (202) 482–4136.
Seamless Refined Copper Pipe and Tube from Mexico (A–201–838) (1st Review)	Matthew Renkey, (202) 482–2312.
Countervailing Duty Proceedings	
Iron Construction Castings from Brazil (C–351–504) (4th Review)	David Goldberger, (202) 482–4136.
Coated Paper Suitable For High-Quality Print Graphics Using Sheet-Fed Presses from China (C–570–959) (1st Review).	David Goldberger, (202) 482–4136.

	Department contact
Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from China (C–570–957) (1st Review).	David Goldberger, (202) 482–4136.
Coated Paper Suitable For High-Quality Print Graphics Using Sheet-Fed Presses from Indonesia (C–560–824) (1st Review).	Jacqueline Arrowsmith, (202) 482–5255.

Suspended Investigations

No Sunset Review of suspended investigations is scheduled for initiation in October 2015.

The Department's procedures for the conduct of Sunset Reviews are set forth in 19 CFR 351.218. The Notice of Initiation of Five-Year (''Sunset'') Reviews provides further information regarding what is required of all parties to participate in Sunset Reviews.

Pursuant to 19 CFR 351.103(c), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.

Please note that if the Department receives a Notice of Intent to Participate from a member of the domestic industry within 15 days of the date of initiation, the review will continue. Thereafter, any interested party wishing to participate in the Sunset Review must provide substantive comments in response to the notice of initiation no later than 30 days after the date of initiation.

This notice is not required by statute but is published as a service to the international trading community.

Dated: August 20, 2016.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2015–21630 Filed 8–31–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

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

FOR FURTHER INFORMATION CONTACT: Brenda E. Waters, Office of AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482–4735.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspended investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended (''the Act''), may request, in accordance with 19 CFR 351.213, that the Department of Commerce (''the Department'') conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

All deadlines for the submission of comments or actions by the Department discussed below refer to the number of calendar days from the applicable starting date.

Respondent Selection

In the event the Department limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, the Department intends to select respondents based on U.S. Customs and Border Protection (''CBP'') data for U.S. imports during the period of review. We intend to release the CBP data under Administrative Protective Order (''APO'') to all parties having an APO within five days of publication of the initiation notice and to make our decision regarding respondent selection within 21 days of publication of the initiation **Federal Register** notice. Therefore, we encourage all parties interested in commenting on respondent selection to submit their APO applications on the date of publication of the initiation notice, or as soon thereafter as possible. The Department invites comments regarding the CBP data and respondent selection within five days of placement of the CBP data on the record of the review.

In the event the Department decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

In general, the Department finds that determinations concerning whether particular companies should be ''collapsed'' (*i.e.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, the Department will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*i.e.,* investigation, administrative review, new shipper review or changed circumstances review). For any company subject to this review, if the Department determined, or continued to treat, that company as collapsed with others, the Department will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, the Department will not collapse companies for purposes of respondent selection. Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Quantity and Value Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where the Department considered collapsing that entity, complete quantity and value data for that collapsed entity must be submitted.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that requests a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that the Department may extend this time if it is reasonable to do so. In order to provide parties additional certainty with respect to when the Department will exercise its

discretion to extend this 90-day deadline, interested parties are advised that, with regard to reviews requested on the basis of anniversary months on or after September 2015, the Department does not intend to extend the 90-day deadline unless the requestor demonstrates that an extraordinary circumstance prevented it from submitting a timely withdrawal request. Determinations by the Department to extend the 90-day deadline will be made on a case-by-case basis.

The Department is providing this notice on its Web site, as well as in its ''Opportunity to Request Administrative Review'' notices, so that interested parties will be aware of the manner in which the Department intends to exercise its discretion in the future.

Opportunity To Request A Review: Not later than the last day of September 2015,[1] interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in September for the following periods:

	Period of review
Antidumping Duty Proceedings	
Belarus: Steel Concrete Reinforcing Bars, A–822–804	9/1/14–8/31/15
India:	
Lined Paper Products, A–533–843	9/1/14–8/31/15
Oil Country Tubular Goods, A–533–857	2/25/14–8/31/15
Indonesia: Steel Concrete Reinforcing Bars, A–560–811	9/1/14–8/31/15
Italy: Stainless Steel Wire Rod, A–475–820	9/1/14–8/31/15
Japan: Stainless Steel Wire Rod, A–588–843	9/1/14–8/31/15
Latvia: Stainless Concrete Reinforcing Bars, A–449–804	9/1/14–8/31/15
Mexico: Magnesia Carbon Bricks, A–201–837	9/1/14–8/31/15
Moldova: Steel Concrete Reinforcing Bars, A–841–804	9/1/14–8/31/15
Poland: Steel Concrete Reinforcing Bars, A–455–803	9/1/14–8/31/15
Republic of Korea:	
Oil Country Tubular Goods, A–580–870	7/18/14–8/31/15
Stainless Steel Wire Rod, A–580–829	9/1/14–8/31/15
Spain: Stainless Steel Wire Rod, A–469–807	9/1/14–8/31/15
Socialist Republic of Vietnam: Oil Country Tubular Goods, A–552–817	2/25/14–8/31/15
Taiwan:	
Narrow Woven Ribbons with Woven Selvedge, A–583–844	9/1/14–8/31/15
Oil Country Tubular Goods, A–583–850	7/18/14–8/31/15
Raw Flexible Magnets, A–583–842	9/1/14–8/31/15
Stainless Steel Wire Rod, A–583–828	9/1/14–8/31/15
The People's Republic of China:	
Freshwater Crawfish Tailmeat, A–570–848	9/1/14–8/31/15
Foundry Coke, A–570–862	9/1/14–8/31/15
Kitchen Appliance Shelving and Racks, A–570–941	9/1/14–8/31/15
Lined Paper Products, A–570–901	9/1/14–8/31/15
Magnesia Carbon Bricks, A–570–954	9/1/14–8/31/15
Narrow Woven Ribbons with Woven Selvedge, A–570–952	9/1/14–8/31/15
New Pneumatic Off-the-Road Tires, A–570–912	9/1/14–8/31/15
Raw Flexible Magnets, A–570–922	9/1/14–8/31/15
Steel Concrete Reinforcing Bars, A–570–860	9/1/14–8/31/15
Turkey: Oil Country Tubular Goods, A–489–816	2/25/14–8/31/15
Ukraine: Solid Agricultural Grade Ammonium Nitrate, A–823–810	9/1/14–8/31/15
Steel Concrete Reinforcing Bars, A–823–809	9/1/14–8/31/15
Countervailing Duty Proceedings	
India:	
Lined Paper Products, C–533–844	1/1/14–12/31/14
Oil Country Tubular Goods, C–533–858	12/23/13–12/31/14
The People's Republic of China:	
Kitchen Appliance Shelving and Racks, C–570–942	1/1/14–12/31/14
Magnesia Carbon Bricks, C–570–955	1/1/14–12/31/14
Narrow Woven Ribbons with Woven Selvedge, C–570–953	1/1/14–12/31/14
New Pneumatic Off-the-Road Tires, C–570–913	1/1/14–12/31/14
Raw Flexible Magnets, C–570–923	1/1/14–12/31/14
Turkey: Oil Country Tubular Goods, C–489–817	7/18/14–12–31/14
Suspension Agreements	
Argentina: Lemon Juice, A–357–818	9/1/14–8/31/15

In accordance with 19 CFR 351.213(b), an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review. In addition, a domestic interested party or an interested party described in section 771(9)(B) of the Act must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends

[1] Or the next business day, if the deadline falls on a weekend, federal holiday or any other day when the Department is closed.

for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which was produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Note that, for any party the Department was unable to locate in prior segments, the Department will not accept a request for an administrative review of that party absent new information as to the party's location. Moreover, if the interested party who files a request for review is unable to locate the producer or exporter for which it requested the review, the interested party must provide an explanation of the attempts it made to locate the producer or exporter at the same time it files its request for review, in order for the Secretary to determine if the interested party's attempts were reasonable, pursuant to 19 CFR 351.303(f)(3)(ii).

As explained in *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003), and *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011) the Department clarified its practice with respect to the collection of final antidumping duties on imports of merchandise where intermediate firms are involved. The public should be aware of this clarification in determining whether to request an administrative review of merchandise subject to antidumping findings and orders.[2]

Further, as explained in *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963 (November 4, 2013), the Department clarified its practice with regard to the conditional review of the non-market economy (NME) entity in administrative reviews of antidumping duty orders. The Department will no longer consider the NME entity as an exporter conditionally subject to administrative reviews. Accordingly, the NME entity will not be under review unless the Department specifically receives a request for, or self-initiates, a review of the NME entity.[3] In administrative reviews of antidumping duty orders on merchandise from NME countries where a review of the NME entity has not been initiated, but where an individual exporter for which a review was initiated does not qualify for a separate rate, the Department will issue a final decision indicating that the company in question is part of the NME entity. However, in that situation, because no review of the NME entity was conducted, the NME entity's entries were not subject to the review and the rate for the NME entity is not subject to change as a result of that review (although the rate for the individual exporter may change as a function of the finding that the exporter is part of the NME entity).

Following initiation of an antidumping administrative review when there is no review requested of the NME entity, the Department will instruct CBP to liquidate entries for all exporters not named in the initiation notice, including those that were suspended at the NME entity rate.

All requests must be filed electronically in Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''ACCESS'') on Enforcement and Compliance's ACCESS Web site at *http://access.trade.gov.*[4] Further, in accordance with 19 CFR 351.303(f)(l)(i), a copy of each request must be served on the petitioner and each exporter or producer specified in the request.

The Department will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of September 2015. If the Department does not receive, by the last day of September 2015, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct CBP to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures ''gap'' period of the order, if such a gap period is applicable to the period of review.

This notice is not required by statute but is published as a service to the international trading community.

Dated: August 25, 2015.

Gary Taverman,

Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2015–21635 Filed 8–31–15; 8:45 am]

BILLING CODE 3510–DS–P

[2] *See also* the Enforcement and Compliance Web site at *http://trade.gov/enforcement/.*

[3] In accordance with 19 CFR 351.213(b)(1), parties should specify that they are requesting a review of entries from exporters comprising the entity, and to the extent possible, include the names of such exporters in their request.

[4] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Five-Year (''Sunset'') Review

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

SUMMARY: In accordance with section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the Department of Commerce (''the Department'') is automatically initiating the five-year review (''Sunset Review'') of the antidumping and countervailing duty (''AD/CVD'') orders listed below. The International Trade Commission (''the Commission'') is publishing concurrently with this notice its notice of *Institution of Five-Year Review* which covers the same orders.

DATES: Effective September 1, 2015.

FOR FURTHER INFORMATION CONTACT: The Department official identified in the *Initiation of Review* section below at AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230. For information from the Commission contact Mary Messer, Office of Investigations, U.S. International Trade Commission at (202) 205–3193.

SUPPLEMENTARY INFORMATION:

Background

The Department's procedures for the conduct of Sunset Reviews are set forth in its *Procedures for Conducting Five-Year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13516 (March 20, 1998)

and 70 FR 62061 (October 28, 2005). Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012).

Initiation of Review

In accordance with 19 CFR 351.218(c), we are initiating Sunset Reviews of the following antidumping and countervailing duty orders:

DOC Case No.	ITC Case No.	Country	Product	Department contact
A–570–898	731–TA–1082	PRC	Chlorinated Isocyanurates (2nd Review)	Jacqueline Arrowsmith, (202) 482–5255.
A–570–001	731–TA–125	PRC	Potassium Permanganate (4th Review)	Matthew Renkey, (202) 482–2312.
A–469–814	731–TA–1083	Spain	Chlorinated Isocyanurates (2nd Review)	Jacqueline Arrowsmith, (202) 482–5255.

Filing Information

As a courtesy, we are making information related to sunset proceedings, including copies of the pertinent statute and Department's regulations, the Department's schedule for Sunset Reviews, a listing of past revocations and continuations, and current service lists, available to the public on the Department's Web site at the following address: ''*http://enforcement.trade.gov/sunset/.*'' All submissions in these Sunset Reviews must be filed in accordance with the Department's regulations regarding format, translation, and service of documents. These rules, including electronic filing requirements via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''ACCESS''), can be found at 19 CFR 351.303.[1]

Revised Factual Information Requirements

This notice serves as a reminder that any party submitting factual information in an AD/CVD proceeding must certify to the accuracy and completeness of that information.[2] Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives in all AD/CVD investigations or proceedings initiated on or after August 16, 2013.[3] The formats for the revised certifications are provided at the end of the *Final Rule.* The Department intends to reject factual submissions if the submitting party does not comply with the revised certification requirements.

On April 10, 2013, the Department published *Definition of Factual Information and Time Limits for Submission of Factual Information: Final Rule,* 78 FR 21246 (April 10, 2013), which modified two regulations related to antidumping and countervailing duty proceedings: The definition of factual information (19 CFR 351.102(b)(21), and the time limits for the submission of factual information (19 CFR 351.301). The final rule identifies five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). The final rule requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The final rule also modified 19 CFR 351.301 so that, rather than providing general time limits, there are specific time limits based on the type of factual information being submitted. These modifications are effective for all segments initiated on or after May 10, 2013. Review the final rule, available at *http://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt,* prior to submitting factual information in this segment. To the extent that other regulations govern the submission of factual information in a segment (such as 19 CFR 351.218), these time limits will continue to be applied.

Revised Extension of Time Limits Regulation

On September 20, 2013, the Department modified its regulation at 19 CFR 351.302(c) concerning the extension of time limits for submissions in antidumping and countervailing duty proceedings: *Extension of Time Limits,* 78 FR 57790 (September 20, 2013). The modification clarifies that parties may request an extension of time limits before a time limit established under part 351 of the Department's regulations expires, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the time limit established under part 351 expires. For submissions which are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Under certain circumstances, the Department may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, the Department will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. This modification also requires that an extension request must be made in a separate, stand-alone submission, and clarifies the circumstances under which the Department will grant untimely-filed requests for the extension of time limits. These modifications are effective for all segments initiated on or after October 21, 2013. Review the final rule, available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in these segments.

Letters of Appearance and Administrative Protective Orders

Pursuant to 19 CFR 351.103(d), the Department will maintain and make available a public service list for these proceedings. Parties wishing to participate in any of these five-year reviews must file letters of appearance as discussed at 19 CFR 351.103(d)). To facilitate the timely preparation of the public service list, it is requested that those seeking recognition as interested

[1] *See also Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

[2] *See* section 782(b) of the Act.

[3] *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (''*Final Rule*'') (amending 19 CFR 351.303(g)).

parties to a proceeding submit an entry of appearance within 10 days of the publication of the Notice of Initiation.

Because deadlines in Sunset Reviews can be very short, we urge interested parties who want access to proprietary information under administrative protective order (''APO'') to file an APO application immediately following publication in the **Federal Register** of this notice of initiation. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306.

Information Required From Interested Parties

Domestic interested parties, as defined in section 771(9)(C), (D), (E), (F), and (G) of the Act and 19 CFR 351.102(b), wishing to participate in a Sunset Review must respond not later than 15 days after the date of publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with the Department's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the order without further review.[4]

If we receive an order-specific notice of intent to participate from a domestic interested party, the Department's regulations provide that *all parties* wishing to participate in a Sunset Review must file complete substantive responses not later than 30 days after the date of publication in the **Federal Register** of this notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for respondent and domestic parties. Also, note that the Department's information requirements are distinct from the Commission's information requirements. Consult the Department's regulations for information regarding the Department's conduct of Sunset Reviews. Consult the Department's regulations at 19 CFR part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

[4] *See* 19 CFR 351.218(d)(1)(iii).

Dated: August 20, 2015.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2015–21633 Filed 8–31–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD720

Marine Mammals; File No. 18673

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

ACTION: Notice; withdrawal of application.

SUMMARY: Notice is hereby given that Leslie Cornick, Ph.D., Alaska Pacific University, 4101 University Drive, Anchorage, AK 99508 has withdrawn her application for a permit to conduct research on northern fur seals (*Callorhinus ursinus*).

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

FOR FURTHER INFORMATION CONTACT: Rosa L. González or Amy Sloan, (301) 427–8401.

SUPPLEMENTARY INFORMATION: On January 22, 2015, notice was published in the **Federal Register** (80 FR 3224) that a request for a permit to conduct research on northern fur seals had been submitted by the above-named applicant. The applicant has withdrawn the application from further consideration.

Dated: August 27, 2015.

Julia Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2015–21612 Filed 8–31–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Doc. No. 150819745–5745–01]

RIN 0648–XE132

Notice of Availability of the Draft NOAA Commercial Space Policy

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of a Draft NOAA Commercial Space Policy; request for comments.

SUMMARY: As a science-based services agency, the National Oceanic and Atmospheric Administration (NOAA) strives to understand and predict changes in weather, climate, oceans, and coasts, and to provide critical environmental intelligence to the American public, decision makers, and our partners. NOAA accomplishes this, in part, through the use of observations obtained through a range of systems, including satellites, ships, ground, and in-situ networks.

NOAA's space-based Earth observations are both important and challenging to obtain. In recent years, the commercial sector has invested increasing amounts of capital and resources to develop new technologies, and to build, launch, and operate satellites and ground-based systems. In order to respond to an ever-growing demand for environmental information, NOAA seeks to maintain an observing enterprise that is flexible, responsive to evolving technologies, and economically sustainable, while supporting and upholding NOAA's strong commitment to public safety and the international data sharing system upon which NOAA depends for global data.

This policy establishes the broad principles for the use of commercial space-based approaches for NOAA's observational requirements, and opens a pathway for new industry to join the space-based Earth observation process. As a part of this effort, and to ensure we examine potential solutions, NOAA is seeking comments, suggestions, and innovative ideas from the public on Draft NOAA Commercial Space Policy. Through *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0109,* the public can view the Draft NOAA Commercial Space Policy, submit ideas, review submissions from other parties, and make comments and collaborate on ideas.

All comments are welcome. In particular, NOAA would like comments on in the following areas:

1. Does this policy adequately support the continued success of NOAA's public safety mission?
2. Does this policy allow for the development of viable business models for potential providers of commercial data?
3. Does this policy sufficiently consider the impacts to the private weather industry, academia, and other stakeholders?
4. Does this policy appropriately reflect the importance of U.S. data policy and international data sharing commitments?

DATES: Comments must be received by 5:00 p.m. on October 1, 2015.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2015–0109, by any of the following methods:

Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0109,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

Mail: Submit written comments to: NOAA, c/o Mr. Troy Wilds, U.S. Department of Commerce, National Oceanic and Atmospheric Administration, Suite 51032, 14th and Constitution Avenue NW., Washington, DC 20230.

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 NOAA. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NOAA will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Additional information as well as instructions on how to submit comments can be found at the following Web site: *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0109.* The Draft NOAA Commercial Space Policy can also be viewed here.

FOR FURTHER INFORMATION CONTACT: Mr. Troy Wilds, NOAA Office of the Under Secretary, U.S. Department Of Commerce, National Oceanic and Atmospheric Administration, Suite 51032, 14th and Constitution Avenue NW., Washington, DC 20230. (Phone: 202–482–3193, *troy.wilds@noaa.gov*).

SUPPLEMENTARY INFORMATION: The DRAFT NOAA Commercial Space Policy can be found at: *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0109.*

Dated: August 21, 2015.

Manson K. Brown,

Deputy Administrator, National Oceanic and Atmospheric Administration.

[FR Doc. 2015–21148 Filed 8–31–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE146

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of meeting.

SUMMARY: The North Pacific Fishery Management Council (Council) Observer Advisory Committee (OAC) will meet September 17th–18th, 2015.

DATES: The meeting will be held on September 17th from 8:30 a.m. to 5 p.m. and on September 18th from 8:30 a.m. to 1 p.m.

ADDRESSES: The meeting will be at the Mountaineers Club, 7700 Sand Point Way NE., Seattle, WA 98115. Please call (907) 271–2896.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252; telephone (907)271–2809.

FOR FURTHER INFORMATION CONTACT: Diana Evans, Council staff; telephone: 907–271–2809.

SUPPLEMENTARY INFORMATION:

Agenda

Thursday, September 17th and Friday, September 18th, 2015

The agenda will include (a) introductions, review and approval of agenda (b) draft 2016 Observer Annual Deployment Plan, and (c) other analytical projects. The Agenda is subject to change, and the latest version will be posted at *http://www.npfmc.org/.*

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Shannon Gleason at 907–271–2809 at least 7 working days prior to the meeting date.

Dated: August 27, 2015.

Tracey L. Thompson,

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

[FR Doc. 2015–21587 Filed 8–31–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE149

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its *Scallop* Committee Meeting on Thursday, September 17, 2015 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Thursday September 17, 2015 at 10 a.m.

ADDRESSES: The meeting will be held at the Hilton Garden Inn, 100 Boardman Street, Boston, MA 02128; telephone: (617) 567–6789; fax: (617) 561–0798.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Committee will review preliminary 2015 scallop survey results and discuss initial recommendations from the Scallop Plan Development Team (PDT) for FY 2016 and FY 2017 (default) fishery specifications (Framework 27). The Committee will also provide input on potential Council work priorities for 2016 related to the scallop fishery management plan, and potentially identify recommendations for prioritizing the various potential work items. Staff will review from [draft

analyses prepared for Amendment 19,] an action to address timing issues for fishery specifications, and advisors will identify preferred alternative recommendations. Staff will review progress on planning of a future workshop to discuss issues about potential inshore depletion. Finally, staff will review preliminary input from the PDT based on a Council motion to evaluate how to potentially improve information collected by observers on discard mortality and high grading as well as review Advisory Panel recommendations. Other business may be discussed.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at 978–465–0492, at least 5 days prior to the meeting date.

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

Dated: August 27, 2015.

Tracey L. Thompson,

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

[FR Doc. 2015–21586 Filed 8–31–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2015–ICCD–0107]

Agency Information Collection Activities; Comment Request; Grantee Reporting Form—RSA Annual Payback Report

AGENCY: Office of Special Education and Rehabilitative Services (OSERS), 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 revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before November 2, 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–0107. 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 2E115, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Rose Ann Ashby, (202) 245–7258.

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: Grantee Reporting Form—RSA Annual Payback Report.

OMB Control Number: 1820–0617.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: Private Sector, State, Local and Tribal Governments.

Total Estimated Number of Annual Responses: 350.

Total Estimated Number of Annual Burden Hours: 400.

Abstract: Under section 302 of the Rehabilitation Act of 1973, as amended by the Workforce Innovation and Opportunity Act (WIOA), the Rehabilitation Services Administration (RSA) provides Long-Term Training grants to academic institutions to support scholarship assistance to students. Students who receive scholarships under this program are required to work within the public rehabilitation program, such as with a state vocational rehabilitation agency, or an agency or organization that has a service arrangement with a state vocational rehabilitation agency. The student is expected to work two years in such settings for every year of full-time scholarship support. The program regulations at 34 CFR 386.33–386.35 and 386.40–386.43 detail the payback provisions and the RSA scholars' requirements to comply with them.

Section 302(b)(2)(C) of the Act requires the academic institutions (*i.e.,* grantees) that administer Long-Term Training grants to track the employment status and location of former scholars supported under their grants in order to ensure that students are meeting the payback requirement. Program regulations at 34 CFR 386.34 require each grantee to establish and maintain a tracking system on current and former RSA scholars for this purpose and to report to the Secretary information on the scholars' progress toward fulfilling their obligation towards payback in qualified employment in fields which include clinical practice, administration, supervision, teaching or research in vocational rehabilitation, supported employment, or independent living rehabilitation of individuals with disabilities, especially individuals with significant disabilities.

The Annual Payback Report form for which RSA is requesting an extension collects data on the status of ''current'' and ''exited'' RSA scholars who are/were the recipients of scholarships. In addition to meeting the requirement that all scholars be tracked, the information collected on the form currently in use will continue to provide performance data relevant to the rehabilitation fields and degrees pursued by RSA scholars, as well as the funds owed and the rehabilitation work completed by them.

Dated: August 26, 2015.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2015–21563 Filed 8–31–15; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

President's Advisory Commission on Asian Americans and Pacific Islanders

AGENCY: President's Advisory Commission on Asian Americans and Pacific Islanders, U.S. Department of Education.

ACTION: Announcement of an open meeting.

SUMMARY: This notice sets forth the schedule and agenda of the meeting of the President's Advisory Commission on Asian Americans and Pacific Islanders (AAPI Commission). The notice also describes the functions of the Commission. Notice of the meeting is required by § 10(a)(2) of the Federal Advisory Committee Act and is intended to notify the public of its opportunity to attend.

DATES: The AAPI Commission meeting will be held over two days.

Day 1: Thursday, September 24, 2015 from 1:30 p.m.–4:30 p.m. HST, Hawaii Convention Center, 1801 Kalakaua Avenue, Honolulu, HI 96815.

Day 2: Friday, September 25, 2015 from 9:00 a.m.–3:00 p.m. HST, USCIS Field Office, 500 Ala Moana Boulevard, Building Two, 4th Floor, Honolulu, HI 96813.

Please Note: The Hawaii Convention Center's parking garage is located on the 2nd floor of the facility and the entrance is located on Kalakaua Avenue. The daily parking rate is $10.00 per entry. Parking at the UCSIS Office is available at the Waterfront Plaza and on nearby streets. A parking fee will also be assessed. For the meeting on Friday, September 25, visitors will be granted access to the USCIS Office up to 30 minutes in advance of the meeting. To enter the USCIS Office, visitors must present a valid, unexpired photo ID issued by the federal government or a state government.

FOR FURTHER INFORMATION CONTACT: Doua Thor, White House Initiative on Asian Americans and Pacific Islanders, Potomac Center Plaza, 550 12th Street SW., Washington, DC 20202; telephone: 202–245–6329, fax: 202–245–7166.

SUPPLEMENTARY INFORMATION:

The AAPI Commission's Statutory Authority and Function: The President's Advisory Commission on Asian Americans and Pacific Islanders is established under Executive Order 13515, dated October 14, 2009 and subsequently continued and amended by Executive Order 13585 and Executive Order 13652. The AAPI Commission is governed by the provisions of the Federal Advisory Committee Act (FACA), (P.L 92–463; as amended, 5 U.S.C.A. app.) which sets forth standards for the formation and use of advisory committees. According to Executive Order 13515, the AAPI Commission shall provide advice to the President, through the Secretary of Education and a senior official designated by the President, on: (i) The development, monitoring, and coordination of executive branch efforts to improve the quality of life of Asian Americans and Pacific Islanders (AAPIs) through increased participation in Federal programs in which such persons may be underserved; (ii) the compilation of research and data related to AAPI populations and subpopulations; (iii) the development, monitoring, and coordination of Federal efforts to improve the economic and community development of AAPI businesses; and (iv) strategies to increase public and private-sector collaboration, and community involvement in improving the health, education, environment, and well-being of AAPIs.

On Thursday, September 24, 2015 at the Hawaii Convention Center from 1:30 p.m. to 4:30 p.m. HST, the AAPI Commission will engage in a listening session with members of the public. Individuals are invited to attend and/or offer remarks during the session. The AAPI Commission is particularly interested in hearing from the public about the following issues: Economic development/housing; education, including impact of bullying on youth; civil rights; effects of climate change; immigration; health, including mental health; veteran affairs; and women's and workers issues. Individuals will be allowed to offer remarks for up to 2 minutes. Individuals who wish to attend the listening session as an audience member or presenter must RSVP via email at *WhiteHouseAAPI@ed.gov* no later than September 16, 2015 at 3:00 p.m. EDT. The RSVP for attendance and/or making remarks must include name, title, organization/affiliation, email address, and telephone number of the person joining the session. Individuals who would like to offer remarks must also send a brief summary (not to exceed one paragraph) of the principal points to be made during the oral presentation to *WhiteHouseAAPI@ed.gov.* Due to time constraints, only a limited number of speakers can be accommodated. Spots will be given at first opportunity and individuals will receive written confirmation at least 5 days prior to the meeting. Individuals who are unable to attend the listening session may submit written remarks (not to exceed two pages double-spaced, 12 pt. font) to Doua Thor via email at *WhiteHouseAAPI@ed.gov* no later than September 16, 2015 at 3:00 p.m. ET.

On Friday, September 25, 2015, the public may join the AAPI Commission meeting; however there will NOT be a public comment period. For both days, individuals who wish to attend the meeting must RSVP to Doua Thor via email at *WhiteHouseAAPI@ed.gov* no later than September 16, 2015 at 3:00 p.m. ET. The RSVP must include name, title, organization/affiliation, email address, and telephone number of the person attending the meeting.

Meeting Agenda

The purpose of the listening session on Thursday September 24, 2015 is for the AAPI Commission to hear about issues that are pertinent and relevant to the AAPI community in that region. The Commission is particularly interested in hearing from the public about the following issues: Education, climate change, immigration, civil rights, veteran affairs, mental health, and the impact of bullying on youth. In addition, the Commission would like to hear first-hand testimonials regarding new and developing issues, stories of impact, and model programs. The purpose for the meeting on Friday, September 25, 2015 is to discuss how the Commission can support current and future endeavors of the White House Initiative on Asian Americans and Pacific Islanders; key issues and concerns impacting the AAPI community; review the work of the White House Initiative on Asian Americans and Pacific Islanders; determine key strategies to help the AAPI Commission meet its charge outlined in Executive Order 13515; and determine regional engagement strategies and deliverables around regional activities.

Access to Records of the Meeting: The Department will post the official report of the meeting on the AAPI Commission Web site not later than 90 days after the meeting. Pursuant to the FACA, the public may also inspect the materials at 550 12th Street SW., Washington, DC 20202 by emailing *WhiteHouseAAPI@ed.gov* or by calling (202) 245–6329 to schedule an appointment.

Reasonable Accommodations: The meeting sites are accessible to individuals with disabilities. Individuals who will need accommodations for a disability in order to attend the meetings (*e.g.,* interpreting services, assistive listening devices, or material in alternative format) should notify Doua Thor at 202–245–6329, no later than September 16, 2015. We will attempt to meet requests for

accommodations after this date, but cannot guarantee their availability.

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. Authority: Executive Order No. 13515, as amended by Executive Orders 13585 and 13652.

Ted Mitchell,

Under Secretary, U.S. Department of Education.

[FR Doc. 2015–21654 Filed 8–31–15; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER15–2211–000]

MidAmerican Energy Services, 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 MidAmerican Energy Services, 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 September 8, 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 26, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–21591 Filed 8–31–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 8015–004]

North Eastern Wisconsin Hydro, LLC; Notice of Application for Temporary Amendment and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Application Type: Temporary Amendment.

b. Project No.: 8015–004.

c. Date Filed: August 13, 2015.

d. Applicant: North Eastern Wisconsin Hydro, LLC.

e. Name of Project: Shawano Paper Mills Dam Project.

f. Location: The project is located on the Wolf River in Shawano County, Wisconsin.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Robert A. Gates, EVP of Operations, Eagle Creek Renewable Energy, 116 N. State St., P.O. Box 167, Neshkoro, WI 54960; telephone: (920) 293–8087.

i. FERC Contact: Christopher Chaney, telephone: (202) 502–6778, and email address: *christopher.chaney@ferc.gov.*

j. Deadline for filing comments, motions to intervene, and protests is 15 days from the issuance date of this notice by the Commission.

All documents may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail a copy to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. Please include the project number (P–8015–004) on any comments or motions filed.

k. Description of Request: The exemptee is seeking a temporary amendment to operate the project at a target elevation of 802.9 feet mean sea level (msl), or 0.4 foot above the authorized target elevation of 802.5 feet msl. The exemptee would continue to operate within the authorized elevation range of 801.83 feet msl and 803.17 feet msl. The exemptee states it has been operating at the 802.9 feet elevation and that the amendment is necessary to address public concerns about recreation and possible public safety issues when operating the project at the authorized target elevation. During the proposed temporary amendment, which would end on September 1, 2017, the exemptee plans to study the feasibility of permanently amending the exemption to operate at the higher target elevation.

l. Locations of the Application: A copy of the application is available for

inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number excluding the last three digits in the docket number field to access the document. A copy is also available for inspection and reproduction at the address in item (h) above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene: Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents: All filings must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to project works which are the subject of the amendment application. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: August 26, 2015.

Kimberly Bose,

Secretary.

[FR Doc. 2015–21593 Filed 8–31–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR15–36–000]

NST Express, LLC; Notice of Petition for Declaratory Order

Take notice that on August 25, 2015, pursuant to Rule 207(a)(2) of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207(a)(2) (2014), NST Express, LLC (NST or Petitioner) filed a petition for a declaratory order seeking approval of the service priorities and rate structure (but not specific rates) to be offered in an open season to be conducted by NST for the NST Express Pipeline, all as more fully explained in the petition.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern time on September 25, 2015.

Dated: August 26, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–21592 Filed 8–31–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14692–000]

Albany Engineering Corporation; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On July 7, 2015, Albany Engineering Corporation filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Lyon Mountain Energy Storage Project (Lyon Mountain Project or project) to be located in the Hamlet of Lyon Mountain in the Town of Dannemora, Clinton County, New York. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) Upper and lower reservoirs comprising various existing underground levels and voids within the rock confines of the Lyon Mountain mine; (2) two 15-foot-diameter, 2,000-foot-long vertical water conveyance structures between the upper reservoir and the powerhouse, consisting of grouted steel casings within existing bedrock; (3) a 15-foot-diameter, 2,000-foot-long horizontal water conveyance

structure between the powerhouse and the lower reservoir, consisting of grouted steel casings within existing bedrock; (4) an 80-foot-wide by 300-foot-long by 40-foot-high underground powerhouse chamber; (5) an 40-foot-wide by 275-foot-long underground switchgear and equipment chamber; (6) 100 turbine-generators each rated at 2.4 megawatts; and (7) a 115-kilovolt (kV) transmission line approximately 1,000 feet long from the powerhouse to an existing transmission line. The estimated annual generation of the Lyon Mountain Project would be 421 gigawatt-hours.

Applicant Contact: Mr. James A. Besha, Albany Engineering Corporation, 5 Washington Square, Albany, NY 12205; phone: (518) 456–7712.

FERC Contact: Woohee Choi; phone: (202) 502–6336.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR § 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–14692–000.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14692) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: August 26, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–21594 Filed 8–31–15; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9933–36—Region 1]

Notice of a Re-Opening of the Public Comment Period on Select Sections of the Draft Small Municipal Separate Storm Sewer System (MS4) NPDES General Permit—New Hampshire

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of reopening of a public comment period.

SUMMARY: The Director of the Office of Ecosystem Protection, EPA-New England, is reopening the public comment period for certain provisions of the draft National Pollutant Discharge Elimination System (NPDES) general permit for discharges from small Municipal Separate Storm Sewer Systems (MS4s) to certain waters of the State of New Hampshire, originally released as draft February 12, 2013. The reopened comment period applies to the following sections only: Section 2.1.1, Section 2.2 (including all subsections) and Section 2.3.6 (including all subsections), Appendix F (excluding attachments) and Appendix H (excluding attachments). The reopening of this notice is pursuant to 40 CFR 124.14.

DATES: Comment on the draft general permits must be received on or before November 2, 2015.

Any interested person may file a written response to material filed by any other person during this comment period. These must be received November 20, 2015.

Public Hearing Information: EPA will hold a public hearing, if necessary, in accordance with 40 CFR 124.12 and will provide interested parties with the opportunity to provide written and/or oral comments for the official administrative record.

ADDRESSES: Comments on the modified sections of the draft general permits shall be submitted by one of the following methods:

(1) *Email: tedder.newton@epa.gov* or

(2) *Mail:* Newton Tedder, US EPA—Region 1, 5 Post Office Square—Suite 100, Mail Code OEP06–4, Boston, MA 02109–3912

No facsimiles (faxes) will be accepted.

The draft permit is based on an administrative record available for public review at EPA—Region 1, Office of Ecosystem Protection, 5 Post Office Square—Suite 100, Boston, Massachusetts 02109–3912. A reasonable fee may be charged for copying requests. The statement of basis for the modified sections of the draft general permit sets forth principal facts and the significant factual, legal, methodological and policy questions considered in the development of these sections of the draft permit and is available upon request. A brief summary is provided as **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the draft General Permits may be obtained between the hours of 9 a.m. and 5 p.m. Monday through Friday, excluding holidays, from Newton Tedder, Office of Ecosystem Protection, 5 Post Office Square—Suite 100, Boston, MA 02109–3912; telephone: 617–918–1038; email: *tedder.newton@epa.gov.*

SUPPLEMENTARY INFORMATION: All NPDES permits must be consistent with applicable state water quality standards and regulations. Since the release of the original draft general permit, NHDES has made changes to their water quality standards. On November 22, 2014, Env-Wq 1701.03, ''Compliance Schedules in NPDES Permits'' was adopted. The rule allows for compliance schedules to be included in NPDES permits. EPA has amended the language in Section 2.1.1, Section 2.2, and Appendix F and has added specific schedules leading to compliance with water quality standards consistent with Env-Wq 1701.03 and 40 CFR 122.47.

Additionally, EPA received numerous comments on Section 2.2 and Appendix H seeking clarity on the proposed requirements. Accordingly, EPA has revised Section 2.2 and Appendix H to provide clarity of permit requirements and certainty on applicability of permit provisions.

EPA also received multiple comments on Section 2.3.6 seeking clarification on requirements, closer adherence to state law and a reduced administrative burden. EPA has revised Section 2.3.6 to address these comments.

The proposed language changes to Section 2.1.1, Section 2.2, Section 2.3.6, Appendix F and Appendix H of the New Hampshire Draft Small MS4 Permit along with statement of basis for the proposed changes can be found at *http://www.epa.gov/region1/npdes/stormwater/MS4_2013_NH.html.* In addition, all comments received on the proposed language modifications will be posted on the same Web site.

A comprehensive summary of the basis for the all draft permit conditions including the applicable statutory and regulatory authority is included in the original fact sheet to the 2013 draft permit available at: *http://www.epa.gov/region1/npdes/stormwater/nh/2013/*

NHMS4-FactSheet-2013-WithAttachments.pdf. EPA will consider and respond to all significant comments on these reopened sections before taking final action. All persons, including applicants, who believe any of the proposed modifications identified in this notice are inappropriate must raise all reasonably ascertainable issues and submit all reasonably available arguments supporting their position by the close of the public comment period. Any supporting material which is submitted shall be included in full and may not be incorporated by reference, unless they are already a part of the administrative record in this proceeding, or consist of State or Federal statutes and regulations, EPA documents of general applicability, or other generally available reference materials.

Authority: This action is being taken under the Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: August 25, 2015.

Deborah A. Szaro,

Deputy Regional Administrator, Region 1.

[FR Doc. 2015–21631 Filed 8–31–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[A–1–FRL–9933–37–Region 1]

Clean Air Act Operating Permit Program; Petition To Object to the Title V Permit for Schiller Station; New Hampshire

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final action.

SUMMARY: Pursuant to the Clean Air Act (CAA), the Environmental Protection Agency (EPA) Administrator signed an Order, dated July 28, 2015, partially granting and partially denying a petition to object to a state operating permit issued by the New Hampshire Department of Environmental Services (NHDES). The Order responds to a July 24, 2014 petition, relating to Public Service of New Hampshire's Schiller Station, a fossil fuel-fired power plant located in Portsmouth, New Hampshire. The petition was submitted by the Sierra Club. This Order constitutes final action on the petition requesting that the Administrator object to the issuance of the proposed CAA title V permit.

ADDRESSES: Copies of the final Order, the petition, and all pertinent information relating thereto are on file at the EPA Region 1's Boston office, John W. McCormack Post Office and Courthouse Building, 5 Post Office Square, Boston, Massachusetts. The EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view copies of the final Order, petition, and other supporting information. You may view the hard copies Monday through Friday, from 9 a.m. to 4:00 p.m., excluding Federal holidays. If you wish to examine these documents, you should make an appointment at least 24 hours before the visiting day. The final Order is also available electronically at the following Web site: *http://www.epa.gov/region07/air/title5/petitiondb/petitiondb.htm.*

FOR FURTHER INFORMATION CONTACT: Patrick Bird, Air Permits, Toxics and Indoor Programs Unit, Environmental Protection Agency, EPA Region 1, (617) 918–1287, *bird.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: The CAA affords the EPA a 45-day period to review and object to, as appropriate, operating permits proposed by state permitting authorities. Section 505(b)(2) of the CAA authorizes any person to petition the EPA Administrator within 60 days after the expiration of this review period to object to a state operating permit if the EPA has not done so. Petitions must be based only on objections raised with reasonable specificity during the public comment period, unless the petitioner demonstrates that it was impracticable to raise these issues during the comment period or that the grounds for objection or other issues arose after the comment period. In the Schiller Station petition (numbered VI–2014–04), the Petitioner sought EPA objection on the following issues: (Claim A1) the SO_2 emission limits in the proposed permit fail to ensure that Schiller Station does not cause exceedences of the 2010 1-hour SO_2 National Ambient Air Quality Standard (NAAQS) in New Hampshire; (Claim A2) the SO_2 emission limits in the proposed permit are insufficient to protect air quality with respect to the 2010 1-hour SO_2 National Ambient Air Quality Standard (NAAQS) in Maine; (Claim B) the proposed permit fails to include emission limits for particulate matter (PM) less than 2.5 micrometers in diameter; (Claim C) the proposed permit fails to require continuous emissions monitoring to assure adequate monitoring of PM emissions. NHDES issued the final Schiller Station operating permit (permit no. TV–0053) on June 6, 2014. The Order explains the reasons behind the EPA's decision to partially grant and partially deny the petition for objection. Pursuant to section 505(b)(2) of the CAA, the Petitioner may seek judicial review of those portions of the Schiller Station petition which the EPA denied in the United States Court of Appeals for the appropriate circuit. Any petition for review shall be filed within 60 days of this notice in accordance with the requirements of section 307 of the CAA.

Dated: August 19, 2015.

Debra A. Szaro,

Acting Regional Administrator, EPA Region 1.

[FR Doc. 2015–21632 Filed 8–31–15; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of the Termination of the Receivership of 10456 Waukegan Savings Bank; Waukegan, Illinois

Notice is hereby given that the Federal Deposit Insurance Corporation (''FDIC'') as Receiver for Waukegan Savings Bank, Waukegan, Illinois (''the Receiver'') intends to terminate its receivership for said institution. The FDIC was appointed receiver of Waukegan Savings Bank on August 3, 2012. 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 36.4, 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 26, 2015.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2015–21518 Filed 8–31–15; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

[Docket No. AS15–03]

Appraisal Subcommittee Notice of meeting

AGENCY: Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

ACTION: Notice of meeting.

Description: In accordance with Section 1104(b) of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended, notice is hereby given that the Appraisal Subcommittee (ASC) will meet in open session for its regular meeting:

Location: Federal Reserve Board—International Square location, 1850 K Street NW., Washington, DC 20006

Date: September 9, 2015

Time: 10:30 a.m.

Status: Open

Reports

Chairman

Executive Director

Delegated State Compliance Reviews

Financial Report

Action and Discussion Items

May 13, 2015 Open Session Minutes

Appraisal Foundation FY16 Grant Proposal

FY16 ASC Staff Budget Recommendation

Implementation of AMC National Registry Fees

Selection of Vice Chair

How To Attend and Observe an ASC Meeting

If you plan to attend the ASC Meeting in person, we ask that you send an email to *meetings@asc.gov.* You may register until close of business four business days before the meeting date. You will be contacted by the Federal Reserve Law Enforcement Unit on security requirements. You will also be asked to provide a valid government-issued ID before being admitted to the Meeting. The meeting space is intended to accommodate public attendees. However, if the space will not accommodate all requests, the ASC may refuse attendance on that reasonable basis. The use of any video or audio tape recording device, photographing device, or any other electronic or mechanical device designed for similar purposes is prohibited at ASC meetings.

Dated: August 27, 2015.

James R. Park,

Executive Director.

[FR Doc. 2015–21606 Filed 8–31–15; 8:45 am]

BILLING CODE P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. Copies of the agreements are available through the Commission's Web site (*www.fmc.gov*) or by contacting the Office of Agreements at (202) 523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 012293–005.

Title: Maersk/MSC Vessel Sharing Agreement.

Parties: Maersk Line A/S and MSC Mediterranean Shipping Company S.A.

Filing Party: Wayne Rohde, Esq.; Cozen O'Connor; 1627 I Street NW., Suite 1100; Washington, DC 20006.

Synopsis: The amendment would revise Article 8.1 to adjust the notice period required to remove Israel from the geographic scope of the agreement.

Agreement No.: 012357.

Title: CMA CGM/HLAG U.S.-West Med Slot Sale Arrangement.

Parties: CMA CGM S.A. and Hapag-Lloyd AG.

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Connor; 1627 I Street NW., Suite 1100; Washington, DC 20036.

Synopsis: The agreement authorizes the parties to sell slots to one another in the trade between the U.S. Gulf Coast on the one hand, and Mexico, Jamaica, Italy, and Spain on the other hand.

Agreement No.: 012358.

Title: MOL/NMCC/WLS and ECL Space Charter Agreement.

Parties: Mitsui O.S.K. Lines, Ltd; Nissan Motor Car Carrier Co., Ltd.; World Logistics Service (U.S.A.), Inc.; and Eastern Car Liner, Ltd.

Filing Party: Eric. C. Jeffrey, Esq.; Nixon Peabody LLP; 799 9th Street NW., Suite 500; Washington, DC 20001.

Synopsis: The agreement would authorize the parties to charter space to/from one another for the carriage of vehicles or other Ro/Ro cargo in the trade between the U.S. and all foreign countries.

By Order of the Federal Maritime Commission.

Dated: August 27, 2015.

Karen V. Gregory,

Secretary.

[FR Doc. 2015–21616 Filed 8–31–15; 8:45 am]

BILLING CODE 6731–AA–P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Sunshine Act; Notice of Meeting

DATE: September 10, 2015.

TIME: 8:30 a.m. In-Person Meeting.

PLACE: 10th Floor Board Meeting Room, 77 K Street NE., Washington, DC 20002.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

Closed Session—8:30 a.m.–10 a.m.

1. Procurement
2. Security

Open Session 10 a.m.–12 p.m.

3. Approval of the Minutes for the August 24, 2015 Board Member Meeting
4. Monthly Reports
   (a) Monthly Participant Activity Report
   (b) Monthly Investment Report
   (c) Legislative Report
5. Auto Escalation
6. OCE Communication
7. FY 16 Budget Review and Approval
8. Audit Report
9. OERM Report

Adjourn

CONTACT PERSON FOR MORE INFORMATION: Kimberly Weaver, Director, Office of External Affairs, (202) 942–1640.

Dated: August 27, 2015.

James Petrick,

General Counsel, Federal Retirement Thrift Investment Board.

[FR Doc. 2015–21742 Filed 8–28–15; 4:15 pm]

BILLING CODE 6760–01–P

GENERAL SERVICES ADMINISTRATION

[Notice–MA–2015–03; Docket No. 2015–0002; Sequence 19]

Maximum Per Diem Rates for the Continental United States (CONUS)

AGENCY: Office of Government-wide Policy (OGP), General Services Administration (GSA).

ACTION: Notice of GSA Per Diem Bulletin FTR 16–01, Fiscal Year (FY) 2016 Continental United States (CONUS) per diem rates.

SUMMARY: The General Services Administration's (GSA) Fiscal Year (FY)

2016 per diem review has resulted in lodging and meal allowance changes for certain locations within the Continental United States (CONUS) to provide for reimbursement of Federal employees' expenses covered by per diem.

DATES: *Effective:* September 1, 2015.

Applicability: This notice applies to travel performed on or after October 1, 2015 through September 30, 2016.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Ms. Jill Denning, Office of Government-wide Policy, Office of Asset and Transportation Management, at 202–208–7642, or by email at *travelpolicy@gsa.gov.* Please cite Notice of GSA Per Diem Bulletin FTR 16–01.

SUPPLEMENTARY INFORMATION:

Background: GSA identified two new non-standard areas (NSAs): Grand Lake, CO (Grand County) and Pecos, TX (Reeves County). Additionally, the NSA of Belle Mead, NJ has been renamed Somerset, which more accurately recognizes the major city in the county.

The Government-wide Travel Advisory Committee (GTAC) recommended that GSA review the standard CONUS lodging rate annually instead of every three years, and GSA has accepted that recommendation, starting for FY2016 rates. The standard CONUS lodging rate will increase to $89 from $83. The meals and incidental expense (M&IE) rate tiers were revised for the first time since FY 2010. The standard CONUS M&IE rate is now based on the Consumer Price Index (CPI) Food away from home measure, and will be $51 for FY 2016. The M&IE rates for the NSAs continue to be based on survey data from local restaurants in their respective areas, and now range from $54–$74.

The CONUS per diem rates prescribed in Bulletin 16–01 may be found at *www.gsa.gov/perdiem.* GSA bases the lodging rates on the average daily rate that the lodging industry reports to an independent organization. If a lodging rate or a per diem rate is insufficient to meet necessary expenses in any given location, Federal executive agencies can request that GSA review that location. Please review numbers five and six of GSA's per diem Frequently Asked Questions at (*www.gsa.gov/perdiemfaqs*) for more information on the special review process.

In addition, the Federal Travel Regulation (FTR) allows for actual expense reimbursement as provided in §§ 301–11.300 through 301–11.306.

GSA issues and publishes the CONUS per diem rates, formerly published in Appendix A to 41 CFR Chapter 301, solely on the Internet at *www.gsa.gov/perdiem.* GSA also now solely publishes the M&IE meal breakdown table, which is used when employees need to deduct meals from their M&IE reimbursement per direction in FTR § 301–11.18, at *www.gsa.gov/mie.* This process, implemented in 2003 for lodging and 2015 for the M&IE table, ensures more timely changes in per diem rates established by GSA for Federal employees on official travel within CONUS. Notices published periodically in the **Federal Register**, such as this one, now constitute the only notification of revisions in CONUS per diem rates to agencies.

Dated: August 14, 2015.

Christine J. Harada,

Associate Administrator, Office of Government-wide Policy.

[FR Doc. 2015–21597 Filed 8–31–15; 8:45 am]

BILLING CODE 6820–14–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: National Child Abuse and Neglect Data System.

OMB No.: 0970–0424.

Description: The Administration on Children, Youth and Families in the U.S. Department of Health and Human Services (HHS) established the National Child Abuse and Neglect Data System (NCANDS) to respond to the 1988 and 1992 amendments (Pub. L. 100–294 and Pub. L. 102–295) to the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 *et seq.*), which called for the creation of a coordinated national data collection and analysis program, both universal and case specific in scope, to examine standardized data on false, unfounded, or unsubstantiated reports.

In 1996, the Child Abuse Prevention and Treatment Act was amended by Public Law 104–235 to require that any state receiving the Basic State Grant work with the Secretary of the Department of Health and Human Services (HHS) to provide specific data on child maltreatment, to the extent practicable. These provisions were retained and expanded upon in the 2010 reauthorization of CAPTA (Pub. L. 111–320).

Each state to which a grant is made under this section shall annually work with the Secretary to provide, to the maximum extent practicable, a report that includes the following:

1. The number of children who were reported to the state during the year as victims of child abuse or neglect.

2. Of the number of children described in paragraph (1), the number with respect to whom such reports were—

A. substantiated;

B. unsubstantiated; or

C. determined to be false.

3. Of the number of children described in paragraph (2)—

A. the number that did not receive services during the year under the state program funded under this section or an equivalent state program;

B. the number that received services during the year under the state program funded under this section or an equivalent state program; and

C. the number that were removed from their families during the year by disposition of the case.

4. The number of families that received preventive services, including use of differential response, from the state during the year.

5. The number of deaths in the state during the year resulting from child abuse or neglect.

6. Of the number of children described in paragraph (5), the number of such children who were in foster care.

7. A. The number of child protective service personnel responsible for the—

i. intake of reports filed in the previous year;

ii. screening of such reports;

iii. assessment of such reports; and

iv. investigation of such reports.

B. The average caseload for the workers described in subparagraph (A).

8. The agency response time with respect to each such report with respect to initial investigation of reports of child abuse or neglect.

9. The response time with respect to the provision of services to families and children where an allegation of child abuse or neglect has been made.

10. For child protective service personnel responsible for intake, screening, assessment, and investigation of child abuse and neglect reports in the state—

A. information on the education, qualifications, and training requirements established by the state for child protective service professionals, including for entry and advancement in the profession, including advancement to supervisory positions;

B. data of the education, qualifications, and training of such personnel;

C. demographic information of the child protective service personnel; and

D. information on caseload or workload requirements for such

personnel, including requirements for average number and maximum number of cases per child protective service worker and supervisor.

11. The number of children reunited with their families or receiving family preservation services that, within five years, result in subsequent substantiated reports of child abuse or neglect, including the death of the child.

12. The number of children for whom individuals were appointed by the court to represent the best interests of such children and the average number of out of court contacts between such individuals and children.

13. The annual report containing the summary of activities of the citizen review panels of the state required by subsection (c)(6).

14. The number of children under the care of the state child protection system who are transferred into the custody of the state juvenile justice system.

15. The number of children referred to a child protective services system under subsection (b)(2)(B)(ii).

16. The number of children determined to be eligible for referral, and the number of children referred, under subsection (b)(2)(B)(xxi), to agencies providing early intervention services under part C of the Individuals with Disabilities Education Act (20 U.S.C. 1431 *et seq.*).

The Children's Bureau proposes to continue collecting the NCANDS data through the two files of the Detailed Case Data Component, the Child File (the case-level component of NCANDS) and the Agency File (additional aggregate data, which cannot be collected at the case level). Technical assistance will be provided so that all states may provide the Child File and Agency File data to NCANDS. There are no proposed changes to the NCANDS data collection instruments. New fields were implemented during the previous OMB clearance cycle in support of the CAPTA Reauthorization Act of 2010 and to improve reporting on federal performance measures.

Respondents: State governments, the District of Columbia, and the Commonwealth of Puerto Rico.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Detailed Case Data Component: Child File and Agency File	52	1	82	4,264

Estimated Total Annual Burden Hours: 4,264.

Additional Information

Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *infocollection@acf.hhs.gov.*

OMB Comment

OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following:

Office of Management and Budget, Paperwork Reduction Project, Email: *OIRA_SUBMISSION@OMB.EOP.GOV,* Attn: Desk Officer for the Administration for Children and Families.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2015–21625 Filed 8–31–15; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Head Start Collaboration Office Annual Report.

OMB No.: New Collection.

Description: The Office of Head Start within the Administration for Children and Families, United States Department of Health and Human Services, is proposing to collect information on the goals, work completed, and accomplishments of the Head Start Collaboration Offices (HSCOs). HSCOs facilitate partnerships between Head Start agencies and other state entities that provide services to benefit low income children and their families. HSCOs are awarded funds under Section 642B of the 2007 Head Start Act. The HSCO Annual Report is to be reported annually by all HSCO to ascertain progress and measurable results for the previous year. The results will also be used to populate the Collaboration Office profile Web pages on Early Childhood Learning & Knowledge Center (ECLKC) to promote the accomplishments of HSCO.

Respondents: Head Start State and National Collaboration Offices.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
HSCO Annual Report	54	1	4	216

Estimated Total Annual Burden Hours: 216.

Additional Information

Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All

requests should be identified by the title of the information collection. Email address: *infocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Fax: 202–395–7285, Email: *OIRA_SUBMISSION@OMB.EOP.GOV,* Attn: Desk Officer for the Administration for Children and Families.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2015–21619 Filed 8–31–15; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–D–1177]

International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products; Electronic Exchange of Documents: Electronic File Format; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry (GFI #225) entitled ''Electronic Exchange of Documents: Electronic File Format'' (VICH GL53). This guidance has been developed for veterinary use by the International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products (VICH). This VICH guidance document is intended to cover the electronic file format specifications for individual documents and collections of multiple related documents that do not need subsequent modification during the regulatory procedure and are utilized for electronic exchange between industry and regulatory authorities in the context of regulatory approval of veterinary medicinal products.

DATES: Submit either electronic or written comments on Agency guidances at any time.

ADDRESSES: Submit written requests for single copies of this guidance to the Policy and Regulations Staff (HFV–6), Center for Veterinary Medicine, Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

Submit electronic comments on the guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Scott Fontana, Center for Veterinary Medicine (HFV–100), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–402–0656, *scott.fontana@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote the international harmonization of regulatory requirements. FDA has participated in efforts to enhance harmonization and has expressed its commitment to seek scientifically based harmonized technical procedures for the development of pharmaceutical products. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies in different countries.

FDA has actively participated in the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use for several years to develop harmonized technical requirements for the approval of human pharmaceutical and biological products among the European Union, Japan, and the United States. The VICH is a parallel initiative for veterinary medicinal products. The VICH is concerned with developing harmonized technical requirements for the approval of veterinary medicinal products in the European Union, Japan, and the United States, and includes input from both regulatory and industry representatives.

The VICH Steering Committee is composed of member representatives from the European Commission, European Medicines Evaluation Agency; European Federation of Animal Health, Committee on Veterinary Medicinal Products; FDA; the U.S. Department of Agriculture; the Animal Health Institute; the Japanese Veterinary Pharmaceutical Association; the Japanese Association of Veterinary Biologics; and the Japanese Ministry of Agriculture, Forestry, and Fisheries.

Six observers are eligible to participate in the VICH Steering Committee: One representative from the government of Australia/New Zealand, one representative from the industry in Australia/New Zealand, one representative from the government of Canada, one representative from the industry of Canada, one representative from the government of South Africa, and one representative from the industry of South Africa. The VICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation for Animal Health (IFAH). An IFAH representative also participates in the VICH Steering Committee meetings.

II. Guidance on Electronic Exchange of Documents: Electronic File Format

In the **Federal Register** of August 28, 2014 (79 FR 51342), FDA published a notice of availability for a draft guidance entitled ''Electronic Exchange of Documents: Electronic File Format'' (VICH GL53) giving interested persons until October 27, 2014, to comment on the draft guidance. FDA received two comments on the draft guidance and those comments, as well as those received by other VICH member regulatory agencies, were considered as the guidance was finalized. The guidance announced in this notice finalizes the draft guidance dated August 2014. The final guidance is a product of the Electronic File Format Expert Working Group of the VICH.

This VICH guidance document provides recommendations to industry regarding electronic file format specifications (*e.g.,* file format, file size, file security, and cross-referencing) for individual documents and collections of multiple related documents for the transfer of electronic regulatory information in support of applications for the approval of veterinary medicinal products. This guidance applies to communication or data exchanged as documents in the context of all regulatory procedures where regulatory authorities accept electronic transfer of such documents. This can include but is not limited to applications for initial marketing authorizations, related pre-submission or post-authorization

procedures, applications for maximum residue limits, clinical trial applications, drug/active substance master files, or requests for regulatory or scientific advice.

III. Significance of Guidance

This guidance, developed under the VICH process, has been revised to conform with FDA's good guidance practices regulation (21 CFR 10.115). For example, the document has been designated ''guidance'' rather ''guideline''. In addition, guidance documents must not include mandatory language such as ''shall'', ''must'', ''require'', or ''requirements'', unless FDA is using these words to describe a statutory or regulatory requirement. The guidance represents the current thinking of FDA on electronic exchange of documents: Electronic file format. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of applicable statutes and regulations.

IV. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 514 have been approved under OMB control number 0910–0032.

V. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

VI. Electronic Access

Persons with access to the Internet may obtain the guidance at either *http://www.fda.gov/cvm* or *http://www.regulations.gov.*

Dated: August 26, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–21582 Filed 8–31–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–3042]

Authorization of Emergency Use of an In Vitro Diagnostic Device for Detection of Middle East Respiratory Syndrome Coronavirus; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the issuance of an Emergency Use Authorization (EUA) (the Authorization) for an in vitro diagnostic device for detection of Middle East Respiratory Syndrome Coronavirus (MERS-CoV). FDA issued this Authorization under the Federal Food, Drug, and Cosmetic Act (the FD&C Act), as requested by altona Diagnostics GmbH. The Authorization contains, among other things, conditions on the emergency use of the authorized in vitro diagnostic device. The Authorization follows the May 29, 2013, determination by the Department of Health and Human Services (HHS) Secretary that there is a significant potential for a public health emergency that has a significant potential to affect national security or the health and security of U.S. citizens living abroad and that involves MERS-CoV. On the basis of such determination, the Secretary of HHS also declared on May 29, 2013, that circumstances exist justifying the authorization of emergency use of in vitro diagnostic devices for detection of MERS-CoV subject to the terms of any authorization issued under the FD&C Act. The Authorization, which includes an explanation of the reasons for issuance, is reprinted in this document.

DATES: The Authorization is effective as of July 17, 2015.

ADDRESSES: Submit written requests for single copies of the EUA to the Office of Counterterrorism and Emerging Threats, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 1, Rm. 4338, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request or include a fax number to which the Authorization may be sent. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the Authorization.

FOR FURTHER INFORMATION CONTACT: Carmen Maher, Acting Assistant Commissioner for Counterterrorism Policy and Acting Director, Office of Counterterrorism and Emerging Threats, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 1, Rm. 4347, Silver Spring, MD 20993–0002, 301–796–8510 (this is not a toll free number).

SUPPLEMENTARY INFORMATION:

I. Background

Section 564 of the FD&C Act (21 U.S.C. 360bbb–3) as amended by the Project BioShield Act of 2004 (Pub. L. 108–276) and the Pandemic and All-Hazards Preparedness Reauthorization Act of 2013 (Pub. L. 113–5) allows FDA to strengthen the public health protections against biological, chemical, nuclear, and radiological agents. Among other things, section 564 of the FD&C Act allows FDA to authorize the use of an unapproved medical product or an unapproved use of an approved medical product in certain situations. With this EUA authority, FDA can help assure that medical countermeasures may be used in emergencies to diagnose, treat, or prevent serious or life-threatening diseases or conditions caused by biological, chemical, nuclear, or radiological agents when there are no adequate, approved, and available alternatives.

Section 564(b)(1) of the FD&C Act provides that, before an EUA may be issued, the Secretary of HHS must declare that circumstances exist justifying the authorization based on one of the following grounds: (1) A determination by the Secretary of Homeland Security that there is a domestic emergency, or a significant potential for a domestic emergency, involving a heightened risk of attack with a biological, chemical, radiological, or nuclear agent or agents; (2) a determination by the Secretary of Defense that there is a military emergency, or a significant potential for a military emergency, involving a heightened risk to U.S. military forces of attack with a biological, chemical, radiological, or nuclear agent or agents; (3) a determination by the Secretary of HHS that there is a public health emergency, or a significant potential for a public health emergency, that affects, or has a significant potential to affect, national security or the health and security of U.S. citizens living abroad, and that involves a biological, chemical, radiological, or nuclear agent or agents, or a disease or condition that may be attributable to such agent or agents; or (4) the identification of a material threat by the Secretary of Homeland Security under section 319F–2 of the Public Health Service (PHS) Act (42 U.S.C. 247d–6b) sufficient to affect national

security or the health and security of U.S. citizens living abroad.

Once the Secretary of HHS has declared that circumstances exist justifying an authorization under section 564 of the FD&C Act, FDA may authorize the emergency use of a drug, device, or biological product if the Agency concludes that the statutory criteria are satisfied. Under section 564(h)(1) of the FD&C Act, FDA is required to publish in the **Federal Register** a notice of each authorization, and each termination or revocation of an authorization, and an explanation of the reasons for the action. Section 564 of the FD&C Act permits FDA to authorize the introduction into interstate commerce of a drug, device, or biological product intended for use when the Secretary of HHS has declared that circumstances exist justifying the authorization of emergency use. Products appropriate for emergency use may include products and uses that are not approved, cleared, or licensed under sections 505, 510(k), or 515 of the FD&C Act (21 U.S.C. 355, 360(k), and 360e) or section 351 of the PHS Act (42 U.S.C. 262). FDA may issue an EUA only if, after consultation with the HHS Assistant Secretary for Preparedness and Response, the Director of the National Institutes of Health, and the Director of the Centers for Disease Control and Prevention (to the extent feasible and appropriate given the applicable circumstances), FDA [1] concludes: (1) That an agent referred to in a declaration of emergency or threat can cause a serious or life-threatening disease or condition; (2) that, based on the totality of scientific evidence available to FDA, including data from adequate and well-controlled clinical trials, if available, it is reasonable to believe that: (A) The product may be effective in diagnosing, treating, or preventing (i) such disease or condition; or (ii) a serious or life-threatening disease or condition caused by a product authorized under section 564, approved or cleared under the FD&C Act, or licensed under section 351 of the PHS Act, for diagnosing, treating, or preventing such a disease or condition caused by such an agent; and (B) the known and potential benefits of the product, when used to diagnose, prevent, or treat such disease or condition, outweigh the known and potential risks of the product, taking into consideration the material threat posed by the agent or agents identified in a declaration under section 564(b)(1)(D) of the FD&C Act, if applicable; (3) that there is no adequate, approved, and available alternative to the product for diagnosing, preventing, or treating such disease or condition; and (4) that such other criteria as may be prescribed by regulation are satisfied.

No other criteria for issuance have been prescribed by regulation under section 564(c)(4) of the FD&C Act. Because the statute is self-executing, regulations or guidance are not required for FDA to implement the EUA authority.

II. EUA Request for an In Vitro Diagnostic Device for Detection of MERS-CoV

On May 29, 2013, under section 564(b)(1)(C) of the FD&C Act (21 U.S.C. 360bbb–3(b)(1)(C)), the Secretary of HHS determined that there is a significant potential for a public health emergency that has a significant potential to affect national security or the health and security of U.S. citizens living abroad and that involves MERS-CoV. Also on May 29, 2013, under section 564(b)(1) of the FD&C Act and on the basis of such determination, the Secretary of HHS declared that circumstances exist justifying the authorization of emergency use of in vitro diagnostic devices for detection of MERS-CoV, subject to the terms of any authorization issued under section 564 of the FD&C Act. Notice of the determination and declaration of the Secretary was published in the **Federal Register** on June 5, 2013 (78 FR 33842). On June 26, 2015, altona Diagnostics GmbH submitted a complete request for, and on July 17, 2015, FDA issued, an EUA for the altona Diagnostics GmbH RealStar® MERS-CoV RT–PCR Kit U.S., subject to the terms of the Authorization.

III. Electronic Access

An electronic version of this document and the full text of the Authorization are available on the Internet at *http://www.regulations.gov.*

IV. The Authorization

Having concluded that the criteria for issuance of the Authorization under section 564(c) of the FD&C Act are met, FDA has authorized the emergency use of an in vitro diagnostic device for detection of MERS-CoV subject to the terms of the Authorization. The Authorization in its entirety (not including the authorized versions of the fact sheets and other written materials) follows and provides an explanation of the reasons for its issuance, as required by section 564(h)(1) of the FD&C Act:

BILLING CODE 4164–01–P

[1] The Secretary of HHS has delegated the authority to issue an EUA under section 564 of the FD&C Act to the Commissioner of Food and Drugs.

DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Food and Drug Administration
Silver Spring, MD 20993

July 17, 2015

Dr. Sven Cramer
Head of Regulatory Affairs
altona Diagnostics GmbH
Mörkenstraße 12
22767 Hamburg
Germany

Dear Dr. Cramer:

This letter is in response to your request that the Food and Drug Administration (FDA) issue an Emergency Use Authorization (EUA) for emergency use of the RealStar® MERS-CoV RT-PCR Kit U.S. for the *in vitro* qualitative detection of RNA from the Middle East Respiratory Syndrome Coronavirus (MERS-CoV), formerly known as Novel Coronavirus 2012 or NCV-2012, in lower respiratory specimens (tracheal aspirate/tracheal secretions) from individuals with signs and symptoms of infection with MERS-CoV in conjunction with epidemiological risk factors for the presumptive detection of MERS-CoV, by laboratories certified under the Clinical Laboratory Improvement Amendments of 1988 (CLIA), 42 U.S.C. § 263a, to perform high complexity tests,[1] and similarly qualified non-U.S. laboratories, pursuant to section 564 of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. § 360bbb-3).

On May 29, 2013, pursuant to section 564(b)(1)(C) of the Act (21 U.S.C. § 360bbb-3(b)(1)(C)), the Secretary of Health and Human Services (HHS) determined that there is a significant potential for a public health emergency that has a significant potential to affect national security or the health and security of United States citizens living abroad, and that involves MERS-CoV.[2] Pursuant to section 564(b)(1) of the Act (21 U.S.C. § 360bbb-3(b)(1)), and on the basis of such determination, the Secretary of HHS then declared that circumstances exist justifying the authorization of the emergency use of *in vitro* diagnostics for the detection of MERS-CoV, subject to the terms of any authorization issued under section 564(a) of the Act (21 U.S.C. § 360bbb-3(a)).[3]

Having concluded that the criteria for issuance of this authorization under section 564(c) of the Act (21 U.S.C. § 360bbb-3(c)) are met, I am authorizing the emergency use of the RealStar® MERS-CoV RT-PCR Kit U.S. (as described in the Scope of Authorization section of this letter (Section II)) for the presumptive detection of MERS-CoV from individuals with signs and symptoms of infection with MERS-CoV in conjunction with epidemiological risk factors.

[1] For ease of reference, this letter will refer to this type of laboratory as "CLIA High Complexity Laboratories."
[2] As amended by the Pandemic and All-Hazards Preparedness Reauthorization Act, Pub. L. No. 113-5, under section 564(b)(1)(C) of the Act, the Secretary may make a determination of a public health emergency, or of a significant potential for a public health emergency.
[3] HHS. *Determination and Declaration Regarding Emergency Use of In Vitro Diagnostics for Detection of Middle East Respiratory Syndrome Coronavirus (MERS-CoV).* 78 Fed. Reg. 33842 (June 5, 2013).

I. Criteria for Issuance of Authorization

I have concluded that the emergency use of the RealStar® MERS-CoV RT-PCR Kit U.S. for the presumptive detection of MERS-CoV in the specified population meets the criteria for issuance of an authorization under section 564(c) of the Act, because I have concluded that:

1. MERS-CoV can cause a serious or life threatening disease or condition, including severe respiratory illness, to humans infected with this virus;

2. Based on the totality of scientific evidence available to FDA, it is reasonable to believe that the RealStar® MERS-CoV RT-PCR Kit U.S. when used with the specified instruments may be effective in diagnosing MERS-CoV infection, and that the known and potential benefits of the RealStar® MERS-CoV RT-PCR Kit U.S., when used for diagnosing MERS-CoV infection, outweigh the known and potential risks of such product; and

3. There is no adequate, approved, and available alternative to the emergency use of the RealStar® MERS-CoV RT-PCR Kit U.S. for diagnosing MERS-CoV.[4]

II. Scope of Authorization

I have concluded, pursuant to section 564(d)(1) of the Act, that the scope of this authorization is limited to the use of the authorized RealStar® MERS-CoV RT-PCR Kit U.S. by CLIA High Complexity Laboratories and similarly qualified non-U.S. laboratories for the *in vitro* qualitative detection of RNA from MERS-CoV in individuals with signs and symptoms of infection with MERS-CoV in conjunction with epidemiological risk factors, for the presumptive detection of MERS-CoV.

The Authorized RealStar® MERS-CoV RT-PCR Kit U.S.

The RealStar® MERS-CoV RT-PCR Kit U.S. is a real-time reverse transcriptase polymerase chain reaction (rRT-PCR) for the *in vitro* qualitative detection of RNA from MERS-CoV in lower respiratory specimens (tracheal aspirate/tracheal secretions) from individuals with signs and symptoms of infection with MERS-CoV in conjunction with epidemiological risk factors. The test procedure consists of nucleic acid extraction using the QIAamp® Viral RNA Mini Kit, or other authorized extraction methods followed by rRT-PCR on Applied Biosystems PCR instrument systems (i.e., ABI Prism® 7500 SDS, ABI Prism® 7500 Fast SDS), Roche LightCycler® 480 Instrument II, BIO-RAD PCR instrument system (i.e., CFX96™ system/Dx real-time system, CFX96 Touch™ Deep Well Real-Time PCR Detection System), Corbett Research Rotor-Gene® 6000, QUIAGEN Rotor-Gene® Q5/6 plex/MDx Platform, and Siemens VERSANT® kPCR Molecular System AD, or other authorized instruments.

The RealStar® MERS-CoV RT-PCR Kit U.S. consists of two independent assays, one targeting a region upstream of the E gene (*upE*) and the other targeting open reading frame 1a (*orf1a*) of the MERS-CoV genome. Both assays include a heterologous amplification system (Internal Control) to identify possible RT-PCR inhibition and to confirm the integrity of the reagents of the kit.

[4] No other criteria of issuance have been prescribed by regulation under section 564(c)(4) of the Act.

The test is based on rRT-PCR technology, utilizing reverse transcriptase (RT) reaction to convert RNA into complementary DNA (cDNA), polymerase chain reaction (PCR) for the amplification of specific target sequences, and target specific probes for the detection of the amplified DNA. The probes are labeled with fluorescent reporter and quencher dyes. In both assays, probes specific for MERS-CoV RNA are labeled with the fluorophore FAM (amine-reactive succinimidyl esters of carboxyfluorescein).

The RealStar® MERS-CoV RT-PCR Kit U.S. uses the following primer and probe sets:

a) Detection of MERS-CoV *orf1a*:
- Forward primer: P1358
- Reverse primer: P1359
- Probe: S653

b) Detection of MERS-CoV *upE*:
- Forward primer: P1356
- Reverse primer: P1357
- Probe: S652

c) Detection of the Internal Control:
- Forward primer: P30
- Reverse primer: P31
- Probe: S116

Control material to be used with the RealStar® MERS-CoV RT-PCR Kit U.S. test includes:

a) Internal Control

The Internal Control contains a defined copy number of an "artificial" RNA molecule with no homologies to any other known sequences. It has to be added to the nucleic acid extraction procedure and is reverse transcribed, amplified, and detected in parallel to the MERS-CoV specific RNA. The function of the Internal Control is to ensure the integrity of MERS-CoV specific rRT-PCR results by indicating potential RT-PCR inhibition.

b) PCR grade water

The PCR grade water is to be used as negative control for the RT-PCR reaction. Its function is to indicate contamination of RT-PCR reagents.

c) Positive Control

The Positive Control consists of dilutions of a 1:1 mixture of two *in vitro* transcripts (IVT). One IVT with a length of 590 nt contains a sequence (399 nt) of open reading frame 1a of MERS-CoV, whereas the other IVT with a length of 590 nt contains a sequence (399 nt) upstream of the E gene of the MERS-CoV genome. The *orf1a* specific IVT as well as the *upE* specific IVT contain the target region for the *orf1a* and the *upE* specific detection system, respectively (399 nt in length for *orf1a* and 399 nt in length for *upE*) which is used

to detect MERS-CoV specific RNA with the RealStar® MERS-CoV RT-PCR Kit U.S. The Positive Control is used for the RT-PCR to verify the functionality of the MERS-CoV RNA specific RT-PCR detection system, which is included in the RealStar® MERS-CoV RT-PCR Kit U.S.

The above described RealStar® MERS-CoV RT-PCR Kit U.S., when labeled consistently with the labeling authorized by FDA, entitled "RealStar® MERS-CoV RT-PCR Kit U.S. Instructions for Use" (available at http://www.fda.gov/MedicalDevices/%20Safety/EmergencySituations/ucm161496.htm), which may be revised only with written permission of FDA, is authorized to be distributed to and used by CLIA High Complexity Laboratories and similarly qualified non-U.S. laboratories under this EUA, despite the fact that it does not meet certain requirements otherwise required by federal law.

The above described RealStar® MERS-CoV RT-PCR Kit U.S. is authorized to be accompanied by the following information pertaining to the emergency use, which is authorized to be made available to health care providers and patients:

- Fact Sheet for Health Care Providers: Interpreting RealStar® MERS-CoV RT-PCR Kit U.S. Test Results
- Fact Sheet for Patients: Understanding Results from the RealStar® MERS-CoV RT-PCR Kit U.S.

As described in section IV below, altona Diagnostics GmbH and any authorized distributor(s) are also authorized to make available additional information relating to the emergency use of the authorized RealStar® MERS-CoV RT-PCR Kit U.S. that is consistent with, and does not exceed, the terms of this letter of authorization.

I have concluded, pursuant to section 564(d)(2) of the Act, that it is reasonable to believe that the known and potential benefits of the authorized RealStar® MERS-CoV RT-PCR Kit U.S. in the specified population, when used for the *in vitro* qualitative detection of RNA from MERS-CoV in conjunction with epidemiological risk factors, outweigh the known and potential risks of such a product.

I have concluded, pursuant to section 564(d)(3) of the Act, based on the totality of scientific evidence available to FDA, that it is reasonable to believe that the authorized RealStar MERS-CoV RT-PCR Kit U.S. may be effective in the diagnosis of MERS-CoV infection pursuant to section 564(c)(2)(A) of the Act. FDA has reviewed the scientific information available including the information supporting the conclusions described in Section I above, and has concluded that the authorized RealStar® MERS-CoV RT-PCR Kit U.S., when used to diagnose MERS-CoV infection in the specified population in conjunction with epidemiological risk factors, meets the criteria set forth in section 564(c) of the Act concerning safety and potential effectiveness.

The emergency use of the authorized RealStar® MERS-CoV RT-PCR Kit U.S. under this EUA must be consistent with, and may not exceed, the terms of this letter, including the Scope of Authorization (Section II) and the Conditions of Authorization (Section IV). Subject to the terms of this EUA and under the circumstances set forth in the Secretary of HHS's determination under section 564(b)(1)(C) described above and the Secretary of HHS's corresponding declaration under

section 564(b)(1), the RealStar® MERS-CoV RT-PCR Kit U.S. described above is authorized to diagnose MERS-CoV infection in individuals with signs and symptoms of infection with MERS-CoV in conjunction with epidemiological risk factors.

This EUA will cease to be effective when the HHS declaration that circumstances exist to justify the EUA is terminated under section 564(b)(2) of the Act or when the EUA is revoked under section 564(g) of the Act.

III. Waiver of Certain Requirements

I am waiving the following requirements for the RealStar® MERS-CoV RT-PCR Kit U.S. during the duration of this EUA:

- Current good manufacturing practice requirements, including the quality system requirements under 21 CFR Part 820 with respect to the design, manufacture, packaging, labeling, storage, and distribution of the RealStar® MERS-CoV RT-PCR Kit U.S.

- Labeling requirements for cleared, approved, or investigational devices, including labeling requirements under 21 CFR 809.10 and 809.30, except for the intended use statement (21 CFR 809.10(a)(2), (b)(2)), adequate directions for use (21 U.S.C. 352(f)), (21 CFR 809.10(b)(5), (7) and (8)), any appropriate limitations on the use of the device including information required under 21 CFR 809.10(a)(4), and any available information regarding performance of the device, including requirements under 21 CFR 809.10(b)(12).

IV. Conditions of Authorization

Pursuant to section 564 of the Act, I am establishing the following conditions on this authorization:

altona Diagnostics GmbH and Any Authorized Distributor(s)

A. altona Diagnostics GmbH and any authorized distributor(s) will distribute the authorized RealStar® MERS-CoV RT-PCR Kit U.S. with the authorized labeling, as may be revised with written permission of FDA, only to CLIA High Complexity Laboratories and similarly qualified non-U.S. laboratories.

B. altona Diagnostics GmbH and any authorized distributor(s) will provide to CLIA High Complexity Laboratories and similarly qualified non-U.S. laboratories the authorized RealStar® MERS-CoV RT-PCR Kit U.S. Fact Sheet for Health Care Providers and the authorized RealStar® MERS-CoV RT-PCR Kit U.S. Fact Sheet for Patients.

C. altona Diagnostics GmbH and any authorized distributor(s) will make available on their websites the authorized RealStar® MERS-CoV RT-PCR Kit U.S. Fact Sheet for Health Care Providers and the authorized RealStar® MERS-CoV RT-PCR Kit U.S. Fact Sheet for Patients.

D. altona Diagnostics GmbH and any authorized distributor(s) will inform CLIA High Complexity Laboratories and similarly qualified non-U.S. laboratories and relevant public health authority(ies) of this EUA, including the terms and conditions herein.

E. altona Diagnostics GmbH and any authorized distributor(s) will ensure that CLIA High Complexity Laboratories and similarly qualified non-U.S. laboratories using the authorized RealStar® MERS-CoV RT-PCR Kit U.S. have a process in place for reporting test results to health care providers and relevant public health authorities, as appropriate.

F. Through a process of inventory control, altona Diagnostics GmbH and any authorized distributor(s) will maintain records of device usage.

G. altona Diagnostics GmbH and any authorized distributor(s) will collect information on the performance of the assay and report to FDA any suspected occurrence of false positive or false negative results of which altona Diagnostics GmbH and any authorized distributor(s) become aware.

H. altona Diagnostics GmbH and any authorized distributor(s) are authorized to make available additional information relating to the emergency use of the authorized RealStar® MERS-CoV RT-PCR Kit U.S. that is consistent with, and does not exceed, the terms of this letter of authorization.

altona Diagnostics GmbH

I. altona Diagnostics GmbH will notify FDA of any authorized distributor(s) of the RealStar® MERS-CoV RT-PCR Kit U.S., including the name, address, and phone number of any authorized distributor(s).

J. altona Diagnostics GmbH will provide any authorized distributor(s) with a copy of this EUA, and communicate to any authorized distributor(s) any subsequent amendments that might be made to this EUA and its authorized accompanying materials (e.g., fact sheets, instructions for use).

K. altona Diagnostics GmbH only may request changes to the authorized RealStar® MERS-CoV RT-PCR Kit U.S. Fact Sheet for Health Care Providers or the authorized RealStar® MERS-CoV RT-PCR Kit U.S. Fact Sheet for Patients. Such requests will be made only by altona Diagnostics GmbH in consultation with FDA.

L. altona Diagnostics GmbH may request the addition of other specimen types for use with the authorized RealStar® MERS-CoV RT-PCR Kit U.S. Such requests will be made by altona Diagnostics GmbH in consultation with, and require concurrence of, FDA.

M. altona Diagnostics GmbH may request the addition of other extraction methods for use with the authorized RealStar® MERS-CoV RT-PCR Kit U.S. Such requests will be made by altona Diagnostics GmbH in consultation with, and require concurrence of, FDA.

N. altona Diagnostics GmbH may request the addition of other real-time PCR instruments for use with the authorized RealStar® MERS-CoV RT-PCR Kit U.S. Such requests will be made by altona Diagnostics GmbH in consultation with, and require concurrence of, FDA.

O. altona Diagnostics GmbH will track adverse events and report to FDA under 21 CFR part 803.

CLIA High Complexity Laboratories and Similarly Qualified Non-U.S. Laboratories

P. CLIA High Complexity Laboratories and similarly qualified non-U.S. laboratories will include with reports of the results of the RealStar® MERS-CoV RT-PCR Kit U.S the authorized Fact Sheet for Health Care Providers and the authorized Fact Sheet for Patients. Under exigent circumstances, other appropriate methods for disseminating these Fact Sheets may be used, which may include mass media.

Q. CLIA High Complexity Laboratories and similarly qualified non-U.S. laboratories will have a process in place for reporting test results to health care providers and relevant public health authorities, as appropriate.

R. CLIA High Complexity Laboratories and similarly qualified non-U.S. laboratories will collect information on the performance of the assay and report to altona Diagnostics GmbH and any authorized distributor(s) any suspected occurrence of false positive or false negative results of which the laboratories become aware.

S. All laboratory personnel using the assay will be appropriately trained on the use of the RealStar® MERS-CoV RT-PCR Kit U.S. on the specified instrument systems or other authorized instruments and use appropriate laboratory and personal protective equipment when handling this test.

altona Diagnostics GmbH, Any Authorized Distributor(s), CLIA High Complexity Laboratories, and Similarly Qualified Non-U.S. Laboratories

T. altona Diagnostics GmbH, any authorized distributor(s), CLIA High Complexity Laboratories, and similarly qualified non-U.S. laboratories will ensure that any records associated with this EUA are maintained until notified by FDA. Such records will be made available to FDA for inspection upon request.

Conditions Related to Advertising and Promotion

U. All advertising and promotional descriptive printed matter relating to the use of the authorized RealStar® MERS-CoV RT-PCR Kit U.S. will be consistent with the Fact Sheets and authorized labeling, as well as the terms set forth in this EUA and the applicable requirements set forth in the Act and FDA regulations.

V. All advertising and promotional descriptive printed matter relating to the use of the authorized RealStar® MERS-CoV RT-PCR Kit U.S. will clearly and conspicuously state that:

- This test has not been FDA-cleared or approved;
- This test has been authorized by FDA under an EUA for use by CLIA High Complexity Laboratories and similarly qualified non-U.S. laboratories;

Page 8 – Dr. Cramer, altona Diagnostics GmbH

- This test has been authorized only for the detection of MERS-CoV; and
- This test is only authorized for the duration of the declaration that circumstances exist justifying the authorization of the emergency use of *in vitro* diagnostics for detection of MERS-CoV under section 564(b)(1) of the Act, 21 U.S.C. § 360bbb-3(b)(1), unless the authorization is terminated or revoked sooner.

No advertising or promotional descriptive printed matter relating to the use of the authorized RealStar® MERS-CoV RT-PCR Kit U.S. may represent or suggest that this test is safe or effective for the diagnosis of MERS-CoV.

The emergency use of the authorized RealStar® MERS-CoV RT-PCR Kit U.S. as described in this letter of authorization, must comply with the conditions and all other terms of this authorization.

V. Duration of Authorization

This EUA will be effective until the declaration that circumstances exist justifying the authorization of the emergency use of *in vitro* diagnostics for detection of MERS-CoV is terminated under section 564(b)(2) of the Act or the EUA is revoked under section 564(g) of the Act.

Stephen M. Ostroff, M.D.
Acting Commissioner of Food and Drugs

Enclosures

Dated: August 26, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–21585 Filed 8–31–15; 8:45 am]

BILLING CODE 4164–01–C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–D–1492]

Two-Phased Chemistry, Manufacturing, and Controls Technical Sections; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry (GFI) #227 entitled ''Two-Phased Chemistry, Manufacturing, and Controls (CMC) Technical Sections.'' The guidance provides recommendations to sponsors submitting chemistry, manufacturing, and controls (CMC) data submissions to the Center of Veterinary Medicine (CVM) to support approval of a new animal drug or abbreviated new animal drug.

DATES: Submit either electronic or written comments on Agency guidances at any time.

ADDRESSES: Submit written requests for single copies of the guidance to the Policy and Regulations Staff (HFV–6), Center for Veterinary Medicine, Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

Submit electronic comments on the guidance to *http://www.regulations.gov.* Submit written comments on the guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Heather Longstaff, Center for Veterinary Medicine (HFV–145), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–402–0651, *heather.longstaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of October 20, 2014 (79 FR 62635) FDA published the notice of availability for a draft guidance for industry #227 entitled ''Two-Phased Chemistry, Manufacturing, and Controls (CMC) Technical Sections'' giving interested persons until December 19, 2014, to comment on the draft guidance. FDA received one comment on the draft guidance and that comment was considered as the guidance was finalized. The guidance announced in this notice finalizes the draft guidance dated October 2014.

GFI #227 provides recommendations to sponsors submitting CMC data submissions to CVM to support approval of a new animal drug or abbreviated new animal drug. The two-phased process allows for two separate CMC submissions, each with its own review clock, and each including complete appropriate CMC information that is available for review at the time of submission. The guidance specifies the technical details of how the process works, the review clocks, the information that is appropriate for each technical section submission, and the possible review outcomes. The guidance also includes CVM's recommendations for meetings between the Division of Manufacturing Technologies and the sponsor during this process to ensure concurrence with the approach used for the CMC technical section.

II. Significance of Guidance

This level 1 guidance is being issued consistent with FDA's good guidance practices regulations (21 CFR 10.115). This guidance represents the current thinking of FDA on two-phased CMC technical sections. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

III. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 514 and section 512(n)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(n)(1)) have been approved under OMB control numbers 0910–0032 and 0910–0669, respectively.

IV. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

V. Electronic Access

Persons with access to the Internet may obtain the guidance at either *http://www.fda.gov/AnimalVeterinary/GuidanceComplianceEnforcement/GuidanceforIndustry/default.htm* or *http://www.regulations.gov.*

Dated: August 26, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–21583 Filed 8–31–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: HHS–OS–0990–New–30D]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, has submitted an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB) for review and approval. The ICR is for a new collection. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public on this ICR during the review and approval period.

DATES: Comments on the ICR must be received on or before October 1, 2015.

ADDRESSES: Submit your comments to *OIRA_submission@omb.eop.gov* or via facsimile to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Information Collection Clearance staff, *Information.CollectionClearance@hhs.gov* or (202) 690–6162.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the Information Collection Request Title and document identifier HHS–OS–0990–New–30D for reference.

Information Collection Request Title: State and Territorial Health Disparities Survey Abstract: The Office of Minority Health (OMH), Office of the Secretary (OS) is requesting approval from the Office of Management and Budget (OMB) for a new data collection activity for the State and Territorial Health Disparities Survey (STHD Survey).

OMH has a long history of collaborating with states to improve minority health outcomes and reduce health and health care disparities. A strong partnership with state and territorial offices is a key to continue progress toward eliminating health disparities. To best facilitate continued partnerships, OMH needs information about the current activities, challenges, and resources within state and territorial offices of minority health. The State and Territorial Health Disparities Survey is intended to support OMH informational needs by collecting, organizing, and presenting a variety of information about states and U.S. territories, including the current status of minority health and health disparities, the organization and operation of state and territorial offices of minority health, and state/territorial implementation of federal standards and evidence-based practices designed to address disparities and improve minority health. The STHD Survey, which will focus on the activities, staffing, and funding of State Minority Health Entities, is part of a larger project to catalog the extent of health disparities and the activities underway to reduce them in each state and U.S. territory. The STHD Survey supports OMH's goals of working with states and territories to improve the health of racial and ethnic minority populations and eliminate health disparities. While existing, state/territorial-specific information sources (*e.g.,* quantitative data points available from the Agency for Healthcare Research and Quality's *National Healthcare Disparities Report State Snapshots*) offer important facts about the status of health disparities, they do not provide context around the efforts underway to reduce them.

Likely Respondents- Data will be collected using semi-structured telephone interviews with state/territorial minority health entity directors (or their designees) in approximately 54 states and territories (50 states plus the District of Columbia and the U.S. territories of Guam, Puerto Rico, and the U.S. Virgin Islands). The purpose of this interview is to collect qualitative information about state/territory program goals and activities, partnerships, and organizational structure, as well as quantitative data elements on staffing and funding.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondents	Average hours per response	Total burden hours
State and Territorial Survey	54	1	1.5	81
Total				81

Terry S. Clark,

Asst Information Collection Clearance Officer.

[FR Doc. 2015–21576 Filed 8–31–15; 8:45 am]

BILLING CODE 4150–29–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Nursing Research; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Nursing Research Special Emphasis Panel—Training and Career Development.

Date: September 29, 2015.

Time: 2:30 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Division of Extramural Activities, National Institute of Nursing Research, National Institutes of Health, One Democracy Plaza, Room 703, 6701 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Yujing Liu, Ph.D., MD, Chief, Office of Review, Division of Extramural Activities, National Institute of Nursing Research, National Institutes of Health, 6701 Democracy Boulevard, Suite 710, Bethesda, MD 20892, (301) 451–5152, *yujing_liu@nih.gov*.

Name of Committee: National Institute of Nursing Research Special Emphasis Panel—Biobehavioral and Technological Interventions to Attenuate Cognitive Decline in Individuals with Cognitive Impairment or Dementia.

Date: October 1, 2015.

Time: 11:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications

Place: Division of Extramural Activities, National Institute of Nursing Research, National Institutes of Health, One Democracy Plaza, Room 703, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Tamizchelvi Thyagarajan, Ph.D., Scientific Review Officer, National Institute of Nursing Research, National Institutes of Health, Suite 710, Bethesda, MD 20892, (301) 594–0343, *tamizchelvi.thyagarajan@nih.gov*.

Name of Committee: National Institute of Nursing Research Special Emphasis Panel—Training and Career Development.

Date: October 7, 2015.

Time: 12:00 p.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Division of Extramural Activities, National Institute of Nursing Research, National Institutes of Health, One Democracy Plaza, Room 703, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Yujing Liu, Ph.D., MD, Chief, Office of Review, National Institute of Nursing Research, National Institutes of Health, Suite 710, Bethesda, MD 20892, (301) 451–5152, *yujing_liu@nih.gov*.

Name of Committee: National Institute of Nursing Research Special Emphasis Panel—Self-Management for Health in Chronic Conditions.

Date: October 8, 2015.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, Room 703, 6701 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Tamizchelvi Thyagarajan, Ph.D., Scientific Review Officer, National Institute of Nursing Research, National Institutes of Health, Suite 710, Bethesda, MD 20892, (301) 594–0343, *tamizchelvi.thyagarajan@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.361, Nursing Research, National Institutes of Health, HHS)

Dated: August 26, 2016.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–21530 Filed 8–31–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Fogarty International Center; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Fogarty International Center Advisory Board, September 14, 2015, 01:00 p.m. to September 15, 2015, 03:00 p.m., National Institutes of Health, 16 Center Drive, Lawton L. Chiles International House, Bethesda, MD, 20892 which was published in the **Federal Register** on August 11, 2015, 80 FR 48115.

The meeting is being amended to change the time of the meeting. The closed session will be Sept. 14 from 1:00 p.m.–2:15 p.m., then the open session @ 2:30 p.m. and adjourn @ 5:15 p.m. Open session Sept.15 from 9 a.m. and adjourn @ 12:00 noon. The meeting is partially closed to the public.

Dated: August 26, 2015.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–21529 Filed 8–31–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; 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 a meeting of the Board of Scientific Counselors, National Institute of Mental Health.

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 Mental Health, 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, National Institute of Mental Health.

Date: September 29–30, 2015.

Time: September 29, 2015, 9:00 a.m. to 5:25 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Porter Neuroscience Research Center, Rooms GE610/GE640, Building 35A Convent Drive Bethesda, MD 20892.

Time: September 30, 2015, 9:00 a.m. to 4:05 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Porter Neuroscience Research Center, Rooms GE620/GE630 and GE640, Building 35A Convent Drive, Bethesda, MD 20892.

Contact Person: Jennifer E Mehren, Ph.D., Scientific Advisor, Division of Intramural Research Programs, National Institute of Mental Health, NIH, 35A Convent Drive, Room GE 412, Bethesda, MD 20892–3747, 301–496–3501, *mehrenj@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: August 26, 2015.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–21528 Filed 8–31–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Project: Projects for Assistance in Transition From Homelessness (PATH) Program Annual Report (OMB No. 0930–0205)—Revision

The Center for Mental Health Services awards grants each fiscal year to each of the states, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands from allotments authorized under the PATH program established by Public Law 101–645, 42 U.S.C. 290cc–21 *et seq.,* the Stewart B. McKinney Homeless Assistance Amendments Act of 1990 (section 521 *et seq.* of the Public Health Service (PHS) Act). Section 522 of the PHS Act requires that the grantee states and territories must expend their payments under the Act solely for making grants to political subdivisions of the state, and to nonprofit private entities (including community-based veterans' organizations and other community organizations) for the purpose of providing services specified in the Act. Available funding is allotted in accordance with the formula provision of section 524 of the PHS Act.

This submission is for a revision of the current approval of the annual grantee reporting requirements. Section 528 of the PHS Act specifies that not later than January 31 of each fiscal year, a funded entity will prepare and submit a report in such form and containing such information as is determined necessary for securing a record and description of the purposes for which amounts received under section 521 were expended during the preceding fiscal year and of the recipients of such amounts and determining whether such amounts were expended in accordance with statutory provisions.

The proposed changes to the PATH Annual Report are as follows:

1. Format.

To create a PATH report that is easier to read and questions that are easier to understand, language has been made more concise and questions have been renumbered.

2. Homeless Management Information Systems (HMIS) Data Integration.

All data elements align with the 2014 HMIS Data Standards and can be extracted from HMIS.

3. Staff training.

An element has been added to the Budget section to collect information about the number of trainings provided by PATH-funded staff.

4. Number of persons served this reporting period.

To decrease reporting burden and improve data quality, several revisions were made to the collection of information about persons outreached and persons enrolled. Data elements were updated to more clearly describe the data to be reported and reduce confusion and potential for misinterpretation. Information about persons outreached has been divided into two elements to collect specific information about the location of the outreach contact (street outreach or service setting).

5. Services provided.

To improve data quality, several service category labels have been updated to more accurately reflect the type of service to be reported. The ''Screening and Assessment'' category has also been divided into two separate categories to capture specific information about screenings and clinical assessments provided by PATH staff. The ''Total number of times this service was provided'' column has been removed to reduce reporting burden.

6. Referrals provided.

To improve data quality, several referral category labels have been updated to more accurately reflect the type of referral to be reported. The ''Total number of times this type of referral was provided'' column has been removed to reduce reporting burden.

7. Outcomes.

Elements collecting information regarding PATH program outcomes have been added. The PATH program's transition to using local HMIS to collect PATH client data allows data on client outcomes related to the PATH program to be more easily collected and reported.

8. Demographics.

Response categories for demographic data elements have been updated to fully align with the 2014 HMIS Data Standards. An element to gather information about PATH clients' connection to the SSI/SSDI Outreach, Access, and Recovery program (SOAR) has also been added.

To decrease reporting burden and improve the outreach and engagement process, demographic information for ''Persons contacted'' is no longer required. Providers are encouraged to gather information and build client records as early in the engagement process as possible. All demographic information should be collected by the point of PATH enrollment.

9. Definitions.

Definitions for PATH terms have been updated to streamline definitions and increase reliability of data reporting.

The estimated annual burden for these reporting requirements is summarized in the table below.

Respondents	Number of respondents	Responses per respondent	Burden per response (hrs.)	Total burden
States	56	1	20	1,120
Local provider agencies	492	1	20	9,840
Total	548			10,960

Written comments and recommendations concerning the proposed information collection should be sent by October 1, 2015 to the SAMHSA Desk Officer at the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). To ensure timely receipt of comments, and to avoid potential delays

in OMB's receipt and processing of mail sent through the U.S. Postal Service, commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov.* Although commenters are encouraged to send their comments via email, commenters may also fax their comments to: 202–395–7285. Commenters may also mail them to: Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building, Room 10102, Washington, DC 20503.

Summer King,

Statistician.

[FR Doc. 2015–21547 Filed 8–31–15; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of HHS-Certified Laboratories and Instrumented Initial Testing Facilities Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) notifies federal agencies of the laboratories and Instrumented Initial Testing Facilities (IITF) currently certified to meet the standards of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines). The Mandatory Guidelines were first published in the **Federal Register** on April 11, 1988 (53 FR 11970), and subsequently revised in the **Federal Register** on June 9, 1994 (59 FR 29908); September 30, 1997 (62 FR 51118); April 13, 2004 (69 FR 19644); November 25, 2008 (73 FR 71858); December 10, 2008 (73 FR 75122); and on April 30, 2010 (75 FR 22809).

A notice listing all currently HHS-certified laboratories and IITFs is published in the **Federal Register** during the first week of each month. If any laboratory or IITF certification is suspended or revoked, the laboratory or IITF will be omitted from subsequent lists until such time as it is restored to full certification under the Mandatory Guidelines.

If any laboratory or IITF has withdrawn from the HHS National Laboratory Certification Program (NLCP) during the past month, it will be listed at the end and will be omitted from the monthly listing thereafter.

This notice is also available on the Internet at *http://www.samhsa.gov/workplace.*

FOR FURTHER INFORMATION CONTACT: Giselle Hersh, Division of Workplace Programs, SAMHSA/CSAP, Room 7–1051, One Choke Cherry Road, Rockville, Maryland 20857; 240–276–2600 (voice), 240–276–2610 (fax).

SUPPLEMENTARY INFORMATION: The Mandatory Guidelines were initially developed in accordance with Executive Order 12564 and section 503 of Public Law 100–71. The ''Mandatory Guidelines for Federal Workplace Drug Testing Programs,'' as amended in the revisions listed above, requires strict standards that laboratories and IITFs must meet in order to conduct drug and specimen validity tests on urine specimens for federal agencies.

To become certified, an applicant laboratory or IITF must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification, a laboratory or IITF must participate in a quarterly performance testing program plus undergo periodic, on-site inspections.

Laboratories and IITFs in the applicant stage of certification are not to be considered as meeting the minimum requirements described in the HHS Mandatory Guidelines. A HHS-certified laboratory or IITF must have its letter of certification from HHS/SAMHSA (formerly: HHS/NIDA), which attests that it has met minimum standards.

In accordance with the Mandatory Guidelines dated November 25, 2008 (73 FR 71858), the following HHS-certified laboratories and IITFs meet the minimum standards to conduct drug and specimen validity tests on urine specimens:

HHS-Certified Instrumented Initial Testing Facilities

Dynacare, 6628 50th Street NW., Edmonton, AB Canada T6B 2N7, 780–784–1190 (Formerly: Gamma-Dynacare Medical Laboratories)

HHS-Certified Laboratories

ACM Medical Laboratory, Inc., 160 Elmgrove Park, Rochester, NY 14624, 585–429–2264

Aegis Analytical Laboratories, Inc., 345 Hill Ave., Nashville, TN 37210, 615–255–2400 (Formerly: Aegis Sciences Corporation, Aegis Analytical Laboratories, Inc., Aegis Analytical Laboratories)

Alere Toxicology Services, 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823 (Formerly: Kroll Laboratory Specialists, Inc., Laboratory Specialists, Inc.)

Alere Toxicology Services, 450 Southlake Blvd., Richmond, VA 23236, 804–378–9130 (Formerly: Kroll Laboratory Specialists, Inc., Scientific Testing Laboratories, Inc.; Kroll Scientific Testing Laboratories, Inc.)

Baptist Medical Center-Toxicology Laboratory, 11401 I–30, Little Rock, AR 72209–7056, 501–202–2783 (Formerly: Forensic Toxicology Laboratory Baptist Medical Center)

Clinical Reference Lab, 8433 Quivira Road, Lenexa, KS 66215–2802, 800–445–6917

DrugScan, Inc., 200 Precision Road, Suite 200, Horsham, PA 19044, 800–235–4890

Dynacare*, 245 Pall Mall Street, London, ONT, Canada N6A 1P4, 519–679–1630 (Formerly: Gamma-Dynacare Medical Laboratories)

ElSohly Laboratories, Inc., 5 Industrial Park Drive, Oxford, MS 38655, 662–236–2609

Fortes Laboratories, Inc., 25749 SW Canyon Creek Road, Suite 600, Wilsonville, OR 97070, 503–486–1023

Laboratory Corporation of America Holdings, 7207 N. Gessner Road, Houston, TX 77040, 713–856–8288/800–800–2387

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400/800–437–4986 (Formerly: Roche Biomedical Laboratories, Inc.)

Laboratory Corporation of America Holdings, 1904 Alexander Drive, Research Triangle Park, NC 27709, 919–572–6900/800–833–3984 (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group)

Laboratory Corporation of America Holdings, 1120 Main Street, Southaven, MS 38671, 866–827–8042/800–233–6339 (Formerly: LabCorp Occupational Testing Services, Inc.; MedExpress/National Laboratory Center)

LabOne, Inc. d/b/a Quest Diagnostics, 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/800–873–8845 (Formerly: Quest Diagnostics Incorporated; LabOne, Inc.; Center for Laboratory Services, a Division of LabOne, Inc.)

MedTox Laboratories, Inc., 402 W. County Road D, St. Paul, MN 55112, 651–636–7466/800–832–3244

MetroLab-Legacy Laboratory Services, 1225 NE 2nd Ave., Portland, OR 97232, 503–413–5295/800–950–5295
Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, MN 55417, 612–725–2088
National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 661–322–4250/800–350–3515
One Source Toxicology Laboratory, Inc., 1213 Genoa-Red Bluff, Pasadena, TX 77504, 888–747–3774 (Formerly: University of Texas Medical Branch, Clinical Chemistry Division; UTMB Pathology-Toxicology Laboratory)
Pacific Toxicology Laboratories, 9348 DeSoto Ave., Chatsworth, CA 91311, 800–328–6942 (Formerly: Centinela Hospital Airport Toxicology Laboratory)
Pathology Associates Medical Laboratories, 110 West Cliff Dr., Spokane, WA 99204, 509–755–8991/800–541–7891x7
Phamatech, Inc., 15175 Innovation Drive, San Diego, CA 92128, 888–635–5840
Quest Diagnostics Incorporated, 1777 Montreal Circle, Tucker, GA 30084, 800–729–6432 (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories)
Quest Diagnostics Incorporated, 400 Egypt Road, Norristown, PA 19403, 610–631–4600/877–642–2216 (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories)
Quest Diagnostics Incorporated, 8401 Fallbrook Ave., West Hills, CA 91304, 818–737–6370 (Formerly: SmithKline Beecham Clinical Laboratories)
Redwood Toxicology Laboratory, 3700650 Westwind Blvd., Santa Rosa, CA 95403, 800–255–2159
Southwest Laboratories, 4625 E. Cotton Center Boulevard, Suite 177, Phoenix, AZ 85040, 602–438–8507/800–279–0027
STERLING Reference Laboratories, 2617 East L Street, Tacoma, Washington 98421, 800–442–0438
US Army Forensic Toxicology Drug Testing Laboratory, 2490 Wilson St., Fort George G. Meade, MD 20755–5235, 301–677–7085

* The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. HHS, with the HHS' NLCP contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, HHS will recommend that DOT certify the laboratory (**Federal Register**, July 16, 1996) as meeting the minimum standards of the Mandatory Guidelines published in the **Federal Register** on April 30, 2010 (75 FR 22809). After receiving DOT certification, the laboratory will be included in the monthly list of HHS-certified laboratories and participate in the NLCP certification maintenance program.

Janine Denis Cook,

Chemist, Division of Workplace Programs, Center for Substance Abuse Prevention, SAMHSA.

[FR Doc. 2015–21581 Filed 8–31–15; 8:45 am]

BILLING CODE 4160–20–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2015–0001]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final notice.

SUMMARY: New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities. The flood hazard determinations modified by each LOMR will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: The effective date for each LOMR is indicated in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *www.msc.fema.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

This new or modified flood hazard determinations are used to meet the floodplain management requirements of

the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings, and for the contents in those buildings. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: August 10, 2016.

Roy E. Wright,

Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Arizona:					
Maricopa (FEMA Docket No.: B–1519).	City of Peoria (14–09–2988P).	The Honorable Cathy Carlat, Mayor, City of Peoria, 8401 West Monroe Street, Peoria, AZ 85345.	City Hall, 8401 West Monroe Street, Peoria, AZ 85345.	Jul. 17, 2015	040050
Maricopa, (FEMA Docket No.: B–1519).	City of Surprise (14–09–3931P).	The Honorable Sharon Wolcott, Mayor, City of Surprise, 16000 North Civic Center Plaza, Surprise, AZ 85374.	Community Development Services, 12425 West Bell Road, Suite D–100, Surprise, AZ 85374.	Jul. 10, 2015	040053
Maricopa, (FEMA Docket No.: B–1519).	Town of Buckeye (14–09–3809P).	The Honorable Jackie A. Meck, Mayor, Town of Buckeye, 530 East Monroe Avenue, Buckeye, AZ 85326.	Town Hall, 100 North Apache Street, Suite A, Buckeye, AZ 85326.	Jun. 19, 2015 ...	040039
Maricopa (FEMA Docket No.: B–1519).	Unincorporated areas of Maricopa County (14–09–2988P).	The Honorable Denny Barney, Chairman, Maricopa County Board of Supervisors, 301 West Jefferson Street, 10th Floor, Phoenix, AZ 85003.	Flood Control District of Maricopa County, 2801 West Durango Street, Phoenix, AZ 85009.	Jul. 17, 2015	040037
Maricopa (FEMA Docket No.: B–1519).	Unincorporated areas of Maricopa County (14–09–3809P).	The Honorable Steve Chucri, Chairman, Maricopa County Board of Supervisors, 301 West Jefferson Street,, 10th Floor, Phoenix, AZ 85003.	Maricopa County Flood Control District, 2801 West Durango Street, Phoenix, AZ 85009.	Jun. 19, 2015 ...	040037
Maricopa (FEMA Docket No.: B–1519).	Unincorporated areas of Maricopa County (14–09–3931P).	The Honorable Steve Chucri, Chairman, Maricopa County Board of Supervisors, 301 West Jefferson Street,, 10th Floor, Phoenix, AZ 85003.	Flood Control District of Maricopa County, 2801 West Durango Street, Phoenix, AZ 85009.	Jul. 10, 2015	040037
Maricopa (FEMA Docket No.: B–1519).	Unincorporated areas of Maricopa County (15–09–0581P).	The Honorable Denny Barney, Chairman, Maricopa County Board of Supervisors, 301 West Jefferson Street, Phoenix, AZ 85003.	Flood Control District of Maricopa County, 2801 West Durango Street, Phoenix, AZ 85009.	Jul. 17, 2015	040037
Pinal (FEMA Docket No.: B–1519).	Town of Florence (15–09–0025P).	The Honorable Tom J. Rankin, Mayor, Town of Florence, P.O. Box 2670, Florence, AZ 85132.	Department of Public Works, 425 East Ruggles, Florence, AZ 85132.	Jul. 10, 2015	040084
Pinal (FEMA Docket No.: B–1519).	Unincorporated areas of Pinal County (15–09–0025P).	The Honorable Cheryl Chase, Chair, Pinal County Board of Supervisors, P. O. Box 827, Florence, AZ 85132.	Pinal County Engineering Department, 31 North Pinal Street, Building F, Florence, AZ 85132.	Jul. 10, 2015	040077
California:					
Colusa (FEMA Docket No.: B–1508).	City of Williams (14–09–4496P).	The Honorable John J. Troughton, Jr., Mayor, City of Williams, P.O. Box 310, Williams, CA 95987.	City Hall, 810 E Street, Williams, CA 95987.	Jul. 2, 2015	060024
Colusa (FEMA Docket No.: B–1508).	Unincorporated areas of Colusa County (14–09–4438P).	The Honorable Mark D. Marshall, Chairman, Colusa County Board of Supervisors, 547 Market Street, Suite 102, Colusa, CA 95932.	Colusa County Department of Public Works, 1215 Market Street, Colusa, CA 95932.	Jul. 2, 2015	060022
Colusa (FEMA Docket No.: B–1508).	Unincorporated areas of Colusa County (14–09–4496P).	The Honorable Mark D. Marshall, Chairman, Colusa County Board of Supervisors, 547 Market Street, Suite 102, Colusa, CA 95932.	Colusa County Department of Public Works, 1215 Market Street, Colusa, CA 95932.	Jul. 2, 2015	060022
Kern (FEMA Docket No.: B–1519).	City of Shafter (15–09–0191P).	The Honorable Cathy Prout, Mayor, City of Shafter, 336 Pacific Avenue, Shafter, CA 93263.	City Services, 336 Pacific Avenue, Shafter, CA 93263.	Jul. 16, 2015	060082
Los Angeles (FEMA Docket No.: B–1514).	City of Los Angeles (15–09–0550P).	The Honorable Eric Garcetti, Mayor, City of Los Angeles, 200 North Spring Street, Los Angeles, CA 90012.	Public Works Department, 1149 South Broadway, Suite 810, Los Angeles, CA 90015.	Jul. 27, 2015	060137
Riverside (FEMA Docket No.: B–1519).	City of Norco (15–09–0162P).	The Honorable Herb Higgins, Mayor, City of Norco, 2870 Clark Avenue, Norco, CA 92860.	City Hall, 2870 Clark Avenue, Norco, CA 92860.	Jul. 3, 2015	060256

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Riverside (FEMA Docket No.: B–1508).	Unincorporated areas of Riverside County (15–09–0813P).	The Honorable Marion Ashley, Chairman, Riverside County Board of Supervisors, 4080 Lemon Street, 5th Floor, Riverside, CA 92501.	Riverside County Flood Control and Water Conservation District, 1995 Market Street, Riverside, CA 92501.	Jun. 8, 2015	060245
San Diego (FEMA Docket No.: B–1519).	City of San Diego (14–09–3825P).	The Honorable Kevin L. Faulconer, Mayor, City of San Diego, 202 C Street, 11th Floor, San Diego, CA 92101.	Development Services Center, 1222 1st Avenue, 3rd Floor, San Diego, CA 92101.	Jul. 17, 2015	060295
San Diego (FEMA Docket No.: B–1506).	City of San Marcos (14–09–3620P).	The Honorable Jim Desmond, Mayor, City of San Marcos, 1 Civic Center Drive, San Marcos, CA 92069.	1 Civic Center Drive, San Marcos, CA 92069.	Jul. 13, 2015	060296
Ventura (FEMA Docket No.: B–1519).	City of Ojai (14–09–1496P).	The Honorable Carlon Strobel, Mayor, City of Ojai, P.O. Box 1570, Ojai, CA 93024.	City Hall, 401 South Ventura Street, Ojai, CA 93024.	Jun. 29, 2015 ...	060416
Ventura (FEMA Docket No.: B–1519).	City of Simi Valley (14–09–3759P).	The Honorable Bob Huber, Mayor, City of Simi Valley, 2929 Tapo Canyon Road, Simi Valley, CA 93063.	Public Works Department, 2929 Tapo Canyon Road, Simi Valley, CA 93063.	Jul. 17, 2015	060421
Ventura (FEMA Docket No.: B–1519).	City of Simi Valley (14–09–3760P).	The Honorable Bob Huber, Mayor, City of Simi Valley, 2929 Tapo Canyon Road, Simi Valley, CA 93063.	Public Works Department, 2929 Tapo Canyon Road, Simi Valley, CA 93063.	Jul. 17, 2015	060421
Ventura (FEMA Docket No.: B–1519).	Unincorporated areas of Ventura County (14–09–1496P).	The Honorable Steve Bennett, Chairman, Ventura County Board of Supervisors, 800 South Victoria Avenue, Ventura, CA 93009.	Hall of Administration, 800 South Victoria Avenue, Ventura, CA 93009.	Jun. 29, 2015 ...	060413
Ventura (FEMA Docket No.: B–1519).	Unincorporated areas of Ventura County (14–09–3759P).	The Honorable Kathy I. Long, Chair, Ventura County Board of Supervisors, 800 South Victoria Avenue, Ventura, CA 93009.	Ventura County Hall of Administration, Public Works Agency: Permit Counter, 800 South Victoria Ave., Ventura, CA 93009.	Jul. 17, 2015	060413
Ventura (FEMA Docket No.: B–1519).	Unincorporated areas of Ventura County (14–09–3760P).	The Honorable Kathy I. Long, Chair, Ventura County Board of Supervisors, 800 South Victoria Avenue, Ventura, CA 93009.	Ventura County Hall of Administration, Public Works Agency: Permit Counter, 800 South Victoria Ave., Ventura, CA 93009.	Jul. 17, 2015	060413
Nevada: Clark (FEMA Docket No.: B–1514).	City of North Las Vegas (15–09–0456P).	The Honorable John J. Lee, Mayor, City of North Las Vegas, 2250 Las Vegas Boulevard North, North Las Vegas, NV 89030.	Public Works Department, 2200 Civic Center Drive, North Las Vegas, NV 89030.	Jul. 27, 2015	320007
New York: Suffolk (FEMA Docket No.: B–1508).	Town of Brookhaven (15–02–0307P).	The Honorable Edward P. Romaine, Town of Brookhaven Supervisor, 1 Independence Hill, Farmingville, NY 11738.	Town Hall, 1 Independence Hill, Farmingville, NY 11738.	Jul. 16, 2015	365334

[FR Doc. 2015–21604 Filed 8–31–15; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4220–DR; Docket ID FEMA–2015–0002]

West Virginia; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for State of West Virginia (FEMA–4220–DR), dated May 18, 2015, and related determinations.

DATES: *Effective Date:* August 5, 2015.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Regis L. Phelan, of FEMA is appointed to act as the Federal Coordinating Officer for this disaster.

This action terminates the appointment of Kari Suzann Cowie as Federal Coordinating Officer for this disaster.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance

(Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2015–21609 Filed 8–31–15; 8:45 am]

BILLING CODE 9111–23P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2007–0008]

National Advisory Council; Meeting

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Committee Management; Notice of Federal Advisory Committee Meeting.

SUMMARY: The Federal Emergency Management Agency (FEMA) National Advisory Council (NAC) will meet in person on September 16, 17, and 18, 2015 in Washington, DC. The meeting will be open to the public.

DATES: The NAC will meet on Wednesday, September 16, 2015, from 9:30 a.m. to 2:30 p.m., on Thursday, September 17, 2015 from 8:30 a.m. to 5:30 p.m., and on Friday, September 18 from 8:30 a.m. to 1:00 p.m. Eastern Daylight Time (EDT). Please note that the meeting may close early if the NAC has completed its business.

ADDRESSES: The meeting will be held at the Kellogg Conference Center at Gallaudet University located at 800 Florida Avenue NE., in Washington, DC 20002–3695. All visitors to the Kellogg Conference Center are required to register with FEMA prior to the meeting in order to be admitted to the building. Please provide your name, telephone number, email address, title, and organization by close of business on September 14, 2015, to the person listed in **FOR FURTHER INFORMATION CONTACT** below.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the person listed in **FOR FURTHER INFORMATION CONTACT** below as soon as possible.

To facilitate public participation, members of the public are invited to provide written comments on the issues to be considered by the NAC (see ''Agenda''). Written comments must be submitted and received by 5:00 p.m. EDT on September 11, 2015, identified by Docket ID FEMA–2007–0008, and submitted by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: FEMA-RULES@fema.dhs.gov.* Include the docket number in the subject line of the message.
- *Fax:* (540) 504–2331.
- *Mail:* Regulatory Affairs Division, Office of Chief Counsel, FEMA, 500 C Street SW., Room 8NE, Washington, DC 20472–3100.

Instructions: All submissions received must include the words ''Federal Emergency Management Agency'' and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read comments received by the NAC, go to *http://www.regulations.gov,* and search for the Docket ID listed above.

A public comment period will be held on Thursday, September 17 from 3:30 p.m. to 3:45 p.m. EDT. All speakers must limit their comments to 3 minutes. Comments should be addressed to the committee. Any comments not related to the agenda topics will not be considered by the NAC. Contact the individual listed below to register as a speaker by September 11, 2015. Please note that the public comment period may end before the time indicated, following the last call for comments.

FOR FURTHER INFORMATION CONTACT: Alexandra Woodruff, Alternate Designated Federal Officer, Office of the National Advisory Council, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472–3184, telephone (202) 646–2700, fax (540) 504–2331, and email *FEMA–NAC@fema.dhs.gov.* The NAC Web site is: *http://www.fema.gov/national-advisory-council.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. Appendix.

The NAC advises the FEMA Administrator on all aspects of emergency management. The NAC incorporates state, local, and tribal government, and private sector input in the development and revision of FEMA plans and strategies. The NAC includes a substantive cross-section of officials, emergency managers, and emergency response providers from state, local, and tribal governments, the private sector, and nongovernmental organizations.

Agenda: On Wednesday, September 16, the NAC will be welcomed to Gallaudet University by the NAC Chair and Vice Chair. The NAC will also receive briefings from FEMA Executive Staff on the following topics:

- FEMA Office of Response and Recovery Updates
- FEMA National Preparedness Directorate Updates
- FEMA Flood Insurance and Mitigation Administration Updates

On Thursday, September 17, the NAC will hear remarks from the President of Gallaudet University and the Director of the District of Columbia Homeland Security and Emergency Management Agency. The NAC will engage in an open discussion with the FEMA Administrator. The three NAC subcommittees: Federal Insurance and Mitigation Subcommittee, Preparedness and Protection Subcommittee, and Response and Recovery Subcommittee, will then provide reports to the NAC about their work, whereupon the NAC will deliberate on any recommendations presented in the subcommittees' reports, and, if appropriate, vote on recommendations for FEMA's consideration. The subcommittee reports will be posted on the NAC Web page by 8:30 a.m. on Thursday, September 17. There will be a public comment period immediately following the close of subcommittee reports. The NAC will then hear remarks from the Director of FEMA's Office of Disability Integration and Coordination and engage in a facilitated discussion of the status of previously submitted NAC recommendations.

On Friday, September 18, the NAC will hear remarks from the NAC Chair and Vice Chair, engage in an open discussion with the FEMA Deputy Administrator, followed by an update from the FEMA National Tribal Affairs Advisor, an update on children's needs, and NAC member presentations.

The full agenda and any related documents for this meeting will be posted by Monday, September 14 on the NAC Web site at *http://www.fema.gov/national-advisory-council.*

Dated: August 26, 2015.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2015–21605 Filed 8–31–15; 8:45 am]

BILLING CODE 9111–48–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4235–DR; Docket ID FEMA–2015–0002]

Commonwealth of the Northern Mariana Islands; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of the Northern Mariana Islands (FEMA–4235–DR), dated August 5, 2015, and related determinations.

DATES: *Effective Date:* August 24, 2015.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated August 24, 2015, the President amended the cost-sharing arrangements regarding Federal funds provided under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), in a letter to W. Craig Fugate, Administrator, Federal Emergency Management Agency, Department of Homeland Security, under Executive Order 12148, as follows:

I have determined that the damage in certain areas of the Commonwealth of the Northern Mariana Islands resulting from Typhoon Soudelor during the period of August 1–3, 2015, is of sufficient severity and magnitude that special cost sharing arrangements are warranted regarding Federal funds provided under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act'').

Therefore, I amend my declaration of August 5, 2015, to authorize Federal funds for all categories of Public Assistance, Hazard Mitigation, and Other Needs Assistance under Section 408 of the Stafford Act at 90 percent of total eligible costs.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2015–21656 Filed 8–31–15; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2015–0001; Internal Agency Docket No. FEMA–B–1515]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency; DHS.

ACTION: Notice; correction.

SUMMARY: On July 7, 2015, FEMA published in the **Federal Register** a proposed flood hazard determination notice that contained an erroneous table. This notice provides corrections to that table, to be used in lieu of the information published at 80 FR 38723. The table provided here represents the proposed flood hazard determinations and communities affected for Loudoun County, Virginia, and Incorporated Areas.

DATES: Comments are to be submitted on or before November 30, 2015.

ADDRESSES: The Preliminary Flood Insurance Rate Map (FIRM), and where applicable, the Flood Insurance Study (FIS) report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–1515, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064 or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed in the table below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP may only be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *http://floodsrp.org/pdfs/srp_fact_sheet.pdf.*

The communities affected by the flood hazard determinations are provided in the table below. Any request for reconsideration of the revised flood hazard determinations shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations will also be considered before the FIRM and FIS report are made final.

Correction

In the proposed flood hazard determination notice published at 80 FR

38723 in the July 7, 2015, issue of the **Federal Register**, FEMA published a table titled ''Loudoun County, Virginia, and Incorporated Areas''. This table contained inaccurate information as to the communities affected by the proposed flood hazard determinations. In this document, FEMA is publishing a table containing the accurate information. The information provided below should be used in lieu of that previously published.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: August 10, 2015.

Roy E. Wright,

Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Loudoun County, Virginia, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
Project: 11–03–2001S Preliminary Dates: May 23, 2014, December 12, 2014, February 23, 2015	
Town of Hillsboro	Town Hall, 36966 Charles Town Pike, Hillsboro, VA 20132.
Town of Leesburg	Town Hall, 25 West Market Street, Leesburg, VA 20176.
Town of Lovettsville	Town Hall, 6 East Pennsylvania Avenue, Lovettsville, VA 20180.
Town of Middleburg	Town Office, 10 West Marshall Street, Middleburg, VA 20118.
Town of Purcellville	Town Hall, 221 South Nursery Avenue, Purcellville, VA 20132.
Town of Round Hill	Loudoun County Building, Building and Development Department, 1 Harrison Street, Southeast, Leesburg, VA 20177.
Unincorporated Areas of Loudoun County	Loudoun County Building, Building and Development Department, 1 Harrison Street, Southeast, Leesburg, VA 20177.

[FR Doc. 2015–21601 Filed 8–31–15; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2015–0001; Internal Agency Docket No. FEMA–B–1535]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before November 30, 2015.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–1535 to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to

review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *http://floodsrp.org/pdfs/srp_fact_sheet.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: August 10, 2015.

Roy E. Wright,

Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Douglas County, NV and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
Project: 15–09–0747S Preliminary Date: July 9, 2015	
Unincorporated Areas of Douglas County	Community Development, 1594 Esmeralda Avenue, Minden, NV 89423.

[FR Doc. 2015–21602 Filed 8–31–15; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

[Docket No. TSA–2004–17131]

Intent To Request Renewal From OMB of One Current Public Collection of Information: Aircraft Repair Station Security

AGENCY: Transportation Security Administration, DHS.

ACTION: 60-day notice.

SUMMARY: The Transportation Security Administration (TSA) invites public comment on one currently approved Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0060, abstracted below that we will submit to OMB for renewal in compliance with the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. The collection involves recordkeeping, petitions for reconsideration, and paper and desk audits.

DATES: Send your comments by November 2, 2015.

ADDRESSES: Comments may be emailed to *TSAPRA@tsa.dhs.gov* or delivered to the TSA PRA Officer, Office of Information Technology (OIT), TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6011.

FOR FURTHER INFORMATION CONTACT: Christina A. Walsh at the above address, or by telephone (571) 227–2062.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (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 valid OMB control number. The ICR documentation is available at *http://www.reginfo.gov.* Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement 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;

(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 using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

OMB Control Number 1652–0060; Aircraft Repair Station Security. In accordance with the Aviation Transportation Security Act (ATSA), 49 U.S.C. 44924, and relevant TSA regulations, 49 CFR part 1554, TSA will perform security reviews and audits of aircraft repair stations located within and outside of the United States.

Background

On December 12, 2003, the President of the United States signed into law the Vision 100 Century of Aviation Reauthorization Act (the Act). Section 611 of the Act requires the Department of Homeland Security (DHS) to ensure the security of aircraft repair stations. The Act further requires a security review and audit of foreign repair stations certificated by the Federal Aviation Administration (FAA). TSA, on behalf of DHS, is the agency to conduct the relevant tasks associated with this legislation. In response to the Act, TSA published a final rule setting forth the new requirements on January 13, 2014. *See* 79 FR 2120.

Only repair stations certificated by the FAA under part 145 and which are located on or adjacent to an airport, as defined in 49 CFR 1554.101(a)(1) and (2), are required to implement security requirements including designating a TSA point of contact and preventing the operation of unattended large aircraft that are capable of flight. All repair stations certificated by the FAA under part 145 that are not located on a military installation are subject to inspection by TSA. A repair station owner or operator is responsible for maintaining updated employment history records to demonstrate compliance with the regulatory requirements. These records must be made available to TSA upon request. If TSA discovers security deficiencies, a repair station may be subject to suspension or, in extreme cases,

withdrawal of its certification by the FAA if such deficiencies are not corrected. A repair station owner or operator may petition for reconsideration (appeal) a determination by TSA that FAA must suspend or revoke its certificate. Newly certificated repair stations located outside of the U.S. may be required to respond to paper and desk audits by completing a form and returning it to TSA. TSA uses the collected information to determine compliance with the security measures required under 49 CFR part 1554.

TSA received approval from OMB for the collection of information on June 4, 2014, which is approved through December 2015. TSA now seeks to extend this approval from OMB to continue collecting information relating to recordkeeping of employment history records, petitions for reconsideration, and paper/desk audits. Accordingly, TSA must proceed with this ICR for this program in order to continue to comply with statutory mandates.

The respondents to this information collection are the owners and/or operators of repair stations certificated by the FAA under 14 CFR part 145, which is estimated to be 451 repair stations located in the U.S. and 772 repair stations located outside the U.S.

TSA has completed a security audit of 707 repair stations located outside the U.S. as required by the statute. TSA estimates that 225 stations located on or adjacent to airports may be required to provide records to TSA in the event a security deficiency is identified and is not immediately corrected. Each respondent repair station would spend approximately 1 hour to provide information to inspectors and would incur a total of 225 burden hours (225 repair stations * 1 hour).

In addition, there are 65 repair stations that received certification after the original security audit was completed. These newly certificated repair stations may be required to provide records to TSA upon request. Each respondent repair station would spend approximately 2 hours to prepare and submit records. TSA estimates that respondents will incur a total of 130 burden hours (65 repair stations * 2 hours) to satisfy the recordkeeping requirement.

TSA estimates that of the 451 repair stations within the U.S required to implement security measures, 151 repair stations will be required to provide records to TSA upon request. Each respondent repair station will spend approximately 2 hours to prepare and submit records. TSA estimates that respondents will incur a total of 302 burden hours (151 repair stations * 2 hours) to satisfy the recordkeeping requirement.

TSA estimates that of the 451 repair stations within the U.S., 1 repair station will petition for reconsideration. The respondent repair station will spend approximately 10 hours to complete the process. Once a repair station receives a written notice of security deficiencies, the repair station must respond in writing within 45 days describing the measures implemented to correct the deficiencies. If the repair station fails to correct the deficiencies within 90 days, TSA will issue a notice to the repair station and to the FAA that the certificate must be suspended. A repair station may petition for review of that determination within 20 days by providing a written response including any information TSA should consider in reviewing its decision. TSA estimates that the respondent will incur a total of 10 burden hours (1 repair station * 10 hours).

TSA estimates that all respondents repair stations will incur a total of 657 hours (355 outside the U.S. and 312 within the U.S.) annually to satisfy the collection requirements. Therefore, the total average annual hour burden estimate is approximately 657 hours. There is no cost burden to respondents as a result of this collection.

Dated: August 24, 2015.

Christina A. Walsh,

TSA Paperwork Reduction Act Officer, Office of Information Technology.

[FR Doc. 2015–21623 Filed 8–31–15; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Intent To Request Renewal From OMB of One Current Public Collection of Information: Airport Security

AGENCY: Transportation Security Administration, DHS.

ACTION: 60-day notice.

SUMMARY: The Transportation Security Administration (TSA) invites public comment on one currently approved Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0002, abstracted below that we will submit to OMB for renewal in compliance with the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. TSA-required airport security programs require airport operators to maintain and update records to ensure compliance with security provisions outlined in 49 CFR part 1542.

DATES: Send your comments by November 2, 2015.

ADDRESSES: Comments may be emailed to *TSAPRA@dhs.gov* or delivered to the TSA PRA Officer, Office of Information Technology (OIT), TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6011.

FOR FURTHER INFORMATION CONTACT: Christina A. Walsh at the above address, or by telephone (571) 227–2062.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (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 valid OMB control number. The ICR documentation is available at *http://www.reginfo.gov.* Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement 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;

(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 using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

OMB Control Number 1652–0002; Airport Security, 49 CFR part 1542. TSA is seeking to renew its OMB control number 1652–0002, Airport Security, 49 CFR part 1542. The information collection is used to determine compliance with 49 CFR part 1542 and to ensure passenger safety and security by monitoring airport operator security procedures. The following information collections and other recordkeeping requirements with which respondent airport operators must comply fall under this OMB control number: (1) Development of an Airport Security Program (ASP) and submission to TSA; (2) submission of ASP amendments to TSA when applicable; (3) collection of data necessary to complete a criminal

history records check (CHRC) for those individuals with access to a Security Identification Display Area (SIDA); (4) submission to TSA of identifying information about individuals to whom the airport operator has issued identification media, such as name, address, and country of birth, in order for TSA to conduct a Security Threat Assessment (STA); and (5) recordkeeping requirements associated with records required for compliance with the regulation, and for compliance with Security Directives (SDs).

This information collection is mandatory for airport operators. As part of their security programs, affected airport operators are required to maintain and update, as necessary, records of compliance with the security program provisions set forth in 49 CFR part 1542. This regulation also requires affected airport operators to make their security programs and associated records available for inspection and copying by TSA to verify compliance with transportation security regulations.

As required by 49 CFR part 1542, airport operators must ensure that individuals seeking unescorted access authority submit information for and receive a CHRC, as well as submit information so that TSA can conduct an STA. As part of this process, the individual must provide identifying information, including fingerprints. Additionally, airport operators must maintain these records and make them available to TSA for inspection and copying upon request.

TSA will continue to collect information to determine airport operator compliance with other requirements of 49 CFR part 1542. TSA estimates that there will be approximately 438 airport operator respondents to the information collection requirements described above, with a total annual burden estimate of approximately 1,607,260 hours.

Issued in Arlington, Virginia, on August 24, 2015.

Christina A. Walsh,

TSA Paperwork Reduction Act Officer, Office of Information Technology.

[FR Doc. 2015–21694 Filed 8–31–15; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Intent To Request Renewal From OMB of One Current Public Collection of Information: Federal Flight Deck Officer Program

AGENCY: Transportation Security Administration, DHS.

ACTION: 60-Day notice.

SUMMARY: The Transportation Security Administration (TSA) invites public comment on one currently approved Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0011, abstracted below that we will submit to OMB for renewal in compliance with the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. The collection requires interested volunteers to fill out an application to determine their suitability for participating in the Federal Flight Deck Officer (FFDO) Program, and deputized FFDOs to submit written reports of certain prescribed incidents.

DATES: Send your comments by November 2, 2015.

ADDRESSES: Comments may be emailed to *TSAPRA@dhs.gov* or delivered to the TSA PRA Officer, Office of Information Technology (OIT), TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6011.

FOR FURTHER INFORMATION CONTACT: Christina A. Walsh at the above address, or by telephone (571) 227–3651.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (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 valid OMB control number. The ICR documentation is available at *http://www.reginfo.gov.* Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement 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;

(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 using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

1652–0011; Federal Flight Deck Officer Program. The Transportation Security Administration (TSA) initially required this information collection under the authority of the Arming Pilots Against Terrorism Act (APATA), Title XIV of the Homeland Security Act (Nov. 25, 2002), sec. 1402(a), as amended by title VI of the Vision 100—Century of Aviation Reauthorization Act (Vision 100) (Dec. 12, 2003), sec. 609(b). *See* Public Law 107–296, 116 Stat. 2300, as codified at 49 U.S.C. 44921, and Public Law 108–176, 117 Stat. 2570, as codified at 49 U.S.C. 44921, respectively. TSA is seeking to renew this information collection in order to continue collecting the information described in this notice to comply with its statutory mission. The APATA required TSA to establish a program to deputize volunteer pilots of passenger air carriers as Federal law enforcement officers to defend the flight deck of their aircraft against acts of criminal violence or air piracy. With the enactment of Vision 100, eligibility to participate in the FFDO program expanded to include pilots of all-cargo aircraft, as well as flight engineers and navigators on both passenger and cargo aircraft.

In order to screen volunteers for entry into the FFDO program, TSA collects information, including name, address, prior address information, personal references, criminal history, limited medical information, financial information, and employment information, from applicants through comprehensive applications they submit to TSA. In addition, standard operating procedures require deputized FFDOs to report certain prescribed incidents to TSA so that appropriate records are created for evidentiary, safety, and security purposes. TSA uses the information collected to assess the qualifications and suitability of prospective and current FFDOs through an online application, to ensure the readiness of every FFDO, to administer the program, and for other transportation security purposes. Based on the average number of new applicants to the FFDO program, TSA estimates a total of 5,000 respondents annually. TSA estimates that the online

application will take one hour for each applicant to complete, for a total burden of 5,000 hours.

Issued in Arlington, Virginia, on August 24, 2015.

Christina A. Walsh,

TSA Paperwork Reduction Act Officer, Office of Information Technology.

[FR Doc. 2015–21624 Filed 8–31–15; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Intent To Request Renewal From OMB of One Current Public Collection of Information: TSA Airspace Waiver Program

AGENCY: Transportation Security Administration, DHS.

ACTION: 60-day notice.

SUMMARY: The Transportation Security Administration (TSA) invites public comment on one currently approved Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0033, abstracted below that we will submit to OMB for renewal in compliance with the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. This collection of information allows TSA to conduct security threat assessments on individuals on board aircraft operating in restricted airspace pursuant to an airspace waiver or flight authorization.

DATES: Send your comments by November 2, 2015.

ADDRESSES: Comments may be emailed to *TSAPRA@dhs.gov* or delivered to the TSA PRA Officer, Office of Information Technology (OIT), TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6011.

FOR FURTHER INFORMATION CONTACT: Christina A. Walsh at the above address, or by telephone (571) 227–3651.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (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 valid OMB control number. The ICR documentation is available at *http://www.reginfo.gov.* Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement 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;

(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 using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

OMB Control Number 1652–0033; TSA Airspace Waiver Program. TSA is seeking approval to renew this collection of information. The airspace waiver program allows U.S. and foreign general aviation aircraft operators to apply for approval to operate in U.S. restricted airspace, including over flying the United States and its territories. This program includes both processing of applications for airspace waivers and flight authorizations for the DCA Access Standard Security Program flights, which entails name-based security threat assessments for all passengers, flight crews and armed security officers on board each flight. TSA uses the information to conduct security threat assessments of persons on these flights to protect against and mitigate threats to transportation security.

TSA collects information from applicants applying for a waiver or flight authorization either online via *https://waivers.faa.gov,* or by completing a waiver or flight authorization form requested via facsimile. It is recommended that applicants submit the request electronically within five business days prior to the start date of the flight. To obtain a waiver, the aircraft operator must submit information about the flight and provide certain information about all passengers and crew on board the flight for TSA to perform a security threat assessment on each individual. To obtain a flight authorization, the aircraft operator must submit information about all passengers, flight crews and armed security officers on board each flight for TSA to perform a name-based security threat assessment on each individual. Specifically, waiver or flight authorization requests must include the purpose of the flight, the aircraft type and registration number, including aircraft operator's company name and address, and the proposed itinerary. Additionally, aircraft operators must provide the names, dates and places of birth, and Social Security or passport numbers of all passengers, crew and in the case of flight authorization, armed security officers. The current estimated annual reporting burden is 7,099 hours.

Issued in Arlington, Virginia, on August 24, 2015.

Christina A. Walsh,

TSA Paperwork Reduction Act Officer, Office of Information and Technology.

[FR Doc. 2015–21697 Filed 8–31–15; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5831–N–42]

30-Day Notice of Proposed Information Collection: Strong Cities Strong Communities National Resource Network

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date: October 1, 2015.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is

seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on October 15, 2014 at 79 FR 61897.

A. Overview of Information Collection

Title of Information Collection: Strong Cities Strong Communities National Resource Network.

OMB Approval Number: 2528–0289.

Type of Request: This is a revision to the existing information collection for the SC2 Network.

Form Number: N/A.

Description of the need for the information and proposed use: The Strong Cities Strong Communities National Resource Network (SC2 Network) provides comprehensive technical assistance to cities with populations of 40,000 or more that are experiencing long-term economic challenges as evidenced by population decline, high unemployment rates, high poverty, and low education attainment. The SC2 Network is seeking to evaluate its program through a combination of site visits, surveys, interviews, and quantitative and qualitative data collection. In addition, the SC2 Network will solicit information from cities to provide direct technical assistance. Such information includes information related to population; employment rates; poverty; education attainment; fiscal and economic distress; priorities, goals, and initiatives of local government; regional partnerships or efforts; types of direct assistance that could improve a city's economic outcome; support from political and community leadership; city budgets; and comprehensive annual financial reports.

Respondents: Respondents are from local governments, as well as from anchor institutions, and public and private organizations that work with local governments.

Estimated Number of Respondents: The estimated number of respondents to complete surveys, interviews, and/or provide data collection is estimated to be 120 respondents. The estimated number of respondents to provide information to the SC2 Network to solicit for direct technical assistance is estimated to be 500.

Estimated Number of Responses: The estimated number of responses for surveys, interviews, and/or data collection is estimated to be 240. The estimated number of responses for direct technical assistance is 1000.

Frequency of Response: The frequency of response for both survey, interview, and/or data collection, and direct technical assistance is twice per solicitation.

Average Hours per Response: The average hour per response for surveys, interview, and/or data collection is 1.5 hours. The average hour per response for direct technical assistance is 1 hour.

Total Estimated Burdens: The total estimated burden for surveys, interview, and/or data collection is 360 hours. The total estimated burden hours for direct technical assistance is 1000 hours.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: 12 U.S.C. 1701z–1 Research and Demonstrations.

Date: August 26, 2015.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2015–21652 Filed 8–31–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5835–N–12]

60-Day Notice of Proposed Information Collection: FHA Lender Approval, Annual Renewal, Periodic Updates and Required Reports by FHA-Approved Lenders

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

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment. Elsewhere in today's edition of the **Federal Register**, HUD is publishing for public comment, for a period of 30 days, a notice that proposes further changes to form HUD–92900–A, which was subject to 60 days of public comment on May 15, 2015. The proposed changes to form HUD–92900–A and to the information collection which is the subject of this 60-day notice on FHA Lender Approval, Annual Renewal, Periodic Updates and Required Reports are intended to not only bring these documents up-to-date, but to improve clarity and HUD's enforcement capabilities.

DATES: Comments Due Date: November 2, 2015.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal.

Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, U.S. Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; email *Colette.Pollard@hud.gov* or telephone 202–402–3400 (this is not a toll-free number) for copies of proposed forms or other information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: John Higgins, Management Analyst, Office of Lender Activities and Program Compliance, Office of Single Family Housing, U.S. Department of Housing and Urban Development, 490 L'Enfant Plaza East SW., Room P3214, Washington, DC 20024–8000; email *John.S.Higgins@hud.gov* or telephone 202–402–6730 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard. Stakeholders may also view the proposed changes to the certifications at: *http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/sfh/SFH_policy_drafts.*

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in section A.

A. Overview of Information Collection

Title of Information Collection: FHA Lender Approval, Annual Renewal, Periodic Updates and Required Reports by FHA-Approved Lenders.

OMB Approval Number: 2502–0005.

Type of Request: Revision.

Form Number: Online Application for Lender Approval (previously HUD–92001–A) and Annual Certification.

Description of the need for the information and proposed use: The Secretary of the Department of Housing and Urban Development is authorized to insure lenders and mortgagees against the risk of loss in connection with certain mortgages under titles I and II of the National Housing Act, 12 U.S.C. 1702 *et seq.* The Secretary is also authorized to prescribe eligibility requirements for approval of these lenders and mortgagees to participate in the Department's insured housing programs. *See* 12 U.S.C. 1702 *et seq.* and 42 U.S.C. 3535(d). Criteria for approval to become a title I and/or title II lender mortgagee are specified in 24 CFR 202, HUD Handbooks 4700.2 & 4060.1, pending HUD Handbook 4000.1 and various title I letters and Mortgagee Letters. Once approved, FHA lenders must provide additional information on an annual basis and within specified timeframes of certain events or business changes in order to maintain their FHA approval. Lenders submit this information electronically using either the Online Application for Lender Approval or the Lender Electronic Assessment Portal (LEAP), which is accessed via FHA Connection.

The information is used by FHA to verify that lenders meet all approval, renewal and compliance requirements at all times. It is also used to assist FHA in managing its financial risks and to protect consumers from lender noncompliance with FHA regulations.

Respondents: Regulatory or compliance.

Estimated Number of Respondents: 3,310.

Estimated Number of Responses: 13,255.

Frequency of Response: Annual/Periodic.

Average Hours per Response: 1 hour.

Total Estimated Burdens: 13,305 hours.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Revisions to the certification statements included in the Online Application for Lender Approval (previously HUD–92001–A) and the Annual Certification for FHA-approved lenders and mortgagees are detailed in documents available to the public as described above. These documents include revisions implemented on January 1, 2015 as well as new proposed revisions. This notice is soliciting comments on all revisions detailed in these documents.

The most significant proposed revision is the addition, where applicable, of a new certification statement in order to address comments received by HUD in response to the 60-Day Notice of Proposed Information Collection: Application for FHA Insured Mortgages (FR–5835–N–06) published on May 15, 2015, which described revisions to form HUD–92900–A. The certification statement proposed for addition to the Annual Certification for FHA-approved lenders and mortgagees would read as follows:

5. I certify that, to the best of my knowledge and after conducting a reasonable investigation, during the Certification Period I, my firm (*i.e.,* the Mortgagee) and its principals (*i.e.,* the Mortgagee's Corporate Officers): (a) Were not Debarred, Suspended, Proposed for Debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency; (b) have not, within a three-year period preceding this certification, been convicted of or had a civil judgment rendered against them for (i) commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; (ii) violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; (c) were not indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in 5(b) of this certification; and (d) have not, within a three-year period preceding this certification, had one or more public transactions (Federal, State or local) terminated for cause or default, except for those occurrences, if any, the Mortgagee reported to HUD during the Certification Period and for which the Mortgagee received explicit clearance from HUD to continue with the certification process.

A similar certification statement would be added to the Online Application for Lender Approval with minor technical differences due to the format of the Online Application.

The new certification statement would require FHA-approved lenders and lender applicants for FHA approval to certify compliance with FHA requirements regarding the events or occurrences currently covered under form HUD–92900–A, item G, which HUD has proposed to remove, in part, from that form. HUD has determined that this statement should apply at the lender level rather than the loan level so that any related noncompliance is subject to the procedures of the Mortgagee Review Board as set forth in sections 202(c) and 536 of the National Housing Act (12 U.S.C. 1708(c) and 1735f–14), and parts 25 and 30 of title 24 of the Code of Federal Regulations (24 CFR parts 25 and 30).

Other revisions detailed in documents available to the public are technical in nature, including renumbering of statements, minor language changes for consistency between certification versions, and the removal of ambiguous terms that are captured in requirements or other well-defined terms found in HUD Handbook 4000.1, effective September 14, 2015.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35.

Dated: August 26, 2015.

Robert E. Mulderig,

Associate Deputy Assistant Secretary for Single Family Housing.

[FR Doc. 2015–21514 Filed 8–31–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5831–N–39]

30-Day Notice of Proposed Information Collection: Application for FHA Insured Mortgages (Form HUD–92900–A)

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

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment. Elsewhere in today's edition of the **Federal Register**, HUD is publishing for public comment, for a period of 60 days, a notice that proposes changes to information collected under FHA Lender Approval, Annual Renewal, Periodic Updates and Required Reports by FHA-Approved Lenders. The proposed changes to these two documents are intended to not only bring these two collections of information up-to-date, but to improve clarity and HUD's enforcement capabilities.

DATES: *Comments Due Date:* October 1, 2015.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Colette Pollard at *Colette Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Pollard. Stakeholders may also view the proposed changes to the certifications at: *http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/sfh/SFH_policy_drafts.*

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A. The **Federal Register** notice (Docket No. FR–5835–N–06) that solicited public comment on the information collection for a period of 60 days was published on May 15, 2015.

A. Overview of Information Collection

Title of Information Collection: Application for FHA Insured Mortgages.

OMB Approval Number: 2502–0059.

Type of Request: Revision of currently approved collection.

Form Numbers: HUD–92900–A, HUD–92900–B, HUD–92900–LT, HUD–92561, Model Notice for Informed Consumer Choice Disclosure, and Model Pre-Insurance Review/Checklist.

Description of the need for the information and proposed use: Specific forms related documents are needed to determine the eligibility of the borrower and proposed mortgage transaction for FHA's insurance endorsement. Lenders seeking FHA's insurance prepare certain forms to collect data. The proposed revisions to form HUD 92900–A, FHA/VA Addendum to Uniform Residential Loan Application showing both the changes that were proposed with the 60-day notice and additional revisions in response to comments received from the 60-day notice are posted on HUD's Web site at: *http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/sfh/SFH_policy_drafts.*

HUD received eight public comments in response to the 60-day notice. A summary of the comments and HUD's responses to the comments can also be found at *http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/sfh/SFH_policy_drafts.*

Respondents: Regulatory or compliance.

Estimated Number of Respondents: 11,604.

Estimated Number of Responses: 4,743,185.

Frequency of Response: 1 document per loan.

Average Hours per Response: 90 minutes.

Total Estimated Burdens: 534,931.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: August 26, 2015.

Robert E. Mulderig,

Associate Deputy Assistant Secretary for Single Family Housing.

[FR Doc. 2015–21515 Filed 8–31–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5696–C–17]

Additional Clarifying Guidance, Waivers, and Alternative Requirements for Grantees in Receipt of Community Development Block Grant Disaster Recovery Funds Under the Disaster Relief Appropriations Act, 2013: Correction

AGENCY: Office of the General Counsel, HUD.

ACTION: Notice; correction.

SUMMARY: On August 25, 2015, HUD published a notice in the **Federal Register** that provides clarifying guidance, waivers, and alternative requirements for Community Development Block Grant Disaster Recovery grantees in receipt of funds under the Disaster Relief Appropriations Act, 2013 (the Appropriations Act). The published document lists an incorrect Catalog of Federal Domestic Assistance number. This document corrects the number.

FOR FURTHER INFORMATION CONTACT: Stanley Gimont, Director, Office of Block Grant Assistance, Department of Housing and Urban Development, 451 7th Street SW., Room 7286, Washington, DC 20410, telephone number 202–708–3587. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Relay Service at 800–877–8339. Facsimile inquiries may be sent to Mr. Gimont at 202–401–2044. (Except for the ''800'' number, these telephone numbers are

not toll-free.) Email inquiries may be sent to *disaster_recovery@hud.gov.*

Correction

In the **Federal Register** of August 25, 2015, in FR Doc. 2015–21065, on page 51592, in the third column, correct section III entitled Catalog of Federal Domestic Assistance, to read as follows:

III. The Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number for the disaster recovery grants under this notice is 14.269.

Date: August 27, 2015.

Aaron Santa Anna,

Assistant General Counsel for Regulations.

[FR Doc. 2015–21651 Filed 8–31–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2015–N166: FXES11130200000–156–FF02ENEH00]

Endangered and Threatened Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications; request for public comment.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered or threatened species. The Endangered Species Act of 1973, as amended (Act), prohibits activities with endangered and threatened species unless a Federal permit allows such activities. Both the Act and the National Environmental Policy Act require that we invite public comment before issuing these permits.

DATES: To ensure consideration, written comments must be received on or before October 1, 2015.

ADDRESSES: Susan Jacobsen, Chief, Division of Classification and Restoration, by U.S. mail at Division of Classification and Recovery, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, NM 87103; or by telephone at 505–248–6920. Please refer to the respective permit number for each application when submitting comments.

FOR FURTHER INFORMATION CONTACT: Susan Jacobsen, Chief, Division of Classification and Restoration, by U.S. mail at P.O. Box 1306, Albuquerque, NM 87103; or by telephone at 505–248–6920.

SUPPLEMENTARY INFORMATION: The Act (16 U.S.C. 1531 *et seq.*) prohibits activities with endangered and threatened species unless a Federal permit allows such activities. Along with our implementing regulations in the Code of Federal Regulations (CFR) at 50 CFR 17, the Act provides for permits, and requires that we invite public comment before issuing these permits.

A permit granted by us under section 10(a)(1)(A) of the Act authorizes applicants to conduct activities with U.S. endangered or threatened species for scientific purposes, enhancement of survival or propagation, or interstate commerce. Our regulations regarding implementation of section 10(a)(1)(A) permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

Applications Available for Review and Comment

We invite local, State, Tribal, and Federal agencies and the public to comment on the following applications. Please refer to the appropriate permit number (*e.g.,* Permit No. TE–123456) when requesting application documents and when submitting comments.

Documents and other information the applicants have submitted with these applications are available for review, subject to the requirements of the Privacy Act (5 U.S.C. 552a) and Freedom of Information Act (5 U.S.C. 552).

Permit TE–60660A

Applicant: Janine Spencer, Tucson, Arizona.

Applicant requests an amendment to a current permit for research and recovery purposes to conduct presence/absence surveys of southwestern willow flycatcher (*Empidonax traillii extimus*) within Arizona.

Permit TE–026711

Applicant: U.S. Forest Service—Coconino National Forest, Flagstaff, Arizona.

Applicant requests a renewal to a current permit for research and recovery purposes to conduct presence/absence surveys of the following species in Arizona:

- Black-footed ferret (*Mustela nigripes*)
- Colorado pikeminnow (*Ptychocheilus lucius*)
- Gila chub (*Gila intermedia*)
- Gila topminnow (*Poeciliopsis occidentalis occidentalis*)
- Loach minnow (*Rhinichthys cobitis*)
- Razorback sucker (*Xyrauchen texanus*)
- Southwestern willow flycatcher (*Empidonax traillii extimus*)
- Spikedace (*Meda fulgida*)
- Yuma clapper rail (*Rallus longirostris yumanensis*)

Permit TE–53840A

Applicant: David Griffin, Saguarita, Arizona.

Applicant requests a renewal to a current permit for research and recovery purposes to conduct presence/absence surveys of northern aplomado falcon (*Falcon femoralis septentrionalis*) and southwestern willow flycatcher (*Empidonax traillii extimus*) within Arizona.

Permit TE–72321B

Applicant: Christopher Francke, Cedar Park, Texas.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys for the following species within Texas:

- Austin blind salamander (*Eurycea waterlooensis*)
- Barton Springs salamander (*Eurycea sosorum*)
- Bee Creek Cave harvestman (*Texella reddelli*)
- Bone Cave harvestman (*Texella reyesi*)
- Braken Bat Cave meshweaver (*Cicurina venii*)
- Coffin Cave mold beetle (*Batrisodes texanus*)
- Cokendolpher Cave harvestman (*Texella cokendolpheri*)
- Comal Springs dryopid beetle (*Stygoparnus comalensis*)
- Comal Spring riffle beetle (*Heterelmis comalensis*)
- Government Canyon Bat Cave meshweaver (*Cicurina vespera*)
- Government Canyon Bat Cave spider (*Neoleptoneta microps*)
- Ground beetle (Unnamed) (*Rhadine exilis*)
- Ground beetle (Unnamed) (*Rhadine infernalis*)
- Helotes mold beetle (*Batrisodes venyivi*)
- Kretschmarr Cave mold beetle (*Texamaurops reddelli*)
- Madla Cave meshweaver (*Cicurina madla*)
- Peck's Cave amphipod (*Stygobromus [=Sthygonectes] Pecki*)
- Robber Baron Cave meshweaver (*Cicurina baronia*)
- Texas blind salamander (*Typhlomolge rahtbuni*)
- Tooth Cave ground beetle (*Rhadine persephone*)
- Tooth Cave pseudoscorpion (*Tartarocreagris texana*)
- Tooth Cave spider (*Neoleptoneta* (=*Leptoneta*) *myopica*)

Permit TE–72324B

Applicant: Lauren Dill, Austin, Texas.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys for golden-cheeked warbler (*Dendroica chrysoparia*) within Texas.

Permit TE–73317B

Applicant: Charles Britt, Las Cruces, New Mexico.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys for southwestern willow flycatcher (*Empidonax traillii extimus*) and northern aplomado falcon (*Falco femoralis septentrionalis*) within Arizona, New Mexico, and Texas.

Permit TE–73321B

Applicant: Yvette Paroz, Albuquerque, New Mexico.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys of Zuni bluehead sucker (*Catostomus discobolus yarrowi*), spikedace (*Meda fulgida*), and loach minnow (*Rhinichthys cobitis*) within New Mexico.

Permit TE–73327B

Applicant: Northeastern State University, Tahlequah, Oklahoma.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys of American burying beetle (*Nicrophorus americanus*) within Oklahoma.

Permit TE–73330B

Applicant: Phillip Hargrove, Buffalo Gap, Texas.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys for black-capped vireo (*Vireo atricapilla*) within Texas.

Permit TE–797127

Applicant: U.S. Army Corps of Engineers, Albuquerque, New Mexico.

Applicant requests an amendment to a current permit for research and recovery purposes to conduct presence/absence surveys of southwestern willow flycatcher (*Empidonax traillii extimus*) within Arizona and Texas.

Permit TE–078189

Applicant: Adkins Consulting, Inc., Durango, Colorado.

Applicant requests an amendment to a current permit for research and recovery purposes to conduct presence/absence surveys of southwestern willow flycatcher (*Empidonax traillii extimus*) within Arizona, Colorado, and Utah.

Permit TE–827726

Applicant: U.S. Forest Service—Tonto National Forest, Phoenix, Arizona.

Applicant requests a renewal to a current permit for research and recovery purposes to conduct presence/absence surveys for the following species in Arizona:

- Colorado pikeminnow (*Ptychocheilus lucius*)
- Desert pupfish (*Cyprinodon macularius*)
- Gila topminnow (*Poeciliopsis occidentalis occidentalis*)
- Razorback sucker (*Xyrauchen texanus*)
- Southwestern willow flycatcher (*Empidonax traillii extimus*)
- Yuma clapper rail (*Rallus longirostris yumanensis*)

Permit TE–73970B

Applicant: Alan Butler, Austin, Texas.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys of fountain darter (*Etheostoma fonticola*), smalleye shiner (*Notropis buccula*), and sharpnose shiner (*Notropis oxyrhynchus*) within Texas.

National Environmental Policy Act (NEPA)

In compliance with NEPA (42 U.S.C. 4321 *et seq.*), we have made an initial determination that the proposed activities in these permits are categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement (516 DM 6 Appendix 1, 1.4C(1)).

Public Availability of Comments

All comments and materials we receive in response to this request will be available for public inspection, by appointment, during normal business hours at the address listed in the **ADDRESSES** section of this notice.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority

We provide this notice under section 10 of the Act (16 U.S.C. 1531 *et seq.*)

Dated: August 24, 2015.

Joy E. Nicholopoulos,

Acting Regional Director, Southwest Region, U.S. Fish and Wildlife Service.

[FR Doc. 2015–21589 Filed 8–31–15; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Geological Survey

[GX15 LC00BM3FD00]

Agency Information Collection Activities: Request for Comments

AGENCY: U.S. Geological Survey (USGS), Interior.

ACTION: Notice of revision of a currently approved information collection, (1028–0079).

SUMMARY: We (the U.S. Geological Survey) are asking Office of Management and Budget (OMB) the information collection request (ICR) described below. The revision includes no changes to forms or instructions. To comply with the Paperwork Reduction Act of 1995 (PRA) and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this ICR. This collection is scheduled to expire on September 30, 2015.

DATES: To ensure that your comments on this ICR are considered, OMB must receive them on or before October 1, 2015

ADDRESSES: Please submit written comments on this information collection directly to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs, Attention: Desk Officer for the Department of the Interior, via email: (*OIRA_SUBMISSION@omb.eop.gov*); or by fax (202) 395–5806; and identify your submission with 'OMB Control Number 1028–1079 NORTH AMERICAN BREEDING BIRD SURVEY'. Please also forward a copy of your comments and suggestions on this information collection to the Information Collection Clearance Officer, U.S. Geological Survey, 12201 Sunrise Valley Drive MS 807, Reston, VA 20192 (mail); (703) 648–7195 (fax); or *gs-info_collections@usgs.gov* (email). Please reference 'OMB Information Collection 1028–1079: NORTH AMERICAN BREEDING BIRD SURVEY' in all correspondence.

FOR FURTHER INFORMATION CONTACT: Keith Pardieck, USGS Patuxent Wildlife Research Center, 12100 Beech Forest Road, Laurel, MD 20708–4038 (mail);

301–497–5843 (phone); or *kpardieck@usgs.gov* (email). You may also find information about this ICR at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Respondents supply the U.S. Geological Survey with avian population data for more than 600 North American bird species. The raw survey data, resulting population trend estimates, and relative abundance estimates will be made available via the Internet and through special publications, for use by Government agencies, industry, education programs, and the general public. We will protect information from respondents considered proprietary under the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR part 2), and under regulations at 30 CFR 250.197, ''Data and information to be made available to the public or for limited inspection.'' Responses are voluntary. No questions of a ''sensitive'' nature are asked.

II. Data

OMB Control Number: 1028–0079.

Form Number: Various (12 forms).

Title: NORTH AMERICAN BREEDING BIRD SURVEY.

Type of Request: Extension without change of a currently approved collection.

Respondent Obligation: None.

Frequency of Collection: Annually.

Description of Respondents: General public skilled in bird identification.

Estimated Total Number of Annual Responses: 2,650.

Estimated Time per Response: We estimate that it will take 11 hour(s) per response.

Estimated Annual Burden Hours: 29,150.

Estimated Reporting and Recordkeeping ''Non-Hour Cost'' Burden: The non-hour costs are based upon Federal Personal Vehicle Mileage costs at an average rate of $57.50 per response. This includes an approximate 100-mile round trip for data collection. The total for 2,650 responses is $152,375.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number. Until the OMB approves a collection of information, you are not obliged to respond.

Comments: On April 3, 2015, we published a **Federal Register** notice (80 FR 18253) announcing that we would submit this ICR to OMB for approval and soliciting comments. The comment period closed on June 2, 2015. We received one comment from the public; however, the comment was not directly related to this project. It was a rejection of all government data collection.

III. Request for Comments

We again invite comments concerning this ICR as to: (a) Whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) how to enhance the quality, usefulness, and clarity of the information to be collected; and (d) how to minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this notice are a matter of public record. Before including your personal mailing address, phone number, email address, or other personally identifiable information in your comment, you should be aware that your entire comment, including your personally identifiable information, may be made publicly available at any time. While you can ask the OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

Mark Wimer,

Deputy Director, USGS Patuxent Wildlife Research Center.

[FR Doc. 2015–21617 Filed 8–31–15; 8:45 am]

BILLING CODE 4311–AM–P

DEPARTMENT OF THE INTERIOR

Geological Survey

[GX15EN05ESB0500]

Agency Information Collection Activities: Request for Comments

AGENCY: U.S. Geological Survey (USGS), Interior.

ACTION: Notice of a revision of a currently approved information collection (1028–096).

SUMMARY: We (the U.S. Geological Survey) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. As required by the Paperwork Reduction Act (PRA) of 1995, and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC. This collection is scheduled to expire on 8/31/2016.

DATES: To ensure that your comments are considered, we must receive them on or before November 2, 2015.

ADDRESSES: You may submit comments on this information collection to the Information Collection Clearance Officer, U.S. Geological Survey, 12201 Sunrise Valley Drive, MS 807, Reston, VA 20192 (mail); (703) 648–7197 (fax); or *gs-info_collections@usgs.gov* (email). Please reference 'Information Collection 1028–0096, NATIONAL CLIMATE CHANGE AND WILDLIFE SCIENCE CENTER AND DEPARTMENT OF THE INTERIOR CLIMATE SCIENCE CENTERS (NCCWSC/CSC)' in all correspondence.

FOR FURTHER INFORMATION CONTACT: Robin O'Malley, National Climate Change and Wildlife Science Center, U.S. Geological Survey, 12201 Sunrise Valley Drive, Mail Stop 516, Reston, VA 20192 (mail); 703–648–4086 (phone); or *romalley@usgs.gov* (email). You may also find information about this ICR at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The U.S. Geological Survey National Climate Change and Wildlife Science Center (NCCWSC, *https://nccwsc.usgs.gov*) was established to provide scientific information on climate impacts and adaptation for use in decision making by managers of fish, wildlife and their ecosystems. Under Secretarial Order 3289, *https://www.doi.gov/sites/doi.gov/files/migrated/whatwedo/climate/cop15/upload/SecOrder3289.pdf*, NCCWSC established and manages a network of eight Department of the Interior Climate Science Centers (CSC; *https://www.doi.gov/csc/*). These centers provide regional expertise and decision support for managers of natural and cultural resources from federal, state, tribal and other sectors. CSCs are collaborative efforts between USGS and institutions or consortia of institutions that provide scientific expertise, academic training, scientific liaison, and other functions associated with the CSC mission.

NCCWSC collects two types of information from the public as part of this enterprise. The first consists of proposals from institutions or consortia that wish to serve as hosts and partners in the operation of CSCs. USGS uses the information from these proposals in the selection of institutions or consortia to

serve as hosts and partners. Agreements are for set periods of time (generally five years); thus, when the agreement for a specific CSC is nearing its termination date, USGS will solicit proposals and determine whether to enter another agreement with the same institution/consortium or with another institution/consortium.

USGS also currently collects information from institutions that serve as hosts for CSCs. This information includes quarterly financial statements (Standard Form 425) and annual progress reports. These reports address both the overarching agreement to host the CSC and individual research projects funded under that overarching agreement. In the future, USGS may enter into agreements with partner institutions in a consortium, in addition to the ''host,'' as is current practice. If such agreements are executed, USGS will request information from both the host and partner institutions. This information is used to evaluate the performance of the institutions/consortia with respect to the agreements.

II. Data

OMB Control Number: 1028–0096.

Form Number: Standard form 425. Other information not collected in a form.

Title: NATIONAL CLIMATE CHANGE AND WILDLIFE SCIENCE CENTER AND DEPARTMENT OF THE INTERIOR CLIMATE SCIENCE CENTERS (NCCWSC/CSC).

Type of Request: Revisions to a currently approved collection.

Affected Public: Institutions that are eligible to propose to serve as CSC host or partner institutions include Federal, state, not-for-profit, local government, and tribal entities, including academic institutions. Existing host institutions are academic institutions.

Respondent's Obligation: None, participation is voluntary.

Frequency of Collection: Proposals for new CSC host/partner agreements are collected approximately every five years for any individual CSC. However, because CSCs were not all established in one year, and agreement terms may be extended to address specific circumstances, such proposals may be requested during any year. Information is collected from institutions with whom USGS has an agreement to serve as a CSC host or partner and for individual research projects funded under these agreements on a quarterly and annual basis.

Estimated Total Number of Annual Responses: USGS expects to request proposals for a maximum of three CSCs in any year, and to receive an average of five proposals per CSC-request, for a total of fifteen proposals in any single year. USGS expects to enter into agreements with a minimum of eight CSC host institutions, and as many as fifteen additional CSC partner institutions. Thus USGS would request quarterly and annual information addressing host and partner agreements from an estimated twenty-three institutions. In addition, USGS expects approximately forty requests per year addressing specific research projects funded under these hosting agreements.

Estimated Time per Response: Each proposal for CSC hosting is expected to take 200 hours to complete. The time required to complete quarterly and annual reports for any specific host/partner or research project agreement is expected to total twenty hours per agreement (not per report).

Estimated Annual Burden Hours: A maximum of 4260 hours.

Estimated Reporting and Recordkeeping ''Non-Hour Cost'' Burden: There are no ''non-hour cost'' burdens associated with this IC.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number and current expiration date.

III. Request for Comments

We are soliciting comments as to: (a) Whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, usefulness, and clarity of the information to be collected; and (d) how to minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

Please note that the comments submitted in response to this notice are a matter of public record. Before including your personal mailing address, phone number, email address, or other personally identifiable information in your comment, you should be aware that your entire comment, including your personally identifiable information, may be made publicly available at any time. While you can ask us in your comment to withhold your personally identifiable information from public view, we cannot guarantee that we will be able to do so.

Shawn Carter,

Acting Chief, National Climate Change and Wildlife Science Center.

[FR Doc. 2015–21620 Filed 8–31–15; 8:45 am]

BILLING CODE 4311–AM–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[156A2100DD/AAKC001030/A0A501010.999900.253G]

Renewal of Agency Information Collection for the Bureau of Indian Education Tribal Education Department Grant Program; Request for Comments

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 Affairs (BIA) is seeking comments on the renewal of Office of Management and Budget (OMB) approval for the collection of information for the Tribal Education Department Grant Program, authorized by OMB Control Number 1076–0185. The information collection will expire November 30, 2015.

DATES: Submit comments on or before November 2, 2015.

ADDRESSES: You may submit comments on the information collection to Ms. Wendy Greyeyes, Bureau of Indian Education, Office of the BIE Director, 1849 C Street NW., MS–4657–MIB, Washington, DC 20240; email *Wendy.Greyeyes@bie.edu.*

FOR FURTHER INFORMATION CONTACT: Wendy Greyeyes, (202) 208–5810.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Bureau of Indian Education (BIE) is seeking renewal of the approval for information collection conducted under 25 U.S.C. 2020, for the solicitation of grant proposals from Federally-recognized tribes and their Tribal Education Departments (TEDs) that will fund program goals to promote tribal education capacity building to include:

- Development and enforcement of tribal educational codes, including tribal education policies and tribal standards applicable to curriculum, personnel, students, facilities, and support programs;
- Facilitate tribal control in all matters relating to the education of Indian children on reservations (and on

former Indian reservations in Oklahoma);

• Provide development of coordinated educational programs (including all preschool, elementary, secondary, and higher or vocational educational programs) on reservations (and on former Indian reservations in Oklahoma) by encouraging tribal administrative support of all Bureau-funded educational programs, as well as encouraging tribal cooperation and coordination with entities carrying out all educational programs receiving financial support from other Federal agencies, State agencies, or private entities.

A response is required to obtain or retain a benefit.

II. Request for Comments

The BIE requests your comments on the 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, such as through the use of automated collection techniques or other forms of information technology.

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: 1076–0185.

Title: Tribal Education Department Grant Program.

Brief Description of Collection: The Secretary of the Interior, through the Bureau of Indian Education, may solicit grant proposals from federally-recognized tribes and their Tribal Education Departments (TEDs) for projects defined under 25 U.S.C. 2020. These funds are necessary to assist TEDs to improve educational outcomes for students and improve efficiencies and effectiveness by planning and coordinating all educational programs for BIE-funded schools.

Type of Review: Extension without change of a currently approved collection.

Respondents: Federally-recognized tribes and their Tribal Education Departments (TEDs).

Estimated Number of Respondents: 64.

Frequency of Respondents: Once the grant has been awarded, each awardee will be responsible for monthly meetings, quarterly reports, followed by an annual report.

Estimated Time per Request: Ranges from one hour to 20 hours.

Estimated Total Annual Hour Burden: 2,000.

Estimated Total Annual Non-Hour Dollar Cost: $40,626.

Elizabeth K. Appel,

Director, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.

[FR Doc. 2015–21561 Filed 8–31–15; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCO956000 L14400000.BJ0000]

Notice of Filing of Plats of Survey; Colorado.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plats of survey; Colorado.

SUMMARY: The Bureau of Land Management (BLM) Colorado State Office is publishing this notice to inform the public of the intent to officially file the survey plats listed below and afford a proper period of time to protest this action prior to the plat filing. During this time, the plats will be available for review in the BLM Colorado State Office.

DATES: Unless there are protests of this action, the filing of the plats described in this notice will happen on October 1, 2015.

ADDRESSES: BLM Colorado State Office, Cadastral Survey, 2850 Youngfield Street, Lakewood, CO 80215–7093.

FOR FURTHER INFORMATION CONTACT: Randy Bloom, Chief Cadastral Surveyor for Colorado, (303) 239–3856.

Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, seven days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The plat, in 2 sheets, and field notes of the dependent resurvey and survey in Township 40 North, Range 4 West, New Mexico Principal Meridian, Colorado, were accepted on July 20, 2015.

The plat, in 2 sheets, incorporating the field notes of the dependent resurvey and survey in Township 48 North, Range 4 West, New Mexico Principal Meridian, Colorado, was accepted on August 4, 2015.

Randy Bloom,

Chief Cadastral Surveyor for Colorado.

[FR Doc. 2015–21600 Filed 8–31–15; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLMT926000–L1440000.BJ0000; 15XL1109AF; MO#4500082713]

Notice of Filing of Plats of Survey; North Dakota

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plats of survey.

SUMMARY: The Bureau of Land Management (BLM) will file the plat of survey of the lands described below in the BLM Montana State Office, Billings, Montana, on October 1, 2015.

DATES: Protests of the survey must be filed before October 1, 2015 to be considered.

ADDRESSES: Protests of the survey should be sent to the Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4669.

FOR FURTHER INFORMATION CONTACT: Marvin Montoya, Cadastral Surveyor, Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4669, telephone (406) 896–5124 or (406) 896–5003, *Marvin_Montoya@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the

above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: This survey was executed at the request of the Acting Field Manager, North Dakota Field Office, and was necessary to determine the boundaries of Federal Leasable Mineral lands.

The lands we surveyed are:

5th Principal Meridian, North Dakota

T. 147 N., R. 95 W.

The plat, in two sheets, representing the dependent resurvey of a portion of the east and north boundaries, a portion of the subdivisional lines, and the adjusted original meanders of the former left and right banks of the Little Missouri River, downstream, through sections 1 and 12, the subdivision of sections 1 and 12, and the survey of the meanders of the present left and right banks of the Little Missouri River, downstream, through section 1, the left and right banks and medial line of an abandoned channel of the Little Missouri River, in sections 1 and 12, and certain division of accretion and partition lines in Township 147 North, Range 95 West, of the 5th Principal Meridian, North Dakota, was accepted June 1, 2015.

We will place a copy of the plat, in two sheets, and related field notes we described in the open files. They will be available to the public as a matter of information. If the BLM receives a protest against this survey, as shown on this plat, in two sheets, prior to the date of the official filing, we will stay the filing pending our consideration of the protest. We will not officially file this plat, in two sheets, until the day after we have accepted or dismissed all protests and they have become final, including decisions or appeals.

Authority: 43 U.S.C. Chap. 3.

Joshua F. Alexander,

Acting Chief, Branch of Cadastral Survey, Division of Energy, Minerals and Realty.

[FR Doc. 2015–21610 Filed 8–31–15; 8:45 am]

BILLING CODE 4310–DN–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–1082–1083 (Second Review)]

Chlorinated Isocyanurates From China and Spain; Institution of Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to the Tariff Act of 1930 (''the Act''), as amended, to determine whether revocation of the antidumping duty orders on chlorinated isocyanurates from China and Spain would be likely to lead to continuation or recurrence of material injury. Pursuant to the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is October 1, 2015. Comments on the adequacy of responses may be filed with the Commission by November 16, 2015.

DATES: *Effective Date:* September 1, 2015.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this proceeding may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On June 24, 2005, the Department of Commerce issued antidumping duty orders on imports of chlorinated isocyanurates from China and Spain (70 FR 36561). Following the five-year reviews by Commerce and the Commission, effective October 13, 2010, Commerce issued a continuation of the antidumping duty orders on imports of chlorinated isocyanurates from China and Spain (75 FR 62764). The Commission is now conducting second five-year reviews pursuant to section 751(c) of the Act, as amended (19 U.S.C. 1675(c)), to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. Provisions concerning the conduct of this proceeding may be found in the Commission's Rules of Practice and Procedure at 19 CFR parts 201, subparts A and B and 19 CFR part 207, subparts A and F. The Commission will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The *Subject Countries* in these reviews are China and Spain.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determinations and its expedited first five-year review determinations, the Commission defined a single *Domestic Like Product* as all chlorinated isocyanurates, coextensive with Commerce's scope.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission defined the *Domestic Industry* as all of the domestic integrated producers of chlorinated isocyanurates. The Commission was evenly divided in the original determinations with respect to whether or not to include those companies that only tablet and repackage chlorinated isocyanurates in the domestic industry (''tableters''). Three Commissioners found that tableters did not engage in sufficient production-related activity to qualify as domestic producers and three Commissioners found that they did. In its expedited first five-year review determinations, the Commission defined the *Domestic Industry* as all of the domestic integrated producers of chlorinated isocyanurates, excluding tableters. Two Commissioners found that the *Domestic Industry* includes tableters.

(5) An *Importer* is any person or firm engaged, either directly or through a

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 15–5–341, expiration date June 30, 2017. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the proceeding and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the proceeding as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the proceeding.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation or an earlier review of the same underlying investigation. The Commission's designated agency ethics official has advised that a five-year review is not the same particular matter as the underlying original investigation, and a five-year review is not the same particular matter as an earlier review of the same underlying investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 79 FR 3246 (Jan. 17, 2014), 73 FR 24609 (May 5, 2008). Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation or an earlier review of the same underlying investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this proceeding available to authorized applicants under the APO issued in the proceeding, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the proceeding. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to § 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this proceeding must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to § 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is October 1, 2015. Pursuant to § 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is November 16, 2015. All written submissions must conform with the provisions of §§ 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules. Please be aware that the Commission's rules with respect to filing have changed. The most recent amendments took effect on July 25, 2014. *See* 79 FR 35920 (June 25, 2014), and the revised Commission Handbook on E-filing, available from the Commission's Web site at *http://edis.usitc.gov.* Also, in accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the proceeding must be served on all other parties to the proceeding (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the proceeding you do not need to serve your response).

Inability to provide requested information.—Pursuant to §§ 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determinations in the reviews.

Information To Be Provided in Response to This Notice of Institution: As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise,* a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this proceeding by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty orders on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in each *Subject Country* that currently export or have

exported *Subject Merchandise* to the United States or other countries after 2009.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information regarding your firm's operations of that product during calendar year 2014, except as noted (report quantity data in short tons and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (*i.e.,* the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from any *Subject Country,* provide the following information regarding your firm's(s') operations of that product during calendar year 2014 (report quantity data in short tons and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from each *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from each *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in any *Subject Country,* provide the following information regarding your firm's(s') operations of that product during calendar year 2014 (report quantity data in short tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in each *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in each *Subject Country* (*i.e.,* the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in each *Subject Country* after 2009, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in each *Subject Country,* and such merchandise from other countries.

(13) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This proceeding is being conducted under authority of Title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.61 of the Commission's rules.

By order of the Commission.

Issued: August 21, 2015.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2015–21218 Filed 8–31–15; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–965]

Certain Table Saws Incorporating Active Injury Mitigation Technology and Components Thereof; Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on July 16, 2015, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of SawStop, LLC of Tualatin, Oregon and SD3, LLC of Tualatin, Oregon. An amended

complaint was filed on July 30, 2015. The amended complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain table saws incorporating active injury mitigation technology and components thereof by reason of infringement of certain claims of U.S. Patent No. 7,225,712 (''the '712 patent''); U.S. Patent No. 7,600,455 (''the '455 patent''); U.S. Patent No. 7,610,836 (''the '836 patent''); U.S. Patent No. 7,895,927 (''the '927 patent''); U.S. Patent No. 8,011,279 (''the '279 patent''); and U.S. Patent No. 8,191,450 (''the '450 patent''). The amended complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainants request that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The amended complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: The Office of the Secretary, Docketing Services Division, U.S. International Trade Commission, telephone (202) 205–1802.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2015).

SCOPE OF INVESTIGATION: Having considered the amended complaint, the U.S. International Trade Commission, on August 26, 2015, ORDERED THAT—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain table saws incorporating active injury mitigation technology and components thereof by reason of infringement of one or more of claims 8, 9, 11, 15, 18, and 20 of the '712 patent; claims 1, 5, 7, 10, 13–16, and 18–20 of the '455 patent; claims 1, 5, and 16 of the '836 patent; claims 7, 8, and 10–12 of the '927 patent; claims 1, 5, 6, 10–14, 16, and 17 of the '279 patent; and claims 1, 2, 4, 6, 9, and 11 of the '450 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

SawStop, LLC, 9564 SW. Tualatin Road, Tualatin, OR 97062.

SD3, LLC, 9564 SW. Tualatin Road, Tualatin, OR 97062.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the amended complaint is to be served:

Robert Bosch Tool Corporation, 1800 Central Road, Mount Prospect, IL 60056.

Robert Bosch GmbH, Robert-Bosch-Platz 1, 70839 Gerlingen-Schillerhöhe, Baden-Wuerttemberg, Germany.

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

The Office of Unfair Import Investigations will not participate as a party in this investigation.

Responses to the amended complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the amended complaint and the notice of investigation. Extensions of time for submitting responses to the amended complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the amended complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the amended complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the amended complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: August 26, 2015.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2015–21575 Filed 8–31–15; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–930]

Certain Laser Abraded Denim Garments; Commission Decision Not To Review an Initial Determination Granting a Motion To Intervene

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (''ALJ'') initial determination (''ID'') (Order No. 82) granting Dentons US LLP (''Dentons'') leave to intervene for the sole purpose of seeking reconsideration and/or Commission review of Order No. 43 in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Sidney A. Rosenzweig, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708–2532. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.*

The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on September 23, 2014, based on a complaint filed by RevoLaze, LLC and TechnoLines, LLC, both of Westlake, Ohio. 79 FR 56828 (Sept. 23, 2014). The complaint alleged violations of section 337 of the Tariff Act of 1930, *as amended* 19 U.S.C. 1337, by reason of the importation into the United States, the sale for importation, and the sale within the United States after importation of certain laser abraded denim garments. The complaint alleged the infringement of seventy-one claims of six United States patents. The notice of institution named twenty respondents including The Gap, Inc. of San Francisco, California (''the Gap'').

On March 11, 2015, the Gap moved to disqualify Dentons as counsel for the complainants. On May 7, 2015, the ALJ granted the Gap's motion. Order No. 43 at 1–2, 13. On July 6, 2015, Dentons moved for leave to intervene for the sole purpose of seeking reconsideration and/or Commission review of Order No. 43. No responses to the motion to intervene were filed, and on August 7, 2015, the ALJ granted the motion as the subject ID. Order No. 82.

No petitions for review of the ID were filed. The Commission has determined not to review the ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: August 26, 2015.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2015–21569 Filed 8–31–15; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–15–027]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission

TIME AND DATE: September 3, 2015 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: none
2. Minutes
3. Ratification List
4. Vote in Inv. Nos. 701–TA–539 and 731–TA–1280–1282 (Preliminary) (Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from Korea, Mexico, and Turkey). The Commission is currently scheduled to complete and file its determinations on September 4, 2015; views of the Commission are currently scheduled to be completed and filed on September 14, 2015.
5. Outstanding action jackets: none

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: August 25, 2015.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2015–21715 Filed 8–28–15; 4:15 pm]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–125 (Fourth Review)]

Potassium Permanganate From China; Institution of a Five-Year Review

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to the Tariff Act of 1930 (''the Act''), as amended, to determine whether revocation of the antidumping duty order on potassium permanganate from China would be likely to lead to continuation or recurrence of material injury. Pursuant to the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is October 1, 2015. Comments on the adequacy of responses may be filed with the Commission by November 16, 2015.

DATES: *Effective Date:* September 1, 2015.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this proceeding may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background. On January 31, 1984, the Department of Commerce issued an antidumping duty order on imports of potassium permanganate from China (49 FR 3897). Following first five-year reviews by Commerce and the Commission, effective November 24, 1999, Commerce issued a continuation of the antidumping duty order on imports of potassium permanganate from China (64 FR 66166). Following second five-year reviews by Commerce and the Commission, effective June 21, 2005, Commerce issued a continuation of the antidumping duty order on imports of potassium permanganate from China (70 FR 35630). Following the third five-year reviews by Commerce and the Commission, effective October 25, 2010, Commerce issued a continuation of the antidumping duty order on imports of potassium permanganate from China (75 FR 65448). The Commission is now conducting a fourth review pursuant to section 751(c) of the Act, as amended (19 U.S.C. 1675(c)), to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. Provisions concerning the conduct of this proceeding may be found in the Commission's Rules of Practice and Procedure at 19 CFR parts 201, subparts A and B and 19 CFR part 207, subparts A and F. The Commission

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 15–5–342, expiration date June 30, 2017. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions. The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is China.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determination, its full first five-year review determination, and its expedited second and third five-year review determinations, the Commission defined a single *Domestic Like Product* as all potassium permanganate, regardless of grade, the same as Commerce's scope.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination, its full first five-year review determination, and its expedited second and third five-year determinations, the Commission defined the *Domestic Industry* as all domestic producers of potassium permanganate.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the proceeding and public service list. Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the proceeding as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the proceeding.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation or an earlier review of the same underlying investigation. The Commission's designated agency ethics official has advised that a five-year review is not the same particular matter as the underlying original investigation, and a five-year review is not the same particular matter as an earlier review of the same underlying investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 79 FR 3246 (Jan. 17, 2014), 73 FR 24609 (May 5, 2008). Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation or an earlier review of the same underlying investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list. Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this proceeding available to authorized applicants under the APO issued in the proceeding, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the proceeding. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification. Pursuant to § 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this proceeding must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions. Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is October 1, 2015. Pursuant to § 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is November 16, 2015. All written submissions must conform with the provisions of §§ 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules. Please be aware that the Commission's rules with respect to filing have changed. The most recent amendments took effect on July 25, 2014. *See* 79 FR 35920 (June 25, 2014), and the revised Commission Handbook on E-filing, available from the Commission's Web site at *http://edis.usitc.gov.* Also, in accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the proceeding must be served on all other parties to the proceeding (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the proceeding you do not need to serve your response).

Inability to provide requested information. Pursuant to §§ 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determination in the review.

Information To Be Provided in Response to This Notice of Institution: As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise,* a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this proceeding by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in the *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries after 2009.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information regarding your firm's operations of that product during calendar year 2014, except as noted (report quantity data in pounds and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (*i.e.,* the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country,* provide the following information regarding your firm's(s') operations of that product during calendar year 2014 (report quantity data in pounds and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from the *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from the *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country,* provide the following information regarding your firm's(s') operations of that product during calendar year 2014 (report quantity data in pounds and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in the *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in the *Subject Country* (*i.e.,* the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country* after 2009, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute

products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country,* and such merchandise from other countries.

(13) (Optional) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This proceeding is being conducted under authority of Title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.61 of the Commission's rules.

By order of the Commission.

Issued: August 21, 2015.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2015–21219 Filed 8–31–15; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Water Act

On August 26, 2015, the Department of Justice lodged a proposed consent decree with the United States District Court for the District of Maine in the lawsuit entitled *United States of America and State of Maine* v. *City of Bangor, Maine*, Civil Action No. 1:15–cv–00350–NT.

In the Complaint, the United States, on behalf of the U.S. Environmental Protection Agency, and the State of Maine, on behalf of the Maine Department of Environmental Protection, allege that the City of Bangor (the ''City'') violated the Clean Water Act (''CWA''), 33 U.S.C. 1251, *et seq.*, and applicable regulations relating to the City's failure to comply with its National Pollution Discharge System and small municipal separate storm sewer system permits relating to the sewer system owned and operated by the City. The consent decree requires the City to undertake various measures to study and correct the problems causing the permit violations in order to achieve compliance with the CWA and applicable regulations.

The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States of America and State of Maine* v. *City of Bangor, Maine*, D.J. Ref. No. 90–5–1–1–2883/1. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By e-mail	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department Web site: *http://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Mail your request and to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $16.25 (25 cents per page reproduction cost) payable to the United States Treasury.

Robert E. Maher, Jr.,

Assistant Section Chief, Environmental Enforcement Section, Environment & Natural Resources Division.

[FR Doc. 2015–21546 Filed 8–31–15; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (NIJ) Docket No. 1693]

Offender Monitoring Analytics Market Survey

AGENCY: National Institute of Justice, Justice.

ACTION: Notice of request for information.

SUMMARY: The National Institute of Justice (NIJ) is soliciting information in support of the upcoming National Criminal Justice Technology Research, Test, and Evaluation Center (NIJ RT&E Center) ''Market Survey of Offender Monitoring Analytics (OMA) Technologies.'' This market survey, which will address offender monitoring in community settings, will be published by NIJ to assist agencies in their assessment of relevant information prior to making purchasing decisions on commercially-available systems being marketed for use by criminal justice professionals. The NIJ RT&E Center also invites comments with regard to the market survey itself, including which categories of information are appropriate for comparison, as well as promotional material (*e.g.,* slick sheets) and print-quality images in electronic format.

DATES: Responses to this request will be accepted through 11:59 p.m. Eastern Daylight Time on September 25, 2015.

ADDRESSES: Responses to this request may be submitted electronically in the body of or as an attachment to an email sent to *administrator@nijrtecenter.org* with the recommended subject line ''OMA Federal Register Response''. Questions and responses may also be sent by mail (please allow additional time for processing) to the following address: National Criminal Justice Technology Research, Test and Evaluation Center, ATTN: OMA Federal Register Response, Johns Hopkins University Applied Physics Laboratory, 11100 Johns Hopkins Road, Mail Stop 17–N444, Laurel, MD 20723–6099.

FOR FURTHER INFORMATION CONTACT: For more information on this request, please contact Hal Heaton (NIJ RT&E Center) by telephone at 443–778–5025 or *administrator@nijrtecenter.org.* For more information on the NIJ RT&E Center, visit *http://nij.gov/funding/awards/Pages/award-detail.aspx?award=2013-MU-CX-K111* and view the description or contact Jack Harne (NIJ) by telephone at 202–616–2911 or at *Jack.Harne@usdoj.gov.* Please note that these are not toll-free telephone numbers.

SUPPLEMENTARY INFORMATION:

Information Sought: The NIJ RT&E Center seeks input to its upcoming ''Market Survey of Offender Monitoring Analytics (OMA) Technologies,'' which seeks to identify commercially-available products being marketed to the offender monitoring community to facilitate the discovery and communication of meaningful patterns in diverse data that address their strategic and tactical information needs. OMA products may (but aren't necessarily restricted to) use various combinations of statistical analysis procedures, data and text mining, and predictive modeling to proactively analyze information on community-released offenders to discover hidden relationships and patterns in their behaviors and to predict future outcomes. They may feature dashboards (*i.e.,* user-interfaces) that provide easily understandable information in either real-time or off-line to a wide variety of professionals, which are customizable to permit command staff, Probation and Parole Officers (PPOs), crime analysts, and officers on the street to view all content

permitted by their roles, permissions and information technology devices.

Usage: This market survey will be published by NIJ to assist agencies in their assessment of relevant information prior to making purchasing decisions. Whether an agency faces a mandate to monitor the habits of offenders released into the community, institute proactive policing by performing crime-scene correlation, or to more effectively allocate resources based on real-time planning, OMA technologies can provide cost-effective tools for quickly extracting actionable knowledge from the plethora of available data.

Information Categories: The NIJ RT&E Center invites comments with regard to the market survey, including which categories of information are appropriate for comparison, as well as promotional material and print-quality images (*e.g.,* of analytical graphics and associated dashboards) in electronic format.

At a minimum, the Center intends to include the following categories of information for *each* OMA model, service, or product:

1. Vendor Information:
   a. Name
   b. Address of corporate office
   c. Years your company has been in the OMA business
2. Product Information:
   a. Product name and version number
   b. Purpose of the OMA product
   c. Intended market (*e.g.,* community corrections, crime-scene correlation)
   d. Method for accessing product (*e.g.,* purchase, lease, vendor-hosted)
   e. Installation options (*e.g.,* stand-alone package or networkable)
   f. Time required to install the software on compatible computers
   g. Supporting (*i.e.,* tethered) software packages required to implement/use the OMA product (including their version numbers)
   h. Licenses required to use the product and/or tethered software
   i. Manufacturer Suggested Retail Price for the base product, including licenses
   j. Cost of any tethered software, including licenses
   k. Terms and cost of any standard and extended warranties offered
   l. Software version-upgrade approach (*e.g.,* expected release frequency, cost)
   m. Approach and cost to customers for post-procurement technical assistance
3. Performance Characteristics and Validation:
   a. Criminal justice (or other) requirements the product was developed to address
   b. How the tool adds value to and differs from other commercial products
   c. Whether the product offers configurable levels of Administrative Privileges
   d. Approach for evaluating whether the product meets user needs (*e.g.,* repeat customers, interviews, satisfaction surveys)
   e. Whether and how product performance has been verified and validated
   f. Examples of the OMA product's impact on users
4. Analyses Performed by the Product (minimum Y/N; additional detail welcomed):
   a. Geospatial analysis of offender habits;
   - Track individual offenders
   - Track groups of offenders
   - Offender stop-analysis and drill-down capabilities
   - Offender association monitoring/congregation analyses
   - Entity-resolution
   - Identify patterns of activity
   - Visually differentiate client data points obtained on different days
   - Victim monitoring

   b. Geo-contextualization of offender habits on commercially-available maps and/or archived imagery (Identify compatible mapping and imagery products);
   - Perform geocoding and reverse geocoding
   - Provide both aerial and street views of local and regional scenes
   - Overlay points-of-interest on maps/imagery (*e.g.,* offender residences, public transportation types/routes, schools, parks and other landmarks)
   - Conduct geographic profiling
   - Heat maps

   c. Social Network Analysis
   d. Automated crime-scene correlation with offender space-time habits;
   - Requires separate analysis of the data acquired from each jurisdiction
   - Requires separate analysis of the habits of each offender
   - Encompasses multiple jurisdictions over defined space-time windows and all offenders monitored by a PPO
   - User specification of time and distance thresholds for analyzing events
   - Ability to hover over map points-of-interest to obtain more information
   - Identification of possible travel routes following commission of a crime
   - Automatic creation (and updating) of offender watch lists

   e. Case-load management planning by PPOs;
   - Definition of curfews (*i.e.,* confinement and restriction zones)
   - ➢ Creation of global zones
   - ➢ Creation of free-form zones
   - ➢ Configuration of zones as circles, rectangles or arbitrary polygons
   - ➢ Customization of monitoring parameters to individual offenders
   - ➢ Application of established zones to more than one client
   - ➢ Creation of zone templates for certain classes of participants
   - ➢ Implementation of mobile restriction zones
   - ➢ Setting of warm zones around hot zones
   - Review of tracking points and approval of acceptable behavior
   - Automated configuration of logged events as alerts when appropriate, and implementation of event escalation procedures

   f. Basic predictive modeling (*e.g.,* spatial regression analysis);
   - Prediction of offender behavioral trends
   - Prediction of good candidates for community monitoring
   - Next-event forecasting based on linked crime-incident locations
   - Computation of statistical significance of spatial-temporal crime repetition probabilities (*e.g.,* using Monte Carlo simulation techniques)
   - The location of a serial offender anchor point(s)

   g. Additional capabilities not covered above (please list)
5. Data Formatting and Information Exchange:
   a. Method for entering/accessing/exchanging data (*e.g.,* manual, created using other applications (list them), Web Services, other);
   - Data sharing protocols adopted (*e.g.,* NIEM)
   - Acceptable data-input file formats (*e.g.,* ASCII files, .csv text files, .shp, .dbf, .bmp, other)
   - Number of data-streams that can be concurrently monitored
   - Ability/need to create a new database that aggregates the acquired data, and if so, the data-basing approach (*e.g.,* relational, semantic)

   b. Type and purpose of any databases supplied with the analytics software
   c. Additional databases that must be accessed to operate the software
   d. Known issues germane to easily integrating the software with existing criminal justice information systems and technology
   e. Analytic products provided by the

OMA software in real-time, as well as those that require post-processing;
- Underlying statistical approach used to produce product (*e.g.,* cluster analysis, autocorrelation analysis, others)

f. Ability/need to export output files to other applications for further analyses
g. Output file formats produced by the analytics software (*e.g.,* .kml, .shp, .csv)
h. Method for maintaining cyber-security of the data and analysis products
i. Method for protecting confidentiality of personally-identifiable information
j. Types of available reports and the extent to which they are customizable
k. Standard dashboard configurations provided by the product

6. Requirements for Host Agency Computing Systems:
   a. Computer operating systems capable of running the product
   b. Minimum amount of RAM (GB), hard disk space (GB), and speed (MHz) required to install and run the OMA product on each type of operating system
   c. Minimum graphics board (*e.g.,* must support OpenGL 1.0) and display (*e.g.,* size, resolution, color levels) requirements for each type of operating system
   d. Approximate amount of time taken to provide the principal analysis products on computers configured to meet these minimum requirements
   e. Whether the product must be used with a particular vendor's offender monitoring technology or is vendor-agnostic
7. Operator/Analyst Training Requirements:
   a. Minimum education level/experience needed to set-up and operate the software (*e.g.,* high-school level knowledge of computers; college-level statistics to create required input files and select appropriate options)
   b. Minimum education/experience needed to interpret the output results
   c. Number of training hours necessary to set-up/operate the product
   d. Types of available documentation and training aids (*e.g.,* embedded help files, accessible help desk, user manuals, on-line instruction videos, screen shots; sample data; training classes)
   e. Support programs the user must be familiar with to use the tool.

Dated: August 21, 2015.

Nancy Rodriguez,

Director, National Institute of Justice.

[FR Doc. 2015–21564 Filed 8–31–15; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employment and Training Administration

Comment Request for Information Collection for the Workforce Performance Accountability, Information, and Reporting System (OMB Control No. 1205–3NEW), New Collection

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (Department or DOL), ETA as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation to provide the public and Federal agencies with an opportunity to comment on the proposed collection of information in accordance with the Paperwork Reduction Act of 1995 [44 U.S.C. 3506(c)(2)(A)] (PRA). The PRA helps ensure that respondents can provide requested data in the desired format with minimal reporting burden (time and financial resources), collection instruments are clearly understood and the impact of collection requirements on respondents can be properly assessed.

Currently, the Department is soliciting comments concerning the collection of data for the Workforce Innovation and Opportunity Act (WIOA) Workforce Performance Accountability, Information, and Reporting System (OMB Control No. 1205–3NEW). The following programs will be required to report through this system: WIOA Adult, Dislocated Worker, and Youth, Wagner Peyser Employment Service, National Farmworker Jobs, Trade Adjustment Assistance, YouthBuild, Indian and Native American, and the Jobs for Veterans' State Grants. Requiring all of these programs to use a standard set of data elements, definitions, and specifications at all levels of the workforce system helps improve the quality of the performance information that is received by DOL. While H1–B grants and the Reintegration of Ex-Offenders program are not authorized under WIOA, these programs will be utilizing the data element definitions and reporting templates proposed in this Information Collection Request (ICR). The accuracy, reliability, and comparability of program reports submitted by states and grantees using Federal funds are fundamental elements of good public administration, and are necessary tools for maintaining and demonstrating system integrity.

This new ICR is expected to take the place of several currently existing ICRs, including: 1205–0420 Workforce Investment Act (WIA) Management Information and Reporting System, 1205–0240 Wagner Peyser Labor Exchange Reporting System, 1205–0464 YouthBuild Reporting System, 1205–0422 Reporting and Performance Standards for WIA Indian and Native American Programs, 1205–0425 Reporting and Performance Standards System for Migrant and Seasonal Farmworker Programs Under Title I, Section 167 of the Workforce Investment Act, and the 1205–0392 Trade Act Participant Report. These ICRs will be rescinded once the last reporting requirements for WIA reporting are satisfied. As such, DOL will request to remove those from active status once the separate reporting requirements are no longer needed.

DATES: Submit written comments to the office listed in the addresses section below on or before November 2, 2015.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ETA–2015–0008 or via postal mail, commercial delivery, or hand delivery. A copy of the proposed 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 *http://www.regulations.gov* or by contacting Luke Murren by telephone at 202–693–3733 (this is not a toll-free number) or by email at *murren.luke@dol.gov.* Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1–877–889–5627 (TTY/TDD). Fax: 202–693–2766.

Mail and hand delivery/courier: Send written comments to Luke Murren, Office of Policy Development and Research, Room N5641, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Due to security-related concerns, there may be a significant delay in the receipt of submissions by United States Mail. You must take this into consideration

when preparing to meet the deadline for submitting comments.

Comments submitted in response to this comment request will become a matter of public record and will be summarized and included in the request for Office of Management and Budget (OMB) approval of the information collection request. In addition, comments, regardless of the delivery method, will be posted without change on the *http://www.regulations.gov* Web site; consequently, the Department recommends commenters not include personal information such as a Social Security Number, personal address, telephone number, email address, or confidential business information that they do not want made public. It is the responsibility of the commenter to determine what to include in the public record.

SUPPLEMENTARY INFORMATION:

I. Background

Section 116 of WIOA requires States that operate core programs of the publicly-funded workforce system to comply with common performance accountability requirements. As such, States that operate core programs must submit common performance data to demonstrate that specified performance levels are achieved.

WIOA Sec. 116(d)(1) mandates that the Secretaries of Labor and Education develop a template for the annual performance reports to be used by States, local boards, and eligible providers of training services for reporting on outcomes achieved by the WIOA core programs. Pursuant to WIOA sec. 116(d)(2), required annual data for the core programs include, among others, those related to primary performance indicators, participant counts and costs, and barriers to employment.

This notice includes several documents—the ETA (Program) Performance Scorecard, the WIOA Pay-for-Performance Scorecard, the Participant Individual Record Layout (PIRL), the WIOA Data Element Specifications, and the Job Openings Report. The Department requires states to certify and submit the ETA (Program) Performance Scorecard to ETA on a quarterly basis; the pay-for-performance report(s) and Job Openings report will also be collected quarterly when applicable. ETA will aggregate the information the States submit through the PIRL to populate the ETA (Program) Performance Scorecard, the WIOA Pay-for-Performance Report, and the Job Openings Report, which ETA will then send to the States to confirm their accuracy. Each program included in this ICR will generate its own quarterly Performance Scorecard.

The ETA (Program) Performance Scorecard and WIOA Pay-for-Performance Scorecard have been designed to maximize the value of the reports for workers, jobseekers, employers, local elected officials, State officials, Federal policymakers, and other key stakeholders. The PIRL has been designed to reflect the specific requirements of the annual reports as described in WIOA section 116(d)(2) through (4).

ETA will use the data to track total participants, characteristics, services, training strategies and outcomes for employed, unemployed and long-term unemployed participants. This data collection format permits program offices to evaluate program effectiveness, monitor compliance with statutory requirements, and analyze participant activity and grantee performance while complying with OMB efforts to streamline Federal performance reporting.

Under WIOA section 116(d)(6), the Secretary of Labor is required to annually make available (including by electronic means), in an easily understandable format, (a) the State Annual Performance Reports containing the information described in WIOA section 116 (d)(2) and (b) a summary of the reports, and the reports required under WIOA section 116 (d)(6) (the State Performance, Local Area, and Eligible Training Provider Reports), to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.

The reports and other analyses of the data will be made available to the public through publication and other appropriate methods and to the appropriate congressional committees through copies of such reports. In addition, information obtained through the Workforce Performance Accountability, Information, and Reporting System will be used at the national level during budget and allocation hearings for DOL compliance with the Government Performance and Results Act and other legislative requirements, and during legislative authorization proceedings.

Under this collection, participation will be measured based on the count of individuals who meet the proposed definition of a ''participant''—*e.g.,* those who have received staff-level services within the program year. An individual will be considered to have exited after they have gone 90 days without service, and with no future services scheduled. Should they return for additional services after the 90 days—within the same program year and exit in that same program year—the individual's exit date will be changed to reflect only the last exit date in that program year. If the individual exits in a subsequent program year, they would be counted as a new participant for purposes of that subsequent program year. Counting unique individuals in this manner will allow an unduplicated count of participants in the accountability and reporting system. The Department understands that this may affect quarterly reporting results and counts of services rendered early in the program year, particularly for programs whose current reporting practices differ from what is described above. As such, we greatly encourage your comments on the potential impact on individual states and local areas of this and all other items discussed in this package as we continue to finalize the details of this information collection process.

II. Review Focus

The Department 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;
- can further help to create an integrated data element layout between ETA-funded programs;
- 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 submissions of responses).

III. Current Actions

Type of Review: New collection.

Title: Workforce Performance Accountability, Information, and Reporting System.

OMB Number: 1205–3NEW.

Affected Public: State, Local, and Tribal Governments; Individuals or Households; and Private Sector—businesses or other for-profits and not-for-profit institutions.

Estimated Total Annual Respondents: 815.

Estimated Total Annual Responses: 17,261,405.

Estimated Total Annual Burden Hours: 2,026,441.

Total Estimated Annual Other Costs Burden: $17,100,000.

We will summarize and/or include in the request for OMB approval of the ICR, the comments received in response to this comment request; they will also become a matter of public record.

As mentioned above, this ICR covers the construction of an integrated ETA quarterly performance reporting template, drafted according to the data collection and reporting requirements in section 116 of WIOA. The notice of proposed rulemaking (NPRM) implementing WIOA was published on April 16, 2015, at 80 FR 20573. The NPRM comment period closed on June 15, 2015. Reporting templates were not yet available at that time; therefore, the DOL is providing the public this additional opportunity in order to receive comments on the specific requirements.

Sec. 506(b)(1) of WIOA states that section 116 of WIOA will go into effect at the start of the second full program year after the date WIOA was enacted. WIOA was enacted on July 22, 2014. Therefore, section 116's performance accountability system will be effective on July 1, 2016. Approval of this information collection request is required so that the states, locals, and other entities can begin programming their management information systems in order to enable them to collect the necessary data to implement the data collection and reporting requirements of section 116 in accordance with the WIOA statute.

This ICR may receive OMB approval before Final Rules implementing WIOA are published. If this occurs, the Department will submit another ICR for this collection to OMB to incorporate the Final Rule citations, as required by 5 CFR 1320.11(h). Those citations currently do not exist and, therefore, cannot be included at this time. The Department plans to review and analyze any comments received on the NPRM that are relevant to this ICR together with comments we receive in response to this **Federal Register** Notice in order to finalize the substantive information collection requirements to the extent legally possible.

Portia Wu,

Assistant Secretary for Employment and Training, Department of Labor.

[FR Doc. 2015–21607 Filed 8–31–15; 8:45 am]

BILLING CODE 4510–FN–P

OFFICE OF MANAGEMENT AND BUDGET

Request of the U.S. Intellectual Property Enforcement Coordinator for Public Comments: Development of the Joint Strategic Plan on Intellectual Property Enforcement

AGENCY: Office of the U.S. Intellectual Property Enforcement Coordinator, Executive Office of the President, Office of Management and Budget (OMB).

ACTION: Request for written submissions from the public.

SUMMARY: The U.S. Government is developing its third Joint Strategic Plan on Intellectual Property Enforcement (''Joint Strategic Plan''), which will cover the 3-year period of 2016–2019. In this request for comments, the U.S. Government, through the Office of the U.S. Intellectual Property Enforcement Coordinator (''IPEC''), invites public input and participation in shaping the Federal Government's intellectual property enforcement strategy for 2016–2019. By committing to common goals, the U.S. Government will more effectively and efficiently be able to combat intellectual property infringement.

IPEC was established by title III of the Prioritizing Resources and Organization for Intellectual Property Act of 2008, Public Law 110–403 (the ''PRO IP Act''; *see* 15 U.S.C. 8111–8116). Pursuant to the PRO IP Act, IPEC is charged with developing, with certain Federal departments and agencies, a Joint Strategic Plan for submission to Congress every three years (15 U.S.C. 8113). In carrying out this mandate, IPEC chairs two interagency committees: (1) The Intellectual Property Enforcement Advisory Committee and (2) the Senior Intellectual Property Enforcement Advisory Committee. See 15 U.S.C. 8111(b)(3); Executive Order 13565 of February 8, 2011 (''Establishment of the Intellectual Property Enforcement Advisory Committees'').

The prior 3-year Joint Strategic Plans were issued in 2010 and 2013. To assist the IPEC and Federal agencies in our preparation of the third 3-year plan (for 2016–2019), IPEC requests input and recommendations from the public for improving the U.S. Government's intellectual property enforcement efforts.

DATES: Submissions must be received on or before October 16, 2015.

ADDRESSES: All submissions should be electronically submitted to *http://www.regulations.gov.* If you are unable to provide submissions to regulations.gov, you may contact the Office of the U.S. Intellectual Property Enforcement Coordinator at *intellectualproperty@omb.eop.gov* using the subject line ''Development of 2016 Joint Strategic Plan on Intellectual Property Enforcement'' or (202) 395–1808 to arrange for an alternate method of transmission. The regulations.gov Web site is a Federal e-Government Web site that allows the public to find, review and submit comments on documents that are published in the **Federal Register** and that are open for comment. Submissions filed via the regulations.gov Web site will be available to the public for review and inspection. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary business information.

FOR FURTHER INFORMATION CONTACT: Office of the U.S. Intellectual Property Enforcement Coordinator, at *intellectualproperty@omb.eop.gov* or (202) 395–1808. The 2010 and 2013 Joint Strategic Plans, as well as other information about IPEC, can be found at *http://www.whitehouse.gov/omb/intellectualproperty.*

SUPPLEMENTARY INFORMATION: As set forth by the PRO IP Act (15 U.S.C. 8113), the objectives of the Joint Strategic Plan include:

- Reducing the supply of infringing goods, domestically and internationally;
- Identifying weaknesses, duplication of efforts, waste, and other unjustified impediments to effective enforcement actions;
- Promoting information sharing between participating agencies to the extent permissible by law;
- Disrupting and eliminating infringement networks in the U.S. and in other countries;
- Strengthening the capacity of other countries to protect and enforce intellectual property rights;
- Reducing the number of countries that fail to enforce intellectual property rights effectively;
- Assisting other countries to more effectively enforce intellectual property rights;
- Protecting intellectual property rights in other countries by:
  - Working with other countries to reduce intellectual property crimes in other countries;
  - Improving information sharing between U.S. and foreign law enforcement agencies; and
  - Establishing procedures for consulting with interested groups within other countries;
- Establishing effective and efficient training programs and other forms of

technical assistance to enhance the enforcement efforts of foreign governments through:

○ Minimizing the duplication of U.S. Government training and assistance efforts;

○ Prioritizing deployment of U.S. Government resources to those countries where programs can be carried out most effectively with the greatest impact on reducing the number of infringing products imported into the United States, while also protecting the intellectual property rights of U.S. rights holders and the interests of U.S. persons otherwise harmed by infringements in other countries.

To assist IPEC and the agencies in developing the Joint Strategic Plan for 2016–2019, IPEC requests input and recommendations from the public for improving the U.S. Government's intellectual property enforcement efforts. IPEC welcomes information pertaining to, and to the extent practicable, recommendations for combating emerging or potential future threats posed by violations of intellectual property rights, including threats to both public health and safety (in the U.S. and internationally) and American innovation and economic competitiveness. Recommendations may include, but need not be limited to: legislation, executive order, Presidential memorandum, regulation, guidance, or other executive action (*e.g.,* changes to agency policies, practices or methods), as well as ideas for improving any of the existing voluntary private-sector initiatives and for establishing new voluntary private-sector initiatives.

Finally, in an effort to aid the development and implementation of well-defined policy decisions, to advance scholarly inquiry, and to bolster transparency and accountability on intellectual property enforcement efforts, IPEC encourages enhanced public access to appropriately generalized information, trend analyses, and case studies related to IP-infringing activities. Both governmental and private entities may be in possession of a wide range of data and other information that would enable researchers, rights holders, industry-at-large, public interests groups, policy makers and others to better gauge the specific nature of the challenges; develop recommendations for well-balanced strategies to effectively and efficiently address those challenges; and measure the effectiveness of strategies that have been or will be adopted and implemented. To further the objective of supporting transparency, accountability, and data-driven governance, IPEC requests identification of possible areas for enhanced information sharing and access, including the identification of relevant data sets, and how best to improve open access to such data.

In conclusion, IPEC invites comments from the public on the issues identified above, as well as any other comments that the public may have, for improving the efficiency and effectiveness of intellectual property enforcement—as well as the innovation and economic development it supports—through the upcoming Joint Strategic Plan for 2016–2019.

Dated: August 21, 2015.

Daniel H. Marti,

United States Intellectual Property Enforcement Coordinator, Executive Office of the President.

[FR Doc. 2015–21289 Filed 8–31–15; 8:45 am]

BILLING CODE P

NUCLEAR REGULATORY COMMISSION

[NRC–2015–0204]

Biweekly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

AGENCY: Nuclear Regulatory Commission.

ACTION: Biweekly notice.

SUMMARY: Pursuant to Section 189a. (2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular biweekly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from August 6, 2015, to August 17, 2015. The last biweekly notice was published on August 14, 2015.

DATES: Comments must be filed October 1, 2015. A request for a hearing must be filed by November 2, 2015.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0204. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop: OWFN–12–H08, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Beverly Clayton, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3475, email: *Beverly.Clayton@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2015–0204 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0204.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in the **SUPPLEMENTARY INFORMATION** section.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2015–0204, facility name, unit number(s), application date, and subject in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at *http://www.regulations.gov* as well as entering the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Proposed No Significant Hazards Consideration Determination

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in § 50.92 of Title 10 of the *Code of Federal Regulations* (10 CFR), this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license or combined license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held

would take place before the issuance of any amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* System requirements for accessing the E-Submittal server are detailed in the NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. However, in some instances, a request to intervene will require including information on local residence in order to demonstrate a proximity assertion of interest in the proceeding. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Requests for hearing, petitions for leave to intervene, and motions for leave to file new or amended contentions that are filed after the 60-day deadline will not be entertained absent a determination by the presiding officer

that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i)–(iii).

For further details with respect to these license amendment applications, see the application for amendment which is available for public inspection in ADAMS and at the NRC's PDR. For additional direction on accessing information related to this document, see the ''Obtaining Information and Submitting Comments'' section of this document.

Dominion Nuclear Connecticut, Inc., Docket No. 50–423, Millstone Power Station, Unit No. 3 (MPS3), New London County, Connecticut

Date of amendment request: May 8, 2015. A publicly-available version is in ADAMS under Accession No. ML15134A244.

Description of amendment request: The amendment would revise the Technical Specifications (TSs) to enable the use of Dominion nuclear safety and reload core design methods for MPS3 and address the issues identified in three Westinghouse communication documents. The amendment would also update approved reference methodologies in TS 6.9.1.6.b.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed [amendment] involve a significant increase in the probability or consequences of any accident previously evaluated?

Response: No.

The Dominion analysis methods do not make any contribution to the potential accident initiators and thus do not increase the probability of any accident previously evaluated. The use of the approved Dominion analysis methods will not increase the probability of an accident because plant systems, structures, and components (SSC) will not be affected or operated in a different manner, and system interfaces will not change.

Since the applicable safety analysis and nuclear core design acceptance criteria will be satisfied when the Dominion analysis methods are applied to MPS3, the use of the approved Dominion analysis methods does not increase the potential consequences of any accident previously evaluated. The use of the approved Dominion methods will not result in a significant impact on normal operating plant releases, and will not increase the predicted radiological consequences of postulated accidents described in the FSAR [final safety analysis report]. The proposed resolution of Westinghouse notification documents NSAL–09–5, Rev. 1, 06–1C–03 and NSAL–15–1 is intended to address deficiencies identified within the existing MPS3 Technical Specifications to return them to their as designed function and does not result in actions that would increase the probability of any accident previously evaluated.

Therefore, the proposed amendment does not involve a significant increase in the probability or the consequences of any accident previously evaluated.

2. Does the proposed [amendment] create the possibility of a new or different kind of accident from any previously evaluated?

Response: No.

The use of Dominion analysis methods and the Dominion statistical design limit (SDL) for fuel departure from nucleate boiling ratio (DNBR) and fuel critical heat flux (CHF) does not impact any of the applicable core design criteria. All pertinent licensing basis limits and acceptance criteria will continue to be met. Demonstrated adherence to these limits and acceptance criteria precludes new challenges to SSCs that might introduce a new type of accident. All design and performance criteria will continue to be met and no new single failure mechanisms will be created. The use of the Dominion methods does not involve any alteration to plant equipment or procedures that might introduce any new or unique operational modes or accident precursors. The proposed resolution of Westinghouse notification documents NSAL–09–5, Rev. 1, 06–IC–03 and NSAL–15–1 does not involve the alteration of plant equipment or introduce unique operational modes or accident precursors.

Therefore, the proposed amendment does not create [the possibility of] a new or different kind of accident from any accident previously evaluated.

3. Does the proposed [amendment] involve a significant reduction in the margin of safety?

Response: No.

Nuclear core design and safety analysis acceptance criteria will continue to be satisfied with the application of Dominion methods. Meeting the analysis acceptance criteria and limits ensure that the margin of safety is not significantly reduced. Nuclear core design and safety analysis acceptance criteria will continue to be satisfied with the application of Dominion methods. In particular, use of [the model] VIPRE–D with the proposed safety limits provides at least a 95% probability at a 95% confidence level that DNBR will not occur (the 95/95 DNBR criterion). The required DNBR margin of safety for MPS3, which is the margin between the 95/95 DNBR criterion and clad failure, is therefore not reduced. The proposed resolution of Westinghouse notification documents NSAL–09–5, Rev. 1, 06–IC–03 and NSAL–15–1 does not propose actions that would result in a significant reduction in margin to safety.

Therefore, the proposed amendment does not involve a significant reduction in [the] margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Lillian M. Cuoco, Senior Counsel, Dominion Resources Services, Inc., 120 Tredegar Street, RS–2, Richmond, VA 23219.

NRC Branch Chief: Benjamin Beasley.

Duke Energy Carolinas, LLC, Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: June 12, 2015. A publicly-available version is in ADAMS under Accession No. ML15168A009.

Description of amendment request: The proposed amendments would modify Technical Specification Table 3.4.1–1. Specifically, the proposed change would modify the minimum required Reactor Coolant System total flow rates for Catawba Nuclear Station, Unit Nos. 1 and 2.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The reduction in Catawba Unit 1 Reactor Coolant System (RCS) minimum measured flow from 388,000 gpm to 384,000 gpm and the reduction in Catawba Unit 2 RCS minimum measured flow from 390,000 gpm to 387,000 gpm will not change the probability of actuation of any Engineered Safeguard Feature or any other device. The consequences of previously analyzed accidents have been found to be insignificantly different when these reduced flow rates are assumed. The system transient response is not affected by the initial RCS flow assumption unless the initial assumption is so low as to impair the steady state core cooling capability or the steam generator heat transfer capability. This is clearly not the case with the small proposed reductions in RCS flow. The proposed changes will not result in the modification of any system interface that would increase the likelihood of an accident since these events are independent of the proposed changes. The proposed amendments will not change, degrade, or prevent actions or alter any assumptions previously made in evaluating the radiological consequences of an accident described in the Updated Final Safety Analysis Report (UFSAR).

Therefore, the proposed amendments do not result in the increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of

accident from any accident previously evaluated?

Response: No.

These changes do not create the possibility of a new or different kind of accident from any accident previously evaluated. No new accident causal mechanisms are created as a result of NRC approval of this amendment request. No changes are being made to the facility which would introduce any new accident causal mechanisms. This amendment request does not impact any plant systems that are accident initiators.

3. Does the proposed amendment involve a significant reduction in the margin of safety?

Response: No.

Implementation of these amendments would not involve a significant reduction in the margin of safety. The decreases in Catawba Unit 1 and Unit 2 RCS minimum measured flow have been analyzed and found to have an insignificant effect on the applicable transient analyses as described in the UFSAR. Margin of safety is related to the confidence of the fission product barriers being able to perform their accident mitigating functions. These fission product barriers include the fuel cladding, the RCS, and the containment. The proposed amendments will have no impact upon the ability of these barriers to function as designed. Consequently, no safety margins will be impacted.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Lara S. Nichols, Associate General Counsel, Duke Energy Corporation, 526 South Church Street—EC07H, Charlotte, NC 28202.

NRC Branch Chief: Robert J. Pascarelli.

Entergy Operations, Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3 (WF3), St. Charles Parish, Louisiana

Date of amendment request: June 17, 2015. A publicly-available version is in ADAMS under Accession No. ML15170A121.

Description of amendment request: The proposed amendment would modify the WF3 technical specifications (TSs) by relocating specific surveillance frequencies to a licensee-controlled program.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, with NRC staff revisions provided in [brackets], which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of any accident previously evaluated?

Response: No.

The proposed change relocates the specified frequencies for periodic surveillance requirements to licensee control under a new Surveillance Frequency Control Program [SFCP]. Surveillance frequencies are not an initiator to any accident previously evaluated. As a result, the probability of any accident previously evaluated is not significantly increased. The systems and components required by the technical specifications for which the surveillance frequencies are relocated are still required to be operable, meet the acceptance criteria for the surveillance requirements, and be capable of performing any mitigation function assumed in the accident analysis. As a result, the consequences of any accident previously evaluated are not significantly increased.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any previously evaluated?

Response: No.

No new or different accidents result from utilizing the proposed change. The changes do not involve a physical alteration of the plant (*i.e.,* no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. In addition, the changes do not impose any new or different requirements. The changes do not alter assumptions made in the safety analysis. The proposed changes are consistent with the safety analysis assumptions and current plant operating practice.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in the margin of safety?

Response: No.

The design, operation, testing methods, and acceptance criteria for systems, structures, and components (SSCs), specified in applicable codes and standards (or alternatives approved for use by the NRC) will continue to be met as described in the plant licensing basis (including the final safety analysis report and bases to TS), since these are not affected by changes to the surveillance frequencies. Similarly, there is no impact to safety analysis acceptance criteria as described in the plant licensing basis. To evaluate a change in the relocated surveillance frequency, Entergy will perform a probabilistic risk evaluation using the guidance contained in NRC approved NEI [Nuclear Energy Institute] 04–10, Rev. 1, in accordance with the TS SFCP. NEI 04–10, Rev. 1, methodology provides reasonable acceptance guidelines and methods for evaluating the risk increase of proposed changes to surveillance frequencies consistent with Regulatory Guide 1.177.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Joseph A. Aluise, Associate General Counsel—Nuclear, Entergy Services, Inc., 639 Loyola Avenue, New Orleans, Louisiana 70113.

NRC Branch Chief: Meena K. Khanna.

Entergy Operations, Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3 (WF3), St. Charles Parish, Louisiana

Date of amendment request: June 29, 2015. A publicly-available version is in ADAMS under Accession No. ML15182A152.

Description of amendment request: The amendment changes the WF3 Cyber Security Plan (CSP) Implementation Schedule Milestone 8 full implementation date and proposes a revision to the existing Physical Protection license condition.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change to the CSP Implementation Schedule is administrative in nature. This change does not alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected. The proposed change does not require any plant modifications which affect the performance capability of the structures, systems, and components relied upon to mitigate the consequences of postulated accidents and has no impact on the probability or consequences of an accident previously evaluated.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change to the CSP Implementation Schedule is administrative

in nature. This proposed change does not alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected. The proposed change does not require any plant modifications which affect the performance capability of the structures, systems, and components relied upon to mitigate the consequences of postulated accidents and does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

Plant safety margins are established through limiting conditions for operation, limiting safety system settings, and safety limits specified in the technical specifications. The proposed change to the CSP Implementation Schedule is administrative in nature. In addition, the milestone date delay for full implementation of the CSP has no substantive impact because other measures have been taken which provide adequate protection during this period of time. Because there is no change to established safety margins as a result of this change, the proposed change does not involve a significant reduction in a margin of safety.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Joseph A. Aluise, Associate General Counsel—Nuclear, Entergy Services, Inc., 639 Loyola Avenue, New Orleans, Louisiana 70113.

NRC Branch Chief: Meena K. Khanna.

Florida Power & Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Nuclear Generating Unit Nos. 3 and 4, Miami-Dade County, Florida

Date of amendment request: April 16, 2015. A publicly-available version is in ADAMS under Accession No. ML15119A222.

Description of amendment request: The amendments would revise the Technical Specifications related to the boric acid tank (BAT) to reflect a correction to the instrument uncertainty calculation.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

Revising the minimum acceptable BAT volume curves for one and two unit operation will not increase the probability of occurrence of an accident. The proposed revision to Figure 3.1–2 corrects the errors identified in the uncertainty calculation for one and two unit operation. Revising the minimum acceptable BAT volume curves provide better assurance that the BATs will continue to perform their required function, thereby ensuring the consequences of accidents previously evaluated are not increased.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change will not install any new or different equipment or modify equipment in the plant. The proposed change will not alter the operation or function of structures, systems or components. The response of the plant and the operators following a design basis accident is unaffected by this change. The proposed change does not introduce any new failure modes and the design basis of the BATs is maintained at the revised minimum volumes.

Therefore, the proposed change will not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in-the margin of safety?

Response: No.

The proposed change corrects the uncertainty related to BAT volume measurement. The proposed minimum acceptable BAT volume curves for one unit and two unit operation will provide better assurance that adequate shutdown margin is available for any post shutdown time. The limits used in the safety analysis are not affected.

Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: William S. Blair, Managing Attorney—Nuclear, Florida Power & Light Company, 700 Universe Blvd., MS LAW/JB, Juno Beach, FL 33408–0420.

NRC Branch Chief: Shana R. Helton.

South Carolina Electric & Gas Company, Docket Nos. 52–027 and 52–028, Virgil C. Summer Nuclear Station (VCSNS), Units 2 and 3, Fairfield County, South Carolina

Date of amendment request: July 6, 2015. A publicly-available version is in ADAMS under Accession No. ML15188A275.

Description of amendment request: The proposed change would amend Combined License Nos. NPF–93 and NPF–94 for the VCSNS Units 2 and 3. The requested amendment proposes to modify the existing feedwater controller logic to allow the controller program to respond as required to various plant transients while minimizing the potential for false actuation. Because, this proposed change requires a departure from Tier 1 information in the Westinghouse Advanced Passive 1000 Design Control Document (DCD), the licensee also requested an exemption from the requirements of the Generic DCD Tier 1 in accordance with 10 CFR 52.63(b)(1).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes will modify the control logic for actuation of the startup feedwater (SFW) pumps to support their defense-in-depth function of core decay heat removal. The instrumentation used for actuation of the SFW pumps in their defense-in-depth function are not initiators of any accident. The proposed control logic uses different instrument tag numbers than the current design. The instruments used for the actuation of this function exist as a part of the current design; therefore this proposed change does not require any additional instrumentation. These instruments, to be included as part of the Design Reliability Assurance Program (D–RAP), will be held to the same enhanced quality assurance (QA) requirements as the current instruments and therefore neither safety, performance, nor reliance will be reduced as a part of this change.

Additionally, the proposed changes do not adversely affect any accident initiating event or component failure, thus accidents previously evaluated are not adversely affected. In the event of loss of offsite power that results in a loss of main feedwater (MFW) supply, the SFW pumps automatically supply feedwater to the steam generators to cool down the reactor under emergency shutdown conditions. The standby source motor control center circuit powers each of the two SFW pumps and their

associated instruments and valves. The pump discharge isolation valves are motor-operated and are normally closed and interlocked with the SFW pumps. In the event of loss of offsite power, the onsite standby power supply diesel generators will power the SFW pumps. If both the normal [alternating current] ac power and the onsite standby ac power are unavailable, these valves will fail ''as-is.'' The pump suction header isolation valves are pneumatically actuated. The main and startup feedwater system (FWS) also has temperature instrumentation in the pump discharge that would permit monitoring of the SFW temperature. This proposed change therefore has no impact on the ability of the AP1000 plant to cool down under emergency shutdown conditions or during a loss of offsite power event.

No function used to mitigate a radioactive material release and no radioactive material release source term is involved, thus the radiological releases in the accident analyses are not adversely affected.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes will modify the control logic for actuation of the startup feedwater (SFW) pumps to support their defense-in-depth function of core decay heat removal. The instrumentation used for actuation of the SFW pumps in their defense-in-depth function are not initiators of any accident. The proposed control logic uses different instrument tag numbers than the current design. However, the instruments used for the actuation of this function already exist as a part of the current design and so this change does not require any additional instrumentation. These instruments, to be included as part of the D–RAP, will be held to the same enhanced QA requirements as the current instruments and so neither safety, performance, nor reliance will be reduced as a part of this change. Furthermore, since the D–RAP ensures consistency with the Probabilistic Risk Assessment (PRA), the changes do not impact the PRA. The proposed changes would not introduce a new failure mode, fault, or sequence of events that could result in a radioactive material release. The proposed change does not alter the design, configuration, or method of operation of the plant beyond standard functional capabilities of the equipment.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed changes will modify the control logic for actuation of the startup feedwater (SFW) pumps to support their defense-in-depth function of core decay heat removal. These changes will have no negative impacts on the safety margin associated with the design functions of the SFW pumps. The proposed logic changes will only resolve the current conditions associated with undesired start up signals for the SFW pumps. The changes set forth in this amendment correct the actuation logic of the SFW pumps, so that the feedwater controller logic is now aligned with the guidance provided in the Advanced Light Water Reactor Utility Requirements Document (ALWR URD). In addition, the operation of the startup feedwater system function is not credited to mitigate a design-basis accident. Since there is no change to an existing design basis limit/criterion, design function, or regulatory criterion no margin of safety is reduced.

Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ms. Kathryn M. Sutton, Morgan, Lewis & Bockius LLC, 1111 Pennsylvania Avenue NW., Washington, DC 20004–2514.

NRC Branch Chief: Lawrence J. Burkhart.

III. Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Exelon Generation Company, LLC, Docket No. 50–289, Three Mile Island Nuclear Station, Unit 1 (TMI–1), Dauphin County, Pennsylvania

Date of amendment request: July 23, 2015, as supplemented by letter dated July 28, 2015. Publicly-available versions are in ADAMS under Accession Nos. ML15204A843 and ML15209A960, respectively.

Brief description of amendment request: The proposed amendment would modify the technical specifications to allow for the temporary connection of the borated water storage tank to non-seismic piping for cleanup and recirculation to support activities associated with the TMI–1 Fall 2015 Refueling Outage and Fuel Cycle 21 operation.

*Date of publication of individual notice in **Federal Register**:* August 7, 2015 (80 FR 47529).

Expiration date of individual notice: September 8, 2015 (public comments); October 6, 2015 (hearing requests).

IV. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items can be accessed as described in the ''Obtaining Information and Submitting Comments'' section of this document.

Exelon Generation Company, LLC, Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of amendment request: May 1, 2014, as supplemented by letters dated May 1, 2015, and July 30, 2015.

Brief description of amendments: The amendments revised the Technical Specifications (TSs) to require that changes to specific surveillance frequencies will be made in accordance with Nuclear Energy Institute 04–10, Revision 1, ''Risk-Informed Technical Specifications Initiative 5b, Risk-Informed Method for Control of Surveillance Frequencies.'' The change is the adoption of NRC-approved Technical Specification Task Force (TSTF) Standard Technical Specifications Change Traveler TSTF–425, Revision 3, ''Relocate Surveillance Frequencies to Licensee Control—RITSTF [Risk-Informed TSTF] Initiative 5b.''

Date of issuance: August 17, 2015.

Effective date: As of the date of issuance and shall be implemented within 120 days of issuance.

Amendment Nos.: 314 and 292. A publicly-available version is in ADAMS under Accession No. ML15211A005; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. DPR–53 and DPR–69: Amendments revised the Renewed Facility Operating Licenses and TSs.

*Date of initial notice in **Federal Register**:* July 22, 2014 (79 FR 42549). The supplemental letters dated May 1, 2015, and July 30, 2015, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 17, 2015.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. 50–237 and 50–249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois

Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of application for amendments: December 19, 2013, as supplemented by letter dated June 29, 2015.

Brief description of amendments: The proposed amendments would revise Technical Specifications Section 5.6.5, ''Core Operating Limits Report (COLR),'' to add an NRC approved topical report reference to the list of analytical methods that are used to determine the core operating limits. Specifically, the proposed change adds a reference to Westinghouse topical report WCAP–16865–P–A, ''Westinghouse BWR ECCS [Boiling-Water Reactor Emergency Core Cooling System] Evaluation Model Updates: Supplement 4 to Code Description, Qualification and Application.''

Date of issuance: August 5, 2015.

Effective date: As of the date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment Nos.: 247, 240, 260 and 255. A publicly-available version is in ADAMS under Accession No, ML15183A351; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. DPR–19, DPR–25, DPR–29 and DPR–30. The amendments revised the Technical Specifications and License.

*Date of initial notice in **Federal Register**:* July 8, 2014 (79 FR 38577). The June 29, 2015, supplement contained clarifying information and did not change the NRC staff's initial proposed finding of no significant hazards consideration.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 5, 2015.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC and PSEG Nuclear LLC, Docket No. 50–278, Peach Bottom Atomic Power Station, Unit 3, York and Lancaster Counties, Pennsylvania

Date of amendment request: May 29, 2015.

Brief description of amendment: The amendment changed a license condition pertaining to the submittal of a report containing revised analysis for the replacement steam dryer. Specifically, the amendment reduced the length of time for the submittal of the report from 90 days prior to the start of the extended power uprate (EPU) outage to 30 days prior to the start of the EPU outage.

Date of issuance: August 11, 2015.

Effective date: As of the date of issuance, to be implemented within 21 days of issuance.

Amendment No.: 305. A publicly-available version is in ADAMS under Accession No. ML15189A185; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. DPR–56: The amendment revised the Renewed Facility Operating License.

*Date of initial notice in **Federal Register**:* June 10, 2015 (80 FR 32991).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 11, 2015.

No significant hazards consideration comments received: No.

FirstEnergy Nuclear Operating Company, Docket No. 50–440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of amendment request: November 24, 2014, as supplemented by letter dated May 12, 2015.

Brief description of amendment: The amendment revised the battery capacity testing surveillance requirements in the technical specifications to reflect test requirements when the battery is near end of life.

Date of issuance: August 17, 2015.

Effective date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment No.: 170. A publicly-available version is in ADAMS under Accession No. ML15201A529; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Facility Operating License No. NPF–58: Amendment revised the Facility Operating License and Technical Specifications.

*Date of initial notice in **Federal Register**:* March 17, 2015 (80 FR 13907). The supplemental letter dated May 12, 2015, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 17, 2015.

No significant hazards consideration comments received: No.

Florida Power & Light Company, et al., Docket Nos. 50–335 and 50–389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of amendment request: August 8, 2014.

Brief description of amendments: The amendments revised the Technical Specifications (TSs) by removing TS 3/

4.4.7, ''Chemistry,'' which provides limits on the oxygen, chloride, and fluoride content in the reactor coolant system to minimize corrosion. The amendments require the licensee to relocate the requirements to the Updated Final Safety Analysis Report to be controlled in accordance with 10 CFR 50.59, ''Changes, tests, and experiments.''

Date of issuance: August 14, 2015.

Effective date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment Nos.: 225 and 175. A publicly-available version is in ADAMS under Accession No. ML15161A442; documents related to these amendments are listed in the Safety Evaluation (SE) enclosed with the amendments.

Renewed Facility Operating License Nos. DPR–67 and NPF–16: Amendments revised the TSs.

*Date of initial notice in **Federal Register**:* October 28, 2014 (79 FR 64225).

The Commission's related evaluation of the amendments is contained in an SE dated August 14, 2015.

No significant hazards consideration comments received: No.

Florida Power & Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Nuclear Generating Unit Nos. 3 and 4, Miami-Dade County, Florida

Date of application for amendments: August 29, 2014.

Brief description of amendments: The amendments revised the Technical Specifications (TSs) by removing TS 3/4.4.7, ''Chemistry,'' which provides limits on the oxygen, chloride, and fluoride content in the reactor coolant system to minimize corrosion. The amendments require the licensee to relocate the requirements to the Updated Final Safety Analysis Report and related procedures to be controlled in accordance with 10 CFR 50.59, ''Changes, tests, and experiments.''

Date of issuance: August 14, 2015.

Effective date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment Nos.: 265 and 260. The amendments are in ADAMS under Accession No. ML15205A174; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. DPR–31 and DPR–41: Amendments revised the TSs.

*Date of initial notice in **Federal Register**:* November 25, 2014 (79 FR 70216).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 14, 2015.

No significant hazards consideration comments received: No.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: May 16, 2014, as supplemented by letters dated January 9, March 27, and July 2, 2015.

Brief description of amendment: The amendment revised the Updated Safety Analysis Report to allow pipe stress analysis of non-reactor coolant system safety-related piping to be performed in accordance with the American Society of Mechanical Engineers Boiler and Pressure Vessel Code, Section III, 1980 Edition (no Addenda) as an alternative to the current Code of Record (*i.e.,* United States of America Standards B31.7, 1968 (DRAFT) Edition).

Date of issuance: August 10, 2015.

Effective date: As of the date of issuance and shall be implemented within 120 days from the date of issuance.

Amendment No.: 283. A publicly-available version is in ADAMS under Accession No. ML15209A802; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. DPR–40: The amendment revised the licensing basis as described in the Updated Safety Analysis Report.

*Date of initial notice in **Federal Register**:* July 8, 2014 (79 FR 38593). The supplemental letters dated January 9, March 27, and July 2, 2015, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a safety evaluation dated August 10, 2015.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket No. 50–390, Watts Bar Nuclear Plant, Unit 1, Rhea County, Tennessee

Date of amendment request: April 1, 2015.

Brief description of amendment: The amendment revised the Cyber Security Plan for Watts Bar Nuclear Plant, Unit 1 to illustrate the ''Bright-Line'' between the critical digital assets that in the scope of the Watts Bar Nuclear Plant, Unit 1 Cyber Security Plan and those that are under the jurisdiction of the Federal Energy Regulatory Commission.

Date of issuance: August 7, 2015.

Effective date: As of the date of issuance and shall be implemented within 30 days of issuance.

Amendment No.: 101. A publicly-available version is in ADAMS under Accession No. ML15177A334; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Facility Operating License No. NPF–90: Amendment revised the Facility Operating License.

*Date of initial notice in **Federal Register**:* June 1, 2015 (80 FR 31076).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 7, 2015.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 21st day of August, 2015.

For the Nuclear Regulatory Commission.

A. Louise Lund,

Acting Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2015–21432 Filed 8–31–15; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Notice of Change in Student's Status, RI 25–15, 3206–0042

AGENCY: U.S. Office of Personnel Management.

ACTION: 60-Day notice and request for comments.

SUMMARY: The Retirement Services, Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on a revised information collection request (ICR) 3206–0042, Notice of Change in Student's Status. As required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection.

DATES: Comments are encouraged and will be accepted until November 2, 2015. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to Retirement Services, U.S. Office of Personnel Management, 1900 E Street NW., Washington, DC 20415, Attention: Alberta Butler, Room 2349, or sent via electronic mail to *Alberta.Butler@opm.gov.*

FOR FURTHER INFORMATION CONTACT: A copy of this ICR with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team, Office of Personnel Management, 1900 E Street NW., Room 3316–AC, Washington, DC 20415, Attention: Cyrus S. Benson, or sent via electronic mail to *Cyrus.Benson@opm.gov* or faxed to (202) 606–0910.

SUPPLEMENTARY INFORMATION:

The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of 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 or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

RI 25–15, Notice of Change in Student's Status, is used to collect sufficient information from adult children of deceased Federal employees or annuitants to assure that the child continues to be eligible for payments from OPM.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: Notice of Change in Student's Status.

OMB: 3206–0042.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: 2,500.

Estimated Time per Respondent: 20 minutes.

Total Burden Hours: 835.

Beth F. Cobert,

Acting Director, U.S. Office of Personnel Management.

[FR Doc. 2015–21571 Filed 8–31–15; 8:45 am]

BILLING CODE P

POSTAL REGULATORY COMMISSION

[Docket No. CP2015–129; Order No. 2684]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning an additional Global Expedited Package Services 3 negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* September 2, 2015.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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II. Notice of Commission Action
III. Ordering Paragraphs

I. Introduction

On August 25, 2015, the Postal Service filed notice that it has entered into an additional Global Expedited Package Services 3 (GEPS 3) negotiated service agreement (Agreement).[1]

To support its Notice, the Postal Service filed a copy of the Agreement, a copy of the Governors' Decision authorizing the product, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

II. Notice of Commission Action

The Commission establishes Docket No. CP2015–129 for consideration of matters raised by the Notice.

The Commission invites comments on whether the Postal Service's filing is consistent with 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than September 2, 2015. The public portions of the filing can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints JP Klingenberg to serve as Public Representative in this docket.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2015–129 for consideration of the matters raised by the Postal Service's Notice.

2. Pursuant to 39 U.S.C. 505, JP Klingenberg is appointed to serve as an officer of the Commission to represent the interests of the general public in this proceeding (Public Representative).

3. Comments are due no later than September 2, 2015.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2015–21568 Filed 8–31–15; 8:45 am]

BILLING CODE 7710–FW–P

[1] Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 3 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, August 25, 2015 (Notice).

POSTAL SERVICE

Governors; Sunshine Act Meeting

DATE AND TIME: August 26, 2015, at 3 p.m.

PLACE: Washington, DC, via Teleconference.

STATUS: *Governors Vote to Close August 26, 2015, Meeting:* By telephone vote on August 26, 2015, the Governors of the United States Postal Service met and voted unanimously to close to public observation their meeting held in Washington, DC, via teleconference. The Governors determined that no earlier public notice was possible.

MATTERS CONSIDERED: 1. Personnel and Compensation Matters.

GENERAL COUNSEL CERTIFICATION: The General Counsel of the United States Postal Service has certified that the meeting was properly closed under the Government in the Sunshine Act.

CONTACT PERSON FOR MORE INFORMATION: Requests for information about the meeting should be addressed to the Secretary of the Board, Julie S. Moore, at 202–268–4800.

Julie S. Moore,

Secretary, Board of Governors.

[FR Doc. 2015–21661 Filed 8–28–15; 11:15 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, September 3, 2015 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or her designee, has certified that, in her opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matter at the Closed Meeting.

Commissioner Gallagher, as duty officer, voted to consider the items listed for the Closed Meeting in closed session.

The subject matter of the Closed Meeting will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims;

Adjudicatory matters;

Post-argument discussion; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551–5400.

Dated: August 27, 2015.

Brent J. Fields,

Secretary.

[FR Doc. 2015–21664 Filed 8–28–15; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Rule 17j–1, SEC File No. 270–239, OMB Control No. 3235–0224.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 350l–3520), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Conflicts of interest between investment company personnel (such as portfolio managers) and their funds can arise when these persons buy and sell securities for their own accounts (''personal investment activities''). These conflicts arise because fund personnel have the opportunity to profit from information about fund transactions, often to the detriment of fund investors. Beginning in the early 1960s, Congress and the Securities and Exchange Commission (''Commission'') sought to devise a regulatory scheme to effectively address these potential conflicts. These efforts culminated in the addition of section 17(j) to the Investment Company Act of 1940 (the ''Investment Company Act'') (15 U.S.C. 80a–17(j)) in 1970 and the adoption by the Commission of rule 17j–1 (17 CFR 270.17j–1) in 1980.[1] The Commission proposed amendments to rule 17j–1 in 1995 in response to recommendations made in the first detailed study of fund policies concerning personal investment activities by the Commission's Division of Investment Management since rule 17j–1 was adopted. Amendments to rule 17j–1, which were adopted in 1999, enhanced fund oversight of personal investment activities and the board's role in carrying out that oversight.[2] Additional amendments to rule 17j–1 were made in 2004, conforming rule 17j–1 to rule 204A–1 under the Investment Advisers Act of 1940 (15 U.S.C. 80b), avoiding duplicative reporting, and modifying certain definitions and time restrictions.[3]

Section 17(j) makes it unlawful for persons affiliated with a registered investment company (''fund'') or with the fund's investment adviser or principal underwriter (each a ''17j–1 organization''), in connection with the purchase or sale of securities held or to be acquired by the investment company, to engage in any fraudulent, deceptive, or manipulative act or practice in contravention of the Commission's rules and regulations. Section 17(j) also authorizes the Commission to promulgate rules requiring 17j–1 organizations to adopt codes of ethics.

In order to implement section 17(j), rule 17j–1 imposes certain requirements on 17j–1 organizations and ''Access Persons''[4] of those organizations. The rule prohibits fraudulent, deceptive or manipulative acts by persons affiliated with a 17j–1 organization in connection with their personal securities transactions in securities held or to be acquired by the fund. The rule requires each 17j–1 organization, unless it is a money market fund or a fund that does not invest in Covered Securities,[5] to: (i) Adopt a written codes of ethics, (ii) submit the code and any material changes to the code, along with a certification that it has adopted procedures reasonably necessary to prevent Access Persons from violating the code of ethics, to the fund board for approval, (iii) use reasonable diligence and institute procedures reasonably necessary to prevent violations of the code, (iv) submit a written report to the fund describing any issues arising under the code and procedures and certifying that the 17j–1 entity has adopted procedures reasonably necessary to prevent Access Persons form violating the code, (v) identify Access Persons and notify them of their reporting obligations, and (vi) maintain and make available to the Commission for review certain records related to the code of ethics and transaction reporting by Access Persons.

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[1] Prevention of Certain Unlawful Activities with Respect to Registered Investment Companies, Investment Company Act Release No. 11421 (Oct. 31, 1980) (45 FR 73915 (Nov. 7, 1980)).

[2] Personal Investment Activities of Investment Company Personnel, Investment Company Act Release No. 23958 (Aug. 20, 1999) (64 FR 46821 (Aug. 27, 1999)).

[3] Investment Adviser Codes of Ethics, Investment Advisers Act Release No. 2256 (Jul. 2, 2004) (69 FR 41696 (Jul. 9, 2004)).

[4] Rule 17j–1(a)(1) defines an ''access person'' as ''Any Advisory Person of a Fund or of a Fund's investment adviser. If an investment adviser's primary business is advising Funds or other advisory clients, all of the investment adviser's directors, officers, and general partners are presumed to be Access Persons of any Fund advised by the investment adviser. All of a Fund's directors, officers, and general partners are presumed to be Access Persons of the Fund.'' The definition of Access Person also includes ''Any director, officer or general partner of a principal underwriter who, in the ordinary course of business, makes, participates in or obtains information regarding, the purchase or sale of Covered Securities by the Fund for which the principal underwriter acts, or whose functions or duties in the ordinary course of business relate to the making of any recommendation to the Fund regarding the purchase or sale of Covered Securities.'' Rule 17j–1(a)(1).

[5] A ''Covered Security'' is any security that falls within the definition in section 2(a)(36) of the Act, except for direct obligations of the U.S. Government, bankers' acceptances, bank certificates of deposit, commercial paper and high quality short-term debt instruments, including repurchase agreements, and shares issued by open-end funds. Rule 17j–1(a)(4).

The rule requires each Access Person of a fund (other than a money market fund or a fund that does not invest in Covered Securities) and of an investment adviser or principal underwriter of the fund, who is not subject to an exception,[6] to file: (i) Within 10 days of becoming an Access Person, a dated initial holdings report that sets forth certain information with respect to the Access Person's securities and accounts; (ii) dated quarterly transaction reports within 30 days of the end of each calendar quarter providing certain information with respect to any securities transactions during the quarter and any account established by the Access Person in which any securities were held during the quarter; and (iii) dated annual holding reports providing information with respect to each Covered Security the Access Person beneficially owns and accounts in which securities are held for his or her benefit. In addition, rule 17j–1 requires investment personnel of a fund or its investment adviser, before acquiring beneficial ownership in securities through an initial public offering (IPO) or in a private placement, to obtain approval from the fund or the fund's investment adviser.

The requirements that the management of a rule 17j–1 organization provide the fund's board with new and amended codes of ethics and an annual issues and certification report are intended to enhance board oversight of personal investment policies applicable to the fund and the personal investment activities of Access Persons. The requirements that Access Persons provide initial holdings reports, quarterly transaction reports, and annual holdings reports and request approval for purchases of securities through IPOs and private placements are intended to help fund compliance personnel and the Commission's examinations staff monitor potential conflicts of interest and detect potentially abusive activities. The requirement that each rule 17j–1 organization maintain certain records is intended to assist the organization and the Commission's examinations staff in determining if there have been violations of rule 17j–1.

We estimate that annually there are approximately 75,497 respondents under rule 17j–1, of which 5,497 are rule 17j–1 organizations and 70,000 are Access Persons. In the aggregate, these respondents make approximately 108,305 responses annually. We estimate that the total annual burden of complying with the information collection requirements in rule 17j–1 is approximately 401,407 hours. This hour burden represents time spent by Access Persons that must file initial and annual holdings reports and quarterly transaction reports, investment personnel that must obtain approval before acquiring beneficial ownership in any securities through an IPO or private placement, and the responsibilities of Rule 17j–1 organizations arising from information collection requirements under rule 17j–1. These include notifying Access Persons of their reporting obligations, preparing an annual rule 17j–1 report and certification for the board, documenting their approval or rejection of IPO and private placement requests, maintaining annual rule 17j–1 records, maintaining electronic reporting and recordkeeping systems, amending their codes of ethics as necessary, and, for new fund complexes, adopting a code of ethics.

We estimate that there is an annual cost burden of approximately $5,000 per fund complex, for a total of $4,335,000, associated with complying with the information collection requirements in rule 17j–1. This represents the costs of purchasing and maintaining computers and software to assist funds in carrying out rule 17j–1 recordkeeping.

These burden hour and cost estimates are based upon the Commission staff's experience and discussions with the fund industry. The estimates of average burden hours and costs are made solely for the purposes of the Paperwork Reduction Act. These estimates are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules.

Compliance with the collection of information requirements of the rule is mandatory and is necessary to comply with the requirements of the rule in general. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid control number. Rule 17j–1 requires that records be maintained for at least five years in an easily accessible place.[7]

Written comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (b) the accuracy of the Commission's estimate of the burden of the collections of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burdens of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, C/O Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549; or send an email to: *PRA_Mailbox@sec.gov.*

Dated: August 26, 2015.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–21555 Filed 8–31–15; 8:45 am]

BILLING CODE 8011–01–P

[6] Rule 17j–1(d)(2) contains the following exceptions: (i) An Access Person need not file a report for transactions effected for, and securities held in, any account over which the Access Person does not have control; (ii) an independent director of the fund, who would otherwise be required to report solely by reason of being a fund director and who does not have information with respect to the fund's transactions in a particular security, does not have to file an initial holdings report or a quarterly transaction report; (iii) an Access Person of a principal underwriter of the fund does not have to file reports if the principal underwriter is not affiliated with the fund (unless the fund is a unit investment trust) or any investment adviser of the fund and the principal underwriter of the fund does not have any officer, director, or general partner who serves in one of those capacities for the fund or any investment adviser of the fund; (iv) an Access Person to an investment adviser need not make quarterly reports if the report would duplicate information provided under the reporting provisions of the Investment Adviser's Act of 1940; (v) an Access Person need not make quarterly transaction reports if the information provided in the report would duplicate information received by the 17j–1 organization in the form of broker trade confirmations or account statements or information otherwise in the records of the 17j–1 organization; and (vi) an Access Person need not make quarterly transaction reports with respect to transactions effected pursuant to an Automatic Investment Plan.

[7] If information collected pursuant to the rule is reviewed by the Commission's examination staff, it will be accorded the same level of confidentiality accorded to other responses provided to the Commission in the context of its examination and oversight program. See section 31(c) of the Investment Company Act (15 U.S.C. 80a–30(c)).

SECURITIES AND EXCHANGE COMMISSION

[Release No. IA–4182; 803–00223]

Starwood Capital Group Management, LLC; Notice of Application

August 26, 2015.

AGENCY: Securities and Exchange Commission (the ''SEC'' or ''Commission'').

ACTION: Notice of application for an exemptive order under section 206A of the Investment Advisers Act of 1940 (the ''Advisers Act'') and rule 206(4)–5(e).

APPLICANT: Starwood Capital Group Management, LLC (the ''Adviser'' or ''Applicant'').

RELEVANT ADVISERS ACT SECTIONS: Exemption requested under section 206A of the Advisers Act and rule 206(4)–5(e) from rule 206(4)–5(a)(1) under the Advisers Act.

SUMMARY OF APPLICATION: Applicant requests that the Commission issue an order under section 206A of the Advisers Act and rule 206(4)–5(e) exempting it from rule 206(4)–5(a)(1) under the Advisers Act to permit Applicant to receive compensation for investment advisory services provided to a government entity within the two-year period following a contribution by a covered associate of Applicant to an official of the government entity.

FILING DATES: The application was filed on February 3, 2014, and amended and restated on August 4, 2014, January 22, 2015, May 6, 2015, and July 24, 2015.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on September 21, 2015 and should be accompanied by proof of service on Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Advisers Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Commission's Secretary.

ADDRESSES: Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicant, Starwood Capital Group Management, LLC c/o Matthew Guttin, 591 West Putnam Avenue, Greenwich, CT 06830.

FOR FURTHER INFORMATION CONTACT: Parisa Haghshenas, Senior Counsel, at (202) 551–6723, or Holly Hunter-Ceci, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site either at *http://www.sec.gov/rules/iareleases.shtml* or by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm,* or by calling (202) 551–8090.

The Applicant's Representations

1. Starwood Capital Group Management, LLC is registered with the Commission as an investment adviser under the Advisers Act. Three of the Applicant's discretionary advisory clients are funds excluded from the definition of an investment company by section 3(c)(7) of the Investment Company Act of 1940 (the ''Funds'').

2. One of the investors in the Funds is a public pension plan that is a government entity with respect to the State of Illinois (the ''Client''). The investment decisions for the Client are overseen by a board of 13 trustees that includes six individuals appointed by the Governor of Illinois. Due to this power of appointment, a private citizen running for Governor of Illinois is an ''official'' of the Client as defined in rule 206(4)–5 under the Advisers Act.

3. On April 29, 2013, Daniel Yih, the Applicant's Chief Operating Officer (the ''Contributor''), contributed $1,000 to the Bruce Rauner Exploratory Committee, a committee to support the candidacy of Bruce Rauner (the ''Official'') for Illinois Governor (the ''Contribution''). The Applicant represents that apart from that single contribution (and requesting its return), the Contributor did not interact with the Official about campaign contributions and did not solicit the Client or otherwise communicate with the Client or supervise anyone who solicited the Client. The Applicant further represents that the Contributor did not solicit any persons to make contributions to the Official's campaign or coordinate any such contributions.

4. The Applicant represents that the Official and the Contributor have a long-standing personal and professional relationship. The Applicant represents that they used to work together at the private-equity firm GTCR Golder Rauner. The Applicant further represents that they were previously neighbors and their children attend school together and are friends. At the time of the Contribution, the Official was a private citizen; he did not take office until January 2015. The Applicant represents that the Official and the Contributor have not discussed Starwood's investment advisory business or potential investments by the Client, except that the Contributor explained rule 206(4)–5's implications when requesting the Official refund the Contribution.

5. The Client's initial investment in the Funds predates the Contribution. Although the Client has made additional investments subsequent to the Contribution, they were all made prior to the Official taking office and after the Contribution was fully refunded. The Applicant represents that the Contributor was not involved in soliciting the Client and did not solicit or otherwise communicate with the Client on behalf of the Adviser with respect to the Client's initial or subsequent investments.

6. The Applicant represents that five days after making the Contribution, the Contributor realized that pursuant to Adviser's Pay-to-Play Policy (the ''Policy''), he was required to obtain pre-approval for his political contributions. The Applicant further represents that he contacted the Adviser's Chief Compliance Officer that night (Saturday, May 4, 2013) and the Chief Compliance Officer responded on Monday, May 6 that the Contribution was prohibited under the Adviser's compliance policy and rule 206(4)–5 and would need to be refunded. The Applicant represents that the Contributor requested a refund of the full $1,000 that day, and received the refund the next day. The Applicant represents that at no time did any employees of the Applicant other than the Contributor have any knowledge of the Contribution prior to the Contributor's notifying the Applicant's Chief Compliance Officer five days after the date of the Contribution.

7. The Applicant represents that the Adviser established an escrow account into which it has been depositing an amount equal to the compensation received with respect to the Client's investment in the Funds for the two-year period starting April 29, 2013. Since the Contribution Date, the Applicant represents that there have been no distributions of carried interest from the Funds; however, to the extent any distributions of carried interest in respect to the Client's investments are to be paid to the Adviser in the future and the Commission has not granted an exemptive order to the Adviser, the portion of that carried interest attributable to investments of the Client during the two-year period following the Contribution Date will be placed in escrow. The Applicant represents that it notified the Client of the Contribution and the application prior to the filing of the second amendment to the application.

8. The Applicant represents that the Adviser's Policy was initially adopted and implemented on February 1, 2008, prior to the effective date of rule 206(4)–5, to ensure compliance with state and local pay-to-play laws. It was revised in light of rule 206(4)–5 and has been in place in its current form since the

effective date of the rule. The Applicant represents that the Policy is more restrictive than what was contemplated by the rule. The Applicant represents that the Contributor simply temporarily failed to seek preclearance for the Contribution and realized his error five days later. The Applicant represents that after the Contribution, it sent a reminder of the Policy to all employees.

The Applicant's Legal Analysis

1. Rule 206(4)–5(a)(1) under the Advisers Act prohibits a registered investment adviser from providing investment advisory services for compensation to a government entity within two years after a contribution to an official of the government entity is made by the investment adviser or any covered associate of the investment adviser. The Client is a government entity, as defined in rule 206(4)–5(f)(5), the Contributor is a ''covered associate'' as defined in rule 206(4)–5(f)(2), and the Official is an ''official'' as defined in rule 206(4)–5(f)(6). Rule 206(4)–5(c) provides that when a government entity invests in a covered investment pool, the investment adviser to that covered investment pool is treated as providing advisory services directly to the government entity. The Funds are ''covered investment'' pools as defined in rule 206(4)–5(f)(3)(ii).

2. Section 206A of the Advisers Act grants the Commission the authority to ''conditionally or unconditionally exempt any person or transaction . . . from any provision or provisions of [the Advisers Act] or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of [the Advisers Act].''

3. Rule 206(4)–5(e) provides that the Commission may exempt an investment adviser from the prohibition under rule 206(4)–5(a)(1) upon consideration of, among other factors, (i) Whether the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Advisers Act; (ii) Whether the investment adviser: (A) Before the contribution resulting in the prohibition was made, adopted and implemented policies and procedures reasonably designed to prevent violations of the rule; and (B) prior to or at the time the contribution which resulted in such prohibition was made, had no actual knowledge of the contribution; and (C) after learning of the contribution: (1) Has taken all available steps to cause the contributor involved in making the contribution which resulted in such prohibition to obtain a return of the contribution; and (2) has taken such other remedial or preventive measures as may be appropriate under the circumstances; (iii) Whether, at the time of the contribution, the contributor was a covered associate or otherwise an employee of the investment adviser, or was seeking such employment; (iv) The timing and amount of the contribution which resulted in the prohibition; (v) The nature of the election (*e.g.,* federal, state or local); and (vi) The contributor's apparent intent or motive in making the contribution which resulted in the prohibition, as evidenced by the facts and circumstances surrounding such contribution.

4. The Applicant requests an order pursuant to section 206A and rule 206(4)–5(e), exempting it from the two-year prohibition on compensation imposed by rule 206(4)–5(a)(1) with respect to investment advisory services provided to the Client following the Contribution. The Applicant asserts that the exemption sought is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Advisers Act.

5. The Applicant maintains that the timing of the Contribution, at the time of the Contribution the Official's not having the authority to appoint anyone who participated in the Client's decision to invest with the Adviser, and the length of time in which the Contributor obtained a refund from the Official indicate that the Contribution was not part of any *quid pro quo* arrangement, but rather an inadvertent failure to follow the Adviser's Policy by the Contributor.

6. The Applicant states that the Client determined to invest with Applicant and established an advisory relationship on an arm's length basis free from any improper influence as a result of the Contribution. In support of this argument, Applicant notes that the Client's relationship with the Applicant pre-dates the Contribution. Furthermore, the Client's subsequent investments were made after the Contribution was refunded and the Official had no role in the Client's subsequent investments, and he did not take office, had not been elected, nor obtained appointment power until 2015. Similarly, the Applicant represents that the Contributor did not solicit the Client with respect to the subsequent investments, nor did anyone whom he supervises. The Applicant respectfully submits that the interests of the Client are best served by allowing the Applicant and the Client to continue their relationship uninterrupted.

7. The Applicant submits that the Contributor's decision to make the Contribution to the Official's committee was based on the personal and professional relationship between the two men and not any desire to influence with the Client's merit-based selection process for advisory services.

8. The Applicant contends that although the Applicant's Policy required the Contributor to obtain prior approval for the Contribution, which he failed to do, the Contributor realized his error in less than a week. The Applicant further maintains that at the Contributor's request, the Contribution was refunded within nine days of the date it was made. The Contribution's discovery and refund were well within the time period required for an automatic exemption pursuant to rule 206(4)–5(b)(3).

9. Applicant further submits that the other factors set forth in rule 206(4)–5(e) similarly weigh in favor of granting an exemption to the Applicant to avoid consequences disproportionate to the violation.

10. Accordingly, the Applicant respectfully submits that the interests of investors and the purposes of the Advisers Act are best served in this instance by allowing the Adviser and its Client to continue their relationship uninterrupted in the absence of any intent or action by the Contributor to interfere with the Client's merit-based process for the selection and retention of advisory services. The Applicant submits that an exemption from the two-year prohibition on compensation is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Advisers Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–21554 Filed 8–31–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services,

100 F Street NE., Washington, DC 20549–2736.

Extension:

Voluntary XBRL-Related Documents, SEC File No. 270–550, OMB Control No. 3235–0611.

Notice is hereby given that, under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (''Paperwork Reduction Act''), the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information discussed below.

As part of our evaluation of the potential of interactive data tagging technology, the Commission permits registered investment companies (''funds'') to submit on a voluntary basis specified financial statement and portfolio holdings disclosure tagged in eXtensible Business Reporting Language (''XBRL'') format as an exhibit to certain filings on the Commission's Electronic Data Gathering, Analysis and Retrieval System (''EDGAR''). The current voluntary program permits any fund to participate merely by submitting a tagged exhibit in the required manner. These exhibits are publicly available but are considered furnished rather than filed. The purpose of the collection of information is to help evaluate the usefulness of data tagging and XBRL to registrants, investors, the Commission, and the marketplace.

We estimate that no funds participate in the voluntary program each year. This information collection, therefore, imposes no hour burden; however, we are requesting a burden of one hour for administrative purposes. We also estimate that the information collection imposes no cost burden.

Estimates of the average burden hours and costs are made solely for the purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even representative survey or study of the costs of Commission rules and forms. Participation in the program is voluntary. Submissions under the program will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: August 26, 2015.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–21556 Filed 8–31–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–28, OMB Control No. 3235–0032]

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Rule 17f–1(b).

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (''PRA''), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Rule 17f–1(b) (17 CFR 240.17f–1(b)) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (''Exchange Act'').

Rule 17f–1(b) under the Exchange Act requires approximately 15,517 entities in the securities industry to register in the Lost and Stolen Securities Program (''Program''). Registration fulfills a statutory requirement that entities report and inquire about missing, lost, counterfeit, or stolen securities. Registration also allows entities in the securities industry to gain access to a confidential database that stores information for the Program.

The Commission staff estimates that 10 new entities will register in the Program each year. The staff estimates that the average number of hours necessary to comply with Rule 17f–1(b) is one-half hour. Accordingly, the staff estimates that the total annual burden for all participants is 5 hours (10 × one-half hour). The Commission staff estimates that compliance staff work at subject entities results in an internal cost of compliance, at an estimated hourly wage of $283, of $141.50 per year per entity (.5 hours × $283 per hour = $141.50 per year). Therefore, the aggregate annual internal cost of compliance is approximately $1,415 ($141.50 × 10= $1,415).

This rule does not involve the collection of confidential information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following Web site: *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov*; and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: August 26, 2015.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–21550 Filed 8–31–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75762; File No. 600–35]

Notice of Filing and Request for Comment on Chicago Mercantile Exchange Inc.'s Request To Withdraw From Registration as a Clearing Agency

August 26, 2015.

I. Introduction

Pursuant to Section 19(a)(3) of the Securities Exchange Act of 1934 (''Exchange Act''),[1] on August 3, 2015, Chicago Mercantile Exchange Inc. (''CME'') filed with the Securities and Exchange Commission (''Commission'') a written request (the ''Written Request'') to withdraw from registration as a clearing agency under Section 17A

[1] 15 U.S.C. 78s(a)(3).

of the Exchange Act.[2] The Commission is publishing this notice to solicit comments from interested persons concerning CME's request.

II. Description

The statements in this Item II concerning the background of CME's request for withdrawal from registration and its reasons for making the request have been submitted by CME in its Written Request. CME is registered as a derivatives clearing organization (''DCO'') with the Commodity Futures Trading Commission (''CFTC'') and offers clearing services for futures and swap products. Pursuant to Section 17A(l) of the Exchange Act,[3] CME became deemed registered as a clearing agency solely for the purpose of clearing security-based swaps (''SBS''). To date, CME has never cleared SBS, has decided that it will not clear SBS, and has filed a rule change with the Commission (File Number SR–CME–2014–49) reflecting CME's decision not to clear SBS.[4]

A. Background

CME. CME states in the Written Request that it is registered with the CFTC as a designated contract market. CME, which is also registered with the CFTC as a DCO, operates CME Clearing. CME Clearing is one of the world's leading central counterparty clearing providers and acts as the guarantor of every transaction that happens in CME's markets. CME Clearing offers clearing and settlement services for exchange-traded contracts as well as for over-the-counter derivatives transactions. CME Clearing also limits accumulation of losses or debt with twice daily mark-to-market settlement, and is responsible for settling trading accounts, clearing trades, collecting and maintaining performance bond funds, regulating delivery, and reporting trading data.

Clearing Agency Exemption. On March 23, 2009, the Commission granted CME a temporary conditional exemption from the requirement to register as a clearing agency under Section 17A of the Exchange Act solely to perform the functions of a clearing agency for ''Cleared CDS.'' [5]

Dodd-Frank Act. Section 763(b) of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (''Dodd-Frank Act'') [6] added Section 17A(l) to the Exchange Act,[7] which provides, in relevant part, that a DCO registered with the CFTC that is required to register under Section 17A is deemed to be registered under Section 17A solely for the purpose of clearing SBS to the extent that, before the date of enactment of Section 17A(l), the DCO cleared swaps pursuant to an exemption from registration as a clearing agency. Pursuant to Section 17A(l), CME became a registered clearing agency solely for the purpose of clearing SBS.[8]

CME states in the Written Request that although it originally anticipated that it would begin clearing SBS, it has not, in fact, cleared SBS since the effective date of the Dodd-Frank Act, and does not engage in any clearing agency activity for SBS or any other security. On November 17, 2014, CME filed a rule change with the Commission reflecting its decision not to clear SBS and remove any provisions in its rulebook applicable to SBS.[9]

As a registered clearing agency, CME is required to comply with the requirements of the Exchange Act and the rules and regulations thereunder applicable to registered clearing agencies. These requirements include the obligation to file proposed rule changes pursuant to Section 19(b) of the Exchange Act.[10] CME, as a DCO, generally implements rule changes by self-certifying that the new rule complies with the Commodity Exchange Act and the CFTC's regulations. For purpose of the Commodity Exchange Act and regulations thereunder, this self-certification process allows new rules and rule amendments to become effective ten business days after the date on which the CFTC receives the certification. CME notes that, while some proposed rule changes may become effective upon filing pursuant to Section 19(b)(3)(A) of the Exchange Act,[11] and Rule 19b–4(f) thereunder,[12] others are required to go through a notice-and-comment period, pursuant to Section 19(b)(2),[13] before the Commission takes action on the proposed rule change. CME states that this process can significantly delay the date that the rule change becomes fully effective. CME claims that, despite the absence of SBS clearing activity by CME, these overlapping but divergent rule review processes have in fact resulted in significant difficulties for CME.

B. Withdrawal of CME Pursuant to Section 19(a)(3) of the Exchange Act

Following the effectiveness of the proposed rule change (SR–CME–2014–49) regarding CME's decision not to clear SBS, CME has been filing proposed rule changes pursuant to Section 19(b)(3)(A) of the Exchange Act [14] and Rule 19b–4(f)(4)(ii) [15] thereunder, rendering those changes immediately effective. Nonetheless, CME states in the Written Request that given the absence of any actual or potential securities clearing activity by CME, with the exception of the limited clearing activities CME may need to provide in connection with

[2] 15 U.S.C. 78q–1.

[3] 15 U.S.C. 78q–1(l).

[4] *See* Securities Exchange Act Release No. 73615 (Nov. 17, 2014), 79 FR 69545 (Nov. 21, 2014) (SR–CME–2014–49). The only exception is with respect to a set of very limited circumstances where single-name CDS contracts are created following the occurrence of a restructuring credit event in respect of a reference entity that is a component of an iTraxx Europe index CDS contract (''iTraxx Contract''). According to the standard terms of the iTraxx Contract, upon the occurrence of a restructuring credit event with respect to a reference entity that is a component of an iTraxx Contract, such reference entity will be ''spun out'' and maintained as a separate single-name CDS contract (a ''Restructuring European Single Name CDS Contract'') until settlement. If neither of the counterparties elects to trigger settlement, the positions in the Restructuring European Single Name CDS Contract will be maintained at CME until maturity of the index or the occurrence of a subsequent credit event for the same reference entity. CME stated that the clearing of Restructuring European Single Name CDS Contracts would be a necessary byproduct of clearing iTraxx Contracts, which commenced on February 2, 2015. CME has filed a rule change that will not permit market participants to increase, close out, or otherwise affect the size of a position in a Restructuring European Single Name CDS Contract, unless such increase, close-out, or change in size of a position in a Restructuring European single Name CDS Contract is due to (i) the occurrence of a credit event (where the Restructuring European Single Name CDS Contract needs to be settled and ceases to exist), (ii) a default management process (where a member defaults on its obligation to CME and CME needs to hedge and auction off the member's portfolio in order to determine the loss amount, or to transfer the defaulting member's customer positions to another clearing member), (iii) close-out of a defaulting customer's positions, or (iv) withdrawal from clearing membership by an existing clearing member, all in accordance with the existing CME rules. According to such rule change, CME may impose an increase or decrease in the position of a Restructuring European Single Name CDS contract only through its default management process under applicable CME rules. *See* Securities Exchange Act Release No. 34–74055 (Jan. 14, 2015), 80 FR 2991 (Jan. 21, 2014) (SR–CME–2015–001).

[5] Securities Exchange Act Release No. 34–59578 (Mar. 13, 2009), 74 FR 11781 (Mar. 19, 2009). The exemption was subsequently extended. *See* Securities Exchange Act Release No. 34–61164 (Dec. 14, 2009), 74 FR 67258, (Dec. 18, 2009), Securities Exchange Act Release No. 34–61803 (Mar. 30, 2010), 75 FR 17181, (Apr. 5, 2010), and Securities Exchange Act Release No. 34–63388 (Nov. 29, 2010), 75 FR 75522 (Dec. 3, 2010).

[6] The Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010).

[7] 15 U.S.C. 78q–1(l).

[8] *See* Securities Exchange Act Release No. 69284 (Apr. 3, 2013), 78 FR 21046, 21047, n. 20 (Apr. 9, 2013).

[9] *See supra* note 4.

[10] 15 U.S.C. 78s(b).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f).

[13] 15 U.S.C. 78s(b)(2).

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(4)(ii).

Restructuring European Single Name CDS Contracts,[16] CME believes that clearing agency registration is unwarranted and unnecessary. CME therefore submits its request for withdrawal of its clearing agency registration pursuant to Section 19(a)(3) of the Exchange Act[17] and respectfully requests that the Commission grant CME's request.

CME further states that if an affiliate of CME seeks to clear SBS or another securities product, such affiliate would do so after registering with the Commission pursuant to the process set forth in Commission Rule 17Ab2–1.[18] CME represents in the Written Request that it will not seek to engage in securities clearing activity in reliance on any ''deemed registered'' status pursuant to Section 17A(l) of the Exchange Act.[19]

Additionally, CME states that because CME never conducted any clearing activity for SBS, it has no known or anticipated claims associated with its clearing agency registration. Furthermore, CME represents in the Written Request that it will maintain all documents, books, and records, including correspondence, memoranda, papers, notices, accounts and other records (collectively ''records'') made or received by it in connection with proposed rule changes filed with the Commission or in connection with its index CDS clearance and settlement services as required to be maintained under Rule 17a–1(a) and (b).[20] In the Written Request, CME further represents that it will produce such records and furnish such information at the request of any representative of the Commission, and will maintain such records for a period of 5 years from the effective date of the withdrawal of CME's registration as a clearing agency.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the requested withdrawal is consistent with the Exchange 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/other.shtml*), or
- Send an email to *rule-comments@sec.gov.* Please include File No. 600–35 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 600–35. 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/other.shtml*). Comments are also 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.

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 600–35 and should be submitted on or before September 22, 2015.

By the Commission.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–21551 Filed 8–31–15; 8:45 am]

BILLING CODE 8011–01–P

[16] CME recognized that, as noted in SR–CME–2014–49, CME could be required to clear SBS in limited circumstances relating to its clearing services of certain iTraxx Europe index untranched CDS contracts. *See supra* note 4. CME has submitted a request to the Division of Trading and Markets for no-action relief to address the clearing of such SBS contracts.

[17] 15 U.S.C. 78s(a)(3).

[18] 17 CFR 240.17Ab2–1.

[19] 15 U.S.C. 78q–1(1).

[20] 17 CFR 240.17a–1(a) and (b).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–105, OMB Control No. 3235–0121]

Proposed Collection; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Form 18.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Form 18 (17 CFR 249.218) is a registration form used by a foreign government or political subdivision to register securities for listing on a U.S. exchange. The information collected is intended to ensure that the information required by the Commission to be filed permits verification of compliance with securities law requirements and assures the public availability of the information. Form 18 takes approximately 8 hours per response and is filed by approximately 5 respondents for a total of 40 annual burden hours.

Written comments are invited on: (a) whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collections of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.*

Dated: August 26, 2015.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–21553 Filed 8–31–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75763; File No. SR–Phlx–2015–72]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding NASDAQ Last Sale Plus

August 26, 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 18, 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 amend Chapter VIII of NASDAQ OMX PSX Fees, entitled PSX Last Sale Data Feeds, with language regarding NASDAQ Last Sale Plus (''NLS Plus''), a comprehensive data feed offered by NASDAQ OMX Information LLC.[3]

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxphlx.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposal is to amend Chapter VIII of NASDAQ OMX PSX Fees, entitled PSX Last Sale Data Feeds (''PSX Last Sale''), by adding new section (b) regarding NLS Plus.

This proposal is based on the recent approval order regarding the codification of NLS Plus in NASDAQ Rule 7039,[4] in a manner similar to products of other markets.[5]

NLS Plus allows data distributors to access the three last sale products offered by each of NASDAQ OMX's three U.S. equity markets.[6] NLS Plus also reflects cumulative consolidated volume (''consolidated volume'') of real-time trading activity across all U.S. exchanges for Tape C securities and 15-minute delayed information for Tape A and Tape B securities.[7] In offering NLS Plus, NASDAQ OMX Information LLC is, as discussed below, acting as a redistributor of last sale products already offered by NASDAQ, BX, and PSX and volume information provided by the securities information processors (''SIPs'') for Tape A, B, and C.

NLS Plus, which is proposed to be codified in PSX Last Sale section (b) in the same form as in NASDAQ Rule 7039(d), allows data distributors to access last sale products offered by each of NASDAQ OMX's three equity exchanges. Thus, NLS Plus includes all transactions from all of NASDAQ OMX's equity markets, as well as FINRA/NASDAQ TRF data that is included in the current NLS product. In addition, NLS Plus features total cross-market volume information at the issue level, thereby providing redistribution of consolidated volume information from the SIPs for Tape A, B, and C securities. Thus, NLS Plus covers all securities listed on NASDAQ and New York Stock Exchange (''NYSE'') (now under the Intercontinental Exchange (''ICE'') umbrella), as well as US ''regional'' exchanges such as NYSE MKT, NYSE Arca, and BATS (also known as BATS/Direct Edge).[8] The Exchange will, as discussed below, file a separate proposal regarding the NLS Plus fee structure.

NLS Plus has been offered since 2010 via NASDAQ OMX Information LLC.[9] NASDAQ OMX Information LLC is a subsidiary of NASDAQ OMX Group, Inc., separate and apart from The NASDAQ Stock Market LLC and the Exchange. As such, NASDAQ OMX Information LLC redistributes last sale data that has been the subject of a proposed rule change filed with the Commission at prices that also have been the subject of a proposed rule change filed with the Commission. As discussed below, NASDAQ OMX Information LLC distributes no data that is not equally available to all market data vendors.

The Proposal

The Exchange proposes to add NLS Plus to the PSX Last Sale portion of the Exchange's fee schedule, which currently describes the PSX Last Sale data feed offering, to fully reflect NLS Plus. NLS Plus as proposed to be codified in section (b) to the PSX Last Sale portion of the Exchange's fee schedule is exactly the same as NLS Plus in NASDAQ Rule 7039(d).

Similar to NLS, NLS Plus offers data for all U.S. equities via two separate data channels: the first data channel reflects NASDAQ, BX, and PSX trades with real-time consolidated volume for NASDAQ-listed securities; and the second data channel reflects trades with

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] NASDAQ OMX Information LLC is a subsidiary of The NASDAQ OMX Group, Inc. (''NASDAQ OMX'').

[4] *See* Securities Exchange Act Release No. 75257 (June 22, 2015), 80 FR 36862 (June 26, 2015) (SR–NASDAQ–2015–055) (order approving proposed rule change regarding NASDAQ Last Sale Plus in NASDAQ Rule 7039(d)) (the ''NLS Plus Approval Order''). *See also* Securities Exchange Act Release No. 74972 (May 15, 2015), 80 FR 29370 (May 21, 2015) (SR–NASDAQ–2015–055) (notice of filing of proposed rule change regarding NASDAQ Last Sale Plus) (the ''NLS Plus notice'').

[5] *See* Securities Exchange Act Release No. 73918 (December 23, 2014), 79 FR 78920 (December 31, 2014) (SR–BATS–2014–055; SR–BYX–2014–030; SR–EDGA–2014–25; SR–EDGX–2014–25) (order approving market data product called BATS One Feed being offered by four affiliated exchanges). *See also* Securities Exchange Act Release No. 73553 (November 6, 2014), 79 FR 67491 (November 13, 2014) (SR–NYSE–2014–40) (order granting approval to establish the NYSE Best Quote & Trades (''BQT'') Data Feed). These exchanges have likewise instituted fees for their products.

[6] The NASDAQ OMX U.S. equity markets include The NASDAQ Stock Market (''NASDAQ''), NASDAQ OMX BX (''BX''), and PSX (together known as the ''NASDAQ OMX equity markets''). BX has recently filed a similar companion proposal regarding NLS Plus. *See* SR–BX–2015–047 (August 5, 2015). NASDAQ's last sale product, NASDAQ Last Sale, includes last sale information from the FINRA/NASDAQ Trade Reporting Facility (''FINRA/NASDAQ TRF''), which is jointly operated by NASDAQ and the Financial Industry Regulatory Authority (''FINRA''). For proposed rule changes submitted with respect to NASDAQ Last Sale, BX Last Sale, and PSX Last Sale, *see, e.g.,* Securities Exchange Act Release Nos. 57965 (June 16, 2008), 73 FR 35178, (June 20, 2008) (SR–NASDAQ–2006–060) (order approving NASDAQ Last Sale data feeds pilot); 61112 (December 4, 2009), 74 FR 65569, (December 10, 2009) (SR–BX–2009–077) (notice of filing and immediate effectiveness regarding BX Last Sale data feeds); and 62876 (September 9, 2010), 75 FR 56624, (September 16, 2010) (SR–Phlx–2010–120) (notice of filing and immediate effectiveness regarding PSX Last Sale data feeds).

[7] Tape A and Tape B securities are disseminated pursuant to the Security Industry Automation Corporation's (''SIAC'') Consolidated Tape Association Plan/Consolidated Quotation System, or CTA/CQS (''CTA''). Tape C securities are disseminated pursuant to the NASDAQ Unlisted Trading Privileges (''UTP'') Plan.

[8] Registered U.S. exchanges are listed at *http://www.sec.gov/divisions/marketreg/mrexchanges.shtml.*

[9] While NLS Plus is described in the NLS Plus notice and NLS Plus Approval Order, NLS Plus is also described online at *http://nasdaqtrader.com/content/technicalsupport/specifications/dataproducts/NLSPlusSpecification.pdf.* In addition, the annual administrative and other fees for NLS Plus are currently described in NASDAQ Rule 7039(d) and noted at *http://nasdaqtrader.com/Trader.aspx?id=DPUSdata#ls.*

delayed consolidated volume for NYSE, NYSE MKT, NYSE Arca and BATS-listed securities.[10] NLS Plus, like NLS, is used by industry professionals and retail investors looking for a cost effective, easy-to-administer, high quality market data product with the characteristics of NLS Plus. The provision of multiple options for investors to receive market data was a primary goal of the market data amendments adopted by Regulation NMS.[11] Finally, NLS Plus provides investors with options for receiving market data that parallel products currently offered by BATS and BATS Y, EDGA, and EDGX and NYSE equity exchanges.[12]

In addition to last sale information, NLS Plus also disseminates the following data elements: Trade Price, Trade Size, Sale Condition Modifiers, Cumulative Consolidated Market Volume, End of Day Trade Summary, Adjusted Closing Price, IPO Information, and Bloomberg ID (together the ''data elements''). NLS Plus also features and disseminates the following messages: Market Wide Circuit Breaker, Reg SHO Short Sale Price Test Restricted Indicator, Trading Action, Symbol Directory, Adjusted Closing Price, and End of Day Trade Summary (together the ''messages'').[13] The overwhelming majority of these data elements and messages are exactly the same as, and in fact are sourced from, NLS, BX Last Sale, and PSX Last Sale. Only two data elements (consolidated volume and Bloomberg ID) are, as discussed below, sourced from other publicly accessible or obtainable resources.

Consolidated volume reflects the consolidated volume at the time that the NLS Plus trade message is generated, and includes the volume for the issue symbol as reported on the consolidated market data feed. The consolidated volume is based on the real-time trades reported via the UTP Trade Data Feed (''UTDF'') and delayed trades reported via CTA. NASDAQ OMX calculates the real-time trading volume for its trading venues, and then adds the real-time trading volume for the other (non-NASDAQ OMX) trading venues as reported via the UTDF data feed. For non-NASDAQ-listed issues, the consolidated volume is based on trades reported via SIAC's Consolidated Tape System (''CTS'') for the issue symbol. The Exchange calculates the real-time trading volume for its trading venues, and then adds the 15-minute delayed trading volume for the other (non-NASDAQ OMX) trading venues as reported via the CTS data feed.[14] The second data point that is not sourced from NLS, BX Last Sale, and PSX Last Sale is Bloomberg ID. This composite ID is a component of Bloomberg's Open Symbology and acts as a global security identifier that Bloomberg assigns to securities, and is available free of charge.[15]

NLS Plus may be received by itself or in combination with NASDAQ Basic.[16] In the latter case, the subscriber receives all of the elements contained in NLS Plus as well as the best bid and best offer information provided by NASDAQ Basic.

The Exchange believes that market data distributors may use the NLS Plus data feed to feed stock tickers, portfolio trackers, trade alert programs, time and sale graphs, and other display systems.

The Exchange proposes two housekeeping changes. The Exchange adds the phrase ''PSX Last Sale'' in section (b) to PSX Last Sale to make it clear that section (a) refers to PSX Last Sale (whereas proposed section (b) refers to NLS Plus). The Exchange also updates the numbering in PSX Last Sale so it works correctly with new section (b). These changes are non-substantive.

With respect to latency, the path for distribution of NLS Plus is not faster than the path for distribution that would be used by a market data vendor to distribute an independently created NLS Plus-like product. As such, the NLS Plus data feed is a data product that a competing market data vendor could create and sell without being in a disadvantaged position relative to the Exchange. In recognition that the Exchange is the source of its own market data and with NASDAQ and BX being equity markets owned by NASDAQ OMX, the Exchange represents that the source of the market data it would use to create proposed NLS Plus is available to other vendors. In fact, the overwhelming majority of the data elements and messages[17] in NLS Plus are exactly the same as, and in fact are sourced from, NLS, BX Last Sale, and PSX Last Sale, each of which is available to other market data vendors.[18] The Exchange, NASDAQ, and PSX will continue to make available these individual underlying data elements, and thus, the source of the market data that would be used to create the proposed NLS Plus is the same as what is available to other market data vendors.

In order to create NLS Plus, the system creating and supporting NLS Plus receives the individual data feeds from each of the NASDAQ OMX equity markets and, in turn, aggregates and summarizes that data to create NLS Plus and then distribute it to end users. This is the same process that a competing market data vendor would undergo should it want to create a market data product similar to NLS Plus to distribute to its end users. A competing market data vendor could receive the individual data feeds from each of the NASDAQ OMX equity markets at the same time the system creating and supporting NLS Plus would for it to create NLS Plus. Therefore, a competing market data vendor could, as discussed, obtain the underlying data elements from the NASDAQ OMX equity markets on the same latency basis as the system that would be performing the aggregation and consolidation of proposed NLS Plus, and provide a similar product to its customers with the same latency they could achieve by purchasing NLS Plus from the

[10] These NLS Plus channels are each made up of a series of sequenced messages so that each message is variable in length based on the message type and is typically delivered using a higher level protocol.

[11] However, the Exchange notes that under Rule 603 of Regulation NMS, *see* 17 CFR 242.603(c), NLS Plus cannot be substituted for consolidated data in all instances in which consolidated data is used and certain subscribers are still required to purchase consolidated data for trading and order-routing purposes. *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, at 37503 (June 29, 2005) (Regulation NMS Adopting Release).

[12] *See* supra note 5.

[13] The Reg SHO Short Sale Price Test Restricted Indicator message is disseminated intra-day when a security has a price drop of 10% or more from the adjusted prior day's NASDAQ Official Closing Price. Trading Action indicates the current trading status of a security to the trading community, and indicates when a security is halted, paused, released for quotation, and released for trading. Symbol Directory is disseminated at the start of each trading day for all active NASDAQ and non-NASDAQ-listed security symbols. Adjusted Closing Price is disseminated at the start of each trading day for all active symbols in the NASDAQ system, and reflects the previous trading day's official closing price adjusted for any applicable corporate actions; if there were no corporate actions, however, the previous day's official closing price is used. End of Day Trade Summary is disseminated at the close of each trading day, as a summary for all active NASDAQ- and non-NASDAQ-listed securities. IPO Information reflects IPO general administrative messages from the UTP and CTA Level 1 feeds for Initial Public Offerings for all NASDAQ- and non-NASDAQ-listed securities.

[14] In order to distribute data derived from UTDF and CTA, NASDAQ OMX must pay monthly redistributor fees. However, because these fees are paid on an enterprise-wide basis and NASDAQ OMX includes such derived data in other data products, the use of the data in NLS Plus does not result in an additional incremental cost.

[15] *See http://bsym.bloomberg.com/sym/pages/bbgid-fact-sheet.pdf http://bsym.bloomberg.com/sym/pages/NASDAQ_Adopts_BSYM.pdf.*

[16] As provided in NASDAQ Rule 7047, NASDAQ Basic provides the information contained in NLS, together with NASDAQ's best bid and best offer.

[17] *See* text related to notes 14 and 15 supra.

[18] Only two data elements are, as discussed above, sourced from other publicly accessible or obtainable resources.

Exchange. As such, the Exchange would not have any unfair advantage over competing market data vendors with respect to NLS Plus. Moreover, in terms of NLS itself, the Exchange would access the underlying feed from the same point as would a market data vendor; as discussed, the Exchange would not have a speed advantage. Likewise, NLS Plus would not have any speed advantage vis-à-vis competing market data vendors with respect to access to end user customers.

With regard to cost, the Exchange will file a separate proposal with the Commission regarding fees that will be similar in nature to NASDAQ Rule 7039(d). The proposal would be designed to ensure that vendors could compete with the Exchange by creating a similar product as NLS Plus. The Exchange expects that the pricing will reflect the incremental cost of the aggregation and consolidation function for NLS Plus, and would not be lower than the cost to a vendor creating a competing product, including the cost of receiving the underlying data feeds. The pricing the Exchange would charge clients for NLS Plus would enable a vendor to receive the underlying data feeds and offer a similar product on a competitive basis and with no greater cost than the Exchange. For these reasons, the Exchange believes that vendors could readily offer a product similar to NLS Plus on a competitive basis at a similar cost.

As described in more detail below, the Exchange believes that the NLS Plus data offering benefits the public and investors and that the proposal is consistent with the Act.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[19] in general, and with Section 6(b)(5) of the Act,[20] in particular, in that the proposal 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 proposal is to add section (b) to PSX Last Sale regarding the NLS Plus data offering. The Exchange believes that the proposal facilitates transactions in securities, removes impediments to and perfects the mechanism of a free and open market and a national market system, and, in general, protects investors and the public interest by making permanent the availability of an additional means by which investors may access information about securities transactions, thereby providing investors with additional options for accessing information that may help to inform their trading decisions. Given that Section 11A the Act[21] requires the dissemination of last sale reports in core data, the Exchange believes that the inclusion of the same data in NLS Plus is also consistent with the Act.

The Exchange notes that the Commission has determined that the inclusion of NLS Plus in NASDAQ Rule 7039(d), upon which section (b) to PSX Last Sale is modelled, was consistent with the Act.[22] The Commission has also recently approved data products on several exchanges that are similar to NLS Plus, and specifically determined that the approved data products were consistent with the Act.[23] NLS Plus provides market participants with an additional option for receiving market data that has already been the subject of a proposed rule change and that is available from many market data vendors.

In adopting Regulation NMS, the Commission granted SROs and broker-dealers (''BDs'') increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. The Exchange believes that the NLS Plus market data product is precisely the sort of market data product that the Commission envisioned when it adopted Regulation NMS. The Commission concluded that Regulation NMS—by deregulating the market in proprietary data—would itself further the Act's goals of facilitating efficiency and competition:

> [E]fficiency is promoted when broker-dealers who do not need the data beyond the prices, sizes, market center identifications of the NBBO and consolidated last sale information are not required to receive (and pay for) such data. The Commission also believes that efficiency is promoted when broker-dealers may choose to receive (and pay for) additional market data based on their own internal analysis of the need for such data.[24]

By removing unnecessary regulatory restrictions on the ability of exchanges to sell their own data, Regulation NMS advanced the goals of the Act and the principles reflected in its legislative history. If the free market should determine whether proprietary data is sold to BDs at all, it follows that the price at which such data is sold should be set by the market as well.

The Exchange will file a separate proposal regarding NLS Plus fees.[25] The decision of the United States Court of Appeals for the District of Columbia Circuit in *NetCoalition* v. *SEC,* 615 F.3d 525 (D.C. Cir. 2010) (''*NetCoalition I*''), upheld the Commission's reliance upon competitive markets to set reasonable and equitably allocated fees for market data. ''In fact, the legislative history indicates that the Congress intended that the market system 'evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed' and that the SEC wield its regulatory power 'in those situations where competition may not be sufficient,' such as in the creation of a 'consolidated transactional reporting system.' *NetCoalition I,* at 535 (quoting H.R. Rep. No. 94–229, at 92 (1975), *as reprinted in* 1975 U.S.C.C.A.N. 321, 323). The court agreed with the Commission's conclusion that ''Congress intended that 'competitive forces should dictate the services and practices that constitute the U.S. national market system for trading equity securities.' ''[26]

The Court in *NetCoalition I,* while upholding the Commission's conclusion that competitive forces may be relied upon to establish the fairness of prices, nevertheless concluded that the record *in that case* did not adequately support the Commission's conclusions as to the competitive nature of the market for NYSE Arca's data product at issue in that case. As explained below in the Exchange's Statement on Burden on Competition, however, the Exchange believes that there is substantial evidence of competition in the marketplace for data that was not in the record in the *NetCoalition I* case, and that the Commission is entitled to rely upon such evidence in concluding fees are the product of competition, and

[19] 15 U.S.C. 78f.

[20] 15 U.S.C. 78f(b)(5).

[21] 15 U.S.C. 78k–1.

[22] *See* Securities Exchange Act Release No. 75257 (June 22, 2015), 80 FR 36862 (June 26, 2015)(SR–NASDAQ–2015–055).

[23] *See* supra note 5.

[24] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

[25] The Exchange expects that the fee structure for NLS Plus will reflect an amount that is no less than the cost to a market data vendor to obtain all the underlying feeds, plus an amount to be determined that would reflect the value of the aggregation and consolidation function.

[26] *NetCoalition I,* at 535.

therefore in accordance with the relevant statutory standards.[27] Moreover, the Exchange further notes that the product at issue in this filing—a last sale data product that replicates a subset of the information available through ''core'' data products whose fees have been reviewed and approved by the SEC—is quite different from the NYSE Arca depth-of-book data product at issue in *NetCoalition I.* Accordingly, any findings of the court with respect to that product may not be relevant to the product at issue in this filing.

Moreover, data products such as NLS Plus are a means by which exchanges compete to attract order flow. To the extent that exchanges are successful in such competition, they earn trading revenues and also enhance the value of their data products by increasing the amount of data they are able to provide. Conversely, to the extent that exchanges are unsuccessful, the inputs needed to add value to data products are diminished. Accordingly, the need to compete for order flow places substantial pressure upon exchanges to keep their fees for both executions and data reasonable.

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. As is true of all NASDAQ's non-core data products, NASDAQ's ability to offer and price NLS Plus is constrained by: (1) competition between exchanges and other trading platforms that compete with each other in a variety of dimensions; (2) the existence of inexpensive real-time consolidated data and market-specific data and free delayed consolidated data; and (3) the inherent contestability of the market for proprietary last sale data.

In addition, as described in detail above, NLS Plus competes directly with a myriad of similar products and potential products of market data vendors. NASDAQ OMX Information LLC was constructed specifically to establish a level playing field with market data vendors and to preserve fair competition between them. Therefore, NASDAQ OMX Information LLC receives NLS, BX Last Sale, and PSX Last Sale from each NASDAQ-operated exchange in the same manner, at the same speed, and reflecting the same fees as for all market data vendors. Therefore, NASDAQ Information LLC has no competitive advantage with respect to these last sale products and NASDAQ commits to maintaining this level playing field in the future. In other words, NASDAQ will continue to disseminate separately the underlying last sale products to avoid creating a latency differential between NASDAQ OMX Information LLC and other market data vendors, and to avoid creating a pricing advantage for NASDAQ OMX Information LLC.

NLS Plus joins the existing market for proprietary last sale data products that is currently competitive and inherently contestable because there is fierce competition for the inputs necessary to the creation of proprietary data and strict pricing discipline for the proprietary products themselves. Numerous exchanges compete with each other for listings, trades, and market data itself, providing virtually limitless opportunities for entrepreneurs who wish to produce and distribute their own market data. This proprietary data is produced by each individual exchange, as well as other entities, in a vigorously competitive market. Similarly, with respect to the FINRA/NASDAQ TRF data that is a component of NLS and NLS Plus, allowing exchanges to operate TRFs has permitted them to earn revenues by providing technology and data in support of the non-exchange segment of the market. This revenue opportunity has also resulted in fierce competition between the two current TRF operators, with both TRFs charging extremely low trade reporting fees and rebating the majority of the revenues they receive from core market data to the parties reporting trades.

Transaction execution and proprietary data products are complementary in that market data is both an input and a byproduct of the execution service. In fact, market data and trade execution are a paradigmatic example of joint products with joint costs. The decision whether and on which platform to post an order will depend on the attributes of the platform where the order can be posted, including the execution fees, data quality and price, and distribution of its data products. Without trade executions, exchange data products cannot exist. Moreover, data products are valuable to many end users only insofar as they provide information that end users expect will assist them or their customers in making trading decisions.

The costs of producing market data include not only the costs of the data distribution infrastructure, but also the costs of designing, maintaining, and operating the exchange's transaction execution platform and the cost of regulating the exchange to ensure its fair operation and maintain investor confidence. The total return that a trading platform earns reflects the revenues it receives from both products and the joint costs it incurs. Moreover, the operation of the exchange is characterized by high fixed costs and low marginal costs. This cost structure is common in content and content distribution industries such as software, where developing new software typically requires a large initial investment (and continuing large investments to upgrade the software), but once the software is developed, the incremental cost of providing that software to an additional user is typically small, or even zero (*e.g.,* if the software can be downloaded over the internet after being purchased).[28] In the Exchange's case, it is costly to build and maintain a trading platform, but the incremental cost of trading each additional share on an existing platform, or distributing an additional instance of data, is very low. Market information and executions are each produced jointly (in the sense that the activities of trading and placing orders are the source of the information that is distributed) and are each subject to significant scale economies. In such cases, marginal cost pricing is not feasible because if all sales were priced at the margin, the Exchange would be unable to defray its platform costs of providing the joint products. Similarly, data products cannot make use of TRF trade reports without the raw material of the trade reports themselves, and therefore necessitate the costs of operating, regulating,[29] and maintaining a trade reporting system, costs that must be covered through the fees charged for use of the facility and sales of associated data.

An exchange's BD customers view the costs of transaction executions and of data as a unified cost of doing business with the exchange. A BD will direct orders to a particular exchange only if

[27] It should also be noted that Section 916 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (''Dodd-Frank Act'') has amended paragraph (A) of Section 19(b)(3) of the Act, 15 U.S.C. 78s(b)(3), to make it clear that all exchange fees, including fees for market data, may be filed by exchanges on an immediately effective basis. *See also NetCoalition* v. *SEC,* 715 F.3d 342 (D.C. Cir. 2013) (''*NetCoalition II''*) (finding no jurisdiction to review Commission's non-suspension of immediately effective fee changes).

[28] *See* William J. Baumol and Daniel G. Swanson, ''The New Economy and Ubiquitous Competitive Price Discrimination: Identifying Defensible Criteria of Market Power,'' *Antitrust Law Journal,* Vol. 70, No. 3 (2003).

[29] It should be noted that the costs of operating the FINRA/NASDAQ TRF borne by NASDAQ include regulatory charges paid by NASDAQ to FINRA.

the expected revenues from executing trades on the exchange exceed net transaction execution costs and the cost of data that the BD chooses to buy to support its trading decisions (or those of its customers). The choice of data products is, in turn, a product of the value of the products in making profitable trading decisions. If the cost of the product exceeds its expected value, the BD will choose not to buy it. Moreover, as a BD chooses to direct fewer orders to a particular exchange, the value of the product to that BD decreases, for two reasons. First, the product will contain less information, because executions of the BD's trading activity will not be reflected in it. Second, and perhaps more important, the product will be less valuable to that BD because it does not provide information about the venue to which it is directing its orders. Data from the competing venue to which the BD is directing orders will become correspondingly more valuable.

Similarly, in the case of products such as NLS Plus that are distributed through market data vendors, the vendors provide price discipline for proprietary data products because they control the primary means of access to end users. Vendors impose price restraints based upon their business models. For example, vendors such as Bloomberg and Reuters that assess a surcharge on data they sell may refuse to offer proprietary products that end users will not purchase in sufficient numbers. Internet portals, such as Google, impose a discipline by providing only data that will enable them to attract ''eyeballs'' that contribute to their advertising revenue. Retail BDs, such as Schwab and Fidelity, offer their customers proprietary data only if it promotes trading and generates sufficient commission revenue. Although the business models may differ, these vendors' pricing discipline is the same: they can simply refuse to purchase any proprietary data product that fails to provide sufficient value. Exchanges, TRFs, and other producers of proprietary data products must understand and respond to these varying business models and pricing disciplines in order to market proprietary data products successfully. Moreover, the Exchange believes that products such as NLS Plus can enhance order flow to the Exchange by providing more widespread distribution of information about transactions in real time, thereby encouraging wider participation in the market by investors with access to the internet or television. Conversely, the value of such products to distributors and investors decreases if order flow falls, because the products contain less content.

Competition among trading platforms can be expected to constrain the aggregate return each platform earns from the sale of its joint products, but different platforms may choose from a range of possible, and equally reasonable, pricing strategies as the means of recovering total costs. The Exchange pays rebates to attract liquidity, charges relatively low prices for market information and charges relatively high prices for orders accessing liquidity. Other platforms may choose a strategy of charging low transaction fees and setting relatively higher prices for market information. Still others may provide most data free of charge and rely exclusively on transaction fees to recover their costs. Finally, some platforms may incentivize use by providing opportunities for equity ownership, which may allow them to charge lower direct fees for executions and data.

In this environment, there is no economic basis for regulating maximum prices for one of the joint products in an industry in which suppliers face competitive constraints with regard to the joint offering. Such regulation is unnecessary because an ''excessive'' price for one of the joint products will ultimately have to be reflected in lower prices for other products sold by the firm, or otherwise the firm will experience a loss in the volume of its sales that will be adverse to its overall profitability. In other words, an increase in the price of data will ultimately have to be accompanied by a decrease in the cost of executions, or the volume of both data and executions will fall.

The level of competition and contestability in the market is evident in the numerous alternative venues that compete for order flow, including eleven SRO markets, as well as internalizing BDs and various forms of alternative trading systems (''ATSs''), including dark pools and electronic communication networks (''ECNs''). Each SRO market competes to produce transaction reports via trade executions, and two FINRA-regulated TRFs compete to attract internalized transaction reports. It is common for BDs to further and exploit this competition by sending their order flow and transaction reports to multiple markets, rather than providing them all to a single market. Competitive markets for order flow, executions, and transaction reports provide pricing discipline for the inputs of proprietary data products.

The large number of SROs, TRFs, BDs, and ATSs that currently produce proprietary data or are currently capable of producing it provides further pricing discipline for proprietary data products. Each SRO, TRF, ATS, and BD is currently permitted to produce proprietary data products, and many currently do or have announced plans to do so, including NASDAQ, NYSE, NYSE MKT, NYSE Arca, and BATS/Direct Edge.

Any ATS or BD can combine with any other ATS, BD, or multiple ATSs or BDs to produce joint proprietary data products. Additionally, order routers and market data vendors can facilitate single or multiple BDs' production of proprietary data products. The potential sources of proprietary products are virtually limitless. Notably, the potential sources of data include the BDs that submit trade reports to TRFs and that have the ability to consolidate and distribute their data without the involvement of FINRA or an exchange-operated TRF.

The fact that proprietary data from ATSs, BDs, and vendors can by-pass SROs is significant in two respects. First, non-SROs can compete directly with SROs for the production and sale of proprietary data products, as BATS and NYSE Arca did before registering as exchanges by publishing proprietary book data on the internet. Second, because a single order or transaction report can appear in a core data product, an SRO proprietary product, and/or a non-SRO proprietary product, the data available in proprietary products is exponentially greater than the actual number of orders and transaction reports that exist in the marketplace. Indeed, in the case of NLS Plus, the data provided through that product appears both in (i) real-time core data products offered by the SIPs for a fee, (ii) free SIP data products with a 15-minute time delay, and (iii) individual exchange data products, and finds a close substitute in last-sale products of competing venues.

In addition to the competition and price discipline described above, the market for proprietary data products is also highly contestable because market entry is rapid, inexpensive, and profitable. The history of electronic trading is replete with examples of entrants that swiftly grew into some of the largest electronic trading platforms and proprietary data producers: Archipelago, Bloomberg Tradebook, Island, RediBook, Attain, TracECN, BATS Trading and BATS/Direct Edge. A proliferation of dark pools and other ATSs operate profitably with fragmentary shares of consolidated market volume.

Regulation NMS, by deregulating the market for proprietary data, has

increased the contestability of that market. While BDs have previously published their proprietary data individually, Regulation NMS encourages market data vendors and BDs to produce proprietary products cooperatively in a manner never before possible. Multiple market data vendors already have the capability to aggregate data and disseminate it on a profitable scale, including Bloomberg and Thomson Reuters. In Europe, Cinnober aggregates and disseminates data from over 40 brokers and multilateral trading facilities.[30]

In the case of TRFs, the rapid entry of several exchanges into this space in 2006–2007 following the development and Commission approval of the TRF structure demonstrates the contestability of this aspect of the market.[31] Given the demand for trade reporting services that is itself a by-product of the fierce competition for transaction executions—characterized notably by a proliferation of ATSs and BDs offering internalization—any supra-competitive increase in the fees associated with trade reporting or TRF data would shift trade report volumes from one of the existing TRFs to the other [32] and create incentives for other TRF operators to enter the space. Alternatively, because BDs reporting to TRFs are themselves free to consolidate the market data that they report, the market for over-the-counter data itself, separate and apart from the markets for execution and trade reporting services—is fully contestable.

Moreover, consolidated data provides two additional measures of pricing discipline for proprietary data products that are a subset of the consolidated data stream. First, the consolidated data is widely available in real-time at $1 per month for non-professional users. Second, consolidated data is also available at no cost with a 15- or 20-minute delay. Because consolidated data contains marketwide information, it effectively places a cap on the fees assessed for proprietary data (such as last sale data) that is simply a subset of the consolidated data. The mere availability of low-cost or free consolidated data provides a powerful form of pricing discipline for proprietary data products that contain data elements that are a subset of the consolidated data, by highlighting the optional nature of proprietary products.

In this environment, a super-competitive increase in the fees charged for either transactions or data has the potential to impair revenues from both products. ''No one disputes that competition for order flow is 'fierce'.'' *NetCoalition I* at 539. The existence of fierce competition for order flow implies a high degree of price sensitivity on the part of BDs with order flow, since they may readily reduce costs by directing orders toward the lowest-cost trading venues. A BD that shifted its order flow from one platform to another in response to order execution price differentials would both reduce the value of that platform's market data and reduce its own need to consume data from the disfavored platform. If a platform increases its market data fees, the change will affect the overall cost of doing business with the platform, and affected BDs will assess whether they can lower their trading costs by directing orders elsewhere and thereby lessening the need for the more expensive data. Similarly, increases in the cost of NLS Plus would impair the willingness of distributors to take a product for which there are numerous alternatives, impacting NLS Plus data revenues, the value of NLS Plus as a tool for attracting order flow, and ultimately, the volume of orders routed to the Exchange and the value of its other data products.

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) [33] of the Act and subparagraph (f)(6) of Rule 19b–4 thereunder.[34]

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–2015–72 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2015–72. 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–2015–72 and should

[30] *See http://www.cinnober.com/boat-trade-reporting.*

[31] The low cost exit of two TRFs from the market is also evidence of a contestable market, because new entrants are reluctant to enter a market where exit may involve substantial shut-down costs.

[32] It should be noted that the FINRA/NYSE TRF has, in recent weeks, received reports for almost 10% of all over-the-counter volume in NMS stocks.

[33] 15 U.S.C. 78s(b)(3)(A).

[34] 17 CFR 240.19b–4(f)(6).

be submitted on or before September 22, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[35]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–21552 Filed 8–31–15; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33–9898; 34–75764/August 26, 2015]

Order Making Fiscal Year 2016 Annual Adjustments to Registration Fee Rates

I. Background

The Commission collects fees under various provisions of the securities laws. Section 6(b) of the Securities Act of 1933 (''Securities Act'') requires the Commission to collect fees from issuers on the registration of securities.[1] Section 13(e) of the Securities Exchange Act of 1934 (''Exchange Act'') requires the Commission to collect fees on specified repurchases of securities.[2] Section 14(g) of the Exchange Act requires the Commission to collect fees on proxy solicitations and statements in corporate control transactions.[3] These provisions require the Commission to make annual adjustments to the fee rates applicable under these provisions.

II. Fiscal Year 2016 Annual Adjustment to Fee Rates

Section 6(b)(2) of the Securities Act requires the Commission to make an annual adjustment to the fee rate applicable under Section 6(b).[4] The annual adjustment to the fee rate under Section 6(b) of the Securities Act also sets the annual adjustment to the fee rates under Sections 13(e) and 14(g) of the Exchange Act.[5]

Section 6(b)(2) sets forth the method for determining the annual adjustment to the fee rate under Section 6(b) for fiscal year 2016. Specifically, the Commission must adjust the fee rate under Section 6(b) to a ''rate that, when applied to the baseline estimate of the aggregate maximum offering prices for [fiscal year 2016], is reasonably likely to produce aggregate fee collections under [Section 6(b)] that are equal to the target fee collection amount for [fiscal year 2016].'' That is, the adjusted rate is determined by dividing the ''target fee collection amount'' for fiscal year 2016 by the ''baseline estimate of the aggregate maximum offering prices'' for fiscal year 2016.

Section 6(b)(6)(A) specifies that the ''target fee collection amount'' for fiscal year 2016 is $550,000,000. Section 6(b)(6)(B) defines the ''baseline estimate of the aggregate maximum offering prices'' for fiscal year 2016 as ''the baseline estimate of the aggregate maximum offering price at which securities are proposed to be offered pursuant to registration statements filed with the Commission during [fiscal year 2016] as determined by the Commission, after consultation with the Congressional Budget Office and the Office of Management and Budget . . . .''

To make the baseline estimate of the aggregate maximum offering price for fiscal year 2016, the Commission used a methodology similar to that developed in consultation with the Congressional Budget Office (''CBO'') and Office of Management and Budget (''OMB'') to project the aggregate offering price for purposes of the fiscal years 2011 through 2015 annual adjustments.[6] Using this methodology, the Commission determines the ''baseline estimate of the aggregate maximum offering price'' for fiscal year 2016 to be $ 5,463,538,056,703.[7] Based on this estimate, the Commission calculates the fee rate for fiscal 2016 to be $100.70 per million. This adjusted fee rate applies to Section 6(b) of the Securities Act, as well as to Sections 13(e) and 14(g) of the Exchange Act.

III. Effective Dates of the Annual Adjustments

The fiscal year 2016 annual adjustments to the fee rates applicable under Section 6(b) of the Securities Act and Sections 13(e) and 14(g) of the Exchange Act will be effective on October 1, 2015.[8]

IV. Conclusion

Accordingly, pursuant to Section 6(b) of the Securities Act and Sections 13(e) and 14(g) of the Exchange Act,[9]

It is hereby ordered that the fee rates applicable under Section 6(b) of the Securities Act and Sections 13(e) and 14(g) of the Exchange Act shall be $100.70 per million effective on October 1, 2015.

By the Commission.

Brent J. Fields,

Secretary.

Appendix A

Congress has established a target amount of monies to be collected from fees charged to issuers based on the value of their registrations. This appendix provides the formula for determining such fees, which the Commission adjusts annually. Congress has mandated that the Commission determine these fees based on the ''aggregate maximum offering prices,'' which measures the aggregate dollar amount of securities registered with the Commission over the course of the year. In order to maximize the likelihood that the amount of monies targeted by Congress will be collected, the fee rate must be set to reflect projected aggregate maximum offering prices. As a percentage, the fee rate equals the ratio of the target amounts of monies to the projected aggregate maximum offering prices.

For 2016, the Commission has estimated the aggregate maximum offering prices by projecting forward the trend established in the previous decade. More specifically, an ARIMA model was used to forecast the value of the aggregate maximum offering prices for months subsequent to July 2015, the last month for which the Commission has data on the aggregate maximum offering prices.

The following sections describe this process in detail.

A. Baseline Estimate of the Aggregate Maximum Offering Prices for Fiscal Year 2016.

First, calculate the aggregate maximum offering prices (AMOP) for each month in the sample (July 2005–July 2015). Next, calculate the percentage change in the AMOP from month to month.

Model the monthly percentage change in AMOP as a first order moving average process. The moving average approach allows one to model the effect that an exceptionally high (or low) observation of AMOP tends to be followed by a more ''typical'' value of AMOP.

Use the estimated moving average model to forecast the monthly percent change in AMOP. These percent changes can then be applied to obtain forecasts of the total dollar value of registrations. The following is a more formal (mathematical) description of the procedure:

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[35] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 77f(b).

[2] 15 U.S.C. 78m(e).

[3] 15 U.S.C. 78n(g).

[4] 15 U.S.C. 77f(b)(2). The annual adjustments are designed to adjust the fee rate in a given fiscal year so that, when applied to the aggregate maximum offering price at which securities are proposed to be offered for the fiscal year, it is reasonably likely to produce total fee collections under Section 6(b) equal to the ''target fee collection amount'' specified in Section 6(b)(6)(A) for that fiscal year.

[5] 15 U.S.C. 78m(e)(4) and 15 U.S.C. 78n(g)(4).

[6] For the fiscal year 2011 estimate, the Commission used a ten-year series of monthly observations ending in March 2011. For fiscal years 2012–2016, the Commission used a ten-year series ending in July of the applicable year.

[7] Appendix A explains how we determined the ''baseline estimate of the aggregate maximum offering price'' for fiscal year 2016 using our methodology, and then shows the arithmetical process of calculating the fiscal year 2016 annual adjustment based on that estimate. The appendix includes the data used by the Commission in making its ''baseline estimate of the aggregate maximum offering price'' for fiscal year 2016.

[8] 15 U.S.C. 77f(b)(4), 15 U.S.C. 78m(e)(6) and 15 U.S.C. 78n(g)(6).

[9] 15 U.S.C. 77f(b), 78m(e) and 78n(g).

1. Begin with the monthly data for AMOP. The sample spans ten years, from July 2005 to July 2015.

2. Divide each month's AMOP (column C) by the number of trading days in that month (column B) to obtain the average daily AMOP (AAMOP, column D).

3. For each month t, the natural logarithm of AAMOP is reported in column E.

4. Calculate the change in log(AAMOP) from the previous month as $\Delta_t = \log(AAMOP_t) - \log(AAMOP_{t-1})$. This approximates the percentage change.

5. Estimate the first order moving average model $\Delta_t = \alpha + \beta e_{t-1} + e_t$, where e_t denotes the forecast error for month t. The forecast error is simply the difference between the one-month ahead forecast and the actual realization of Δ_t. The forecast error is expressed as $e_t = \Delta_t - \alpha - \beta e_{t-1}$. The model can be estimated using standard commercially available software. Using least squares, the estimated parameter values are $\alpha = 0.0000405$ and $\beta = -0.85241$.

6. For the month of August 2015 forecast $\Delta_{t=8/15} = \alpha + \beta e_{t=7/15}$. For all subsequent months, forecast $\Delta_t = \alpha$.

7. Calculate forecasts of log(AAMOP). For example, the forecast of log(AAMOP) for October 2015 is given by $FLAAMOP_{t=10/15} = \log(AAMOP_{t=7/15}) + \Delta_{t=8/15} + \Delta_{t=9/15} + \Delta_{t=10/15}$.

8. Under the assumption that e_t is normally distributed, the n-step ahead forecast of AAMOP is given by $\exp(FLAAMOP_t + \sigma_n^2/2)$, where σ_n denotes the standard error of the n-step ahead forecast.

9. For October 2015, this gives a forecast AAMOP of $21.425 billion (Column I), and a forecast AMOP of $471.3 billion (Column J).

10. Iterate this process through September 2016 to obtain a baseline estimate of the aggregate maximum offering prices for fiscal year 2016 of $ 5,463,538,056,703.

B. Using the Forecasts From A To Calculate the New Fee Rate

1. Using the data from Table A, estimate the aggregate maximum offering prices between 10/01/15 and 9/30/16 to be $5,463,538,056,703.

2. The rate necessary to collect the target $550,000,000 in fee revenues set by Congress is then calculated as: $550,000,000 ÷ $5,463,538,056,703 = 0.00010067.

3. Round the result to the seventh decimal point, yielding a rate of 0.0001007 (or $100.70 per million).

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Table A. Estimation of baseline of aggregate maximum offering prices .

Fee rate calculation.

a. Baseline estimate of the aggregate maximum offering prices, 10/1/15 to 9/30/16 ($Millions)	5,463,538
b. Implied fee rate ($550 Million / a)	$100.70

Data

(A) Month	(B) # of Trading Days in Month	(C) Aggregate Maximum Offering Prices, in $Millions	(D) Average Daily Aggregate Max. Offering Prices (AAMOP) in $Millions	(E) log(AAMOP)	(F) Log (Change in AAMOP)	(G) Forecast log(AAMOP)	(H) Standard Error	(I) Forecast AAMOP, in $Millions	(J) Forecast Aggregate Maximum Offering Prices, in $Millions
Jul-05	20	457,487	22,874	23.853					
Aug-05	23	605,534	26,328	23.994	0.141				
Sep-05	21	312,281	14,871	23.423	-0.571				
Oct-05	21	258,956	12,331	23.235	-0.187				
Nov-05	21	192,736	9,178	22.940	-0.295				
Dec-05	21	308,134	14,673	23.409	0.469				
Jan-06	20	526,550	26,328	23.994	0.585				
Feb-06	19	301,446	15,866	23.487	-0.506				
Mar-06	23	1,211,344	52,667	24.687	1.200				
Apr-06	19	407,345	21,439	23.788	-0.899				
May-06	22	260,121	11,824	23.193	-0.595				
Jun-06	22	375,296	17,059	23.560	0.367				
Jul-06	20	232,654	11,633	23.177	-0.383				
Aug-06	23	310,050	13,480	23.325	0.147				
Sep-06	20	236,782	11,839	23.195	-0.130				
Oct-06	22	213,342	9,697	22.995	-0.200				
Nov-06	21	292,456	13,926	23.357	0.362				
Dec-06	20	349,512	17,476	23.584	0.227				
Jan-07	20	372,740	18,637	23.648	0.064				
Feb-07	19	278,753	14,671	23.409	-0.239				
Mar-07	22	862,786	39,218	24.392	0.983				
Apr-07	20	562,103	28,105	24.059	-0.333				
May-07	22	470,843	21,402	23.787	-0.272				

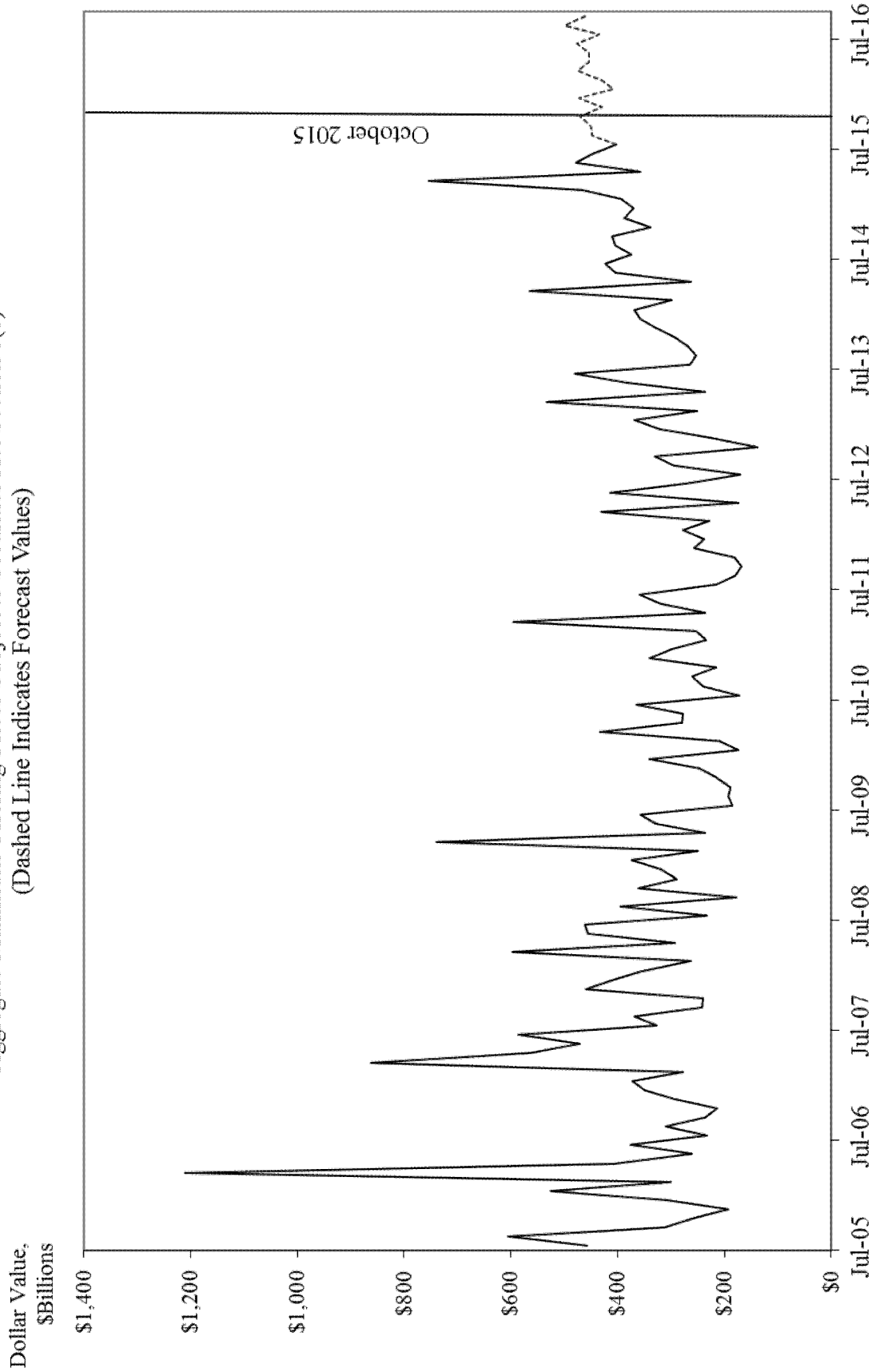
(A) Month	(B) # of Trading Days in Month	(C) Aggregate Maximum Offering Prices, in $Millions	(D) Average Daily Aggregate Max. Offering Prices (AAMOP) in $Millions	(E) log(AAMOP)	(F) Log (Change in AAMOP)	(G) Forecast log(AAMOP)	(H) Standard Error	(I) Forecast AAMOP, in $Millions	(J) Forecast Aggregate Maximum Offering Prices, in $Millions
Jun-07	21	586,822	27,944	24.053	0.267				
Jul-07	21	326,612	15,553	23.468	-0.586				
Aug-07	23	369,172	16,051	23.499	0.032				
Sep-07	19	241,059	12,687	23.264	-0.235				
Oct-07	23	239,652	10,420	23.067	-0.197				
Nov-07	21	458,654	21,841	23.807	0.740				
Dec-07	20	410,200	20,510	23.744	-0.063				
Jan-08	21	354,433	16,878	23.549	-0.195				
Feb-08	20	263,410	13,171	23.301	-0.248				
Mar-08	20	596,923	29,846	24.119	0.818				
Apr-08	22	292,534	13,297	23.311	-0.809				
May-08	21	456,077	21,718	23.801	0.491				
Jun-08	21	461,087	21,957	23.812	0.011				
Jul-08	22	232,896	10,586	23.083	-0.730				
Aug-08	21	395,440	18,830	23.659	0.576				
Sep-08	21	177,636	8,459	22.858	-0.800				
Oct-08	23	360,494	15,674	23.475	0.617				
Nov-08	19	288,911	15,206	23.445	-0.030				
Dec-08	22	319,584	14,527	23.399	-0.046				
Jan-09	20	375,065	18,753	23.655	0.255				
Feb-09	19	249,666	13,140	23.299	-0.356				
Mar-09	22	739,931	33,633	24.239	0.940				
Apr-09	21	235,914	11,234	23.142	-1.097				
May-09	20	329,522	16,476	23.525	0.383				
Jun-09	22	357,524	16,251	23.511	-0.014				
Jul-09	22	185,187	8,418	22.854	-0.658				
Aug-09	21	192,726	9,177	22.940	0.086				
Sep-09	21	189,224	9,011	22.922	-0.018				
Oct-09	22	215,720	9,805	23.006	0.085				
Nov-09	20	248,353	12,418	23.242	0.236				

(A) Month	(B) # of Trading Days in Month	(C) Aggregate Maximum Offering Prices, in $Millions	(D) Average Daily Aggregate Max. Offering Prices (AAMOP) in $Millions	(E) log(AAMOP)	(F) Log (Change in AAMOP)	(G) Forecast log(AAMOP)	(H) Standard Error	(I) Forecast AAMOP, in $Millions	(J) Forecast Aggregate Maximum Offering Prices, in $Millions
Dec-09	22	340,464	15,476	23.463	0.220				
Jan-10	19	173,235	9,118	22.933	-0.529				
Feb-10	19	209,963	11,051	23.126	0.192				
Mar-10	23	432,934	18,823	23.658	0.533				
Apr-10	21	280,188	13,342	23.314	-0.344				
May-10	20	278,611	13,931	23.357	0.043				
Jun-10	22	364,251	16,557	23.530	0.173				
Jul-10	21	171,191	8,152	22.822	-0.709				
Aug-10	22	240,793	10,945	23.116	0.295				
Sep-10	21	260,783	12,418	23.242	0.126				
Oct-10	21	214,988	10,238	23.049	-0.193				
Nov-10	21	340,112	16,196	23.508	0.459				
Dec-10	22	297,992	13,545	23.329	-0.179				
Jan-11	20	233,668	11,683	23.181	-0.148				
Feb-11	19	252,785	13,304	23.311	0.130				
Mar-11	23	595,198	25,878	23.977	0.665				
Apr-11	20	236,355	11,818	23.193	-0.784				
May-11	21	319,053	15,193	23.444	0.251				
Jun-11	22	359,727	16,351	23.518	0.073				
Jul-11	20	215,391	10,770	23.100	-0.418				
Aug-11	23	179,870	7,820	22.780	-0.320				
Sep-11	21	168,005	8,000	22.803	0.023				
Oct-11	21	181,452	8,641	22.880	0.077				
Nov-11	21	256,418	12,210	23.226	0.346				
Dec-11	21	237,652	11,317	23.150	-0.076				
Jan-12	20	276,965	13,848	23.351	0.202				
Feb-12	20	228,419	11,421	23.159	-0.193				
Mar-12	22	430,806	19,582	23.698	0.539				
Apr-12	20	173,626	8,681	22.884	-0.813				
May-12	22	414,122	18,824	23.658	0.774				

(A) Month	(B) # of Trading Days in Month	(C) Aggregate Maximum Offering Prices, in $Millions	(D) Average Daily Aggregate Max. Offering Prices (AAMOP) in $Millions	(E) log(AAMOP)	(F) Log (Change in AAMOP)	(G) Forecast log(AAMOP)	(H) Standard Error	(I) Forecast AAMOP, in $Millions	(J) Forecast Aggregate Maximum Offering Prices, in $Millions
Jun-12	21	272,218	12,963	23.285	-0.373				
Jul-12	21	170,462	8,117	22.817	-0.468				
Aug-12	23	295,472	12,847	23.276	0.459				
Sep-12	19	331,295	17,437	23.582	0.305				
Oct-12	21	137,562	6,551	22.603	-0.979				
Nov-12	21	221,521	10,549	23.079	0.476				
Dec-12	20	321,602	16,080	23.501	0.422				
Jan-13	21	368,488	17,547	23.588	0.087				
Feb-13	19	252,148	13,271	23.309	-0.279				
Mar-13	20	533,440	26,672	24.007	0.698				
Apr-13	22	235,779	10,717	23.095	-0.912				
May-13	22	382,950	17,407	23.580	0.485				
Jun-13	20	480,624	24,031	23.903	0.322				
Jul-13	22	263,869	11,994	23.208	-0.695				
Aug-13	22	253,305	11,514	23.167	-0.041				
Sep-13	20	267,923	13,396	23.318	0.151				
Oct-13	23	293,847	12,776	23.271	-0.047				
Nov-13	20	326,257	16,313	23.515	0.244				
Dec-13	21	358,169	17,056	23.560	0.045				
Jan-14	21	369,067	17,575	23.590	0.030				
Feb-14	19	298,376	15,704	23.477	-0.113				
Mar-14	21	564,840	26,897	24.015	0.538				
Apr-14	21	263,401	12,543	23.252	-0.763				
May-14	21	403,700	19,224	23.679	0.427				
Jun-14	21	423,075	20,146	23.726	0.047				
Jul-14	22	373,811	16,991	23.556	-0.170				
Aug-14	21	405,017	19,287	23.683	0.127				
Sep-14	21	409,349	19,493	23.693	0.011				
Oct-14	23	338,832	14,732	23.413	-0.280				
Nov-14	19	386,898	20,363	23.737	0.324				

(A) Month	(B) # of Trading Days in Month	(C) Aggregate Maximum Offering Prices, in $Millions	(D) Average Daily Aggregate Max. Offering Prices (AAMOP) in $Millions	(E) log(AAMOP)	(F) Log (Change in AAMOP)	(G) Forecast log(AAMOP)	(H) Standard Error	(I) Forecast AAMOP, in $Millions	(J) Forecast Aggregate Maximum Offering Prices, in $Millions
Dec-14	22	370,760	16,853	23.548	-0.189				
Jan-15	20	394,127	19,706	23.704	0.156				
Feb-15	19	466,138	24,534	23.923	0.219				
Mar-15	22	753,747	34,261	24.257	0.334				
Apr-15	21	356,560	16,979	23.555	-0.702				
May-15	20	478,591	23,930	23.898	0.343				
Jun-15	22	446,102	20,277	23.733	-0.166				
Jul-15	22	402,062	18,276	23.629	-0.104				
Aug-15	21					23.721270	0.357	21,364	448,636
Sep-15	21					23.721310	0.361	21,394	449,277
Oct-15	22					23.721350	0.365	21,425	471,343
Nov-15	20					23.721390	0.368	21,455	429,106
Dec-15	22					23.721430	0.372	21,486	472,691
Jan-16	19					23.721470	0.376	21,517	408,816
Feb-16	20					23.721510	0.380	21,547	430,948
Mar-16	22					23.721550	0.383	21,578	474,720
Apr-16	21					23.721590	0.387	21,609	453,789
May-16	21					23.721630	0.390	21,640	454,438
Jun-16	22					23.721670	0.394	21,671	476,758
Jul-16	20					23.721710	0.397	21,702	434,035
Aug-16	23					23.721750	0.401	21,733	499,854
Sep-16	21					23.721790	0.404	21,764	457,040

Figure A
Aggregate Maximum Offering Prices Subject to Securities Act Section 6(b)
(Dashed Line Indicates Forecast Values)



[FR Doc. 2015–21562 Filed 8–31–15; 8:45 a.m.]
BILLING CODE 8011–01–C

DEPARTMENT OF STATE

[Public Notice: 9250]

Bureau of Political-Military Affairs, Directorate of Defense Trade Controls: Notifications to the Congress of Proposed Commercial Export Licenses

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Department of State has forwarded the attached Notifications of Proposed Export Licenses to the Congress on the dates indicated on the attachments pursuant to sections 36(c) and 36(d), and in compliance with section 36(f), of the Arms Export Control Act.

DATES: *Effective Date:* As shown on each of the 38 letters.

FOR FURTHER INFORMATION CONTACT: Ms. Lisa V. Aguirre, Directorate of Defense Trade Controls, Department of State, telephone (202) 663–2830; email *DDTCResponseTeam@state.gov.* ATTN: Congressional Notification of Licenses.

SUPPLEMENTARY INFORMATION: Section 36(f) of the Arms Export Control Act (22 U.S.C. 2778) mandates that notifications to the Congress pursuant to sections 36(c) and 36(d) must be published in the **Federal Register** when they are transmitted to Congress or as soon thereafter as practicable.

Following are such notifications to the Congress:

October 29, 2014 (Transmittal No. DDTC 14–118)

Honorable John A. Boehner, *Speaker of the House of Representatives*

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, the certification of a proposed license for the export of defense articles, to include technical data, and defense services in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the transfer of defense articles to support the Direct Commercial Contract (DCC) of the Joint Direct Attack Munition (JDAM) and Small Diameter Bomb (SDB) for the Israel Ministry of Defense.

The United States government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Julia Frifield,

Assistant Secretary, Legislative Affairs.

October 3, 2014 (Transmittal No. DDTC 14–082)

Honorable John Boehner, *Speaker of the House of Representatives*

Dear Mr. Speaker:

Pursuant to Sections 36(c) and 36(d) of the Arms Export Control Act, I am transmitting the enclosed certification of a proposed license for the manufacture of significant military equipment abroad and the export of defense articles, including technical data, and defense services in the amount of $50,000,000 or more.

The certification relates to the export of defense articles including technical data, technical assistance, defense articles, and manufacturing know-how involving the co-production of 30mm x 113mm and 25mm x 137mm ammunition with the Government of the Kingdom of Saudi Arabia.

The United States government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Julia Frifield,

Assistant Secretary, Legislative Affairs.

October 3, 2014 (Transmittal No. DDTC 14–085)

Honorable John Boehner, *Speaker of the House of Representatives*

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting certification of a proposed license for the export of firearm parts and components controlled under Category I of the United States Munitions List in the amount of $1,000,000 or more.

The attached certification involves the export of Sig Sauer P229 pistols and 15 round magazines to the Ministry of Interior (MOI) in Abu Dhabi, UAE.

The United States government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Julia Frifield,

Assistant Secretary, Legislative Affairs.

October 2, 2014 (Transmittal No. DDTC 14–060)

Honorable John Boehner, *Speaker of the House of Representatives*

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting the enclosed certification of a proposed amendment to a technical assistance agreement for the export of defense articles, including technical data, and defense services in the amount of $50,000,000 or more.

The transaction contained in the attached certification transfers defense articles, including technical data, and defense services to provide engineering and logistical support that will extend the useful life for multiple fixed wing and rotary wing aircraft to include the AU–23, F–16, F–5, RTAF–6, and C–130 aircraft for end use by the Government of Thailand.

The United States government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Julia Frifield,

Assistant Secretary, Legislative Affairs.

October 03, 2014 (Transmittal No. DDTC 14–074)

Honorable John Boehner, *Speaker of the House of Representatives*

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting the enclosed certification of a proposed license for the export of defense articles, including technical data, and defense services in the amount of $100,000,000 or more.

The attached certification involves the export of defense articles, including technical data, and defense services to Canada, France, Israel, the Republic of Korea and the United Kingdom to support the integration, installation, operation, training, testing, maintenance, repair and modernization of the P–3C avionics and mission systems for the Republic of Korea.

The United States government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Julia Frifield,

Assistant Secretary, Legislative Affairs.

October 2, 2014 (Transmittal No. DDTC 14–077)

Honorable John Boehner, *Speaker of the House of Representatives*

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting the enclosed certification of a proposed license for the export of defense articles, to include technical data, and defense services in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the transfer of defense articles, to include technical data, and defense services to Canada, Indonesia, and Spain to support the design, development, manufacturing, and delivery of the BRISat communication satellite.

The United States government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Julia Frifield,

Assistant Secretary, Legislative Affairs.

October 2, 2014 (Transmittal No. DDTC 14–097)

Honorable John Boehner, *Speaker of the House of Representatives*

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting the enclosed certification of a proposed license for the export of defense articles, to include technical data, and defense services in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the transfer of defense articles, to include technical data, and defense services to support the integration of the Turkmenistan National Satellite System of Communications with the Falcon 9 launch vehicle.

The United States government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Julia Frifield,

Assistant Secretary, Legislative Affairs.

October 2, 2014 (Transmittal No. DDTC 14–098)

Honorable John Boehner, *Speaker of the House of Representatives*

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting the enclosed certification of a proposed license for the export of defense articles, including technical data, and defense services in the amount of $25,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to Canada to support the development, production, and test of the APS–508 Radar System for the CP–140 Aircraft Program.

The United States government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Julia Frifield,

Assistant Secretary, Legislative Affairs.

October 03, 2014 (Transmittal No. DDTC 14–081)

Honorable John Boehner, *Speaker of the House of Representatives*

Dear Mr. Speaker:

Pursuant to Section 36(d) of the Arms Export Control Act, I am transmitting certification for the manufacture abroad of significant military equipment and the export of defense articles, including technical data, defense services in the amount of $100,000,000 or more.

The attached certification involves the export of defense articles and technical data to Brazil, Canada, the Czech Republic, Denmark, France, Germany, Hungary, Malaysia, South Africa, Sweden, Switzerland, Thailand and the United Kingdom for the manufacture of F404–RM12 gas turbine military aircraft engine parts and components.

The United States government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Julia Frifield,

Assistant Secretary, Legislative Affairs.

October 03, 2014 (Transmittal No. DDTC 14–079)

Honorable Bob Corker, *Committee on Foreign Relations*

Dear Mr. Corker:

Pursuant to Section 36(d) of the Arms Export Control Act, I am transmitting certification of a proposed license for the export of defense articles, including technical data, and defense services for the manufacture of significant military equipment abroad.

The transaction contained in the attached certification involves the export of technical data and defense services to the Republic of Korea to support the replication and incorporation of object code of the Have Quick I/II ECCM waveform into Software Complaint Architecture SCA-compliant radio equipment.

The United States government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Julia Frifield,

Assistant Secretary, Legislative Affairs.

September 30, 2014 (Transmittal No. DDTC 14–076)

Honorable John A. Boehner, *Speaker of the House of Representatives*

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting the enclosed certification of a proposed export of defense articles, including technical data, and defense services in the amount of $50,000,000 or more.

The certification relates to the export of defense articles, including technical data, and defense services to support for the design, manufacture, and launch of the Eutelsat E65WA communication satellite program.

The United States government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Julia Frifield,

Assistant Secretary, Legislative Affairs.

September 25, 2014 (Transmittal No. DDTC 14–023)

Honorable John A. Boehner, *Speaker of the House of Representatives*

Dear Mr. Speaker:

Pursuant to Section 36(c) and 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license amendment for the manufacture of significant military equipment abroad and the export of defense articles, including technical data, and defense services in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to the United Kingdom for the manufacture, assembly, modification, integration, repair, and overhaul of Vertical Gyros, Rate Gyros, Attitude Heading Reference Systems, Compass Systems, Azimuth Gyros, and Attitude Indicators.

The United States government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Julia Frifield,

Assistant Secretary, Legislative Affairs.

September 16, 2014 (Transmittal No. DDTC 14–043)

Honorable John A. Boehner, *Speaker of the House of Representatives*

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles, to include technical data, and defense services in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the transfer of defense articles, to include technical data, and defense services to support the integration of the Joint Direct Attack Munition (JDAM) onto Royal Australian Air Force (RAAF) aircrafts.

The United States government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Julia Frifield,

Assistant Secretary, Legislative Affairs.

September 16, 2014 (Transmittal No. DDTC 14–051)

Honorable John A. Boehner, *Speaker of the House of Representatives*

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed authorization for the export of firearm parts and components controlled under Category I of the United States Munitions List in the amount of $1,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services for the assembly of firearms parts and components by Dasan, Republic of Korea for commercial resale in the U.S.

The United States government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Julia Frifield,

Assistant Secretary, Legislative Affairs.

September 16, 2014 (Transmittal No. DDTC 14–054)

Honorable John A. Boehner, *Speaker of the House of Representatives*

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license amendment for the export of defense articles, including technical data, and defense services in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services for support to aircraft navigation equipment including Control Stick Assemblies, Rate Sensor Assemblies, and Accelerometer Sensor Assemblies for the T–50, T–50i, and FA–50 aircraft for end-use by Chile, Indonesia, Iraq, the Philippines, the Republic of Korea, Thailand, Turkey, and the United Kingdom.

The United States government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Julia Frifield,

Assistant Secretary, Legislative Affairs.

September 25, 2014 (Transmittal No. DDTC 14–062)

Honorable John A. Boehner, *Speaker of the House of Representatives*

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for export of firearm parts and components controlled under Category I of the United States Munitions List in the amount of $1,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles to Mexico's Secretariat of National Defense (SEDENA) for the resale of semi-automatic rifles and pistols to Mexican military or police agencies/departments in Mexico.

The United States government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Julia Frifield,

Assistant Secretary, Legislative Affairs.

September 16, 2014 (Transmittal No. DDTC 14–078)

Honorable John A. Boehner, *Speaker of the House of Representatives*

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles, to include technical data, and defense services in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the transfer of defense articles, to include technical data, and defense services in support of the design, manufacture, test and delivery of the Thaicom-8 Commercial Communication Satellite, ground system and the dynamic satellite simulator.

The United States government is prepared to license the export of this defense service having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Julia Frifield,

Assistant Secretary, Legislative Affairs.

September 16, 2014 (Transmittal No. DDTC 14–089)

Honorable John A. Boehner, *Speaker of the House of Representatives*

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed technical assistance agreement for the export of technical data, and defense services in the amount of $50,000,000 or more.

The transaction contained in the attached certification transfers technical data and defense services to Singapore to support the development of an 8 x 8 wheeled amphibious combat vehicle for end use by the United States Marine Corps.

The United States government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Julia Frifield,

Assistant Secretary, Legislative Affairs.

September 16, 2014 (Transmittal No. DDTC 14–096)

Honorable John A. Boehner, *Speaker of the House of Representatives*

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of firearm parts and components controlled under Category I of the United States Munitions List in the amount of $1,000,000 or more.

The transaction contained in the attached certification involves the export of R4A3 carbine rifles, fully automatic, caliber 5.56mm x 45 NATO/.223 Remington for use by the Armed Forces of the Philippines.

The United States government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Julia Frifield,

Assistant Secretary, Legislative Affairs.

September 09, 2014 (Transmittal No. DDTC 14–067)

Honorable Joseph R. Biden, Jr., *President of the Senate*

Dear Mr. President:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed authorization for the export of firearms, parts, and components controlled under Category I of the United States Munitions List in amount of $1,000,000 or more.

The transaction contained in the attached certification involves the export of .50 caliber rifles and telescope sights to the Secretary of National Defense, Mexico.

The United States government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Julia Frifield,

Assistant Secretary, Legislative Affairs.

September 09, 2014 (Transmittal No. DDTC 14–038)

Honorable Joseph R. Biden, Jr., *President of the Senate*

Dear Mr. President:

Pursuant to Sections 36(c) and 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed export for the manufacture of significant military equipment abroad and for the export of defense articles, including technical data, and defense services in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to the Republic of Korea for the manufacture, assembly, inspection and testing of F404–GE–102 engines for the T–50, TA–50, and FA–50 aircraft series for end use by various countries.

The United States government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Julia Frifield,

Assistant Secretary, Legislative Affairs.

August 12, 2014 (Transmittal No. DDTC 14–040)

Honorable John A. Boehner, *Speaker of the House of Representatives*

Dear Mr. Speaker:

Pursuant to Section 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license amendment for the export of defense articles, including technical data, and defense services for the manufacture of significant military equipment abroad.

The transaction contained in the attached certification involves the export of technical data and defense services to Sweden to support the manufacture, integration, installation, operation and testing of the RLS20 Laser Transmitter and subassemblies.

The United States government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Julia Frifield,

Assistant Secretary, Legislative Affairs.

August 06, 2014 (Transmittal No. DDTC 14–055)

Honorable John A. Boehner, *Speaker of the House of Representatives*

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license amendment for the export of defense articles, including technical data, and defense services in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to the United Arab Emirates, France and the United Kingdom to support the integration, operation, training, testing, repair and operational level maintenance of the Maverick AGM–65 Weapons System and Paveway II, Paveway III, Enhanced Paveway II and Enhanced Paveway III Weapons Systems for use on the Blackhawk, Rafale, Cougar, Puma, Super Puma, F–16 Block 60, Hawk 100 Series, Mirage 2000, Apache AH–64 and Air Tractor 802 aircraft for end use by the United Arab Emirates' Air Defense Force and Air Force.

The United States government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Julia Frifield,

Assistant Secretary, Legislative Affairs.

August 26, 2014 (Transmittal No. DDTC 14–065)

Honorable Joseph R. Biden, Jr., *President of the Senate*

Dear Mr. President:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of firearm parts and components controlled under Category I of the United States Munitions List in the amount of $1,000,000 or more.

The transaction contained in the attached certification involves the export of pistols for the Turkish Armed Forces.

The United States government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Julia Frifield,

Assistant Secretary, Legislative Affairs.

August 26, 2014 (Transmittal No. DDTC 14–072)

Honorable John A. Boehner, *Speaker of the House of Representatives*

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed amendment to a technical assistance agreement for the export of defense articles, including technical data, and defense services in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to the Mexican, Secretaria De La Defensa Nacional for the acquisition of twelve new T–6C aircraft along with maintenance, training, and logistics support that include the ground based training system, spare inventory, and other support items for the aircraft.

The United States government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Julia Frifield,

Assistant Secretary, Legislative Affairs.

August 26, 2014 (Transmittal No. DDTC 14–073)

Honorable John A. Boehner, *Speaker of the House of Representatives*

Dear Mr. Speaker:

Pursuant to Section 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license amendment for the export of defense articles, including technical data, and defense services for the manufacture of significant military equipment abroad.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to Japan to support the manufacture, testing, sale, and repair of the APX–119 Airborne Identification Friend or Foe (IFF) Transponder for end use by the Japan Self-Defense Forces.

The United States government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Julia Frifield,

Assistant Secretary, Legislative Affairs.

August 06, 2014 (Transmittal No. DDTC 14–086)

Honorable John A. Boehner, *Speaker of the House of Representatives*

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of firearms, parts, and components controlled under Category I of the United States Munitions List in the amount of $1,000,000 or more.

The transaction contained in the attached certification involves the export of Colt Modular Rifles and accessories to the Director General of Police Operations in India.

The United States government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Julia Frifield,

Assistant Secretary, Legislative Affairs.

January 28, 2015 (Transmittal No. DDTC 14–113)

Honorable John A. Boehner, *Speaker of the House of Representatives*

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting certification of a proposed license for the export of defense articles, including technical data, and defense services in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to the Government of Japan for the assembly, testing, inspection, calibration, troubleshooting, use, installation, maintenance, overhaul, repair, and sale of parts and components for use on the F100 series of military jet engines owned and operated by the Japanese Ministry of Defense.

The United States government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Julia Frifield,

Acting Assistant Secretary, Legislative Affairs.

February 04, 2015 (Transmittal No. DDTC 14–120)

Honorable John A. Boehner, *Speaker of the House of Representatives*

Dear Mr. Speaker:

Pursuant to Section 36(c) and 36(d) of the Arms Export Control Act, I am transmitting certification of an amendment to a manufacturing license agreement for the export of defense articles, including technical data, and defense services in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, defense services, and manufacture know-how for the design and manufacture of the Sikorsky S–70i helicopter.

The United States government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Julia Frifield,

Assistant Secretary, Legislative Affairs.

January 28, 2015 (Transmittal No. DDTC 14–123)

Honorable John A. Boehner, *Speaker of the House of Representatives*

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting certification of a proposed license for the export of defense articles, including technical data, and defense services in the amount of $50,000,000 or more.

The transaction contained in the attached certification proposes to transfer defense articles, including technical data, and defense services to support the sale of 24 Archangel Intelligence, Surveillance and Reconnaissance (''ISR'') Border Patrol Aircraft to the government of the United Arab Emirates.

The United States government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Julia Frifield,

Assistant Secretary, Legislative Affairs.

January 26, 2015 (Transmittal No. DDTC 14–127)

Honorable John A. Boehner, *Speaker of the House of Representatives*

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting certification of a proposed license amendment for the export of defense articles,

to include technical data, and defense services in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the transfer of defense articles, to include technical data, and defense services for upgrade of current Swiss simulator training devices to reflect the same configuration as Swiss F/A–18 aircraft to support the F/A–18 Tactical Operational Flight Trainer Program for Switzerland.

The United States government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Julia Frifield,

Assistant Secretary, Legislative Affairs.

January 28, 2015 (Transmittal No. DDTC 14–128)

Honorable John A. Boehner, *Speaker of the House of Representatives*

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting certification of proposed license for the export of defense articles, including technical data, and defense services in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to the Government of Pakistan in support of maintenance, repair, and overhaul at the Organizational, Intermediate, and Depot Levels of F100 engines owned and operated by the Pakistan Air Force.

The United States government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Julia Frifield,

Acting Assistant Secretary, Legislative Affairs.

January 26, 2015 (Transmittal No. DDTC 14–130)

Honorable John A. Boehner, *Speaker of the House of Representatives*

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting certification of a proposed license for the export of firearm parts and components abroad controlled under Category I of the United States Munitions List in amount of $1,000,000 or more.

The transaction contained in the attached certification involves the export of Sig Sauer Model P229 Pistols to Trinidad and Tobago for use by the Trinidad and Tobago Police Service.

The United States government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Julia Frifield,

Assistant Secretary, Legislative Affairs.

February 27, 2015 (Transmittal No. DDTC 14–131)

Honorable John A. Boehner, *Speaker of the House of Representatives*

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting certification of a proposed license for the export of defense articles, including technical data, and defense services in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the transfer of defense articles, including technical data, and defense services to Brazil, Canada, and Spain for design, develop, manufacture, test, launch, and orbit rising of Hispasat 1F commercial communications satellite.

The United States government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Julia Frifield,

Assistant Secretary, Legislative Affairs.

January 26, 2015 (Transmittal No. DDTC 14–137)

Honorable John A. Boehner, *Speaker of the House of Representatives*

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting certification of a proposed license for the export of firearm parts and components abroad controlled under Category I of the United States Munitions List in amount of $1,000,000 or more.

The transaction contained in the attached certification involves the export of semi-automatic pistols, semi-automatic rifles, magazines, and accessories to Poland for commercial resale in Poland only.

The United States government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Julia Frifield,

Assistant Secretary, Legislative Affairs.

February 17, 2015 (Transmittal No. DDTC 14–146)

Honorable John A. Boehner, *Speaker of the House of Representatives*

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting certification of a proposed license for the export of defense articles, including technical data, and defense services in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of High Mobility Multi-Purpose Wheeled Vehicles (HMMWVs), including technical data, and defense services to the Government of Iraq.

The United States government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Julia Frifield,

Assistant Secretary, Legislative Affairs.

February 27, 2015 (Transmittal No. DDTC 14–150)

Honorable John A. Boehner, *Speaker of the House of Representatives*

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting certification of a proposed license for the export of defense articles, including technical data, and defense services in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services for the procurement of an additional one (1) C–17A Globemaster III transport aircraft including associated spares, support equipment, and aircrew and maintenance training for end-use by the Armed Forces of Canada.

The United States government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though

unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Julia Frifield,

Assistant Secretary, Legislative Affairs.

February 06, 2015 (Transmittal No. DDTC 14–152)

Honorable John A. Boehner, *Speaker of the House of Representatives*

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting certification of a proposed license for the export of defense articles, including technical data, and defense services in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of (12) MD–530F Attack Helicopters, which includes the integration, testing, procurement, modification, and installation of a weapon system onto the helicopters.

The United States government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Julia Frifield,

Assistant Secretary, Legislative Affairs.

Dated: August 24, 2015.

Lisa V. Aguirre,

Director of Management, Directorate of Defense Trade Controls, U.S. Department of State.

[FR Doc. 2015–21646 Filed 8–31–15; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF STATE

[Public Notice: 9245]

Culturally Significant Objects Imported for Exhibition Determinations: ''Royal Taste: The Art of Princely Courts in Fifteenth-Century China'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition ''Royal Taste: The Art of Princely Courts in Fifteenth-Century China,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects at The John and Mable Ringling Museum of Art, State Art Museum of Florida, Florida State University, Sarasota, Florida, from on or about October 9, 2015, until on or about January 10, 2016, at the USC Pacific Asia Museum, Pasadena, California, from on or about February 26, 2016, until on or about June 26, 2016, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the imported objects, contact the Office of Public Diplomacy and Public Affairs in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

Dated: August 26, 2015.

Kelly Keiderling,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2015–21644 Filed 8–31–15; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 9248]

Culturally Significant Objects Imported for Exhibition Determinations: ''Sacred Caves of the Silk Road: Ways of Knowing and Re-Creating Dunhuang'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition ''Sacred Caves of the Silk Road: Ways of Knowing and Re-Creating Dunhuang,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects at the Princeton University Art Museum, Princeton, New Jersey, from on or about October 3, 2015, until on or about January 10, 2016, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the imported objects, contact the Office of Public Diplomacy and Public Affairs in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

Dated: August 26, 2015.

Kelly Keiderling,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2015–21643 Filed 8–31–15; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 9249]

Culturally Significant Objects Imported for Exhibition Determinations: ''Rembrandt and Vermeer'' Exhibitions

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that certain objects to be imported from abroad for temporary exhibition within the United States are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Museum of Fine Arts, Boston, Boston, Massachusetts, from on or about October 11, 2015, until on or about January 18, 2016, in the exhibition

''Class Distinctions: Dutch Painting in the Age of Rembrandt and Vermeer,'' at the Nelson-Atkins Museum of Art, Kansas City, Missouri, from on or about February 20, 2016, until on or about May 29, 2016, in the exhibition ''Reflecting Class in the Age of Rembrandt and Vermeer,'' and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the imported objects, contact the Office of Public Diplomacy and Public Affairs in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

Dated: August 20, 2015.

Evan Ryan,

Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2015–21650 Filed 8–31–15; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Aviation Rulemaking Advisory Committee (ARAC) meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the ARAC.

DATES: The meeting will be held on September 17, 2015, starting at 1 p.m. Eastern Standard Time. Arrange oral presentations by September 10, 2015.

ADDRESSES: The meeting will take place at the Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 10th floor, MacCracken Conference Room.

FOR FURTHER INFORMATION CONTACT: Renee Pocius, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267–5093; fax (202) 267–5075; email *Renee.Pocius@faa.gov*.

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. 2), we are giving notice of a meeting of the ARAC taking place on September 17, 2015, at the Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591.

The Agenda includes:

- Status Reports From Active Working Groups
  - Airman Certification Systems Working Group (ARAC)
  - Aircraft Systems Information Security/Protection Working Group (ARAC)
  - Air Traffic Controller Training Working Group (ARAC)
  - Airworthiness Assurance Working Group (TAE)
  - Engine Harmonization Working Group (TAE)—Engine Endurance Testing Requirements—Revision of Section 33.87
  - Flight Test Harmonization Working Group (TAE)—Phase 2 Tasking
  - Materials Flammability Working Group (TAE)
  - Transport Airplane Metallic and Composite Structures Working Group (TAE)—Transport Airplane Damage-Tolerance and Fatigue Evaluation
  - Transport Airplane Crashworthiness and Ditching Evaluation Working Group (TAE)
- New Tasks
  - Rotorcraft Occupant Protection Working Group (ARAC)
- Air Traffic Status Report from the FAA

Attendance is open to the interested public but limited to the space available. Please confirm your attendance with the person listed in the **FOR FURTHER INFORMATION CONTACT** section no later than September 10, 2015. Please provide the following information: Full legal name, country of citizenship, and name of your industry association, or applicable affiliation. If you are attending as a public citizen, please indicate so.

For persons participating by telephone, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section by email or phone for the teleconference call-in number and passcode. Callers outside the Washington metropolitan area are responsible for paying long-distance charges.

The public must arrange by September 10, 2015 to present oral statements at the meeting. The public may present written statements to the Aviation Rulemaking Advisory Committee by providing 25 copies to the Designated Federal Officer, or by bringing the copies to the meeting.

If you are in need of assistance or require a reasonable accommodation for this meeting, please contact the person listed under the heading **FOR FURTHER INFORMATION CONTACT**. Sign and oral interpretation, as well as a listening device, can be made available if requested 10 calendar days before the meeting.

Issued in Washington, DC, on August 26, 2015.

Lirio Liu,

Designated Federal Officer, Aviation Rulemaking Advisory Committee.

[FR Doc. 2015–21579 Filed 8–31–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2015–0007–N–22]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that FRA is forwarding the regular Clearance and renewal information Collection Requests (ICRs) abstracted below to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** notice with a 60-day comment period soliciting comments on the following collection of information was published on May 26, 2015 (80 FR 30109).

DATES: Comments must be submitted on or before October 1, 2015.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Regulatory Safety Analysis Division, RRS–21, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 25, Washington, DC 20590 (Telephone: (202) 493–6292), or Ms. Kimberly Toone, Office of Information Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 35, Washington, DC 20590 (Telephone: (202) 493–6132). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, sec. 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on

information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), and 1320.12. On May 26, 2015, FRA published a 60-day notice in the **Federal Register** soliciting comment on the ICRs that the agency is seeking OMB approval. *See* 80 FR 30109. FRA received no comments in response to this notice.

Accordingly, FRA has reevaluated and certified these information collection activities under 5 CFR 1320.5(a), and is forwarding these ICRs to OMB for review and approval pursuant to 5 CFR 1320.12(c).

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30 day notice is published. 44 U.S.C. 3507 (b)–(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30 day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); *see also* 60 FR 44983, Aug. 29, 1995.

The summaries below describe the nature of the ICRs and the expected burden. FRA is submitting these proposed information collections to OMB for clearance as required by the PRA.

Title: FRA Safety Advisory 2015–01, Mechanical Inspections and Wheel Impact Detector Standards for Trains Transporting Large Amounts of Class 3 Flammable Liquids.

OMB Control Number: 2130–0607.

Abstract: Recent derailments have occurred involving trains transporting large quantities of petroleum crude oil and ethanol. Preliminary investigation of one of these recent derailments involving a crude oil train indicates that a mechanical defect involving a broken tank car wheel may have caused or contributed to the incident. FRA issued this Safety Advisory to make recommendations to enhance the mechanical safety of the cars in trains transporting large quantities of flammable liquids. This Safety Advisory recommended that railroads use highly qualified individuals to conduct the brake and mechanical inspections and recommends a reduction to the impact threshold levels the industry currently uses for wayside detectors that measure wheel impacts to ensure the wheel integrity of tank cars in those trains.

Type of Request: Regular Clearance of an Information Collection Approved under Emergency Processing

Affected Public: Businesses (Railroads).

Form(s): N/A.

Total Annual Estimated Responses: 351,000.

Total Annual Estimated Burden: 6,333 hours.

Title: FRA Safety Advisory 2015–02, Hazardous Materials: Information Requirements Related to the Transportation of Trains Carrying Specified Volumes of Flammable Liquids.

OMB Control Number: 2130–0608.

Abstract: Due to recent derailments involving ''high hazard flammable trains'' (HHFTs), FRA and PHMSA have conducted several post-accident investigations and to ensure that stakeholders are fully aware of each agency's investigative authority and cooperate with agency personnel conducting such investigations, where time is of the essence in gathering evidence, the agencies issued a Safety Advisory (FRA Safety Advisory 2015–02 and Docket NO. PHMSA–2015–0118, Notice No. 15–11) to remind railroads operating HHFTs—defined as a train comprised of 20 or more loaded tank cars of a Class 3 flammable liquid in a continuous block, or a train with 35 or more loaded tank cars of a Class 3 flammable liquid across the entire train—as well as the offerors of Class 3 flammable liquids transported on such trains, of their obligation to provide PHMSA and FRA, as expeditiously as possible, with information agency personnel need to conduct investigations immediately following an accident or incident.

Type of Request: Regular Clearance of an Information Collection Approved under Emergency Processing.

Affected Public: Businesses (Railroads).

Form(s): N/A.

Total Annual Estimated Responses: 50.

Total Annual Estimated Burden: 100 hours.

Title: FRA Emergency Order No. 30, Emergency Order Establishing a Maximum Operating Speed Operating Speed of 40 mph in High-Threat Urban Areas for Certain Trains Transporting Large Quantities of Class 3 Flammable Liquids.

OMB Control Number: 2130–0609.

Abstract: FRA issued Emergency Order No. 30 (EO or Order) to require that trains transporting large amounts of Class 3 flammable liquid through certain highly populated areas adhere to a maximum authorized operating speed limit. FRA has determined that public safety compels issuance of the Order. The Order was necessary due to the recent occurrence of railroad accidents involving trains transporting petroleum crude oil and ethanol and the increasing reliance on railroads to transport voluminous amounts of those hazardous materials in recent years. Under the EO, an affected train is one that contains: (1) 20 or more loaded tank cars in a continuous block, or 35 or more loaded tank cars, of Class 3 flammable liquid; and (2) at least one DOT Specification 111 (DOT–111) tank car (including those built in accordance with Association of American Railroads (AAR) Casualty Prevention Circular 1232 (CPC–1232)) loaded with a Class 3 flammable liquid. Affected trains must not exceed 40 miles per hour (mph) in high-threat urban areas (HTUAs) as defined in 49 CFR 1580.3. This Order took effect immediately upon issuance.

Type of Request: Regular Clearance of an Information Collection Approved under Emergency Processing.

Affected Public: Businesses (Railroads).

Form(s): N/A.

Total Annual Estimated Responses: 25.

Total Annual Estimated Burden: 1,000 hours.

Title: Railroad Signal System Requirements.

OMB Control Number: 2130–0006.

Abstract: The regulations pertaining to railroad signal systems are contained in 49 CFR parts 233 (Signal System Reporting Requirements), 235 (Instructions Governing Applications for Approval of a Discontinuance or Material Modification of a Signal System), and 236 (Rules, Standards, and Instructions Governing the Installation, Inspection, Maintenance, and Repair of Systems, Devices, and Appliances). Section 233.5 provides that each railroad must report to FRA within 24 hours after learning of an accident or incident arising from the failure of a signal appliance, device, method, or system to function or indicate as required by part 236 of this Title that results in a more favorable aspect than intended or other condition hazardous to the movement of a train. Section 233.7 sets forth the specific requirements for reporting signal failures within 15 days in accordance with the instructions printed on Form FRA F 6180.14.

Finally, § 233.9 sets forth the specific requirements for the ''Signal System Five Year Report.'' It requires that every

five years each railroad must file a signal system status report. The report is to be prepared on a form issued by FRA in accordance with the instructions and definitions provided. Title 49 of the Code of Federal Regulations, part 235 sets forth the specific conditions under which FRA approval of modification or discontinuance of railroad signal systems is required and prescribes the methods available to seek such approval. The application process prescribed under part 235 provides a vehicle enabling FRA to obtain the necessary information to make logical and informed decisions concerning carrier requests to modify or discontinue signaling systems. Section 235.5 requires railroads to apply for FRA approval to discontinue or materially modify railroad signaling systems. Section 235.7 defines material modifications and identifies those changes that do not require agency approval. Section 235.8 provides that any railroad may petition FRA to seek relief from the requirements under 49 CFR part 236. Sections 235.10, 235.12, and 235.13 describe where the petition must be submitted, what information must be included, the organizational format, and the official authorized to sign the application. Section 235.20 sets forth the process for protesting the granting of a carrier application for signal changes or relief from the rules, standards, and instructions. This section provides the information that must be included in the protest, the address for filing the protest, the item limit for filing the protest, and the requirement that a person requesting a public hearing explain the need for such a forum. Section 236.110 requires that the test results of certain signaling apparatus be recorded and specifically identify the tests required under §§ 236.102–109; 236.377–236.387; 236.576; 236.577; and 236.586–589. Section 236.110 further provides that the test results must be recorded on pre-printed or computerized forms provided by the carrier and that the forms show the name of the railroad, place and date of the test conducted, equipment tested, test results, repairs, and the condition of the apparatus. This section also requires that the employee conducting the test must sign the form and that the record be retained at the office of the supervisory official having the proper authority. Results of tests made in compliance with § 236.587 must be retained for 92 days, and results of all other tests must be retained until the next record is filed, but in no case less than one year. Additionally, § 236.587 requires each railroad to make a departure test of cab signal, train stop, or train control devices on locomotives before that locomotive enters the equipped territory. This section further requires that whoever performs the test must certify in writing that the test was properly performed. The certification and test results must be posted in the locomotive cab with a copy of the certification and test results retained at the office of the supervisory official having the proper authority. However, if it is impractical to leave a copy of the certification and test results at the location of the test, the test results must be transmitted to either the dispatcher or one other designated official who must keep a written record of the test results and the name of the person performing the test. All records prepared under this section are required to be retained for 92 days. Finally, § 236.590 requires the carrier to clean and inspect the pneumatic apparatus of automatic train stop, train control, or cab signal devices on locomotives every 736 days, and to stencil, tag, or otherwise mark the pneumatic apparatus indicating the last cleaning date.

Type of Request: Revision of a currently approved information collection.

Affected Public: Businesses (Railroads).

Form(s): FRA F 6180.47; FRA F 6180.14.

Total Annual Estimated Responses: 1,673,546.

Total Annual Estimated Burden: 444,883 hours.

Addressee: Send comments regarding these information collections to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street NW., Washington, DC, 20503, Attention: FRA Desk Officer. Comments may also be sent via email to OMB at the following address: *oira_submissions@omb.eop.gov.*

Comments are invited on the following: Whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; 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, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register**.

Authority: 44 U.S.C. 3501–3520.

Issued in Washington, DC on August 26, 2015.

Corey Hill,

Acting Executive Director.

[FR Doc. 2015–21542 Filed 8–31–15; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2009–0089]

Petition for Waiver of Compliance

In accordance with part 211 of Title 49 of the Code of Federal Regulations (CFR), this document provides the public notice that by a document posted on March 11, 2015, the Ashtabula, Carson & Jefferson Railroad (ACJR) has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR 223.11, *Requirements for existing locomotives.* FRA assigned the petition Docket Number FRA–2009–0089.

ACJR of Jefferson City, OH, has petitioned for a permanent waiver of compliance for one locomotive, ACJR 7371, from the requirements of the railroad safety glazing standards at 49 CFR part 223 that require certified glazing in all windows. ACJR, chartered in 1984 to save the Conrail Jefferson Industrial Track, is located in the northeastern corner of Ohio. Its 6.3-mile long track, running through level farmland and wooded areas, has one terminus in Jefferson, OH, and the other, for interchanges, at the south end of Norfolk Southern Railway's Carson Yard in Ashtabula, OH. The railroad provides bulk commodity shipping and transloading services to customers from its staging facilities at the termini. Each year, the railroad hauls approximately 1,200 cars, at speeds not exceeding 10 mph.

The locomotive was built by the American Locomotive Company (Alco) in April 1941, as a model S1 B–B yard switcher with an Alco 539 (6-cylinder, 660 hp) engine. It is equipped with Plexiglas-type safety glazing that is in good condition, clear, and unscratched. ACJR states that there has been no instance of vandalism in approximately 30 years of its operations. ACJR further states that the expense of retrofitting the locomotive to comply with FRA safety glazing standards would impose an

undue financial burden that ACJR cannot bear at this time.

Because of a low risk of exposure to injury due to vandalism and the prohibitive cost of glazing material and labor, ACJR is requesting the waiver of regulation contained at 49 CFR 223.11 for its locomotive listed above.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- Web site: *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- Fax: 202–493–2251.
- Mail: Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- Hand Delivery: 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by October 16, 2015 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.* See also *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov.

Issued in Washington, DC, on August 10, 2015.

Ron Hynes,

Director, Office of Technical Oversight.

[FR Doc. 2015–21526 Filed 8–31–15; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2015–0007–N–21]

Agency Request for Emergency Processing of Collection of Information by the Office of Management and Budget

AGENCY: Federal Railroad Administration (FRA), United States Department of Transportation (USDOT).

ACTION: Notice.

SUMMARY: FRA hereby gives notice that it is submitting the following Information Collection request (ICR) to the Office of Management and Budget (OMB) for Emergency Processing under the Paperwork Reduction Act of 1995. FRA requests that OMB authorize the collection of information identified below seven days after publication of this Notice for a period of 180 days.

FOR FURTHER INFORMATION CONTACT: A copy of this individual ICR, with applicable supporting documentation, may be obtained by telephoning FRA's Office of Safety Clearance Officer: Robert Brogan (tel. (202) 493–6292) or FRA's Office of Administration Clearance Officer: Kimberly Toone (tel. (202) 493–6132); these numbers are not toll-free; or by contacting Mr. Brogan via facsimile at (202) 493–6216 or Ms. Toone via facsimile at (202) 493–6497, or via email by contacting Mr. Brogan at *Robert.Broga@dot.gov;* or by contacting Ms. Toone at *Kim.Toone@dot.gov.* Comments and questions about the ICR identified below should be directed to OMB's Office of Information and Regulatory Affairs, Attn: FRA OMB Desk Officer.

SUPPLEMENTARY INFORMATION: FRA issued Safety Advisory 2015–04 on August 20, 2015, to emphasize the importance of timely repairing ballast defects and conditions on main tracks. FRA published Safety Advisory 2015–04 in the **Federal Register** on August 26, 2015. *See* 80 FR 51868. In the Safety Advisory, FRA notes that ballast defects and ballast conditions that are not repaired in a timely manner can lead to future defects. FRA believes it is important for track inspectors to be aware that ballast defects and conditions can cause track components to deteriorate rapidly and compromise the stability of the track structure, and that inspectors are trained to identify and repair ballast defects and conditions. This safety advisory recommends that track owners and railroads: (1) Assess current engineering instructions on ballast safety and update them to provide specific guidance to track inspectors (designated personnel that are qualified to inspect and repair track) on how to identify and initiate remedial action under 49 CFR 213.233(d) for ballast defects and conditions, as well as on the appropriate remedial action to implement, particularly in areas with one or more additional track conditions; (2) train track inspectors on the updated engineering instructions and this safety advisory to ensure they understand how to identify and initiate remedial action for ballast defects and conditions in a timely manner, and understand the importance of such remedial action in preventing the development of unsafe combinations of track conditions; and (3) ensure that supervisors provide adequate oversight of track inspectors to achieve identification and remediation of ballast defects and other track conditions.

FRA is requesting Emergency processing approval seven days after publication of this **Federal Register** Notice because FRA cannot reasonably comply with normal clearance procedures on account of use of normal clearance procedures is reasonably likely to disrupt the collection of information. The associated collection of information is summarized below.

Title: Ballast Defects and Conditions—Importance of Identification and Repair in Preventing Development of Unsafe Combinations of Track Conditions.

Reporting Burden:

Safety advisory 2015–04	Respondent universe	Total annual responses	Average time per response	Total annual burden hours
(1) RR Assessment and Update of Engineering Instructions to provide Guidance to Its Track Inspectors on How to Identify and Repair Ballast Defects and Other Ballast Conditions.	754 Railroads	100 assessments + 100 engineering instruction updates.	60 minutes	200 hours.
(2) RR Training of Its Track Inspectors on Updated Engineering Instructions and FRA Safety Advisory 2015–04.	754 Railroads	10,000 trained track inspectors/records.	60 minutes	10,000 hours.

Form Number(s): N/A.

Respondent Universe: 754 Railroads.

Frequency of Submission: One-time; on occasion.

Total Estimated Responses: 10,200.

Total Estimated Annual Burden: 10,200 hours.

Status: Emergency Review.

Pursuant to 44 U.S.C. 3507(a) and 5 CFR 1320.5(b), 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Issued in Washington, DC, on August 26, 2015.

Corey Hill,

Acting Executive Director.

[FR Doc. 2015–21541 Filed 8–31–15; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2015–0028]

Petition for Waiver of Compliance

In accordance with part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated March 16, 2015, Placerville & Sacramento Valley Railroad, Inc. (PSVR) has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 215. FRA assigned the petition Docket Number FRA–2015–0028.

PSVR owns a former St. Louis Southwestern Railway (SSW) bay window caboose, identified as Car Number SSW 48. This car turned 50 years old from the original date of construction in May 2015 and is therefore restricted in accordance with 49 CFR 215.203(a) and required to be stenciled in accordance with 49 CFR 215.303. PSVR is requesting that the stenciling requirement be waived. In addition, PSVR requests a special approval to continue to use this caboose in accordance with 49 CFR 215.203(b).

In support of its petition, PSVR stated that it is a noninsular tourist railroad. The caboose is used in passenger service for tourist excursions on the PSVR system. The caboose began operation in this service in September 2014 (at which time it was not yet 50 years old), following an inspection and completion of a successful single car air brake test. This caboose has been examined and deemed safe to operate under the conditions set forth in PSVR's petition on Class 1 track for passenger service. The territorial limit of PSVR's operation is on the former Southern Pacific Placerville Branch in Sacramento and El Dorado counties owned by the Sacramento-Placerville Joint Powers Authority from approximately Milepost (MP) 111 to approximately MP 142. The caboose will operate only on this territory, and will not be used in interchange service. PSVR proposes to operate the caboose with a speed limit of 30 mph.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- Web site: *http://www.regulations.gov* Follow the online instructions for submitting comments.
- Fax: 202–493–2251.
- Mail: Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- Hand Delivery: 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by October 16, 2015 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.* See also *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov.

Issued in Washington, DC, on August 10, 2015.

Ron Hynes,

Director, Office of Technical Oversight.

[FR Doc. 2015–21527 Filed 8–31–15; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms, and Record Keeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: NHTSA has forwarded the information collection request described in this notice to the Office of Management and Budget (OMB) for approval of a new information collection. We published a **Federal Register** Notice with a 60-day public comment period on this information collection on April 29, 2015. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Comments must be submitted on or before October 1, 2015.

ADDRESSES: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention NHTSA Desk Officer.

FOR FURTHER INFORMATION CONTACT: Dr. James Higgins, 202–366–3976.

SUPPLEMENTARY INFORMATION:

Title: Survey of Law Enforcement Officers/Agencies: Attitudes Towards and Resources for Traffic Safety Enforcement.

Type of Request: New information collection requirement.

Background: Title 23, United States Code, Chapter 4, Section 402 gives the Secretary authorization to use funds appropriated to carry out this section to conduct research and development activities, including demonstration projects and the collection and analysis of highway and motor vehicle safety data and related information needed to carry out this section, with respect to all aspects of highway and traffic safety systems and conditions relating to—vehicle, highway, driver, passenger, motorcyclist, bicyclist, and pedestrian characteristics; accident causation and investigations; and human behavioral factors and their effect on highway and traffic safety. NHTSA further has the responsibility for promoting and implementing effective educational, engineering and enforcement programs with the goal of ending preventable tragedies and reducing economic costs associated with vehicle use and highway travel.

NHTSA was established to reduce the number of deaths, injuries, and economic losses resulting from motor vehicle crashes on the Nation's highways. As part of this statutory mandate, NHTSA is authorized to conduct research as a foundation for the development of motor vehicle standards and traffic safety programs.

NHTSA is interested in the attitudes of Law Enforcement Officers (LEOs) and the resources that Law Enforcement Agencies (LEAs) have for traffic safety enforcement. More specifically, NHTSA is interested in past and present LEO viewpoints, agency resources currently being employed, how resources are being utilized, and which additional resources can be implemented to make the enforcement of traffic safety more successful, efficient, and safe for both the Law Enforcement Community as well as the public.

NHTSA proposes to collect information from LEOs and LEAs responsible for traffic safety enforcement. Information will be collected through a separate survey voluntarily completed by line officers and supervisors, as well as structured phone interviews with LEA Chiefs or their designees. Agency administrative data will be gathered through authorized LEA personnel responsible for maintaining such information.

Due to economic challenges and resource constraints, a number of law enforcement agencies have merged traffic enforcement with other enforcement divisions in order to reduce costs. It is important to gain an understanding of how attitudes and resources have shifted in recent years in order to determine what NHTSA can do to enhance traffic safety.

This proposed study is the first step in NHTSA understanding the attitudes and challenges that LEOs and LEAs have with traffic safety enforcement. This study will collect critical information about current and past attitudes towards traffic safety enforcement, as well as determine the strengths and weaknesses associated with merging traffic enforcement with other enforcement divisions, and allow NHTSA to assess key variables that have implications for intervention and outreach activities. The agency will gain not only valuable information on the attitudes of Law Enforcement but will also gain valuable guidance in the logistics involved in recruiting and collecting data from agencies and officers as well as the quality of responses and data from the developed instruments for larger nationally representative future studies.

Proposed Data Acquisition Methodology

For the proposed study, we will recruit participant groups from 40 LEAs across the United States who voluntarily agree to participate in the study. The Survey of Law Enforcement Officers/Agencies: Attitudes Towards and Resources for Traffic Safety Enforcement will be conducted with an average sample of 30 law enforcement line officers, 2 law enforcement supervisors, and one command-level staff interview among 40 sampled law enforcement agencies. Approximately 1,200 completed web-based officer surveys and 80 completed web-based supervisor surveys. In addition, an agency head telephone interview will be conducted with a member of each agency's command-level staff for a total of 40 completed agency head interviews.

All web instruments will be reviewed for section 508 compliance using the rules specified in section 1194.22—'Web-based Intranet and internet information and applications'.

Estimated Burden Hours for Information Collection

Frequency: This collection will be conducted once.

Respondent Burden: The web survey for the line officers and supervisors will average approximately 15 minutes including introduction, consent, confidentiality, survey questions, and debriefing. The estimated completion time for each semi-structured interview is 30 minutes per agency head or designee. Individuals providing administrative data have an estimated completion time of 30–45 minutes. The total estimated annual burden if all solicited participants respond is approximately 370 hours. Participants will incur no costs and no record keeping burden from the information collection.

Public Comments Invited

You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection of information is necessary for the USDOT's performance, including whether the information will have practical utility; (2) the data acquisition methods; (3) the accuracy of the USDOT's estimate of the burden of the proposed information collection; (4) the types of data being acquired; (5) ways to enhance the quality, usefulness, and clarity of the collected information; and (6) 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.

Authority: 44 U.S.C. Section 3506(c)(2)(A).

Issued on: August 25, 2015.

Jeff Michael,

Associate Administrator, Research and Program Development.

[FR Doc. 2015–21603 Filed 8–31–15; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2015–0053; Notice 1]

BMW of North America, Inc., Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: BMW of North America, Inc. (BMW) has determined that certain model year (MY) 2015 MINI Cooper, Cooper S hardtop 2 door, and Cooper S hardtop 4 door passenger cars do not fully comply with paragraph S4.2.3(a) of Federal Motor Vehicle Safety Standard (FMVSS) No. 226, *Ejection Mitigation.* BMW has filed an appropriate report dated May 20, 2015, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.*

DATES: The closing date for comments on the petition is October 1, 2015.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited at the beginning of this notice and submitted by any of the following methods:

- Mail: Send comments by mail addressed to: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- Hand Deliver: Deliver comments by hand to: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except Federal Holidays.
- Electronically: Submit comments electronically by: logging onto the Federal Docket Management System (FDMS) Web site at *http://www.regulations.gov/*. Follow the online instructions for submitting comments. Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Documents submitted to a docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at *http://www.regulations.gov* by following the online instructions for accessing the dockets. DOT's complete Privacy Act Statement is available for review in the **Federal Register** published on April 11, 2000, (65 FR 19477–78).

The petition, supporting materials, and all comments received before the close of business on the closing date for comments indicated above will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice of the decision will be published in the **Federal Register** pursuant to the authority indicated below.

SUPPLEMENTARY INFORMATION:

I. Overview: Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), BMW submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of BMW's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

II. Vehicles Involved: Affected are approximately 4,208 MY 2015 MINI Cooper, Cooper S hardtop 2 door, and Cooper S hardtop 4 door passenger cars manufactured from February 25, 2015 to April 24, 2015.

III. Noncompliance: BMW explains that written information describing the ejection mitigation countermeasure installed in the vehicles was not provided to the vehicle consumers as required by paragraph S4.2.3(a) of FMVSS No. 226.

IV. Rule Text: Paragraph S4.2.3 of FMVSS No. 226 requires in pertinent part:

S4.2.3 Written information.

(a) Vehicles with an ejection mitigation countermeasure that deploys in the event of a rollover must be described as such in the vehicle's owner manual or in other written information provided by the vehicle manufacturer to the consumer.

V. Summary of BMW's Position: BMW stated its belief that the subject noncompliance in the affected vehicles is inconsequential to motor vehicle safety. A summary of its reasoning is provided as follows. Detailed explanations of its reasoning are included in its petition:

1. The vehicles are equipped with a countermeasure that meets the performance requirements of FMVSS No. 226.
2. The owner's manuals contain a description of the ejection mitigation countermeasure in the context of side impact.
3. The owner's manuals contain precautions related to the [ejection mitigation] system even though not required by FMVSS No. 226.
4. The [ejection mitigation] system uses the FMVSS No. 208 required readiness indicator, as allowed by FMVSS No. 226.
5. BMW has not received any customer complaints due to this issue.
6. BMW is not aware of any accidents or injuries due to this issue.
7. NHTSA may have granted similar manufacturer petitions re owner's manuals.
8. BMW has corrected the noncompliance so that all future production vehicles will comply with FMVSS No. 226.

In summation, BMW believes that the described noncompliance of the subject vehicles is inconsequential to motor vehicle safety, and that its petition, to exempt BMW from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to

the subject vehicles that BMW no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after BMW notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Jeffrey M. Giuseppe,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2015–21580 Filed 8–31–15; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. EP 519 (Sub-No. 4)]

Notice of National Grain Car Council Meeting

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of National Grain Car Council meeting.

SUMMARY: Notice is hereby given of a meeting of the National Grain Car Council (NGCC), pursuant to the Federal Advisory Committee Act, 5 U.S.C., app. 2 § 10(a)(2).

DATES: The meeting will be held on Thursday, September 17, 2015, beginning at 1:00 p.m. (CDT), and is expected to conclude at 5:00 p.m. (CDT).

ADDRESSES: The meeting will be held at the Westin Kansas City at Crown Center, 1 East Pershing Road, Kansas City, MO 64108. Phone (816) 474–4400.

FOR FURTHER INFORMATION CONTACT: Fred Forstall at (202) 245–0241 or *alfred.forstall@stb.dot.gov.* [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at: (800) 877–8339].

SUPPLEMENTARY INFORMATION: The NGCC was established by the Interstate Commerce Commission (ICC) as a working group to facilitate private-sector solutions and recommendations to the ICC (and now the Board) on matters affecting rail grain car availability and transportation. *Nat'l Grain Car Supply—Conference of Interested Parties,* EP 519 (ICC served Jan. 7, 1994).

The general purpose of this meeting is to discuss rail carrier preparedness to transport the 2015 grain harvest. Agenda items include the following: Remarks by Board Chairman Daniel R. Elliott III, Board Vice Chairman and NGCC Co-Chairman Ann D. Begeman, and Commissioner Deb Miller; a review of the upcoming harvest by Bill Hudson, founder of The ProExporter Network®; and follow-up responses, as well as discussions of related issues, by railroad, shipper, and manufacturer/lessor response panels. The full agenda, along with other information regarding the NGCC, is posted on the Board's Web site at *http://www.stb.dot.gov/stb/rail/graincar_council.html.*

The meeting, which is open to the public, will be conducted pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2; Federal Advisory Committee Management, 41 CFR pt. 102–3; the NGCC Charter; and Board procedures.

Public Comments: Members of the public may submit written comments to the NGCC at any time. Comments should be addressed to NGCC, c/o Fred Forstall, Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001 or *alfred.forstall@stb.dot.gov.* Any further communications about this meeting will be announced through the STB Web site.

Decided: August 27, 2015.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Tia Delano,

Clearance Clerk.

[FR Doc. 2015–21613 Filed 8–31–15; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

[Docket Number: RITA–2008–0002]

Agency Information Collection Activity; Notice of Request for Approval To Collect New Information: Confidential Close Call Reporting for Transit Rail System

AGENCY: Bureau of Transportation Statistics (BTS), Office of the Assistant Secretary for Research Technology (OST–R), U.S. Department of Transportation.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, this notice announces the intention of the Bureau of Transportation Statistics to request the Office of Management and Budget (OMB) to approve the following information collection: Confidential Close Call Reporting for Transit Rail System. This data collection effort supports a multi-year program focused on improving transit rail safety by collecting and analyzing data and information on close calls and other unsafe occurrences in the Washington Metropolitan Area Transit Authority (WMATA) rail system. The program is co-sponsored by WMATA's Office of the Deputy General Manager Operations (DGMO) and the President/Business Agent of the Amalgamated Transit Union (ATU) Local 689. It is designed to identify safety issues and propose corrective actions based on voluntary reports of close calls submitted confidentially to the Bureau of Transportation Statistics (BTS), U.S. Department of Transportation. This information collection is necessary to aid WMATA/ATU in systematically collecting and analyzing data to identify root causes of potentially unsafe events.

DATES: Comments must be received by November 2, 2015.

ADDRESSES: To ensure that your comments are not entered more than once into the docket, submit comments by only one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically. Docket Number: RITA–2008–2002.
- *Mail:* Docket Management Facility (DMF), U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to mail address above between 9 a.m. and 5 p.m. EST, Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

Identify all transmission with ''Docket Number RITA–2008–0002'' at the beginning of each page of the document.

Instructions: All comments must include the agency name and docket number for this notice. Paper comments should be submitted in duplicate. The DMF is open for examination and copying, at the above address from 9 a.m. to 5 p.m. EST, Monday through Friday, except Federal holidays. If you wish to receive confirmation of receipt of your written comments, please include a self-addressed, stamped postcard with the following statement: ''Comments on Docket RITA–2008–0002.'' The Docket Clerk will date stamp the postcard prior to returning it to you via the U.S. mail. Please note that all comments received, including any personal information, will be posted and will be available to Internet users, without change, at *www.regulations.gov.*

You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; pages 19477–78) or you may review the Privacy Act Statement at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT:

Demetra V. Collia, Bureau of Transportation Statistics, Office of the Assistant Secretary for Research and Technology (OST–R), U.S. Department of Transportation, Office of Statistical and Economic Analysis (OSEA), RTS–31, E36–302, 1200 New Jersey Avenue SE., Washington, DC 20590–0001; Phone No. (202) 366–1610; Fax No. (202) 366–3383; email: *demetra.collia@dot.gov.* Office hours are from 8:30 a.m. to 5 p.m., EST, Monday through Friday, except Federal holidays.

Data Confidentiality Provisions: The confidentiality of Close Calls data is protected under the BTS confidentiality statute (49 U.S.C. 111 (k)) and the Confidential Information Protection and Statistical Efficiency Act (CIPSEA) of 2002 (Public Law 107–347, Title V). In accordance with these confidentiality statutes, only statistical and non-identifying data will be made publicly available through reports. Further, BTS will not release to FRA or any other public or private entity any information that might reveal the identity of individuals or organizations mentioned in close call reports.

SUPPLEMENTARY INFORMATION:

I. The Data Collection

The Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35; as amended) and 5 CFR part 1320 require each Federal agency to obtain OMB approval to continue an information collection activity. BTS is seeking OMB approval for the following BTS information collection activity:

Title: Confidential Close Call Reporting System.

OMB Control Number: 2139–0010.

Type of Review: Approval to continue to collect data. Confidential Close Call Reporting for WMATA.

Respondents: WMATA Rail Employees.

Number of Respondents: 100 (per annum).

Estimated Time per Response: 60 minutes.

Frequency: Intermittent for approximately five (5) years. (Reports are submitted when there is a qualifying event, *i.e.* a close call occurs within WMATAs rail system. The frequency of such an event is estimated to be two per day.)

Total Annual Burden: 100 hours.

Abstract: Collecting transportation safety data, including data on precursors to adverse events, is an important component of BTS's responsibility to the transportation community and is authorized in BTS' authorizing statute (49 U.S.C. 6302). BTS and WMATA/the Amalgamated Transit Union, (ATU) share a common interest in promoting transit rail safety based on accurate information. To that end, WMATAs Office of the Deputy General Manager Operations (DGMO) and ATU's President/Business Agent are sponsoring the Confidential Close Call reporting for Transit Safety Rail System (C3RTSRS) project to investigate the effectiveness of the system in improving transit rail safety. A close call is a situation or circumstance that had the potential for safety consequences, but did not result in an adverse safety event. Knowledge about a close call presents an opportunity to address unsafe work conditions and improve safety in the workplace. It is estimated that the time for an individual respondent to complete a near miss report and if needed, participate in a brief confidential interview will be no more than 60 minutes for an estimated 100 respondents and maximum total burden of hours (100 reports * 60 minutes/60 = 100 hours). Reports may be voluntarily submitted to BTS when there is a qualifying event, *i.e.,* when a close call occurs within WMATA's rail system.

II. Background

Collecting data on the nation's transportation system is an important component of BTS' mission and responsibility to the transportation community as stated in its authorizing statute (49 U.S.C. Sec. 6302). BTS and WMATA/ATU share a common interest in promoting rail transit safety through the use of timely, accurate, and relevant data. WMATA/ATU is sponsoring the Confidential Close Call Reporting for Transit Rail System (C^3RTRS) project to improve transit rail safety by studying the effectiveness of its own rail system through data and information collected from reported close calls.

A close call is a situation or circumstance that had the potential for safety consequences, but did not result in an adverse safety event. Knowledge about a close call presents an opportunity to address unsafe work conditions, prevent accidents, and improve safety in the workplace.

BTS will collect close call reports submitted by WMATA rail employees, conduct employee interviews, as needed, develop an analytical database containing the reported data and other pertinent information, provide statistical analysis to WMATA, and protect the confidentiality of these data through its own statute (49 U.S.C. Sec. 6302) and CIPSEA. Accordingly, only statistical and non-sensitive information will be made available through publications and reports.

Voluntary reporting of close calls to a confidential system can provide a tool to identify and correct weaknesses in WMATA's transit rail system and help prevent accidents. The C^3RTRS project will foster a voluntary, cooperative, non-punitive environment to communicate safety concerns. Through the analysis of close calls the WMATA/ATU will receive information about factors that may contribute to unsafe events and use that information to develop new training programs and identify root causes of potentially adverse events. The database will also potentially provide researchers with valuable information regarding precursors to safety risks and contribute to research and development of intervention programs aimed at preventing accidents and fatalities.

Employees involved in reporting a close call incident will be asked to fill out a report and participate in a brief, confidential interview. Employees will have the option to mail or submit the report electronically to BTS. Participants will be asked to provide information such as: (1) Name and contact information; (2) time and location of the event; (3) a short description of the event; (4) contributing factors to the close call; and (5) any other information that might be useful in determining a root cause of such event.

III. Request for Comments

BTS requests comments on any aspects of these information collections, including: (1) The accuracy of the estimated burden of 100 hours detailed in Section I; (2) ways to enhance the quality, usefulness, and clarity of the collected information; and (3) ways to minimize the collection burden without reducing the quality of the information collected, including additional use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on August 25, 2015.

Patricia Hu,

Director, Bureau of Transportation Statistics, Office of the Assistant Secretary for Research and Technology.

[FR Doc. 2015–21611 Filed 8–31–15; 8:45 am]

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Part II

Department of Energy

10 CFR Part 430

Energy Conservation Program: Energy Conservation Standards for Battery Chargers; Proposed Rule

DEPARTMENT OF ENERGY

10 CFR Part 430

[Docket Number EERE–2008–BT–STD–0005]

RIN 1904–AB57

Energy Conservation Program: Energy Conservation Standards for Battery Chargers

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

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The Energy Policy and Conservation Act of 1975, as amended (''EPCA'' or in context, ''the Act''), prescribes energy conservation standards for various consumer products and certain commercial and industrial equipment, including battery chargers. EPCA also requires the U.S. Department of Energy (''DOE'' or, in context, ''the Department'') to determine whether Federal energy conservation standards for a particular type of product or equipment would be technologically feasible and economically justified, and save a significant amount of energy. On March 27, 2012, DOE published a notice of proposed rulemaking (''NOPR'') to establish energy conservation standards for battery chargers. DOE received comments suggesting changes to DOE's proposed approach. To this end, this supplemental notice of proposed rulemaking (''SNOPR'') updates and revises DOE's prior analysis by considering, among other things, the impacts attributable to standards issued by the California Energy Commission (CEC), along with accompanying data included in the CEC's compliance database. This notice also announces a public meeting to receive comment on these proposed standards and associated analyses and results.

DATES: Comments regarding the likely competitive impact of the proposed standard should be sent to the Department of Justice contact listed in the **ADDRESSES** section before October 1, 2015.

DOE will hold a public meeting on September 15, 2015 from 9 a.m. to 4 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.

DOE will accept comments, data, and information regarding this SNOPR before and after the public meeting, but no later than November 2, 2015. See section VII, Public Participation, for details.

ADDRESSES: The public meeting will be held at the U.S. Department of Energy, Forrestal Building, Room 8E–089, 1000 Independence Avenue SW., Washington, DC 20585.

Any comments submitted must identify the SNOPR on Energy Conservation Standards for Battery Chargers, and provide docket number EE–2008–BT–STD–0005 and/or regulatory information number (RIN) 1904–AB57. 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: BatteryChargersSTD0005@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: *http://www1.eere.energy.gov/buildings/appliance_standards/product.aspx?productid=84.* 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.*

EPCA requires the Attorney General to provide DOE a written determination of whether the proposed standard is likely to lessen competition. The U.S. Department of Justice Antitrust Division invites input from market participants and other interested persons with views on the likely competitive impact of the proposed standard. Interested persons may contact the Division at *energy.standards@atr.usdoj.gov* before October 1, 2015. Please indicate in the ''Subject'' line of your email the title and Docket Number of this rulemaking notice.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy Dommu, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–9870. Email: *battery_chargers_and_external_power_supplies@ee.doe.gov.*

Mr. Michael Kido, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–8145. Email: *michael.kido@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*

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I. Summary

Title III, Part B [1] of the Energy Policy and Conservation Act of 1975 (''EPCA'' or in context, ''the Act''), Public Law 94–163 (42 U.S.C. 6291–6309, as codified), established the Energy Conservation Program for Consumer Products Other Than Automobiles.[2] These products include battery chargers, 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 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))

DOE had previously proposed to establish new energy conservation standards for battery chargers in March 2012. See 77 FR 18478 (March 27, 2012). Since the publication of that proposal, the State of California finalized new energy conservation standards for battery chargers sold within that State. See 45Z Cal. Reg. 1663, 1664 (Nov. 9, 2012) (summarizing proposed regulations and their final effective dates). Those new standards were not factored into DOE's analysis supporting its initial battery charger proposal. To assess whether DOE's proposal would satisfy the requirements under 42 U.S.C. 6295, DOE revisited its analysis in light of these new California standards. As a result, DOE is proposing new energy conservation standards for battery chargers. The revised proposal would provide a set of maximum annual energy consumption levels expressed as a function of battery energy. These proposed standards are shown in Table I–1.

These new standards, if adopted, would apply to all products listed in Table I–1 and manufactured in, or imported into, the United States starting on the date corresponding to two years after the publication of the final rule for this rulemaking.

[1] For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A.

[2] All references to EPCA in this document refer to the statute as amended through the American Energy Manufacturing Technical Corrections Act (AEMTCA), Pub. L. 112–210 (Dec. 18, 2012).

TABLE I–1—PROPOSED ENERGY CONSERVATION STANDARDS FOR BATTERY CHARGERS

Product class	Product class description	Proposed standard as a function of battery energy (kWh/yr)
1	Low-Energy, Inductive Connection	3.04
2	Low-Energy, Low-Voltage <4V	0.1440 * E_{batt} + 2.95
3	Low-Energy, Medium-Voltage 4–10 V	For E_{batt} <10Wh, 1.42 kWh/y E_{batt} ≥10 Wh, 0.0255 * E_{batt} + 1.16
4	Low-Energy, High-Voltage >10V	0.11 * E_{batt} + 3.18
5	Medium-Energy, Low-Voltage <20 V	For E_{batt} < 19 Wh, 1.32 kWh/yr For E_{batt} ≥ 19 Wh, 0.0257 * E_{batt} + .815
6	Medium-Energy, High-Voltage ≥20 V	For E_{batt} < 18 Wh 3.88 kWh/yr For E_{batt} ≥ 18 Wh 0.0778 * E_{batt} + 2.4
7	High-Energy	0.0502 * E_{batt} + 4.53

A. Efficiency Distributions

To evaluate the potential impacts of standards, DOE develops a base case efficiency forecast, which represents DOE's estimate of the future state of the market with respect to efficiency if energy conservation standards for the units covered under this rulemaking are not adopted. DOE estimated the efficiency distributions for the base year 2013 in the original battery charger NOPR (published March 27, 2012), and updated the distributions based on new market conditions for the base year 2018 in today's SNOPR.

1. 2012 NOPR Efficiency Distributions

In the battery charger NOPR that was published March 27, 2012, DOE determined the base case efficiency distribution using test data from 224 models, which enabled application-specific efficiency distributions to be developed for most product classes. For some product classes, there were insufficient test data, and the efficiency distributions were based on manufacturer interviews. DOE further assumed that the influence of two battery charger programs active at the time (ENERGY STAR and EU Ecodesign requirements) would shift some of the historical market share away from baseline efficiency to more efficient CSLs. In January 2012, the CEC standards on battery chargers were announced with an effective date of February 1, 2013. To account for this announcement, DOE assumed that the fraction of battery chargers sold in California (assumed to equal California's share of US GDP, or 13%) would shift away from baseline efficiency to CSLs that approximated CEC standard levels. The market change was assumed to be a ''roll-up'', such that the market responds to standards by improving those products that do not meet the standards to the standard level, but no higher, while the products that were already as or more efficient than the standard remain unaffected. No further changes in the base-case efficiency distributions were assumed to occur after the first year of the analysis.

The following table summarizes the efficiency distribution assumptions for each product class in the 2012 NOPR analysis. For reference, the table also includes the Unit Energy Consumption (UEC) of the representative unit defining each CSL from the NOPR engineering analysis (see section IV.C.1 and IV.C.2), and estimated shipments in 2018 from the NOPR shipments analysis.

TABLE I–2—BASE CASE 2012 NOPR ESTIMATED EFFICIENCY DISTRIBUTIONS IN 2013 [a]

Product class		CSL 0	CSL 1	CSL 2	CSL 3	CSL 4	Estimated shipments in 2018
1	Efficiency Distribution	78%	11%	11%	0%	N/A	16,150,369
	UEC	8.73	6.1	3.04	1.29	N/A	
2	Efficiency Distribution	18%	22%	57%	3%	0%	266,339,577
	UEC	8.66	6.47	2.86	1.03	0.81	
3	Efficiency Distribution	17%	62%	21%	0%	N/A	24,664,587
	UEC	11.9	4.68	0.79	0.75	N/A	
4	Efficiency Distribution	9%	39%	52%	0%	N/A	65,163,723
	UEC	37.73	9.91	4.57	3.01	N/A	
5	Efficiency Distribution	28%	52%	7%	13%	N/A	5,204,768
	UEC	84.6	56.09	29.26	15.35	N/A	
6	Efficiency Distribution	36%	29%	22%	13%	N/A	667,039
	UEC	120.6	81.7	38.3	16.79	N/A	
7	Efficiency Distribution	44%	57%	0%	N/A	N/A	225,271
	UEC	255.05	191.74	131.44	N/A	N/A	
8	Efficiency Distribution	50%	40%	10%	0%	N/A	69,745,891
	UEC	0.9	0.66	0.24	0.19	N/A	
9	Efficiency Distribution	25%	50%	25%	N/A	N/A	10,249,869
	UEC	0.79	0.26	0.13	N/A	N/A	
10	Efficiency Distribution	87%	0%	0%	13%	N/A	8,556,487
	UEC	19.27	6.13	4	1.5	N/A	

[a] This information was taken from DOE's NOPR that was issued on March 27, 2012.

2. SNOPR Efficiency Distributions

For the SNOPR analysis considered in today's action, DOE assumed that the CEC standards, effective since February 1, 2013, had moved the market not just in California, but nationally as well. To reach this conclusion, DOE solicited stakeholder comments through a Request for Information published on March 26, 2013, conducted additional manufacturer interviews, and performed its own examination of the efficiency of products sold nationally. In response to the RFI, many commenters indicated that there was evidence that the market had accepted the CEC standards and that technology improvements were made to meet the CEC standards. DOE found products available for sale in physical locations outside of California and available for sale online that met CEC standards, and had the accompanying CEC efficiency mark on them. Finally, additional manufacturer interviews supported the view that the majority of products sold in California (and thus meeting CEC standards) were sold nationally as well.

Therefore, DOE re-developed its efficiency distribution analysis, and based it on the CEC database of certified small battery chargers (downloaded in November 2014 and containing 12652 unique models). Each model was assigned an estimated product class and application based off its battery characteristics. Application-specific efficiency distributions were then developed using the reported energy performance for each model in that application. If an application had less than 20 identified models, it was assigned the efficiency distribution of the overall product class. Due to slight variations between CEC and DOE metrics, products were conservatively assigned to the higher CSL (in order to not overstate savings) when their UECs were within 5% of the next highest CSL compliance line compared to the distance between the compliance lines of the higher and lower CSLs.

The SNOPR analysis acknowledges, however, that units not complying with CEC standards can still be sold outside of California, but assumed the percentage of such units is small. For this analysis, DOE conservatively assumed 5% of units sold nationally do not meet CEC standards. To account for this, each application's efficiency distribution was multiplied by 95%, and then 5% was added to the CSL below the CEC approximate CSL. These became the base case efficiency distributions shown in the table below. No further changes in the base-case efficiency distributions were assumed to occur after the first year of the analysis. It is important to note that the CSLs were redefined in the SNOPR analysis, and do not perfectly match those in the NOPR analysis. This was done based on additional testing conducted for some product classes and to have a CSL that is a closer approximation to the CEC standard levels. For reference, the table below also lists the tested UECs defining each CSL from the SNOPR engineering analysis and the estimated shipments in 2018 from the SNOPR shipments analysis.

TABLE I–3—BASE CASE SNOPR ESTIMATED EFFICIENCY DISTRIBUTIONS IN 2018

Product class		CSL 0	CSL 1	CSL 2	CSL 3	CSL 4	Estimated shipments in 2018
1	Efficiency Distribution	7%	56%	33%	4%	N/A	15,772,035
	UEC	8.73	6.1	3.04	1.29	N/A	
2	Efficiency Distribution	9%	42%	9%	15%	25%	400,052,285
	UEC	5.33	3.09	1.69	1.58	1.11	
3	Efficiency Distribution	6%	35%	2%	58%	N/A	27,088,679
	UEC	3.65	1.42	0.74	0.7	N/A	
4	Efficiency Distribution	6%	8%	12%	74%	N/A	80,146,173
	UEC	12.23	5.38	3.63	3.05	N/A	
5	Efficiency Distribution	0%	5%	95%	0%	N/A	4,717,743
	UEC	88.1	58.3	21.39	9.45	N/A	
6	Efficiency Distribution	0%	5%	95%	0%	N/A	668,489
	UEC	120.71	81.82	33.53	16.8	N/A	
7	Efficiency Distribution	80%	20%	0%	N/A	N/A	238,861
	UEC	255.05	191.74	131.44	N/A	N/A	
8	Efficiency Distribution	No longer in scope					
	UEC						
9	Efficiency Distribution						
	UEC						
10	Efficiency Distribution						
	UEC						

To support the assumption that 95% of the national market meets CEC standard levels, DOE examined the top-selling products for various BC applications at several national online and brick & mortar retailers (with an online portal). These represent products sold not just in California, but available nationally. DOE focused its search on the top-selling 20 products (separately for each retailer) in applications with the highest shipments. DOE also looked at products in a variety of product classes. The applications examined cover over 50% of all battery charger shipments. If the battery charger model number was found in the CEC's database of certified products, or if the product was available for sale or pick-up in a physical store in California, then the product was assumed to meet CEC standard levels. Over 90% of products in each application examined met CEC standard levels (these results are lower bounds since battery charger model numbers were not always available). These results are therefore consistent with DOE's assumption that 95% of the national market for battery chargers meets the CEC standards. The table below summarizes the results of DOE's market examination.

TABLE I–4—SUMMARY OF DOE MARKET EXAMINATION OF CEC UNITS BY APPLICATION

Application	Product class	Percentage of total BC shipments in application (%)	Retailers examined *	Percentage of models examined in cec database or sold in California (%)
Smartphones	2	21	Amazon, Best Buy, Sears	100
Media Tablets	2	8	Amazon, Best Buy, Sears	93
MP3 Players	2	8	Amazon, Best Buy, Sears	93
Notebook Computers	4	8	Amazon, Best Buy, Sears	93
Digital Cameras	2	6	Amazon, Best Buy, Sears	97
Power Tools (includes DIY and professional).	2, 3, 4	2	Amazon, Home Depot, Sears	90
Toy Ride-On Vehicles	3, 5	1	Walmart, Toys R Us	93

B. Benefits and Costs to Consumers

Table I–5 presents DOE's evaluation of the economic impacts of the proposed standards on consumers of battery chargers, as measured by the average life-cycle cost (''LCC'') savings and the simple payback period (''PBP'').[3] The average LCC savings are positive for all product classes, and the PBP is less than the average lifetime of battery chargers, which is estimated to be between 3.5 and 9.7 years, depending on product class (see section IV.F.5). For comparative purposes, Table I–5 also presents the results from the NOPR for battery chargers. See 77 FR 18478 (March 27, 2012).

TABLE I–5—IMPACTS OF PROPOSED ENERGY CONSERVATION STANDARDS ON CONSUMERS OF BATTERY CHARGERS

Product class	Average LCC savings		Simple payback period (*years*)		Average lifetime (*years*)
	NOPR (*2010$*)	SNOPR (*2013$*)	NOPR	SNOPR	
PC1—Low E, Inductive	1.52	0.71	1.7	1.5	5.0
PC2—Low E, Low Voltage	0.16	0.07	0.5	0.6	4.0
PC3—Low E, Medium Voltage	0.35	0.08	3.9	0.8	4.9
PC4—Low E, High Voltage	0.43	0.11	3.0	1.4	3.7
PC5—Medium E, Low Voltage	33.79	0.84	0.0	2.7	4.0
PC6—Medium E, High Voltage	40.78	1.89	0.0	1.1	9.7
PC7—High E	38.26	51.06	0.0	0.0	3.5
PC 8—DC–DC, <9V Input	3.04	.....	0.0	.....	.....

Note: As described in section IV.A.3 of this notice, the standards proposed in this SNOPR no longer consider product classes 8 and 10. Products that were found in product class 8 of the NOPR analysis were redistributed among other product classes for the SNOPR, and product class 10 was removed from consideration. Therefore, for comparison between the NOPR and SNOPR analyses, the results for product class 8 are included in the table above, while results for product class 10 are excluded.

DOE's analysis of the impacts of the proposed standards on consumers is described in section IV.F of this notice.

C. 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 2047). Using a real discount rate of 9.1 percent, DOE estimates that the INPV for manufacturers of battery chargers in the base case is $79,904 million in 2013$. Under the proposed standards, DOE expects that manufacturers may lose up to 0.7 percent of the INPV, which is approximately -$529 million. Additionally, based on DOE's interviews with the domestic manufacturers of battery chargers, DOE does not expect any plant closings or significant loss of employment.

DOE's analysis of the impacts of the proposed standards on manufacturers is described in section IV.J of this notice.

D. National Benefits and Costs [4]

DOE's analyses indicate that the proposed energy conservation standards would save a significant amount of energy. Relative to the base case without amended standards, the lifetime energy savings for battery chargers purchased in the 30-year period that begins in the anticipated year of compliance with the new standards (2018–2047) amount to 0.170 quadrillion Btu (quads).[5] This represents a savings of 11.2 percent relative to the energy use of these products in the base case (*i.e.* without standards).

The cumulative net present value (NPV) of total consumer costs and savings of the proposed standards ranges from $0.6 billion (at a 7-percent discount rate) to $1.2 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 battery chargers purchased in 2018–2047.

In addition, the proposed standards for battery chargers would have significant environmental benefits. DOE estimates that the proposed standards would result in cumulative greenhouse gas (GHG) emission reductions of approximately 10.45 million metric tons

[3] The average LCC savings are measured relative to the base-case efficiency distribution, which depicts the market in the compliance year in the absence of standards (see section IV.F.9). The simple PBP, which is designed to compare specific efficiency levels, is measured relative to the baseline model (see section IV.F.11).

[4] All monetary values in this section are expressed in 2013 dollars and, where appropriate, are discounted to 2015.

[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

(Mt)[6] of carbon dioxide (CO_2), 8.92 thousand tons of sulfur dioxide (SO_2), 15.41 thousand tons of nitrogen oxides (NO_X), 44.8 thousand tons of methane, 0.137 thousand tons of nitrous oxide (N_2), and 0.027 tons of mercury (Hg).[3] The cumulative reduction in CO_2 emissions through 2030 amounts to 4.3 Mt, which is equivalent to the emissions resulting from the annual electricity use of approximately half a million 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 Federal interagency process.[7] The derivation of the SCC values is discussed in section IV.M. Using discount rates appropriate for each set of SCC values (see Table I–6), DOE estimates that the net present monetary value of the CO_2 emissions reductions (not including CO_2 equivalent emissions of other gases with global warming potential) is between $0.084 billion and $1.114 billion, with a value of $0.362 billion using the central SCC case represented by $40.5/t in 2015. DOE also estimates the present monetary value of the NO_X emissions reduction is $13.65 million at a 7-percent discount rate, and $24.43 million at a 3-percent discount rate.[8]

Table I–6 summarizes the national economic benefits and costs expected to result from the proposed standards for battery chargers.

TABLE I–6—SUMMARY OF NATIONAL ECONOMIC BENEFITS AND COSTS OF PROPOSED ENERGY CONSERVATION STANDARDS FOR BATTERY CHARGERS (TSL 2) *

Category	Present value (*billion* 2013$)	Discount rate (%)
Benefits		
Consumer Operating Cost Savings	0.7	7
	1.4	3
CO_2 Reduction Monetized Value ($12.0/t case) **	0.1	5
CO_2 Reduction Monetized Value ($40.5/t case) **	0.4	3
CO_2 Reduction Monetized Value ($62.4/t case) **	0.6	2.5
CO_2 Reduction Monetized Value ($119/t case) **	1.1	3
NO_X Reduction Monetized Value (at $2,684/ton) **	0.01	7
	0.02	3
Total Benefits †	1.1	7
	1.8	3
Costs		
Consumer Incremental Installed Costs	0.1	7
	0.2	3
Total Net Benefits		
Including Emissions Reduction Monetized Value†	*1.0	7
	1.6	3

* This table presents the costs and benefits associated with battery chargers shipped in 2018 – 2047. These results include benefits to consumers which accrue after 2047 from the products purchased in 2018 – 2047. The results account for the incremental variable and fixed costs incurred by manufacturers due to the standard, some of which may be incurred in preparation for the rule.

** The CO_2 values represent global monetized values of the SCC, in 2013$, in 2015 under several scenarios of the updated SCC values. The first three cases use the averages of SCC distributions calculated using 5%, 3%, and 2.5% discount rates, respectively. The fourth case represents the 95th percentile of the SCC distribution calculated using a 3% discount rate. The SCC time series incorporate an escalation factor. The value for NOx is the average of high and low values found in the literature.

† Total Benefits for both the 3% and 7% cases are derived using the series corresponding to average SCC with 3-percent discount rate ($40.5/t case).

TABLE I–7—SUMMARY OF NATIONAL ECONOMIC BENEFITS AND COSTS OF ENERGY CONSERVATION STANDARDS PROPOSED IN THE NOPR FOR BATTERY CHARGERS

Category	Present value (*billion 2010$*)	Discount rate (%)
Benefits		
Consumer Operating Cost Savings	3.815	7
	7.007	3
CO_2 Reduction Monetized Value ($4.9/t case) *	0.208	5
CO_2 Reduction Monetized Value (at $22.3/t case) *	1.025	3
CO_2 Reduction Monetized Value (at $36.5/t case) *	1.720	2.5
CO_2 Reduction Monetized Value (at $67.6/t case) *	3.127	3

in short tons. 3 DOE calculated emissions reductions relative to the base case, which reflects key assumptions in the *Annual Energy Outlook 2014* (*AEO2014*) Reference case, which generally represents current legislation and environmental regulations for which implementing regulations were available as of October 31, 2013.

[7] *Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866.* Interagency Working Group on Social Cost of Carbon, United States Government. May 2013; revised November 2013. (Available at: *http://www.whitehouse.gov/sites/default/files/omb/assets/inforeg/technical-update-social-cost-of-carbon-for-regulator-impact-analysis.pdf.*)

[8] DOE is currently investigating valuation of avoided SO_2 and Hg emissions.

TABLE I–7—SUMMARY OF NATIONAL ECONOMIC BENEFITS AND COSTS OF ENERGY CONSERVATION STANDARDS PROPOSED IN THE NOPR FOR BATTERY CHARGERS—Continued

Category	Present value (*billion 2010$*)	Discount rate (%)
NO_X Reduction Monetized Value (at $2,537/ton) *	0.036	7
	0.065	3
Total Benefits **	4.876	7
	8.097	3
Costs		
Consumer Incremental Installed Costs ‡	−1.435	7
	−2.402	3
Net Benefits/Costs		
Including Emissions Reduction Monetized Value **	6.311	7
	10.498	3

Note: As described in section IV.A.3 of this notice, the standards proposed in this SNOPR no longer consider product classes 8 and 10. Products that were found in product class 8 of the NOPR analysis were redistributed among other product classes for the SNOPR, and product class 10 was removed from consideration. Therefore, for comparison between the NOPR and SNOPR analyses, the results for product class 8 are included in the table above, while results for product class 10 are excluded.

* These values represent global values (in 2010$) of the social cost of CO_2 emissions in 2010 under several scenarios. The values of $4.9, $22.3 and $36.5 per ton are the averages of SCC distributions calculated using 5%, 3%, and 2.5% discount rates, respectively. The value of $67.6 per ton represents the 95th percentile of the SCC distribution calculated using a 3% discount rate. The value for NO_X (in 2010$) is the average of the low and high values used in DOE's NOPR analysis.

** Total Benefits and Net Benefits/Costs for both the 3% and 7% cases utilize the central estimate of social cost of CO_2 emissions calculated at a 3% discount rate, which is equal to $22.3/ton in 2010 (in 2010$).

‡ Consumer Incremental Installed Costs represent the total present value (in 2010$) of costs borne by consumers due to increased manufacturing costs from efficiency improvements. The incremental product costs for battery chargers are negative because of an assumed shift in technology from linear power supplies to switch mode power for the larger battery chargers in product classes 5, 6, and 7. For more details, see chapter 5 of the NOPR Technical Support Document.

For comparative purposes, Table I–7 summarizes the national economic benefits and costs for the standards proposed in the March 27, 2012, NOPR for battery chargers shipped in 2013–2042. For the comparison between the NOPR and SNOPR analyses, products that were found in product class 8 of the NOPR analysis were redistributed among other product classes for the SNOPR, and product class 10 was removed from consideration in the SNOPR. As the CEC standards were effective since February 1, 2013, DOE did not specifically consider the NPV of costs and benefits of achieving the CEC efficiency levels in the 2012 NOPR for the California market. For the SNOPR, DOE assumed that the CEC standards had moved the market not just in California, but for the remainder of the country. DOE therefore only considered the NPV of costs and benefits of going beyond the where the market efficiency levels had moved in response to the CEC standards, across the entire U.S. See 77 FR 18478 (March 27, 2012).

The benefits and costs of the today's proposed standards, for products sold in 2018–2047, 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 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.[9]

Although combining the values of operating savings and CO_2 emission reductions provides a useful perspective, two issues should be considered. First, the national operating cost 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 battery chargers shipped in 2018–2047. Because CO_2 emissions have a very long residence time in the atmosphere,[10] 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–8. The results under the primary estimate are as follows. Using a 7-percent discount rate for benefits and costs other than CO_2 reduction, for which DOE used a 3-percent discount rate along with the SCC series corresponding to a value of $40.5/ton in 2015, the cost of the standards in this rule is $9 million per year in increased equipment costs, while the estimated annual benefits are $68 million per year in reduced equipment operating costs, $20 million in CO_2 reductions, and $1.26 million in reduced NO_X emissions. In this case, the net benefit amounts to $80 million per year. Using a 3-percent discount rate for all benefits and costs and the SCC series corresponding to a value of $40.5/ton in 2015, the estimated cost of the proposed standards is $10 million per year in increased equipment costs, while the

[9] 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, which yields the same present value.

[10] 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.

estimated annual benefits are $75 million per year in reduced operating costs, $20 million in CO_2 reductions, and $1.32 million in reduced NO_X emissions. In this case, the net benefit amounts to $86 million per year.

For comparative purposes, Table I–9 presents the annualized results from the March 27, 2012, NOPR for battery chargers shipped in 2013–2042. For the comparison between the NOPR and SNOPR analyses, products that were found in product class 8 of the NOPR analysis were redistributed among other product classes for the SNOPR, and product class 10 was removed from consideration in the SNOPR. As the CEC standards were effective since February 1, 2013, DOE did not specifically consider the annualized costs and benefits of achieving the CEC efficiency levels in the 2012 NOPR for the California market. For the SNOPR, DOE assumed that the CEC standards had moved the market not just in California, but for the remainder of the country. DOE therefore only considered the annualized costs and benefits of going beyond where the market efficiency levels had moved in response to the CEC standards, across the entire U.S. See 77 FR 18478 (March 27, 2012).

TABLE I–8—ANNUALIZED BENEFITS AND COSTS OF PROPOSED ENERGY CONSERVATION STANDARDS FOR BATTERY CHARGERS (TSL 2)

	Discount rate (%)	(Million 2013$/year)		
		Primary estimate *	Low net benefits estimate *	High net benefits estimate *
Benefits				
Consumer Operating Cost Savings	7	68	68	69
	3	75	74	76
CO_2 Reduction Monetized Value ($12.0/t case) *.	5	6	6	6
CO_2 Reduction Monetized Value ($40.5/t case) *.	3	20	20	20
CO_2 Reduction Monetized Value ($62.4/t case) *.	2.5	28	28	28
CO_2 Reduction Monetized Value ($119/t case) *.	3	60	60	60
NO_X Reduction Monetized Value (at $2,684/ton) **.	7	1.26	1.26	1.26
	3	1.32	1.32	1.32
Total Benefits †	7 plus CO_2 range	76 to 130	75 to 130	76 to 131
	7	89	89	90
	3 plus CO_2 range	82 to 136	82 to 136	83 to 138
	3	96	95	97
Costs				
Consumer Incremental Product Costs.	7	9	9	6
	3	10	10	6
Net Benefits				
Total †	7 plus CO_2 range	66 to 120	66 to 120	70 to 124
	7	80	79	84
	3 plus CO_2 range	73 to 127	72 to 126	77 to 132
	3	86	86	91

* This table presents the annualized costs and benefits associated with battery chargers shipped in 2018 – 2047. These results include benefits to consumers which accrue after 2047 from the products purchased in 2018 – 2047. The results account for the incremental variable and fixed costs incurred by manufacturers due to the standard, some of which may be incurred in preparation for the rule. The Primary, Low Benefits, and High Benefits Estimates utilize projections of energy prices from the Annual Energy Outlook for 2014 ("*AEO2014")* Reference case, Low Economic Growth case, and High Economic Growth case, respectively. Additionally, the High Benefits Estimates include a price trend on the incremental product costs.

** The CO_2 values represent global monetized values of the SCC, in 2013$, in 2015 under several scenarios of the updated SCC values. The first three cases use the averages of SCC distributions calculated using 5%, 3%, and 2.5% discount rates, respectively. The fourth case represents the 95th percentile of the SCC distribution calculated using a 3% discount rate. The SCC time series incorporate an escalation factor. The value for NOx is the average of high and low values found in the literature.

† Total Benefits for both the 3% and 7% cases are derived using the series corresponding to the average SCC with a 3-percent discount rate ($40.5/t 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.

TABLE I–9—ANNUALIZED BENEFITS AND COSTS OF ENERGY CONSERVATION STANDARDS PROPOSED IN THE NOPR FOR BATTERY CHARGERS

	Discount rate	Monetized (Million 2010$/year)		
		Primary estimate *	Low net benefits estimate *	High net benefits estimate *
Benefits				
Consumer Operating Cost Savings	7%	352.0	335.4	368.6
	3%	379.2	359.8	399.2

TABLE I–9—ANNUALIZED BENEFITS AND COSTS OF ENERGY CONSERVATION STANDARDS PROPOSED IN THE NOPR FOR BATTERY CHARGERS—Continued

	Discount rate	Monetized (Million 2010$/year)		
		Primary estimate *	Low net benefits estimate *	High net benefits estimate *
CO_2 Reduction Monetized Value ($4.9/t case) **.	5%	14.9	14.9	14.9
CO_2 Reduction Monetized Value ($22.3/t case) **.	3%	55.5	55.5	55.5
CO_2 Reduction Monetized Value ($36.5/t case) **.	2.5%	86.3	86.3	86.3
CO_2 Reduction Monetized Value ($67.6/t case) **.	3%	169.3	169.3	169.3
NO_X Reduction Monetized Value ($2,537/ton) **.	7%	3.3	3.3	3.3
	3%	3.5	3.5	3.5
Total Benefits ††	7% plus CO_2 range	370.2 to 524.6	353.6 to 508.0	386.9 to 541.2
	7%	410.8	394.2	427.4
	3%	438.2	418.8	458.2
	3% plus CO_2 range	397.7 to 552.1	378.2 to 532.6	417.7 to 572.0
Costs				
Consumer Incremental Product Costs †.	7%	(132.4)	(132.4)	(132.4)
	3%	(130.0)	(130.0)	(130.0)
Net Benefits				
Total ††	7% plus CO_2 range	502.7 to 657.0	486.1 to 640.4	519.3 to 673.6
	7%	543.2	526.6	559.8
	3%	568.2	548.8	588.2
	3% plus CO_2 range	527.7 to 682.0	508.2 to 662.6	547.7 to 702.0

Note: As described in section IV.A.3 of this notice, the standards proposed in this SNOPR no longer consider product classes 8 and 10. Products that were found in product class 8 of the NOPR analysis were redistributed among other product classes for the SNOPR, and product class 10 was removed from consideration. Therefore, for comparison between the NOPR and SNOPR analyses, the results for product class 8 are included in the table above, while results for product class 10 are excluded.

* The results include benefits to consumers which accrue after 2042 from the products purchased from 2013 through 2042. Costs incurred by manufacturers, some of which may be incurred prior to 2013 in preparation for the rule, are indirectly included as part of incremental equipment costs. The Primary, Low Benefits, and High Benefits Estimates utilize forecasts of energy prices from the *AEO2010* Reference case, Low Estimate, and High Estimate, respectively.

** The CO_2 values represent global monetized values (in 2010$) of the social cost of CO_2 emissions in 2010 under several scenarios. The values of $4.9, $22.3, and $36.5 per ton are the averages of SCC distributions calculated using 5-percent, 3-percent, and 2.5-percent discount rates, respectively. The value of $67.6 per ton represents the 95th percentile of the SCC distribution calculated using a 3-percent discount rate. The value for NO_X (in 2010$) is the average of the low and high values used in DOE's NOPR analysis.

† The incremental product costs for battery chargers are negative because of an assumed shift in technology from linear power supplies to switch mode power for the larger battery chargers in product classes 5, 6, and 7. For more details, see chapter 5 of the NOPR Technical Support Document.

†† Total Benefits for both the 3-percent and 7-percent cases are derived using the SCC value calculated at a 3-percent discount rate, which is $22.3/ton in 2010 (in 2010$). In the rows labeled as ''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 SNOPR.

E. 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-stringent energy efficiency levels as trial standard levels, and is still considering them in this rulemaking. However, DOE has tentatively concluded that the potential burdens of the more-stringent energy efficiency levels would outweigh the projected benefits. Based on consideration of the public comments DOE receives in response to this notice and related information collected and analyzed during the course of this rulemaking effort, DOE may adopt energy efficiency levels 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 battery chargers. Generally, battery chargers are power conversion devices that transform input voltage to a suitable voltage for the battery they are powering. A portion of

the energy that flows into a battery charger flows out to a battery and, thus, cannot be considered to be consumed by the battery charger.

A. Authority

Title III, Part B of the Energy Policy and Conservation Act of 1975, as amended (''EPCA'' or in context ''the Act''), Public Law 94–163 (42 U.S.C. 6291–6309, as codified), established the Energy Conservation Program for Consumer Products Other Than Automobiles,[11] a program covering most major household appliances (collectively referred to as ''covered products'').

Section 309 of the Energy Independence and Security Act (''EISA 2007'') amended EPCA by directing DOE to prescribe, by rule, definitions and test procedures for the power use of battery chargers (42 U.S.C. 6295(u)(1)), and to issue a final rule that prescribes energy conservation standards for battery chargers or classes of battery chargers or to determine that no energy conservation standard is technologically feasible and economically justified. (42 U.S.C. 6295(u)(1)(E))

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 battery chargers appear at title 10 of the Code of Federal Regulations (CFR) part 430, subpart B, appendix X.

DOE must follow specific statutory criteria for prescribing new and amended standards for covered products. 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 battery chargers, if no test procedure has been established for the product, or (2) if DOE determines by rule that the new or amended 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 a new or amended 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. See 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 products 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 such a 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).

Finally, pursuant to the amendments contained in EISA 2007, any final rule for new or amended energy conservation standards promulgated after July 1, 2010 is required to address standby mode and off mode energy use. (42 U.S.C. 6295(gg) (3)) Specifically, when DOE adopts a standard for a covered product after that date, it must,

[11] For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A.

if justified by the criteria for adoption of standards under EPCA (42 U.S.C. 6295(o)), incorporate standby mode and off mode energy use into a single standard, or, if that is not feasible, adopt a separate standard for such energy use for that product. (42 U.S.C. 6295(gg)(3)(A)-(B)) DOE's current test procedures and proposed standards for battery chargers address standby mode and off mode energy use.

B. Background

1. Current Standards

Currently, there are no Federal energy conservation standards that apply to battery chargers.

2. History of Standards Rulemaking for Battery Chargers

Section 135 of the Energy Policy Act of 2005, Public Law 109–58 (Aug. 8, 2005), amended sections 321 and 325 of EPCA by defining the term ''battery charger.'' That provision also directed DOE to prescribe definitions and test procedures related to the energy consumption of battery chargers and to issue a final rule that determines whether to set energy conservation standards for battery chargers or classes of battery chargers. (42 U.S.C. 6295(u)(1)(A) and (E))

On December 8, 2006, DOE complied with the first of these requirements by publishing a final rule that prescribed test procedures for a variety of products. 71 FR 71340, 71365–71375. That rule, which was codified in multiple sections of the Code of Federal Regulations (CFR), included a definition and test procedure for battery chargers. The test procedure for these products is found in 10 CFR part 430, subpart B, Appendix Y (''Uniform Test Method for Measuring the Energy Consumption of Battery Chargers'').

On December 19, 2007, Congress enacted the Energy Independence and Security Act of 2007 (''EISA 2007''). Public Law 110–140 (Dec. 19, 2007). Section 309 of EISA 2007 amended section 325(u)(1)(E) of EPCA by directing DOE to issue a final rule that prescribes energy conservation standards for battery chargers or classes of battery chargers or to determine that no energy conservation standard is technologically feasible and economically justified. (42 U.S.C. 6295(u)(1)(E))

Finally, section 310 of EISA 2007 established definitions for active, standby, and off modes, and directed DOE to amend its test procedures for battery chargers to include a means to measure the energy consumed in standby mode and off mode. (42 U.S.C. 6295(gg)(2)(B)(i)) Consequently, DOE published a final rule incorporating standby- and off-mode measurements into the DOE test procedure. 74 FR 13318, 13334–13336 (March 27, 2009) Additionally, DOE amended the test procedure for battery chargers to include an active mode measurement. 76 FR 31750 (June 1, 2011).

DOE initiated its current rulemaking effort for these products by issuing the Energy Conservation Standards Rulemaking Framework Document for Battery Chargers and External Power Supplies (the Framework Document). See *http://www.regulations.gov/#!documentDetail;D=EERE-2008-BT-STD-0005-0005*. The Framework Document explained the issues, analyses, and process DOE anticipated using to develop energy conservation standards for those products. DOE also published a notice announcing the availability of the Framework Document, announcing a public meeting to discuss the proposed analytical framework, and inviting written comments concerning the development of standards for battery chargers and external power supplies (EPSs). 74 FR 26816 (June 4, 2009). DOE held the Framework Document public meeting on July 16, 2009. Manufacturers, trade associations, environmental advocates, regulators, and other interested parties attended the meeting and submitted comments.

On September 15, 2010, having considered comments from interested parties, gathered additional information, and performed preliminary analyses for the purpose of developing potential amended energy conservation standards for Class A EPSs and new energy conservation standards for battery chargers and non-Class A EPSs, DOE announced a public meeting and the availability on its Web site of a preliminary technical support document (preliminary TSD). 75 FR 56021. The preliminary TSD is available at: *http://www.regulations.gov/#!documentDetail;D=EERE-2008-BT-STD-0005-0031*. The preliminary TSD discussed the comments DOE received at the framework stage of this rulemaking and described the actions DOE took in response to those comments. That document also described in detail the analytical framework DOE used, and the content and results of DOE's preliminary analyses. *Id.* at 56023–56024. DOE convened the public meeting to discuss and receive comments on: (1) The product classes DOE analyzed, (2) the analytical framework, models, and tools that DOE was using to evaluate potential standards, (3) the results of the preliminary analyses performed by DOE, (4) potential standard levels that DOE might consider, and (5) other issues participants believed were relevant to the rulemaking. *Id.* at 56021, 56024. DOE also invited written comments on these matters. The public meeting took place on October 13, 2010. Many interested parties participated, twelve of whom submitted written comments during the comment period; two additional parties filed comments following the close of the formal comment period.

After considering all of these comments, DOE published its notice of proposed rulemaking (''NOPR''). 77 FR 18478 (March 27, 2012). DOE also released the NOPR TSD, which incorporated the analyses DOE conducted and accompanying technical documentation. The TSD included the LCC spreadsheet, the national impact analysis (NIA) spreadsheet, and the manufacturer impact analysis (MIA) spreadsheet—all of which are available at: *http://www.regulations.gov/#!documentDetail;D=EERE-2008-BT-STD-0005-0070*. In the March 2012 NOPR, DOE proposed new energy conservation standards for battery chargers as follows:

TABLE II–1—NOPR PROPOSED ENERGY CONSERVATION STANDARDS FOR BATTERY CHARGERS

Product class	Product class description	Proposed standard as a function of battery energy (kWh/yr)
1	Low-Energy, Inductive	3.04
2	Low-Energy, Low-Voltage	0.2095 * (E_{batt}) + 5.87
3	Low-Energy, Medium-Voltage	For E_{batt} < 9.74 Wh, 4.68; For E_{batt} ≥ 9.74 Wh, = 0.0933 * (E_{batt}) + 3.77
4	Low-Energy, High-Voltage	For E_{batt} < 9.71 Wh, 9.03; For E_{batt} ≥ 9.71 Wh, = 0.2411 * (E_{batt}) + 6.69
5	Medium-Energy, Low-Voltage	For E_{batt} < 355.18 Wh, 20.06; For E_{batt} ≥ 355.18 Wh, = 0.0219 * (E_{batt}) + 12.28
6	Medium-Energy, High-Voltage	For E_{batt} < 239.48 Wh, 30.37; For E_{batt} ≥ 239.48 Wh, = 0.0495 * (E_{batt}) + 18.51
7	High-Energy	0.0502 * (E_{batt}) + 4.53
8	Low-Voltage DC Input	0.1140 * (E_{batt}) + 0.42; For E_{batt} < 1.17 Wh, 0.55 kWh/yr

TABLE II–1—NOPR PROPOSED ENERGY CONSERVATION STANDARDS FOR BATTERY CHARGERS—Continued

Product class	Product class description	Proposed standard as a function of battery energy (kWh/yr)
9	High-Voltage DC Input	No Standard.
10a	AC Output, VFD (Voltage and Frequency Dependent).	For Ebatt < 37.2 Wh, 2.54; For Ebatt ≥ 37.2 Wh, 0.0733 * (E_{batt})—0.18
10b	AC Output, VI (Voltage Independent)	For Ebatt < 37.2 Wh, 6.18; For Ebatt ≥ 37.2 Wh, 0.0733 * (E_{batt}) + 3.45

In the March 2012 NOPR, DOE identified 24 specific issues on which it sought the comments and views of interested parties. *Id.* at 18642–18644. In addition, DOE also specifically requested comments and data that would allow DOE to clarify certain issues and potential solutions to address them. DOE also held a public meeting in Washington, DC, on May 2, 2012, to receive public comments on its proposal. DOE also received many written comments responding to the March 2012 NOPR, which are further presented and addressed throughout this notice. All commenters, along with their corresponding abbreviations and organization type, are listed in Table II–2 below.

TABLE II–2—LIST OF NOPR COMMENTERS

Organization	Abbreviation	Organization type	Comment
Actuant Electric	Actuant Electric	Manufacturer	146
ARRIS Group, Inc	ARRIS Broadband	Manufacturer	90
Appliance Standards Awareness Project	ASAP	Energy Efficiency Advocates	162
ASAP, ASE, ACEEE, CFA, NEEP, and NEEA.	ASAP, *et al.*	Energy Efficiency Advocates	136
Association of Home Appliance Manufacturers.	AHAM	Industry Trade Association	124
Brother International Corporation	Brother International	Manufacturer	111
California Building Industry Association	CBIA	Industry Trade Association	126
California Energy Commission	California Energy Commission	State Entity	117
California Investor-Owned Utilities	CA IOUs	Utilities	138
City of Cambridge, MA	City of Cambridge, MA	Local Government	155
Cobra Electronics Corporation	Cobra Electronics	Manufacturer	130
Consumer Electronics Association	CEA	Industry Trade Association	106
Delta-Q Technologies Corp	Delta-Q Technologies	Manufacturer	113
Duracell	Duracell	Manufacturer	109
Earthjustice	Earthjustice	Energy Efficiency Advocates	118
ECOVA	ECOVA	Private Entity	97
Energizer	Energizer	Manufacturer	123
Flextronics Power	Flextronics	Manufacturer	145
GE Healthcare	GE Healthcare	Manufacturer	142
Information Technology Industry Council	ITI	Industry Trade Association	131
Korean Agency for Technology and Standards.	Republic of Korea	Foreign Government	148
Lester Electrical	Lester	Manufacturer	87, 139
Microsoft Corporation	Microsoft	Manufacturer	110
Motorola Mobility, Inc	Motorola Mobility	Manufacturer	121
National Electrical Manufacturers Association.	NEMA	Industry Trade Association	134
Natural Resources Defense Council	NRDC	Energy Efficiency Advocate	114
Nebraska Energy Office	Nebraska Energy Office	State Government	98
Nintendo of America Inc	Nintendo of America	Manufacturer	135
Nokia Inc	Nokia	Manufacturer	132
Northeast Energy Efficiency Partnerships.	NEEP	Energy Efficiency Advocate	144, 160
Panasonic Corporation of North America.	Panasonic	Manufacturer	120
PG&E	PG&E	Utility	16
PG&E and SDG&E	PG&E and SDG&E	Utilities	163
Philips Electronics	Philips	Manufacturer	128
Power Sources Manufacturers Association.	PSMA	Industry Trade Association	147
Power Tool Institute, Inc.	PTI	Industry Trade Association	133
Power Tool Institute, Inc., Association of Home Appliance Manufacturers, Consumer Electronics Association.	PTI, AHAM, CEA	Industry Trade Association	161
NOPR Public Meeting Transcript, various parties.	Pub. Mtg. Tr	Public Meeting	104
Representatives of Various State Legislatures.	States	State Government	159
Salcomp Plc	Salcomp Plc	Manufacturer	73
Schneider Electric	Schneider Electric	Manufacturer	119
Schumacher Electric	Schumacher Electric	Manufacturer	143

TABLE II–2—LIST OF NOPR COMMENTERS—Continued

Organization	Abbreviation	Organization type	Comment
Southern California Edison	SCE	Utility	164
Telecommunications Industry Association.	TIA	Industry Trade Association	127
Wahl Clipper Corporation	Wahl Clipper	Manufacturer	153

Of particular interest to commenters was the potential interplay between DOE's proposal and a competing proposal to establish battery charger energy conservation standards published by the California Energy Commission (''the CEC'') on January 12, 2012. (The CEC is California's primary energy policy and planning agency.) The CEC standards, which eventually took effect on February 1, 2013,[12] created an overlap between the classes of battery chargers covered by the CEC rule and those classes of battery chargers DOE proposed to regulate in the March 2012 NOPR. Additionally, the standards proposed by DOE differed when compared to the ones issued by the CEC, with some being more stringent and others being less stringent than the CEC standards. To better understand the impact of these standards on the battery charger market in the U.S., DOE published a request for information (RFI) on March 26, 2013 that sought stakeholder comment on a variety of issues related to the CEC standards. 78 FR 18253.

TABLE II–3—LIST OF RFI COMMENTERS

Organization	Abbreviation	Organization type	Comment
AHAM, CEA, PTI, TIA Joint Comments	AHAM, et al	Industry Trade Association	203
Alliance for Wireless Power	ASAP	Energy Efficiency Advocates	196
ASAP, NRDC, ACEEE, CFA, NCLC, NEEA, NPCC Joint Comments.	ASAP, NRDC, ACEEE, CFA, NCLC, NEEA, NPCC.	Energy Efficiency Advocates	206
Association of Home Appliance Manufacturers.	AHAM	Industry Trade Association	202
Brother International Corporation	Brother International	Manufacturer	204
California Energy Commission	California Energy Commission	State Entity	199
California IOUs	CA IOUs	Utilities	197
Consumer Electronics Association	CEA	Industry Trade Association	208
Dual-Lite, a division of Hubbell Lighting	Dual-Lite	Manufacturer	189
Energizer Holdings	Energizer	Manufacturer	213
Garmin International	Garmin	Manufacturer	194
Information Technology Industry Council	ITI	Industry Trade Association	201
Ingersoll Rand (Club Car)	Ingersoll Rand	Manufacturer	195
Jerome Industries, a subsidiary of Astrodyne.	Jerome	Manufacturer	191
Mercury Marine	Mercury	Manufacturer	212
National Marine Manufacturers Association.	NMMA	Industry Trade Association	190
NEEA and NPCC	NEEA and NPCC	Industry Trade Association	200
P&G (Duracell)	Duracell	Manufacturer	193
Panasonic	Panasonic	Manufacturer	210
Philips	Philips	Manufacturer	198
Power Tool Institute	PTI	Industry Trade Association	207
Schneider Electric	Schneider Electric	Manufacturer	211
Schumacher Electric	Schumacher Electric	Manufacturer	192
Telecommunications Industry Association.	TIA	Industry Trade Association	205

Many of these RFI comments reiterated the points that commenters made in response to the NOPR. Additionally, many commenters listed in the table above indicated that there was evidence that the market had accepted the CEC standards and that technology improvements were made to meet the CEC standards at costs aligned with DOE's estimates in the March 2012 NOPR. (See AHAM et al., No. 203 at p. 5) Some manufacturers argued that while some of their units are CEC-compliant, they continue to sell non-compliant units in other parts of the U.S. for various reasons associated with cost. (See Schumacher Electric, No. 192 at p. 2) DOE has addressed these comments by updating and revising its analysis in today's SNOPR by considering, among other things, the impacts attributable to the standards issued by CEC. Specifically, based on the responses to the RFI, DOE collected additional data on new battery chargers identified in the CEC database as being compliant with the CEC standards. These data supplemented DOE's earlier analysis from the March 2012 NOPR. DOE's analysis and testing of units within the CEC database showed that many battery chargers are CEC-compliant. The teardown and economic analysis incorporating these units has also shown that technically equivalent levels to the CEC standards are now

[12] *http://www.energy.ca.gov/appliances/battery_chargers.*

technologically feasible and economically justified for the U.S. as a whole. Therefore, this proposal outlines standards that are technically equivalent, or where justified, more stringent than the CEC standards. The revisions to the analysis, which address the comments received from stakeholders in response to DOE's RFI, are explained in the analysis sections below and summarized in Table II–4.

In addition to updating the proposed standards to account for the impact of the CEC standards, several other significant changes were made while updating the proposed standards presented in the SNOPR. While much of the analysis has been updated, the significant changes since the NOPR are presented in Table II–4.

TABLE II–4—SUMMARY OF SIGNIFICANT CHANGES

Item	NOPR	Changes for SNOPR
Proposed Standard Levels		
Proposed Standard for PC1	= 3.04	No Change.
Proposed Standard for PC2	= 0.2095(E_{batt}) + 5.87	0.1440(E_{batt}) + 2.95.
Proposed Standard for PC3	For E_{batt} < 9.74 Wh, = 4.68 For E_{batt} ≥ 9.74 Wh, = 0.0933(E_{batt}) + 3.77.	For E_{batt} < 10Wh, = 1.42; E_{batt} ≥ 10 Wh, 0.0255(E_{batt}) + 1.16.
Proposed Standard for PC4	For E_{batt} < 9.71 Wh, = 9.03 For E_{batt} ≥ 9.71 Wh, = 0.2411(E_{batt}) + 6.69.	0.11(E_{batt}) + 3.18.
Proposed Standard for PC5	For E_{batt} < 355.18 Wh, = 20.06 For E_{batt} ≥ 355.18 Wh, = 0.0219(E_{batt}) + 12.28.	For E_{batt} < 19 Wh, 1.32 kWh/yr; For E_{batt} ≥ 19 Wh, 0.0257(E_{batt}) + .815.
Proposed Standard for PC6	For E_{batt} < 239.48 Wh, = 30.37 For E_{batt} ≥ 239.48 Wh, = 0.0495(E_{batt}) + 18.51.	For E_{batt} < 18 Wh, 3.88 kWh/yr; For E_{batt} ≥ 18 Wh, 0.0778(E_{batt}) + 2.4.
Proposed Standard for PC7	= 0.0502(E_{batt}) + 4.53	No Change.
Proposed Standard for PC8	= 0.1140(E_{batt})+ 0.42 For Ebatt < 1.17 Wh, = 0.55 kWh/yr.	Removed, covered under PC2 proposed standards.
Proposed Standard for PC9	No Standard	No Change.
Proposed Standard for PC10a	For Ebatt < 37.2 Wh, = 2.54 For Ebatt ≥ 37.2 Wh, = 0.0733(Ebatt)—0.18.	Deferred to Future Rulemaking.
Proposed Standard for PC10b	For Ebatt < 37.2 Wh, = 6.18 For Ebatt ≥ 37.2 Wh, = 0.0733(Ebatt) + 3.45.	Deferred to Future Rulemaking.
Changes in Analysis		
Engineering Analysis—Representative Units	Combination of test data and manufacturer inputs.	Used new or updated units in PC 2, PC 3, PC 4, and PC 5, while keeping the same representative units for PC 1, PC 6, and PC 7 and same Max Tech units for all PCs.
Usage Profiles	Weighted average of application specific usage.	PC 2, PC 3, PC 4, PC 5, and PC 6 usage profiles updated based on new shipment data (See Section IV.F.3).
Efficiency Distributions	From Market Assessment	Obtained from the CEC's database of Small Battery Chargers.

Lastly, DOE announced that it will investigate the potential benefits and burdens of Federal efficiency standards for Computers and Battery Backup Systems in a Framework Document [13] published on July 11, 2014. DOE will be including uninterruptible power supplies (UPSs) that meet the definition of a consumer product within the scope of coverage of that rulemaking effort. Therefore, DOE will no longer consider these products within the scope of the battery chargers rulemaking.

III. General Discussion

A. Test Procedure

In analyzing the products covered under this rulemaking, DOE applied the battery charger test procedure in Appendix Y to 10 CFR part 430 subpart B. Concurrently with the publication of this SNOPR, DOE is also publishing a Notice of Proposed Rulemaking to propose several revisions to the battery charger test procedure. A link to the test procedure NOPR is available at: *http://www1.eere.energy.gov/buildings/appliance_standards/product.aspx?productid=84.* DOE advises stakeholders to review the proposed changes to the test procedure and provide comments to DOE as part of that separate rulemaking.

B. Product Classes and Scope of Coverage

When evaluating and establishing energy conservation standards, DOE divides covered products into product classes by the type of energy used or by capacity or other performance-related features that 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))Further discussion of products covered under this proposed rule and product classes can be found in Section IV.

C. Technological Feasibility

The following sections address the manner in which DOE assessed the technological feasibility of the new and amended standards. Energy conservation standards promulgated by DOE must be technologically feasible.

1. General

In each 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

[13] *http://www.regulations.gov/#!documentDetail;D=EERE-2014-BT-STD-0025-0001*

means for improving efficiency are technologically feasible. DOE generally considers technologies incorporated in commercially available products or in working prototypes to be technologically feasible. See, *e.g.* 10 CFR 430, subpart C, appendix A, section 4(a)(4)(i) (providing that ''technologies incorporated in commercially available products or in working prototypes will be considered technologically feasible.'').

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, or service; (2) adverse impacts on product utility or availability; and (3) adverse impacts on health or safety. See10 CFR part 430, subpart C, appendix A, section 4(a)(4). Additionally, it is DOE policy not to include in its analysis any proprietary technology that is a unique pathway to achieving a certain efficiency level. Section IV.B of this notice discusses the results of the screening analysis for battery chargers, particularly the designs DOE considered, those it screened out, and those that are the basis for the trial standard levels (TSLs) analyzed in this rulemaking. For further details on the screening analysis for this rulemaking, see chapter 4 of the SNOPR technical support document (TSD).

Additionally, DOE notes that it has received no comments from interested parties regarding patented technologies and proprietary designs that would inhibit manufacturers from achieving the energy conservation standards contained in this proposal. At this time, DOE believes that the proposed standard for the products covered as part of this rulemaking will not mandate the use of any such technologies.

2. Maximum Technologically Feasible Levels

When proposing an amended standard for a type or class of covered product, DOE 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)). DOE determined the maximum technologically feasible (''max-tech'') efficiency levels by interviewing manufacturers, vetting their data with subject matter experts, and presenting the results for public comment.

In preparing this proposed rule, which includes max-tech levels for the seven product classes initially addressed in DOE's preliminary analysis, DOE developed a means to create max-tech levels for those classes that were previously not assigned max-tech levels. For the product classes that DOE was previously unable to generate max-tech efficiency levels, DOE used multiple approaches to develop levels for these classes. During the NOPR phase, DOE solicited manufacturers for information and extrapolated performance parameters from its best-in-market efficiency levels. Extrapolating from the best-in-market performance efficiency levels required an examination of the devices. From this examination, DOE determined which design options could be applied and what effects they would likely have on the various battery charger performance parameters. (See Chapter 5, Section 5.4 of the accompanying SNOPR TSD) Table III–1 below shows the reduction in energy consumption when increasing efficiency from the baseline to the max-tech efficiency level.

TABLE III–1—REDUCTION IN ENERGY CONSUMPTION AT MAX-TECH FOR BATTERY CHARGERS

Product class	Max-tech unit energy consumption (kWh/yr)	Reduction of energy consumption relative to the baseline (percentage)
1 (Low-Energy, Inductive)	1.29	85
2 (Low-Energy, Low-Voltage)	1.11	79
3 (Low-Energy, Medium-Voltage)	0.70	80
4 (Low-Energy, High-Voltage)	3.05	75
5 (Medium-Energy, Low-Voltage)	9.45	89
6 (Medium-Energy, High-Voltage)	16.79	86
7 (High-Energy)	131.44	48

Additional discussion of DOE's max-tech efficiency levels and comments received in response to the NOPR analysis can be found in the discussion of candidate standard levels (CSLs) in section IV.C.4. Specific details regarding which design options were considered for the max-tech efficiency levels (and all other CSLs) can be found in Chapter 5, Section 5.4 of the accompanying SNOPR TSD, which has been developed as a stand-alone document for this SNOPR and supports all of the standard levels proposed in this SNOPR.

D. Energy Savings

1. Determination of Savings

For each TSL, DOE projected energy savings from the products that are the subject of this rulemaking purchased in the 30-year period that begins in the year of compliance with any new standards (2018–2047). The savings are measured over the entire lifetime of products purchased in the 30-year period.[14] DOE quantified the energy savings attributable to each TSL as the difference in energy consumption between each standards case and the base case. The base case represents a projection of energy consumption in the absence of new energy conservation standards, and 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 new standards for battery chargers. 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 electricity to the site. To

[14] In the past DOE presented energy savings results for only the 30-year period that begins in the year of compliance. In the calculation of economic impacts, however, DOE considered operating cost savings measured over the entire lifetime of products purchased in the 30-year period. DOE has chosen to modify its presentation of national energy savings to be consistent with the approach used for its national economic analysis.

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 presents a more complete picture of the impacts of energy conservation standards. 76 FR 51282 (August 18, 2011), as amended by 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.6.

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. Although the term ''significant'' is not defined in the Act, the U.S. Court of Appeals for the DC Circuit, in *Natural Resources Defense Council* v. *Herrington,* 768 F.2d 1355, 1373 (D.C. Cir. 1985), indicated that Congress intended ''significant'' energy savings in this context to be savings that were not ''genuinely trivial.'' The energy savings for all of the TSLs considered in this rulemaking (presented in section V.B.3) are nontrivial, and, therefore, DOE considers them ''significant'' within the meaning of section 325 of EPCA.

E. Economic Justification

1. Specific Criteria

EPCA provides seven factors to be evaluated in determining whether a potential energy conservation standard is economically justified. (42 U.S.C. 6295(o)(2)(B)(i)) 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 new standard on manufacturers, DOE conducts a manufacturer impact analysis (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) Industry net present value (INPV), which values the industry on the basis of expected future cash flows; (2) cash flows by year; (3) changes in revenue and income; and (4) other measures of impact, as appropriate. Second, DOE analyzes and reports the impacts on different types of manufacturers, including impacts on small manufacturers. Third, DOE considers the impact of standards on domestic manufacturer employment and manufacturing capacity, as well as the potential for standards to result in plant closures and loss of capital investment. Finally, DOE takes into account cumulative impacts of various DOE regulations and other regulatory requirements on manufacturers.

For individual consumers, measures of economic impact include the changes in life-cycle cost (LCC) and payback period (PBP) associated with new standards. These measures are discussed further in the following section. For consumers in the aggregate, DOE also calculates the national net present value of the economic impacts applicable to a particular rulemaking. DOE also evaluates the 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. 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 efficiency levels are calculated relative to a base 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 imposing an energy conservation standard, EPCA requires DOE, in determining the economic justification of a standard, to consider the total projected energy savings that are expected to result directly from the standard. (42 U.S.C. 6295(o)(2)(B)(i)(III)) As discussed in section IV.H, DOE uses the NIA spreadsheet to project national energy savings.

d. Lessening of Utility or Performance of Products

In establishing product classes, and in evaluating design options and the impact of potential standard levels, DOE evaluates potential standards that would not lessen the utility or performance of the considered products. (42 U.S.C. 6295(o)(2)(B)(i)(IV)) Based on data available to DOE, the standards proposed in this notice would not reduce the utility or performance of the products under consideration in this rulemaking. DOE received no comments that the proposed standards for battery chargers would increase their size and reduce their convenience, increase the length of time to charge a product, shorten the intervals between chargers, or cause any other significant adverse impacts on consumer utility.

e. Impact of Any Lessening of Competition

EPCA directs DOE to consider any lessening of competition, as determined in writing by the Attorney General, that is likely to result from proposed standards. (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 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 followed this requirement after publication of the March 2012 NOPR. Although the Department of Justice had no comments regarding the proposal, DOE will transmit a courtesy copy of the supplemental notice and accompanying TSD to the Attorney General. DOE will

make public any comments or determination provided by DOJ.

f. Need for National Energy Conservation

The energy savings from new standards are likely to provide improvements to the security and reliability of the nation's energy system. (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 new standards also are likely to result in environmental benefits in the form of reduced emissions of air pollutants and greenhouse gases associated with energy production 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.B.6of 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))

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 effect potential new energy conservation standards would have on the payback period for consumers. These analyses include, but are not limited to, the 3-year payback period contemplated under the rebuttable-presumption test. In addition, DOE routinely conducts an economic analysis that considers the full range of impacts to consumers, manufacturers, the nation, and the environment, as required under 42 U.S.C. 6295(o)(2)(B)(i). The results of this analysis serve as the basis for DOE's evaluation of the economic justification for a potential standard level (thereby supporting or rebutting the results of any preliminary determination of economic justification). The rebuttable presumption payback calculation is discussed in section V.B.1.c of this proposed rule.

IV. Methodology and Discussion

This section addresses the analyses DOE performed for this rulemaking with regard to battery chargers. 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. First, DOE used a spreadsheet that calculates the LCC and PBP of potential amended or new energy conservation standards. Second, the national impacts analysis uses a spreadsheet that provides shipments forecasts and calculates national energy savings and net present value resulting from potential energy conservation standards. Third, DOE uses the Government Regulatory Impact Model (GRIM) to assess manufacturer impacts of potential standards. These three spreadsheet tools are available on the docket: *http://www.regulations.gov/#!docketDetail;D=EERE-2008-BT-STD-0005.* Additionally, DOE used output from the latest version of EIA's *Annual Energy Outlook* (*AEO*), a widely known energy forecast for the United States, for the emissions and utility impact analyses.

A. Market and Technology Assessment

When beginning an energy conservation standards rulemaking, DOE develops information that provides an overall picture of the market for the products concerned, including the purpose of the products, the industry structure, and market characteristics. This activity includes both quantitative and qualitative assessments, based primarily on publicly available information. The subjects addressed in the market and technology assessment for this rulemaking include a determination of the scope of this rulemaking; product classes and manufacturers; quantities and types of products sold and offered for sale; retail market trends; regulatory and non-regulatory programs; and technologies or design options that could improve the energy efficiency of the product(s) under examination. See Chapter 3 of the SNOPR TSD for further detail.

1. Products Included in this Rulemaking

This section addresses the scope of coverage for this proposed rule and details which products would be subject to the standards proposed in this notice. The numerous comments DOE received on the scope of these standards are also summarized and addressed in this section.

A battery charger is a device that charges batteries for consumer products, including battery chargers embedded in other consumer products. (42 U.S.C. 6291(32)) Functionally, a battery charger is a power conversion device used to transform input voltage to a suitable voltage for the battery the charger is powering. Battery chargers are used in conjunction with other end-use consumer products, such as cell phones and digital cameras. However, the battery charger definition prescribed by Congress is not limited solely to products powered from AC mains—*i.e.* products that plug into a wall outlet. Further, the statutory definition encompasses battery chargers that may be wholly embedded in another consumer product, wholly separate from another consumer product, or partially inside and partially outside another consumer product. While devices that meet the statutory definition are within the scope of this rulemaking, DOE is not proposing to set standards for all battery chargers.

With respect to the different kinds of battery chargers that are available, DOE received a number of comments. DOE received three comments related to battery chargers for backup batteries. ARRIS Broadband described a broadband modem/VoIP device that contains a backup battery that provides power to the telephone system, a primary function, in the event of power loss and sought guidance on whether this product would be required to comply with DOE's proposed standards. (ARRIS Broadband, No. 90 at p.1) Brother urged DOE to exclude from its scope those battery chargers that are used to charge batteries that power only secondary functions of the end-use product in the event of a power loss. Brother noted by way of example that some multifunction devices (MFD) contain a rechargeable battery that enables the MFD to maintain its memory and power an internal clock in the event of power loss. Brother added that regulating battery chargers of this type would ''create significant regulatory burdens and produce insignificant energy savings.'' (Brother International, No. 111 at p.2) Motorola Mobility urged DOE to exclude continuous use products such as

answering machines, home security systems, modems, and LAN/WAN adapters from battery standards because battery charging represents a small fraction of the total energy use of the products. ARRIS Broadband and Motorola Mobility also claimed that the test procedure does not provide an adequate way to distinguish energy from battery charging from other functions. (ARRIS Broadband, No. 90 at p.1; Motorola Mobility, No. 121 at pp. 5–6)

After evaluating these comments and examining these devices further, particularly with respect to their test results, DOE has tentatively decided to refrain from proposing standards for battery chargers that are intended to charge batteries that provide backup power, or battery chargers considered to be continuous use devices at this time. DOE outlined several issues with testing these devices. Since battery chargers that are typically embedded within continuous use devices do not charge batteries as their primary function, it is often difficult, if not impossible, to use current techniques and technologies to consistently and reliably isolate the tested battery charger's energy use during testing. As a result, the test procedure cannot be applied to these products to accurately measure the energy use of a battery charger embedded within the product. Because of these technical limitations, DOE has proposed that battery chargers that provide power from the battery to a continuous use device solely during a loss of main power would not be required to be tested under DOE's test procedure. Because the DOE procedure cannot adequately account for the energy usage of these kinds of devices, and DOE has been unable at this time to develop appropriate modifications that would remedy this limitation, battery chargers that fall into these categories cannot be evaluated using the procedure detailed in Appendix Y. See the Test Procedure NOPR at *http://www1.eere.energy.gov/buildings/appliance_standards/product.aspx?productid=84.*

Ultimately, DOE recognizes that such battery chargers may be used in a different manner from other battery chargers, spending nearly all of their time in maintenance mode. Additionally, DOE believes that testing and regulating these devices as a system, which is being addressed in DOE's Computer and Battery Backup Systems rulemaking, is a more appropriate venue to aaddress these devices. See 79 FR 41656 (July 17, 2014).

Motorola Mobility also commented that in-vehicle battery chargers should not be included in the scope of this rulemaking because they do not consume energy from the utility grid. (Motorola Mobility, No. 121 at p. 7) In examining the products identified by Motorola Mobility, DOE observed that these devices were designed to work not only as in-vehicle devices, but could also be plugged into AC mains. Accordingly, in DOE's view, these devices are designed to use mains power. DOE further notes that 42 U.S.C 6292(a) provides in part, that covered consumer products exclude consumer products designed solely for use in recreational vehicles and other mobile equipment. Thus, a product designed to be exclusively used in recreational vehicles or other mobile equipment would be excluded from being considered a covered product while a device that is designed to be used in vehicles and on AC mains, may be considered a covered consumer product. As discussed in section V.B.2.f in the March 2012 NOPR, a battery charger is in Product Class 9 if it operates using a DC input source greater than 9V, it is unable to operate from a universal serial bus (USB) connector, and a manufacturer does not package, recommend, or sell a wall adapter for the device. If an in-vehicle battery charger is also capable of operating on AC mains (via a USB or a wall adapter), then it would be subject to the AC–DC standards based on its characteristics when charging a battery using AC mains. DOE found that new standards for battery charger Product Class 9 (those with DC input of greater than 9V, including all in-vehicle battery chargers) were not cost effective for any of the evaluated standard levels. Because standards are not economically justified, DOE is not proposing standards for such products at this time.

a. Definition of Consumer Product

DOE received comments from a number of stakeholders seeking clarification on the definition of a consumer product. Schneider Electric commented that the definition of consumer product is ''virtually unbounded'' and ''provides no definitive methods to distinguish commercial or industrial products from consumer products.'' (Schneider Electric, No. 119 at p. 2) ITI commented that a narrower definition of a consumer product is needed to determine which state regulations are preempted by Federal standards. (ITI, No. 131 at p. 2) NEMA commented that the FAQ on the DOE Web site is insufficient to resolve its members' questions. See *https://www1.eere.energy.gov/buildings/appliance_standards/pdfs/cce_faq.pdf.* (NEMA, No. 134 at p. 2) These stakeholders suggested ways that DOE could clarify the definition of a consumer product:

- Adopt the ENERGY STAR battery charger definition.
- Limit the scope to products marketed as compliant with the FCC's Class B emissions limits.
- Define consumer products as ''pluggable Type A Equipment (as defined by IEC 60950–1), with an input rating of less than or equal to 16A.''

EPCA defines a consumer product as any article of a type that consumes or is designed to consume energy and which, to any significant extent, is distributed in commerce for personal use or consumption by individuals without regard to whether such article of such type is in fact distributed in commerce for personal use or consumption by an individual. See 42 U.S.C. 6291(1). Manufacturers are advised to use this definition (in conjunction with the battery charger definition) to determine whether a given device shall be subject to battery charger standards. Consistent with these definitions, any battery charger that is of a type that is capable of charging batteries for a consumer product would be considered a covered product and possibly subject to DOE's energy conservation standards, without regard to whether that battery charger was in fact distributed in U.S. commerce to operate a consumer product. Only battery chargers that have identifiable design characteristics that would make them incapable of charging batteries of a consumer product would be considered to not meet EPCA's definition of a battery charger. DOE would consider the ability of a battery charger to operate using residential mains power—Standard 110–120 VAC, 60 Hz input—as an identifiable design characteristic when considering whether a battery charger is capable of charging the batteries of a consumer product.

b. Medical Products

In the NOPR, DOE stated that standards for battery chargers used to power medical devices had the potential to yield energy savings. GE Healthcare, a manufacturer of battery chargers used in medical devices, responded to the NOPR. It gave several reasons why DOE should not apply standards to these products. It noted that the design, manufacture, maintenance, and post-market monitoring of medical devices are already highly regulated by the Food and Drug Administration, and requiring these devices to comply with energy efficiency standards would only add to

these existing requirements. GE added that there are a large number of individual medical device models, each of which must be tested along with its component battery charger to ensure compliance with applicable standards; redesign of the battery charger to meet DOE standards would require that all of these models be retested and reapproved, at a significant per-unit cost, especially for those devices that are produced in limited quantities. (GE Healthcare, No. 142 at p. 2)

Given these concerns, DOE has reevaluated its proposal to set energy conservation standards for medical device battery chargers. While setting standards for these devices may yield energy savings, DOE also wishes to avoid any action that could potentially impact their reliability and safety. In the absence of sufficient data on this issue, and consistent with DOE's obligation to consider such adverse impacts when identifying and screening design options for improving the efficiency of a product, DOE has decided to refrain from setting standards for medical device battery chargers at this time. Similar to the limitation already statutorily-prescribed for Class A EPSs, DOE is proposing at this time to refrain from setting standards for those device that require Federal Food and Drug Administration (FDA) listing and approval as a life-sustaining or life-supporting device in accordance with section 513 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(c)). See 42 U.S.C. 6295(o)(2)(b)(i)(VII). See also 10 CFR part 430, subpart C, appendix A, (4)(a)(4) and (5)(b)(4) (collectively setting out DOE's policy in evaluating potential energy conservation standards for a product).

2. Market Assessment

To characterize the market for battery chargers, DOE gathered information on the products that use them. DOE refers to these products as end-use consumer products or battery charger ''applications.'' This method was chosen for two reasons. First, battery chargers are nearly always bundled with or otherwise intended to be used with a given application; therefore, the demand for applications drives the demand for battery chargers. Second, because most battery chargers are not stand-alone products, their shipments, lifetimes, usage profiles, and power requirements are all determined by the associated application.

DOE analyzed the products offered by online and brick-and-mortar retail outlets to determine which applications use battery chargers and which battery charger technologies are most prevalent. The list of applications analyzed and a full explanation of the market assessment methodology can be found in chapter 3 of the accompanying SNOPR TSD.

While DOE identified the majority of battery charger applications, some may not have been included in the NOPR analysis. This is due in part because the battery chargers market is dynamic and constantly evolving. As a result, some applications that use a battery charger were not initially found because they either made up an insignificant market share or were introduced to the market after the NOPR analysis was conducted. The battery chargers for any other applications not explicitly analyzed in the market assessment would still be subject to the proposed standards as long as they fall into one of the battery charger classes outlined in Section IV.A.1. That is, DOE's omission of any particular battery charger application from its analysis is not, by itself, an indication that the battery charger that powers that application would not be subject to the battery chargers standards.

DOE relied on published market research to estimate base-year shipments for all applications. In the NOPR, DOE estimated that in 2009, a total of 437 million battery chargers were shipped for final sale in the United States. For this SNOPR, DOE conducted additional research and updated its shipments estimates to provide shipments data for 2011. Where more recent data were available, DOE updated the shipments data based on the more recent shipments data collected. Where more recent information could not be found, DOE derived the 2011 shipments value based on the 2009 estimates, and used its shipments model as described in section IV.G.1 to project the 2009 shipments to 2011. In 2011, DOE estimated that a total of 506 million battery chargers units were shipped.

DOE received comments from several stakeholders on the accuracy of its shipment estimates for certain applications in the NOPR. NRDC commented that DOE's estimate of 8 million units for toy ride-on vehicles seemed too high, citing the fact that it was four times higher than the estimate for remote control toy shipments. (NRDC, No. 114 at p. 7) DOE estimated toy ride-on vehicle shipments by dividing annual sales dollars ($1.8 billion) by the average retail price of surveyed toy ride-on vehicles ($222.50). DOE could not find data on remote control toys, but assumed in the NOPR that annual shipments would be roughly equivalent to its estimate for ride-on toys (see chapter 3 of the NOPR TSD). However, when conducting product surveys, DOE found that a large share of remote control toys used disposable batteries. Therefore, DOE altered its analysis and assumed that only 30% of remote control toys utilized a battery charger compared to 100% of ride-on toys. For the SNOPR, DOE retained the same approach and updated its shipment estimates for remote control toys and ride-on toys to approximately 2.2 million and 3.7 million units, respectively.

Schumacher Electric commented that DOE's estimate of 500,000 annual auto/marine/RV battery charger shipments in 2009 was too low, stating that they alone shipped 2.6 million units in 2011. (Schumacher Electric, No. 143 at p. 6) DOE's estimate of 500,000 units was based on a PG&E study (PG&E, No. 16 at p.3). Schumacher's comment did not specify whether its 2.6 million shipments were global or domestic, or what their market share is for auto/marine/RV battery chargers. For the SNOPR, DOE retained the 2009 estimate based on PG&E study and used its shipments model to estimate shipments in 2011. DOE determined that a total of 507,427 units shipped in 2011.

Delta-Q Technologies commented that the lifetime of a golf cart (or ''golf car'') is typically 10–12 years and explained that the majority of new golf carts are sold to commercial customers for a 3- to 4-year lease and then sold to consumers. (Delta-Q Technologies, No. 113 at p. 1) DOE believes the lifetime estimates for these products are similar to the 3.5 years and 6.5 years that DOE assumes for commercial and residential users, respectively. Therefore, DOE retained the same lifetime estimates as in NOPR.

3. Product Classes

When necessary, DOE divides covered products into classes by the type of energy used, the capacity of the product, and any other performance-related feature that could justify different standard levels, such as features affecting consumer utility. (42 U.S.C. 6295(q)) DOE then conducts its analysis and considers establishing or amending standards to provide separate standard levels for each product class.

DOE created 11 product classes for battery chargers based on various electrical characteristics shared by particular groups of products. As these electrical characteristics change, so does the utility and efficiency of the devices.

a. Battery Charger Product Classes

As described in the NOPR analysis, DOE used five electrical characteristics to disaggregate battery charger product classes—battery voltage, battery energy, input and output characteristics (*e.g.*,

inductive charging capabilities),[15] input voltage type (line AC or low-voltage DC), and AC output. Further details on DOE's reasoning are outlined in Chapter 3 of the SNOPR TSD.

TABLE IV–1—BATTERY CHARGER PRODUCT CLASSES

Product class No.	Input/output type	Battery energy (Wh)	Special characteristic or battery voltage
1	AC In, DC Out	<100	Inductive Connection.
2			<4 V.
3			4 – 10 V.
4			>10 V.
5		100–3000	<20 V.
6			≥20 V.
7		>3000	—
8	DC In, DC Out		<9 V Input.
9			≥9 V Input.
10a	AC In, AC Out		Voltage and Frequency Dependent.
10b			Voltage Independent.

In response to the NOPR analysis, Energizer and Philips argued that the wide variety of battery charger usage patterns in Product Class 2 warranted the creation of subcategories of battery chargers based on usage. (Energizer, No. 123 at p. 2; Philips, No. 128 at p. 5) Philips claimed that infrequently used products would not be able to save a significant amount of energy from improved efficiency measures. It argued that infrequent use is a performance-related feature that required DOE to set different standards. Neither party provided additional data in support of its respective views. Despite these claims, DOE has not received evidence that infrequently-used battery chargers have any technical differences from battery chargers that are used more often. Because there are no technical differences between these battery chargers and the units used to represent this product class, there is no rationale for establishing separate product classes based on frequency of use.

DOE also received comments from Delta-Q Technologies, who observed that there has been a shift towards high-frequency switch-mode battery chargers in the golf cart segment, due to rising raw materials cost of older technology and some cost reductions available due to new high frequency switch-mode technologies. In the absence of standards, it asserted that this trend would continue and in the next few years all golf cart chargers would meet the proposed standards. (Delta-Q Technologies, No. 113 at p. 1) DOE's research suggests, and public comments submitted by Club Car responding to the March 2013 RFI express similar concerns, that while there is a clear trend in the direction of more efficient high-frequency switch-mode technologies, some manufacturers are holding back on adopting this technology due to reliability concerns. (Ingersoll Rand, No. 195 at p. 2) However, DOE has also found that U.S. manufacturers are now offering both linear and high-frequency switch-mode battery chargers. As a result, DOE believes its efficiency distribution estimate and representative units for Product Class 7 are accurate, reflecting that a portion of the market would be based on less efficient and legacy linear technology and the remainder would rely on switch-mode technology in 2015.

DOE also received several comments regarding Product Class 9 in response to the NOPR analysis. NRDC and CEC argued that DOE should regulate Product Class 9 products using the proposed Product Class 8 standards. (NRDC, No. 114 at p. 8; California Energy Commission, No. 117 at p. 28) Cobra and the Power Tool Institute (PTI) supported DOE's proposal not to regulate products intended only for in-vehicle use (*i.e.*, Product Class 9). (Cobra Electronics, No. 130 at p. 9: PTI, No. 133 at p. 6) See the March 2012 NOPR TSD, Chapter 5, Sec. 5.7.15, (explaining that Product Class 9 devices are overwhelmingly charged by 12V DC output of an automotive cigarette lighter receptacle). These products are decidedly different than those in Product Class 2 and Product Class 8 because they can only be used in vehicles, which is a unique utility, and input voltage can impact battery charger performance. However, as described in the March 2012 NOPR LCC analysis, DOE determined that the legal requirements necessary for setting standards for product class 9 were not met, and thus, DOE is not proposing to regulating this product class under this proposed rule.

Finally, DOE also received comments regarding Product Classes 10a and 10b, which are no longer within scope of this proposed rulemaking. See section IV.A.1 above. However, NEMA, Schneider, and ITI responded to the NOPR by suggesting that the definitions of 10a and 10b be harmonized with the IEC 62040–3 standard definitions for universal power supplies (''UPSs''). In this case, Product Class 10a would be reclassified from ''non-automatic voltage regulator'' (''non-AVR'') to ''Voltage and Frequency Dependent'' (VFD) and Product Class 10a would be reclassified as ''Voltage Independent'' (VI). Stakeholders stated that these definitions are accepted industry wide. By making such changes, manufacturers asserted that the scope of those battery chargers defined as basic and AVR in the NOPR would be clarified and concerns over scope, particularly what determines consumer grade UPSs, would be eliminated. (NEMA, No. 134 at p. 7, 8: Schneider. Pub. Mtg. Tr, No. 104 at p. 253: Schneider, No. 119 at p. 2: ITI, No. 131 at p. 3, 7) Schneider suggested that DOE define additional product classes 10c and 10d, where Product Class 10c should be defined as Voltage Independent with Sinusoidal output (VI–SS) and Product Class 10d should be defined as Voltage and Frequency Independent (VFI). (Schneider, No. 119 at p. 3)

DOE has recently proposed to remove battery chargers that provide power

[15] Inductive charging is a utility-related characteristic designed to promote cleanliness and guarantee uninterrupted operation of the battery charger in a wet environment. In wet environments, such as a bathroom where an electric toothbrush is used, these chargers ensure that the user is isolated from mains current by transferring power to the battery through magnetic induction rather than using a galvanic (*i.e.*, current carrying) connection.

from a battery to a continuous use device solely during a loss of main power from the testing requirements for battery chargers. This would include battery chargers within Product Class 10 for which DOE had previously proposed standards in the NOPR. As discussed below in Section IV.A.3.b.ii., DOE is no longer proposing standards or definitions for these battery chargers.

b. Elimination of Product Classes 8, 9,10a, and 10b

Since publishing the NOPR, DOE has conducted further market analysis, technical analysis, and testing. As a result, DOE has chosen to move forward with proposed standards for a smaller number of products classes. Specifically, DOE is no longer proposing standards for battery chargers falling into Product Classes 8, 9, 10a, and 10b in this SNOPR. As stated above and in the NOPR, DOE determined that no standards were warranted for Product Class 9 products and DOE received no additional information that would alter this determination.

i. Product Class 8

DOE has determined that there are no products falling into Product Class 8 that do not also fall into Product Class 2. DOE has also determined that the battery chargers previously analyzed in Product Class 8 do not technically differ from those found in Product Class 2. Specifically, DOE analyzed battery chargers used with end use applications such as MP3 players and mobile phones. DOE found that these products can be used with AC to DC power supplies and are functionally identical products found in Product Class 2. For these reasons, DOE has combined all previously analyzed products, and related shipments in Product Class 8 into Product Class 2. Therefore, these products will be subject to Product Class 2 proposed standards.

ii. Product Classes 10a and 10b

DOE is considering energy conservation standards for battery backup systems (including UPSs) and other continuous use products as part of the Computer and Backup Battery Systems rulemaking. 79 FR 41656 By including UPSs in the new rulemaking and analysis, DOE will no longer be considering standards for battery chargers embedded in UPSs as part of this rule and is not proposing standards for Product Classes 10a and 10b in this SNOPR.

DOE requests stakeholder comment on the elimination of Product Classes 8, 9, 10a, and 10b from this SNOPR.

4. Technology Assessment

In the technology assessment, DOE identifies technology options that appear to be feasible to improve product efficiency. This assessment provides the technical background and structure on which DOE bases its screening and engineering analyses. The following discussion provides an overview of the technology assessment for battery chargers. Chapter 3 of the SNOPR TSD provides additional detail and descriptions of the basic construction and operation of battery chargers, followed by a discussion of technology options to improve their efficiency and power consumption in various modes.

a. Battery Charger Modes of Operation and Performance Parameters

DOE found that there are five modes of operation in which a battery charger can operate at any given time—active (or charge) mode, maintenance mode, no-battery (or standby) mode, off mode, and unplugged mode. During active mode, a battery charger is charging a depleted battery, equalizing its cells, or performing functions necessary for bringing the battery to the fully charged state. In maintenance mode, the battery is plugged into the charger, has reached full charge, and the charger is performing functions intended to keep the battery fully charged while protecting it from overcharge. No-battery mode involves a battery charger plugged into AC mains but without a battery connected to the charger. Off mode is similar to no-battery mode but with all manual on-off switches turned off. Finally, during unplugged mode, the battery charger is disconnected from mains and not consuming any electrical power.[16]

For each battery charger mode of operation, DOE's battery charger test procedure has a corresponding test that is performed that outputs a metric for energy consumption in that mode. The tests to obtain these metrics are described in greater detail in DOE's battery charger test procedure. When performing a test in accordance with this procedure, certain items play a key role in evaluating the efficiency performance of a given battery charger—24-hour energy, maintenance mode power, no-battery mode power, off-mode power, and unplugged mode power . (10 CFR part 430 Appendix Y to Subpart B)

First, there is the measured 24-hour energy of a given charger. This quantity is defined as the power consumption integrated with respect to time of a fully metered charge test that starts with a fully depleted battery. In other words, this is the energy consumed to fully charge and maintain at full charge a depleted battery over a period that lasts 24 hours or the length of time needed to charge the tested battery plus 5 hours, whichever is longer. Next, is maintenance mode power, which is a measurement of the average power consumed while a battery charger is known to be in maintenance mode. *No-battery (or standby) mode power is* the average power consumed while a battery charger is in no-battery or standby mode (only if applicable).[17] Off-mode power is the average power consumed while an on-off switch-equipped battery charger is in off mode (*i.e.*, with the on-off switch set to the ''off'' position). Finally, unplugged mode power consists of the average power consumed while the battery charger is not physically connected to a power source. (This quantity is always 0.)

Additional discussion on how these parameters are derived and subsequently combined with assumptions about usage in each mode of operation to obtain a value for the UEC is discussed below in section IV.C.2.

b. Battery Charger Technology Options

Since most consumer battery chargers contain an AC to DC power conversion stage, similar to that found in an EPS, DOE examined many of the same technology options for battery chargers as it did for EPSs in the EPS final rule. See 79 FR 7845 (Feb. 10, 2014). The technology options used to decrease EPS no-load power affect battery charger energy consumption in no-battery and maintenance modes (and off mode, if applicable), while those options used to increase EPS conversion efficiency will affect energy consumption in active and maintenance modes.

DOE considered many technology options for improving the active-mode charging efficiency as well as the no-battery and maintenance modes of battery chargers. The following list, organized by charger type, provides technology options that DOE evaluated

[16] Active mode, maintenance mode, standby mode, and off mode are all explicitly defined by DOE in Appendix Y to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption of Battery chargers.

[17] If the product contains integrated power conversion and charging circuitry, but is powered through a non-detachable AC power cord or plug blades, then no part of the system will remain connected to mains, and standby mode measurement is not applicable. (Section 5.11.d ''Standby Mode Energy Consumption Measurement, CFR part 430 Appendix Y to Subpart B).

during the NOPR and again in today's SNOPR. Although many of these technology options could be used in both fast and slow chargers, doing so may be impractical due to the cost and benefits of each option for the two types of chargers. Therefore, in the list below, the options are grouped with the charger type where they would be most practical.

Slow charger technology options include:

• *Improved Cores:* The efficiency of line-frequency transformers, which are a component of the power conversion circuitry of many slow chargers, can be improved by replacing their cores with ones made of lower-loss steel.

• *Termination:* Substantially decreasing the charge current to the battery after it has reached full charge, either by using a timer or sensor, can significantly decrease maintenance-mode power consumption.

• *Elimination/Limitation of Maintenance Current:* Constant maintenance current is not required to keep a battery fully charged. Instead, the battery charger can provide current pulses to ''top off'' the battery as needed.

• *Elimination of No-Battery Current:* A mechanical AC line switch inside the battery charger ''cup'' automatically disconnects the battery charger from the mains supply when the battery is removed from the charger.

• *Switched-Mode Power Supply:* To increase efficiency, line-frequency (or linear) power supplies can be replaced with switched-mode EPSs, which greatly reduce the biggest sources of loss in a line-frequency EPS: the transformer.

Fast charger technology options include:

• *Low-Power Integrated Circuits:* The efficiency of the battery charger's switched-mode power supply can be further improved by substituting low-power integrated circuit (''IC'') controllers.

• *Elimination/Limitation of Maintenance Current:* See above.

• *Schottky Diodes and Synchronous Rectification:* Both line-frequency and switched-mode EPSs use diodes to rectify output voltage. Schottky diodes and synchronous rectification can replace standard diodes to reduce rectification losses, which are increasingly significant at low voltage.

• *Elimination of No-Battery Current:* See above.

• *Phase Control To Limit Input Power:* Even when a typical battery charger is not delivering its maximum output current to the battery, its power conversion circuitry continues to draw significant power. A phase control circuit, like the one present in most common light dimmers, can be added to the primary side of the battery charger power supply circuitry to limit input current in lower-power modes.

An in-depth discussion of these technology options can be found in Chapter 3 of the accompanying SNOPR TSD.

B. Screening Analysis

DOE uses the following four screening criteria to determine which design options are suitable for further consideration in a standards rulemaking:

1. *Technological feasibility.* DOE considers technologies incorporated in commercial products or in working prototypes to be technologically feasible.

2. *Practicability to manufacture, install, and service.* If mass production and reliable installation and servicing of a technology in commercial products could be achieved on the scale necessary to serve the relevant market at the time the standard comes into effect, then DOE considers that technology practicable to manufacture, install, and service.

3. *Adverse impacts on product utility or product availability.* If DOE determines a technology would have a significantly 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 consider this technology further.

4. *Adverse impacts on health or safety.* If DOE determines that a technology will have significant adverse impacts on health or safety, it will not consider this technology further.

See generally 10 CFR part 430, subpart C, appendix A, (4)(a)(4) and (5)(b).

For battery chargers, after considering the four criteria, DOE screened out:

1. Non-inductive chargers for use in wet environments because of potential adverse impacts on safety;

2. Capacitive reactance because of potential adverse impacts on safety; and

3. Lowering charging current or increasing battery voltage because of potential adverse impacts on product utility to consumers.

For additional details, please see Chapter 4 of the SNOPR TSD.

C. Engineering Analysis

In the engineering analysis (detailed in Chapter 5 of the SNOPR TSD), DOE presents a relationship between the manufacturer selling price (MSP) and increases in battery charger efficiency. The efficiency values range from that of an inefficient battery charger sold today (*i.e.*, the baseline) to the maximum technologically feasible efficiency level. For each efficiency level examined, DOE determines the MSP; this relationship is referred to as a cost-efficiency curve.

DOE structured its engineering analysis around two methodologies: (1) A ''test and teardown'' approach, which involves testing products for efficiency and determining cost from a detailed bill of materials (''BOM'') derived from tear-downs and (2) the efficiency-level approach, where the cost of achieving increases in energy efficiency at discrete levels of efficiency are estimated using information gathered in manufacturer interviews that was supplemented and verified through technology reviews and subject matter experts (''SMEs''). When analyzing the cost of each CSL—whether based on existing or theoretical designs—DOE differentiates the cost of the battery charger from the cost of the associated end-use product.

When developing the engineering analysis for battery chargers, DOE selected representative units for each product class. For each representative unit, DOE tested a number of different products. After examining the test results, DOE selected CSLs that set discrete levels of improved battery charger performance in terms of energy consumption. Subsequently, for each CSL, DOE used either teardown data or information gained from manufacturer interviews to generate costs corresponding to each CSL for each representative unit. Finally, for each product class, DOE developed scaling relationships using additional test results and generated UEC equations based on battery energy.

1. Representative Units

For each product class, DOE selected a representative unit upon which it conducted its engineering analysis and developed a cost-efficiency curve. The representative unit is meant to be an idealized battery charger typical of those used with high-volume applications in its product class. Because results from the analysis of these representative units would later be extended, or applied to other units in each respective product class, DOE selected high-volume and/or high-energy-consumption applications that use batteries that are typically found across battery chargers in the given product class. The analysis of these battery chargers is pertinent to all the applications in the product class under the assumption that all battery

chargers with the same battery voltage and energy provide similar utility to the user, regardless of the actual end-use product with which they work. Table IV–2 shows the representative units for each product class that DOE analyzed.

TABLE IV–2—BATTERY CHARGER REPRESENTATIVE UNITS FOR EACH PRODUCT CLASS

Product class No.	Input/Output type	Battery energy (Wh)	Special characteristic or battery voltage	Rep. unit battery voltage (V)	Rep. unit battery energy (Wh)
1	AC In, DC Out	<100	Inductive Connection	3.6	1.5
2			<4 V	2.4	1
3			4–10 V	7.2	10
4			>10 V	12	20
5		100–3000	<20 V	12	800
6			≥20 V	24	400
7		>3000		48	3,750

Additional details on the battery charger representative units can be found in Chapter 5 of the accompanying SNOPR TSD.

2. Battery Charger Efficiency Metrics

In the NOPR and this SNOPR, DOE used a single metric (*i.e.*, UEC) to illustrate the improved performance of battery chargers. DOE designed the calculation of UEC to represent an annualized amount of the non-useful energy consumed by a battery charger in all modes of operation. Non-useful energy is the total amount of energy consumed by a battery charger that is not transferred and stored in a battery as a result of charging (*i.e.*, losses). In order to calculate UEC, DOE must have the performance data, which comes directly from its battery charger test procedure (see section III.A). DOE must also make assumptions about the amount of time spent in each mode of operation. The collective assumption about the amount of time spent in each mode of operation is referred to as a usage profile and is addressed in section IV.E and further detail in Chapter 7 of the accompanying SNOPR TSD. DOE recognizes that a wide range of consumers may use the same product in different ways, which may cause some uncertainty about usage profiles. Notwithstanding that possibility, DOE used the weighted average of usage profiles based on a distribution of user types and believes that its assumptions are appropriate gauges of product use to represent each product class. These assumptions also rely on a variety of sources including information from manufacturers and utilities. Details on DOE's usage profile assumptions can be found in section IV.E of this notice and Chapter 7 of the accompanying SNOPR TSD.

Finally, DOE believes that by aggregating the performance parameters of battery chargers into one metric and applying a usage profile, it will allow manufacturers more flexibility to improve performance in the modes of operation that will be the most beneficial to their consumers rather than being required to improve the performance in each mode of operation, some of which may not provide any appreciable benefit. For example, a battery charger used with a mobile phone is likely to spend more time per day in no-battery mode than a battery charger used for a house phone, which is likely to spend a significant portion of every day in maintenance mode. Consequently, it would be more beneficial to consumers if mobile phone battery charger manufacturers improved no-battery mode and home phone battery charger manufacturers improved maintenance mode. Therefore, DOE is using the UEC as the single metric for battery chargers.

DOE's proposed use of a single metric generated several comments. CEC, Arris, and the Republic of Korea stated that they believe DOE should alter the single metric compliance approach in favor of the approaches followed by the CEC or ENERGY STAR. (California Energy Commission, No. 117 at p. 17, 24; ARRIS Broadband 1, No. 90 at p. 2; Republic of Korea, No. 148 at p. 2) Conversely, PTI supported the use of a single metric based upon the usage factors associated with each product class. (PTI, No. 133 at p. 4) DOE's compliance equation and metrics give manufacturers the flexibility to re-design their products in any way that they choose. In this way, manufacturers can pursue improvements in any modes of operation, which would benefit their users in the manner that matters most to them. Furthermore, DOE cannot issue a standard with the two separate metrics found in the CEC rule. That rule uses two separate metrics, both of which incorporate maintenance mode as defined in the battery charger test procedure [18] and used in this SNOPR. EPCA requires that DOE regulate standby and off mode into a single metric unless it is technically infeasible to do so. See 42 U.S.C. 6295(gg)(3). Standby mode, as defined by 42 U.S.C. 6295(gg)(3), occurs when the energy-consuming product is connected to the mains and offers a user-oriented or protective function such as facilitating the activation or deactivation of other functions (including active mode) by remote switch (including remote control), internal sensor, or timer. See 42 U.S.C. 6295(gg)(1)(A)(iii). Because maintenance mode, as used in this SNOPR, meets the statutory definition of standby mode, DOE must incorporate maintenance mode into a single metric.

3. Calculation of Unit Energy Consumption

UEC is based on a calculation designed to give the total annual amount of energy lost by a battery charger from the time spent in each mode of operation. For the preliminary analysis, the various performance parameters were combined with the usage profile parameters and used to calculate UEC with the following equation:

$$UEC = 365(n(E_{24} - P_m(24 - t_c) - E_{batt}) + (P_m(t_{a\&m} - (t_c n))) + (P_{sb} t_{sb}) + (P_{off} t_{off}))$$

Where

E_{24} = 24-hour energy
E_{batt} = Measured battery energy
P_m = Maintenance mode power
P_{sb} = Standby mode power
P_{off} = Off mode power
t_c = Time to completely charge a fully discharged battery
n = Number of charges per day
$t_{a\&m}$ = Time per day spent in active and maintenance mode
t_{sb} = Time per day spent in standby mode
t_{off} = Time per day spent in off mode [19]

[18] CFR part 430 Appendix Y to Subpart B, Section 2.8 ''Battery maintenance mode or maintenance mode is the mode of operation when the battery charger is connected to the main electricity supply and the battery is fully charged, but is still connected to the charger.''

[19] Those values shown in italics are parameters assumed in the usage profile and change for each product class. Further discussion of them and their derivation is found in section IV.E. The other values

When separated and examined in segments, it becomes evident how this equation gives a value for energy consumed in each mode of operation per day and ultimately, energy consumption per year. These segments are discussed individually below.

Active (or Charge) Mode Energy per Day

$$n(E_{24} - P_m(24 - t_c) - E_{batt}) = E_{Active\ Mode}/day$$

In the first portion of the above equation, DOE combines the assumed number of charges per day, 24-hour energy, maintenance mode power, charge time, and measured battery energy to calculate the active mode energy losses per day. To calculate this value, 24-hour energy (E_{24}) is reduced by the measured battery energy (*i.e.*, the useful energy inherently included in a 24-hour energy measurement) and the product of the value of the maintenance mode power multiplied by the quantity of 24 minus charge time. This latter value (24 minus charge time) corresponds to the amount of time spent in maintenance mode, which, when multiplied by maintenance mode power, yields the amount of maintenance mode energy consumed by the tested product. Thus, maintenance mode energy and the value of the energy transferred to the battery during charging are both subtracted from 24-hour energy, leaving a quantity theoretically equivalent to the amount of energy required to fully charge a depleted battery. This number is then multiplied by the assumed number of charges per day (n) resulting in a value for the active mode energy per day. Details on DOE's usage profile assumptions can be found in section IV.E of this notice and SNOPR TSD Chapter 7.

Maintenance Mode Energy per Day

$$(P_m(t_{a\&m} - (t_c n))) = E_{Maintenance\ Mode}/day$$

In the second segment of DOE's equation, shown above, maintenance mode power, time spent in active and maintenance mode per day ($t_{a\&m}$), charge time, and the assumed number of charges per day are combined to obtain maintenance mode energy per day. Time spent in active and maintenance mode is subtracted from the product of the charge time multiplied by the number of charges per day. The resulting quantity is an estimate of time spent in maintenance mode per day, which, when multiplied by the measured value of maintenance mode power, yields the energy consumed per day in maintenance mode.

The use of $t_{a\&m}$ generated several comments from the CEC, who stated that the general use of assumptions for this metric would introduce errors into the calculation. (California Energy Commission, No. 117 at p. 17, 18, 20, 26) Though the energy usage tables disaggregate active and maintenance mode time assumptions (t_a and t_m) for each application, these values should not be used alone for determining compliance. DOE believes that it is inappropriate to use the individual assumptions for t_a and t_m for all the products within a single product class because of the variability in charge time. Variation in charge time has a direct effect on any product and how much time it spends in both active and maintenance mode. These variations are accounted for in the test procedure, by virtue of the charge and maintenance mode test and the output, E_{24}. Therefore, DOE did not disaggregate active and maintenance mode in its compliance calculation of UEC; instead, the outputs of the test procedure would dictate that balance for each product. Therefore, DOE has determined that the usage profile assumptions outlined in Section E below are critical in determined real world energy use of battery chargers.

Standby (or No-Battery) Mode Energy per Day

$$(P_{sb}t_{sb}) = E_{Standby\ Mode}/day$$

In the third part of DOE's UEC equation, the measured value of standby mode power is multiplied by the estimated time in standby mode per day, which results in a value of energy consumed per day in standby mode.

Off-Mode Energy per Day

$$(P_{off}t_{off}) = E_{No_Battery\ Mode}/day$$

In the final part of DOE's UEC equation, the measured value of off-mode power is multiplied by the estimated time in off-mode per day, which results in a value of energy consumed per day in off-mode.

To obtain UEC, the values found through the above calculations are added together. The resulting sum is equivalent to an estimate of the average amount of energy consumed by a battery charger per day. That value is then multiplied by 365, the number of days in a year, and the end result is a value of energy consumed per year.

Modifications to Equation for Unit Energy Consumption

On April 2, 2010, DOE published a proposal to revise its test procedures for battery chargers and EPSs. (75 FR 16958) In that notice, DOE proposed to use a shorter version of the active mode test procedure in scenarios where a technician could determine that a battery charger had entered maintenance mode, 75 FR 16970. However, during its testing of battery chargers, DOE observed complications arising when attempting to determine the charge time for some devices, which, in turn, could affect the accuracy of the UEC calculation. DOE ultimately decided that the duration of the charge test must not be shortened and be a minimum of 24 hours. See 10 CFR part 430, subpart B, Appendix Y (''Uniform Test Method for Measuring the Energy Consumption of Battery Chargers''). The test that DOE adopted has a longer duration if it is known (*e.g.*, because of an indicator light on the battery charger) or it can be determined from manufacturer information that fully charging the associated battery will take longer than 19 hours.[20]

This revision to the test procedure is important because it underscores the potential issues with trying to determine exactly when a battery charger has entered maintenance mode, which creates difficulty in determining charge time. To address this situation, DOE modified its initial UEC equation. The new equation, which was presented to manufacturers during interviews, is mathematically equivalent to the equation presented in the preliminary analysis. When the terms in the preliminary analysis UEC equation are multiplied, those terms containing a factor of charge time cancel each other out and drop out of the equation. What is left can be factored and rewritten as done below. This means that even though the new equation looks different from the equation presented for the preliminary analysis, the value that is obtained is the same and represents the same value of unit energy consumption.

New Base UEC Equation

$$UEC = 365(n(E_{24} - E_{batt}) + (P_m(t_{a\&m} - (24n))) + (P_{sb}t_{sb}) + (P_{off}t_{off}))$$

In addition to initially considering a shortened battery charger active mode test procedure, DOE considered capping the measurement of 24-hour energy at the 24-hour mark of the test. However, following this approach could result in inaccuracies because that measurement would exclude the full amount of

should be determined according to section 5 of Appendix Y to Subpart B of Part 430.

[20] The charge mode test must include at least a five-hour period where the unit being tested is known to be in maintenance mode. Thus, if a device takes longer than 19 hours to charge, or is expected to take longer than 19 hours to charge, the entire duration of the charge mode test will exceed 24 hours in total time after the five-hour period of maintenance mode time is added. 76 FR 31750, 31766–67, and 31780.

energy used to charge a battery if the charge time is longer than 24 hours in duration. To account for this possibility, DOE altered this initial approach in its test procedure final rule by requiring the measurement of energy for the entire duration of the charge and maintenance mode test, which includes a minimum of 5 hours in maintenance mode. See 10 CFR part 430, subpart B, appendix Y, Sec. 5.2.

The modifications to the UEC calculation do not alter the value obtained when the charge and maintenance mode test is completed within 24 hours. However, if the test exceeds 24 hours, the energy lost during charging is scaled back to a 24-hour, or per day, cycle by multiplying that energy by the ratio of 24 to the duration of the charge and maintenance mode test. In the equation below, t_{cd}, represents the duration of the charge and maintenance mode test and is a value that the test procedure requires technicians to determine. DOE also modified the equation from the NOPR by inserting a provision to subtract 5 hours of maintenance mode energy from the 24-hour energy measurement. This change was made because the charge and maintenance mode test includes a minimum of 5 hours of maintenance mode time. Consequently, in the second portion of the equation below, DOE would reduce the amount of time subtracted from the assumed time in active and maintenance mode time per day.

In other words, the second portion of the equation, which is an approximation of maintenance mode energy, is reduced by 5 hours. This alteration was needed to address instances when the charge and maintenance mode test exceeds 24 hours, because the duration of the test minus 5 hours is an approximation of charge time. This information, t_{cd}, can then be used to approximate the portion of time that a device is assumed to spend in active and maintenance mode per day ($t_{a\&m}$) and is solely dedicated to maintenance mode.[21] The primary equation (i) that manufacturers will use to determine their product's unit energy consumption and whether their device complies with DOE's standards is below.

Primary Equation (i)

$$UEC = 365(n(E_{24} - 5P_m - E_{batt})\frac{24}{t_{cd}} + \left(P_m(t_{a\&m} - (t_{cd} - 5)n)\right) + (P_{sb}t_{sb}) + (P_{off}t_{off}))$$

Secondary Calculation of UEC

For some battery chargers, the equation described above is not appropriate and an alternative calculation is necessary. Specifically, in those cases where the charge test duration (as determined according to section 5.2 of Appendix Y to Subpart B of Part 430) minus 5 hours is multiplied by the number of charges per day (n) is greater than the time assumed in active and maintenance mode ($t_{a\&m}$), an alternative equation must be used. A different equation must be used because if the number of charges per day multiplied by the time it takes to charge (charge test duration minus 5 hours—or the charge time per day) is longer than the assumption for the amount of time spent in charge mode and maintenance mode per day, that difference creates an inconsistency between the measurements for the test product and DOE's assumptions. This problem can be corrected by using an alternative equation, which is shown below.

Secondary Equation (ii)

$$UEC = 365(n(E_{24} - 5P_m - E_{batt})\frac{24}{(t_{cd} - 5)} + (P_{sb}t_{sb}) + (P_{off}t_{off}))$$

This alternative equation (ii) resolves this inconsistency by prorating the energy used for charging the battery.

The final UEC equations generated several comments from the CEC. It asserted that the UEC equation fails to incentivize manufacturers to improve maintenance mode power in their products (California Energy Commission, No. 117 at p. 17). Specifically, in its view, UEC equation (i) would reward manufacturers of battery chargers with higher maintenance mode power, since maintenance mode power is subtracted from the estimated annual energy consumption (California Energy Commission, No. 117 at p. 22). Additionally, it stated that UEC equation (ii) is also flawed, as it does not account for the energy consumed by the maintenance mode of a product (California Energy Commission, No. 117 at p. 21). The CEC also concluded that the usage assumptions contain flaws, thereby introducing errors into the UEC calculation (California Energy Commission, No. 117 at p. 18). The CEC requested that DOE combine the alternative UEC equation with the main UEC equation, resulting in a single equation for calculating UEC. (California Energy Commission, No. 117 at p. 27).

While the CEC accurately noted there is a negative term related to maintenance mode power in the UEC equation when combined with the Product Class 2 usage profile, the primary and secondary UEC equations are not flawed and are both necessary. The usage profile for this product class simply reflects that the consumer benefits more greatly from improved charge efficiency rather than improved maintenance mode. The CEC concluded that manufacturers are incentivized to increase their maintenance mode power to reduce their UEC, but the CEC's conclusion neglects the fact that if maintenance mode power is increased, so would the 24-hour energy consumption. The value of 24-hour energy will increase by an amount equivalent to the maintenance mode power increase, multiplied by the difference between 24 and the time to charge the battery. Furthermore, if two units have all of the same performance parameters except for maintenance mode power consumption (*i.e.,* 24-hour

[21] For a test exceeding 24 hours, the duration of the test less 5 hours is equal to the time it took the battery being tested to become fully charged (t_{cd} − 5). That value, multiplied by the assumed number of charges per day, gives an estimate of charge (or active) time per day, which can then be subtracted from DOE's other assumption for $t_{a\&m}$. That difference is an approximation for maintenance mode time per day.

energy, standby mode power, and off mode power), it follows that the device with the higher maintenance mode power consumption is more efficient during charging. As mentioned, the usage profile for Product Class 2 suggests that, on average, users of these products will benefit more from an efficient charge rather than an efficient maintenance mode and, therefore, the unit with the higher maintenance mode power will have a lower UEC. More details on DOE's analysis for this conclusion can be found in Chapter 5 of the accompanying SNOPR TSD.

4. Battery Charger Candidate Standard Levels

After selecting its representative units for battery chargers, DOE examined the impacts on the cost of improving the efficiency of each of the representative units to evaluate the impact and assess the viability of potential energy efficiency standards. As described in the technology assessment and screening analysis, there are numerous design options available for improving efficiency and each incremental technology improvement increases the battery charger efficiency along a continuum. The engineering analysis develops cost estimates for several CSLs along that continuum.

CSLs are often based on (1) efficiencies available in the market; (2) voluntary specifications or mandatory standards that cause manufacturers to develop products at particular efficiency levels; and (3) the maximum technologically feasible level.[22]

Currently, there are no energy conservation standards for battery chargers. Therefore, DOE based the CSLs for its battery charger engineering analysis on the efficiencies obtainable through the design options presented previously (see section IV.A). These options are readily seen in various commercially available units. DOE selected commercially available battery chargers at the representative-unit battery voltage and energy levels from the high-volume applications identified in the market survey. DOE then tested these units in accordance with the DOE battery charger test procedure. For each representative unit, DOE then selected CSLs to correspond to the efficiency of battery charger models that were comparable to each other in most respects, but differed significantly in UEC (*i.e.* efficiency).

In general, for each representative unit, DOE chose the baseline (CSL 0) unit to be the one with the highest calculated unit energy consumption, and the best-in-market (CSL 2) to be the one with the lowest. Where possible, the energy consumption of an intermediate model was selected as the basis for CSL 1 to provide additional resolution to the analysis.

Unlike the previous three CSLs, CSL 3 was not based on an evaluation of the efficiency of individual battery charger units in the market, since battery chargers with maximum technologically feasible efficiency levels are not commercially available due to their high cost. Where possible, DOE analyzed manufacturer estimates of max-tech costs and efficiencies. In some cases, manufacturers were unable to offer any insight into efficiency level beyond the best ones currently available in the market. Therefore, DOE projected the efficiency of a max-tech unit by estimating the impacts of adding any remaining energy efficiency design options to the CSL unit analyzed.

On January 12, 2012, California proposed standards for small battery chargers, which the State eventually adopted.[23] The California standards are based on two metrics, one for 24-hour energy use, and one for the combined maintenance mode and standby mode power usage. DOE, using the usage profiles it developed to translate these standards into a value of UEC, compared its CSLs with the levels adopted by California. DOE found that, in most cases, the California proposed standards generally corresponded closely with one of DOE's CSLs for each product class when the standards were converted into a value of UEC (using DOE's usage profile assumptions). However, since the adoption of the CEC standards, DOE has attempted to adjust its CSLs to align with the CEC standards to the extent possible. For example if DOE's test and teardown approach resulted in a representative unit used to create CSL1 and the resulting CSL1 was slightly more stringent than DOE's translation of the CEC level, then DOE would shift CSL1 to be more stringent and to more closely align with the CEC's standard. This methodology is outlined in more detail in Chapter 5 of the accompanying SNOPR TSD. DOE seeks comment from stakeholders on this approach.

Table IV–3 below shows which CSL aligns most closely with the California standards for each product class.

TABLE IV–3—CSLS APPROXIMATE TO CALIFORNIA STANDARDS

Product class	CSL approximate to CEC standard
1 (Low-Energy, Inductive)	CSL 0
2 (Low-Energy, Low-Voltage)	CSL 1
3 (Low-Energy, Medium-Voltage).	CSL 1
4 (Low-Energy, High-Voltage)	CSL 1
5 (Medium-Energy, Low-Voltage).	CSL 2
6 (Medium-Energy, High-Voltage).	CSL 2
7 (High-Energy)	CSL 1

In addition, DOE received comments on specific CSLs for specific product classes. For Product Class 2 (low-energy, low-voltage) and Product Class 3 (low-energy, medium voltage) since stakeholders believed that intermediate CSLs that more closely align with the CEC's levels could be shown to be cost effective based on specific units in the marketplace that meet intermediate levels. Specifically, these stakeholders suggested modifying Product Class 2 to include a ''CSL 2.5'' and Product Class 3 to include a CSL ''1.8.'' (CA IOUs, No. 138 at p. 5–8; ASAP, No. 162 at p. 4, 6; NRDC, No. 114 at p. 5) NRDC and the CEC also both urged DOE to reconsider the analysis for Product Class 3 and develop an intermediate CSL between CSL 1 and CSL 2. (NRDC, No. 114 at p. 6; California Energy Commission, No. 117 at p. 12) Concerning Product Class 4, ARRIS asserted that setting the standard at TSL 1 (CSL 1) will have no major effect on energy savings since the majority of products already meet this level. (ARRIS Broadband 1, No. 90 at p. 3)

DOE also received comments regarding the specific limits chosen for Product Class 10. Schneider requested that DOE reconsider the proposed level set for CSL 2 and CSL 3, noting in particular that the product relied on by DOE to develop CSL2 was no longer on the market (Schneider, No. 119 at p. 4) Furthermore, Schneider requested that CSL 0 or CSL 1 be selected, stating that CSL 3 is speculative, if not impossible, in terms of feasibility. (Schneider, No. 119 at p. 4) Schneider requested that if CSL 2 is chosen, a 3-year compliance window from the date of the published final rule be set. (Schneider, No. 119 at p. 4) Regarding Product Class 10B,

[22] The ''max-tech'' level represents the most efficient design that is commercialized or has been demonstrated in a prototype with materials or technologies available today. ''Max-tech'' is not constrained by economic justification, and is typically the most expensive design option considered in the engineering analysis.

[23] The term ''small battery charger system'' is defined by the CEC as a battery charger system ''with a rated input power of 2 kW or less, and includes golf cart battery charger systems regardless of the output power.'' 20 Cal. Code 1602(w) (2014).

Schneider requested that DOE recalculate higher levels for CSL 0 and CSL 1 and that one of these levels be chosen with a 5-year compliance window from the date of the published final rule. (Schneider, No. 119 at p. 5, 6) NEMA argued that if the standards proposed in the NOPR were adopted, manufacturers would likely petition DOE for hardship exemptions. (NEMA, No. 134 at p. 5)

With the exception of the max tech level, the CSLs presented in the March 2012 NOPR for all product classes (including CSLs 2, 3, and 4), were based on commercially available products and the costs to reach these levels were independently verified by manufacturers and subject matter experts. For the SNOPR, DOE attempted to align at least one CSL in each product class subject to this proposed rule as closely as possible to the CEC standards to address comments to the NOPR suggesting that DOE create a new CSL that more closely aligns with the CEC levels. Additionally, as previously stated, DOE is no longer proposing standards for product class 10 because these products are now being considered as part of the Computer and Backup Battery Systems rulemaking. See 79 FR 41656. As such, comments related to product class 10 are no longer relevant to this rulemaking and DOE will not be addressing comments submitted in response to the NOPR for Product Class 10 in this SNOPR.

5. Test and Teardowns

The CSLs used in the battery charger engineering analysis were based on the efficiencies of battery chargers available in the market. Following testing, the units corresponding to each commercially available CSL were disassembled to (1) evaluate the presence of energy efficiency design options and (2) estimate the materials cost. The teardowns included an examination of the general design of the battery charger and helped confirm the presence of any of the technology options discussed in section IV.A

After the battery charger units corresponding to the CSLs were evaluated, they were torn down by IHS Technology (formerly iSuppli), a DOE contractor and industry expert. An in-depth teardown and cost analysis was performed for each of these units. For some products, like camcorders and notebook computers, the battery charger constitutes a small portion of the circuitry. In evaluating the related costs, IHS Technology identified the subset of components in each product enclosure responsible for battery charging. The results of these teardowns were then used as the primary source for the MSPs.

For this SNOPR engineering analysis, DOE continued to rely on its test and teardown data. Consequently, the test and teardown results reflected the current technologies on the market and did not attempt to predict which technological designs may become available in the future. Multiple interested parties criticized the test and teardown approach to the battery charger engineering because the market does not naturally push products to become just more efficient. Instead, improved efficiency is often a byproduct of other added utilities, such as making products smaller and lighter. These parties believed that DOE over-estimated its costs to achieve certain CSLs. (NRDC, No. 114 at p. 1: ASAP, No. 162 at p. 1: CA IOUs, No. 138 at p. 4)

Additionally, responding to the NOPR analyses, NRDC, the CA IOUs, NEEP, and ASAP suggested that DOE's engineering analysis for battery chargers should reflect a baseline in which the EPS that accompanies the battery charger is compliant with DOE's (then) future regulations for EPSs. (NRDC, No. 114 at p. 4; CA IOUs, No. 138 at pp. 7, 8; ASAP, et al., No. 136 at p. 7; ASAP, No. 162 at p. 1, 5) One interested party also stated that DOE should ensure that the units it uses to represent higher battery charger CSLs should incorporate EPSs that meet future standards because those EPSs are cost-effective. (NEEP, No. 144 at p. 2) Finally, one interested party suggested that DOE overstated the costs of complying with higher efficiency standards because it tore down units rather than explicitly making modifications to the EPSs of less efficient battery chargers, thereby failing to capture potentially cost-effective savings of EPS improvements. (ASAP, et al., No. 136 at p. 4)

The first two points made by interested parties are similar and both points suggest that DOE modify CSLs to account for future EPS regulations. However, DOE notes that not all battery chargers will incorporate an EPS that is, or will be, subject to efficiency regulations. For that reason, the baseline efficiency and all higher efficiency levels that DOE analyzes are not required to reflect a combination of technologies that includes an EPS that meets the higher efficiency levels that will apply to certain classes of EPSs in 2016. Regarding the assertions that DOE has overstated its costs by using a test and teardown approach, as mentioned above, not all battery chargers will necessarily have to incorporate a more efficient EPS as a result of any new standards for those products. In fact, such an assumption would have the effect of steepening a cost-efficiency curve. If DOE were to assume that the EPS must be improved in all battery charger systems, then DOE would be removing a design path that battery charger manufacturers could potentially take. This would have the effect of making incremental improvements to performance more costly because it removes a degree of freedom from battery charger manufacturers. The test and teardown approach has the benefit of not eliminating any practicable design options from the analysis. This approach is technology neutral, and although DOE does provide an analysis of the technologies that were used in the products that it tore down, that does not mean that is the only design path to achieve that performance level. Instead, it is a reflection of the choices that various battery charger manufacturers are currently making to improve the performance of their products.

Finally, DOE verified the accuracy of the IHS Technology results by reviewing aggregated results with individual manufacturers during interviews and subject matter experts. As discussed later, DOE performed additional manufacturer interviews for the NOPR and during these interviews, the initial IHS Technology results were again aggregated and reviewed with manufacturers. DOE believes that it has sufficiently verified the accuracy of its teardown results and believes that all of the engineering costs gleaned from IHS Technology are appropriate.

6. Manufacturer Interviews

The engineering analysis also relies in part on information obtained through interviews with several battery charger manufacturers. These manufacturers consisted of companies that manufacture battery chargers and original equipment manufacturers (OEMs) of battery-operated products who package (and sometimes design, manufacture, and package) battery chargers with their end-use products. DOE followed this interview approach to obtain data on the possible efficiencies and resultant costs of consumer battery chargers. Aggregated information from these interviews is provided in Chapter 5 of the SNOPR TSD. The interviews also provided manufacturer inputs and comments in preparing the manufacturer impact analysis, which is discussed in detail in section IV.J.

DOE attempted to obtain teardown results for all of its product classes, but encountered difficulties in obtaining useful and accurate teardown results for

one of its products classes—namely, Product Class 1 (*e.g.,* electric toothbrushes). For this product class, DOE relied heavily on information obtained from manufacturer interviews. DOE found that when it attempted to teardown Product Class 1 devices, most contained potting (*i.e.,* material used to waterproof internal electronics). Removal of the potting also removed the identifying markings that IHS Technology needed to estimate a cost for the components. As a result, manufacturer interview data helped furnish the necessary information to assist DOE in estimating these costs.

7. Design Options

Design options are technology options that remain viable for use in the engineering analysis after applying the screening criteria as discussed above in section IV.B. DOE notes that all technology options that are not eliminated in the screening analysis, section IV.B, become design options that are considered in the engineering analysis. Most CSLs, except for those related to max-tech units and chargers falling in Product Class 1 and Product Class 6, where DOE did not tear down units, are based on actual teardowns of units manufactured and sold in today's battery charger market. Consequently, DOE did not control which design options were used at each CSL. No technology options were preemptively eliminated from use with a particular product class. Similarly, if products are being manufactured and sold, DOE believes that fact indicates the absence of any significant loss in utility, such as an extremely limited operating temperature range or shortened cycle-life. Therefore, DOE believes that all CSLs can be met with technologies that are feasible and that fit the intended application. Details on the technology associated with each CSL can be found in Chapter 5 of the accompanying SNOPR TSD.

For the max-tech designs, which are not commercially available, DOE developed these levels in part with a focus on maintaining product utility as projected energy efficiency improved. Although some features, such as decreased charge time, were considered as added utilities, DOE did not assign any monetary value to such features. Additionally, DOE did not assume that such features were undesirable, particularly if the incremental improvement in performance causes a significant savings in energy costs. Finally, to the extent possible DOE considered durability, reliability, and other performance and utility-related features that affect consumer behavior. See SNOPR TSD, Chapter 5 for additional details.

In response to the NOPR engineering analysis, DOE received multiple comments on design options that were not mentioned in DOE's analysis. ECOVAECOVA argued that more efficient nickel-based charger designs exist and should be considered for determining costs of standards. Its comments also noted, however, that no commercially available products use these more efficient designs. (ECOVAECOVA, No. 97 at p. 1) The CEC and ASAP suggested that DOE consider designs presented by ECOVAECOVA that demonstrated the higher efficiency levels that are possible when compared to what is currently available in the marketplace for nickel-based designs. (California Energy Commission, No. 117 at p. 2; Transcript, No. 104 at p. 256; ASAP, *et al.*, No. 136 at p. 8) The California Investor-Owned Utilities (''CA IOUs'') made a similar comment, stating that a teardown and redesign of Product Class 4 shows the previously proposed CSL 2 to be cost effective. (CA IOUs, No. 138 at p. 9) NRDC and NEEP also argued that DOE overestimated the costs to improve efficiency in Product Classes 2–6, stating that DOE's representative units do not use the most cost-effective designs to achieve proposed and that the previously proposed CSL 2 in Product Class 3 could be achieved with a battery chemistry other than lithium. (NRDC, No. 114 at p. 3; NEEP, No. 144 at pp. 1–2) Southern California Edison (SCE) similarly stated that the reason no nickel-based chargers that meet the previously proposed CSL 2 for Product Classes 2–4 have been found is that strong market forces discourage the development of efficient nickel chargers and, therefore, the current market is an ineffective place to identify high efficiency designs. (SCE, No. 164 at p. 1) Finally, SCE stated that current charge rates seen in the previously proposed CSL 1 for Product Classes 2–4 can be 3–12 times lower while still maintaining a full charge. (SCE, No. 164 at p. 2)

In response to public comments made by ECOVAECOVA at the NOPR public meeting, PTI, AHAM and CEA, challenged the idea that lower maintenance mode power levels could be achieved. PTI noted that the CEC standards are not achievable for battery chargers that charge nickel-cadmium (Ni-Cd) or nickel-metal-hydride (Ni-MH) cells and that ECOVAECOVA's claims fail to meet any possible criteria for technical feasibility. (PTI, No. 133 at p. 2) AHAM similarly noted that ECOVAECOVA's claims neglect the requirement of nickel-based chemistries that they be maintained at a high charge due to the secondary recombination reaction that occurs in sealed cells, which affects state of charge and the life of the battery cells. (AHAM, No. 124 at p. 3) However, SCE separately noted that the recombination reaction is important to account for during the charge cycle (or active mode charging) but accounting for this reaction does not need to persist in maintenance mode. It added that the current calculated for the CEC standard level is sufficient. (SCE, No. 164 at p. 2) Finally, PTI, AHAM, and CEA jointly stated that ECOVA's suggested design modifications are technically infeasible, resulting in reduced battery lifetimes, and that adopting efficiency levels at the stringency suggested by ECOVA would effectively eliminate Ni-Cd products with battery energies above 20Wh. (PTI, AHAM, CEA, No. 161 at p. 3)

DOE based its analysis on commercially available products when establishing candidate standard levels for Product Classes 2–6. Through extensive testing, discussion with SMEs, and market research, DOE found that manufacturers have already moved away from nickel-based systems, to lithium-based systems, partly as a means of improving efficiency (lithium also offers other benefits to consumers, such as higher energy density and cycle life). This shift away from nickel-based systems is due, in part, to the fact that these systems have to counteract secondary reactions within the battery cells, which result in self-discharge—which, in turn, shortens battery life. To counteract this, nickel-based chargers must have a certain level of maintenance mode power to preserve a full (100%) charge and maintain consumer utility. (Lithium-based systems experience similar reactions, but with much lower levels of self-discharge and can reach much lower power levels in maintenance mode.) DOE has updated this analysis to focus on improved nickel-based battery chargers and through further testing and teardowns conducted as part of this SNOPR, found that designs similar to ECOVA's proposed design are being implemented and sold into the market. These already-available designs suggest that improvements to nickel-based designs may be a feasible option in certain cases for manufacturers to employ to meet their utility requirements and improve the energy efficiency of their battery chargers. Accordingly, DOE has updated the proposed CSLs and found that deploying solely lithium-based systems

would not necessarily be required to meet the proposed levels.

DOE received further comments from stakeholders concerning the costs associated with moving from nickel to lithium designs rather than to more efficient nickel designs. NRDC and CEC commented that by using lithium designs, the actual costs of moving from the previously proposed CSL 1 to CSL 2 in Product Class 3 are over stated. (NRDC, Pub. Mtg. Tr., No. 104 at p. 57: NRDC, No. 114 at p. 5) NRDC and CEC claimed that this same argument applies to Product Classes 2–6 and that the costs for all of these product classes are overstated and inaccurate. (California Energy Commission, No. 117 at p. 7, 12, 13: NRDC, No. 114 at p. 5) When considering design solutions and paths, DOE relied heavily on information provided by manufacturers during interviews. However, DOE has conducted additional testing and market research in response to these comments. DOE found that while many lithium-based systems have been introduced into the market, there are also many products deploying nickel-based battery charging systems with minor updates that reduce maintenance mode and overall energy use at a lower cost than some lithium designs. The costs used in this SNOPR reasonably reflect real world design changes and the feasibility and cost of such changes have been corroborated by manufacturers and subject matter experts.

Finally, DOE received comments from GE Healthcare and Schumacher noting that outside elements may prevent them from pursuing certain design pathways for their respective products. GE Healthcare commented that there are medical devices which are deployed in adverse conditions, extreme temperatures, or gaseous environments which may prevent certain types of battery chemistries from being used. (GE Healthcare, No. 142 at p. 2) Schumacher commented that certain design patents held by their competition prevent them from deploying switch mode designs in their engine-start automotive battery chargers. (Schumacher, No. 143 at p. 4) As noted earlier, DOE is not proposing to set standards that would affect medical battery chargers. More generally in response to both comments, DOE notes that if a manufacturer finds that meeting the standard for battery chargers would cause special hardship, inequity, or unfair distribution of burdens, the manufacturer may petition the Office of Hearings and Appeals (OHA) for exception relief or exemption from the standard pursuant to OHA's authority under section 504 of the DOE Organization Act (42 U.S.C. 7194), as implemented at subpart B of 10 CFR part 1003. OHA has the authority to grant such relief on a case-by-case basis if it determines that a manufacturer has demonstrated that meeting the standard would cause hardship, inequity, or unfair distribution of burdens.

8. Cost Model

This proposed rule continues to apply the same approach used in the NOPR and preliminary analysis to generate the manufacturer selling prices (MSPs) for the engineering analysis. For those product classes other than Product Class 1, DOE's MSPs rely on the teardown results obtained from IHS Technology. The bills of materials provided by IHS Technology were multiplied by a markup based on product class. For those product classes for which DOE could not estimate MSPs using the IHS Technology teardowns–Product Class 1–DOE relied on aggregate manufacturer interview data. Additional details regarding the cost model and the markups assumed for each product class are presented in Chapter 5 of the SNOPR TSD.

DOE's cost estimates reflect real world costs and have been updated where necessary for this SNOPR. The CA IOUs asserted that the methodology used to derive costs was fundamentally flawed and overestimated BOM costs. (CA IOUs, No. 138 at p. 11) DOE disagrees. The primary benefit to the teardown approach is that it relies on real-world designs and reflects practices and approaches that manufacturers are currently using to improve product performance. As a result, DOE's estimates are based on actual pricing and cost data for the various components and manufacturing technologies employed by industry. Additionally, by applying this method, DOE can examine battery chargers used in multiple applications, which allows its estimated costs to reflect various constraints and manufacturer choices. All of these factors weigh in favor of the teardown approach, which is more likely to provide a reasonable approximation of the costs involved to produce a given battery charger with a particular set of features and efficiency level than other methods that do not account for these factors.

DOE also received comments during the NOPR public meeting regarding the possible decline in the cost of lithium batteries and the effects that this decline could have on the cost model. NRDC asserted that DOE had not factored in the rapid decline in the cost of lithium batteries that DOE itself has shown in its own cost projections. (NRDC, Pub. Mtg. Tr, No. 104 at p. 58) DOE understands that commodity prices fluctuate for emerging technologies and they can decrease over time, perhaps even during the course of the analysis period. However, lithium-based battery chargers in consumer products have not experienced as sharp a decline as the cost for lithium batteries in other applications, such as those used for electric vehicles, mainly because of the scale and size of those systems. Without more substantive data that specifically addresses lithium batteries and lithium-based battery chargers for the consumer market, DOE chose to base its analysis on stable indicators rather than data prone to market fluctuations, such as lithium prices are. Furthermore, commodity prices can fluctuate for any number of reasons, potentially resulting in adverse effects on consumers.

9. Battery Charger Engineering Results

The results of the engineering analysis are reported as cost-efficiency data (or ''curves'') in the form of MSP (in dollars) versus unit energy consumption (in kWh/yr). These data form the basis for this SNOPR analyses. This section illustrates the results that DOE obtained for all seven product classes in its engineering analysis.

DOE received several comments supporting the Product Class 1 engineering results in the NOPR. (NRDC. No. 114 at p. 8; California Energy Commission, No. 117 at p. 28) No changes were made to the engineering results for Product Class 1 and the results are shown below in Table IV–4.

TABLE IV–4—PRODUCT CLASS 1 (INDUCTIVE CHARGERS) ENGINEERING ANALYSIS RESULTS

	CSL 0	CSL 1	CSL 2	CSL 3
CSL Description	Baseline	Intermediate	Best in Market	Max Tech
24-Hour Energy (Wh)	26.7	19.3	10.8	5.9
Maintenance Mode Power (W)	1.2	0.8	0.4	0.2
No-Battery Mode Power (W)	0.5	0.4	0.2	0.1

TABLE IV–4—PRODUCT CLASS 1 (INDUCTIVE CHARGERS) ENGINEERING ANALYSIS RESULTS—Continued

	CSL 0	CSL 1	CSL 2	CSL 3
Off-Mode Power (W)	0.0	0.0	0.0	0.0
Unit Energy Consumption (kWh/yr)	8.73	6.10	3.04	1.29
MSP [$]	$2.05	$2.30	$2.80	$6.80

DOE received several comments regarding costs for Product Class 2 in response to the NOPR. NRDC, CEC, and the CA IOUs all claimed that the projected costs for Product Class 2 were incorrect and did not reflect real world costs. (NRDC, No. 114 at p. 5; California Energy Commission, No. 117 at p. 10, 11; CA IOUs, No. 138 at p. 4) DOE has updated its analysis and discussion for this product class. See Chapter 5 of the accompanying Chapter 5 of the SNOPR TSD.

DOE also received specific comments about how it derived its costs for Product Classes 2, 3, and 4. ASAP and NEEP requested that DOE explain how these costs were derived and identify which units were used. (ASAP, No. 162 at p. 2–7; NEEP, No. 160 at p. 1) For the SNOPR analysis, DOE used the representative unit cost associated with a single unit with a BOM that can be found in Appendix 5B of the SNOPR TSD. For the instances where a representative unit was created to be approximate to the CEC standard, BOM costs were used as well. Further detail on these costs and representative units can be found in Chapter 5 and Appendix 5B of the accompanying SNOPR TSD.

Based on further analysis, DOE adjusted the results for Product Class 2. These adjusted results are shown in the Table IV–5. More details on these updates can be found in Chapter 5 of the accompanying SNOPR TSD.

TABLE IV–5—PRODUCT CLASS 2 (LOW-ENERGY, LOW-VOLTAGE) ENGINEERING ANALYSIS RESULTS

	CSL 0	CSL 1	CSL 2	CSL 3	CSL 4
CSL Description	Baseline	Intermediate	2nd Intermediate	Best in Market	Max Tech
24-Hour Energy (Wh)	25.79	13.6	8.33	8.94	6.90
Maintenance Mode Power (W)	1.1	0.5	0.13	0.1	0.04
No-Battery Mode Power (W)	0.3	0.3	0.03	0.02	0.10
Off-Mode Power (W)	0.0	0.0	0.0	0.0	0.0
Unit Energy Consumption (kWh/yr)	5.33	3.09	1.69	1.58	1.11
MSP [$]	$1.16	$1.20	$1.49	$2.43	$4.31

DOE also received several comments regarding costs used in the engineering analysis for Product Class 3. The CA IOUs noted that DOE may have omitted a component in one of the BOMs used to derive this CSL that may have led to the projected increase in cost between nickel and lithium battery chargers in Product Class 3. They also noted that this projected cost increase could have been part of the reason why costs were overestimated. (CA IOUs, No. 138 at p. 7) DOE revisited the IHS Technology data for these units and updated the cost data to include the missing component. However, this unit is no longer being used in the analysis. Additional testing and teardowns were completed for Product Class 3 to replace the analysis that previously relied on this no longer produced unit. Representative units and updated results for Product Class 3 are shown in the Table IV–6.

TABLE IV–6—PRODUCT CLASS 3 (LOW-ENERGY, MEDIUM-VOLTAGE) ENGINEERING ANALYSIS RESULTS

	CSL 0	CSL 1	CSL 2	CSL 3
CSL Description	Baseline	Intermediate	Best in Market	Max Tech
24-Hour Energy (Wh)	42.60	28.00	17.0	15.9
Maintenance Mode Power (W)	1.70	0.50	0.26	0.26
No-Battery Mode Power (W)	0.30	0.30	0.20	0.20
Off-Mode Power (W)	0.0	0.0	0.0	0.0
Unit Energy Consumption (kWh/yr)	3.65	1.42	0.74	0.70
MSP [$]	$1.12	$1.20	$4.11	$5.51

Regarding Product Class 4, NRDC, the CEC, ASAP, and the CA IOUs argued that DOE overestimated the costs for some CSLs. (NRDC, No. 114 at p. 6; California Energy Commission, No. 117 at p. 14; ASAP, No. 162 at p. 7; CA IOUs, No. 138 at p. 8–9) ASAP urged DOE to remove the results for the handheld vacuum unit from the test results, since the costs for that unit are higher than the other products in that product class and may not reflect the lowest cost design. (ASAP Et Al., No. 136 at p. 8)

DOE has conducted more tests and teardowns since the NOPR analysis and has chosen single units as representative units for this product class. DOE believes each CSL is representative of technology that can be widely applied to all applications in this product class. The updated costs can be seen in Table IV–7.

TABLE IV—7 PRODUCT CLASS 4 (LOW-ENERGY, HIGH-VOLTAGE) ENGINEERING ANALYSIS RESULTS

	CSL 0	CSL 1	CSL 2	CSL 3
CSL Description	Baseline	Intermediate	Best in Market	Max
24-Hour Energy (Wh)	60.75	44.00	29.30	27.2
Maintenance Mode Power (W)	2.40	0.50	0.50	0.4
No-Battery Mode Power (W)	0.30	0.30	0.50	0.3
Off-Mode Power (W)	0.0	0.0	0.0	0.0
Unit Energy Consumption (kWh/yr)	12.23	5.38	3.63	3.05
MSP [$]	$1.79	$2.60	$5.72	$18.34

For Product Class 6, DOE performed additional product testing during the NOPR stage, but did not obtain a complete data set upon which to base its engineering analysis. This situation was due in large part to DOE's inability to locate products with sufficiently similar battery energies and the fact that the products tested did not span a significant range of performance. DOE's test data for this product class are available in Chapter 5 of the accompanying SNOPR TSD. To develop an engineering analysis for this product class, DOE relied on, among other things, the results gleaned from Product Class 5, interviews with manufacturers, and its limited test data from Product Class 6.

The difference between Product Class 5 and Product Class 6 is the range of voltages that are covered. Product Class 5 covers low-voltage (less than 20 V) and medium energy (100 Wh to 3,000 Wh) products, while Product Class 6 covers high-voltage (greater than or equal to 20 V) and medium energy (100 Wh to 3,000 Wh) products. The representative unit examined for Product Class 5 is a 12 V, 800 Wh battery charger, while the representative unit analyzed for Product Class 6 is a 24 V, 400 Wh battery charger. Despite the change in voltage, DOE believes that similar technology options and battery charging strategies are available in both classes. Both chargers are used with relatively large sealed, lead-acid batteries in products like electric scooters and electric lawn mowers. However, since the battery chargers in Product Class 6 work with higher voltages, current can be reduced for the same output power, which creates the potential for making these devices slightly more efficient because I^2R losses[24] will be reduced.

DOE examined as part of its NOPR and this SNOPR its Product Class 5 results and analyzed how the performance may be impacted if similar technologies are used. The resulting performance parameters are shown in Table IV–8. To account for the projected variation in energy consumption, DOE used information on charge time and maintenance mode power to adjust the corresponding values for 24-hour energy use. Additionally, DOE discussed with manufacturers how costs may differ in manufacturing a 12 V (Product Class 5) charger versus a 24 V (Product Class 6) charger. Manufacturers indicated during manufacturer interviews that, holding constant all other factors, there would likely be minimal change, if any, in the cost. Therefore, because DOE scaled performance assuming that the designs for corresponding CSLs in each product class used the same design options and only differed in voltage, DOE did not scale costs from Product Class 5. Rather than scaling the Product Class 5 costs, DOE used the same MSPs for Product Class 6 that were developed from IHS Technology teardown data for Product Class 5. CEC and NRDC commented that while Product Classes 5 and 6 share the same costs, DOE should use lower cost estimates for units that are less powerful. (California Energy Commission, No. 117 at p. 16; NRDC, No. 114 at p. 7) DOE is not persuaded that lower cost estimates for less powerful units would accurately reflect costs for Product Classes 5 and 6 because this assertion is contrary to statements made during interviews with manufacturers during the NOPR stage of this analysis. Additionally, many of the battery chargers in Product Classes 5 and 6 are multi-voltage, multi-capacity chargers, therefore, costs typically reflecting component costs required to achieve the higher power range. Consequently, varying cost by power levels in the manner suggested by these commenters would be inappropriate. DOE believes these costs are an accurate representation of the MSPs, but seeks comment on its methodology in scaling the results of Product Class 5 to Product Class 6, including the decision to hold MSPs constant.

DOE received several comments in response to the NOPR regarding the engineering results for Product Classes 5 and 6. The CEC argued that manufacturers could meet CSL 3 without including a shut-off relay into the charger design and therefore the costs associated with CSL 3 are too high in DOE's analysis. (California Energy Commission, No. 117 at p. 16) CEC also commented that for these product classes, DOE's results show that units at the max tech levels, or CSL 3, perform worse in active mode efficiency levels in units lower than CSL 2. (California Energy Commission, No. 117 at p. 16)

For Product Classes 5 and 6, CSL 3 is the maximum technologically feasible level analyzed by DOE. By definition, these products were not found to be present in the market. The NOPR and Chapter 5 of the accompanying SNOPR TSD both indicate that manufacturers support non-novel improvements in improving the efficiency of the SCR (semiconductor rectifier) and switch mode topologies. However, these improvements would not result in compliance with CSL 3 and that only by introducing a relay to bring the non-active and maintenance mode energy use to zero could this level be met. Manufacturers and subject matter experts were consulted to verify the costs with making these changes. Concerning the drop in active mode efficiency identified by CEC, DOE found a calculation error in E24 use for these products that caused this error in the representative UEC values. The errors have been corrected and updated results can be seen in Table IV–8 and Table IV–9.

[24] At a basic level, I^2R losses are the power losses caused by the flow of an electrical current through a component's electrical resistance. In electrical circuits, I^2R losses manifest themselves as heat and are the result of high levels of current flow through a device.

TABLE IV–8—PRODUCT CLASS 5 (MEDIUM-ENERGY, LOW-VOLTAGE) ENGINEERING ANALYSIS RESULTS

	CSL 0	CSL 1	CSL 2	CSL 3
CSL Description	Baseline	Intermediate	Best in Market	Max Tech
24-Hour Energy (Wh)	2036.9	1647.3	1292.00	1025.64
Maintenance Mode Power (W)	21.2	11.9	0.50	0.0
No-Battery Mode Power (W)	20.1	11.6	0.30	0.0
Off-Mode Power (W)	0.0	0.0	0.0	0.0
Unit Energy Consumption (kWh/yr)	84.60	56.09	21.39	9.11
Incremental MSP [$]	$18.48	$21.71	$26.81	$127.00

TABLE IV–9—PRODUCT CLASS 6 (MEDIUM-ENERGY, HIGH-VOLTAGE) ENGINEERING ANALYSIS RESULTS

	CSL 0	CSL 1	CSL 2	CSL 3
CSL Description	Baseline	Intermediate	Best in Market	Max Tech
24-Hour Energy (Wh)	891.6	786.1	652.00	466.20
Maintenance Mode Power (W)	10.6	6.0	0.50	0.0
No-Battery Mode Power (W)	10.0	5.8	0.30	0.0
Off-Mode Power (W)	0.0	0.0	0.0	0.0
Unit Energy Consumption (kWh/yr)	120.60	81.72	33.53	8.15
Incremental MSP [$]	$18.48	$21.71	$26.81	$127.00

DOE received a comment from NRDC supporting the proposed standards for Product Class 7. (NRDC, No. 114 at p. 8) No other comments specific to DOE's costs for Product Class 7 were received and no changes were made to its results, which are presented in Table IV–10.

TABLE IV–10—PRODUCT CLASS 7 (HIGH-ENERGY) ENGINEERING ANALYSIS RESULTS

	CSL 0	CSL 1	CSL 2
CSL Description	Baseline	Intermediate	Max Tech
24-Hour Energy (Wh)	5884.2	5311.1	4860.0
Maintenance Mode Power (W)	10.0	3.3	2.6
No-Battery Mode Power (W)	0.0	1.5	0.0
Off-Mode Power (W)	0.0	0.0	0.0
Unit Energy Consumption (kWh/yr)	255.05	191.74	131.44
Incremental MSP [$]	$88.07	$60.86	$164.14

DOE requests stakeholder comments on the updated engineering analysis results presented in this analysis for Products Classes 2–6.

10. Scaling of Battery Charger Candidate Standard Levels

In preparing its proposed standards for products within a product class (which would address all battery energies and voltages falling within that class), DOE used a UEC scaling approach. After developing the engineering analysis results for the representative units, DOE had to determine a methodology for extending the UEC at each CSL to all other ratings not directly analyzed for a given product class. In the NOPR, DOE proposed making UEC a function of battery energy. DOE also indicated that it based this proposed UEC function on the test data that had been obtained up through the NOPR.

For Product Classes 2–7, DOE created equations for UEC that scale with battery energy. In contrast, for Product Class 1, each CSL was represented by one flat, nominal standard. For this product class, test data showed that battery energy appeared to have little impact on UEC. In response to these data, DOE received comment from several interested parties, ITI, CEA, and NRDC, who requested that Product Class 1 be scaled similarly to the other product classes by battery energy. (ITI, No. 134 at p. 6, 7; ITI. Pub. Mtg. Tr., No. 104 at p. 46; CEA, No. 106 at p. 5; NRDC, No. 114 at p. 8) Similarly, Duracell suggested that if DOE declined to update its usage profile assumptions, discussed later in section IV.F, then DOE should maintain its current use assumptions and adopt the formula for determining the maximum UEC limit that was proposed for Product Class 2. (Duracell, No. 109 at p. 1) DOE found in testing that UEC for Product Class 1 did not vary with battery energy or voltage, so DOE opted to maintain its approach proposed in the NOPR to adopt a constant standard across all battery energies. No changes were made to the updated SNOPR TSD for the reasons stated above regarding the impact of battery energy on UECs that were calculated for Product Class 1.

Finally, when DOE was developing its CSL equations for UEC, it found during testing that the correlation between points at low battery energies was much worse than for the rest of the range of battery energy, which indicated that the initial equations DOE had initially planned to use did not match the test results. To address this situation, DOE generated a boundary condition for its CSL equations, which essentially flattens the UEC below a certain threshold of battery energy to recognize that below certain values, fixed power components of UEC, such as maintenance mode power, dominate UEC. Making this change helped DOE to create a better-fitting equation to account for these types of conditions to ensure that any standards that are set better reflect the particular characteristics of a given product.

The CEC and the CA IOUs commented on the use of boundary conditions in certain product classes. CEC requested that DOE, where

possible, reduce the number of product classes by creating a single product class where the scaling and boundary condition transition seamlessly from one product class to the other. (California Energy Commission, No. 117 at p. 26, 29) While the CA IOUs were concerned that the boundary condition creates a scenario where voltage can be adjusted to exploit the standards for Product Classes 2–4, (CA IOUs, No. 138 at p. 20), DOE's approach separates product classes as described in Chapter 3 of the SNOPR TSD and section IV.A.3 of this SNOPR. When setting standards, this segregation of product classes should adequately address the natural groupings of products in the market. Accordingly, DOE made no changes to its proposed product class distinctions as part of its SNOPR analysis.

Concerning the scaling of specific product classes, DOE received several comments. Duracell commented that the standards for Product Class 1, inductive chargers, seem to underlay stricter standards than comparable products that are galvanic-coupled, such as Product Class 2. (Duracell, No. 109 at p. 1) NRDC and CEC both support DOE's engineering results and proposed standard for Product Class 1. (NRDC, No. 114 at p. 8; California Energy Commission, No. 117 at p. 28) DOE notes that Product Class 1, as stated above, is not scaled, which could give the mistaken impression that Product Class 1 has a stricter standard compared to other product class applications that allow for higher energy consumption as battery energy increased. However, as indicated in the NOPR, DOE determined that the UEC for this product class did not vary with battery energy or voltage, thereby eliminating the need to scale.

For additional details and the exact CSL equations developed for each product class, please see Chapter 5 in the accompanying SNOPR TSD.

D. Markups Analysis

The markups analysis develops appropriate markups in the distribution chain to convert the MSP estimates derived in the engineering analysis to consumer prices. At each step in the distribution channel, companies mark up the price of the product to cover business costs and profit margin. Given the variety of products that use battery chargers, distribution varies depending on the product class and application. As such, similar to the approach used in the NOPR, DOE assumed that the dominant path to market establishes the retail price and, thus, the markup for a given application. The markups applied to end-use products that use battery chargers are approximations of the battery charger markups.

In the case of battery chargers, the dominant path to market typically involves an end-use product manufacturer (*i.e.,* an original equipment manufacturer or ''OEM'') and retailer. DOE developed OEM and retailer markups by examining annual financial filings, such as Securities and Exchange Commission (SEC) 10–K reports, from more than 80 publicly traded OEMs, retailers, and distributors engaged in the manufacturing and/or sales of consumer applications that use battery chargers.

DOE calculated two markups for each product in the markups analysis. A markup applied to the baseline component of a product's cost (referred to as a baseline markup) and a markup applied to the incremental cost increase that would result from energy conservation standards (referred to as an incremental markup). The incremental markup relates the change in the MSP of higher-efficiency models (the incremental cost increase) to the change in the retailer's selling price.

Commenting on retail markups, Phillips, Schumacher, and Wahl Clipper stated that the concept of margins is very significant to retailers, and it is not realistic to predict that retailers will voluntarily reduce their profit margins. (Philips, No. 128 at p. 6; Schumacher, No. 182 at p. 6; Wahl Clipper, No 153 at p. 2) Motorola commented that retailers will not be willing to lower their markups because product efficiency has increased. (Motorola Mobility, No. 121 at p. 4) In contrast, PTI stated that DOE's estimates of markups are sufficient for the purposes of the analysis. (PTI, No. 133 at p. 6)

DOE recognizes that retailers may seek to preserve margins. However, DOE's approach assumes that appliance retail markets are reasonably competitive, so that an increase in the manufacturing cost of appliances is not likely to contribute to a proportionate rise in retail profits, as would be expected to happen if markups remained constant. DOE's methodology for estimating markups is based on a mix of economic theory, consultation with industry experts, and data from appliance retailers.[25] In conducting research, DOE has found that empirical evidence is lacking with respect to appliance retailer markup practices when a product increases in cost (due to increased efficiency or other factors). DOE understands that real-world retailer markup practices vary depending on market conditions and on the magnitude of the change in cost of goods sold (CGS) associated with an increase in appliance efficiency. DOE acknowledges that detailed information on actual retail practices would be helpful in evaluating changes in markups on products after appliance standards take effect. For this rulemaking, DOE requested data from stakeholders in support of alternative approaches to markups, as well as any data that shed light on actual practices by retailers; however, no such data were provided. Thus, DOE's analysis continues using an approach that is consistent with the conventionally-accepted economic theory of firm behavior in competitive markets.

Chapter 6 of the SNOPR TSD provides details on DOE's development of markups for battery chargers.

E. Energy Use Analysis

The energy use analysis estimates the range of energy use of battery chargers in the field, *i.e.,* as they are actually used by consumers. The energy use analysis provides the basis for the other analyses DOE uses when assessing the costs and benefits of setting standards for a given product. Particularly dependent on the energy analysis are assessments of the energy savings and the savings in consumer operating costs that could result from the adoption of new or amended standards.

Battery chargers are power conversion devices that transform input voltage to a suitable voltage for the battery they are powering. A portion of the energy that flows into a battery charger flows out to a battery and, thus, cannot be considered to be consumed by the battery charger. However, to provide the necessary output power, other factors contribute to the battery charger energy consumption, *e.g.,* internal losses and overhead circuitry.[26] Therefore, the traditional method for calculating energy consumption—by measuring the energy a product draws from mains while performing its intended function(s)—is not appropriate for a battery charger because that method would not factor in the energy delivered

[25] An extensive discussion of the methodology and justification behind DOE's general approach to markups calculation is presented in Larry Dale, et al., ''An Analysis of Price Determination and Markups in the Air-Conditioning and Heating Equipment Industry.'' LBNL–52791 (2004). Available for download at *http://eetd.lbl.gov/sites/all/files/an_analysis_of_price_determiniation_and_markups_in_the_air_conditioning_and_heating_equipment_industry_lbnl-52791.pdf*≤

[26] Internal losses are energy losses that occur during the power conversion process. Overhead circuitry refers to circuits and other components of the battery charger, such as monitoring circuits, logic circuits, and LED indicator lights, that consume power but do not directly contribute power to the end-use application.

by the battery charger to the battery, and thus would overstate the battery charger's energy consumption. Instead, DOE considered energy consumption to be the energy dissipated by the battery chargers (losses) and not delivered to the battery as a more accurate means to determine the energy consumption of these products. Once the energy and power requirements of those batteries were determined, DOE considered them fixed, and DOE focused its analysis on how standards would affect the energy consumption of battery chargers themselves.

Applying a single usage profile to each application, DOE calculated the unit energy consumption for battery chargers. In addition, as a sensitivity analysis, DOE examined the usage profiles of multiple user types for applications where usage varies widely (for example, a light user and a heavy user).

In response to the NOPR, stakeholders suggested alternative usage profiles for two applications. Delta-Q recommended alternate usage profiles for golf cart battery chargers used in the residential and commercial sectors. These suggested usage profiles assumed higher levels of time in active and maintenance modes and no time in unplugged mode. (Delta-Q, No. 113 at p. 1) For the NOPR, DOE based its estimate of the golf cart usage profile on responses from the manufacturer interviews. The usage profile suggested by Delta-Q is consistent with the stakeholder-provided data that currently underlie DOE's golf cart battery charger usage profile. Based on these estimates, the usage profiles developed for the NOPR have accurately described usage for golf cart battery charges and no changes to the updated analysis were required.

Duracell recommended that DOE adopt one of three alternative approaches to capturing usage profiles and energy use for inductive battery chargers. (Duracell, No. 109 at p. 1) First, it requested that DOE allow each inductive battery charger manufacturer to apply use conditions based on the typical use of its products. However, DOE believes this approach to be infeasible, as it would be administratively burdensome for DOE with its limited resources to verify the individual usage profiles applied by each manufacturer for each product to determine compliance with the given standard. DOE notes that its proposed approach relies on usage profiles based on available data and provides a reasonable average usage approximation of the products falling within each proposed class. Second, Duracell asked DOE to adopt a revised usage profile that it believed would be more applicable to toothbrushes and shavers. DOE has based its estimate of the usage profile on responses from the manufacturer interviews and believes that it has accurately described usage for battery chargers in Product Classes 1 and 2, and did not make changes to these usage profiles for the SNOPR.

PTI and AHAM both voiced support for the usage profiles presented by DOE in the NOPR. PTI commented that DOE accurately captured variations in the commercial and residential use of power tools in its product class average usage profiles. (PTI, No. 133 at p. 3) While AHAM commented that DOE could more accurately capture the usage of infrequently used product classes, AHAM supported DOE's efforts to consider the variation in usage for battery chargers and recommended that DOE reevaluate these usage profiles in the future to more accurately quantify the usage profiles for infrequently charged products. (AHAM, No. 124 at p. 7) Based on these comments, DOE saw no need to alter its usage profiles.

Responding to the NOPR, the CEC submitted comments stating that it found inconsistencies between the NOPR TSD, energy use spreadsheet, and the NIA spreadsheet. These errors were with the CSL 0 and CSL 1 24-hour energy assumption and the average unit energy consumption estimates, particularly for battery charger Product Class 2. (California Energy Commission, No. 117 at p. 9)

In light of the CEC's observation, DOE reviewed its spreadsheet and confirmed that the energy use analysis contained an error in the 24-hour energy values for CSLs 0 and 1 for Product Class 2. DOE has since rectified this error, and revised the engineering and energy use analyses in its updated SNOPR TSD. The corrected 24-hour energy values resulted in a small increase in UECs in the energy use analysis.

F. Life-Cycle Cost and Payback Period Analyses

DOE conducted LCC and PBP analyses to evaluate the economic impacts on individual consumers from potential battery charger 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 used the following two metrics to measure consumer impacts:

- The LCC (life-cycle cost) is the total consumer expense of an appliance or product over the life of that product, consisting of total installed cost (manufacturer selling price, distribution chain markups, 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 change in annual operating cost for the year that amended or new standards are assumed to take effect.

For any given efficiency level, DOE measures the change in LCC relative to an estimate of the base-case product efficiency distribution. The base case distribution reflects the market in the absence of new or amended energy conservation standards, including market trends for products that exceed the current energy conservation standards. In contrast, the PBP is measured relative to the baseline product.

For each considered efficiency level in each product class, DOE calculated the LCC and PBP for a nationally representative set of consumers. For each sampled consumer, DOE determined the energy consumption for the battery charger and the appropriate electricity price. By developing a representative sample of consumers, the analysis captured the variability in energy consumption and energy prices associated with the use of battery chargers.

Inputs to the calculation of total installed cost include the cost of the product—which includes MSPs, manufacturer markups, retailer and distributor markups, and sales taxes—and installation costs. Inputs to the calculation of operating expenses include annual energy consumption, energy prices and price projections, repair and maintenance costs, product lifetimes, and discount rates. DOE created distributions of values for product lifetime, discount rates, and sales taxes, with probabilities attached to each value, to account for their uncertainty and variability.

The computer model DOE uses to calculate the LCC and PBP, which incorporates Crystal Ball™ (a commercially-available software program), 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 battery charger user samples. The model calculated the LCC and PBP for products at each efficiency level for 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. Any national standards would apply to battery chargers manufactured 2 years after the date on which any final amended standard is published. For this SNOPR, DOE estimates publication of a final rule in 2016. Therefore, for purposes of its analysis, DOE used 2018 as the first year of compliance with any amended standards.

Table IV–11 summarizes the approach and data that DOE used to derive the inputs to the LCC and PBP calculations for the NOPR and the changes made for this SNOPR. The subsections that follow provide further discussion on these inputs and the comments DOE received regarding its presentation of the LCC and PBP analyses in the NOPR, as well as DOE's responses. 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 SNOPR TSD.

TABLE IV–11—SUMMARY OF INPUTS AND METHODS FOR THE NOPR AND SNOPR LCC AND PBP ANALYSES

Inputs	March 2012 NOPR	Changes for the SNOPR
Manufacturer Selling Price.	Derived from the Engineering Analysis through manufacturer interviews and test/teardown results.	Adjusted component breakdowns and prices based on updated cost data from IHS Technology and SME feedback for Product Classes 2 through 6.
Markups	Considered various distribution channel pathways for different applications. Applied a reduced ''incremental'' markup to the portion of the product price exceeding the baseline price. See Chapter 6 of the SNOPR TSD for details.	No change.
Sales Tax	Derived weighted-average tax values for each Census division and large state from data provided by the Sales Tax Clearinghouse.[1]	Updated the sales tax using the latest information from the Sales Tax Clearinghouse.[2]
Installation Costs	Assumed to be zero	No change.
Annual Energy Use	Determined for each application based on battery characteristics and usage profiles..	No change.
Energy Prices	Price: Based on EIA's 2008 Form EIA–861 data.[3] Variability: Regional energy prices determined for 13 regions. DOE also considered subgroup analyses using electricity prices for low-income consumers and top tier marginal price consumers.	Updated to EIA's 2012 Form EIA–861 data.[4] Separated top tier and peak time-of-use consumers into separate subgroup analyses.
Energy Price Trends	Forecasted with EIA's Annual Energy Outlook 2010[5]	Updated with EIA's Annual Energy Outlook 2014.[6]
Repair and Maintenance Costs.	Assumed to be zero	No change.
Product Lifetime	Determined for each application based on multiple data sources See chapter 3 of the SNOPR TSD for details..	No change.
Discount Rates	Residential: Approach based on the finance cost of raising funds to purchase and operate battery chargers either through the financial cost of any debt incurred (based on the Federal Reserve's Survey of Consumer Finances data[7] for 1989, 1992, 1995, 1998, 2001, 2004, and 2007) or the opportunity cost of any equity used. Time-series data was based on geometric means from 1980–2009. Commercial: Derived discount rates using the cost of capital of publicly-traded firms based on data from Damodaran Online,[8] the Value Line Investment survey,[9] and the Office of Management and Budget (OMB) Circular No. A–94.[10] DOE used a 40-year average return on 10-year treasury notes to derive the risk-free rate. DOE updated the equity risk premium to use the geometric average return on the S&P 500 over a 40-year time period.	Residential: DOE updated the calculations to consider the geometric means for all time-series data from 1984–2013. DOE added data from the Federal Reserve's Survey of Consumer Finances for 2010. Commercial: DOE updated all sources to the most recent version (Damodaran Online and the OMB Circular No. A–94).
Sectors Analyzed	All reference case results represent a weighted average of the residential and commercial sectors.	No change.
Base Case Market Efficiency Distribution.	Where possible, DOE derived market efficiency distributions for specific applications within a product class.	No change.
Compliance Date	2013	2018.

[1] The four large States are New York, California, Texas, and Florida.

[2] Sales Tax Clearinghouse, Aggregate State Tax Rates. Available at: *https://thestc.com/STRates.stm.*

[3] U.S. Department of Energy. Energy Information Administration. Form EIA–861 Final Data File for 2008. May, 2014. Washington, D.C. Available at: *http://www.eia.doe.gov/cneaf/electricity/page/eia861.html.*

[4] U.S. Department of Energy. Energy Information Administration. Form EIA–861 Final Data File for 2012. September, 2012. Washington, D.C. Available at: *http://www.eia.doe.gov/cneaf/electricity/page/eia861.html.*

[5] U.S. Department of Energy. Energy Information Administration. Annual Energy Outlook 2010. November, 2010. Washington, D.C. Available at: *http://www.eia.doe.gov/oiaf/aeo/.*

[6] U.S. Department of Energy. Energy Information Administration. Annual Energy Outlook 2014. April, 2014. Washington, D.C. Available at: *http://www.eia.gov/forecasts/aeo/.*

[7] The Federal Reserve Board, Survey of Consumer Finances. Available at: *http://www.federalreserve.gov/pubs/oss/oss2/scfindex.html.*

[8] Damodaran Online Data Page, *Historical Returns on Stocks, Bonds and Bills—United States, 2010.* Available at: *http://pages.stern.nyu.edu/~adamodar.*

[9] Value Line. Value Line Investment Survey. Available at: *http://www.valueline.com.*

[10] U.S. Office of Management and Budget. Circular No. A–94. Appendix C. 2009. Available at: *http://www.whitehouse.gov/omb/circulars_a094_a94_appx-c/.*

1. Product Cost

a. Manufacturer Selling Price

In the preliminary analysis, DOE used a combination of test and teardown results and manufacturer interview results to develop MSPs. DOE conducted tests and teardowns on a large number of additional units and applications for the NOPR, and incorporated these findings into the MSP. For the SNOPR, DOE adjusted component breakdowns and prices based on updated cost data from IHS Technology (formerly i-Suppli) and SME feedback for Product Classes 2, 3, 4, 5 and 6. DOE adjusted its MSPs based on these changes. Further detail on the MSPs can be found in chapter 5 of the SNOPR TSD.

Examination of historical price data for a number of appliances that have been subject to energy conservation standards indicates that an assumption of constant real prices and costs may overestimate long-term trends in appliance prices. Economic literature and historical data suggest that the real costs of these products may in fact trend downward over time according to ''learning'' or ''experience'' curves. On February 22, 2011, DOE published a Notice of Data Availability (NODA) stating that DOE may consider refining its analysis by addressing equipment price trends. (76 FR 9696) It also raised the possibility that once sufficient long-term data are available on the cost or price trends for a given product subject to energy conservation standards (such as battery chargers), DOE would consider these data to forecast future trends.

To forecast a price trend for the NOPR, DOE considered the experience curve approach, in which an experience rate parameter is derived using two historical data series on price and cumulative production. But in the absence of historical shipments of battery chargers and sufficient historical Producer Price Index (PPI) data for small electrical appliance manufacturing from the U.S. Department of Labor's Bureau of Labor Statistics' (BLS),[27] DOE could not use this approach. This situation is partially due to the nature of battery charger designs. Battery chargers are made up of many electrical components whose size, cost, and performance rapidly change, which leads to relatively short design lifetimes. DOE also considered performing an exponential fit on the deflated AEO's Projected Price Indexes that most narrowly include battery chargers. However, DOE believes that these indexes are sufficiently broad that they may not accurately capture the trend for battery chargers. Furthermore, battery chargers are not typical consumer products; they more closely resemble commodities that OEMs purchase.

Given the uncertainty involved with these products, DOE did not incorporate product price changes into the NOPR analysis and is not including them in this SNOPR. For the NIA, DOE also analyzed the sensitivity of results to two alternative battery charger price forecasts. Appendix 10–B of the SNOPR TSD describes the derivation of alternative price forecasts.

b. Markups

DOE applies a series of markups to the MSP to account for the various distribution chain markups applied to the analyzed product. These markups are evaluated for each application individually, depending on its path to market. Additionally, DOE splits its markups into ''baseline'' and ''incremental'' markups. The baseline markup is applied to the entire MSP of the baseline product. The incremental markups are then applied to the marginal increase in MSP over the baseline's MSP. Further detail on the markups can be found in chapter 6 of the SNOPR TSD.

c. Sales Tax

As in the NOPR, DOE obtained State and local sales tax data from the Sales Tax Clearinghouse. The data represented weighted averages that include county and city rates. DOE used the data to compute population-weighted average tax values for each Census division and four large States (New York, California, Texas, and Florida). For the SNOPR, DOE retained this methodology and used updated sales tax data from the Sales Tax Clearinghouse.[28] DOE also obtained updated population estimates from the U.S. Census Bureau for this SNOPR.[29]

d. Product Price Forecast

As noted in section IV.F, to derive its central estimates DOE assumed no change in battery charger prices over the 2018–2047 period. In addition, DOE conducted a sensitivity analysis using two alternative price trends based on AEO price indexes. These price trends, and the NPV results from the associated sensitivity cases, are described in appendix 10–B of the SNOPR TSD.

2. Installation Cost

As detailed in the NOPR, DOE considered installation costs to be zero for battery chargers because installation would typically entail a consumer simply unpacking the battery charger from the box in which it was sold and connecting the device to mains power and its associated battery. Because the cost of this ''installation'' (which may be considered temporary, as intermittently used devices might be unplugged for storage) is not quantifiable in dollar terms, DOE considered the installation cost to be zero.

DOE received comments responding to its installation cost methodology. NEMA asserted that the results of the LCC cost and PBP analysis did not accurately reflect the impact to industry as the cost of implementation was consistently underestimated, resulting in an overestimation of savings. NEMA noted that the LCC and PBP calculations did not include installation costs and the cost of implementation failed to include safety and reliability regression testing. In its view, this testing ensures the long term intended efficiency gains resulting from changes made to address the limits. NEMA criticized the proposed scope as being too broad and the limits too severe, both of which would force manufacturers to withdraw systems from the marketplace until testing is concluded. NEMA asserted that shipping cycle times also impact the availability in the marketplace; some of these products are already sourced from Asia where a 90-day cycle time for shipping by ocean is a necessity due to the low margins associated with consumer products. (NEMA, No. 134 at p. 2) NEEA pointed out that the LCC focuses on incremental costs, rather than overall costs. It noted that it would be very difficult to find data supporting an installation cost that increases with increasing efficiency levels. (NEEA, Pub. Mtg. Transcript, No. 104 at p. 200)

NEMA did not give examples of systems which may be removed from the market as a result of safety and reliability testing. In addition, LCC analysis calculations only take into account the cost to consumers across the lifetime of the product. Safety and reliability regression testing would not be a cost to the consumer, but rather a cost to the manufacturer. The MIA accounts for safety and reliability regression testing as it is already incorporated into their product conversion costs. Adding these costs to the LCC calculations would inaccurately

[27] Series ID PCU33521–33521; *http://www.bls.gov/ppi/.*

[28] Sales Tax Clearinghouse, Aggregate State Tax Rates. *https://thestc.com/STRates.stm.*

[29] The U.S. Census Bureau. Annual Estimates of the Population for the United States, Regions, States, and Puerto Rico: April 1, 2010 to July 1, 2013. *http://www.census.gov/popest/data/state/totals/2013/tables/NST-EST2013-01.xls.*

inflate the impact of these costs by effectively accounting for them twice in the analysis. DOE agrees with the comments made by NEEA, as any installation costs would likely be constant across all battery charger efficiency levels and would have no impact when comparing LCCs between CSLs in the analysis. Accordingly, DOE maintained its assumption that zero installation costs would continue to apply.[30]

3. Annual Energy Consumption

The SNOPR analysis uses the same approach for determining UECs as the approach used in the NOPR. The UEC was determined for each application based on battery characteristics and usage profiles. As a result of new testing and teardowns, described above, DOE updated some or all of the UEC values for battery charger Product Classes 2, 3, 4, 5 and 6 for the SNOPR. The same approach and equations used to calculate the representative unit UECs remain consistent with the NOPR. Further detail on the UEC calculations can be found in section IV.E of this notice and in chapter 7 of the SNOPR TSD.

4. Energy Prices

DOE determined energy prices by deriving regional average prices for 13 geographic areas consisting of the nine U.S. Census divisions, with four large States (New York, Florida, Texas, and California) treated separately. The derivation of prices was based on the latest available EIA data, covering 2012. In the NOPR analysis, DOE used data from EIA's *Annual Energy Outlook* (*AEO*) *2010* to project electricity prices to the end of the product lifetime.[31] For this SNOPR, DOE used the final release of the *AEO2014,*[32] which contained reference, high- and low-economic-growth scenarios. DOE received no comments on the electricity price forecasts it used in its NOPR analyses.

5. Repair and Maintenance Costs

In the NOPR analysis, DOE did not consider repair or maintenance costs for battery chargers. In making this decision, DOE recognized that in some cases the service life of a stand-alone battery charger typically exceeds that of the consumer product it powers. Furthermore, DOE noted that the cost to repair the battery charger might exceed the initial purchase cost, as these products are relatively low cost items. Thus, DOE estimated that it would be extremely unlikely that a consumer would incur repair or maintenance costs for a battery charger. Also, if a battery charger failed, DOE expects that consumers would typically discard the battery charger and purchase a replacement. DOE received no comments challenging this assumption and has continued relying on this assumption for purposes of calculating the SNOPR's potential costs and benefits.

Although DOE did not assume any repair or maintenance costs would apply generally to battery chargers, DOE included a maintenance cost for the replacement of lithium ion batteries in certain battery charger applications in the NOPR analysis. Through conversations with manufacturers and subject matter experts, DOE learned that such batteries would need replacing within the service life of the battery charger for certain applications based on the battery lifetime and the usage profile assigned to the application. Lithium ion batteries are marginally more expensive than batteries with nickel chemistries (*e.g.* ''Ni-MH''), as explained in chapter 5 of accompanying SNOPR TSD. The NOPR analysis accounted for this marginal cost increase of those applications at CSLs that require the use of lithium batteries. This maintenance cost only applied to applications where DOE believed the lifetime of the application would surpass the lifetime of the battery. DOE estimated the battery lifetime based on the total number of charges the battery could handle divided by the number of charges per year projected for the application. DOE relied on data provided by manufacturers to estimate the total number of charges the battery could undergo before expiring. See chapter 8, section 8.2.5 of the accompanying SNOPR TSD.

For the SNOPR, DOE determined that the maintenance costs included in the NOPR LCC analysis were not comparable to the costs associated with those applications that had no maintenance costs. While the NOPR costs considered the increase in price between repurchasing a lithium battery instead of a nickel battery, the increase when purchasing the initial battery was not considered for the analysis. Thus, DOE determined that the maintenance cost did not apply to the battery charger unit subject to the proposed standard, and removed all maintenance costs from the SNOPR LCC analysis. Further detail on maintenance costs can be found in chapter 8, section 8.2.5 of the SNOPR TSD.

6. Product Lifetime

For the NOPR analysis, DOE considered the lifetime of a battery charger to be from the moment it is purchased for end-use up until the time when it is permanently retired from service. Because the typical battery charger is purchased for use with a single associated application, DOE assumed that it would remain in service for as long as the application does. Even though many of the technology options to improve battery charger efficiencies may result in an increased useful life for the battery charger, the lifetime of the battery charger is still directly tied to the lifetime of its associated application. The typical consumer will not continue to use a battery charger once its application has been discarded. For this reason, DOE used the same lifetime estimate for the baseline and standard level designs of each application for the LCC and PBP analyses.

Following the NOPR, Lester encouraged DOE to carefully consider differences in product longevity in their LCC and PBP model. They noted that in Product Class 7, CSL 0 and CSL 1 products employed significantly different technologies that have considerably different lifetimes; the difference in product longevity could result in major changes to the DOE LCC and PBP model. (Lester Electrical, No. 139 at p. 3) DOE notes that because the lifetime of the battery charger is directly tied to the lifetime of its associated application, improved technologies affecting the lifetime of the battery charger will not change the effective lifetime for the typical consumer. In the absence of adverse comments to DOE's approach, DOE is continuing to use it in the SNOPR analysis. Further detail on product lifetimes and how they relate to applications can be found in chapter 3 of the SNOPR TSD.

7. Discount Rates

The NOPR analysis derived residential discount rates by identifying all possible debt or asset classes that might be used to purchase and operate products, including household assets that might be affected indirectly. DOE

[30] DOE notes that ''installation costs'' are not the same as ''installed costs.'' ''Installation costs'' refer to the costs incurred to install a given product—in this case, to plug the charger into the electrical outlet in order to use it. In contrast, ''installed costs'' refer to the costs incurred to obtain and use the product. These costs, as noted earlier, include the cost of the product—which includes MSPs, manufacturer markups, retailer and distributor markups, and sales taxes—as well as any installation costs that might apply.

[31] U.S. Department of Energy. Energy Information Administration. Annual Energy Outlook 2010. November, 2010. Washington, DC *http://www.eia.gov/forecasts/aeo/*.

[32] U.S. Department of Energy. Energy Information Administration. Annual Energy Outlook 2014. May, 2014. Washington, DC *http://www.eia.gov/forecasts/aeo/*.

estimated the average shares of the various debt and equity classes in the average U.S. household equity and debt portfolios using data from the Survey of Consumer Finances (SCF) from 1989 to 2007.[33] DOE used the mean share of each class across the seven sample years as a basis for estimating the effective financing rate for products. DOE estimated interest or return rates associated with each type of equity using data from the U.S. Federal Reserve [34] and Damodaran. The analysis calculates the risk-free rate using a 40-year average return on 10-year U.S. Treasury notes, as reported by the U.S. Federal Reserve, and the equity risk premium using the geometric average return on the S&P 500 over a 40-year time period. The mean real effective rate across the classes of household debt and equity, weighted by the shares of each class, was 5.1 percent.

For the commercial sector, DOE derived the discount rate from the cost of capital of publicly-traded firms that manufacture products that involve the purchase of battery chargers. To obtain an average discount rate value for the commercial sector, DOE used the share of each industry category in total paid employees provided by BLS,[35] as well as employment data from both the U.S. Office of Personnel Management [36] and the U.S. Census Bureau.[37] By multiplying the discount rate for each industry category by its share of paid employees, DOE derived a commercial discount rate of 7.1 percent.

For the SNOPR, DOE used the same methodology as the NOPR with applicable updates to data sources. When deriving the residential discount rates, DOE added the 2010 Survey of Consumer Finances to their data set. For all time-series data, DOE evaluated rates over the 30-year time period of 1984–2013. The new discount rates are estimated to be 5.2 percent and 5.1 percent in the residential and commercial sectors, respectively. For further details on discount rates, see chapter 8 and appendix 8D of the SNOPR TSD.

8. Sectors Analyzed

The NOPR analysis included an examination of a weighted average of the residential and commercial sectors as the reference case scenario. Additionally, all application inputs were specified as either residential or commercial sector data. Using these inputs, DOE then sampled each application based on its shipment weighting and used the appropriate residential or commercial inputs based on the sector of the sampled application. This approach provided specificity as to the appropriate input values for each sector, and permitted an examination of the LCC results for a given product class in total. DOE maintained this approach in the SNOPR. For further details on sectors analyzed, see chapter 8 of the SNOPR TSD.

9. Base Case Market Efficiency Distribution

For purposes of conducting the LCC analysis, DOE analyzed CSLs relative to a base case (*i.e.,* a case without new Federal energy conservation standards). This analysis required an estimate of the distribution of product efficiencies in the base case (*i.e.,* what consumers would have purchased in 2018 in the absence of new Federal standards). Rather than analyzing the impacts of a particular standard level assuming that all consumers will purchase products at the baseline efficiency level, DOE conducted the analysis by taking into account the breadth of product energy efficiencies that consumers are expected to purchase under the base case.

In preparing the NOPR analysis, DOE derived base case market efficiency distributions that were specific to each application where it had sufficient data to do so. This approach helped to ensure that the market distribution for applications with fewer shipments was not disproportionately skewed by the market distribution of the applications with the majority of shipments. DOE factored into its efficiency distributions the current efficiency regulations in California. See section IV.G.3). For this SNOPR, DOE maintained the methodology for generating base case market efficiency distributions used in the NOPR analysis.

10. Compliance Date

The compliance date is the date when a new standard becomes operative, *i.e.,* the date by which battery charger manufacturers must manufacture products that comply with the standard. DOE's publication of a final rule in this standards rulemaking is scheduled for completion by 2016. There are no requirements for the compliance date for battery charger standards, but DOE has chosen a two-year time period between publication and compliance for two reasons. First, manufacturers are already complying with the current CEC standards, which suggests that a two-year time frame would be reasonable. Second, this time-frame is consistent with the one that DOE initially proposed to apply for external power supplies, which were previously bundled together with battery chargers as part of DOE's initial efforts to regulate both of these products. DOE calculated the LCCs for all consumers as if each would purchase a new product in the year that manufacturers would be required to meet the new standard (2018). However, DOE bases the cost of the equipment on the most recently available data, with all dollar values expressed in 2013$.

11. Payback Period Inputs

The PBP is the amount of time it takes the consumer to recover the additional installed cost of more-efficient products, compared to baseline products, through energy cost savings. 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 efficiency level are the change in total installed cost of the product and the change in the first-year annual operating expenditures relative to the baseline. The PBP calculation uses the same inputs as the LCC analysis, except that energy price trends and discount rates are not needed; only energy prices for the year the standard becomes required for compliance (2018 in this case) are needed.

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 efficiency 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

[33] The Federal Reserve Board, Survey of Consumer Finances. Available at: *http://www.federalreserve.gov/pubs/oss/oss2/scfindex.html*

[34] The Federal Reserve Board, Statistical Releases and Historical Data, Selected Interest Rates (Daily)—H.15. *http://www.federalreserve.gov/releases/H15/data.htm.*

[35] U.S. Bureau of Labor Statistics. Labor Force Statistics from the Current Population Survey. Table 17—Employed persons by Industry, Sex, Race, and Occupation. *http://www.bls.gov/cps/cpsaat17.pdf.*

[36] U.S. Office of Personnel Management. Federal Employment Reports. Historical Federal Workforce Tables. *http://www.opm.gov/policy-data-oversight/data-analysis-documentation/federal-employment-reports/historical-tables/total-government-employment-since-1962.*

[37] U.S. Census Bureau. Government Employment and Payroll. 2012 State and Local Government. *http://www2.census.gov/govs/apes/12stlall.xls.*

energy price forecast for the year in which compliance with the proposed standards would be required.

DOE received a comment from ITI on its PBP analysis. ITI pointed out that the NOPR stated ''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.'' (ITI, No. 131 at p. 6)

DOE's LCC and PBP analyses generate values that calculate the PBP for consumers of products subject to potential energy conservation standards, which includes, but is not limited to, the three-year PBP contemplated under the rebuttable presumption test. However, DOE routinely conducts a full economic analysis that considers the full range of impacts, including those to the consumer, manufacturer, Nation, and environment, as required under 42 U.S.C. 6295(o)(2)(B)(i) and 42 U.S.C. 6316(e)(1). The results of this analysis serve as the basis for DOE to definitively evaluate the economic justification for a potential standard level (thereby supporting or rebutting the results of any preliminary determination of economic justification).

G. Shipments Analysis

Projections of product shipments are needed to forecast the impacts that standards are likely to have on the Nation. DOE develops shipment projections based on an analysis of key market drivers for each considered product. In DOE's shipments model, shipments of products were calculated based on current shipments of product applications powered by battery chargers. The inventory model takes an accounting approach, tracking remaining shipments and the vintage of units in the existing stock for each year of the analysis period.

Based on comments received on the Preliminary Analysis, DOE conducted a sensitivity analysis to examine how increases in end-use product prices resulting from standards might affect shipment volumes. To DOE's knowledge, elasticity estimates are not readily available in existing literature for battery chargers, or the end-use consumer products that DOE is analyzing in this rulemaking. Because some applications using battery chargers could be considered more discretionary than major home appliances, which have an estimated relative price elasticity of −0.34,[38] DOE believed a higher elasticity of demand was possible. In its sensitivity analysis, DOE assumed a price elasticity of demand of −1, meaning a given percentage increase in the final product price would be accompanied by that same percentage decrease in shipments.

Even under this relatively high assumption for price elasticity of demand, DOE's battery charger standards are unlikely to have a significant effect on the shipment volumes of those battery charger applications mentioned by stakeholders, with forecasted effects ranging from a decrease of 0.004 percent for electric shavers to a decrease of 0.1 percent for do-it-yourself (''DIY'') power tools with detachable batteries. Results for all battery charger applications are contained in appendix 9A to the SNOPR TSD. The corresponding impacts on national energy savings (''NES'') and NPV are included in appendix 10A.

1. Shipment Growth Rate

In the NOPR, DOE noted that the market for battery chargers grew tremendously in the previous ten years. Additionally, DOE found that many market reports had predicted enormous future growth for the applications that employ battery chargers. However, in projecting the size of these markets over the next 30 years, DOE considered the possibility that much of the market growth associated with battery chargers had already occurred. In many reports predicting the growth of applications that employ battery chargers, DOE noted that this growth was predicted for new applications, but older applications were generally not included. That is, battery charger demand did not grow, but the products using these devices have transitioned to a new product mix. For example, during its initial market assessment, DOE identified mobile phones, digital cameras, personal digital assistants, and MP3 players as applications that use battery chargers. However, in the past several years, the use of smart phones, which can function as all four of these individual applications, has accelerated, and these individual products may no longer be sold in large volumes in the near future. A quantitative example of this is shown in Table IV–12. (See chapter 9 of the SNOPR TSD.)

TABLE IV–12—EXAMPLE OF PRODUCT TRANSITION

Application	2007 Shipments	2008 Shipments	2009 Shipments	2011 Shipments
Smart Phones	19,500,000	28,555,000	41,163,000	110,178,600
Mobile Phones	101,500,000	102,775,000	94,239,000	58,563,400
Personal Digital Assistants	2,175,000	1,977,000	1,750,000	800,000
MP3 Players	48,020,000	43,731,000	40,101,000	40,696,691
Total	171,195,000	177,038,000	177,253,000	210,238,691

With this in mind, DOE based its shipments projections such that the per-capita consumption of battery chargers will remain steady over time, and that the overall number of individual units that use battery chargers will grow at the same rate as the U.S. population.

The NOPR analysis estimated future market size while assuming no change in the per-capita battery charger purchase rate by using the projected population growth rate as the compound annual market growth rate. Population growth rate values were obtained from the U.S. Census Bureau

[38] See *http://ees.ead.lbl.gov/publications/analysis-price-elasticity* (last accessed January 13, 2015).

2009 National Projections, which forecast U.S. resident population through 2050. DOE took the average annual population growth rate, 0.75 percent, and applied this rate to all battery charger product classes.

For the SNOPR, DOE retained the same approach and updated the growth rate from 0.75% to 0.62% using U.S. Census Bureau projections released December 2012.

NRDC commented that battery chargers shipments had been growing significantly faster than the growth shown in the NOPR, driven in part by growth in consumer electronics and portable appliances over the previous few years. They suggested using a growth rate of 4% in 2011, gradually declining to 0.75% by 2028 (reduction of 0.2% per year). This would lead to shipment projections which are 32% higher in 2042 than what used in the NOPR analysis. (NRDC, No. 114 at p. 19) The CA IOUs also asserted that battery chargers shipments would grow faster than the population. These faster growth rates would increase the energy savings attributable to the standards. The CA IOUs stated that they supported the conclusions of NRDC, but did not present additional data of their own. (CA IOUs, No. 138 at p. 20)

DOE recognizes that shipments for certain applications are increasing very rapidly. However, DOE researched product growth trends dating back to 2006 and found that other products, like digital cameras, have seen flat shipments. Some critical applications have even had shipments decline year-over-year. There is also significant convergence in the consumer electronics industry, in which one new device may replace multiple retired devices (such as a single smart phone replacing a mobile phone, digital camera, GPS device, and PDA). DOE seeks to forecast shipments for battery chargers as a whole, but given the complexity of these markets, any attempts to forecast behavior of the market will be inherently inexact. Therefore, in this SNOPR, DOE decided to maintain its approach to use population growth to project shipments, but updated the value to match the latest U.S. Census information: from 0.75% growth per year from the NOPR to 0.62% growth rate in this SNOPR. In its shipment forecasts, DOE projects that by 2018, shipments of battery chargers will be 4.4% percent greater than they were in 2011.

2. Product Class Lifetime

For the NOPR, DOE calculated product class lifetime profiles using the percentage of shipments of applications within a given product class, and the lifetimes of those applications. These values were combined to estimate the percentage of units of a given vintage remaining in use in each year following the initial year in which those units were shipped and placed in service.

DOE received no comments regarding this methodology and maintained this methodology for the SNOPR. For more information on the calculation of product class lifetime profiles, see chapter 10 of the SNOPR TSD.

3. Forecasted Efficiency in the Base Case and Standards Cases

A key component of the NIA is the trend in energy efficiency forecasted for the base case (without new and amended standards) and each of the standards cases. To project the trend in efficiency over the entire forecast period, DOE considered recent standards, voluntary programs such as ENERGY STAR, and other trends.

For battery charger efficiency trends, DOE considered three key factors: European standards, the EPA's ENERGY STAR program, and the battery charger standards that took effect on February 1, 2013, in California.

The EU included battery chargers in a preparatory study on eco-design requirements that it published in January 2007.[39] However, it has not yet announced plans to regulate battery chargers. Thus, DOE did not adjust the efficiency distributions that it calculated for battery chargers between the present-day and the compliance date in 2018 to account for European standards.

DOE examined the ENERGY STAR voluntary program for battery charging systems and found that as of October 19, 2012, less than 350 battery charging systems had been qualified.[40] PTI commented that its members' products make up a significant portion of the ENERGY STAR Battery Charging Systems listings. PTI claimed that, to the extent that DOE's battery charger standard would impact future revisions to the ENERGY STAR criteria, then it is possible that there would be improvements in efficiency to some products in the market that already meet the DOE standard. (PTI, No. 133 at p. 5)

DOE recognizes that unforeseen new or revised energy efficiency specifications are a possibility and that these factors would impact the distribution of efficiency in the market. It is also possible that DOE's battery charger standards could cause other organizations to tighten their efficiency specifications as well. However, EPA's ENERGY STAR program for battery chargers ended on December 30, 2014, and the ENERGY STAR label is no longer available for this product category.[41] Thus, DOE did not adjust its battery charger efficiency distributions to account for any potential market effects of a future ENERGY STAR program.

The CEC battery charger standards that took effect in 2013, affect most, if not all, of the battery chargers within the scope of DOE's rulemaking. In the NOPR, DOE adjusted its base case efficiency distributions for battery chargers to account for these standards by assuming that, in the absence of Federal standards, all battery chargers sold in California would meet the CEC standards. In the absence of market share data, DOE assumed in the NOPR that California's share of the U.S. battery charger market would be equivalent to its share of U.S. GDP (13 percent).

Also in the NOPR, DOE recognized that the CEC standards may also raise the efficiency of battery chargers sold outside of California. However, the magnitude of this effect could not be determined. Nevertheless, to explore the full range of possibilities, DOE also evaluated the potential impacts of Federal standards under the assumption that the CEC standards become the *de facto* standard for the nation, *i.e.,* all battery chargers sold in the United States just before the Federal standard takes effect meet the CEC standards. This scenario represented an upper bound on the possible impacts of the CEC standards and a lower bound on the energy savings that could be achieved by Federal standards.

Both during and after the NOPR public meeting, multiple stakeholders provided input on how the CEC standards may impact products in California and the rest of the Nation. The CEC commented that California's standards, in the absence of national standards, would become the ''de facto'' national standards. Thus, less stringent standards—such as those proposed in the NOPR—would lead to greater national energy consumption than if DOE took no action, which would ''run afoul'' of 42 U.S.C. 6295(o)(3), which mandates that DOE prescribe standards that results in the significant conservation of energy. The CEC further

[39] Available here: *http://www.eceee.org/ecodesign/products/battery_chargers/Final_Report_Lot7.*

[40] EPA, ''Qualified Product (QP) List for ENERGY STAR Qualified Battery Charging Systems.'' Retrieved on October 18, 2012 from *http://downloads.energystar.gov/bi/qplist/Battery_Charging_Systems_Product_List.xls?5728–8a42.*

[41] *https://www.energystar.gov/sites/default/files/specs//BCS%20Final%20Decision%20Sunset%20Memo.pdf.*

argued that standards should be evaluated with a base case of no action, in which case the adoption of California's standards and the adoption of DOE's proposed standards would lead to an increase in national energy consumption. The CEC also advised that products sold in California that meet the CEC standards would regress to lower efficiency levels should DOE adopt standards lower than those set by the CEC because the CEC standards would be preempted. (California Energy Commission, No. 117 at p. 2–6)

Earthjustice concurred with the CEC's claims, stating that DOE's assumption that California's standards will not impact products sold outside of California was arbitrary and contrary to evidence presented for EPSs. With the CEC standards as the *de facto* national standards, the adoption by DOE of weaker requirements would not save significant energy and would be prohibited under EPCA. (Earthjustice, No. 118 at p. 3) Panasonic also claimed that the CEC standards would become *de facto* national standards in the absence of Federal regulations. (Panasonic, No. 120 at p. 5) The Appliance Standards Awareness Project agreed that DOE's proposal risked increasing national energy consumption. They recommended that, to fully understand the potential impacts of California's standards, DOE should explore scenarios in which 100%, 75%, and 50% of products sold outside of California comply with California's standard.

AHAM suggested that DOE overestimated the amount of the market that would shift to comply with the CEC standards, because not all products will be able to meet those efficiency levels, even in California. However, AHAM suggested that DOE leave its analysis unchanged. (AHAM, No. 124 at p. 2) PTI commented that within the standard levels that DOE proposed, market elasticity is not an issue. However, it noted that at the CEC standard levels, there is a higher cost of compliance that would impact market elasticity. (PTI, No. 133 at p. 5)

The CEC also approximated CSLs that would be equivalent to its standard levels and inputted those CSLs into DOE's NIA model. It concluded that doing so yielded an additional 1.06 quads of energy savings and $3.8 billion of net social benefits nationally, when compared to DOE's proposal. Given these additional potential savings, the CEC recommended that DOE revise its analyses and adopt standards at least as stringent as those adopted in California. (California Energy Commission, No. 117 at p. 32) Citing an analysis performed by the Berkeley Research Group, PTI agreed with DOE that the CEC's adopted standards for Product Classes 2–4 would not be cost effective for the nation. (PTI, No. 133 at p. 2)

For this SNOPR, DOE has revised its base case efficiency distributions and now assumes that 95% of the market meets the CEC standards. DOE based this assumption on a review of the existing market, both online and via in-store visits, and found that retailers nationwide, and not just in California, are selling units complying with the CEC standards. DOE acknowledges, however, that units not complying with the current CEC standards can still be sold outside of California, but believes the percentage of such units is small. For this analysis, DOE assumed 5% of units sold do not meet the CEC standards. DOE's testing conducted for this SNOPR focused on improving baseline unit efficiency. In examining these units, DOE found that they complied with the CEC standards—including CEC-marked units purchased outside of California. While this resulted in assumptions of nearly all units sold nationally as meeting or exceeding the CEC standards, DOE recognizes that there are some units that could be sold outside of California and not through common channels and/or large retailers either online or in stores. DOE assumes that the volume of such non-CEC-compliant units is small. Using all of these assumptions, DOE developed its revised base case efficiency distribution using the CEC database [42] of battery charger models sold in California combined with DOE's usage profiles as described earlier in Section IV.C.4. See chapter 9 of the SNOPR TSD for more details.

To estimate efficiency trends in the standards cases, DOE has used ''roll-up'' and/or ''shift'' scenarios in its standards rulemakings. Under the ''roll-up'' scenario, DOE assumes: (1) Product efficiencies in the base case that do not meet the standard level under consideration would ''roll-up'' to meet the new standard level; and (2) product efficiencies above the standard level under consideration would not be affected. Under the ''shift'' scenario, DOE reorients the distribution above the new minimum energy conservation standard. For this rule, DOE proposed use of the ''roll-up'' scenario and has maintained this approach for the SNOPR. This approach was supported by Delta-Q Technologies in its public comments following publication of the NOPR. (Delta-Q Technologies, No. 113 at p. 1).

For further details about the forecasted efficiency distributions, see chapter 9 of the SNOPR TSD. DOE seeks comments on its approach in updating the base case efficiency distributions for this rule using the CEC database.

H. National Impacts Analysis

The NIA assesses the national energy savings (NES) and the NPV of total consumer costs and savings that would be expected to result from new and amended standards at specific efficiency levels. DOE calculates the NES and NPV based on projections of annual unit shipments, along with the annual energy consumption and total installed cost data from the energy use and LCC analyses. DOE projected the energy savings, operating cost savings, product costs, and NPV of net consumer benefits for products sold over a 30-year period—from 2018 through 2047.

CEA commented that it is unreasonable for DOE to project shipments, energy savings, and emissions reductions over a 30-year period. Product lifecycles for many of the covered products are typically measured in months, so it can be difficult to make projections years out. (CEA, No. 106 at p. 9) Although the 30-year analysis period is longer than the average lifetime of battery chargers, DOE estimates that the considered standard levels analyzed will transform the market to higher energy efficiencies than in the base-case, resulting in energy and emission savings throughout the analysis period. Further, DOE has conducted a sensitivity analysis that projects NIA results out over nine years of shipments instead of 30 years. Results of this sensitivity analysis are available in section V.B.3 of this notice.

As in the LCC analysis, DOE evaluates the national impacts of new and amended standards by comparing base-case projections with standards-case projections. The base-case projections characterize energy use and consumer costs for each product class in the absence of new and amended energy conservation standards. DOE compares these projections with projections characterizing the market for each product class if DOE adopted new and amended standards at specific energy efficiency levels (*i.e.,* the TSLs or standards cases) for that class.

To make the analysis more accessible and transparent to all interested parties, DOE used an MS Excel spreadsheet model to calculate the energy savings and the national consumer costs and savings from each TSL. The SNOPR TSD, and other supplemental

[42] *http://www.appliances.energy.ca.gov/AdvancedSearch.aspx.*

documentation DOE releases, collectively explain the models and how to use them. Interested parties can review DOE's analyses by changing various input quantities within the spreadsheet models that DOE releases. The NIA spreadsheet model uses average values as inputs (as opposed to probability distributions).

For this SNOPR, the NIA used projections of energy prices from the *AEO2014* Reference case. In addition, DOE analyzed scenarios that used inputs from the *AEO2014* High Economic Growth, and Low Economic Growth cases. These cases have higher or lower energy price trends compared to the Reference case. NIA results based on these cases are presented in appendix 10A to the SNOPR TSD.

Table IV–13 summarizes the inputs and key assumptions DOE used in the NIA. Discussion of these inputs and changes follows the table. See chapter 10 of the SNOPR TSD for further details.

TABLE IV–13—SUMMARY OF INPUTS, SOURCES AND KEY ASSUMPTIONS FOR THE NATIONAL IMPACT ANALYSIS

Inputs	NOPR Description	Changes for SNOPR rule
Base Year Shipments	Annual shipments from Market Assessment	No change in methodology. Includes updated data from 2011.
Shipment Growth Rate	0.75 percent annually, equal to population growth.	Updated to 0.62 percent using revised U.S. Census projections (2012).
Lifetimes	Battery charger lifetime is equal to the lifetime of the end-use product it powers..	No changes in methodology. Product Class lifetimes were revised based on removal of medical products.
Base Year Efficiencies	From Market Assessment	Obtained from the CEC's database of Small Battery Chargers (2014)
Base-Case Forecasted Efficiencies.	Efficiency distributions remain unchanged throughout the forecast period.	No change.
Standards-Case Forecasted Efficiencies.	"Roll-up" scenario	No change.
Annual Energy Consumption per Unit.	Annual shipment weighted-average marginal energy consumption values for each product class.	No change in the methodology. Inputs to the calculation were revised based on removal of medical products.
Improvement Cost per Unit	From the Engineering Analysis	No change.
Markups	From Markups Analysis	No change.
Repair and Maintenance Cost per Unit.	Assumed to be zero	No change.
Energy Prices	*AEO2010* projections (to 2035) and extrapolation for 2044 and beyond.	Updated to *AEO2014.*
Electricity Site-to-Source Conversion Factor.	Based on *AEO 2010*	Updated to *AEO2014.*
Present Year	2011	2015
Discount Rate	3% and 7% real	No change.
Compliance Date of Standard (Start of Analysis Period).	2013	2018

1. Product Price Trends

As noted in section IV.F.1, DOE assumed no change in battery charger pricing over the 2018–2047 period in the reference case. AHAM commented that it opposes the use of price trends and agreed that DOE should not use that approach. (AHAM, No. 124 at p. 9) In contrast, PG&E and SDG&E supported the consideration of price trends as an NIA sensitivity and recommended that price trends be incorporated into the reference case, given past declines in the costs of electronic products. (PG&E and SDG&E, No. 163 at pp. 1–2) The Power Sources Manufacturers Association (PSMA) agreed, stating that while improvements to overall battery charger efficiency do entail cost premiums, these premiums are often reduced as volumes increase and manufacturing technologies improve. (PSMA, No. 147 at p. 2)

As discussed in section IV.G.1, it is difficult to predict the consumer electronics market far in advance. To derive a price trend for battery chargers, DOE did not have any historical shipments data or sufficient historical Producer Price Index (PPI) data for the small electrical appliance manufacturing industry from BLS.[43] Therefore, DOE examined a projection based on the price indexes that were projected for *AEO2014.* DOE performed an exponential fit on two deflated projected price indexes that may include the products that battery chargers are components of: information equipment (Chained price index—investment in non-residential equipment and software—information equipment), and consumer durables (Chained price index—other durable goods). However, DOE believes that these indexes are too broad to accurately capture the trend for battery chargers. Furthermore, most battery chargers are unlike typical consumer products in that they are typically not purchased independently by consumers. Instead, they are similar to other commodities and typically bundled with end-use products.

[43] Series ID PCU33521–33521; *http://www.bls.gov/ppi/.*

Given the above considerations, DOE decided to use a constant price assumption as the default price factor index to project future battery charger prices in 2018 and out to 2047. While a more conservative method, following this approach helped ensure that DOE did not understate the incremental impact of standards on the consumer purchase price. Thus, DOE's product prices forecast for the LCC, PBP, and NIA analyses for the SNOPR were held constant for each efficiency level in each product class. DOE also conducted a sensitivity analysis using alternative price trends based on AEO indexes. These price trends, and the NPV results from the associated sensitivity cases, are described in Appendix 10B of the SNOPR TSD.

2. Unit Energy Consumption and Savings

DOE uses the efficiency distributions for the base case along with the annual unit energy consumption values to estimate shipment-weighted average unit energy consumption under the base and standards cases, which are then

compared against one another to yield unit energy savings values for each considered efficiency level.

As discussed in section IV.G.3, DOE assumes that energy efficiency will not improve after 2018 in the base case. Therefore, the projected UEC values in the analysis, as well as the unit energy savings values, do not vary over time. Consistent with the roll-up scenario, the analysis assumes that manufacturers would respond to a standard by improving the efficiency of underperforming products but not those that already meet or exceed the standard.

DOE received no comments on its methodology for calculating unit energy consumption and savings in the NOPR and maintained its methodology in the SNOPR. For further details on the calculation of unit energy savings for the NIA, see chapter 10 of the SNOPR TSD.

3. Unit Costs

DOE uses the efficiency distributions for the base case along with the unit cost values to estimate shipment-weighted average unit costs under the base and standards cases, which are then compared against one another to give incremental unit cost values for each TSL. DOE received no comments on its methodology for calculating unit costs in the NOPR and maintained its methodology in the SNOPR. For further details on the calculation of unit costs for the NIA, see chapter 10 of the SNOPR TSD.

4. Repair and Maintenance Cost per Unit

In the NOPR, DOE considered the incremental maintenance cost for the replacement of lithium ion batteries in certain applications. After examining the possible impact of this cost in the LCC and PBP analyses, DOE determined that the actual impact at the product class level would most likely be negligible. Thus, DOE opted not to retool its NIA model to account for this cost. For further discussion of this issue, see section IV.F.3 above. DOE received no comments on this approach, and maintained this assumption for the SNOPR.

5. Energy Prices

While the focus of this rulemaking is on consumer products found in the residential sector, DOE is aware that many products that employ battery chargers are located within commercial buildings. Given this fact, the NOPR analysis relied on calculated energy cost savings from such products using commercial sector electricity rates, which are lower in value than residential sector rates. DOE used this approach so as to not overstate energy cost savings in calculating the NIA.

In order to determine the energy usage split between the residential and commercial sector, DOE first separated products into residential-use and commercial-use categories. Then, for each product class, using shipment values for 2018, average lifetimes, and base-case unit energy consumption values, DOE calculated the approximate annual energy use split between the two sectors. DOE applied the resulting ratio to the electricity pricing to obtain a sector-weighted energy price for each product class. This ratio was held constant throughout the period of analysis.

DOE received no comments on its methodology for calculating energy costs in the NOPR and maintained its approach for the SNOPR. For further details on the determination of energy prices for the NIA, see chapter 10 of the SNOPR TSD.

6. National Energy Savings

The national energy savings analysis involves a comparison of national energy consumption of the considered products in each potential standards case with consumption in the base 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 calculated annual NES based on the difference in national energy consumption for the base case (without amended efficiency standards) and for each higher efficiency standard. 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 *AEO2014.* Cumulative energy savings are the sum of the NES for each year over the timeframe of the analysis.

In 2011, 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 full fuel cycle (''FFC'') measures of energy use and greenhouse gas and other emissions in the national impact analyses and emissions analyses included in future energy conservation standards rulemakings. 76 FR 51281 (Aug. 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 (Aug. 17, 2012). NEMS is a public domain, multi-sector, partial equilibrium model of the U.S. energy sector. EIA uses NEMS to prepare its Annual Energy Outlook.

For further details about the calculation of national energy savings, see chapter 10 of the SNOPR TSD. The approach used for deriving FFC measures of energy use and emissions is described in appendix 10B of the SNOPR TSD.

7. Discount Rates

The inputs for determining the NPV of the total costs and benefits experienced by consumers of battery chargers are: (1) total increased product cost, (2) total annual savings in operating costs, and (3) a discount factor. For each standards case, DOE calculated net savings each year as total savings in operating costs, less total increases in product costs, relative to the base case. DOE calculated operating cost savings over the life of each product shipped from 2018 through 2047.

DOE multiplied the net savings in future years by a discount factor to determine their present value. 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.[44] The 7-percent real value is an estimate of the average before-tax rate of return to private capital in the U.S. economy. The 3-percent real value represents the ''societal rate of time preference,'' which is the rate at which society discounts future consumption flows to their present value.

For further details about the calculation of net present value, see chapter 10 of the SNOPR TSD.

I. Consumer Subgroup Analysis

In analyzing the potential impacts of new or amended standards, DOE evaluates the impacts on the LCC of identifiable subgroups of consumers that may be disproportionately affected by a national standard. In the NOPR,

[44] OMB Circular A–4 (Sept. 17, 2003), section E, ''Identifying and Measuring Benefits and Costs. Available at: *http://www.whitehouse.gov/omb/memoranda/m03-21.html.*

DOE analyzed four consumer subgroups of interest—low-income consumers, small businesses, top marginal electricity price tier consumers, and consumers of specific applications within a product class. In this SNOPR, DOE maintains the same subgroups; however, DOE separates the top marginal electricity price tier consumers into two subgroups because further analysis showed that these consumers were two distinct groups. The two new subgroups are top tier electricity price consumers and peak time-of-use electricity price consumers. For each subgroup, DOE considered variations on the standard inputs to the general LCC model.

DOE defined low-income consumers as residential consumers with incomes at or below the poverty line, as defined by the U.S. Census Bureau. In the NOPR stage, DOE found from 2005 Residential Energy Consumption Survey (RECS) data [45] that these consumers face electricity prices that are 0.2 cents per kWh lower, on average, than the prices faced by consumers above the poverty line. In the SNOPR stage, DOE found that the updated 2009 RECS data [46] no longer showed a significant difference in electricity price between low-income and general consumers. Instead, DOE used the same source to identify population distributions of low-income consumers among regions of the U.S. to distinguish low-income consumers from the general population. DOE requests comment on the new methodology of filtering RECS data to obtain a population distribution of low-income consumers.

For small businesses, DOE analyzed the potential impacts of standards by conducting the analysis with a different discount rate applicable to this subgroup, as small businesses do not have the same access to capital as larger businesses. DOE estimated that for businesses purchasing battery chargers, small companies have an average discount rate that is 4.16 percent higher than the industry average.

In the NOPR, DOE identified the highest rates for top tier marginal electricity price consumers using both tiered rates and time of usage. DOE found that top tier marginal rates for general usage in the residential and commercial sectors were $0.310 and $0.225, respectively. In the SNOPR stage, DOE divided this subgroup into two new subgroups because further analysis showed that these consumers were two distinct groups. For top tier electricity price consumers, DOE researched tiered electricity rates for general usage in the residential sector, and found the highest price to be $0.359. For peak time-of-use electricity price consumers, DOE researched prices that varied with the time of day for both the residential and commercial sectors, obtaining peak values of $0.514 and $.494, respectively.

Lastly, for the application-specific subgroup, DOE used the inputs from each application for lifetime, markups, market efficiency distribution, and UEC to calculate LCC and PBP results.

In response to the NOPR, Nokia noted that DOE should consider life-cycle costs when deciding standards. In the case of mobile phones, it argued that standards could not be justified on the basis of life-cycle costs (Nokia, No. 132 at p. 1).

Mobile phone battery chargers fall into Product Class 2. The selected CSL for Product Class 2 exhibits a positive LCC savings of $0.06 over the lifetime of a given mobile phone battery charger. DOE notes that the standards and life-cycle costs are for the battery chargers, and not for end-use products. Looking across all of Product Class 2, the standards proposed will be beneficial to consumers, on average. For this reason, DOE believes that standards are justified at the current proposed levels for mobile phones on the basis of life-cycle costs.

DOE's subgroup analysis for consumers of specific applications considered the LCC impacts of each application within a product class. This approach allowed DOE to consider the LCC impacts of individual applications when choosing the proposed standard level, regardless of the application's weighting in the calculation of average impacts. The impacts of the standard on the cost of the battery charger as a percentage of the application's total purchase price are not relevant to DOE's LCC analysis. DOE used the cost of the battery charger component, not the final price of the application, in the LCC. Therefore, a $2,000 and $20 product are assumed to have the same cost for a battery charger (*e.g.,* $5) if they are within the same CSL of the same product class. The application-specific subgroup analyses represent an estimate of the marginal impacts of standards on consumers of each application within a product class.

DOE maintained its approach to the application specific consumer subgroup in the SNOPR. Chapter 11 of the SNOPR TSD contains further information on the LCC analyses for all subgroups.

J. Manufacturer Impact Analysis

DOE conducted a manufacturer impact analysis (MIA) on battery chargers to estimate the financial impact of new energy conservation standards on this industry. The MIA is both a quantitative and qualitative analysis. The quantitative part of the MIA relies on the Government Regulatory Impact Model (GRIM), an industry cash flow model customized for applications that include battery chargers covered in this rulemaking. The key MIA output is industry net present value (INPV). DOE used the GRIM to calculate cash flows using standard accounting principles and to compare the changes in INPV resulting from the base case and various TSLs (the standards case). The difference in INPV between the base and standards cases represents the financial impact of the new standards on manufacturers. Different sets of assumptions (scenarios) produce different results.

DOE calculated the MIA impacts of new energy conservation standards by creating a GRIM for battery charger application manufacturers. In the GRIM, DOE grouped similarly impacted products to better analyze the effects new standards will have on the industry. DOE presented the battery charger application impacts by product class groups (Product Class 1; Product Classes 2, 3, and 4; Product Classes 5 and 6; and Product Class 7) and by TSL. DOE also presented the results for Product Classes 2, 3, and 4 by manufacturer industry (consumer electronics, small appliance, and power tool manufacturers). This is necessary because the impacts in this product class group vary significantly by industry type. Therefore, grouping all industries together could overlook the potential negative impacts that manufacturers of a specific industry face. By segmenting the results into these industries, DOE is also able to discuss how each subgroup of battery charger application manufacturers will be impacted by new energy conservation standards.

DOE outlined its complete methodology for the MIA in the NOPR. 77 FR 18478, 18549–59 (March 27, 2012). The complete MIA is presented in chapter 12 of the accompanying SNOPR TSD.

1. Manufacturer Production Costs

Through the MIA, DOE attempts to model how changes in efficiency impact manufacturer production costs

[45] U.S. Department of Energy-Energy Information Administration. *RECS Public Use Microdata Files, calendar year 2005.* 2009. Washington, DC. *http://205.254.135.7/consumption/residential/data/2005/index.cfm?view=microdata*

[46] U.S. Department of Energy-Energy Information Administration. *RECS Public Use Microdata Files, calendar year 2009.* 2013. Washington, DC. *http://205.254.135.7/consumption/residential/data/2009/index.cfm?view=microdata*

(''MPCs''). DOE used two critical inputs to calculate manufacturer impacts at the OEM level. The first input is the price that the application OEM charges for its finished product, used to calculate revenue. The second input is the portion of that price represented by its battery charger, used to calculate costs, at each CSL.

For the first component, DOE determined representative retail prices for each application by surveying popular online retailer Web sites to sample a number of price points of the most commonly sold products for each application. The price of each application can vary greatly depending on many factors (such as the features of each individual product). For each application, DOE used the average application price found in the product survey. DOE then discounted this representative retail price back to the application MSP using the retail markups derived from annual SEC 10–K reports in the Markups Analysis, as discussed in section IV.D.

DOE calculated the second figure—the price of the battery charger itself at each CSL—in the engineering analysis. In this analysis, DOE calculated a separate cost efficiency curve for each of the seven battery charger product classes. Based on product testing data, tear-down data and manufacturer feedback, DOE created a BOM at the original device manufacturer (ODM) level to which markups were applied to calculate the MSP of the battery charger at each CSL. DOE then allocated the battery charger MSPs of each product class to all the applications within each product class. In this way, DOE arrived at the cost to the application OEM of the battery charger for each application.

NRDC commented that DOE overestimated the incremental MPCs in the NOPR analysis for battery chargers, which caused DOE to overstate the negative financial impacts reported in the NOPR MIA. (NRDC, No. 114 at p. 21) NRDC did not give any specific data to support their claim that DOE overestimated the incremental MPCs in the NOPR analysis. As part of the SNOPR analysis, DOE did conduct another round of product purchasing, testing, and tear downs to update the MPCs for the SNOPR analysis to account for the most recent pricing trends for each product. For some products, the incremental MPCs increased and for others the incremental MPCs decreased compared to the NOPR analysis incremental MPCs. DOE used a similar methodology for tear downs in the SNOPR as it did in the NOPR; however, the changes in incremental MPC from the NOPR to the SNOPR reflect the most recent battery charger pricing trends and changes in material costs from the previous analysis.

2. Product and Capital Conversion Costs

New energy conservation standards will cause manufacturers to incur one-time conversion costs to bring their production facilities and product designs into compliance with the new standards. For the MIA, DOE classified these one-time conversion costs into two major groups: (1) Product conversion costs and (2) capital conversion costs. Product conversion costs are one-time investments in research, development, testing, marketing, and other non-capitalized costs focused on making product designs comply with the new energy conservation standards. Capital conversion costs are one-time investments in property, plant, and equipment to adapt or change existing production facilities so that new product designs can be fabricated and assembled.

NRDC commented that DOE overestimated the conversion costs associated with battery charger standards and caused the MIA results to overstate the negative financial impacts on battery charger manufacturers. NRDC believes the changes required by the selected standards for battery chargers are simple and will only require limited capital conversion costs. (NRDC, No. 114 at p. 21) After reviewing the battery charger conversion costs, DOE believes that the values listed in the NOPR are accurate based on the available data and is declining to alter the battery charger conversion cost methodology for this SNOPR.

3. Comments From Interested Parties Related to Battery Chargers

Several stakeholders commented on DOE's NOPR MIA. These comments centered on compliance-related issues, employment impacts, and the MIA's scope.

a. Compliance Date and Implementation Period

Interested parties expressed concern regarding the proposed timeline for an appropriate compliance date to DOE's battery charger standard. They supported DOE's proposal to set a compliance date as soon as possible but not later than July 1, 2013 for battery charger products classes 2, 3, and 4. The industry also argued that since the CEC battery charger standards for these product classes are more stringent and would be effective in February 2013, setting an earlier compliance date for the standard would enable manufacturers to avoid performing two rounds of testing, labeling, and compliance with two different standards in a very short period of time. (AHAM, No. 124 at p. 5) (CEA, No. 106 at p. 3) (Motorola, No. 121 at p. 11) (Nintendo of America, No. 135 at p. 2) (Panasonic, No. 120 at p. 5) (Philips, No. 128 at p. 7) (PTI, No. 133 at p. 2 & 6) (Wahl, No. 153 at p. 1) (Pub. Mtg. Tr., No. 104 at p. 251–254) Additionally, ITI supported a compliance period of less than two years for Product Class 5 in addition to Product Classes 2, 3, and 4. It also asserted that manufacturers will be ready to meet DOE's proposed battery charger standards for all these product classes in the very near term and will not require the full two-year compliance period. (ITI, No. 131 at p. 2 & 6)

Other commenters urged DOE to adopt at least a two-year compliance period for all battery charger product classes. These commenters stated manufacturers must be allowed sufficient time to redesign and conduct thorough testing on their products in order to manufacture adequately safe and reliable products that comply with DOE's battery charger standards. (Flextronics, No. 145 at p.1) (Microsoft, No. p. 110) (Nebraska Energy Office, No. 98 at p. 2) (Nokia, No. 132 at p. 2) (Salcomp Plc, No. 73 at p. 2) (Schneider, No. 119 at p. 6) Additionally, some manufacturers supported a compliance date of at least 18 months or two years just for Product Classes 5, 6, and/or 7. (Actuant Electric, No. 146 at p. 2) (Lester Electrical, No. 139 at p. 2) (Lester Electrical, No. 87 at p. 1) (Schumacher, No. 143 at p. 2) (Pub. Mtg. Tr., No. 104 at p. 30)

Since the CEC battery charger standard has already been implemented at the time of this SNOPR publication and available data indicate that manufacturers are already complying with that standard, DOE is proposing to use a compliance date of two years after the publication of the final rule for this rulemaking.

b. Employment Impacts

Some manufacturers expressed concern that this rulemaking could lead to a loss of domestic jobs. Lester Electrical stated that the proposed standard level for Product Class 7 will lead to job losses in its domestic manufacturing plant. (Lester Electrical, No. 139 at p. 2) (Pub. Mtg. Tr., No. 104 at p. 31) The Nebraska Energy Office also commented that the proposed standard is not economically justified and would contribute an unacceptable level of regulatory burden. (Nebraska Energy Office, No. 98 at p. 2) DOE estimates that Lester Electrical employs

approximately 100 domestic production workers that produce a wide variety of covered and non-covered battery chargers. The direct employment analysis indicates that a maximum of 100 domestic jobs could be lost as a result of DOE's proposed battery charger standards due to the projected impacts on Lester Electrical. This estimate of 100 domestic jobs lost represents the upper-bound of potential job loss, since it is likely that Lester Electrical will at least continue to produce the battery chargers not covered by this proposed standard domestically. Relocating a company's manufacturing facility is a complex business decision and not a decision mandated by any government action. Since one path to compliance is as likely as the next, it is difficult to accurately predict how Lester Electrical would respond to the proposed battery charger standards.

c. Scope of the MIA

A few manufacturers stated that they believe the MIA did not include all parties affected by DOE's battery charger standard. Duracell commented that DOE should specifically account for the impacts on battery manufacturers, especially those who design battery chargers around the batteries they manufacture. (Duracell, No. 109 at p. 4) The MIA focused on battery charger and battery charger application manufacturers only. DOE believes the MIA should only focus on businesses that are directly impacted by DOE's standards and does not believe that battery manufacturers fall into this category. While DOE acknowledges that battery manufacturers could be indirectly affected by the proposed standard, those impacts fall outside the scope of this rulemaking.

4. Manufacturer Interviews

DOE conducted additional interviews with manufacturers following the preliminary analysis in preparation for the NOPR analysis. These interviews were separate from those DOE conducted as part of the engineering analysis. DOE did not conduct additional interviews between the publication of the NOPR and this SNOPR. DOE outlined the key issues for this rulemaking for manufacturers in the NOPR. See 77 FR at 18558–18559. DOE did not receive any further comments on the key issues listed in the NOPR.

K. Emissions Analysis

In the emissions analysis, DOE estimated the reduction 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 battery chargers. 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 full-fuel-cycle (FFC). In accordance with DOE's FFC Statement of Policy (76 FR 51282 (Aug. 18, 2011)), 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 *AEO2014.* Combustion emissions of CH_4 and N_2O were estimated using emissions intensity factors published by the Environmental Protection Agency (EPA), GHG Emissions Factors Hub.[47] 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 SNOPR TSD.

For CH_4 and N_2O, DOE calculated emissions reduction in tons and also in terms of units of carbon dioxide equivalent (CO_2eq). Gases are converted to CO_2eq by multiplying the physical units (*i.e.,* tons) 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,[48] DOE used GWP values of 28 for CH_4 and 265 for N_2O.

EIA prepares the *Annual Energy Outlook* using the National Energy Modeling System (NEMS). Each annual version of NEMS incorporates the projected impacts of existing air quality regulations on emissions. *AEO2014* generally represents current legislation and environmental regulations, including recent government actions, for which implementing regulations were available as of October 31, 2013.

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). SO_2 emissions from 28 eastern states and DC were also limited under the Clean Air Interstate Rule (CAIR; 70 FR 25162 (May 12, 2005)), which created an allowance-based trading program that operates along with the Title IV program. CAIR was remanded to the U.S. Environmental Protection Agency (EPA) by the U.S. Court of Appeals for the District of Columbia Circuit but it remained in effect.[49] In 2011 EPA issued a replacement for CAIR, the Cross-State Air Pollution Rule (CSAPR). 76 FR 48208 (August 8, 2011). On April 29, 2014, the U.S. Supreme Court reversed the judgment of the D.C. Circuit and remanded the case for further proceedings consistent with the Supreme Court's opinion.[50] On October 23, 2014, the D.C. Circuit lifted the stay of CSAPR.[51] Pursuant to this action, CSAPR went into effect (and CAIR ceased to be in effect) as of January 1, 2015.

Because *AEO2014* 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 efficiency standard could be used to permit offsetting increases in SO_2 emissions by any regulated EGU. In past rulemakings, DOE recognized that there was uncertainty about the effects of efficiency standards on SO_2 emissions covered by the existing cap-and-trade system, but it concluded that negligible reductions in power sector SO_2 emissions would occur as a result of standards.

[47] *http://www.epa.gov/climateleadership/inventory/ghg-emissions.html.*

[48] 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.

[49] 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).

[50] *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.

[51] *See Georgia* v. *EPA,* Order *(D.C. Cir. filed October 23, 2014)* (*No. 11–1302),*

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 final MATS rule, EPA established a standard for hydrogen chloride as a surrogate for acid gas hazardous air pollutants (HAP), and also established a standard for SO_2 (a non-HAP acid gas) as an alternative equivalent surrogate standard for acid gas HAP. The same controls are used to reduce HAP and non-HAP acid gas; thus, SO_2 emissions will be reduced as a result of the control technologies installed on coal-fired power plants to comply with the MATS requirements for acid gas. *AEO2014* 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 are used to reduce acid gas emissions, and they 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 efficiency standards will generally reduce SO_2 emissions in 2016 and beyond.

CAIR established a cap on NO_X emissions in 28 eastern States and the District of Columbia.[52] 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 SNOPR for these States.

The MATS limit mercury emissions from power plants, but they do not include emissions caps and, as such, DOE's energy conservation standards would likely reduce Hg emissions. DOE estimated mercury emissions reduction using emissions factors based on *AEO2014,* which incorporates the MATS.

For this SNOPR, DOE did not receive any comments on this section of the analysis and retained the same approach as in the NOPR.

L. Monetizing Carbon Dioxide and Other Emissions Impacts

As part of the development of the proposed rule, DOE considered the estimated monetary benefits from the reduced emissions of CO_2 and NO_X that are expected to result from each of the TSLs considered. In order to make this calculation analogous to the calculation of the NPV of consumer benefits, 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 reduction estimates and presents the values considered in this SNOPR.

For this SNOPR, DOE did not receive any comments on this section of the analysis and retained the same approach as in the NOPR. DOE relied on a set of values for the social cost of carbon (SCC) that was developed by a Federal interagency process. The basis for these values is summarized below, and a more detailed description of the methodologies used is provided as an appendix to chapter 14 of the SNOPR 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, 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 the SCC estimates, technical experts from numerous agencies met on a regular basis to consider public comments, explore the technical literature in relevant fields, and discuss key model inputs and assumptions. The main objective of this process was to develop a range of SCC values using a defensible set of input assumptions grounded in the existing scientific and economic literatures. In this way, key uncertainties and model differences transparently and consistently inform the range of SCC estimates used in the rulemaking process.

a. Monetizing Carbon Dioxide Emissions

When attempting to assess the incremental economic impacts of CO_2 emissions, the analyst faces a number of challenges. A report from the National Research Council[53] 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.

It is important to emphasize that the interagency process is committed to updating these estimates as the science and economic understanding of climate change and its impacts on society improves over time. In the meantime, the interagency group will continue to explore the issues raised by this analysis and consider public comments as part of the ongoing interagency process.

[52] CSAPR also applies to NOx 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.

[53] National Research Council. *Hidden Costs of Energy: Unpriced Consequences of Energy Production and Use* (2009). National Academies Press: Washington, DC.

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. Specifically, the group considered public comments and further explored the technical literature in relevant fields. The interagency group relied on three integrated assessment models commonly used to estimate the SCC: The FUND, DICE, and PAGE models. These models are frequently cited in the peer-reviewed literature and were used in the last assessment of the Intergovernmental Panel on Climate Change (IPCC). Each model was given equal weight in the SCC values that were developed.

Each model takes a slightly different approach to model how changes in emissions result in changes in economic damages. A key objective of the interagency process was to enable a consistent exploration of the three models, while respecting the different approaches to quantifying damages taken by the key modelers in the field. An extensive review of the literature was conducted to select three sets of input parameters for these models: Climate sensitivity, socio-economic and emissions trajectories, and discount rates. A probability distribution for climate sensitivity was specified as an input into all three models. In addition, the interagency group used a range of scenarios for the socio-economic parameters and a range of values for the discount rate. All other model features were left unchanged, relying on the model developers' best estimates and judgments.

The interagency group selected four sets of SCC values for use in regulatory analyses. Three sets of values are based on the average SCC from three integrated assessment models, at discount rates of 2.5, 3, and 5 percent. The fourth set, which represents the 95th percentile SCC estimate across all three models at a 3-percent discount rate, is included to represent higher-than-expected impacts from 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,[54] although preference is given to consideration of the global benefits of reducing CO_2 emissions. Table IV–14 presents the values in the 2010 interagency group report,[55] which is reproduced in appendix 14–A of the SNOPR TSD.

TABLE IV–14—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.[56]

Table IV–15 shows the updated sets of SCC estimates in 5-year increments from 2010 to 2050. The full set of annual SCC estimates between 2010 and 2050 is reported in appendix 14B of the SNOPR 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.

[54] 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.

[55] *Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866.* Interagency Working Group on Social Cost of Carbon, United States Government (February 2010) (Available at: *http://www.whitehouse.gov/sites/default/files/omb/inforeg/for-agencies/Social-Cost-of-Carbon-for-RIA.pdf*).

[56] *Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866,* Interagency Working Group on Social Cost of Carbon, United States Government (May 2013; revised November 2013) (Available at: *http://www.whitehouse.gov/sites/default/files/omb/assets/inforeg/technical-update-social-cost-of-carbon-for-regulator-impact-analysis.pdf*).

TABLE IV–15—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 since they will evolve with improved scientific and economic understanding. The interagency group also recognizes that the existing models are imperfect and incomplete. The 2009 National Research Council report mentioned above points out that there is tension between the goal of producing quantified estimates of the economic damages from an incremental ton of carbon and the limits of existing efforts to model these effects. There are a number of analytical challenges that are being addressed by the research community, including research programs housed in many of the Federal agencies participating in the interagency process to estimate the SCC. The interagency group intends to periodically review and reconsider those estimates to reflect increasing knowledge of the science and economics of climate impacts, as well as improvements in modeling.

In summary, in considering the potential global benefits resulting from reduced CO_2 emissions, DOE used the values from the 2013 interagency report, adjusted to 2013$ using the implicit price deflator for GDP from the Bureau of Economic Analysis. For each of the four sets of SCC values, the values for emissions in 2015 were $12.0, $40.5, $62.4, and $119 per metric ton avoided (values expressed in 2013$). DOE derived values after 2050 using the relevant growth rate 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 above, DOE has taken into account how amended 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 NO_X emissions reductions resulting from each of the TSLs considered for this SNOPR based on estimates found in the relevant scientific literature. Estimates of the monetary value for reducing NO_X from stationary sources range from $476 to $4,893 per ton (in 2013$).[57] DOE calculated monetary benefits using an average value for NO_X emissions of $2,684 per short ton (in 2013$), and real discount rates of 3 percent and 7 percent.

DOE is evaluating appropriate monetization of avoided SO_2 and Hg emissions in energy conservation standards rulemakings. DOE has not included monetization of those emissions in the current analysis.

The CA IOUs and ECOVA asked that DOE take into account the decreased cost of complying with sulfur dioxide emission regulations as a result of standards. (CA IOUs, No. 138 at p. 19; ECOVA, Pub. pp. 292–293) As discussed in section IV.K, under the MATS, SO_2 emissions are expected to be well below the cap established by CAIR. Thus, it is unlikely that the reduction in electricity demand resulting from energy efficiency standards would have an impact on the cost of complying with the regulations.

[57] U.S. Office of Management and Budget, Office of Information and Regulatory Affairs, *2006 Report to Congress on the Costs and Benefits of Federal Regulations and Unfunded Mandates on State, Local, and Tribal Entities* (2006) (Available at: *www.whitehouse.gov/sites/default/files/omb/assets/omb/inforeg/2006_cb/2006_cb_final_report.pdf*).

For the SNOPR, DOE retained the same approach as in the NOPR for monetizing the emissions reductions from the proposed standards.

M. Utility Impact Analysis

The utility impact analysis estimates several effects on the electric power industry that would result from the adoption of new and amended energy conservation standards. In the utility impact analysis, DOE analyzes the changes in installed electrical capacity and generation that would result for each trial standard level. The analysis is based on published output from NEMS, which is 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 those published side cases that incorporate efficiency-related policies to estimate the marginal impacts of reduced energy demand on the utility sector. The output of this analysis is a set of time-dependent coefficients that capture the change in electricity generation, primary fuel consumption, installed capacity and power sector emissions due to a unit reduction in demand for a given end use. These coefficients are multiplied by the stream of electricity savings calculated in the NIA to provide estimates of selected utility impacts of new or amended energy conservation standards. Chapter 15 of the SNOPR 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 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. 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 supplies by the utility industry; (3) increased 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 BLS.[58] 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.[59] There are many reasons for these differences, including wage differences and the fact that the utility sector is more capital-intensive and less labor-intensive than other sectors. Energy conservation standards have the effect of reducing consumer utility bills. Because reduced consumer expenditures for energy likely lead to increased expenditures in other sectors of the economy, the general effect of efficiency standards is to shift economic activity from a less labor-intensive sector (*i.e.,* the utility sector) to more labor-intensive sectors (*e.g.,* the retail and service sectors). Thus, based on the BLS data alone, DOE believes net national employment may increase due to shifts in economic activity resulting from energy conservation standards.

DOE estimated indirect national employment impacts for the standard levels considered in this SNOPR using an input/output model of the U.S. economy called Impact of Sector Energy Technologies version 3.1.1 (ImSET).[60] 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 SNOPR TSD.

The CEC disagreed with DOE's NOPR employment impact analysis, which, in its view, shows that increasing energy efficiency causes U.S. job losses. (California Energy Commission, No. 117 at p. 33) It based its view on an assumed ratio of jobs in the consumer goods sector versus the utility sector. The CEC did not provide independent data sources or references to support the assumption. Nevertheless, DOE reviewed its inputs to estimate employment impacts. Because nearly all battery chargers are imported, DOE reports the employment impacts as a range, with the low end assuming all equipment cost increases remain in the manufacturing country and the high end assuming all equipment cost increases are returned to the United States economy via trade. DOE assumed 50%–75% of increased costs to return to the United States so the employment impacts fall near the middle of the reported range. The results of DOE's revised analysis are presented in section V.B.3.c.

O. Marking Requirements

Under 42 U.S.C. 6294(a)(5), Congress granted DOE with the authority to establish labeling or marking requirements for a number of consumer products. Among these products are battery chargers.

In this SNOPR, DOE is not proposing to establish marking requirements for battery chargers. DOE arrived at this decision after considering all of the public comments it received on this subject and weighing the expected benefits and burdens of marking requirements for battery chargers. These public comments are summarized here.

DOE received comments requesting that it not extend marking requirements to products for which such requirements do not already exist. AHAM opposed any marking requirement, noting that these types of requirements are used to (1) inform consumers who can then make educated choices, (2) differentiate between products where there are two standards (*e.g.,* UL/CSA); and/or (3) differentiate products that use a voluntary standard. According to AHAM, none of these purposes would be served in the context of a mandatory standard with which manufacturers will need to demonstrate compliance to DOE through its certification requirements. In AHAM's view, a marking requirement would add cost and burden without a corresponding benefit. (AHAM, No. 124 at p. 8) ITI made similar arguments and noted that consumers are likely to ignore these marks. (ITI, No. 131 at p. 8) Panasonic commented that efficiency marking requirements for battery chargers and EPSs are unnecessary and superfluous as the covered products must comply with standards as a condition of sale in the United States. (Panasonic, No. 120 at pp. 3, 4)

DOE acknowledges that manufacturers are required to certify compliance with standards using the Compliance Certification Management System (''CCMS'') database. Under these requirements, battery charger manufacturers, like other manufacturers of regulated products, would need to follow the CCMS submission requirements as well if DOE adopts standards for these products. While DOE also acknowledges that the use of general markings may have certain limitations in ensuring compliance, DOE also recognizes that manufacturers and retailers could use efficiency markings or labels to help ensure that the end-use consumer products they sell comply with all applicable standards. However, DOE has not received requests from such parties requesting additional marking requirements for such purposes.

AHAM, ITI, and Panasonic further requested that if DOE were to require an efficiency marking for battery chargers, that marking should be the ''BC'' mark already required by the CEC rather than a Roman numeral, as proposed by DOE. Brother International also commented in support of the ''BC'' mark already required by the CEC. The commenters asserted that the transition from the CEC's scheme to DOE's [Roman numeral] scheme would be very difficult and costly and could necessitate the wasteful scrapping of improperly marked devices. They also asserted that adopting the ''BC'' mark would avoid any potential confusion created by products bearing two

[58] 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*. Available at: *www.bls.gov/news.release/prin1.nr0.htm*.

[59] See Bureau of Economic Analysis, *Regional Multipliers: A User Handbook for the Regional Input-Output Modeling System (RIMS II).* Washington, DC. U.S. Department of Commerce, 1992.

[60] J.M. Roop, M.J. Scott, and R.W. Schultz, *ImSET 3.1: Impact of Sector Energy Technologies,* PNNL–18412, Pacific Northwest National Laboratory, 2009. Available at: *www.pnl.gov/main/publications/external/technical_reports/PNNL-18412.pdf*.

markings during the transition period. (AHAM, No. 124 at p. 8; Brother International, No. 111 at p. 2; ITI, No. 131 at p. 8; Panasonic, No. 120 at p. 3, 4)

NRDC, CEC, CA IOUs, and Delta-Q Technologies all supported a multi-level, national or international marking protocol for battery chargers like the scheme proposed by DOE. NRDC strongly encouraged DOE to adopt its own marking requirements for battery chargers, rather than adopting the CEC's, and commented that doing so would (1) create a simple vocabulary for all stakeholders, especially between manufacturers, retailers and government enforcement agents; (2) facilitate enforcement, as it drives accountability from the retailer to its supply-chain; (3) facilitate international adoption by offering a flexible multi-level scheme that allows adoption of different levels; (4) facilitate market transformation by encouraging voluntary programs such as ENERGY STAR to require higher efficiency levels; and (5) create a longer lived policy with more opportunity for differentiation and future improvement. NRDC further encouraged DOE to initiate discussions with the CEC regarding marking as early as possible in order to give parties enough time to plan and implement any potential changes before CEC's marking requirement goes into effect on February 1, 2013. (NRDC, No. 114 at pp. 16–17) The CEC supported DOE's labeling proposal and suggested that if DOE finalizes a rule that differs in stringency and construction from the California standards, DOE should include a mark to represent the California standard levels or set an effective date for marking that is equivalent to DOE's earliest effective date for battery charger standards. (California Energy Commission, No. 117 at p. 30) The California IOUs commented that they contributed to and support the conclusions in the CEC and NRDC comments, including specifically that ''battery charger and EPS marking should [be] harmonize[d] internationally.'' (CA IOUs, No. 138 at p. 20) Finally, Delta-Q Technologies commented that any markings DOE decides to require should be consolidated with California so products do not have to be labeled twice and incur double the cost. (Delta-Q Technologies, No. 113 at p. 2)

After considering all of these comments and weighing the expected benefits and burdens of marking requirements for battery chargers, DOE is declining to propose marking requirements for battery chargers in this SNOPR.

DOE received comments from two interested parties requesting that it not view the CEC-mandated ''BC '' mark as a violation of Federal law. AHAM commented that DOE should ''address how it will view products that contain marks indicating compliance with CEC standards. DOE should minimize burden on manufacturers who decide to sell product in California after the California standard goes into effect, but are not yet preempted by DOE's standards by not considering it a violation to bear the California mark on a product for a reasonable time after DOE's standard becomes mandatory.'' (AHAM, No. 124 at p. 9) Panasonic also expressed its concern that a product bearing the California marking would not comply with Federal requirements once the DOE's regulation became effective. It sought DOE's guidance on how to treat ''BC''-marked products and suggested that a grace period to be provided to manufacturers to adjust to whatever new requirements DOE establishes. (Panasonic, No. 120 at pp. 3, 4)

In light of DOE's decision not to propose battery charger marking requirements, manufacturers need not be concerned that marking devices in accordance with the CEC's present requirements will be a violation of Federal law. The battery charger standards being proposed in this notice will become effective two years after the publication of a final rule, at which time the CEC will no longer be able to compel a manufacturer to mark its product with a ''BC'' to signal that product's compliance with the applicable CEC standard. (42 U.S.C. 6297) However, DOE is not aware of any provisions in law that would prohibit a manufacturer from voluntarily marking its battery charger with a ''BC'' before or after this time.

P. Reporting Requirements

Upon request from Panasonic, DOE confirms that the CCMS online compliance process will be required for this rulemaking. (Panasonic, No. 120 at p. 6)

V. Analytical Results

The following section addresses the results from DOE's analyses with respect to potential energy conservation standards for battery chargers. It addresses the TSLs examined by DOE and the projected impacts of each of these levels if adopted as energy conservation standards for battery chargers. Additional details regarding DOE's analyses are contained in the SNOPR TSD supporting this notice.

A. Trial Standards Levels

DOE analyzed the benefits and burdens of four TSLs for battery chargers. These TSLs were developed using combinations of efficiency levels for the product classes analyzed by DOE. DOE presents the results for those TSLs in this proposed rule. The results for all efficiency levels that DOE analyzed are in the SNOPR TSD. Table V–1 presents the TSLs and the corresponding efficiency levels for battery chargers. TSL 4 represents the maximum technologically feasible (''max-tech'') improvements in energy efficiency for all product classes. While DOE examined most product classes individually, there were two groups of product classes that use generally similar technology options and cover the exact same range of battery energies. Because of this situation, DOE grouped all three low-energy, non-inductive, product classes (*i.e.,* 2, 3, and 4) together and examined the results. Similarly, DOE grouped the two medium energy product classes, Product Classes 5 and 6, together when it examined those results.

TABLE V–1—TRIAL STANDARD LEVELS FOR BATTERY CHARGERS

Product Class	Trial standard level			
	TSL 1	TSL 2	TSL 3	TSL 4
PC1—Low E, Inductive	CSL 1	CSL 2	CSL 2	CSL 3
PC2—Low E, Low Voltage	CSL 1	CSL 1	CSL 2	CSL 4
PC3—Low E, Medium Voltage	CSL 1	CSL 1	CSL 2	CSL 3
PC4—Low E, High Voltage	CSL 1	CSL 1	CSL 2	CSL 3
PC5—Medium E, Low Voltage	CSL 1	CSL 2	CSL 3	CSL 3
PC6—Medium E, High Voltage	CSL 1	CSL 2	CSL 3	CSL 3

TABLE V–1—TRIAL STANDARD LEVELS FOR BATTERY CHARGERS—Continued

Product Class	Trial standard level			
	TSL 1	TSL 2	TSL 3	TSL 4
PC7—High E	CSL 1	CSL 1	CSL 2	CSL 2

For battery charger Product Class 1 (low-energy, inductive), DOE examined trial standard levels corresponding to each of three CSLs developed in the engineering analysis. TSL 1 is an intermediate level of performance above the baseline. TSLs 2 and 3 are equivalent to the best-in-market and corresponds to the maximum consumer NPV. TSL 4 is the max-tech level and corresponds to the greatest NES.

For its second set of TSLs, which covers Product Classes 2 (low-energy, low-voltage), 3 (low-energy, medium-voltage), and 4 (low-energy, high-voltage), DOE examined four TSLs of different combinations of the various efficiency levels found for each product class in the engineering analysis. In this grouping, TSLs 1 and 2 are intermediate efficiency levels above the baseline for each product class and corresponds to the maximum consumer NPV. TSL 3 corresponds to an incremental efficiency level below best-in-market for Product Class 2, and the best-in-market efficiency level for Product Classes 3 and 4. Finally, TSL 4 corresponds to the max-tech efficiency level for all product classes and therefore, the maximum NES. Note that for Product Class 2 only, CSL 3 (corresponding to a best-in-market efficiency level) was not analyzed in a given TSL due to the negative LCC savings results for this product class at CSL 3 and the fact that only four TSLs were analyzed.

DOE's third set of TSLs corresponds to the grouping of Product Classes 5 (medium-energy, low-voltage) and 6 (medium-energy, high-voltage). For both product classes, TSL 1 is an intermediate efficiency level above the baseline. TSL 2 corresponds to the best-in-market efficiency level for both product classes and is the level with the highest consumer NPV. Finally, TSLs 3 and 4 correspond to the max-tech efficiency level for both product classes and the maximum NES.

For Product Class 7 (high-energy), DOE examined only two CSLs because of the paucity of products available on the market. TSLs 1 and 2 correspond to an efficiency level equivalent to the best-in-market and maximizes consumer NPV. TSLs 3 and 4 comprise the max-tech level corresponding to the level with the maximum NES.

B. Economic Justification and Energy Savings

1. Economic Impacts on Individual Consumers

DOE analyzed the economic impacts on battery charger consumers by looking at the effects potential national 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. 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 SNOPR TSD provides detailed information on the LCC and PBP analyses.

The key outputs of the LCC analysis are average LCC savings for each product class for each TSL, relative to the base case, as well as the percentage of consumers for which the LCC will increase relative to the base case. Battery chargers are used in applications that can have a wide range of operating hours. Battery chargers that are used more frequently will tend to have a larger net LCC benefit than those that are used less frequently because of the large operating cost savings.

The key output of the PBP analysis is the median PBP at each TSL. DOE presents the median PBP rather than the mean PBP because it is more robust in the presence of outliers in the data.[61] These outliers can skew the mean PBP calculation but have little effect on the median PBP calculation. A small change in operating costs, which derive the denominator of the PBP calculation, can sometimes result in a very large PBP, which would skew the mean PBP calculation. For example, consider a sample of PBPs of 2, 2, 2, and 20 years, where 20 years is an outlier. The mean PBP would return a value of 6.5 years, whereas the median PBP would return a value of 2 years. Therefore, DOE considers the median PBP, which is not susceptible to skewing by occasional outliers.

Table V–2 through Table V–15 show the LCC and PBP results for the TSL efficiency levels considered for each product class. In the first of each pair of tables, the simple payback is measured relative to the baseline product. In the second table, the LCC savings are measured relative to the base-case efficiency distribution in the compliance year (see section IV.F.9 of this notice).

TABLE V–2—AVERAGE LCC AND PBP RESULTS BY TSL FOR PRODUCT CLASS 1

TSL	CSL	Average costs (*2013$*)				Simple payback *years*	Average lifetime *years*
		Installed cost	First year's operating cost	Lifetime operating cost	LCC		
–	0	4.39	1.08	4.71	9.10	–	5.0
1	1	4.72	0.76	3.29	8.01	1.1	5.0
2	2	5.37	0.38	1.64	7.01	1.5	5.0
3	2	5.37	0.38	1.64	7.01	1.5	5.0

[61] DOE notes that it uses the median payback period to reduce the effect of outliers on the data. This method, however, does not eliminate the outliers from the data.

TABLE V–2—AVERAGE LCC AND PBP RESULTS BY TSL FOR PRODUCT CLASS 1—Continued

TSL	CSL	Average costs (*2013$*)				Simple payback *years*	Average lifetime *years*
		Installed cost	First year's operating cost	Lifetime operating cost	LCC		
4	3	10.62	0.16	0.69	11.32	7.4	5.0

Note: The results for each TSL are calculated assuming that all consumers use products at that efficiency level. The PBP is measured relative to the baseline product.

TABLE V–3—AVERAGE LCC SAVINGS RELATIVE TO THE BASE-CASE EFFICIENCY DISTRIBUTION FOR PRODUCT CLASS 1

TSL	CSL	Life-cycle cost savings	
		% of consumers that experience net cost	Average savings * *2013$*
1	1	0.0	0.08
2	2	0.0	0.71
3	2	0.0	0.71
4	3	96.3	−3.44

* The calculation includes households with zero LCC savings (no impact).

TABLE V–4—AVERAGE LCC AND PBP RESULTS BY TSL FOR PRODUCT CLASS 2

TSL	CSL	Average costs (*2013$*)				Simple payback *years*	Average lifetime *years*
		Installed cost	First year's operating cost	Lifetime operating cost	LCC		
–	0	2.62	0.43	1.43	4.05	–	4.0
1	1	2.68	0.27	0.86	3.54	0.6	4.0
2	1	2.68	0.27	0.86	3.54	0.6	4.0
3	2	3.11	0.16	0.45	3.57	2.5	4.0
4	4	7.31	0.11	0.31	7.62	19.5	4.0

TABLE V–5—AVERAGE LCC SAVINGS RELATIVE TO THE BASE-CASE EFFICIENCY DISTRIBUTION FOR PRODUCT CLASS 2

TSL	CSL	Life-cycle cost savings	
		% of consumers that experience net cost	Average savings * *2013$*
1	1	1.2	0.07
2	1	1.2	0.07
3	2	33.1	0.06
4	4	73.8	−2.79

TABLE V–6—AVERAGE LCC AND PBP RESULTS BY TSL FOR PRODUCT CLASS 3

TSL	CSL	Average costs (*2013$*)				Simple payback *years*	Average lifetime *years*
		Installed cost	First year's operating cost	Lifetime operating cost	LCC		
–	0	2.59	0.52	2.30	4.89	–	4.9
1	1	2.70	0.18	0.82	3.52	0.8	4.9
2	1	2.70	0.18	0.82	3.52	0.8	4.9
3	2	6.84	0.10	0.43	7.27	21.6	4.9
4	3	8.83	0.09	0.41	9.24	31.2	4.9

TABLE V–7—AVERAGE LCC SAVINGS RELATIVE TO THE BASE-CASE EFFICIENCY DISTRIBUTION FOR PRODUCT CLASS 3

TSL	CSL	Life-cycle cost savings	
		% of consumers that experience net cost	Average savings * *2013$*
1	1	0.6	0.08
2	1	0.6	0.08
3	2	39.0	−1.36
4	3	40.8	−2.17

TABLE V–8—AVERAGE LCC AND PBP RESULTS BY TSL FOR PRODUCT CLASS 4

TSL	CSL	Average costs (*2013$*)				Simple payback *years*	Average lifetime *years*
		Installed cost	First year's operating cost	Lifetime operating cost	LCC		
–	0	3.75	1.61	5.62	9.37	.....	3.7
1	1	4.89	0.67	2.28	7.17	1.4	3.7
2	1	4.89	0.67	2.28	7.17	1.4	3.7
3	2	9.29	0.45	1.55	10.84	5.2	3.7
4	3	27.06	0.38	1.30	28.36	20.7	3.7

TABLE V–9—AVERAGE LCC SAVINGS RELATIVE TO THE BASE-CASE EFFICIENCY DISTRIBUTION FOR PRODUCT CLASS 4

TSL	CSL	Life-cycle cost savings	
		% of consumers that experience net cost	Average savings * *2013$*
1	1	1.3	0.11
2	1	1.3	0.11
3	2	12.6	−0.38
4	3	25.8	−4.91

TABLE V–10—AVERAGE LCC AND PBP RESULTS BY TSL FOR PRODUCT CLASS 5

TSL	CSL	Average costs (*2013$*)				Simple payback *years*	Average lifetime *years*
		Installed cost	First year's operating cost	Lifetime operating cost	LCC		
–	0	46.58	11.68	68.85	115.43	.....	4.0
1	1	51.37	7.74	45.38	96.75	2.3	4.0
2	2	58.94	2.87	16.36	75.30	2.7	4.0
3	3	207.68	1.26	7.10	214.77	29.1	4.0
4	3	207.68	1.26	7.10	214.77	29.1	4.0

TABLE V–11—AVERAGE LCC SAVINGS RELATIVE TO THE BASE-CASE EFFICIENCY DISTRIBUTION FOR PRODUCT CLASS 5

TSL	CSL	Life-cycle cost savings	
		% of consumers that experience net cost	Average savings * *2013$*
1	1	0.0	0.00
2	2	0.6	0.84
3	3	99.7	−138.63
4	3	99.7	−138.63

TABLE V–12—AVERAGE LCC AND PBP RESULTS BY TSL FOR PRODUCT CLASS 6

TSL	CSL	Average costs (*2013$*)				Simple payback *years*	Average lifetime *years*
		Installed cost	First year's operating cost	Lifetime operating cost	LCC		
–	0	45.39	15.93	113.08	158.47	.....	9.7
1	1	50.14	10.81	77.60	127.74	1.0	9.7
2	2	57.64	4.45	33.33	90.98	1.1	9.7
3	3	205.07	2.24	16.94	222.01	12.5	9.7
4	3	205.07	2.24	16.94	222.01	12.5	9.7

TABLE V–13—AVERAGE LCC SAVINGS RELATIVE TO THE BASE-CASE EFFICIENCY DISTRIBUTION FOR PRODUCT CLASS 6

TSL	CSL	Life-cycle cost savings	
		% of consumers that experience net cost	Average savings * *2013$*
1	1	0.0	0.00
2	2	0.0	1.89
3	3	100.0	−129.15
4	3	100.0	−129.15

TABLE V–14—AVERAGE LCC AND PBP RESULTS BY TSL FOR PRODUCT CLASS 7

TSL	CSL	Average costs (*2013$*)				Simple payback *years*	Average lifetime *years*
		Installed cost	First year's operating cost	Lifetime operating cost	LCC		
–	0	221.94	29.42	95.03	316.97	.....	3.5
1	1	181.55	22.09	70.81	252.36	0.0	3.5
2	1	181.55	22.09	70.81	252.36	0.0	3.5
3	2	334.87	15.14	48.60	383.47	8.1	3.5
4	2	334.87	15.14	48.60	383.47	8.1	3.5

TABLE V–15—AVERAGE LCC SAVINGS RELATIVE TO THE BASE-CASE EFFICIENCY DISTRIBUTION FOR PRODUCT CLASS 7

TSL	CSL	Life-cycle cost savings	
		% of consumers that experience net cost	Average savings * *2013$*
1	1	0.0	51.06
2	1	0.0	51.06
3	2	100.0	−80.05
4	2	100.0	−80.05

The LCC results for battery chargers depend on the product class being considered. See Table V–2 through Table V–15. LCC savings results for Product Class 1 are positive through TSL 3. For the low-energy product classes (Product Classes 2, 3, and 4), LCC results are positive through TSL 2 and become negative at TSL 3, with Product Class 2 becoming negative at TSL 4. The medium-energy product classes (Product Classes 5 and 6) are positive through TSL 2 but become negative at TSL 3. The high-energy product class (Product Class 7) has positive LCC savings through TSL 2, and then becomes negative at TSL 3.

b. Consumer Subgroup Analysis

Certain consumer subgroups may be disproportionately affected by standards. DOE performed LCC subgroup analyses in this SNOPR for low-income consumers, small businesses, residential top tier electricity price consumers, time-of-use peak electricity price consumers, and consumers of specific applications. See section IV.F of this SNOPR for a review of the inputs to the LCC analysis. LCC and PBP results for consumer subgroups are presented in Table V–16 through Table V–22. The abbreviations are described after Table V–22. The ensuing discussion presents the most significant results from the LCC subgroup analysis.

TABLE V–16—COMPARISON OF LCC SAVINGS AND PBP FOR CONSUMER SUBGROUPS AND ALL HOUSEHOLDS FOR PRODUCT CLASS 1

TSL	Average life-cycle cost savings (2013$)					Simple payback period (years)				
	LI	SB	TT	P–TOU	All	LI	SB	TT	P–TOU	All
1	0.08	0.00	0.26	0.39	0.08	1.1	0.0	0.3	0.2	1.1
2	0.71	0.00	2.88	4.31	0.71	1.5	0.0	0.5	0.3	1.5
3	0.71	0.00	2.88	4.31	0.71	1.5	0.0	0.5	0.3	1.5
4	(3.46)	0.00	0.44	3.00	(3.44)	7.4	0.0	2.3	1.6	7.4

TABLE V–17—COMPARISON OF LCC SAVINGS AND PBP FOR CONSUMER SUBGROUPS AND ALL HOUSEHOLDS FOR PRODUCT CLASS 2

TSL	Average life-cycle cost savings (2013$)					Simple payback period (years)				
	LI	SB	TT	P–TOU	All	LI	SB	TT	P–TOU	All
1	0.06	0.08	0.17	0.29	0.07	0.5	0.6	0.2	0.1	0.6
2	0.06	0.08	0.17	0.29	0.07	0.5	0.6	0.2	0.1	0.6
3	0.05	(0.01)	0.58	0.96	0.06	2.4	3.8	0.9	0.6	2.5
4	(2.76)	(3.29)	(2.05)	(1.56)	(2.79)	18.6	25.2	6.9	4.8	19.5

TABLE V–18—COMPARISON OF LCC SAVINGS AND PBP FOR CONSUMER SUBGROUPS AND ALL HOUSEHOLDS FOR PRODUCT CLASS 3

TSL	Average life-cycle cost savings (2013$)					Simple payback period (years)				
	LI	SB	TT	P–TOU	All	LI	SB	TT	P–TOU	All
1	0.07	0.14	0.23	0.36	0.08	0.8	0.2	0.2	0.2	0.8
2	0.07	0.14	0.23	0.36	0.08	0.8	0.2	0.2	0.2	0.8
3	(1.38)	(1.10)	(0.86)	(0.43)	(1.36)	22.0	4.8	6.9	4.8	21.6
4	(2.19)	(1.85)	(1.65)	(1.20)	(2.17)	31.3	6.6	10.0	7.0	31.2

TABLE V–19—COMPARISON OF LCC SAVINGS AND PBP FOR CONSUMER SUBGROUPS AND ALL HOUSEHOLDS FOR PRODUCT CLASS 4

TSL	Average life-cycle cost savings (2013$)					Simple payback period (years)				
	LI	SB	TT	P–TOU	All	LI	SB	TT	P–TOU	All
1	0.15	0.06	0.57	0.68	0.11	0.9	1.5	0.3	0.3	1.4
2	0.15	0.06	0.57	0.68	0.11	0.9	1.5	0.3	0.3	1.4
3	(0.49)	(0.27)	0.07	0.53	(0.38)	4.0	5.5	1.2	1.1	5.2
4	(5.80)	(3.83)	(5.07)	(3.79)	(4.91)	15.6	21.7	4.7	4.3	20.7

TABLE V–20—COMPARISON OF LCC SAVINGS AND PBP FOR CONSUMER SUBGROUPS AND ALL HOUSEHOLDS FOR PRODUCT CLASS 5

TSL	Average life-cycle cost savings (2013$)					Simple payback period (years)				
	LI	SB	TT	P–TOU	All	LI	SB	TT	P–TOU	All
1	0.00	0.00	0.00	0.00	0.00	2.3	0.0	0.8	0.5	2.3
2	0.84	0.00	3.14	4.64	0.84	2.7	0.0	0.9	0.6	2.7
3	(138.81)	0.00	(118.82)	(105.75)	(138.63)	29.1	0.0	9.8	6.8	29.1
4	(138.81)	0.00	(118.82)	(105.75)	(138.63)	29.1	0.0	9.8	6.8	29.1

TABLE V–21—COMPARISON OF LCC SAVINGS AND PBP FOR CONSUMER SUBGROUPS AND ALL HOUSEHOLDS FOR PRODUCT CLASS 6

TSL	Average life-cycle cost savings (*2013$*)					Simple payback period (*years*)				
	LI	SB	TT	P–TOU	All	LI	SB	TT	P–TOU	All
1	0.00	0.00	0.00	0.00	0.00	1.0	0.0	0.3	0.2	1.0
2	1.87	0.00	6.24	9.10	1.89	1.1	0.0	0.4	0.3	1.1
3	(129.38)	0.00	(93.98)	(70.73)	(129.15)	12.6	0.0	4.0	2.8	12.5
4	(129.38)	0.00	(93.98)	(70.73)	(129.15)	12.6	0.0	4.0	2.8	12.5

TABLE V–22—COMPARISON OF LCC SAVINGS AND PBP FOR CONSUMER SUBGROUPS AND ALL HOUSEHOLDS FOR PRODUCT CLASS 7

TSL	Average life-cycle cost savings (*2013$*)					Simple payback period (*years*)				
	LI	SB	TT	P–TOU	All	LI	SB	TT	P–TOU	All
1	51.88	49.36	89.56	116.93	51.06	0.0	0.0	0.0	0.0	0.0
2	51.88	49.36	89.56	116.93	51.06	0.0	0.0	0.0	0.0	0.0
3	(93.28)	(82.08)	(39.75)	62.98	(80.05)	20.1	8.0	6.4	1.6	8.1
4	(93.28)	(82.08)	(39.75)	62.98	(80.05)	20.1	8.0	6.4	1.6	8.1

Where:
LI = Low-income consumers
SB = Small businesses
TT = Top tier electricity price consumers
P–TOU = Peak time-of-use electricity price consumers
All = Entire population

Low-Income Consumers

For low-income consumers, the LCC impacts and PBPs are different from the general population. This subgroup considers only the residential sector, and uses an adjusted population distribution from the reference case scenario. Using 2009 RECS data, DOE determined that low-income consumers have a different population distribution than the general population. To account for this difference, DOE adjusted population distributions for each region analyzed according to the shift between general and low-income populations.

The LCC savings and PBPs of low-income consumers are similar to that of the total population of consumers. In general, low-income consumers experience slightly reduced LCC savings, with the exceptions of TSL 4 of Product Class 2 and TSLs 1 and 2 of Product Classes 4 and 7. None of the changes in LCC savings move a TSL from positive to negative LCC savings, or vice versa.

Small Businesses

For small business customers, the LCC impacts and PBPs are different from the general population. This subgroup analysis considers only the commercial sector, and uses an adjusted discount rate from the reference case scenario. DOE found that small businesses typically have a cost of capital that is 4.16 percent higher than the industry average, which was applied to the discount rate for the small business consumer subgroup analysis.

The small business consumer subgroup LCC results are not directly comparable to the reference case LCC results because this subgroup only considers commercial applications. In the reference case scenario, the LCC results are strongly influenced by the presence of residential applications, which typically comprise the majority of application shipments. Note that Product Classes 1, 5, and 6 have no results for small businesses because there are no commercial applications for these product classes. No LCC results that were positive for all consumers become negative in the small business subgroup analysis, with the exception of Product Class 2, which became -$0.01 at TSL 3. No negative LCC results for all consumers became positive for small businesses. These observations indicate that small business consumers would experience similar LCC impacts as the general population.

Top Tier Electricity Price Consumers

For top tier electricity price consumers, the LCC impacts and PBPs are different from the general population. Tiered pricing is generally only used for residential electricity rates, so the analysis for this subgroup only considers the residential sector. DOE researched upper tier inclined marginal block rates for the electricity, resulting in a price of $0.359 per kWh.

Consumers in the top tier electricity price bracket generally experience greater LCC savings than those in the reference case scenario. This result occurs because these consumers pay more for their electricity than other consumers, and, therefore, experience greater savings when using products that are more energy efficient. This subgroup analysis changed the negative LCC savings for Product Class 1 at TSL 4 and Product Class 4 at TSL 3 to positive LCC savings.

Peak Time-of-Use Electricity Price Consumers

For peak time-of-use electricity price consumers, the LCC impacts and PBPs are different from the general population. Time-of-use pricing is available for both residential and commercial electricity rates, so both sectors were considered. DOE researched upper tier inclined marginal block rates for electricity, resulting in adjusted electricity prices of $0.514 per kWh for residential and $0.494 for commercial consumers.

This subgroup analysis increased the LCC savings of most of the representative units significantly. This subgroup analysis changed the following negative LCC results to positive savings: Product Class 1 at TSL 4, Product Class 4 at TSL 3, and Product Class 7 at TSLs 3 and 4. Some product classes would still have negative LCC savings, which indicates that these product classes have increasing installed costs (purchase price plus installation costs, the latter of which are assumed to be zero) at higher TSLs that cannot be overcome through operating cost savings using peak time-of-use electricity prices.

Consumers of Specific Applications

DOE performed an LCC and PBP analysis on every application within each product class. This subgroup analysis used each application's specific inputs for lifetime costs, markups, base case market efficiency distribution, and UEC. Many applications in each product class experienced LCC impacts and PBPs that were different from the average results across the product class. Because of the large number of applications considered in the analysis, some of which span multiple product classes, DOE did not present application-specific LCC results here. Detailed results on each application are available in chapter 11 of the SNOPR TSD.

DOE noted a few trends highlighted by the application-specific subgroup. For Product Class 2, the top two application LCC savings representing 46 percent of shipments are negative beyond TSL 1, but frequently used applications within that class—*e.g.,* answering machines, cordless phones, and home security systems—experience positive LCC savings. Because these applications have significantly positive LCC savings, they balance out the negative savings from the top two applications. Some Product Class 4 applications at TSLs 1 through 3 featured results that were positive where the shipment-weighted results were negative, or vice versa. However, shipments and magnitude of the LCC savings were not enough to change the overall direction (positive or negative) of the weighted average. In the other battery charger product classes, the individual application results reflected the same trend as the overall results for the product class. See chapter 11 of the SNOPR TSD for further detail.

c. Rebuttable Presumption Payback

As discussed in section III.E.2, EPCA establishes a rebuttable presumption that an energy conservation standard is economically justified if the increased purchase cost for a product that meets the standard is less than three times the value of the first-year energy savings resulting from the standard. As required by EPCA, DOE based the energy use calculation on the DOE test procedures for battery chargers. Table V–23 presents the rebuttable-presumption PBPs for the considered TSLs. 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 definitively evaluate the economic justification for a potential standard level, thereby supporting or rebutting the results of any preliminary determination of economic justification. Table V–23 shows considered TSLs for the battery charger product classes where the rebuttable presumption PBPs show they are economically justified. Because a PBP of less than three years indicates that the increased purchase cost is less than three times the value of the first-year energy savings for that efficiency level, this table highlights product class TSLs where the PBP is less than three years.

TABLE V–23—TRIAL STANDARD LEVELS WITH REBUTTABLE PAYBACK PERIOD LESS THAN THREE YEARS

Product class	Description	Trial standard level	Candidate standard level	Rebuttable presumption PBP *years*
1	Low-Energy, Inductive	1	1	1.1
		2	2	1.5
		3	2	1.5
2	Low-Energy, Low-Voltage	1	1	0.6
		2	1	0.6
		3	2	2.5
3	Low-Energy, Medium-Voltage	1	1	0.8
		2	1	0.8
4	Low-Energy, High-Voltage	1	1	1.4
		2	1	1.4
5	Medium-Energy, Low-Voltage	1	1	2.3
		2	2	2.7
6	Medium-Energy, High-Voltage	1	1	1.0
		2	2	1.1
7	High-Energy	1	1	0.0
		2	1	0.0

2. Economic Impact on Manufacturers

DOE performed an MIA to estimate the impact of new energy conservation standards on battery charger application manufacturers. The following sections describe the expected impacts on battery charger application manufacturers at each TSL. Chapter 12 of this SNOPR TSD explains the MIA in further detail.

a. Industry Cash-Flow Analysis Results

The INPV results refer to the difference in industry value between the base case and the standards case, which DOE calculated by summing the discounted industry cash flows from the base year (2015) through the end of the analysis period. The discussion also notes the difference in the annual cash flow between the base case and the standards case in the year before the compliance date of new energy conservation standards. This figure provides a proxy for the magnitude of the required conversion costs, relative to the cash flow generated by the industry in the base case.

DOE reports INPV impacts at each TSL for the four product class groupings. When appropriate, DOE also discusses the results for groups of related applications that would experience impacts significantly different from the overall product class group to which they belong.

In general, two major factors drive the INPV results: (1) the relative difference between a given applications' MSP and the incremental cost of improving its battery charger; and (2) the dominant base case battery charger technology that a given application uses, which is approximated by the application's efficiency distribution.

With respect to the first factor, the higher the MSP of the application relative to the battery charger cost, the lower the impacts of battery charger standards on OEMs of the application. For example, an industry that sells an application for $500 would be less affected by a $2 increase in battery charger costs than one that sells its application for $10. On the second factor regarding base case efficiency distribution, some industries, such as producers of laptop computers, already incorporate highly efficient battery chargers. Therefore, a higher standard would be unlikely to impact the laptop industry as it would other applications using baseline technology in the same product class.

DOE analyzed three markup scenarios—constant price, pass-through, and flat markup. The constant price scenario analyzes the situation in which application manufacturers are unable to pass on any incremental costs of more efficient battery chargers to their customers. This scenario generally results in the most significant negative impacts because no incremental costs added to the application—whether driven by higher battery charger component costs or depreciation of required capital investments—can be recouped.

In the pass-through scenario, DOE assumes that manufacturers are able to pass the incremental costs of more efficient battery chargers through to their customers, but not with any markup to cover overhead and profit. Therefore, though less severe than the constant price scenario in which manufacturers absorb all incremental costs, this scenario results in negative cash flow impacts due to margin compression and greater working capital requirements.

Finally, DOE considers a flat markup scenario to analyze the upper bound (most positive) of profitability impacts. In this scenario, manufacturers are able to maintain their base case gross margin, as a percentage of revenue, at higher CSLs, despite the higher product costs associated with more efficient battery chargers. In other words, manufacturers can fully pass on—and markup—the higher incremental product costs associated with more efficient battery chargers.

Product Class 1

Table V–24 through Table V–27 summarize information related to the analysis performed to project the potential impacts on Product Class 1 battery charger application manufacturers.

TABLE V–24—APPLICATIONS IN PRODUCT CLASS 1

Product class 1
Rechargeable Toothbrushes
Rechargeable Water Jets

TABLE V–25—MANUFACTURERS IMPACT ANALYSIS FOR PRODUCT CLASS 1 BATTERY CHARGER APPLICATIONS—FLAT MARKUP SCENARIO

	Units	Base case	Trial standard level			
			1	2	3	4
INPV	2013$ Millions	497	497	496	496	519
Change in INPV	2013$ Millions		0	(1)	(1)	22
	(%)		0.0	(0.1)	(0.1)	4.5
Product Conversion Costs	2013$ Millions		0.1	1.7	1.7	5.1
Capital Conversion Costs	2013$ Millions		0.0	1.5	1.5	2.3
Total Investment Required	2013$ Millions		0.1	3.2	3.2	7.4

TABLE V–26—MANUFACTURERS IMPACT ANALYSIS FOR PRODUCT CLASS 1 BATTERY CHARGER APPLICATIONS—PASS THROUGH MARKUP SCENARIO

	Units	Base case	Trial standard level			
			1	2	3	4
INPV	2013$ Millions	497	491	470	470	348
Change in INPV	2013$ Millions		(6)	(27)	(27)	(149)
	(%)		(1.1)	(5.4)	(5.4)	(29.9)
Product Conversion Costs	2013$ Millions		0.1	1.7	1.7	5.1
Capital Conversion Costs	2013$ Millions		0.0	1.5	1.5	2.3
Total Investment Required	2013$ Millions		0.1	3.2	3.2	7.4

TABLE V–27—MANUFACTURERS IMPACT ANALYSIS FOR PRODUCT CLASS 1 BATTERY CHARGER APPLICATIONS—CONSTANT PRICE MARKUP SCENARIO

	Units	Base case	Trial standard level			
			1	2	3	4
INPV	2013$ Millions	497	478	412	412	122
Change in INPV	2013$ Millions		(18)	(84)	(84)	(375)
	(%)		(3.7)	(16.9)	(16.9)	(75.5)
Product Conversion Costs	2013$ Millions		0.1	1.7	1.7	5.1
Capital Conversion Costs	2013$ Millions		0.0	1.5	1.5	2.3
Total Investment Required	2013$ Millions		0.1	3.2	3.2	7.4

Product Class 1 has only two applications: rechargeable toothbrushes and water jets. Rechargeable toothbrushes represent over 99 percent of the Product Class 1 shipments. DOE found the majority of these models include Ni-Cd battery chemistries, although products with NiMH and Li-ion chemistries exist in the market. During interviews, manufacturers indicated that energy efficiency was not a primary selling point in this market. As a consequence, manufacturers expect that stringent standards would likely impact the low-end of the market, where price competition is most fierce and retail selling prices are lowest.

TSL 1 sets the efficiency level at CSL 1 for Product Class 1. At TSL 1, DOE estimates impacts on the change in INPV to range from −$18 million to less than one million dollars, or a change in INPV of −3.7 percent to less than 0.1 percent. At TSL 1, industry free cash flow (operating cash flow minus capital expenditures) is estimated to decrease by less than one million dollars, which corresponds to less than one percent in 2017, the year leading up to new energy conservation standards.

Percentage impacts on INPV are slightly negative at TSL 1. DOE does not anticipate that Product Class 1 battery charger application manufacturers would lose a significant portion of their INPV at this TSL. DOE projects that in the expected year of compliance, 2018, 93 percent of all Product Class 1 battery charger applications would meet or exceed the efficiency levels required at TSL 1. Consequently, DOE expects conversion costs to be small at TSL 1, since so many applications already meet or exceed this requirement.

TSL 2 and TSL 3 set the efficiency level at CSL 2 for Product Class 1. At TSL 2 and TSL 3, DOE estimates impacts on the change in INPV to range from −$84 million to −$1 million, or a change in INPV of −16.9 percent to −0.1 percent. At TSL 2 and TSL 3, industry free cash flow is estimated to decrease to $38 million, or a drop of 4 percent, compared to the base-case value of $39 million in 2017.

Percentage impacts on INPV range from slightly negative to moderately negative at these TSLs. DOE does not anticipate that Product Class 1 battery charger application manufacturers would lose a significant portion of their INPV at these TSLs. DOE projects that in the expected year of compliance, 2018, 37 percent of all Product Class 1 battery charger applications would meet or exceed the efficiency levels required at TSL 2 and TSL 3. DOE expects conversion costs to increase from $0.1 million at TSL 1 to $3.2 million at TSL 2 and TSL 3. This is still a relatively modest amount compared to the base case INPV of $497 million and annual cash flow of $39 million for Product Class 1 battery charger applications.

TSL 4 sets the efficiency level at CSL 3 for Product Class 1. This represents max tech for Product Class 1. At TSL 4, DOE estimates impacts on the change in INPV to range from −$375 million to $22 million, or a change in INPV of −75.5 percent to 4.5 percent. At TSL 4, industry free cash flow is estimated to decrease to $36 million, or a drop of 8 percent, compared to the base-case value of $39 million in 2017.

Percentage impacts on INPV range from significantly negative to slightly positive at TSL 4. DOE anticipates that some Product Class 1 battery charger application manufacturers could lose a significant portion of their INPV at TSL 4. DOE projects that in the expected year of compliance, 2018, 4 percent of all Product Class 1 battery charger applications would meet the efficiency levels required at TSL 4. DOE expects conversion costs to increase from $3.2 million at TSL 2 and TSL 3 to $7.4 million at TSL 4. This is still relatively a modest amount compared to the base case INPV of $497 million and annual cash flow of $39 million for Product Class 1 battery charger applications. At TSL 4, the battery charger MPC increases to $6.80 compared to the baseline MPC value of $2.05. This represents a moderate increase in the application price when compared to the shipment-weighted average application MPC of $40.06.

Product Classes 2, 3, and 4

The following tables (Table V–28 through Table V–34) summarize information related to the analysis performed to project the potential impacts on manufacturers of devices falling into Product Classes 2, 3, and 4.

TABLE V–28—APPLICATIONS IN PRODUCT CLASSES 2, 3, AND 4

Product class 2	Product class 3	Product class 4
Answering Machines	Air Mattress Pumps	DIY Power Tools (External)
Baby Monitors	Blenders	Flashlights/Lanterns
Beard and Moustache Trimmers	Camcorders	Handheld Vacuums
Bluetooth Headsets	DIY Power Tools (External)	Netbooks
Can Openers	DIY Power Tools (Integral)	Notebooks
Consumer Two-Way Radios	Handheld Vacuums	Portable Printers
Cordless Phones	LAN Equipment	Professional Power Tools
Digital Cameras	Mixers	Rechargeable Garden Care Products
DIY Power Tools (Integral)	Portable DVD Players	Robotic Vacuums
E-Books	Portable Printers	Stick Vacuums
Hair Clippers	RC Toys	Universal Battery Chargers
Handheld GPS	Stick Vacuums	
Home Security Systems	Toy Ride-On Vehicles	
In-Vehicle GPS	Universal Battery Chargers	
Media Tablets	Wireless Speakers	
Mobile Internet Hotspots		
Mobile Phones		
MP3 Players		
MP3 Speaker Docks		
Personal Digital Assistants		
Portable Video Game Systems		
Shavers		
Smartphone		
Universal Battery Chargers		
Video Game Consoles		
Wireless Headphones		

TABLE V–29—MANUFACTURERS IMPACT ANALYSIS FOR PRODUCT CLASS 2, 3, AND 4 BATTERY CHARGER APPLICATIONS—FLAT MARKUP SCENARIO

	Units	Base case	Trial standard level			
			1	2	3	4
INPV	2013$ Millions	76,791	76,782	76,782	76,774	77,290
Change in INPV	2013$ Millions		(10)	(10)	(17)	499
	(%)		(0.0)	(0.0)	(0.0)	0.6
Product Conversion Costs	2013$ Millions		11.5	11.5	90.1	280.5
Capital Conversion Costs	2013$ Millions		1.8	1.8	25.6	67.3
Total Investment Required	2013$ Millions		13.4	13.4	115.7	347.8

TABLE V–30—MANUFACTURERS IMPACT ANALYSIS FOR PRODUCT CLASS 2, 3, AND 4 BATTERY CHARGER APPLICATIONS—PASS THROUGH MARKUP SCENARIO

	Units	Base case	Trial standard level			
			1	2	3	4
INPV	2013$ Millions	76,791	76,740	76,740	76,322	71,407
Change in INPV	2013$ Millions		(51)	(51)	(469)	(5,384)
	(%)		(0.1)	(0.1)	(0.6)	(7.0)
Product Conversion Costs	2013$ Millions		11.5	11.5	90.1	280.5
Capital Conversion Costs	2013$ Millions		1.8	1.8	25.6	67.3
Total Investment Required	2013$ Millions		13.4	13.4	115.7	347.8

TABLE V–31—MANUFACTURERS IMPACT ANALYSIS FOR PRODUCT CLASS 2, 3, AND 4 BATTERY CHARGER APPLICATIONS—CONSTANT MARKUP SCENARIO

	Units	Base case	Trial standard level			
			1	2	3	4
INPV	2013$ Millions	76,791	76,650	76,650	75,392	62,307
Change in INPV	2013$ Millions		(141)	(141)	(1,400)	(14,484)
	(%)		(0.2)	(0.2)	(1.8)	(18.9)
Product Conversion Costs	2013$ Millions		11.5	11.5	90.1	280.5
Capital Conversion Costs	2013$ Millions		1.8	1.8	25.6	67.3
Total Investment Required	2013$ Millions		13.4	13.4	115.7	347.8

Taken together, Product Classes 2, 3, and 4 include the greatest number of applications and account for approximately 96 percent of all battery charger application shipments in 2018, the anticipated compliance year for new energy conservation standards.

TSL 1 and TSL 2 set the efficiency level at CSL 1 for all product classes in this grouping. At TSL 1 and TSL 2, DOE estimates impacts on the change in INPV to range from −$141 million to −$10 million, or a change in INPV of −0.2 percent to less than −0.1 percent. At TSL 1 and TSL 2, industry free cash flow is estimated to decrease to $6,018 million, or a drop of less than one percent, compared to the base-case value of $6,024 million in 2017.

Percentage impacts on INPV are slightly negative at TSL 1 and TSL 2. DOE does not anticipate that most Product Class 2, 3, and 4 battery charger application manufacturers would lose a significant portion of their INPV at TSL 1 or TSL 2. DOE projects that in the expected year of compliance, 2018, 91 percent of all Product Class 2 battery charger applications, 94 percent of all Product Class 3 battery charger applications, and 94 percent of all Product Class 4 battery charger applications would meet or exceed the efficiency levels required at TSL 1 and TSL 2. Consequently, DOE expects conversion costs to be small at TSL 1 and TSL 2, approximately $13.4 million since so many applications already meet or exceed this requirement.

TSL 3 sets the efficiency level at CSL 2 for all product classes in this grouping. At TSL 3, DOE estimates impacts on the change in INPV to range from −$1,400 million to $17 million, or a change in INPV of −1.8 percent to less than −0.1 percent. At TSL 3, industry free cash flow is estimated to decrease to $5,973 million, or a drop of 1 percent, compared to the base-case value of $6,024 million in 2017.

Percentage impacts on INPV are slightly negative at this TSL. DOE does not anticipate that Product Class 2, 3, and 4 battery charger application manufacturers would lose a significant portion of their INPV at this TSL. DOE projects that in the expected year of compliance, 2018, 49 percent of all Product Class 2 battery charger applications, 60 percent of all Product Class 3 battery charger applications, and 86 percent of all Product Class 4 battery charger applications would meet or exceed the efficiency levels required at TSL 3. DOE expects conversion costs to increase from $13.4 million at TSL 1 and TSL 2 to $115.7 million at TSL 3. This represents a relatively modest amount compared to the base case INPV of $76.8 billion and annual cash flow of $6,02 billion for Product Class 2, 3, and 4 battery charger applications.

TSL 4 sets the efficiency level at CSL 3 for Product Classes 3 and 4 and CSL 4 for Product Class 2. These efficiency levels represent max tech for all the product classes in this grouping. At TSL 4, DOE estimates impacts on the change in INPV to range from −$14.48 billion to $499 million, or a change in INPV of −18.9 percent to 0.6 percent. At TSL 4,

industry free cash flow is estimated to decrease to $5.87 billion, or a drop of 3 percent, compared to the base-case value of $6.02 billion in 2017.

Percentage impacts on INPV range from moderately negative to slightly positive at TSL 4. DOE anticipates that some Product Class 2, 3, and 4 battery charger application manufacturers could lose a significant portion of their INPV at TSL 4. DOE projects that in the expected year of compliance, 2018, 25 percent of all Product Class 2 battery charger applications, 58 percent of all Product Class 3 battery charger applications, and 74 percent of all Product Class 4 battery charger applications would meet the efficiency levels required at TSL 4. DOE expects conversion costs to significantly increase from $115.7 million at TSL 3 to $347.8 million at TSL 4. At TSL 4, the Product Class 2 battery charger MPC increases to $4.31 compared to the baseline MPC value of $1.16. This represents a small application price increase considering that the shipment-weighted average Product Class 2 battery charger application MPC is $127.73. For Product Class 3, the MPC increases to $5.51 compared to the baseline MPC value of $1.12. This estimate also represents a small application price increase since the shipment-weighted average Product Class 3 battery charger application MPC is $61.11. For Product Class 4, the battery charger MPC increases to $18.34 compared to the baseline battery charger MPC of $1.79. While DOE recognizes that this projected increase of $16.55 in the battery charger MPC from the baseline to the max tech may seem significant, its impact is modest when compared to the shipment-weighted average Product Class 4 battery charger application MPC of $192.40—in essence, it represents a 8.6 percent increase in the average battery charger application MPC.

These product classes also include a wide variety of applications, characterized by differing shipment volumes, base case efficiency distributions, and MSPs. Because of this variety, this product class grouping, more than any other, requires a greater level of disaggregation to evaluate specific industry impacts. Presented only on a product class basis, industry impacts are effectively shipment-weighted and mask impacts on certain industry applications that vary substantially from the aggregate results. Therefore, in addition to the overall product class group results, DOE also presents results by industry subgroups—consumer electronics, power tools, and small appliances—in the pass-through scenario, which approximates the mid-point of the potential range of INPV impacts. These results highlight impacts at various TSLs.

As discussed in the previous section, these aggregated results can mask differentially impacted industries and manufacturer subgroups. Nearly 90 percent of shipments in Product Classes 2, 3 and 4 fall under the broader consumer electronics category, with the remaining share split between small appliances and power tools. Consumer electronics applications have a much higher shipment-weighted average MPC ($147.29) than the other product categories ($58.32 for power tools and $43.63 for small appliances). Consequently, consumer electronics manufacturers are better able to absorb higher battery charger costs than small appliance and power tool manufacturers. Further, consumer electronics typically incorporate higher efficiency battery chargers already, while small appliances and power tool applications tend to cluster around baseline and CSL 1 efficiencies. These factors lead to proportionally greater impacts on small appliance and power tool manufacturers in the event they are not able to pass on and markup higher battery charger costs.

Table V–32 through Table V–34 present INPV impacts in the pass-through markup scenario for consumer electronic, power tool, and small appliance applications, respectively (for only those applications incorporating battery chargers in Product Classes 2, 3 or 4). The results indicate manufacturers of power tools and small appliances would face disproportionately adverse impacts, especially at the higher TSLs, as compared to consumer electronics manufacturers and the overall product group's results (shown in Table V–29 through Table V–31), if they are not able to mark up the incremental product costs.

TABLE V–32—MANUFACTURERS IMPACT ANALYSIS FOR PRODUCT CLASS 2, 3, AND 4 BATTERY CHARGER APPLICATIONS—PASS THROUGH MARKUP SCENARIO—CONSUMER ELECTRONICS

	Units	Base case	Trial standard level			
			1	2	3	4
INPV	2013$ Millions	73,840	73,805	73,805	73,511	69,568
Change in INPV	2013$ Millions		(36)	(36)	(329)	(4,272)
	(%)		(0.0)	(0.0)	(0.4)	(5.8)
Product Conversion Costs	2013$ Millions		10.2	10.2	77.6	242.2
Capital Conversion Costs	2013$ Millions		1.7	1.7	20.0	56.3
Total Investment Required	2013$ Millions		11.9	11.9	97.6	298.5

TABLE V–33—MANUFACTURERS IMPACT ANALYSIS FOR PRODUCT CLASS 2, 3, AND 4 BATTERY CHARGER APPLICATIONS—PASS THROUGH MARKUP SCENARIO—POWER TOOLS

	Units	Base case	Trial standard level			
			1	2	3	4
INPV	2013$ Millions	2,190	2,179	2,179	2,102	1,351
Change in INPV	2013$ Millions		(11)	(11)	(88)	(839)
	(%)		(0.5)	(0.5)	(4.0)	(38.3)
Product Conversion Costs	2013$ Millions		0.9	0.9	7.3	22.3
Capital Conversion Costs	2013$ Millions		0.0	0.0	3.3	5.5
Total Investment Required	2013$ Millions		1.0	1.0	10.6	27.8

TABLE V–34—MANUFACTURERS IMPACT ANALYSIS FOR PRODUCT CLASS 2, 3, AND 4 BATTERY CHARGER APPLICATIONS—PASS THROUGH MARKUP SCENARIO—SMALL APPLIANCES

	Units	Base case	Trial standard level			
			1	2	3	4
INPV	2013$ Millions	761	756	756	709	487
Change in INPV	2013$ Millions		(5)	(5)	(52)	(273)
	(%)		(0.6)	(0.6)	(6.8)	(35.9)
Product Conversion Costs	2013$ Millions		0.4	0.4	5.1	16.0
Capital Conversion Costs	2013$ Millions		0.1	0.1	2.4	5.5
Total Investment Required	2013$ Millions		0.5	0.5	7.5	21.5

Product Classes 5 and 6

The following tables (Table V–35 through Table V–38) summarize information related to the analysis performed to project the potential impacts on manufacturers of devices falling into Product Classes 5 and 6.

TABLE V–35—APPLICATIONS IN PRODUCT CLASSES 5 AND 6

Product class 5	Product class 6
Marine/Automotive/ RV Chargers	Electric Scooters
Mobility Scooters	Lawn Mowers

TABLE V–35—APPLICATIONS IN PRODUCT CLASSES 5 AND 6—Continued

Product class 5	Product class 6
Toy Ride-On Vehicles	Motorized Bicycles
Wheelchairs	Wheelchairs

TABLE V–36—MANUFACTURERS IMPACT ANALYSIS FOR PRODUCT CLASS 5 AND 6 BATTERY CHARGER APPLICATIONS—FLAT MARKUP SCENARIO

	Units	Base case	Trial standard level			
			1	2	3	4
INPV	2013$ Millions	1,493	1,493	1,493	2,065	2,065
Change in INPV	2013$ Millions		0	0	572	572
	(%)		0.0	0.0	38.3	38.3
Product Conversion Costs	2013$ Millions		0.0	1.1	33.1	33.1
Capital Conversion Costs	2013$ Millions		0.0	0.2	6.4	6.4
Total Investment Required	2013$ Millions		0.0	1.3	39.6	39.6

TABLE V–37—MANUFACTURERS IMPACT ANALYSIS FOR PRODUCT CLASS 5 AND 6 BATTERY CHARGER APPLICATIONS—PASS THROUGH MARKUP SCENARIO

	Units	Base case	Trial standard level			
			1	2	3	4
INPV	2013$ Millions	1,493	1,491	1,370	878	878
Change in INPV	2013$ Millions		(2)	(123)	(615)	(615)
	(%)		(0.2)	(8.2)	(41.2)	(41.2)
Product Conversion Costs	2013$ Millions		0.0	1.1	33.1	33.1
Capital Conversion Costs	2013$ Millions		0.0	0.2	6.4	6.4
Total Investment Required	2013$ Millions		0.0	1.3	39.6	39.6

TABLE V–38—MANUFACTURERS IMPACT ANALYSIS FOR PRODUCT CLASS 5 AND 6 BATTERY CHARGER APPLICATIONS—CONSTANT MARKUP SCENARIO

	Units	Base case	Trial standard level			
			1	2	3	4
INPV	2013$ Millions	1,493	1,486	1,145	586	586
Change in INPV	2013$ Millions		(7)	(348)	(907)	(907)
	(%)		(0.5)	(23.3)	(60.8)	(60.8)
Product Conversion Costs	2013$ Millions		0.0	1.1	33.1	33.1
Capital Conversion Costs	2013$ Millions		0.0	0.2	6.4	6.4
Total Investment Required	2013$ Millions		0.0	1.3	39.6	39.6

Product Classes 5 and 6 together comprise seven unique applications. Toy ride-on vehicles represent over 70 percent of the Product Class 5 and 6 shipments. DOE found that all Product Class 5 and 6 shipments are at either CSL 1 or CSL 2. The battery charger cost associated with each CSL is the same for Product Class 5 and 6 applications, but the energy usage profiles are different.

TSL 1 sets the efficiency level at CSL 1 for Product Classes 5 and 6. At TSL

1, DOE estimates impacts on the change in INPV to range from −$7 million to no change at all, or a change in INPV of −0.5 percent to no change at all. At TSL 1, industry free cash flow is estimated to remain at $117 million in 2017.

Percentage impacts on INPV range from slightly negative to unchanged at TSL 1. DOE does not anticipate that Product Class 5 and 6 battery charger application manufacturers would lose a significant portion of their INPV at TSL 1. DOE projects that in the expected year of compliance, 2018, all Product Class 5 and 6 battery charger applications would meet or exceed the efficiency levels required at TSL 1. Consequently, DOE does not expect there to be any conversion costs at TSL 1.

TSL 2 sets the efficiency level at CSL 2 for Product Classes 5 and 6. At TSL 2, DOE estimates impacts on the change in INPV to range from −$348 million to less than one million dollars, or a change in INPV of −23.3 percent to less than 0.1 percent. At TSL 2, industry free cash flow is estimated to decrease to $117 million, or a drop of less than one percent, compared to the base-case value of $117 million in 2017.

Percentage impacts on INPV range from moderately negative to slightly positive at TSL 2. DOE projects that in the expected year of compliance, 2018, 95 percent of all Product Class 5 battery charger applications and 95 percent of all Product Class 6 battery charger applications would meet or exceed the efficiency levels required at TSL 2. DOE expects conversion costs to slightly increase to $1.3 million at TSL 2.

TSL 3 and TSL 4 set the efficiency level at CSL 3 for Product Classes 5 and 6. This efficiency level represents max tech for Product Classes 5 and 6. At TSL 3 and TSL 4, DOE estimates impacts on the change in INPV to range from −$907 million to $572 million, or a change in INPV of −60.8 percent to 38.3 percent. At TSL 3 and TSL 4, industry free cash flow is estimated to decrease to $100 million, or a drop of 15 percent, compared to the base-case value of $117 million in 2017.

Percentage impacts on INPV range from significantly negative to significantly positive at TSL 3 and TSL 4. This large INPV range is related to the significant increase in battery charger MPC required at TSL 3 and TSL 4. DOE believes that it is unlikely battery charger application manufacturers would be able to pass on this larger increase in the MPC of the battery charger, which would imply that the negative INPV impact is a more realistic scenario than the positive INPV impact scenario. DOE anticipates that most Product Class 5 and 6 battery charger application manufacturers could lose a significant portion of their INPV at TSL 3 and TSL 4. DOE projects that in the expected year of compliance, 2018, no Product Class 5 or 6 battery charger applications would meet the efficiency levels required at TSL 3 and TSL 4. DOE expects conversion costs to significantly increase from $1.3 million at TSL 2 to $39.6 million at TSL 3 and TSL 4. At TSL 3 and TSL 4, the Product Class 5 and 6 battery charger MPC increases to $127.00 compared to the baseline battery charger MPC value of $18.48. This represents a huge application price increase considering that the shipment-weighted average Product Class 5 and 6 battery charger application MPC, with no standards, is $131.14 and $262.21 respectively.

Product Class 7

The following tables (Table V–39 through Table V–42) summarize information related to the analysis performed to project the potential impacts on manufacturers of devices falling into Product Class 7.

TABLE V–39—APPLICATIONS IN PRODUCT CLASS 7

Product class 7
Golf Cars

TABLE V–40—MANUFACTURERS IMPACT ANALYSIS FOR PRODUCT CLASS 7 BATTERY CHARGER APPLICATIONS—FLAT MARKUP SCENARIO

	Units	Base case	Trial standard level			
			1	2	3	4
INPV	2013$ Millions	1,124	1,116	1,116	1,143	1,143
Change in INPV	2013$ Millions		(8)	(8)	20	20
	(%)		(0.7)	(0.7)	1.7	1.7
Product Conversion Costs	2013$ Millions		1.3	1.3	3.3	3.3
Capital Conversion Costs	2013$ Millions		0.4	0.4	1.8	1.8
Total Investment Required	2013$ Millions		1.7	1.7	5.1	5.1

TABLE V–41—MANUFACTURERS IMPACT ANALYSIS FOR PRODUCT CLASS 7 BATTERY CHARGER APPLICATIONS—PASS THROUGH MARKUP SCENARIO

	Units	Base case	Trial standard level			
			1	2	3	4
INPV	2013$ Millions	1,124	1,134	1,134	1,091	1,091
Change in INPV	2013$ Millions		11	11	(32)	(32)
	(%)		0.9	0.9	(2.9)	(2.9)
Product Conversion Costs	2013$ Millions		1.3	1.3	3.3	3.3
Capital Conversion Costs	2013$ Millions		0.4	0.4	1.8	1.8
Total Investment Required	2013$ Millions		1.7	1.7	5.1	5.1

TABLE V–42—MANUFACTURERS IMPACT ANALYSIS FOR PRODUCT CLASS 7 BATTERY CHARGER APPLICATIONS—CONSTANT MARKUP SCENARIO

	Units	Base case	Trial standard level			
			1	2	3	4
INPV	2013$ Millions	1,124	1,168	1,168	998	998
Change in INPV	2013$ Millions		44	44	(126)	(126)
	(%)		3.9	3.9	(11.2)	(11.2)
Product Conversion Costs	2013$ Millions		1.3	1.3	3.3	3.3
Capital Conversion Costs	2013$ Millions		0.4	0.4	1.8	1.8
Total Investment Required	2013$ Millions		1.7	1.7	5.1	5.1

Golf cars are the only application in Product Class 7. Approximately 80 percent of the market incorporates baseline battery charger technology—the remaining 20 percent employs technology that meets the efficiency requirements at CSL 1. The cost of a battery charger in Product Class 7, though higher relative to other product classes, remains a small portion of the overall selling price of a golf cart. This analysis, however, focuses on the application manufacturer (OEM). DOE identified one small U.S. manufacturer of golf cart battery chargers. The impacts of standards on these small businesses is addressed in the Regulatory Flexibility Analysis (see section VI.B for the results of that analysis).

TSL 1 and TSL 2 set the efficiency level at CSL 1 for Product Class 7. At TSL 1 and TSL 2, DOE estimates impacts on the change in INPV to range from −$8 million to $44 million, or a change in INPV of −0.7 percent to 3.9 percent. At TSL 1 and TSL 2, industry free cash flow is estimated to decrease to $87 million, or a drop of 1 percent, compared to the base-case value of $88 million in 2017.

Percentage impacts on INPV range from slightly negative to slightly positive at TSL 1 and TSL 2. DOE does not anticipate that Product Class 7 battery charger application manufacturers, the golf car manufacturers, would lose a significant portion of their INPV at this TSL. DOE projects that in the expected year of compliance, 2018, 20 percent of all Product Class 7 battery charger applications would meet or exceed the efficiency levels required at TSL 1 and TSL 2. DOE expects conversion costs to be $1.7 million at TSL 1 and TSL 2.

TSL 3 and TSL 4 set the efficiency level at CSL 2 for Product Class 7. This represents max tech for Product Class 7. At TSL 3 and TSL 4, DOE estimates impacts on the change in INPV to range from −$126 million to $20 million, or a change in INPV of −11.2 percent to 1.7 percent. At TSL 3 and TSL 4, industry free cash flow is estimated to decrease to $86 million, or a drop of 3 percent, compared to the base-case value of $88 million in 2017.

Percentage impacts on INPV range from moderately negative to slightly positive at TSL 3 and TSL 4. DOE projects that in the expected year of compliance, 2018, no Product Class 7 battery charger applications would meet the efficiency levels required at TSL 3 and TSL 4. DOE expects conversion costs to increase from $1.7 million at TSL 1 and TSL 2 to $5.1 million at TSL 3 and TSL 4. This represents a relatively modest amount compared to the base case INPV of $1,124 million and annual cash flow of $88 million for Product Class 7 battery charger applications. At TSL 3 and TSL 4 the battery charger MPC increases to $164.14 compared to the baseline battery charger MPC value of $88.07. This change represents only a moderate increase in the application price since the shipment-weighted average application MPC is $2,608.09.

b. Impacts on Employment

DOE attempted to quantify the number of domestic workers involved in battery charger production. Based on manufacturer interviews and reports from vendors such as Hoovers, Dun and Bradstreet, and Manta, the vast majority of all small appliance and consumer electronic applications are manufactured abroad. When looking specifically at the battery charger component, which is typically designed by the application manufacturer but sourced for production, the same dynamic holds to an even greater extent. That is, in the rare instance when an application's production occurs domestically, it is very likely that the battery charger component is still produced and sourced overseas. For example, DOE identified several power tool applications with some level of domestic manufacturing. However, based on more detailed information obtained during interviews, DOE believes the battery charger components for these applications are sourced from abroad.

Also, DOE was able to find a few manufacturers of medium and high power applications with facilities in the U.S. However, only a limited number of these companies produce battery chargers domestically for these applications. Therefore, based on manufacturer interviews and DOE's research, DOE believes that golf cars are the only application with U.S.-based battery charger manufacturing. Any change in U.S. production employment due to new battery charger energy conservation standards is likely to come from changes involving these particular products. DOE seeks comment on the presence of any domestic battery charger manufacturing outside of the golf car industry and beyond prototyping for R&D purposes.

At the proposed efficiency levels, domestic golf car manufacturers will need to decide whether to attempt to manufacture more efficient battery chargers in-house and try to compete with a greater level of vertical integration than their competitors, move production to lower-wage regions abroad, or outsource their battery charger manufacturing. DOE believes one of the latter two strategies would be more likely for domestic golf car manufacturers. DOE describes the major implications for golf car employment in the regulatory flexibility act section, VI.B, because the major domestic manufacturer is also a small business manufacturer. DOE does not anticipate any major negative changes in the domestic employment of the design, technical support, or other departments of battery charger application manufacturers located in the U.S. in response to new energy conservation standards. Standards may require some companies to redesign their battery chargers, change marketing literature, and train some technical and sales support staff. However, during interviews, manufacturers generally agreed these changes would not lead to positive or negative changes in employment, outside of the golf car battery charger industry.

c. Impacts on Manufacturing Capacity

DOE does not anticipate that the standards proposed in this SNOPR would adversely impact manufacturer capacity. The battery charger application industry is characterized by rapid product development lifecycles. While there is no specific statutory compliance date for battery charger standards, DOE believes a compliance date of two years after the publication of the final rule would provide sufficient time for manufacturers to ramp up capacity to meet the proposed standards for battery chargers. DOE requests comment on the appropriate compliance date for battery charger.

d. Impacts on Sub-Group of Manufacturers

Using average cost assumptions to develop an industry cash-flow estimate is not adequate for assessing differential impacts among manufacturer subgroups. Small manufacturers, niche equipment manufacturers, and manufacturers exhibiting a cost structure substantially different from the industry average could be affected disproportionately. DOE addressed manufacturer subgroups in the battery charger MIA, by breaking out manufacturers by application grouping (consumer electronics, small appliances, power tools, and high energy application). Because certain application groups are disproportionately impacted compared to the overall product class groupings, DOE reports those manufacturer application group results individually so they can be considered as part of the overall MIA. For the results of this manufacturer subgroup, see section V.B.2.a.

DOE also identified small businesses as a manufacturer subgroup that could potentially be disproportionally impacted. DOE discusses the impacts on the small business subgroup in the regulatory flexibility analysis, section VI.B.

e. Cumulative Regulatory Burden

One aspect of assessing manufacturer burden involves looking at the cumulative impact of multiple DOE standards and the regulatory actions of other Federal agencies and States that affect the manufacturers of a covered product or equipment. DOE believes that a standard level is not economically justified if it contributes to an unacceptable 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. In addition to energy conservation standards, other regulations can significantly affect manufacturers' financial operations. 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 an analysis of cumulative regulatory burden as part of its rulemakings pertaining to product efficiency.

For the cumulative regulatory burden analysis, DOE looks at other regulations that could affect battery charger application manufacturers that will take effect approximately three years before or after the compliance date of new energy conservation standards for these products. The compliance years and expected industry conversion costs of relevant new energy conservation standards are indicated in Table V–43.

TABLE V–43—COMPLIANCE DATES AND EXPECTED CONVERSION EXPENSES OF FEDERAL ENERGY CONSERVATION STANDARDS AFFECTING BATTERY CHARGER APPLICATION MANUFACTURERS

Federal energy conservation standards	Approximate compliance date	Estimated total industry conversion expense
External Power Supplies 79 FR 7846 (February 10, 2014)	2016	$43.4 million (2012$)
Computer and Battery Backup Systems	*2019	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.

DOE is aware that the CEC already has energy conservation standards in place for battery chargers. DOE assumes that this rulemaking will preempt the CEC battery charger standards when finalized. Therefore, DOE did not consider the CEC standards as contributing to the cumulative regulatory burden of this rulemaking. DOE seeks comment on the compliance costs of any other regulations battery charger and battery charger application manufacturers must make.

3. National Impact Analysis

a. Significance of Energy Savings

For each TSL, DOE projected energy savings for battery chargers purchased in the 30-year period that begins in the year of compliance with amended standards (2018–2047). The savings are measured over the entire lifetime of products purchased in the 30-year period. DOE quantified the energy savings attributable to each TSL as the difference in energy consumption between each standards case and the base case. Table V–44 and Table V–45 present the estimated primary and full-fuel cycle energy savings, respectively, for each considered TSL. The approach used is further described in section IV.H.[62]

[62] Chapter 10 of the SNOPR TSD presents tables that show the magnitude of the energy savings discounted at rates of 3 percent and 7 percent. Discounted energy savings represent a policy perspective in which energy savings realized farther in the future are less significant than energy savings realized in the nearer term.

TABLE V–44—BATTERY CHARGERS: CUMULATIVE PRIMARY NATIONAL ENERGY SAVINGS FOR PRODUCTS SHIPPED IN 2018–2047 (QUADS)

Product class	Trial standard level			
	1	2	3	4
1	0.004	0.047	0.047	0.084
2, 3, 4	0.087	0.087	0.307	0.423
5, 6	0.000	0.017	0.130	0.130
7	0.012	0.012	0.026	0.026

TABLE V–45—BATTERY CHARGERS: CUMULATIVE FFC NATIONAL ENERGY SAVINGS FOR PRODUCTS SHIPPED IN 2018–2047 (QUADS)

Product class	Trial standard level			
	1	2	3	4
1	0.004	0.049	0.049	0.088
2, 3, 4	0.091	0.091	0.321	0.442
5, 6	0.000	0.018	0.136	0.136
7	0.013	0.013	0.028	0.028

OMB Circular A–4 requires agencies to present analytical results, including separate schedules of the monetized benefits and costs that show the type and timing of benefits and costs. [63] 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 9-year period is a proxy for the general timeline in EPCA for the review of certain energy conservation standards and potential revision of, and compliance with, such revised standards.[64] The review timeframe established in EPCA is generally not synchronized with the product lifetime, product manufacturing cycles, or other factors specific to battery chargers. 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–46. The impacts are counted over the lifetime of products purchased in 2018–2026.

TABLE V–46—BATTERY CHARGERS: CUMULATIVE FFC NATIONAL ENERGY SAVINGS FOR PRODUCTS SHIPPED IN 2018–2026 (QUADS)

Product class	Trial standard level			
	1	2	3	4
1	0.001	0.015	0.015	0.027
2, 3, 4	0.028	0.028	0.097	0.134
5, 6	0.000	0.005	0.041	0.041
7	0.004	0.004	0.008	0.008

b. Net Present Value of Consumer Costs and Benefits

DOE estimated the cumulative NPV of the total costs and savings for customers that would result from the TSLs considered for battery chargers. In accordance with OMB's guidelines on regulatory analysis,[65] DOE calculated the NPV using both a 7-percent and a 3-percent real discount rate. The 7-percent rate is an estimate of the average before-tax rate of return on private capital in the U.S. economy, and reflects the returns on real estate and small business capital as well as corporate capital. This discount rate approximates the opportunity cost of capital in the private sector. (OMB analysis has found the average rate of return on capital to be near this rate.) The 3-percent rate reflects the potential effects of standards on private consumption (*e.g.,* through higher prices for products and reduced purchases of energy). This rate represents the rate at which society discounts future consumption flows to their present value. It can be approximated by the real rate of return on long-term government debt (*i.e.,* yield on United States Treasury Notes), which has averaged about 3 percent for the past 30 years.

Table V–47 shows the customer NPV results for each TSL considered for battery chargers. The impacts cover the

[63] 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/*).

[64] 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.

[65] OMB Circular A–4, section E (Sept. 17, 2003). Available at: *http://www.whitehouse.gov/omb/circulars_a004_a–4.*

lifetime of products purchased in 2018–2047.

TABLE V–47—BATTERY CHARGERS: CUMULATIVE NET PRESENT VALUE OF CONSUMER BENEFITS FOR PRODUCTS SHIPPED IN 2018–2047

[2013$ billions]

Discount rate	Trial standard level (*billion 2013$*)			
	1	2	3	4
3 percent	0.9	1.2	−16.2	−47.9
7 percent	0.5	0.6	−9.5	−27.9

The NPV results based on the aforementioned 9-year analytical period are presented in Table V–48. The impacts are counted over the lifetime of products purchased in 2018–2026. As mentioned previously, this information is presented for informational purposes only and is not indicative of any change in DOE's analytical methodology or decision criteria.

TABLE V–48—BATTERY CHARGERS: CUMULATIVE NET PRESENT VALUE OF CONSUMER BENEFITS FOR PRODUCTS SHIPPED IN 2018–2026

[2013$ billions]

Discount rate	Trial standard level (billion 2013$)			
	1	2	3	4
3 percent	0.3	0.4	−6.2	−18.1
7 percent	0.2	0.3	−4.8	−14.1

c. Indirect Impact on Employment

DOE expects energy conservation standards for battery chargers to reduce energy bills for consumers of these products, and the resulting net savings to be 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, 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, where these uncertainties are reduced.

DOE reviewed its inputs and determined that the indirect employment impacts will be positive at TSL 1 (in 2018 and 2023) and TSL 2 (in 2023 only), while at TSL 3 and TSL 4, the increased equipment costs are far larger than the operating cost savings. The magnitude of the estimated effect is very small, however. The results suggest that the proposed standards are likely to have 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 SNOPR TSD presents more detailed results.

4. Impact on Utility and Performance of the Products

Based on testing conducted in support of this proposed rule, discussed in section IV.C.5 of this notice, DOE concluded that the standards proposed in this SNOPR would not reduce the utility or performance of the battery chargers under consideration in this rulemaking. Manufacturers of these products currently offer units that meet or exceed these proposed standards. DOE has also declined to propose battery charger marking requirements as part of today's SNOPR, providing manufacturers with more flexibility in the way that they design, label, and market their products.

5. Impact on Any Lessening of Competition

DOE has also 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 to DOE, together with an analysis of the nature and extent of such impact. (42 U.S.C. 6295(o)(2)(B)(i)(V) and (B)(ii))

To keep the Attorney General informed of DOE's rulemaking efforts with respect to battery chargers, DOE will transmit a copy of this SNOPR and the accompanying SNOPR TSD to the Attorney General. DOE will consider DOJ's comments, if any, on this supplemental proposal in determining whether to proceed with the proposed energy conservation standards. DOE will also publish and respond to DOJ's comments in the **Federal Register**.

6. Need of the Nation To Conserve Energy

Enhanced energy efficiency, where economically justified, improves the Nation's energy security, strengthens the economy, and reduces the environmental impacts of energy production. 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 in the SNOPR TSD presents the estimated reduction in generating capacity for the TSLs that DOE considered in this rulemaking.

Energy savings from standards for battery chargers are expected to yield environmental benefits in the form of reduced emissions of air pollutants and greenhouse gases. Table V–49 provides DOE's estimate of cumulative emissions reductions to result from the TSLs considered in this rulemaking. The table

includes both power sector emissions and upstream emissions. DOE reports annual emissions reductions for each TSL in chapter 13 of the SNOPR TSD.

TABLE V–49—BATTERY CHARGERS: CUMULATIVE EMISSIONS REDUCTION FOR PRODUCTS SHIPPED IN 2018–2047

	Trial standard level			
	1	2	3	4
Power Sector Emissions				
CO_2 (*million metric tons*)	6.29	9.92	31.03	40.41
SO_2 (*thousand tons*)	5.62	8.82	27.56	35.92
NO_X (*thousand tons*)	5.01	7.88	24.64	32.10
Hg (*tons*)	0.017	0.027	0.085	0.111
CH_4 (*thousand tons*)	0.583	0.922	2.886	3.757
N_2O (thousand tons)	0.084	0.132	0.413	0.538
Upstream Emissions				
CO_2 (*million metric tons*)	0.335	0.530	1.659	2.159
SO_2 (*thousand tons*)	0.060	0.095	0.296	0.385
NO_X (*thousand tons*)	4.75	7.52	23.57	30.67
Hg (*tons*)	0.000	0.000	0.001	0.001
CH_4 (*thousand tons*)	27.7	43.8	137.3	178.7
N_2O (thousand tons)	0.003	0.005	0.015	0.019
Total FFC Emissions				
CO_2 (*million metric tons*)	6.63	10.45	32.69	42.57
SO_2 (*thousand tons*)	5.68	8.92	27.86	36.30
NO_X (*thousand tons*)	9.76	15.41	48.21	62.77
Hg (*tons*)	0.017	0.027	0.086	0.112
CH_4 (*thousand tons*)	28.3	44.8	140.2	182.4
CH_4 (*thousand tons CO_2eq*)*	791	1253	3925	5108
N_2O (*thousand tons*)	0.086	0.137	0.428	0.557
N_2O (*thousand tons CO_2eq*)*	22.9	36.2	113.4	147.6

* 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. 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 2013$) are represented by $12.0/metric ton (the average value from a distribution that uses a 5-percent discount rate), $40.5/metric ton (the average value from a distribution that uses a 3-percent discount rate), $62.4/metric ton (the average value from a distribution that uses a 2.5-percent discount rate), and $119/metric ton (the 95th-percentile value from a distribution that uses a 3-percent discount rate). The values for later years are higher due to increasing damages (emissions-related costs) as the projected magnitude of climate change increases.

Table V–50 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 SNOPR TSD.

TABLE V–50—BATTERY CHARGERS: ESTIMATES OF GLOBAL PRESENT VALUE OF CO_2 EMISSIONS REDUCTION FOR PRODUCTS SHIPPED IN 2018–2047

TSL	SCC Case* (million 2013$)			
	5% Discount rate, average	3% Discount rate, average	2.5% Discount rate, average	3% Discount rate, 95th percentile
Power Sector Emissions				
1	50.7	218.6	342.7	673.1
2	79.4	343.5	538.7	1058.1
3	247.7	1072.5	1682.4	3304.0
4	322.9	1397.6	2192.3	4305.4
Upstream Emissions				
1	2.6	11.4	18.0	35.3

TABLE V–50—BATTERY CHARGERS: ESTIMATES OF GLOBAL PRESENT VALUE OF CO_2 EMISSIONS REDUCTION FOR PRODUCTS SHIPPED IN 2018–2047—Continued

TSL	SCC Case * (million 2013$)			
	5% Discount rate, average	3% Discount rate, average	2.5% Discount rate, average	3% Discount rate, 95th percentile
2	4.1	18.1	28.4	55.8
3	12.9	56.5	88.8	174.4
4	16.8	73.6	115.7	227.0
Total FFC Emissions				
1	53.3	230.1	360.7	708.5
2	83.5	361.6	567.1	1113.8
3	260.5	1129.0	1771.3	3478.4
4	339.7	1471.2	2307.9	4532.5

* For each of the four cases, the corresponding SCC value for emissions in 2015 is $12.0, $40.5, $62.4, and $119 per metric ton (2013$).

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 reducing CO_2 emissions in this rulemaking is subject to change. DOE, together with other Federal agencies, will continue to review various methodologies for estimating the monetary value of reductions in CO_2 and other GHG emissions. This ongoing review will consider the comments on this subject that are part of the public record for this and other rulemakings, as well as other methodological assumptions and issues. However, consistent with DOE's legal obligations, and taking into account the uncertainty involved with this particular issue, DOE has included in this proposed rule the most recent values and analyses resulting from the ongoing 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 battery chargers. The dollar-per-ton value that DOE used is discussed in section IV.L of this notice. Table V–51 presents the cumulative present values for each TSL calculated using 7-percent and 3-percent discount rates.

TABLE V–51—BATTERY CHARGERS: ESTIMATES OF PRESENT VALUE OF NO_X EMISSIONS REDUCTION FOR PRODUCTS SHIPPED IN 2018–2047

TSL	Million 2013$	
	3% Discount rate	7% Discount rate
Power Sector Emissions		
1	8.2	4.8
2	12.8	7.4
3	39.9	22.9
4	52.1	29.9
Upstream Emissions		
1	7.4	4.0
2	11.6	6.3
3	36.3	19.5
4	47.3	25.5
Total FFC Emissions		
1	15.6	8.8
2	24.4	13.6
3	76.2	42.4
4	99.3	55.4

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)) DOE did not consider any other factors with respect to the specific standards proposed in this SNOPR. As for those particular battery chargers that DOE is declining to regulate at this time, the reasons underlying that decision are discussed above.

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–52 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 considered for battery chargers, at both a 7-percent and a 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–52—BATTERY CHARGERS: NET PRESENT VALUE OF CONSUMER SAVINGS COMBINED WITH PRESENT VALUE OF MONETIZED BENEFITS FROM CO_2 AND NO_X EMISSIONS REDUCTIONS

TSL	Billion 2013$			
	SCC Case $12.0/t and medium NO_X value	SCC Case $40.5/t and medium NO_X value	SCC Case $62.4/t and medium NO_X value	SCC Case $119/t and medium NO_X value
Consumer NPV at 3% Discount Rate added with:				
1	0.9	1.1	1.2	1.6
2	1.3	1.6	1.8	2.3
3	−15.9	−15.0	−14.4	−12.6
4	−47.5	−46.4	−45.5	−43.3
Consumer NPV at 7% Discount Rate added with:				
1	0.5	0.7	0.8	1.2
2	0.7	1.0	1.2	1.8
3	−9.2	−8.4	−7.7	−6.0
4	−27.5	−26.4	−25.5	−23.3

Although adding the value of consumer savings to the values of emission reductions provides a valuable perspective, two issues should be considered. First, the national operating cost savings are domestic U.S. 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 2018 to 2047. Because CO_2 emissions have a very long residence time in the atmosphere,[66] the SCC values in future years reflect future climate-related impacts resulting from the emission of CO_2 that continue well beyond 2100.

C. Conclusions

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, considering to the greatest extent practicable the seven statutory factors discussed previously. (42 U.S.C. 6295(o)(2)(B)(i)) The new or amended standard must also result in a significant conservation of energy. (42 U.S.C. 6295(o)(3)(B))

The Department considered the impacts of standards at each TSL, beginning with a maximum technologically feasible level, to determine whether that level was economically justified. Where the max-tech level was not justified, DOE then considered the next most efficient level and undertook the same evaluation until it reached the highest efficiency level that would be both technologically feasible and economically justified and save a significant amount of energy.

To aid the reader as DOE discusses the benefits and/or burdens of each TSL, DOE has included a series of tables presenting 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. Those include the impacts on identifiable subgroups of consumers who may be disproportionately affected by a national standard. Section V.B.1.b of this notice presents the estimated impacts of each TSL for these subgroups.

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. This undervaluation suggests that regulation that promotes energy efficiency can produce significant net private gains (as well as producing social gains by, for example, reducing pollution). 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 (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 a purchase of a product in the standards case, this

[66] 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.

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 decreases the number of products used by consumers, this decreases the potential energy savings from an energy conservation standard. DOE provides estimates of shipments and changes in the volume of product purchases in chapter 9 and appendix 9A of the SNOPR 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.[67]

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 efficiency standards, and potential enhancements to the methodology by which these impacts are defined and estimated in the regulatory process.[68] 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 Battery Chargers

Table V–53 and Table V–54 summarize the quantitative impacts estimated for each TSL for battery chargers. The efficiency levels contained in each TSL are described in section V.A of this notice.

TABLE V–53—BATTERY CHARGERS: SUMMARY OF NATIONAL IMPACTS

Category	TSL 1	TSL 2	TSL 3	TSL 4
Cumulative FFC Energy Savings (quads)				
	0.108	0.170	0.534	0.695
NPV of Consumer Costs and Benefits (2013$ billion)				
3% discount rate	0.9	1.2	−16.2	−47.9
7% discount rate	0.5	0.6	−9.5	−27.9
Cumulative FFC Emissions Reduction				
CO_2 *million metric tons*	6.63	10.45	32.69	42.57
SO_2 *thousand tons*	5.68	8.92	27.86	36.30
NO_X *thousand tons*	9.76	15.41	48.21	62.77
Hg *tons*	0.017	0.027	0.086	0.112
CH_4 *thousand tons*	28.3	44.8	140.2	182.4
CH_4 *thousand tons* CO_2eq*	791	1253	3925	5108
N_2O *thousand tons*	0.086	0.137	0.428	0.557
N_2O *thousand tons* CO_2eq*	22.9	36.2	113.4	147.6
Value of Emissions Reduction				
CO_2 *2013$ billion***	0.053 to 0.708	0.084 to 1.114	0.261 to 3.478	0.340 to 4.532
NO_X—3% discount rate *2013$ million*	15.60	24.43	76.19	99.34
NO_X—7% discount rate *2013$ million*	8.80	13.65	42.41	55.38

Parentheses indicate negative (−) values.
* CO_2eq 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–54—BATTERY CHARGERS: SUMMARY OF MANUFACTURER AND CONSUMER IMPACTS

Category	TSL 1*	TSL 2*	TSL 3*	TSL 4*
Manufacturer Impacts				
Industry NPV (2013$ million) (*Base Case INPV = 79,904*)	79,782–79,887	79,375–79,887	77,387–80,479	64,012–81,017
Industry NPV *(% change)*	(0.2)–(0.0)	(0.7)–(0.0)	(3.2)–0.7	(19.9)–1.4
Consumer Average LCC Savings (2013$)				
PC1—Low E, Inductive*	0.08	0.71	0.71	(3.44)
PC2—Low E, Low-Voltage	0.07	0.07	0.06	(2.79)
PC3—Low E, Medium-Voltage	0.08	0.08	(1.36)	(2.17)
PC4—Low E, High-Voltage	0.11	0.11	(0.38)	(4.91)
PC5—Medium E, Low-Voltage*	0.00	0.84	(138.63)	(138.63)
PC6—Medium E, High-Voltage*	0.00	1.89	(129.15)	(129.15)

[67] P.C. Reiss and M.W. White. Household Electricity Demand, Revisited. *Review of Economic Studies* (2005) 72, 853–883.

[68] 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–54—BATTERY CHARGERS: SUMMARY OF MANUFACTURER AND CONSUMER IMPACTS—Continued

Category	TSL 1*	TSL 2*	TSL 3*	TSL 4*
PC7—High E	51.06	51.06	(80.05)	(80.05)
Consumer Simple PBP (years)				
PC1—Low E, Inductive*	1.1	1.5	1.5	7.4
PC2—Low E, Low-Voltage	0.6	0.6	2.5	19.5
PC3—Low E, Medium-Voltage	0.8	0.8	21.6	31.2
PC4—Low E, High-Voltage	1.4	1.4	5.2	20.7
PC5—Medium E, Low-Voltage*	2.3	2.7	29.1	29.1
PC6—Medium E, High-Voltage*	1.0	1.1	12.5	12.5
PC7—High E	0.0	0.0	8.1	8.1
% of Consumers that Experience Net Cost				
PC1—Low E, Inductive*	0.0	0.0	0.0	96.3
PC2—Low E, Low-Voltage	1.2	1.2	33.1	73.8
PC3—Low E, Medium-Voltage	0.6	0.6	39.0	40.8
PC4—Low E, High-Voltage	1.3	1.3	12.6	25.8
PC5—Medium E, Low-Voltage*	0.0	0.6	99.7	99.7
PC6—Medium E, High-Voltage*	0.0	0.0	100.0	100.0
PC7—High E	0.0	0.0	100.0	100.0

* Parentheses indicate negative (−) values.

DOE first considered TSL 4, which represents the max-tech efficiency levels. TSL 4 would save 0.695 quads of energy, an amount DOE considers significant. Under TSL 4, the NPV of consumer benefit would be -$27.9 billion using a discount rate of 7 percent, and -$47.9 billion using a discount rate of 3 percent.

The cumulative emissions reductions at TSL 4 are 42.57 Mt of CO_2, 62.77 thousand tons of NO_X, 36.30 thousand tons of SO_2, 0.112 ton of Hg, 182.4 thousand tons of CH_4, and 0.557 thousand tons of N_2O. The estimated monetary value of the CO_2 emissions reduction at TSL 4 ranges from $0.340 billion to $4.532 billion.

At TSL 4, the average LCC impact is a cost of $3.44 for PC1, $2.79 for PC2, $2.17 for PC3, $4.91 for PC4, $138.63 for PC5, $129.15 for PC6, and $80.05 for PC7. The simple payback period is 7.4 years for PC1, 19.5 years for PC2, 31.2 years for PC3, 20.7 years for PC4, 29.1 years for PC5, 12.5 years for PC6, and 8.1 years for PC7. The fraction of consumers experiencing a net LCC cost is 96.3 percent for PC1, 73.8 percent for PC2, 40.8 percent for PC3, 25.8 percent for PC4, 99.7 percent for PC5, 100 percent for PC6, and 100 percent for PC7.

At TSL 4, the projected change in INPV ranges from a decrease of $15,892 million to an increase of $1,113 million, equivalent to −19.9 percent and 1.4 percent, respectively.

The Secretary tentatively concludes that at TSL 4 for battery chargers, the benefits of energy savings, emission reductions, and the estimated monetary value of the CO_2 emissions reductions would be outweighed by the economic burden on consumers (demonstrated by a negative NPV and LCC for all product classes), and the impacts on manufacturers, including the conversion costs and profit margin impacts that could result in a large reduction in INPV. Consequently, the Secretary has tentatively concluded that TSL 4 is not economically justified.

DOE then considered TSL 3. TSL 3 would save 0.534 quads of energy, an amount DOE considers significant. Under TSL 3, the NPV of consumer benefit would be −$9.5 billion using a discount rate of 7 percent, and −$16.2 billion using a discount rate of 3 percent.

The cumulative emissions reductions at TSL 3 are 32.69 Mt of CO_2, 48.21 thousand tons of NO_X, 27.86 thousand tons of SO_2, 0.086 ton of Hg, 140.2 thousand tons of CH_4, and 0.428 thousand tons of N_2O. The estimated monetary value of the CO_2 emissions reduction at TSL 3 ranges from $0.261 billion to $3.478 billion.

At TSL 3, the average LCC impact is a savings of $0.71 for PC1 and $0.06 for PC2, and a cost of $1.36 for PC3, $0.38 for PC4, $138.63 for PC5, $129.15 for PC6, and $80.05 for PC7. The simple payback period is 1.5 years for PC1, 2.5 years for PC2, 21.6 years for PC3, 5.2 years for PC4, 29.1 years for PC5, 12.5 years for PC6, and 8.1 years for PC7. The fraction of consumers experiencing a net LCC cost is 0.0 percent for PC1, 33.1 percent for PC2, 39.0 percent for PC3, 12.6 percent for PC4, 99.7 percent for PC5, 100 percent for PC6, and 100 percent for PC7.

At TSL 3, the projected change in INPV ranges from a decrease of $2,517 million to an increase of $574 million, equivalent to −3.2 percent and 0.7 percent, respectively.

The Secretary tentatively concludes that at TSL 3 for battery chargers, the benefits of energy savings, emission reductions, and the estimated monetary value of the CO_2 emissions reductions would be outweighed by the economic burden on consumers (demonstrated by a negative NPV and LCC for most product classes), and the impacts on manufacturers, including the conversion costs and profit margin impacts that could result in a large reduction in INPV. Consequently, the Secretary has tentatively concluded that TSL 3 is not economically justified.

DOE then considered TSL 2. TSL 2 would save 0.170 quads of energy, an amount DOE considers significant. Under TSL 2, the NPV of consumer benefit would be $0.6 billion using a discount rate of 7 percent, and $1.2 billion using a discount rate of 3 percent.

The cumulative emissions reductions at TSL 2 are 10.45 Mt of CO_2, 15.41 thousand tons of NO_X, 8.92 thousand tons of SO_2, 0.027 ton of Hg, 44.8 thousand tons of CH_4, and 0.137 thousand tons of N_2O. The estimated monetary value of the CO_2 emissions reduction at TSL 2 ranges from $0.084 billion to $1.114 billion.

At TSL 2, the average LCC impact is a savings of $0.71 for PC1, $0.07 for PC2, $0.08 for PC3, $0.11 for PC4, $0.84 for PC5, $1.89 for PC6, and $51.06 for PC7. The simple payback period is 1.5 years for PC1, 0.6 years for PC2, 0.8

years for PC3, 1.4 years for PC4, 2.7 years for PC5, 1.1 years for PC6, and 0.0 years for PC7. The fraction of consumers experiencing a net LCC cost is 0.0 percent for PC1, 1.2 percent for PC2, 0.6 percent for PC3, 1.3 percent for PC4, 0.6 percent for PC5, 0.0 percent for PC6, and 0.0 percent for PC7.

At TSL 2, the projected change in INPV ranges from a decrease of $529 million to a decrease of $18 million, equivalent to −0.7 percent and less than −0.1 percent, respectively.

The Secretary tentatively concludes that at TSL 2 for battery chargers, the benefits of energy savings, positive NPV of consumer benefits, emission reductions, and the estimated monetary value of the CO_2 emissions reductions, and positive average LCC savings would outweigh the negative impacts on some consumers and on manufacturers, including the conversion costs that could result in a reduction in INPV for manufacturers.

After considering the analysis and the benefits and burdens of TSL 2, the Secretary tentatively concludes that this TSL will offer the maximum improvement in efficiency that is technologically feasible and economically justified, and will result in the significant conservation of energy. Therefore, DOE proposes TSL 2 for battery chargers. The proposed amended energy conservation standards for battery chargers are shown in Table V–55.

TABLE V–55—PROPOSED ENERGY CONSERVATION STANDARDS FOR BATTERY CHARGERS

Product class	Description	Maximum unit energy consumption (kWh/yr)
1	Low-Energy, Inductive	3.04
2	Low-Energy, Low-Voltage	0.1440 * E_{batt} + 2.95
3	Low-Energy, Medium-Voltage	For E_{batt} < 10Wh, UEC = 1.42 kWh/y E_{batt} ≥ 10 Wh, = 0.0255 * E_{batt} + 1.16
4	Low-Energy, High-Voltage	= 0.11 * E_{batt} + 3.18
5	Medium-Energy, Low-Voltage	For E_{batt} < 19 Wh, = 1.32 kWh/yr For E_{batt} ≥ 19 Wh, = 0.0257 * E_{batt} + .815
6	Medium-Energy, High-Voltage	For E_{batt} < 18 Wh = 3.88 kWh/yr For E_{batt} ≥ 18 Wh = 0.0778 * E_{batt} + 2.4
7	High-Energy	= 0.0502(E_{batt}) + 4.53

2. 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 of the benefits from operating products that meet the proposed standards (consisting 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 monetary value of the benefits of CO_2 and NO_X emission reductions.[69]

Table V–56 shows the annualized values for battery chargers under TSL 2, expressed in 2013$. The results under the primary estimate are as follows. Using a 7-percent discount rate for benefits and costs other than CO_2 reductions, for which DOE used a 3-percent discount rate along with the SCC series corresponding to a value of $40.5/ton in 2015 (in 2013$), the cost of the standards for battery chargers in the proposed rule is $9 million per year in increased equipment costs, while the annualized benefits are $68 million per year in reduced equipment operating costs, $20 million in CO_2 reductions, and $1.26 million in reduced NO_X emissions. In this case, the net benefit amounts to $80 million per year. Using a 3-percent discount rate for all benefits and costs and the SCC series corresponding to a value of $40.5/ton in 2015 (in 2013$), the cost of the standards for battery chargers in the proposed rule is $10 million per year in increased equipment costs, while the benefits are $75 million per year in reduced operating costs, $20 million in CO_2 reductions, and $1.32 million in reduced NO_X emissions. In this case, the net benefit amounts to $86 million per year.

TABLE V–56—ANNUALIZED BENEFITS AND COSTS OF NEW AND AMENDED STANDARDS FOR BATTERY CHARGERS

	Discount rate	(Million 2013$/year)		
		Primary estimate *	Low net benefits estimate *	High net benefits estimate *
Benefits				
Operating Cost Savings	7%	68	68	69
	3%	75	74	76

[69] 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.

TABLE V–56—ANNUALIZED BENEFITS AND COSTS OF NEW AND AMENDED STANDARDS FOR BATTERY CHARGERS—Continued

	Discount rate	(Million 2013$/year)		
		Primary estimate *	Low net benefits estimate *	High net benefits estimate *
CO_2 Reduction Monetized Value ($12.0/t case)*.	5%	6	6	6
CO_2 Reduction Monetized Value ($40.5/t case)*.	3%	20	20	20
CO_2 Reduction Monetized Value ($62.4/t case)*.	2.5%	28	28	28
CO_2 Reduction Monetized Value ($119/t case)*.	3%	60	60	60
NO_X Reduction Monetized Value (at $2,684/ton)**.	7%	1.26	1.26	1.26
	3%	1.32	1.32	1.32
Total Benefits †	7% plus CO_2 range	76 to 130	75 to 130	76 to 131
	7%	89	89	90
	3% plus CO_2 range	82 to 136	82 to 136	83 to 138
	3%	96	95	97
Costs				
Consumer Incremental Product Costs.	7%	9	9	6
	3%	10	10	6
Net Benefits				
Total †	7% plus CO_2 range	66 to 120	66 to 120	70 to 124
	7%	80	79	84
	3% plus CO_2 range	73 to 127	72 to 126	77 to 132
	3%	86	86	91

* This table presents the annualized costs and benefits associated with battery chargers shipped in 2018 – 2047. These results include benefits to consumers which accrue after 2047 from the products purchased in 2018 – 2047. The results account for the incremental variable and fixed costs incurred by manufacturers due to the standard, some of which may be incurred in preparation for the rule. The Primary, Low Benefits, and High Benefits Estimates utilize projections of energy prices from the *AEO2014* Reference case, Low Estimate, and High Estimate, respectively. Additionally, the High Benefits Estimates include a price trend on the incremental product costs.

** The CO_2 values represent global monetized values of the SCC, in 2013$, in 2015 under several scenarios of the updated SCC values. The first three cases use the averages of SCC distributions calculated using 5%, 3%, and 2.5% discount rates, respectively. The fourth case represents the 95th percentile of the SCC distribution calculated using a 3% discount rate. The SCC time series incorporate an escalation factor. The value for NO_X is the average of high and low values found in the literature.

† Total Benefits for both the 3% and 7% cases are derived using the series corresponding to the average SCC with 3-percent discount rate ($40.5/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.

3. Stakeholder Comments on Standards Proposed in NOPR

In addition to the issues addressed above, DOE received a number of general comments on the appropriateness of the battery charger standards proposed in the NOPR. The CEC, CBIA, ASAP, and NRDC, NEEP, and PSMA—along with a number of representatives from a variety of State legislatures [70] and the City of Cambridge, Massachusetts—all supported DOE's proposed levels for Product Classes 1, 7, 8, and 10 but urged DOE to adopt the more stringent levels proposed in California for Product Classes 2, 3, 4, 5, and 6. These interested parties provided a number of justifications for harmonizing with California that are addressed in detail elsewhere. The CEC and ASAP urged DOE to take the time to fully analyze the more stringent levels, even if it means a later effective date for the standards, while both the City of Cambridge and the various State legislators urged DOE to adopt levels similar to those already in place in California. (CEC, No. 117 at p. 6; CBIA, No. 126 at p. 2; ASAP Et Al., No. 136 at p. 2; NEEP, No. 160 at p.1; States, No. 159 at p. 1; City of Cambridge, MA, No. 155 at p. 1; PSMA, No. 147 at p. 1)

In addition, manufacturers, including AHAM, PTI, CEA, Motorola, and Philips, generally opposed harmonization with California for Product Classes 2 through 6, arguing that DOE's proposed levels are technologically feasible and economically justified while California's are not. (AHAM, No. 124 at p. 4; PTI, No. 133 at p. 3; CEA, No. 106 at p. 2; Motorola Mobility, No. 121 at p. 6; Philips, No. 128 at p. 6) For Product Class 7, Delta-Q Technologies found that the proposed standard was acceptable, while Lester Electrical opposed the proposed level. (Delta-Q Technologies, No. 113 at p. 2; Lester Electrical, No. 139 at p. 2). Panasonic commented that the proposed standard for Product Class 1 was too stringent. (Panasonic, No. 120 at p. 2)

DOE has addressed the specific points underpinning these general comments in the preceding sections of this SNOPR. The proposed standard levels would, if adopted, save a significant amount of energy, are technologically feasible, and are economically justified.

[70] Comments were received in the form of a letter from Senator Jackie Dingfelder of the Oregon State Senate. Representatives of the following States also signed onto that letter: Alaska, Arkansas, Colorado, Illinois, Iowa, Maine, Maryland, Minnesota, Montana, Nebraska, New Mexico, New York, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, Utah, Washington, and Wisconsin.

The CEC commented that failing to set standards for Product Class 9 would create a category of unregulated products that could lead to compliance and enforcement loopholes in the future. It stated that battery chargers with DC input greater than 9V are regulated under the California standards and will remain so if the DOE does not adopt standards, but expressed concern that this may lead to industry confusion. (California Energy Commission, No. 117 at p. 7) While it is technically possible that a product that is not an in-vehicle charger could meet the parameters of Product Class 9, no such products existed when DOE conducted its analysis. DOE can only evaluate whether standards are justified based on the products currently on the market. If new products come on the market in the future, DOE can revisit whether to set standards for Product Class 9 as part of a future rulemaking.

Regarding California's assertions related to preemption, DOE notes that under 42 U.S.C. 6297, which lays out the process by which State and local energy conservation standards are preempted, once DOE sets standards for a product any State or local standards for that product are preempted. In the case of battery chargers, preemption does not apply until the Federal standards are required for compliance. See 42 U.S.C. 6295(ii)(1). In particular, under this provision, any State or local standard prescribed or enacted for battery chargers before the date on which the final rule is issued shall not be preempted ''until the energy conservation standard that has been established [under the appropriate statutory provision] for the product takes effect.'' While this provision has clear implications regarding the timing of preemption, it does not alter the scope of its application by narrowing the range of products that would be affected by preemption once DOE has set standards for ''the product'' at issue. Accordingly, in DOE's view, once the Agency sets standards for battery chargers and the compliance date for those standards has been reached, all State and local energy conservation standards for battery chargers would be preempted. With respect to any labeling requirements, DOE notes that 42 U.S.C. 6297 already prescribes that States and local jurisdictions may not require the disclosure of information other than that required by DOE or FTC. Since DOE is not proposing to require that manufacturers label their battery chargers, those labeling requirements would also be preempted. See 42 U.S.C. 6297(a). An individual manufacturer would be free, however, to voluntarily use the ''BC'' mark if it chose to do so.

Cobra Electronics commented that the ENERGY STAR program is an effective means for encouraging the development of more efficient technologies. Furthermore, the use of a voluntary program would allow DOE to comply with Executive Order 13563, which directed Federal agencies to ''identify and assess available alternatives to direct regulation.'' (Cobra Electronics, No. 130 at p. 8) DOE notes that Executive Order 13563 also stated that regulations should be adopted ''only upon a reasoned determination that its benefits justify its costs.'' Because the selected standard levels are technologically feasible and economically justified, DOE has fulfilled its statutory obligations as well as the directives in Executive Order 13563. In addition, DOE considered the impacts of a voluntary program as part of the Regulatory Impact Analysis and found that such a program would save less energy than the proposed standards, especially since the ENERGY STAR program for battery chargers has already ended. See Chapter 17 of the SNOPR TSD.

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 address are as follows:

(1) 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.

(2) In some cases the benefits of more efficient equipment are not realized due to misaligned incentives between purchasers and users. An example of such a case is when the equipment purchase decision is made by a building contractor or building owner who does not pay the energy costs.

(3) There are external benefits resulting from improved energy efficiency of 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 security that are not reflected in energy prices, such as reduced emissions of air pollutants and greenhouse gases that impact human health and global warming.

In addition, DOE has determined that this proposed regulatory action is not a ''significant regulatory action'' under Executive Order 12866. Therefore, DOE did not present for review to the Office of Information and Regulatory Affairs (OIRA) in the OMB the draft rule and other documents prepared for this rulemaking, including a regulatory impact analysis (RIA).

DOE has also reviewed this regulation pursuant to Executive Order 13563. 76 FR 3281 (Jan. 21, 2011). Executive Order 13563 is supplemental to and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, agencies are required by Executive Order 13563 to: (1) Propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

DOE emphasizes as well that Executive Order 13563 requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. In its guidance, the Office of Information and Regulatory Affairs has emphasized that such techniques may include identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes. For the reasons stated in the preamble, DOE believes that this proposed rule is consistent with these principles, including the

requirement that, to the extent permitted by law, benefits justify costs and that net benefits are maximized.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) requires preparation of 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.

As a result of this review, DOE has prepared an IRFA addressing the impacts on small manufacturers. DOE will transmit a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration (SBA) for review under 5 U.S.C 605(b). As presented and discussed in the following sections, the IFRA describes potential impacts on small business manufacturers of battery chargers associated with the required capital and product conversion costs at each TSL and discusses alternatives that could minimize these impacts.

A statement of the reasons and objectives of the proposed rule, along with its legal basis, are set forth elsewhere in the preamble and not repeated here.

1. Description on Estimated Number of Small Entities Regulated

a. Methodology for Estimating the Number of Small Entities

For manufacturers of battery chargers, 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. 65 FR 30836, 30848 (May 15, 2000), as amended at 65 FR 53533, 53544 (Sept. 5, 2000) and codified at 13 CFR part 121. The size standards are listed by North American Industry Classification System (NAICS) code and industry description and are available at *http://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf*. Battery charger manufacturing is classified under NAICS 335999, ''All Other Miscellaneous Electrical Equipment and Component Manufacturing.'' The SBA sets a threshold of 500 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 business manufacturers of products covered by this rulemaking, DOE conducted a market survey using all available public information to identify potential small battery charger manufacturers. DOE's research involved industry trade association membership directories, product databases, individual company Web sites, and the SBA's Small Business Database to create a list of every company that could potentially manufacture products covered by this rulemaking. DOE also asked stakeholders and industry representatives if they were aware of any other small manufacturers during manufacturer interviews and at previous DOE public meetings. DOE contacted companies on its list, as necessary, to determine whether they met the SBA's definition of a small business manufacturer of covered battery chargers. DOE screened out companies that did not offer products covered by this rulemaking, did not meet the definition of a ''small business,'' or are foreign-owned and operated.

Based on this screening, DOE identified 30 companies that could potentially manufacture battery chargers. DOE eliminated most of these companies from consideration as small business manufacturers based on a review of product literature and Web sites. When those steps yielded inconclusive information, DOE contacted the companies directly. As part of these efforts, DOE identified Lester Electrical, Inc. (Lincoln, Nebraska), a manufacturer of golf car battery chargers, as the only small business that appears to produce covered battery chargers domestically.

b. Manufacturer Participations

Before issuing this proposed rule, DOE contacted the potential small business manufacturers of battery chargers it had identified. One small business consented to being interviewed during the MIA interviews conducted prior to the publication of the NOPR. DOE also obtained information about small business impacts while interviewing large manufacturers.

c. Industry Structure

With respect to battery chargers, industry structure is typically defined by the characteristics of the industry of the application(s) for which the battery chargers are produced. In the case of the small business DOE identified, however, the battery charger itself is the product the small business produces. That is, the company does not also produce the applications with which the battery charger is intended to be used—in this case, battery chargers predominantly intended for golf cars (Product Class 7).

A high level of concentration exists in both battery charger markets. Two golf car battery charger manufacturers account for the vast majority of the golf car battery charger market and each have a similar share. Both competitors in the golf car battery charger market are, in terms of the number of their employees, small entities: one is foreign-owned and operated, while the other is a domestic small business, as defined by SBA. Despite this concentration, there is considerable competition for three main reasons. First, each golf car battery charger manufacturer sells into a market that is almost as equally concentrated: three golf car manufacturers supply the majority of the golf cars sold domestically and none of them manufactures golf car battery chargers. Second, while there are currently only two major suppliers of golf car battery chargers to the domestic market, the constant prospect of potential entry from other foreign countries has ceded substantial buying power to the three golf car OEMs. Third, golf car manufacturers can choose not to build electric golf cars (eliminating the need for the battery charger) by opting to build gas-powered products. DOE examines a price elasticity sensitivity scenario for this in chapter 12 of the SNOPR TSD to assess this possibility. Currently, roughly three-quarters of the golf car market is electric-based, with the remainder gas-powered.

The majority of industry shipments flow to the ''fleet'' segment—*i.e.* battery chargers sold to golf car manufacturers who then lease the cars to golf courses. Most cars are leased for the first few years before being sold to smaller golf courses or other individuals for personal use. A smaller portion of golf cars are sold as new through dealer distribution.

Further upstream, approximately half of the battery chargers intended for golf car use is manufactured domestically, while the other half is foreign-sourced. During the design cycle of the golf car, the battery charger supplier and OEM

typically work closely together when designing the battery charger.

The small business manufacturer is also a relatively smaller player in the markets for wheelchair and industrial lift battery chargers. Most wheelchair battery chargers and the wheelchairs themselves are manufactured overseas. Three wheelchair manufacturers supply the majority of the U.S. market, but do not have domestic manufacturing.

d. Comparison Between Large and Small Entities

As discussed in the previous section, there are two major suppliers in the golf car battery charger market. Both are small entities, although one is foreign-owned and operated and does not qualify as a small business per the SBA definition. These two small entities have a similar market share and sales volumes. DOE did not identify any large businesses with which to compare the projected impacts on small businesses.

2. Description and Estimate of Compliance Requirements

The U.S.-owned small business DOE identified manufacturers of battery chargers for golf cars (Product Class 7). DOE anticipates the proposed rule will require both capital and product conversion costs to achieve compliance. The CSLs proposed for Product Classes 5, 6, and 7 will drive different levels of small business impacts. The compliance costs associated with the proposed TSLs are present in Table VI–1 through Table VI–3.

DOE does not expect the proposed TSL to require significant capital expenditures. Although some replacement of fixtures, new assembly equipment and tooling would be required, the magnitude of these expenditures would be unlikely to cause significant adverse financial impacts. Product Class 7 drives the majority of these costs. See Table VI–1 for the estimated capital conversion costs for a typical small business.

TABLE VI–1—ESTIMATED CAPITAL CONVERSION COSTS FOR A SMALL BUSINESS

Product class and estimated capital conversion cost	TSL 1	TSL 2 *	TSL 3	TSL 4
Product Classes 5 and 6	CSL 1	CSL 2	CSL 3	CSL 3
Product Class 7	CSL 1	CSL 1	CSL 2	CSL 2
Estimated Capital Conversion Costs (2013$)	$0.1	$0.1	$0.2	$0.2

* This is the TSL proposed in this SNOPR rulemaking.

The product conversion costs associated with standards are more significant for the small business manufacturer at issue than the projected capital conversion costs. TSL 2 for Product Class 7 reflects a technology change from a linear battery charger or less efficient high-frequency design battery charger at the baseline to a more efficient switch-mode or high-frequency design battery charger. This change would require manufacturers that produce linear or less efficient high-frequency design battery chargers to invest in the development of a new product design, which would require investments in engineering resources for R&D, testing and certification, and marketing and training changes. Again, the level of expenditure at each TSL is driven almost entirely by the changes required for Product Class 7 at each TSL. Additionally, based on market research conducted during the analysis period of this SNOPR, DOE has found that manufacturers (including those based domestically) who previously sold exclusively, or primarily, linear battery chargers, are now selling switch-mode battery chargers, which are capable of charging batteries equal to similar batteries charged by linear battery chargers offered by the same manufacturer. See Table VI–2 for the estimated product conversion costs for a typical small business.

TABLE VI–2—ESTIMATED PRODUCT CONVERSION COSTS FOR A SMALL BUSINESS

Product class and estimated product conversion cost	TSL 1	TSL 2 *	TSL 3	TSL 4
Product Classes 5 and 6	CSL 1	CSL 2	CSL 3	CSL 3
Product Class 7	CSL 1	CSL 1	CSL 2	CSL 2
Estimated Product Conversion Costs (2013$)	$1.8	$2.0	$5.1	$5.1

* This is the TSL proposed in this SNOPR rulemaking.

Table VI–3 displays the total capital and product conversion costs associated with each TSL.

TABLE VI–3—ESTIMATED TOTAL CONVERSION COSTS FOR A SMALL BUSINESS

Product class and estimated total conversion cost	TSL 1	TSL 2 *	TSL 3	TSL 4
Product Classes 5 and 6	CSL 1	CSL 2	CSL 3	CSL 3
Product Class 7	CSL 1	CSL 1	CSL 2	CSL 2
Estimated Total Conversion Costs (2013$)	$1.9	$2.1	$4.3	$4.3

* This is the TSL proposed in this SNOPR rulemaking.

Based on its engineering analysis, manufacturer interviews and public comments, DOE believes TSL 2 for Product Class 7 would establish an efficiency level that standard linear battery chargers could not cost-effectively achieve. Not only would the size and weight of such chargers potentially conflict with end-user preferences, but the additional steel and copper requirements would make such chargers cost-prohibitive in the marketplace. Baseline linear designs are already significantly more costly to manufacture than the more-efficient switch-mode designs, as DOE's cost efficiency curve shows in the engineering section (see Table IV–10). While the majority of the battery chargers manufactured by the one small business DOE identified, that would be affected by the proposed battery charger standards, would need to be modified to meet the proposed standards for Product Class 7, this manufacturer has the capability to manufacture switch-mode battery chargers. Therefore, DOE anticipates that this manufacturer could comply with the proposal by modifying their existing switch-mode battery charger specifications. This would require significantly fewer R&D resources than completely redesigning all of their production line. Additionally, DOE acknowledges that some or all existing domestic linear battery charger manufacturing could be lost due to the proposed standards, since it is likely that switch-mode battery charger manufacturing would likely be manufactured abroad.

3. Duplication, Overlap and Conflict With Other Rules and Regulations

Since the CEC battery charger standards would be preempted by a battery charger energy conservation standard set by DOE, DOE is not aware of any rules or regulations that duplicate, overlap, or conflict with the rule being considered in this notice.

4. Significant Alternatives to the Proposed Rule

The discussion in the previous sections analyzes impacts on small businesses that would result from the other TSLs DOE considered. Though TSLs lower than the proposed TSL are expected to reduce the impacts on small entities, DOE is required by EPCA to establish standards that achieve the maximum improvement in energy efficiency that are technically feasible and economically justified, and result in a significant conservation of energy. Once DOE determines that a particular TSL meets those requirements, DOE adopts that TSL in satisfaction of its obligations under EPCA.

In addition to the other TSLs being considered, the SNOPR TSD for this proposed rule includes an analysis of non-regulatory alternatives in chapter 17. For battery chargers, these policy alternatives included: (1) No standard, (2) consumer rebates, (3) consumer tax credits, (4) manufacturer tax credits, and (5) early replacement. While these alternatives may mitigate to some varying extent the economic impacts on small entities compared to the proposed standards, DOE does not intend to consider these alternatives further because in several cases, they would not be feasible to implement without authority and funding from Congress, and in all cases, DOE has determined that the energy savings of these alternatives are significantly smaller than those that would be expected to result from adoption of the proposed standard levels. Accordingly, DOE is declining to adopt any of these alternatives and is proposing the standards set forth in this rulemaking. (See chapter 17 of the SNOPR TSD for further detail on the policy alternatives DOE considered.)

DOE continues to seek input from businesses that would be affected by this rulemaking and will consider comments received in the development of any final rule.

C. Review Under the Paperwork Reduction Act

If DOE adopts standards for battery chargers, manufacturers of these products would need to certify to DOE that their products comply with the applicable energy conservation standards. In certifying compliance, manufacturers must test their products according to the DOE test procedures for battery chargers, 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 battery chargers. (76 FR 12422 (March 7, 2011); 80 FR 5099 (Jan. 30, 2015). 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 this proposal would fit 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, B1–B5. This proposal fits within this category of actions because it would establish energy conservation standards for consumer products or industrial equipment, and for which none of the exceptions identified in CX B5.1(b) apply. Therefore, DOE has made a CX determination for this rulemaking, and DOE does not need to prepare an Environmental Assessment or Environmental Impact Statement for this rule. DOE's CX determination for this rule is available at *http://cxnepa.energy.gov*.

E. Review Under Executive Order 13132

Executive Order 13132, ''Federalism.'' 64 FR 43255 (Aug. 10, 1999) imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have Federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE has examined this proposed rule and has tentatively determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various

levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this proposed rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297) Therefore, no further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). Regarding the review required by section 3(a), section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this proposed rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a proposed regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE's policy statement is also available at *http://energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf*.

Although this proposed rule does not contain a Federal intergovernmental mandate, it may require expenditures of $100 million or more by the private sector. Specifically, the proposed rule would likely result in a final rule that could require expenditures of $100 million or more. Such expenditures may include: (1) Investment in research and development and in capital expenditures by battery charger manufacturers in the years between the final rule and the compliance date for the new standards, and (2) incremental additional expenditures by consumers to purchase higher-efficiency battery chargers, starting at the compliance date for the applicable standard.

Section 202 of UMRA authorizes a Federal agency to respond to the content requirements of UMRA in any other statement or analysis that accompanies the proposed rule. (2 U.S.C. 1532(c)). The content requirements of section 202(b) of UMRA relevant to a private sector mandate substantially overlap the economic analysis requirements that apply under section 325(o) of EPCA and Executive Order 12866. The **SUPPLEMENTARY INFORMATION** section of the proposed rule and the ''Regulatory Impact Analysis'' section of the SNOPR TSD for this proposed rule respond to those requirements.

Under section 205 of UMRA, the Department is obligated to identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a written statement under section 202 is required. (2 U.S.C. 1535(a)). DOE is required to select from those alternatives the most cost-effective and least burdensome alternative that achieves the objectives of the proposed rule unless DOE publishes an explanation for doing otherwise, or the selection of such an alternative is inconsistent with law. As required by 42 U.S.C. 6295(o), this proposed rule would establish energy conservation standards for battery chargers that are designed to achieve the maximum improvement in energy efficiency that DOE has determined to be both technologically feasible and economically justified. A full discussion of the alternatives considered by DOE is presented in the ''Regulatory Impact Analysis'' section of the SNOPR TSD for this proposed rule.

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

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This proposed 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 proposed rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to

prepare and submit to OIRA at OMB, a Statement of Energy Effects for any 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 energy conservation standards for battery chargers, 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.'' 70 FR 2667.

In response to OMB's Bulletin, DOE conducted formal in-progress peer reviews of the energy conservation standards development process and analyses and has prepared a Peer Review Report pertaining to the energy conservation standards rulemaking analyses. Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. The ''Energy Conservation Standards Rulemaking Peer Review Report,'' dated February 2007, has been disseminated and is available at the following Web site: *www1.eere.energy.gov/buildings/appliance_standards/peer_review.html*.

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 Ms. Regina Washington at (202) 586–1214 or by email: *Regina.Washington@ee.doe.gov* so that the necessary procedures can be completed.

DOE requires visitors to have laptops and other devices, such as tablets, checked upon entry into the building. Any person wishing to bring these devices into the Forrestal 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 ID requirements for individuals wishing to enter Federal buildings from specific states and U.S. territories. Driver's licenses from the following states or territory will not be accepted for building entry and 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/product.aspx?productid=84*. 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. 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. 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 regulations.gov. The regulations.gov Web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment 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 regulations.gov information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through regulations.gov cannot be claimed as CBI. Comments received through the Web site will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section below.

DOE processes submissions made through regulations.gov before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that regulations.gov provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery/courier, or mail. Comments and documents submitted via email, hand delivery, or mail also will be posted to regulations.gov. If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information 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. It is not necessary to submit printed copies. No facsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are 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. According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery/courier two well-marked copies: one copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked non-confidential with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include: (1) A description of the items; (2) whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) when such information might lose its confidential character due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

E. Issues on Which DOE Seeks Comment

Although DOE welcomes comments on any aspect of this proposal, DOE is particularly interested in receiving comments and views of interested parties concerning the following issues:

1. DOE requests stakeholder comment on the proposed elimination of Product Classes 8, 9, 10a, and 10b from the analysis. (See section IV.A.3.b)

2. DOE requests stakeholder comments on the updated engineering analysis results presented in this analysis for products classes 2–6. (See section IV.C.9)

3. DOE requests comment on the new methodology of shifting CSLs in Product Classes 2–6 to more closely align with the CEC standards. (See section IV.C.4)

4. DOE seeks comment on its methodology in scaling the results of Product Class 5 to Product Class 6, including the decision to hold MSPs constant. (See section IV.C.9)

5. DOE requests comment on the new methodology for determining the base case efficiency distributions using the CEC database of battery charger models sold in California combined with DOE's usage profiles. (See section IV.G.3)

6. DOE requests comment on the methodology of filtering RECS data to obtain a population distribution of low-income consumers that was used for the low-income consumers LCC subgroup analysis. (See section V.B.1)

7. DOE seeks comments on its approach in updating the base case efficiency distributions for this rule using the CEC database. (See section IV.G.3)

8. DOE seeks comment on the potential domestic employment impacts to battery charger manufacturers at the proposed efficiency levels. (See section V.B.2.b and section VI.B).

9. DOE seeks comment on the compliance costs of any other regulations battery charger and battery charger application manufacturers must make, especially if compliance with those other regulations is required three years before or after the estimated compliance date of this proposed standard (2018) (see section V.B.2.e).

10. DOE seeks comments on the existence of any small business battery charger or battery charger application manufacturers other than the one identified by DOE. DOE also requests comments on the impacts of the proposed efficiency levels on any small businesses manufacturing battery chargers that would be subject to the proposed standards or applications that would use these chargers. (See section VI.B).

VIII. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this proposed rule.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Intergovernmental relations, Reporting and recordkeeping requirements, and Small businesses.

Issued in Washington, DC, on July 30, 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. Section 430.32 is amended by adding paragraph (z) to read as follows:

§ 430.32 Energy and water conservation standards and their effective dates.

* * * * *

(z) *Battery Chargers.* (1) Battery chargers manufactured starting on the date corresponding to two years after the publication of the final rule for this rulemaking, shall have a unit energy consumption (UEC) less than or equal to the prescribed ''Maximum UEC'' standard when using the equations for the appropriate product class and corresponding measured battery energy as shown in the following table:

Product class No.	Input/Output type	Battery energy (Wh)	Special characteristic or battery voltage	Maximum UEC (kWh/yr)
1	AC In, DC Out	< 100	Inductive Connection *	3.04.
2			< 4 V	0.1440 * E_{batt} + 2.95.
3			4–10 V	For E_{batt} < 10Wh, 1.42 kWh/yr; E_{batt} ≥ 10 Wh, 0.0255 * E_{batt} + 1.16.
4			> 10 V	0.11 * E_{batt} + 3.18.
5		100–3000	< 20 V	For E_{batt} < 19 Wh, 1.32 kWh/yr; For E_{batt} ≥ 19 Wh, 0.0257 * E_{batt} + .815.
6			≥ 20 V	For E_{batt} < 18 Wh, 3.88 kWh/yr; For E_{batt} ≥ 18 Wh, 0.0778 * E_{batt} + 2.4.
7		> 3000		0.0502 * E_{batt} + 4.53.

* Inductive connection and designed for use in a wet environment (*e.g.* electric toothbrushes).
** E_{batt} = Measured battery energy as determined in section 5.6 of appendix Y to subpart B of this part.

(2) Unit energy consumption shall be calculated for a device seeking certification as being compliant with the relevant standard using one of the two equations (equation (i) or equation (ii)) listed below. If a device is tested and its charge test duration as determined in section 5.2 of appendix Y to subpart B of this part minus 5 hours exceeds the threshold charge time listed in the table below, equation (ii) shall be used to calculate UEC; otherwise a device's UEC shall be calculated using equation (i).

(i) $$UEC = 365(n(E_{24} - 5P_m - E_{batt})\frac{24}{t_{cd}} + \left(P_m(t_{a\&m} - (t_{cd} - 5)n)\right) + (P_{sb}t_{sb}) + \left(P_{off}t_{off}\right))$$ or,

(ii) $$UEC = 365(n(E_{24} - 5P_m - E_{batt})\frac{24}{(t_{cd}-5)} + (P_{sb}t_{sb}) + \left(P_{off}t_{off}\right))$$

Where:

E_{24} = 24-hour energy as determined in § 429.39(a) of this chapter,

E_{batt} = Measured battery energy as determined in § 429.39(a) of this chapter,

P_m = Maintenance mode power as determined in § 429.39(a) of this chapter,

P_{sb} = Standby mode power as determined in § 429.39(a) of this chapter,

P_{off} = Off mode power as determined in § 429.39(a) of this chapter,

t_{cd} = Charge test duration as determined in § 429.39(a) of this chapter, and

$t_{a\&m}$, n, t_{sb}, and t_{off}, are constants used depending upon a device's product class and found in the following table:

Product class	Active + maintenance ($t_{a\&m}$)	Standby (t_{sb})	Off (t_{off})	Charges (n)	Threshold charge time *
	Hours per Day **			Number per Day	Hours
1	20.66	0.10	0.00	0.15	135.41
2	7.82	5.29	0.00	0.54	19.00
3	6.42	0.30	0.00	0.10	67.21
4	16.84	0.91	0.00	0.50	33.04
5	6.52	1.16	0.00	0.11	56.83
6	17.15	6.85	0.00	0.34	50.89
7	8.14	7.30	0.00	0.32	25.15

* If the duration of the charge test (minus 5 hours) as determined in section 5.2 of appendix Y to subpart B of this part exceeds the threshold charge time, use equation (ii) to calculate UEC otherwise use equation (i).

** If the total time does not sum to 24 hours per day, the remaining time is allocated to unplugged time, which means there is 0 power consumption and no changes to the UEC calculation is needed.

(3) A battery charger shall not be subject to the standards in paragraph (z)(1) of this section if it is a device that requires Federal Food and Drug Administration (FDA) listing and approval as a life-sustaining or life-supporting device in accordance with section 513 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(c)).

[FR Doc. 2015–20218 Filed 8–31–15; 8:45 am]

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CFR Checklist. Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at **http://bookstore.gpo.gov/.**

FEDERAL REGISTER PAGES AND DATE, SEPTEMBER

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CFR PARTS AFFECTED DURING SEPTEMBER

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.

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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TABLE OF EFFECTIVE DATES AND TIME PERIODS—SEPTEMBER 2015

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

Date of FR publication	15 days after publication	21 days after publication	30 days after publication	35 days after publication	45 days after publication	60 days after publication	90 days after publication
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September 30	Oct 15	Oct 21	Oct 30	Nov 4	Nov 16	Nov 30	Dec 29